



Plenary sitting

B9-0191/2023

22.3.2023

MOTION FOR A RESOLUTION

to wind up the debate on the statement by the Commission

pursuant to Rule 132(2) of the Rules of Procedure

on the 2022 Rule of Law report – the rule of law situation in the European Union
(2022/2898(RSP))

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on behalf of the ECR Group

B9-0191/2023

European Parliament resolution on the 2022 Rule of Law report – the rule of law situation in the European Union (2022/2898(RSP))

The European Parliament,

- having regard to Articles 2, 5 and 7 of the Treaty on European Union (TEU),
 - having regard to the opinion of the Legal Service of the Council of 27 May 2014 entitled ‘Commission’s Communication on a new EU Framework to strengthen the Rule of Law: compatibility with the Treaties’,
 - having regard to Rule 132(2) of its Rules of Procedure,
- A. whereas the Union is founded on the values set out in Article 2 TEU; whereas Article 2 TEU does not confer any material competence upon the Union and only lists certain values that should be respected by both the institutions of the Union and its Member States when they act within the limits of the powers conferred on them by the Treaties and without affecting those limits; whereas Article 2 TEU applies not only, and not even primarily, to the Member States, but instead mainly to the European Union; whereas the rule of law should predominately cover the EU institutions;
- B. whereas the limits of the Union’s competences are governed by the principle of conferral, which means that competences not conferred upon the Union by the Treaties remain competences of the Member States;
- C. whereas only Article 7 TEU provides for a Union competence to supervise the application of the rule of law, as a value of the Union; whereas Article 7 TEU does not establish a means to further develop or amend the procedure described within it;
- D. whereas the lack of an agreed upon definition of the rule of law and of a single system to assess compliance with the rule of law at EU level, equally applied to all Member States, means that the notion of the rule of law is interpreted differently from one Member State to another;
- E. whereas the 2022 rule of law report has recommendations for each Member State, even though the Commission has no relevant competence; whereas recommendations regarding the rule of law may only be addressed to the Member States under the procedure established by Article 7(1) TEU;
1. Notes the Commission’s third annual rule of law report; considers that the Commission has no competence allowing it to prepare such a report;
 2. Notes the fact that justice systems, the anti-corruption framework, media pluralism and certain institutional issues related to checks and balances are all part of the Commission’s annual overview of the rule of law situation in the Member States; notes that the Commission has no competence to determine whether the situation in each

Member State constitutes a positive or negative trend that could serve as an example for others to follow;

3. Notes no improvements compared to previous annual reports; notes that the Commission is still struggling to define what the rule of law is, as its report on the rule of law describes many different values listed in Article 2 TEU;
4. Notes the Commission's monitoring of the independence, quality and efficiency of the Member States' justice systems; considers that the organisation and functioning of state bodies, in particular the judiciary, is one of the areas in which the Member States have not transferred any competence to the EU, but notes that, despite this fact, the Commission evaluates them anyway; regrets the expansion of the competences of the Court of Justice of the EU (CJEU), which undermines trust in the EU and the principles of proportionality and loyalty, which stem directly from the Treaties; condemns ultra vires adjudicating by the CJEU;
5. Notes with concern that, apart from the reporting of (objective) facts, the report contains evaluative (subjective) claims, without clearly delineating them; rebukes the fact that, when assessing similar legal regulations in force in different Member States, the Commission often assesses solutions in some Member States differently from identical solutions already in place in other Member States; condemns the Commission for its unequal treatment of the Member States described in its reports;
6. Calls for a report on the rule of law in the Union institutions, including abuses of the EU's competences, lobbying, favouritism towards select countries or companies and unacceptable ideological bias; decries the fact that the CJEU has been exceeding its Treaty competences more and more and has been making ultra vires rulings; supports the growing resistance of some Member States to complying with CJEU rulings on the grounds of sovereignty or unconstitutionality; believes that these developments in the CJEU pose a systemic threat to the existence of the Union; considers, therefore, that forthcoming annual reports should consider challenges from the CJEU to the Union's legal architecture and principles as serious violations in their assessments;
7. Stresses that the participation of Member States in the Commission's annual rule of law dialogue is not mandatory; expresses its understanding for those Member States that have decided to suspend cooperation with the Commission, in particular because of its methodological errors in preparing the reports and its unequal treatment of different Member States;
8. Calls on the Commission to stop acting under the pretext of protecting the rule of law and fundamental rights to exert political pressure on certain Member States to change democratically approved measures that fall under the competences of the Member States;
9. Stresses that the only possibility for Union interference in matters related to the Member States' respect for the Union's values, as such, is Article 7 TEU; emphasises that Article 7 TEU is complete and exhaustive; recognises the leading role of the Council in ongoing Article 7 TEU procedures;
10. Highlights that, to date, no Member State has been found to have breached the values

listed in Article 2 TEU, nor has any Member State even been found to be at serious risk of breaching them; regrets that the Council is avoiding the vote provided for in the Article 7(1) TEU procedure; underlines that this procedure should not be unnecessarily prolonged; urges the Council to schedule a vote and thereby conclude the procedure;

11. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States, the Council of Europe and the European Union Agency for Fundamental Rights.