



EUROPEAN COMMISSION

PRESS RELEASE

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European Commission presents a framework to safeguard the rule of law in the European Union

Today the European Commission adopted a new framework for addressing systemic threats to the rule of law in any of the EU's 28 Member States. The initiative comes after the College of Commissioners held two orientation debates on the rule of law on 28 August 2013 and on 25 February 2014, which concluded that there is a need to develop a tool to deal, at EU level, with systemic threats to the rule of law. The new rule of law framework will be complementary to infringement procedures - when EU law has been breached - and to the so-called 'Article 7 procedure' of the Lisbon Treaty which, at its most severe, allows for the suspension of voting rights in case of a "serious and persistent breach" of EU values by a Member State. The new framework establishes an early warning tool allowing the Commission to enter into a dialogue with the Member State concerned to prevent the escalation of systemic threats to the rule of law. If no solution is found within the new EU rule of law framework, Article 7 will always remain the last resort to resolve a crisis and ensure compliance with European Union values. The new framework does not constitute or claim new competencies for the Commission but makes transparent how the Commission exercises its role under the Treaties.

European Commission President José Manuel Durão Barroso said: *"The rule of law is one of the founding pillars of the European Union. This is what our Union is built upon. The European Commission has a crucial role in upholding the rule of law as the Guardian of the Treaties. I have systematically pointed to the need for a better framework which allows the Commission to intervene early and transparently in cases of serious and systemic threats to the rule of law in a Member State. Today, the Commission is delivering on this commitment making sure that, in future, and based on our recent past experience, we can prevent and effectively resolve rule of law crises in our Member States."*

"Respect for the rule of law is a prerequisite for the protection of all other fundamental values upon which our Union is founded. The European Commission is the Guardian of the Treaties - so too, we must be one of the Guardians of the rule of law," said Vice-President Viviane Reding, the EU's Justice Commissioner. *"In the past few years, every time there has been a threat or a potential threat to the rule of law in one Member State, all institutions have turned to the Commission as the impartial arbiter asking us to take action. Today we are putting in place the tools necessary to act and protect our citizens from threats to the rule of law in our Union. The European Union is based on respect of the rule of law and on respect of the equality of all Member States. It follows then that the new tool to safeguard the rule of law will be applicable under the same threshold of a serious and systemic threat to the rule of law to all Member States, big or small, North, South, East or West."*

The main characteristics of the new rule of law framework

- The new framework is fully based on the **current EU Treaties** and complements existing instruments, notably the Article 7 procedure and the Commission's infringement proceedings. This of course does not exclude future developments of the Treaties in this area.
- It is **focused on the rule of law**. The rule of law is the foundation of all values upon which the Union is based. By guaranteeing the respect of the rule of law, the protection of other fundamental values will be upheld. The Commission has taken a broad definition of the rule of law, drawing on principles set out in the case law of the European Court of Justice and the European Court of Human Rights, essentially meaning a system where laws are applied and enforced (see Annex 2).
- The framework can be activated in situations where there is a **systemic breakdown** which adversely affects the integrity, stability and proper functioning of the institutions and mechanisms established at national level to secure the rule of law. The EU framework is not designed to deal with individual situations or isolated cases of breaches of fundamental rights or miscarriages of justice.
- **Equality of Member States**: the framework will apply in the same way in all Member States and will operate on the basis of the same benchmarks as to what is considered a systemic threat to the rule of law.
- The EU framework establishes **an early warning tool** to deal with threats to the rule of law, allowing the Commission to enter into a **dialogue with the concerned Member State** in order to find solutions before the existing legal mechanisms set out in Article 7 of the Treaty are to be used.
- The **European Commission plays a central role** in this new rule of law framework as the independent Guardian of the Union's values. It can draw on the expertise of other EU institutions and international organisations (notably the European Parliament, the Council, the Fundamental Rights Agency, the Council of Europe, the Organisation for Security and Co-operation in Europe [OSCE], etc.).

A three-stage process

The purpose of the framework is to enable the Commission to find a solution with the Member State concerned in order to prevent the emerging of a systemic threat to the rule of law that could develop into a "clear risk of a serious breach" which would potentially trigger the use of Article 7 TEU. Where there are clear indications of a systemic threat to the rule of law in a Member State, the Commission can launch a "**pre-Article 7 procedure**" by initiating a dialogue with that Member State. The process has **three stages** (see graphic in Annex 1):

1. **Commission assessment**: The Commission will collect and examine all the relevant information and assess whether there are clear indications of a systemic threat to the rule of law. If, as a result, the Commission is of the opinion that there is indeed a situation of systemic threat to the rule of law, it will initiate a dialogue with the Member State concerned, by sending its "rule of law opinion", which will be a warning to the Member State – and substantiating its concerns. It will give the Member State concerned the possibility to respond.
2. **Commission Recommendation**: In a second stage, unless the matter has already been satisfactorily resolved, the Commission will issue a "rule of law recommendation" addressed to the Member State. It will recommend that the Member State solves the problems identified within a fixed time limit and informs the Commission of the steps taken to that effect. The Commission will make public its recommendation.

3. **Follow-up to the Commission Recommendation:** In a third stage, the Commission will monitor the follow-up given by the Member State to the recommendation. If there is no satisfactory follow-up within the time limit set, the Commission can resort to one of the mechanisms set out in Article 7 TEU.

The entire process is based on a continuous dialogue between the Commission and the Member State concerned. The Commission will keep the European Parliament and Council regularly and closely informed.

Background:

Compliance with the rule of law is a prerequisite for the protection of all fundamental values listed in Article 2 TEU. It is also a prerequisite for upholding all rights and obligations deriving from the Treaties and from international law. Since 2009, the European Commission has been confronted on several occasions with crisis events in some Member States, which revealed specific rule of law problems. In his 2012 State of the Union address, President Barroso recalled that a Political Union also means that the rule of law, as a founding value of the EU, must be strengthened, announcing an initiative to this end ([SPEECH/12/596](#)). The [resolution adopted by the European Parliament on 3 July 2013](#) and the [Justice and Home Affairs Council conclusions of 6 June 2013](#) shared this diagnosis (see also [SPEECH/13/348](#)).

The College of Commissioners had a first orientation debate on how to better safeguard the rule of law in the European Union during its seminar in August 2013. Speaking at the Centre for European Policy Studies in September, Vice-President Reding then outlined her vision for a possible new rule of law framework for the European Union ([SPEECH/13/677](#)). At the *Assises de la Justice*, a high-level conference on the future of justice in the EU in November 2013 which was attended by over 600 stakeholders and interested parties, one session was specifically dedicated to the topic "[Towards a new rule of law mechanism](#)".

On the basis of all these discussions, the College of Commissioners held another orientation debate on 25 February 2014 before adopting the new rule of law framework presented today.

For more information

President José Manuel Barroso's 2012 State of the Union speech:

[SPEECH/12/596](#)

Homepage of European Commission President José Manuel Barroso:

http://ec.europa.eu/commission_2010-2014/president/index_en.htm

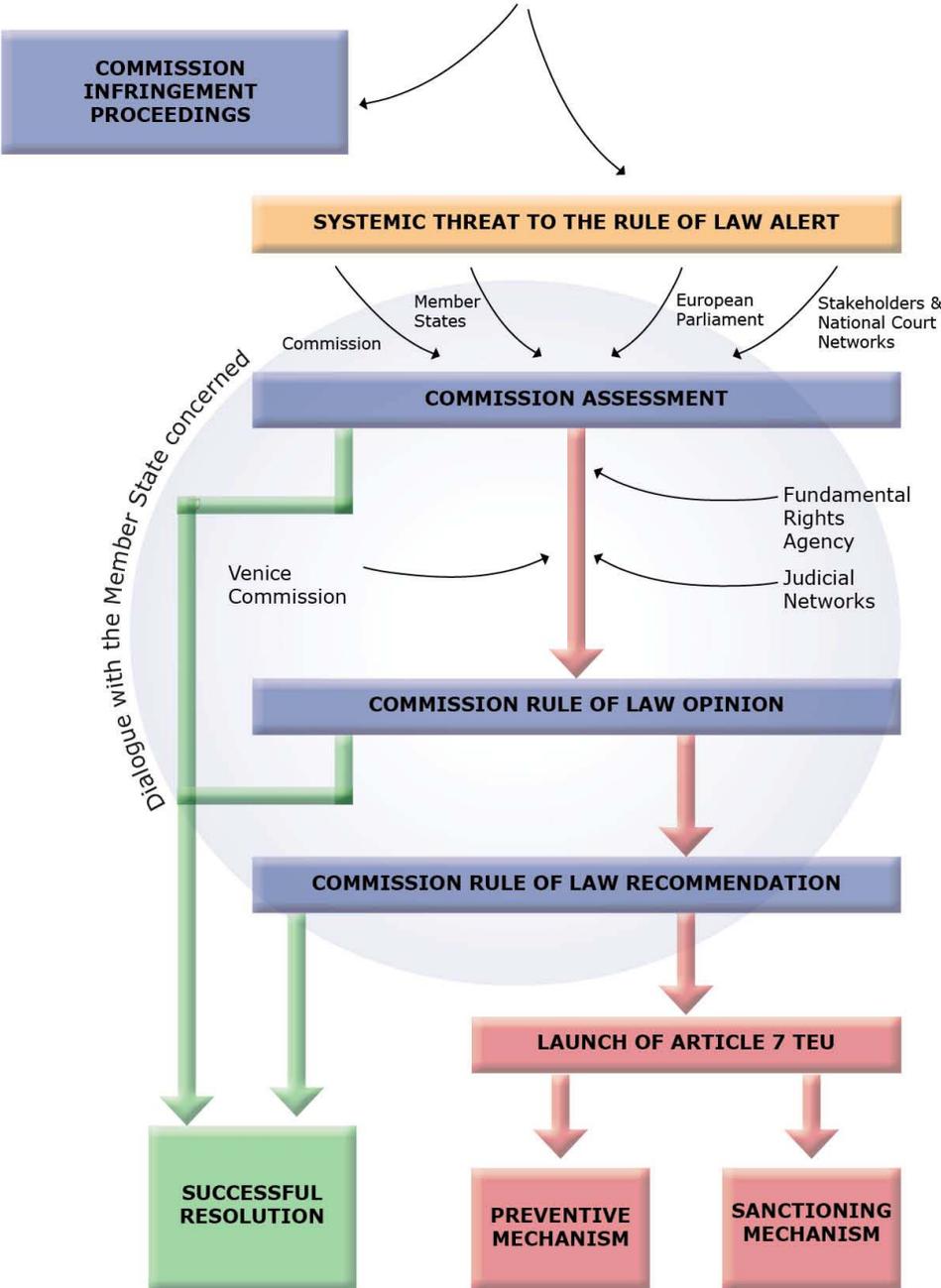
Homepage of Vice-President Viviane Reding, EU Justice Commissioner:

<http://ec.europa.eu/reding>

Follow the President and Vice-President on Twitter: [@BarrosoEU](#) [@VivianeRedingEU](#)

Annex 1: The new EU rule of law framework

A rule of law framework for the European Union



Annex 2: The rule of law in the Union legal system

In its case law, the Court of Justice has highlighted a number of general principles of law stemming from the constitutional traditions common to the Member States that are linked to the rule of law. These include:

- (a) **the principle of legality**, which in substantial terms includes a transparent, accountable, democratic and pluralistic process for enacting laws;
- (b) **legal certainty**, which requires amongst other things that rules are clear and predictable and cannot be changed retrospectively;
- (c) **prohibition of arbitrariness of the executive powers**. The principle of the rule of law regulates the exercise of public powers and makes sure that every State intervention has a legal basis and is constrained by law;
- (d) **independent and effective judicial review**, including respect for fundamental rights. The Court reiterated that the EU is a union based on the rule of law in which the acts of its institutions are subject to review of their compatibility with, in particular, the Treaties, the general principles of law and fundamental rights. Citizens are entitled to effective judicial protection.
- (e) There is a clear link between the **right to a fair trial and the separation of powers**. Only a tribunal which is independent from executive powers can guarantee a fair trial to citizens. The Court referred to an *operational separation* of powers implying an independent and effective judicial review, pointing out that "[...] EU law does not preclude a Member State from simultaneously exercising legislative, administrative and judicial functions, provided that those functions are exercised in compliance with the principle of the separation of powers which characterises the operation of the rule of law";
- (f) **equality before the law**. The Court has emphasised the role of equal treatment as a general principle of EU law by stating that "it must be recalled that the principle of equal treatment is a general principle of EU law, enshrined in Articles 20 and 21 of the Charter of Fundamental Rights of the European Union".

Source: A more comprehensive version of these principles and the case law can be found in Annex 1 of the Communication "A new EU Framework to strengthen the Rule of Law".

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