



2021/2025(INI)

27.5.2021

OPINION

of the Committee on Petitions

for the Committee on Civil Liberties, Justice and Home Affairs

on the Commission's 2020 Rule of law report - COM(2020)0580

(2021/2025(INI))

Rapporteur for opinion: Margrete Auken

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SUGGESTIONS

The Committee on Petitions calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Emphasises the responsibility of the Committee on Petitions (PETI) in identifying and raising the alarm about possible breaches of the rule of law, considering the high number of petitions received from citizens concerned about breaches of the rule of law in their respective countries, and in view of the consequences of such breaches on their lives; stresses that inadequate implementation of rule of law principles jeopardises the correct and timely achievement of EU objectives in different policy sectors; strongly believes that fundamental rights can be effectively guaranteed only if rule of law prevails, and that full protection of Union citizens' rights can be ensured throughout the Union only if all Member States comply with all principles underlying the rule of law; is of the opinion that deficiencies in one Member State have an impact on other Member States and the Union as a whole, and highlights in this regard the responsibility of the EU institutions in the application of the rule of law by Member States;
2. Invites the Commission to provide in its further reports an assessment of the impact of identified deficiencies and breaches on the subsequent allocation of EU funds under the conditionality mechanism; stresses the crucial role of rule of law enforcement tools in achieving effective implementation of the values enshrined in Article 2 of the Treaty on European Union (TEU); calls on the Commission, therefore, to guarantee that the report's findings are effectively implemented in concrete policy actions; calls on the Commission to provide a higher level of visibility for NGOs' contributions and the results of public consultations when drafting its future reports;
3. Highlights that the rule of law includes principles such as legality, implying a transparent, accountable, democratic and pluralistic process for enacting laws; legal certainty; prohibiting the arbitrary exercise of executive power; effective judicial protection by independent and impartial courts, effective judicial review including respect for fundamental rights; separation of powers; and equality before the law;
4. Notes that, despite repeated requests by Parliament, the Commission's 2020 Rule of Law Report fails to encompass the significant areas of democracy and fundamental rights, which should be scrutinised with equal importance, including the rights of persons belonging to minorities, also covering national and linguistic minorities; stresses the need for improvement concerning the application of the EU Charter of Fundamental Rights, as the expectations of EU citizens go beyond the actual scope of the Charter; calls on the Commission to ensure equal treatment of all the Union's founding values as enshrined in Article 2 of the TEU in its next report; believes that the Commission must transparently involve and consult in this annual exercise as many stakeholders as possible, paying particular attention to legal practitioners and fundamental rights experts from external organisations, in order to guarantee greater pluralism and full credibility, and also provide clear indications on follow-up actions for any shortcomings detected;
5. Notes the high number of petitions received from citizens relating to discrimination

faced by minorities, especially LGBTIQ people; condemns in the strongest possible terms the fact that many of these petitions also highlight systemic discrimination and encouragement of hate speech against LGBTIQ persons by public authorities and elected officials in some Member States; welcomes in that sense the commitment by the Commission to present an initiative to extend the list of 'EU crimes' under Article 83(1) of the Treaty on the Functioning of the European Union (TFEU) to cover hate crimes and hate speech, including those targeted at LGBTIQ people, by the end of 2021;

6. Underlines the fact that the Union is one of the places in the world with the highest rule of law standards, but that it remains structurally badly equipped to counter rule of law violations; criticises the failure of the Council to make progress by applying sanctions in the ongoing procedures under Article 7 of the TEU; calls on the Commission to improve its comprehensive rule of law methodology by setting more effective, transparent and clear rules to ensure the respect of rule of law in an objective manner in all Member States, taking into account the concerns of all EU citizens; highlights that, in any case, a full and effective use of all tools available at Union level, such as infringement procedures, the procedures enshrined in the Conditionality Regulation, the Rule of Law Framework and Article 7 of the TEU, must be made to address breaches of the rule of law; underlines citizens' high expectations expressed in petitions asking for a proper and rapid Union level response to put an end to such violations; highlights that more frequent fact finding missions would allow for such violations to be better understood, addressed and followed up on;
7. Calls on the Commission to make more effective and timely use of its power to refer a Member State to the Court of Justice of the European Union, asking the Court to order interim measures with a view to preventing the aggravation of serious and irreparable harm inflicted against the rule of law;
8. Calls, with regard to the implementation of the Rule of Law Report and in compliance with the Commission's narrative on this issue, for an end to the Cooperation and Verification Mechanism for Romania and Bulgaria;
9. Regrets that reforms adopted in some Member States have seriously threatened the independence of the justice system, increasing the influence of the executive and legislative branch over its functioning, thus leading the Commission to launch infringement proceedings and raise concerns in the context of procedures under Article 7 of the TEU;
10. Points out that Parliament's Committee on Petitions has, for over 10 years, been receiving petitions in which a very high number of non-German parents expose systemic discrimination and arbitrary measures taken against them by the German Youth Welfare Office (Jugendamt) in cross-border family disputes involving children, on matters concerning, inter alia, parental responsibility and child custody; believes that discriminatory practices should be deemed violations of the rule of law; calls on the Commission to play an active role in ensuring fair and consistent non-discriminatory practices with respect to parents in the handling of cross-border child custody cases throughout the Union;
11. Condemns political attacks and media campaigns that have occurred in some Member

States against judges and prosecutors who have taken public positions denouncing reforms that threaten the independence of the judiciary; emphasises that in a recent decision, the European Court of Human Rights¹ reaffirmed that prosecutors and judges enjoy freedom of expression to participate in public debates on legislative reforms affecting the fight against corruption, the judiciary and, more generally, on issues concerning the independence of the justice system;

12. Stresses the vital importance of ensuring independent and impartial justice systems as key pillars in adequately fighting against corruption, in protecting the financial interests of the Union, with regard to the correct use of EU funds, and in increasing citizens' trust in the judiciary;
13. Calls on the Commission to continue to assess rigorously and objectively whether press freedom is respected in all Member States; highlights that the COVID-19 pandemic has confirmed the importance of strengthening independent journalism, whistleblower protection and access to pluralistic information as key enablers of rule of law and democratic accountability able to provide citizens with fact-checked information, thereby contributing to the fight against disinformation; deplores the fact that in a number of Member States, journalists have increasingly faced physical threats and online harassment, especially female journalists, which has often led to self-censorship undermining citizens' right to information; criticises the deployment against journalists of 'SLAPP' lawsuits (strategic lawsuits against public participation) intended to censor, intimidate, and silence critics by burdening the persons concerned with the costs of legal defence until they abandon their criticism; calls on the Commission to step up its efforts to make sure that Member States comply with their obligations to guarantee an enabling environment for journalists, as well as protecting their safety and pro-actively promoting media freedom and media pluralism;
14. Deplores that in a number of Member States, governments have classified information on public procurement during the COVID-19 pandemic, which has increased the risk of corruption for authorities and mistrust among citizens; calls on these Member States to reverse these abusive measures and ensure full transparency in relation to journalists and citizens;
15. Notes with concern that the contracts signed by the Commission with COVID-19 vaccine companies have clauses that have not yet been made public;
16. Underlines that the Court of Justice of the European Union recently confirmed that civil society organisations must be able to operate without unjustified interference by the state, acknowledging that the right to freedom of association constitutes one of the essential bases of a democratic and pluralist society; is seriously concerned that some NGOs active in the area of migration, women's right and LGBTI+ rights are subject to smear campaigns and SLAPPs, and face severe restriction of the civic space in which they can operate; calls on the Commission to accelerate the current work of the expert group on SLAPPs, as envisaged in the European Democracy Action Plan, and to ensure that any upcoming legislative proposal also addresses these issues; reiterates that civil society is essential for democracies to flourish and that shrinking space for civil society

¹ Judgment of 5 May 2020 of the European Court of Human Rights, *Kövesi v. Romania*, application no. 3594/19, ECLI:CE:ECHR:2020:0505JUD000359419.

contributes to violations of democracy, the rule of law and fundamental rights; reiterates that the Union institutions should maintain an open, transparent and regular dialogue with representative associations and civil society; highlights that stronger safeguard measures must be taken to ensure good governance in public procurement and that the activities of NGOs and civil society organisations are also crucial in countering malpractice in this sector;

17. Highlights the need to raise awareness among EU citizens and residents about the means and procedures available at national and EU level to scrutinise decision-makers' actions and hold them accountable, to safeguard respect for the rule of law and to report breaches of it; recalls that petitions to the European Parliament are one such means; underlines that justice and redress for those who have fallen victim to breaches of the rule of law are an essential element of building trust in institutions and must be guaranteed by the Member States; invites the Commission, in this regard, to provide concrete recommendations to the responsible authorities on compensating individuals impacted for breaches of their fundamental rights;
18. Calls for a comprehensive approach to fighting corruption based on prevention and repressive measures, inter alia effective anti-corruption legal frameworks, the highest standards of transparency and integrity in all sectors of society, and independent and impartial justice systems that effectively enforce anti-corruption legislation, as well as effective, proportionate and dissuasive sanctions including the effective recovery of proceeds of corruption;
19. Stresses that in order to prevent foreign interference in the sovereignty and democracy of Member States and meddling with the democratic institutions of the EU, NGOs should be obliged to make their funding sources public; underlines that, in order to respect the transparency principle and European citizens' right to know, all European bodies should be obliged to disclose and publish a list of all the NGOs that they finance and with what amounts;
20. Regrets that the application of Cooperation and Verification Mechanism still prevents some EU citizens from fully benefitting from the area of freedom, security and justice;
21. Highlights that adequate rule of law standards should be guaranteed for EU citizens and residents during their exercise of freedom of movement rights within the EU; stresses that social and medical protection, as well as effective access to justice, must be fully guaranteed to seasonal and cross-border workers when they pursue their professional activity in another Member State;
22. Highlights that the capacity of the EU and its Member States to uphold the rule of law determines its international image and the credibility of its activities promoting the rule of law, democracy and human rights outside the Union; warns of the risk of the interference of non-EU countries in all democratic processes at EU level through, inter alia, international corruption schemes, which jeopardise the rule of law in the EU; stresses that EU citizens living outside the Union must be treated in accordance with the rule of law in their interactions with the authorities of their Member State of origin, as well as with the EU authorities.

INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

Date adopted	27.5.2021
Result of final vote	+: 24 -: 7 0: 0
Members present for the final vote	Andris Ameriks, Marc Angel, Margrete Auken, Jordan Bardella, Markus Buchheit, Ryszard Czarnecki, Eleonora Evi, Agnès Evren, Gheorghe Falcă, Emmanouil Fragkos, Mario Furore, Gianna Gancia, Ibán García Del Blanco, Alexis Georgoulis, Radan Kanev, Stelios Kypouropoulos, Cristina Maestre Martín De Almagro, Dolors Montserrat, Ulrike Müller, Emil Radev, Sira Rego, Frédérique Ries, Monica Semedo, Yana Toom, Loránt Vincze, Stefania Zambelli, Tatjana Ždanoka, Kosma Złotowski
Substitutes present for the final vote	Pina Picierno, Domènec Ruiz Devesa, Rainer Wieland

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

24	+
EPP	Agnès Evren, Gheorghe Falcă, Radan Kanev, Stelios Kympouropoulos, Dolors Montserrat, Emil Radev, Loránt Vincze, Rainer Wieland
S&D	Andris Ameriks, Marc Angel, Ibán García Del Blanco, Cristina Maestre Martín De Almagro, Pina Picierno, Domènec Ruiz Devesa
Renew	Ulrike Müller, Frédérique Ries, Monica Semedo, Yana Toom
NI	Mario Furore
The Left	Alexis Georgoulis, Sira Rego
Verts/ALE	Margrete Auken, Eleonora Evi, Tatjana Ždanoka

7	-
ECR	Ryszard Czarnecki, Emmanouil Fragkos, Kosma Zlotowski
ID	Jordan Bardella, Markus Buchheit, Gianna Gancia, Stefania Zambelli

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Key to symbols:

+ : in favour

- : against

0 : abstention