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DRAFT REPORT

on the situation of fundamental rights in the European Union in 2022 and 2023
(2023/2028(INI))

Committee on Civil Liberties, Justice and Home Affairs

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CONTENTS

	Page
MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION.....	3
EXPLANATORY STATEMENT	11

MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on the situation of fundamental rights in the EU in 2022 and 2023 (2023/2028(INI))

The European Parliament,

- having regard to the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU),
- having regard to the Charter of Fundamental Rights of the European Union (‘the Charter’),
- having regard to the case-law of the Court of Justice of the European Union¹,
- having regard to Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget² (the Rule of Law Conditionality Regulation),
- having regard to Regulation (EU) 2021/692 of the European Parliament and of the Council of 28 April 2021 establishing the Citizens, Equality, Rights and Values programme and repealing Regulation (EU) No 1381/2013 of the European Parliament and of the Council and Council Regulation (EU) No 390/2014³,
- having regard to Regulation (EU) 2017/1939- implementing enhanced cooperation on the establishment of the European Prosecutor’s Office (‘the EPPO’)⁴,
- having regard to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural person with regard to the processing of personal data and on the free movement of such data, and repealing directive 95/46/EC (General Data Protection Regulation)⁵,
- having regard to the Directive (EU) 2017/1371 on the fight against fraud to the Union’s financial interests by means of criminal law⁶,
- having regard to Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law⁷,
- having regard to Commission Recommendation (EU) 2021/1534 of 16 September 2021

¹ Inter alia: *Commission v. Hungary* (Transparency of association), Case C-78/18, EU:C:2020:476, Case C-241/21: Judgment of the Court (Second Chamber) of 6 October 2022. *I. L. v Politsei- ja Piirivalveamet*, ECLI:EU:C:2022:753.

² OJ L 433I , 22.12.2020, p. 1.

³ OJ L 156, 5.5.2021, p. 1.

⁴ OJ L 283, 31.10.2017, p. 1.

⁵ OJ L 119, 4.5.2016, p. 1.

⁶ OJ L 198, 28.7.2017, p. 29.

⁷ OJ L 328, 6.12.2008, p. 55.

on ensuring the protection, safety and empowerment of journalists and other media professionals in the European Union⁸,

- having regard to the Commission communication of 9 December 2021 entitled ‘A more inclusive and protective Europe: extending the list of EU crimes to hate speech and hate crime’ (COM(2021)0777),
- having regard to the Commission communication of 5 March 2020 entitled ‘A Union of Equality: Gender Equality Strategy 2020-2025’ (COM(2020)0152),
- having regard to the Commission communication of 24 June 2020 entitled ‘EU Strategy on victims’ rights 2020-2025’ (COM(2020)0258),
- having regard to the Commission communication of 12 November 2020 entitled ‘Union of Equality: LGBTIQ Equality Strategy 2020-2025’ (COM(2020)0698),
- having regard to the Council conclusions of 2 March 2022 on combating racism and antisemitism,
- having regard to the Commission communication of 2 December 2020 entitled ‘Strategy to strengthen the application of the Charter of Fundamental Rights in the EU’ (COM(2020)0711),
- having regard to the Commission report of 6 December 2022 entitled ‘A thriving civic space for upholding fundamental rights in the EU – 2022 Annual Report on the Application of the EU Charter of Fundamental Rights’ (COM(2022)0716),
- having regard to the Commission communication of 13 July 2022 entitled ‘2022 Rule of Law Report – The rule of law situation in the European Union’ (COM(2022)0500),
- having regard to the Commission Recommendation (EU) 2023/681 of 8 December 2022 on procedural rights of suspects and accused persons subject to pre-trial detention and on material detention conditions⁹,
- having regard to the proposal for a directive of the European Parliament and of the Council on protecting persons who engage in public participation from manifestly unfounded or abusive court proceedings (‘Strategic lawsuits against public participation’) (COM(2022)0177) (‘the anti-SLAPP directive’),
- having regard to the proposal for a Council directive of 7 December 2022 on standards for equality bodies in the field of equal treatment between persons irrespective of their racial or ethnic origin, equal treatment in the field of employment and occupation between persons irrespective of their religion or belief, disability, age or sexual orientation, equal treatment between women and men in matters of social security and in the access to and supply of goods and services, and deleting Article 13 of Directive 2000/43/EC and Article 12 of Directive 2004/113/EC (COM(2022)0689),
- having regard to the proposal for a directive of the European Parliament and of the

⁸ OJ L 331, 20.9.2021, p. 8.

⁹ OJ L 86, 24.3.2023, p. 44.

Council on standards for equality bodies in the field of equal treatment and equal opportunities between women and men in matters of employment and occupation, and deleting Article 20 of Directive 2006/54/EC and Article 11 of Directive 2010/41/EU (COM(2022)0688),

- having regard to the reports of the EU Agency for Fundamental Rights (FRA), in particular its fundamental rights reports for the year 2022,
- having regard to the Universal Declaration of Human Rights,
- having regard to the UN instruments on the protection of human rights and fundamental freedoms, the recommendations and reports of the UN Universal Periodic Review, the case-law of the UN treaty bodies and the special procedures of the Human Rights Council,
- having regard to the Council of Europe Convention on preventing and combating violence against women and domestic violence, which opened for signature in Istanbul on 11 May 2011 ('Istanbul Convention'),
- having regard to the Council of Europe report of 23 March 2023 entitled 'Human Rights Defenders in the Council of Europe Area in Times of Crises' following the round-table with human rights organised by the Office of the Council of Europe Commissioner for Human Rights held in Dublin on 24 - 25 October 2022¹⁰,
- having regard to the Draft revised Agreement on the Accession of the European Union to the Convention for the Protection of Human Rights and Fundamental Freedom of 17 March 2023,
- having regard to its resolution of 11 November 2021 on strengthening democracy and media freedom and pluralism in the EU: the undue use of actions under civil and criminal law to silence journalists, NGOs and civil society¹¹,
- having regard to its resolution of 15 December 2021 on the evaluation of preventive measures for avoiding corruption, irregular spending and misuse of EU and national funds in case of emergency funds and crisis-related spending areas¹²,
- having regard to its resolution of 17 February 2022 with recommendations to the Commission on a statute for European cross-border associations and non-profit organisations¹³,
- having regard to its resolution of 8 March 2022 on the shrinking space for civil society in Europe¹⁴,
- having regard to its resolution of 10 March 2022 on the rule of law and the

¹¹ OJ C 205, 20.5.2022, p. 2.

¹² OJ C 251, 30.6.2022, p. 48.

¹³ OJ C 342, 6.9.2022, p. 225.

¹⁴ OJ C 347, 9.9.2022, p. 2.

consequences of the ECJ ruling¹⁵,

- having regard to its decision of 10 March 2022 on setting up a committee of inquiry to investigate the use of the Pegasus and equivalent surveillance spyware, and defining the subject of the inquiry, as well as the responsibilities, numerical strength and term of office of the committee (2022/2586),
- having regard to its resolution of 9 June 2022 on the rule of law and the potential approval of the Polish national recovery plan (RRF)¹⁶,
- having regard to its resolution of 6 July 2022 on intersectional discrimination in the European Union: the socio-economic situation of women of African, Middle-Eastern, Latin-American and Asian descent¹⁷,
- having regard to its resolution of 15 September 2022 on the proposal for a Council decision determining, pursuant to Article 7(1) of the Treaty on European Union, the existence of a clear risk of a serious breach by Hungary of the values on which the Union is founded¹⁸,
- having regard to its resolution of 5 October 2022 on the situation of Roma people living in settlements in the EU¹⁹,
- having regard to its resolution of 15 December 2022 on suspicions of corruption from Qatar and the broader need for transparency and accountability in the European Institutions²⁰,
- having regard to its resolution of 19 April 2023 on combating discrimination in the EU – the long-awaited horizontal anti-discrimination directive²¹,
- having regard to its resolution of 11 May 2023 on the adequacy of the protection afforded by the EU-US Data Protection Framework²²,
- having regard to European Parliament resolution of 11 November 2021 on the first anniversary of the de facto abortion ban in Poland²³,
- having regard to its resolution of 7 July 2022 on the US Supreme Court decision to overturn abortion rights in the United States and the need to safeguard abortion rights and women’s health in the EU²⁴,
- having regard to its resolution of 3 May 2022 on the persecution of minorities on the

¹⁵ OJ C 347, 9.9.2022, p. 168.

¹⁶ OJ C 493, 27.12.2022, p. 108.

¹⁷ OJ C 47, 7.2.2023, p. 184.

¹⁸ OJ C 125, 5.4.2023, p. 463.

¹⁹ OJ C 132, 14.4.2023, p. 29.

²⁰ OJ C 177, 17.5.2023, p. 109.

²¹ P9_TA(2023)0111.

²² P9_TA(2023)0204.

²³ OJ C 205, 20.5.2022, p. 44.

²⁴ OJ C 47, 7.2.2023, p. 268.

grounds of belief or religion²⁵,

- having regard to Rule 54 of its Rules of Procedure,
 - having regard to the opinion of the Committee on Constitutional Affairs,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A9-0000/2023),
- A. whereas the EU is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and human rights, as set out in Article 2 TEU and the Charter; whereas these values should be shared by Member States;
- B. whereas media freedom, pluralism, independence and the safety of journalists are crucial components of the right of freedom of expression and information and are essential to the democratic functioning of the EU and its Member States; whereas in recent years, journalists and media actors in Europe and abroad have increasingly come under threat;
- C. whereas corruption is a serious threat to democracy and the rule of law; whereas there are persistent and serious concerns about the fight against corruption in some Member States; whereas the Rule of Law Conditionality Regulation aims to protect the Union budget against breaches of rule of law principles;
- D. whereas the independence of the judiciary - an essential requirement for the democratic principle of separation of powers and central to guaranteeing respect for fundamental rights - is facing serious threats or is even being structurally undermined in some Member States;
- E. whereas, in March 2023, the Council of Europe Commissioner for Human Rights assessed situation of human rights defenders in Europe as having deteriorated alarmingly;
- F. whereas there have been multiple incidents of migrant deaths and human rights violations at European borders due to ineffective management and disproportionate use of force by the authorities;
- G. whereas there has been an organised backlash against women's and girls' rights in recent years; whereas the prevalence of gender-based violence, including sexual violence and rape remains, high across the European Union;
- H. whereas the prevalence of discrimination on the grounds of racial or ethnic origin remains consistently high, both over time and across different population groups in different Member States; whereas antisemitism, islamophobia and racism are persistent forms of hatred and discrimination; whereas far-right extremism poses a particular threat to persons affected by discrimination and to society as a whole;
- I. whereas discrimination and violence against LGBTIQ+ people across the EU persists;

²⁵ OJ C 465, 6.12.2022, p. 33.

whereas LGBTIQ+ persons still face discrimination and exclusion in several Member States;

- J. whereas incidents of hate speech have steadily increased within the EU over the last few years²⁶, largely due to the increasing numbers of social media users and the fact that hate speech thrives online; whereas hate speech can lead to hate crime;
- K. whereas the EU is based on the promotion of social, cultural and economic rights;
- L. whereas the EU accession to the European Convention on Human Rights (ECHR) is an obligation under Article 6(2) TEU and remains a high priority;

The rule of law and access to justice

- 1. Strongly condemns that in 2022 another global record for the number of imprisoned journalists was set; calls for a swift agreement on the anti-SLAPP directive, which should offer substantive and broad protection against abusive lawsuits;
- 2. Is deeply concerned by the increasing level of corruption in certain Member States, in particular of cases involving high-level officials and politicians; is concerned about the varying levels of implementation of the EU anti-corruption framework in Member States;
- 3. Stresses that judicial independence and effective checks and balances, which can vary from one Member State to another, are key components of the rule of law; condemns any attempts by Member State governments to exert political influence on or control over the independent decision-making of the judiciary;
- 4. Supports the use of the Recovery and Resilience Facility and the horizontal enabling conditions for the freezing of EU funding to fight corruption and rule of law backsliding in Member States; stresses that funds restricted through different conditionality measures must only be released when key rule of law, corruption and human rights concerns are genuinely and adequately addressed; calls on the European Council to determine whether Hungary has committed serious and persistent breaches of EU values under Article 7(2) TEU;

Freedoms

- 5. Notes the increasing threats to the freedoms of association, speech and assembly; reiterates that the right to peaceful assembly can be restricted only when provided for by law and if necessary and proportionate to protect a general interest recognised by the Union or the rights and freedoms of others;
- 6. Emphasises that in order to ensure the right to freedom of expression and information, which is foundational for any democracy, information must be universally accessible and diverse, and underscores that artistic freedom must be guaranteed;

²⁶ At a glance briefing '[Combating hate speech and hate crime in the EU](#)', European Parliamentary Research Service, June 2022.

7. Underlines the crucial role of civil society organisations (CSOs) in promoting active citizenship, fundamental rights and democratic participation in Europe; calls for a Commission strategy and common rules in all Member States to promote a regulatory and political environment free from chilling effects, threats and attacks;
8. Recalls that under Article 6 of the Charter, everyone has the right to liberty and security, which means that everyone within the Union should be protected from unlawful and arbitrary arrest;
9. Condemns the rise in antisemitic, anti-Islamic and racist incidents in the EU; deplors that incidents of discrimination, racist and xenophobic crimes are often not reported to the authorities, which leads to de facto impunity;
10. Points out that the datafication of everyday life and data scandals mean that the right to the protection of personal data is of growing importance; reiterates its concerns about the uneven application of the General Data Protection Regulation;
11. Strongly condemns the widespread fundamental rights violations and use of disproportionate violence by national authorities at Union borders;

Equality and dignity

12. Deplores that the proposal on the horizontal anti-discrimination directive has remained blocked in the Council for 14 years;
13. Recalls that gender-based violence is highly prevalent in all Member States across the Union; condemns the backsliding on women's rights in some Member States, particularly the denial of access to safe and legal abortion;
14. Recalls that hate crimes and hate speech motivated by racism, xenophobia, religious intolerance or a person's disability, sexual orientation, gender identity, gender expression and sex characteristics are extreme examples of discrimination;
15. Welcomes the Commission's initiative to extend the list of EU crimes in Article 83(1) TFEU to hate speech and hate crimes;
16. Welcomes the fact that the Commission for the first time invoked an isolated violation of Article 2 TEU when it referred the Hungarian 'child protection law', which camouflaged other objectives, to the CJEU;

Social, economic and environmental rights

17. Recognises that poverty is another form of discrimination that leads to the violation of fundamental rights; calls on the Commission, the Council and the Member States to develop policies to reduce poverty, paying particular attention to children;
18. Welcomes the Council Recommendation of 30 January 2023 on adequate minimum income²⁷ ensuring active inclusion as a step forward in implementing principle 14 of the

²⁷ OJ C 41, 3.2.2023, p. 1.

European Pillar of Social Rights;

19. Stresses that digitalisation is a transversal process that impacts access to all services, particularly healthcare, and the exercise of fundamental rights;
20. Notes that housing is not a commodity, but a necessity, and is a precondition for participating fully in society;
21. Welcomes the recognition of the universal right to access to a healthy and sustainable environment by the UN Human Rights Council on 8 October 2021;

Institutional safeguards for fundamental rights

22. Welcomes the progress made since the resumption of the negotiations towards EU accession to the ECHR in June 2020 and the provisional agreement on the draft revised accession instruments reached in March 2023;
23. Supports the FRA's work on analysing data in order to document discrimination and welcomes further developments in this field; welcomes the Commission's proposals for two directives on standards for equality bodies, aiming to ensure better implementation and enforcement of EU anti-discrimination rules;
24. Recalls the importance of the relevant CJEU case-law upholding the respect for fundamental rights and further defining the rule of law;
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 - ◦
25. Instructs its President to forward this resolution to the Council and the Commission.

EXPLANATORY STATEMENT

Respect for human dignity, freedom, democracy, equality, the rule of law and human rights are the founding values of the European Union as set out in Article 2 TEU and the Charter of Fundamental Rights. Upholding and actively promoting these values is an obligation of both, the EU institutions and the Member States. The Rapporteur is of the opinion that, in recent years, a worrisome decline of the respect of fundamental rights took place in across the European Union and that the consensus on the common European values is at risk of crumbling.

In the years 2022 and 2023, the EU faced new, unprecedented challenges. Still dealing with the adverse effects of the Covid-pandemic, the Russian war of aggression against Ukraine added the influx of millions of people, who were forced to leave their homes. Consequently, the report should adequately reflect fundamental rights questions arising from these circumstances, including but not limited to (i) the use of emergency legislation and its effect on the space for CSOs, (ii) the role of free media for the functioning of democratic systems, and (iii) the protection of social rights, and (iv) fundamental rights protection for refugees and migrants.

Approach by the Rapporteur

The Rapporteur aims to achieve a comprehensive report, reflecting the main developments in the years in question.

The report should primarily reflect the general tendencies of the fundamental rights situation in the European Union in the years 2022 and 2023. However, the report should also cover systemic problems in individual Member States, provided there is an ongoing procedure on the matter at the European level, including procedures under Article 7 TEU, infringement procedures, and judgements by the CJEU and the ECtHR.

Structure

In order to be able to cover all relevant elements, the draft report is structured around the main clusters of fundamental rights, broadly based on the chapters of the Charter of Fundamental Rights. Instead of focusing only on some priorities or specific groups, and in light of the maximum length of four pages for own-initiative reports, the Rapporteur is seeking to provide a general outline under which all fundamental rights questions can be categorised. It can and will be enriched during the amendment stage.

The main categories are:

The rule of law and access to justice

This chapter covers *inter alia* the role of free media, the use of emergency legislation, parliamentary rights, the independence of the judiciary, effects of corruption, and rule of law procedures at the European level.

Freedoms

This chapter covers *inter alia* collective freedoms, as the right of assembly and the right of association, as well as individual freedoms, such as the right to liberty and security, freedom of thought, the protection of personal data, freedom of expression and information, and the right to asylum.

Equality and dignity

This chapter covers *inter alia* the right to non-discrimination on grounds of gender, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation. It also covers the right to respect for a person's physical and mental integrity, particularly relating to hate speech and hate crimes.

Social, economic and environmental rights

This chapter covers *inter alia* poverty as discrimination, social inequalities, digital poverty, housing, access to education, access to employment, the right of collective bargaining, and the right to have access to a healthy and sustainable environment.

Institutional safeguards for fundamental rights

This chapter covers *inter alia* the role of institutions such as the Council of Europe and the European Court of Human Rights, the European Court of Justice, the EU Fundamental Rights Agency, the European Public Prosecutor's Office, as well as national courts and national equality bodies.