



Plenary sitting

B8-0524/2018

7.11.2018

MOTION FOR A RESOLUTION

to wind up the debate on the statements by the Council and the Commission

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

on the need for a comprehensive democracy, rule of law and fundamental
rights mechanism
(2018/2886(RSP))

**Marek Jurek, Zdzisław Krasnodębski, Anders Primdahl Vistisen,
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on behalf of the ECR Group

European Parliament resolution on the need for a comprehensive democracy, rule of law and fundamental rights mechanism (2018/2886(RSP))

The European Parliament,

- having regard to the Article 2 of the Treaty on European Union (TEU),
 - having regard to Articles 3(6), 4 and 5 TEU and, in particular, to the principles of conferral and subsidiarity,
 - having regard to Article 7 TEU on the risk of a serious breach or a serious and persistent breach of the rule of law,
 - having regard to Article 258 of the Treaty on the Functioning of the European Union (TFEU) on the infringement procedure,
 - having regard to Article 295 TFEU on interinstitutional agreements,
 - having regard to the annual report from the Commission of 2017 on monitoring the application of EU law (COM(2018)0540),
 - having regard to its resolution of 25 October 2016 with recommendations to the Commission on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights¹ (DRF mechanism),
 - having regard to Rule 123(2) of its Rules of Procedure,
- A. whereas the Union is a community based on law and acts only within the limits of the competences conferred on it by the Member States in the Treaties, and whereas the exercise of those powers is subject to the principles of subsidiarity and proportionality;
- B. whereas the Union pursues its objectives by appropriate means in accordance with the competences conferred on it;
- C. whereas in accordance with Article 7 TEU, the Council and the European Council have the competence to determine a clear risk of a serious breach or a persistent breach by a Member State of the common values on which the Union is founded;
- D. whereas in accordance with Article 258 TFEU, the Commission may bring an action before the Court of Justice of the European Union against a Member State for infringement of the Treaties;
- E. whereas these procedures may lead to the imposition of sanctions against a Member State in breach of the Treaties, including suspension of the right to vote in the Council

¹ OJ C 215, 19.6.2018, p. 162.

and financial penalties;

- F. whereas in 2017, the Commission lodged 716 complaints against Member States for infringement of the Treaties under the procedure provided for in Article 258 TFEU;
 - G. whereas Parliament, in its 2016 resolution, called on the Commission to come forward with a proposal for the establishment of a new interinstitutional mechanism for democracy, the rule of law and fundamental rights which provides for an annual report, prepared by a committee of experts, on Member States' compliance with the values enshrined in Article 2 TEU, together with country-specific recommendations;
 - H. whereas in accordance with Article 295 TFEU, the purpose of the interinstitutional agreement instrument is to strengthen cooperation between the EU institutions within the existing competences as conferred by the Treaties;
 - I. whereas high-level Commission officials, including Vice-President Frans Timmermans, have been sceptical of the proposed DRF mechanism, denying that it is needed in addition to existing procedures, and stressing serious doubts as to the legality, institutional legitimacy and enforceability of the proposal;
- 1. Recognises that the EU has sufficient Treaty mechanisms in place to prevent extraordinary violations of the rights and values on which the Union is founded;
 - 2. Recalls that, in accordance with Article 2 TEU, the values of democracy, the rule of law and respect for human rights are common to the Member States; stresses that the EU cannot question the lawful character of any Member State without sufficient evidence, verified under rules grounded in the law, except where such questioning is justified by final and sufficiently reasoned judgments by the competent authorities, made within the relevant Treaty procedures;
 - 3. Recognises that, in the absence of a solid basis in the Treaties, continuing to push for the establishment of a DRF mechanism would run contrary to the principles and values on which the Union is founded, and thus to the principles of the rule of law, conferral of competences and subsidiarity; stresses that the establishment of a DRF mechanism would usurp existing competences under Articles 7 TEU and 258 TFEU, and would also constitute an abuse of the interinstitutional agreement instrument under Article 295 TFEU;
 - 4. Calls on the Commission, the Council and the European Council to apply in a fair and responsible manner the instruments available under the Treaties to protect common values and the rule of law;
 - 5. Calls for respect for the principles governing conduct set out in Articles 7 TEU and 354 TFEU, and the underlying principle of mutual respect between democratic countries for policy choices; calls on the Commission and the Council to act within the framework provided by the Treaties and in a spirit of dialogue;
 - 6. Instructs its President to forward this resolution to the Commission, the Council and the parliaments and governments of the Member States.

