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WORKING DOCUMENT

on an Annual Pan-EU debate in the framework of the legislative own-initiative report on the establishment of an EU mechanism for Democracy, the Rule of Law and Fundamental Rights

Committee on Constitutional Affairs

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An Annual Pan-EU debate on "Democracy, the Rule of Law and Fundamental Rights"

Ms In 't Veld's legislative own-initiative report on an "EU mechanism for Democracy, Rule of law and Fundamental Rights" was initiated following a request from Parliament which in its resolution of 10 June 2015 on the situation in Hungary¹ "calls on the Commission to present a proposal for the establishment of an EU mechanism on Democracy, the Rule of Law and Fundamental Rights,..., and to carry on impartial, yearly assessment on the situation of fundamental rights, democracy and the rule of law in all Member States,..." and "instruct its Committee on Civil Liberties, Justice and Home Affairs to contribute to the development and elaboration of this proposal in the form of a legislative own-initiative report..."

This working document is part of a set of 7 working documents written in preparation of this legislative own-initiative report. The other working documents will concentrate on the following issues: scoreboard on Democracy, Rule of law and Fundamental Rights; Democracy, Rule of Law and Fundamental Rights in impact assessment or screening procedures; Using article 2 and the Charter as a basis for infringement procedures; individual enforcement/litigation by citizens as a tool; methods and existing mechanisms; European logic of governance.

Further analysis is required in order to explore possible interactions between the frameworks, mechanisms on the rule of law and fundamental rights initiated by the three European Institutions: Commission, European Council and the European Parliament, together with the role of the European Court of Justice.

Building on existing experiences

Cooperation between the European Parliament and the National Parliaments already has a long history. Exchange of information's and cooperation between the European Parliament and National Parliament's exist since the beginning of the European construction.

Those relations have progressively been institutionalized and led to regular contacts and meetings organized at different levels.

The **Conferences of speakers of the parliamentary assemblies of the European Union** were introduced in 1981. Comprising the presidents of the National Parliaments and the European Parliament, they discuss specific questions of cooperation.

The **Conference of Parliamentary Committees for Union Affairs of the Parliaments of the European Union** (COSAC), originally proposed by the President of the French National Assembly, has met every six months since 1989. The Conference brings together the National Parliaments bodies specializing in European affairs and six Member of the European Parliament.

After the experience of the European Convention, parliamentarians from both the European Parliament and National Parliaments felt that it would be useful to establish a permanent instrument of political cooperation to deal with specific topics. From 2005 on, Members of the European Parliament and Members of National Parliaments met in **Joint Parliamentary Meetings** to discuss important issues affecting parliaments in the process of EU policy-

¹ Texts adopted P8_TA (2015)0227

making and institution-building.

The **European Semester**, established in 2011 in the context of the economic and financial crisis, can be seen as a partnership between the EU and its Member States. It consists in an annual monitoring system, involving an annual discussion between the European Commission, the Member States and the European Parliament to achieve the EU's targets, both in terms of the Europe 2020 Strategy and of the Stability and Growth Pact.

It involves annual interactions between Member States, the Commission, the Council and the European Parliament. This interaction happens once every year on a specific time frame.

The overall purposes of the semester include improving democratic dialogue, encourage convergence by applying comparative criteria and best practices and support reforms.

The semester includes a clear timetable, under which the Member States receive guidance provided at EU level and submit their programs which are assessed at EU level.

Can an Annual Pan EU parliamentary debate on Democracy be modelled on the European Semester?

The European semester has been put in place in the context of the economic and monetary crisis and can probably not be transposed, *mutatis mutandis*, to achieve the democratic goals the EU pursue in the area of Democracy, the Rule of Law and Fundamental Rights.

Due to the different nature of the debate in the field of Democracy, the Rule of Law and Fundamental Rights some adjustments would certainly be needed. Nevertheless, some principles and methods introduced by the European semester could serve as a basis for our reflexion on the creation of an annual Pan-EU Parliamentary Debate in the field of Democracy, the Rule of Law and Fundamental Rights and the mechanism the INI own-legislative report is trying to put in place.

The Pan-EU Parliamentary Debate should focus on a clear and universally agreed definition of what constitutes human rights, including breaches of the same and by what criteria it is established whether or not the breaches are systemic. Then, the Debate should determine the legal and political criteria of human rights, crucially where the dividing line between two lies. Equally, it is important to define whether human rights are a static or dynamic concept, and if dynamic, how their enlargement proceeds. Finally, the Debate should establish what its own role should be in determining cases of human rights and their breaches.

In the first instance, the European semester, as it involves enhanced policy coordination can help prevent discrepancies and help ensure convergence and stability throughout the EU and in its Member States. It creates an inter-institutional dynamic that could lead to better comprehension of everyone's position and to better results. In this regard, an annual Pan-EU parliamentary debate should not limit itself to be an annual one-shot event with limited outcome but could be one element of a multi-annual structured dialogue involving the European Parliament and the National Parliaments on the one side; the European Commission and the Council on the other side.

Monitoring progress and ensuring the active involvement of EU Member States are key elements of the European Semester, which could inspire the action in the field of Democracy,

the Rule of Law and Fundamental Rights.

An annual Pan-EU Parliamentary Debate: an element of a new partnership between the EU and its MS with the view to promote Democracy, the rules of law and Fundamental Rights

If we consider an Annual Pan-EU Parliamentary Debate as one element of a broader spectrum, it could be the first step of a "European fundamental rights policy cycle, detailing on a multiannual and yearly basis the objectives to be achieved and the problems to be solved" already requested in Parliament resolution of 12 December 2012 on the situation of fundamental rights in the EU¹.

Mobilizing a similar formula as the European Semester "model" will imply that the annual Pan-EU Parliamentary debate will be one element of a broader action and involves setting goals to achieve and provide the means to measure progress and changes from one year to another.

This could be achieved with recommendations being adopted after the debate and those recommendations being monitored during the year and the achievement being measured at the following Annual Pan-EU parliamentary debate.

The basic principle of a Pan-EU Parliamentary Debate

Organization

The organization of the annual Pan-EU Parliamentary debate should be placed under the coordination and responsibility of the European Parliament competent committees and be organized in close cooperation between them. Specific secretariat tools being eventually set up.

The Pan-EU Parliamentary Debate should be organized in the premises of the European Parliament.

The overhaul organizational expenses (meeting rooms, interpretation facilities...) will be at the European Parliament cost. Travel and accommodation costs will be borne by each participant. Though this new instrument should be budget neutral.

General purpose and objective

The major objective would be to bring together representatives from the European Parliament and Member States National Parliaments to exchange experiences on the situation of Democracy, Rule of law and Fundamental Rights in the EU and share identified difficulties as well as best practices from Member States.

The debate should be organized in such a way that it fully respects the subsidiarity principle and allows for a certain flexibility from country to country.

¹ Texts adopted P7_TA(2012)0500, par 20

Frequency

This Pan-EU Parliamentary Debate could be organized on the basis of a one day annual conference on Democracy, the Rule of law and Fundamental Rights; involving the European Parliament and representatives committees of the Member States National Parliaments.

An annual debate as part of an annual Fundamental rights cycle

This annual Pan-EU Parliamentary Debate can be organized as a yearly independent event or be integrated in an annual cycle initiated every year by the European Commission annual report on Fundamental rights and ending with the adoption of recommendations.

Participants

This annual Pan-EU Parliamentary Debate should involve Members of the European Parliament and Members of the National Parliaments of the Member States.

The European Commission and the European Council should also be involved.

The Council of Europe Venice Commission could be involved under an observatory statute.

NGO's and experts could be invited on specific issues of relevance.

Focusing on a specific issue or general overview of the situation in the Member States

The discussions could either concentrate on one specific issue to be decided by the previous Pan-EU Parliamentary debate (for the first debate the issue to be discussed would be chosen by the EP competent committees in consultation with the National Parliaments) or be organized as a general discussion on the situation of Democracy, the Rule of law and Fundamental Rights in the European Union; eventually concentrating on the main problems encounter during the previous year.

The agenda could also be organized in order to allow a discussion on the general situation in the EU, a discussion on a specific issue and the adoption of recommendations.

In order to be successful a Pan EU Parliamentary debate should have a clear goal in mind and adopt recommendations.

Supporting documents

The European Commission's annual report on Fundamental rights and the Justice Scoreboard could be the reference documents for the debate. These documents could be complemented by a report on recommendations requested from the European Agency for Fundamental rights (FRA).

Contributions made by the National Parliaments and by the Venice Commission of the Council of Europe could also be encouraged.

Civil society NGO's could also be requested to send contributions on specific issues.

Outcome

The annual debate should adopt recommendations to be achieved before the next annual debate.

Follow up

It is important that some kind of follow-up is put in place after an Annual Pan-EU Parliamentary debate, if it is wished for the debate to produce solid results in relation to the situation of Democracy, the Rule of Law and Fundamental Rights and/or to make progress in relation with the adopted recommendations.