JOINT MOTION FOR A RESOLUTION

pursuant to Rule 123(2) and (4) of the Rules of Procedure

replacing the following motions:
B8-0104/2019 (Verts/ALE)
B8-0105/2019 (S&D)
B8-0106/2019 (GUE/NGL)

on the right to peaceful protest and the proportionate use of force
(2019/2569(RSP))

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on behalf of the S&D Group
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on behalf of the Verts/ALE Group
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on behalf of the GUE/NGL Group
European Parliament resolution on the right to peaceful protest and the proportionate use of force  
(2019/2569(RSP))

The European Parliament,

– having regard to the EU Treaties, and in particular Articles 2, 3, 4, 6 and 7 of the Treaty on European Union (TEU),

– having regard to the Charter of Fundamental Rights of the European Union (hereinafter ‘the Charter’),

– having regard to the European Convention on Human Rights (ECHR) and the related case law of the European Court of Human Rights (ECtHR),

– having regard to the International Covenant on Civil and Political Rights (ICCPR),

– having regard to the International Covenant on Economic, Social and Cultural Rights (ICESCR),

– having regard to the comparative study on national legislation on freedom of peaceful assembly endorsed by the Venice Commission at its 99th plenary session (Venice, 13-14 June 2014),

– having regard to the OSCE Office for Democratic Institutions and Human Rights (ODIHR) Human Rights Handbook on Policing Assemblies,

– having regard to the Venice Commission and the OSCE ODIHR’s Guidelines on Freedom of Peaceful Assembly,

– having regard to the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and to the UN Code of Conduct for Law Enforcement Officials,

– having regard to the UN joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies,

– having regard to its resolution of 16 January 2019 on the situation of fundamental rights in the European Union in 2017¹,

– having regard to Rule 123(2) and (4) of its Rules of Procedure,

A. whereas the EU is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities; whereas these values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail;

B. whereas fundamental rights, given that they originate from the constitutional traditions

common to the Member States, must constitute general principles of the Union’s law, and whereas international human rights instruments must be respected;

C. whereas Article 12 of the Charter and Article 11 of the ECHR, as well as Article 21 of the ICCPR, state that everyone has the right to freedom of peaceful assembly;

D. whereas Article 4 of the Charter and Article 3 of the ECHR, as well as Article 7 of the ICCPR, state that no one shall be subjected to torture or to inhuman or degrading treatment or punishment;

E. whereas freedom of assembly goes hand in hand with freedom of expression as ensured by Article 11 of the Charter and Article 10 of the ECHR, as well as Article 19 of the ICCPR, which state that everyone has the right to freedom of expression;

F. whereas according to the case law of the ECtHR and the Court of Justice of the European Union all restrictions of fundamental rights and civil liberties must respect the principles of legality, necessity and proportionality;

G. whereas law enforcement authorities in several Member States have been criticised for undermining the right to freedom of peaceful assembly and using excessive force;

H. whereas the use of less-lethal weapons and devices such as the Flash-Ball and LBD 40 defence ball launchers, sting-ball grenades and GLI F4 grenades caused a high number of serious injuries during recent demonstrations in the EU;

1. Calls on the Member States to respect the rights of freedom of peaceful assembly and freedom of expression, which include the right to peaceful protest;

2. Stresses that open public debate is vital to the functioning of democratic societies; believes that violence against peaceful protesters can never be a solution;

3. Condemns the adoption of restrictive laws concerning freedom of assembly in several Member States in recent years;

4. Condemns the use of violent and disproportionate interventions by state authorities during protests and peaceful demonstrations; encourages the relevant authorities to ensure a transparent, impartial and effective investigation when the use of disproportionate force is suspected or has been alleged; recalls that law enforcement authorities must always be held accountable for the fulfilment of their duties and their compliance with the relevant legal and operational frameworks;

5. Urges the Member States not to use excessive force and arbitrary detention against peaceful demonstrators; calls on the Member States to ensure that the use of force by law enforcement authorities is always lawful, proportionate, necessary and the last resort, and that it preserves human life and physical integrity; notes that the indiscriminate use of force against crowds contravenes the principle of proportionality;

6. Notes the important role of journalists and photojournalists in reporting cases of disproportionate violence, and condemns the instances in which they have been deliberately targeted;
7. Acknowledges that the police, among whom there have also been many casualties, are operating in difficult conditions, owing in particular to the hostility of some protesters, but also to an excessive workload; condemns every kind of violence against persons or property by organised violent groups which harm the legitimacy of peaceful protests;

8. Calls on the Member States to use alternative practices which have already proven to be effective, notably those which avoid physical contact with demonstrators and rely on mediation officers;

9. Recalls that law enforcement policies must give special consideration to persons who are particularly vulnerable to the harmful consequences of the use of force in general, as well as to the effects of specific less-lethal weapons, such as children, pregnant women, elderly people, persons with disabilities, persons suffering from mental illness or persons under the influence of drugs or alcohol;

10. Encourages the Member States’ law enforcement officials to actively participate in the training offered by the European Union Agency for Law Enforcement Training (CEPOL) on maintaining public order; encourages the Member States to exchange best practices in this regard; calls on the Member States to foster the continuous training of law enforcement authorities in national and international human rights law;

11. Stresses that law enforcement authorities must give priority to voluntary dispersal without the use of force; insists that firearms should never be lawfully used to disperse an assembly, but may only be used where strictly necessary to confront an imminent threat to life or of serious injury;

12. Condemns the use of certain types of less-lethal weapons, such as kinetic impact projectiles and instant tear gas grenades, by police forces against peaceful demonstrators; also condemns the use of tear gas, water cannons, projectile electric shock weapons and similar means of dispersing peaceful protesters, which can cause serious injuries with lifelong consequences; notes that the prohibition of certain types of less-lethal weapons has been requested by numerous international organisations and bodies;

13. Is concerned about the fact that the Member States have different thresholds for the use of force and weapons; regrets the fact that EU citizens are treated very differently by law enforcement authorities and that their fundamental rights are not equally protected everywhere;

14. Welcomes the decision by some Member States and their regions to suspend or ban certain types of less-lethal weapons; urges the prohibition of the use of certain types of less-lethal weapons and devices, including, for example, launchers of kinetic impact projectiles, sting-ball grenades, and instant tear gas grenades;

15. Calls on the Member States to ensure that all weapons are independently assessed and trialled before being introduced onto the market and that all ongoing data on all use of force is collected so that evidence concerning use, misuse, unexpected consequences, injuries, deaths and their causes can be gathered;

16. Calls on its Committee on Civil Liberties, Justice and Home Affairs to organise a hearing on the use of force and less-lethal weapons against assemblies, and to prepare a
report on this topic in collaboration with the STOA panel with a view to developing guidelines for the Member States on the use of force and less-lethal weapons; encourages the Commission and the Fundamental Rights Agency to take part in this process;

17. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States, the Council of Europe, the Organisation for Security and Cooperation in Europe and the United Nations.