

## **P7\_TA(2014)0231**

### **Evaluation of justice in relation to criminal justice and the rule of law**

#### **European Parliament resolution of 12 March 2014 on evaluation of justice in relation to criminal justice and the rule of law (2014/2006(INI))**

*The European Parliament,*

- having regard to the Treaty on European Union, in particular Articles 2, 6 and 7 thereof,
- having regard to the Treaty on the Functioning of the European Union, in particular Articles 70, 85, 258, 259 and 260 thereof,
- having regard to the Charter of Fundamental Rights of the European Union,
- having regard to Article 6 of the European Convention on Human Rights,
- having regard to the Commission communication of 27 March 2013 entitled ‘The EU Justice Scoreboard – A tool to promote effective justice and growth’ (COM(2013)0160),
- having regard to the letter of 6 March 2013 sent by the foreign affairs ministers of Germany, Denmark, Finland and the Netherlands to Commission President José Barroso calling for the establishment of a mechanism to foster compliance with fundamental values in the Member States,
- having regard to Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States,
- having regard to the Commission proposal on the establishment of the European Public Prosecutor’s Office (COM(2013)0534), addressing the need to create an EU criminal justice area,
- having regard to the activities, annual reports and studies of the European Union Agency for Fundamental Rights,
- having regard to the activities and reports of the European Commission for Democracy through Law (the Venice Commission), notably its Report on the Rule of Law (CDL-AD(2011)003rev), its Report on the Independence of the Judicial System – Part I: The Independence of Judges (CDL-AD(2010)004), and its Report on European Standards as regards the Independence of the Judicial System – Part II: The Prosecution Service (CDL-AD(2010)040),
- having regard to the Memorandum of Understanding between the Council of Europe and the European Union,
- having regard to the Revised Statute of the European Commission for Democracy through Law,
- having regard to the Commission communication of 13 November 2013 entitled ‘Annual Growth Survey 2014’ (COM(2013)0800),

- having regard to the activities and reports of the European Commission for the Efficiency of Justice (CEPEJ), notably its latest evaluation report on European judicial systems (2012),
  - having regard to its resolutions on the situation, standards and practices of fundamental rights in the European Union, as well as to all relevant resolutions in the area of the rule of law and justice, including those on corruption and on the European Arrest Warrant<sup>1</sup>,
  - having regard to Rule 48 of its Rules of Procedure,
  - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Legal Affairs (A7-0122/2014),
- A. whereas in the area of criminal justice evaluation enhances mutual trust, and whereas mutual trust is key to the efficient implementation of mutual recognition tools; whereas under the Stockholm programme evaluation is listed as one of the main tools for integration in the area of freedom, security and justice;
  - B. whereas the Treaties provide the necessary basis for evaluating policies in the area of freedom, security and justice, as well as respect for fundamental Union values, including the rule of law; whereas the quality, independence and efficiency of judicial systems are also priorities mentioned in the framework of the European Semester, the new EU annual cycle of economic policy coordination;
  - C. whereas the Justice Scoreboard is currently dealt with in the context of the European economic semester, thus overemphasising the economic value of justice; whereas justice is a value in itself and should be accessible to all irrespective of economic interests;
  - D. whereas there is a need for cooperation among national authorities and a common understanding of the EU legislation in the field of criminal law;
  - E. whereas the 2013 Justice Scoreboard bears exclusively on civil, commercial and administrative justice, but should also include criminal justice, as the functioning and integrity of criminal justice also have important repercussions on fundamental rights, and furthermore are strongly linked to the rule of law;
  - F. whereas the annual report of the European Union Agency for Fundamental Rights for 2012, in its chapter on ‘access to efficient and independent justice’, expressed concerns over the situation regarding the rule of law, and in particular judicial independence, in certain Member States and, in this connection, over the fundamental right of access to justice, which has been seriously affected by the financial crisis;
  - G. whereas excessive duration of judicial proceedings remains the first reason for the European Court of Human Rights to condemn EU Member States;
  - H. whereas since its creation in 2002, the European Commission for the Effectiveness of Justice (CEPEJ) has developed first-hand expertise in the analysis of different national judicial systems and has provided an unprecedented knowledge base with real added value, helping the Member States to improve the evaluation and functioning of their judicial

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<sup>1</sup> Texts adopted, P7\_TA(2012)0500, P7\_TA(2013)0315, P7\_TA(2011)0388, and P7\_TA(2013)0444, P7\_TA(2014)0173 and P7\_TA(2014)0174.

systems; whereas its evaluation scheme, which has now reached its fifth round, covers all areas of justice and includes different categories for analysis, such as demographic and economic data, fair trial, access to justice, the careers of judges, prosecutors and lawyers, etc.;

- I. whereas the Venice Commission, in its most recent report on the rule of law, listed six elements on which there was consensus and which constitute the basic pillars of the rule of law: legality, including a transparent, accountable and democratic process for enacting law; legal certainty; the prohibition of arbitrariness; access to justice before independent and impartial courts, including the judicial review of administrative acts; respect for human rights; and non-discrimination and equality before the law;
- J. whereas the work of the EU institutions should be based on close cooperation and interaction, and should draw on best practices and the expertise of other international bodies, including the specialised bodies of the Council of Europe, so as to avoid overlapping and duplication of activities and ensure an efficient use of resources;
- K. whereas the Council of Europe and the European Union have reaffirmed their commitment to strengthening their cooperation in areas of common interest, in particular the promotion and protection of pluralistic democracy and respect for human rights and fundamental freedoms and the rule of law, to making full use of the specialised bodies such as the Venice Commission, and to developing appropriate forms of cooperation in response to new challenges;
- L. whereas Parliament has repeatedly called for a strengthening of existing mechanisms to ensure that the values of the Union set out in Article 2 TEU are respected, protected and promoted, and for crisis situations in the Union and the Member States to be addressed in a rapid and efficient way; whereas a debate is under way within Parliament, the Council and the Commission on the creation of a ‘new mechanism’;
- M. whereas the independence of the judiciary as well as that of judges and public prosecutors in Member States must be protected from any political interference;
- N. whereas any decision on the matter should guarantee, as soon as possible, the proper application of Article 2 TEU and ensure that all decisions are taken on the basis of objective criteria and an objective evaluation, in order to address criticisms of double standards, differential treatment and political bias;
- O. whereas the application of Union instruments in the field of criminal justice, including, in this connection, respect for fundamental rights, as well as the development of an area of criminal justice, are dependent on the effective functioning of national criminal justice systems;
- P. whereas there is a need for a coherent and comprehensive administration of justice, as differences between Member States’ criminal systems must not be exploited by criminals crossing borders;

### ***Development of the Justice Scoreboard in criminal law matters***

- 1. Welcomes the EU Justice Scoreboard drawn up by the Commission; regrets, however, that it only focuses on civil, commercial and administrative justice;

2. Emphasises that the establishment of a Justice Scoreboard in criminal matters will make a fundamental contribution to creating a common understanding of EU legislation in the field of criminal law among judges and prosecutors, thus strengthening mutual trust;
3. Calls on the Commission, therefore, to gradually expand the scoreboard's scope so that it becomes a separate and encompassing justice scoreboard which assesses, through the use of objective indicators, all areas of justice, including criminal justice and all justice-related horizontal issues, such as the independence, efficiency and integrity of the judiciary, the career of judges and the respect of procedural rights; calls on the Commission to involve all relevant actors and draw on their experience and lessons learnt, as well as the work already carried out by the bodies of the Council of Europe regarding the assessment of the rule of law and justice systems, and by the European Union Agency for Fundamental Rights;

### ***Role of the national Parliaments and the European Parliament***

4. Calls on the Commission and Council to ensure that the European Parliament and the national Parliaments are involved in the process as provided for by the Treaties and that they are regularly presented with the results of evaluations;

### ***Member States' participation***

5. Regrets the lack of available data on national justice systems, and therefore calls the Member States to cooperate fully with the EU and Council of Europe institutions and to collect and provide, on a regular basis, impartial, reliable, objective, and comparable data on their justice systems;

### ***Rule of law and fundamental rights***

6. Calls on the Commission to address Parliament's repeated request and propose:
  - an effective mechanism for a regular assessment of Member States' compliance with the fundamental values of the EU, as set out in Article 2 TEU, providing a basis for an early warning tool; and
  - a mechanism for crisis situations with appropriate forms of intervention, more effective infringement proceedings and the possibility of sanctions should systematic breaches of the principles of democracy and the rule of law occur and should the appropriate checks and balances fail to function in a Member State;
7. Reiterates that any such mechanism must be applied to all Member States on a transparent, uniform and equal footing, and must seek complementarity with the work of other international institutions, such as the Council of Europe and, in particular, its Venice Commission; calls for a role for the European Union Agency for Fundamental Rights in the assessment;
8. Calls for increased cooperation between the European Parliament and the Venice Commission; invites Parliament and the Council of Europe to develop an appropriate mechanism for submitting requests for opinion on subjects of particular concern to the Venice Commission and to ensure Parliament's participation as an observer in the work of the Venice Commission;

9. Deems it necessary to further strengthen cooperation between the competent committees of Parliament and the Parliamentary Assembly of the Council of Europe in compliance with Rule 199, in particular in the forms of regular and ad hoc meetings, as well as to appoint focal points on both sides; extends a standing invitation to Council of Europe representatives (relevant PACE Committees, Venice Commission, CEPEJ, Commissioner for Human Rights) to attend the relevant meetings of EP committees;
10. Calls for an update of the 2007 Agreement on the strengthening of cooperation between the Parliamentary Assembly of the Council of Europe and the European Parliament in order to best take into account the developments since the entry into force of the Lisbon Treaty; calls on the Conference of Presidents, on the basis of Rule 199 of Parliament's Rules of Procedure ,to invite the PACE to open discussions with a view to the inclusion in this general framework of practical cooperation measures between the respective bodies;
11. Notes that the Memorandum of Understanding between the Council of Europe and the European Union must be also subject to regular evaluations;
12. Calls on the Council and the Member States to fully assume their responsibilities in relation to fundamental rights, as enshrined in the Charter and the relevant articles of the Treaties, in particular Articles 2, 6 and 7 TEU; believes that this is a precondition if the EU is to deal effectively with situations where the principles of democracy, the rule of law and fundamental rights are curbed by Member States;
13. Emphasises that the Commission is empowered to bring a Member State failing to fulfil an obligation under the Treaties before the Court of Justice of the European Union;

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14. Instructs its President to forward this resolution to the Council and the Commission.