DRAFT 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
(2020/2072(INL))

Rapporteur for opinion: Włodzimierz Cimoszewicz

(Initiative – Rule 47 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. Considers that the situation with regard to the rule of law, democracy and fundamental rights has substantially deteriorated in a number of Member States; recalls in particular the importance of upholding the rule of law and the obligation of Member States to ensure effective judicial protection, which is a core value of the Union as a community based on law;

2. Insists that the Union institutions are to practise mutual sincere cooperation in line with Article 13(2) TEU and therefore should all contribute to the defence of the Union values in accordance with the procedures set out in the Treaties; calls for such activities to be governed by an interinstitutional agreement and for existing mechanisms to be consolidated, while setting out detailed assessments of the situations in all Member States, determining preventive and corrective actions;

3. Believes that for effective implementation, in accordance with Article 295 TFEU and their power of self-organisation, the three institutions should establish a joint body responsible for coordinating their cooperation in this field;

4. Insists that the Annual Monitoring Cycle should be governed by the principles of transparency, impartiality, and equality between Member States, be based on objective evidence and lead to effective and realistic measures;

5. Believes that, both in the process of establishment of the Interinstitutional Agreement and in the operation of the Annual Monitoring Cycle, the institutions should, in accordance with Article 11 TEU, maintain an open dialogue with representative stakeholders; the Annual Monitoring Cycle should therefore provide for compulsory consultations with organised civil society, and their views and contributions should be made public in that process;

6. Recognises that in the Annual Monitoring Cycle, the Member States should be given an opportunity to present their positions in full, while not hampering the efficiency of the procedure;

7. Insists that the Annual Monitoring Cycle be fully integrated with the Regulation on the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States, linking budget transfers to the results of the monitoring process, while protecting the legitimate interests of the final recipients and beneficiaries of Union funds;

8. Considers that the assessment carried out in the context of the Annual Monitoring Cycle should inform Commission decisions about whether to launch systemic infringement procedures;

9. Insist that, regardless of the annual cycle, while considering the gravity of the possible consequences of rule of law violations and the scale of its effects, a special procedure for

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1 Proposal for a Regulation on the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States COM/2018/324 final
urgent cases of violation of Union values should be considered;

10. Underlines furthermore that while considerable delay in rendering judgments, in particular in the rule of law-related cases, may result in irreversible and severe harm caused by rule of law backsliding, more consideration should be given to strengthening the Court of Justice of the European Union’s potential and role in defending the rule of law; considers that such an option could be to provide for an accelerated procedure in all such cases, systematically applying interim relief;

11. Highlights that the Conference on the Future of Europe provides a momentum for better understanding the need to protect Union values in this context; therefore, in the event of Treaty changes being made in the future, the effectiveness of the Article 7 procedure should be enhanced by removing the requirement for unanimity and reinforcing the sanction mechanism;

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