European Parliament

2014-2019

Committee on Constitutional Affairs

2015/2254(INL)

16.6.2016

OPINION

of the Committee on Constitutional Affairs

for the Committee on Civil Liberties, Justice and Home Affairs

on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights
(2015/2254(INL))

Rapporteur: György Schöpflin

(Initiative – Rule 46 of the Rules of Procedure)
SUGGESTIONS

The Committee on Constitutional Affairs calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible:

– to incorporate the following suggestions into its motion for a resolution:

1. Underlines the shared values as laid down in Article 2 TEU on which the European Union is founded;

2. Stresses that the Union is founded on common principles and 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; expresses the view that the Union institutions and bodies and the Member States should uphold and set an example by genuinely fulfilling their obligations and move towards consensus and a shared culture of the meaning of the rule of law as universal value in the 28 Member States and in the Union institutions to be applied by all concerned even-handedly;

3. Expresses the view that respecting the rule of law is a prerequisite for the protection of fundamental rights and is of particular importance within the Union since it is also a prerequisite for upholding all rights and obligations deriving from the Treaties and from international law;

4. Believes that the conclusions and opinions of the European Union Agency for Fundamental Rights as well as the case law of the Court of Justice of the European Union constitute a good basis for the interpretation of Article 2 TEU and the scope of the rights enshrined in the Charter of Fundamental Rights;

5. Recalls that Article 6(2) TEU commits the Union to acceding to the European Convention for the protection of Human Rights and Fundamental Freedoms, and therefore calls for this to happen;

6. Notes that recent events in some Member States have shown that the failure to observe the rule of law and fundamental values is not being properly prevented, given the resulting problems among Member States and the fact that there is no swift, effective response coming from the Union institutions;

7. Considers that the procedure under Article 7 TEU remains a last resort instrument and will hardly be used to its full potential, because of the difficulty to reach a decision due to the unanimity requirement in the European Council; notes that the Union has no legally binding mechanism in place to monitor regularly the compliance of the Member States and Union institutions with the Union values and fundamental rights;

8. Stresses the importance of the rule of law Framework established by the Commission in 2014\(^1\) and of the creation of an annual dialogue on the rule of law in the General Affairs

\(^1\) Communication of the Commission of 11 March 2014 on "A new EU Framework to strengthen the Rule of Law" (COM(2014)0158).
Council as established in December 2014; and looks to the formulation of common ground as between these different rule of law mechanisms, in order to make sure they are effective in ensuring compliance with fundamental rights and democratic values in the entire Union; calls on the Commission and Council to update Parliament on these issues on a regular basis; urges however all Union institutions to work towards the establishment of a broader, integrated democracy, rule of law and fundamental rights mechanism that applies to all Member States and the Union institutions; therefore recommends the adoption of a democracy, rule of law and fundamental rights pact between citizens, governments, and Union institutions, giving ownership to all;

9. Considers it important to promote a continuous dialogue and to work towards a stronger consensus between the Union and its Member States with the aim of promoting and protecting democracy, the rule of law and fundamental rights to safeguard the shared values as enshrined in the Treaties and the Charter of Fundamental Rights in a fully transparent, objective manner; is convinced that there cannot be any compromise regarding the fundamental rights and values enshrined in the Treaties and the Charter of Fundamental Rights;

10. Emphasises the key role that the European Parliament and the national parliaments should play in measuring the progress of, and monitoring the compliance with, the shared values of the Union, as enshrined in Article 2 TEU; notes the key role of the European Parliament in maintaining the necessary continuous debate within the common Union consensus on democracy, rule of law and fundamental rights taking into account the changes in our society; considers that the implementation of these values and principles must also be based on effective monitoring of respect for the fundamental rights guaranteed in the Charter;

11. Recognises the essential role civil society organisations play in promoting democratic values, the rule of law and fundamental rights;

- to incorporate the following recommendations in the annex to its motion for a resolution:

12. Recommends the establishment of a comprehensive Union mechanism for democracy, the rule of law and fundamental rights which would include all relevant stakeholders; considers that this may imply a possible Treaty change with a lengthy but necessary procedure under the light of the common efforts to defend Union's democratic principles, but that until then a mechanism can be set up within the limits of the current treaties, for example by means of an interinstitutional agreement, provided such mechanism does not jeopardise or rival but rather complements and paves the way for the procedure under Article 7 TEU; calls for all Member States to be treated equally and no decision to be taken on mere political grounds;

13. Points out that if the Union lays down requirements in its international agreements to protect and promote human rights, then it must likewise ensure that the institutions and all Member States comply with the rule of law and respect fundamental rights;

14. Calls for a coordination of the initiatives from the different Union institutions and is of the opinion that informal trilogues should be regularly organised to ensure a coherent Union approach and to establish a fully consensual working definition of human rights,
the rule of law and democracy;

15. Recommends the conclusion of a pact to establish an annual ‘fundamental rights policy cycle’ as part of a multi-annual structured dialogue among all stakeholders; in this context, suggests that the European Parliament and national parliaments hold a yearly debate on the respect for democracy, the rule of law and the state of fundamental rights within the Union; believes that this debate should be organised in such a way as to set benchmarks and goals to be attained and to provide the means to evaluate changes from one year to another within the existing Union consensus on democracy, rule of law and fundamental rights;

16. Recommends the organisation of an annual pan-Union parliamentary debate on democracy, the rule of law and fundamental rights as part of a multi-annual structured dialogue between the European Parliament, national parliaments, the Commission and the Council, which also involves civil society, the European Union Agency for Fundamental Rights and the Council of Europe;

17. Recommends that the pan-Union parliamentary debate be organised in such a way that it can involve setting goals to achieve and provide the means to measure changes from one year to another with the possibility to report back on the implementation of goals or recommendations; also recommends the acceleration of relevant procedures in order to create such means, which will not only allow the immediate and effective monitoring of annual changes, but will also ensure the compliance with commitments by all relevant parties;

18. Considers it essential, for the purpose of following up the above parliamentary debate, to provide for the option of tabling an annual resolution in plenary;

19. Calls on the Commission and the Council to address the concerns raised by the Court of Justice in its Opinion 2/13 as quickly as possible in order to comply with the obligation enshrined in Article 6 TEU to accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms.
RESULT OF FINAL VOTE IN COMMITTEE ASKED FOR OPINION

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<th>Date adopted</th>
<th>15.6.2016</th>
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<tr>
<td>Result of final vote</td>
<td>+: 13</td>
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<td>Members present for the final vote</td>
<td>Mercedes Bresso, Pascal Durand, Danuta Maria Hübner, Ramón Jáuregui Atondo, Morten Messerschmidt, Maite Pagazaurtundúa Ruiz, György Schöpflin, Barbara Spinelli, Claudia Țapardel, Josep-Maria Terricabras, Kazimierz Michal Ujazdowski, Rainer Wieland</td>
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<td>Substitutes present for the final vote</td>
<td>Gerolf Annemans, Enrique Guerrero Salom, Sylvia-Yvonne Kaufmann, Jérôme Lavrilleux, Cristian Dan Preda, Daciana Octavia Sârbu</td>
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<td>Substitutes under Rule 200(2) present for the final vote</td>
<td>Pilar Ayuso</td>
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