



**2021/2180(INI)**

15.3.2022

# **OPINION**

of the Committee on Petitions

for the Committee on Civil Liberties, Justice and Home Affairs

on the Commission's 2021 Rule of Law report  
(2021/2180(INI))

Rapporteur for opinion: Isabel Benjumea

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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 into its motion for a resolution:

1. Emphasises the important role of the Committee on Petitions in identifying and flagging possible breaches of the rule of law, taking into account the numerous petitions received from citizens concerned about breaches of the rule of law; strongly believes that full protection of all EU citizens and their fundamental rights can only be ensured throughout the Union if the Member States fully comply with all principles of the rule of law and other values enshrined in Article 2 TEU, as deficiencies in one Member State have an impact on other Member States and the Union as a whole; stresses that the rule of law is among the common values of the Union and thus essential to achieve its objectives; points out that the promotion and upholding thereof is a shared responsibility between the EU and the Member States;
2. Highlights that the rule of law includes principles such as legality, legal certainty, the separation of powers, the prohibition of the arbitrary exercise of executive power, effective judicial protection by independent and impartial courts in full respect of fundamental rights and EU law, the fight against impunity, the timely enforcement of judgments including the permanent subjection of all public authorities to established laws and procedures, and equality before the law and the national authorities; underlines that such principles are common to all Member States regardless of their distinct legal systems;
3. Underlines the importance of Parliament's recommendations enshrined in its resolution of 24 June 2021 on the Commission's 2020 Rule of Law Report<sup>1</sup>; notes with regret that the Commission did not adequately address all these recommendations in its 2021 Rule of Law Report and did not sufficiently cover all rule of law issues;
4. Emphasises that judicial accountability, prosecutorial and judicial independence and the enforcement of judgments are crucial components of the rule of law; calls on the Commission to enforce these core EU values when they are infringed by Member States or when Member States fail to act on violations carried out by sub-state entities, in order to increase citizens' trust in the judiciary; asks the Commission to use all means at its disposal in order to do so, especially the rule of law conditionality mechanism, where applicable; calls on Member States to protect judges and prosecutors from political attacks and pressures that attempt to undermine their work, so as to fully preserve their independence;
5. Points to the high amount of petitions<sup>2</sup> in relation to the challenges brought by the COVID-19 pandemic; in this regard, recalls that the Venice Commission is currently monitoring the measures taken in the Member States as a result of the pandemic and its impact on democracy, the rule of law and fundamental rights; calls on the Commission

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<sup>1</sup> OJ C 81, 18.2.2022, p. 27.

<sup>2</sup> See petition Nos 1438/2020, 1469/2020, 1493/2020, 1501/2020, 0038/2021, 0046/2021, 0053/2021, 0106/2021, 0152/2021, 0186/2021 and 0533/2021.

to investigate and to continue assessing in its future reports whether COVID-19-related measures were limited in time and whether their necessity and proportionality was justified, and to fully report the outcomes of the assessments to the public; requests an assessment of the checks and balances during the pandemic; notes with concern that courts in several Member States have already ruled that certain measures were not consistent with the national constitutions; underlines the need to have a clear legal regime in place before a crisis; stresses that Member States should capitalise on the COVID-19 experience to make sure that future crises will be handled with the necessary accountability and transparency; commends the efforts made by the ombudspersons and human rights institutions to ensure the continuity of their work in spite of the great challenges they were facing;

6. Notes that emergency regimes and decree-laws were urgently instated by governments in several Member States because of the COVID-19 pandemic, and that this has affected the functioning of the national justice systems and the activity of the courts; regrets the lack of participation and the non-involvement of some national parliaments in the decision-making and the closure of parliaments in numerous Member States during the pandemic, which has increased the power of governments and has led to a lack of accountability and transparency of the executive;
7. Calls on the EU institutions and the Member States to improve the effectiveness of the judicial system by developing and implementing structural reforms and a high level of digitalisation, which has proven effective in preventing backlogs, especially during the first phase of the COVID-19 pandemic; stresses that adequate financial and human resources are key to developing effective justice systems;
8. Is deeply concerned about the status of Poland's Constitutional Tribunal, the close connection between prosecutors and the government (in particular the Public Prosecutor General/Minister of Justice) and the complete disregard for not only EU law requirements, but also European Convention on Human Rights and Polish Constitutional requirements<sup>3</sup>; is further concerned about the impartiality of the judiciary in Hungary<sup>4</sup> and the independence of the judiciary in Spain<sup>5</sup>;
9. Stresses the indispensability of enforcing court sentences, both at national and EU level, and condemns the lack of compliance with judgments of the Court of Justice of the European Union (CJEU) and of national courts by the public authorities concerned; emphasises that sentences of the CJEU have to be implemented in a timely manner and as soon as possible in accordance with the Treaties<sup>6</sup>, in particular those court sentences that seek to prevent discrimination on the grounds of sex, race, colour, ethnic or social origin, genetic characteristics, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation;
10. Regrets the attitudes of the Catalan government authorities, who boast publicly of their refusal to comply with the judgments ruled by the competent courts in the field of

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<sup>3</sup> Petition Nos 0559/2020, 1154/2020, 1246/2020, 1360/2020 and 0869/2021.

<sup>4</sup> Petition No 1512/2020.

<sup>5</sup> Petition Nos 1180/2020, 1182/2020, 1326/2020, 1367/2020, 1561/2020 and 0353/2021.

<sup>6</sup> See petition No 0858/2017 on the impact of full immersion in Catalan at school for families moving to the region.

education, flagrantly breaching the right of children to study in the official language of their Member State; considers that these attitudes and actions, together with the harassment of the plaintiffs, jeopardise compliance with the rule of law and the separation of powers, thereby seriously harming the law and the rights of citizens;

11. Invites the Commission to take measures to strengthen corruption prevention<sup>7</sup> in order to create more transparency in public administration and improve access to information about lobbying and oversight of political party financing; stresses that anti-corruption measures are key to defending the Union's economic interests and its sustainable growth; emphasises that such measures, especially in pandemic-related processes, are imperative to prevent violations and malpractice threatening Member States' and the Union's recovery from the crisis; warns Member States of the risks of jeopardising the fight against corruption, especially during the COVID-19 pandemic due to the general acceleration of the decision-making process and the simplification of public administration procedures, such as public procurement resulting in non-competitive or direct awards;
12. Expresses its concern about the safety of whistleblowers who report acts of corruption<sup>8</sup> or other illegal activities<sup>9</sup> and thereupon experience violations of their fundamental rights;
13. Regrets the fact that media independence and the safety of journalists is not fully guaranteed; underlines the importance of media pluralism and the need to protect journalists against threats and attacks in order to prevent self-censorship, to assure freedom of expression and speech and the right to information and to safeguard the journalistic profession; emphasises the key role of investigative journalists in the fight against corruption, fraud and illegal activities that negatively impact the EU budget; reiterates in this regard the need to protect investigative journalism from strategic lawsuits against public participation (SLAPPs), with a focus on how they affect smaller news outlets and freelancers; notes that personal harassment, intimidation and threats to life are particularly worrying and that online threats are on the rise across the EU; stresses the difficulties faced by journalists and media in providing citizens with fact-checked information about the COVID-19 pandemic; expresses its concern about journalists' deteriorating economic and working conditions during the COVID-19 pandemic and the ensuing crisis, underlining a substantial increase in the unemployment rates in the sector; calls on the Commission to improve the instruments for assessing measures taken by governments that may undermine freedom of information and pluralism;
14. Reiterates that media independence is often violated through government subsidies and, most regretfully, through the abuse of EU funds dedicated to the popularisation of EU policies and programmes;
15. Draws attention to the need for better regulation and more transparency regarding social

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<sup>7</sup> See, for example, petition No 0822/2020 on alleged corruption in Bulgaria and petition No 0194/2020 on alleged corruption in Slovakia.

<sup>8</sup> See petition No 0242/2021.

<sup>9</sup> See petition No 1056/2021 on the protection of whistle-blowers and journalists who report on illegal logging.

media and networking platforms<sup>10</sup>; takes note of the insufficiency of the horizontal assessment of the media sector and the lack of representation of online media in the Commission's 2021 Rule of Law report (COM(2021)0700);

16. Observes that fake news and the resulting misinformation aimed at EU citizens are a threat to democracy in the EU<sup>11</sup>, especially during the COVID-19 pandemic; notes that disinformation must be verified and combated with guarantees, without giving rise to any violation of the right to receive and impart information, without interference by public authorities, and therefore preventing any violation of Article 11(1) of the Charter of Fundamental Rights of the EU;
17. Is concerned about the increase in hate speech and hate crimes against women, Black people and people of colour, migrants and refugees, LGBTIQ people<sup>12</sup> and minorities, in particular Roma, and those related to religious beliefs and political ideas; is deeply worried about the fact that international and national human rights bodies have underlined the growing rate of hate speech online, often perpetrated by political figures, and often targeting minorities, which undermines human dignity, freedom, equality and respect for human rights, including the rights of persons belonging to minorities, and goes against the principles of pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men; calls on the Commission to continue its work to establish effective criteria to combat this problem, and to do so without affecting the pluralism of the system;
18. Regrets that some Member States have not fully and correctly incorporated into national law the Council Framework Decision on Racism and Xenophobia<sup>12</sup>; deplores the fact that the provisions of the Racial Equality Directive<sup>13</sup> are still not being correctly implemented in all Member States;
19. Stresses that the findings of the Commission's annual Rule of Law report should be operationalised in concrete policy actions in order to make full and effective use of all tools available at Union level to address breaches of the rule of law, such as infringement procedures, including expedited procedures, applications for interim measures before the CJEU and actions regarding the non-implementation of CJEU judgments, as well as instruments available under EU financial legislation and the applicable sector-specific and financial rules to effectively protect the EU budget, including interruption of payment deadlines, suspension of payments, financial corrections or exclusion of expenditure from EU financing, and the procedures enshrined in the Conditionality Regulation, the rule of law framework and Article 7 of the Treaty on European Union addressing risks to the foundational values of the EU in the Member States; urges the Commission to use its tools, including the report on corruption in the context of the general rule of law mechanism, more effectively and in a more timely manner; asks the Commission to introduce in its upcoming Rule of Law reports country-specific recommendations accompanied by deadlines for

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<sup>10</sup> See petition Nos 1336/2020, 0036/2021, 0137/2021, 0691/2021 and 0719/2021.

<sup>11</sup> See petition Nos 1310/2019, 0268/2020, 0743/2020 and 1293/2020.

<sup>12</sup> Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law.

<sup>13</sup> Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

implementation, targets and concrete policy actions to be taken; emphasises citizens' high expectations highlighted in petitions asking for a swift and effective Union-level response to put an end to breaches of the rule of law;

20. Underlines that the role of civil society organisations is of particular importance and that they must be able to operate without unjustified interference by state authorities; calls on the Commission to foster open, transparent and regular dialogue with representative associations and civil society organisations, including organisations and associations of victims of terrorism, in order to take note of all their concerns and involve them more effectively in all phases of the review cycle; highlights the need to allow submissions in all the EU official languages and ensure thematically structured consultations to increase the efficiency of the process and the amount of valuable feedback, and the need for longer consultation periods to guarantee proper participation of all civil society organisations and NGOs, including smaller ones; calls on the Member States to apply the principles of transparency and disclosure with regard to the selection of the civil society organisations and NGOs involved;
21. Proposes the creation of a Citizens' Platform on the Rule of Law, a digital platform hosted by Parliament, which would enable citizens to report and share their experience of rule of law deficiencies, vulnerabilities and breaches; believes that this platform would be in line with the objectives set out in Article 11(1) TEU and with Parliament's vocation to act as a bridge between citizens and the EU, as it would give them the opportunity to exchange experiences and views with each other, as well as create an accessible public forum whereby individual and collective testimonies can be directly shared and made visible to those monitoring the rule of law and the other values enshrined in Article 2 TEU, such as the EU institutions, lawyers, civil society organisations, watchdogs, journalists and researchers; highlights that there would be no obligation for Parliament to act on these testimonies, but the platform would provide deeper understanding of individual citizens' concerns, enable greater visibility of the threats to and the deficiencies and breaches of the values enshrined in Article 2 TEU across the Union, and ultimately strengthen the rule of law culture and the engagement of the EU institutions with citizens; suggests that the platform could also provide information on drawing up petitions for those reporting on rule of law issues;
22. Stresses the importance of credibility for the European Union in the context of accession, as focusing on judicial independence for candidate and potential candidate countries while at the same time having controversies and unresolved problems on the same matters within the Union has a negative impact on the whole process; stresses that the Commission should take into account the Special Report of the European Court of Auditors on EU support for the rule of law in the Western Balkans of January 2022, as it supports this point; calls on the Commission to avoid negative repercussions in the accession process due to weak credibility on rule of law issues and points out that the Commission should proactively solve internal issues while simultaneously working on the rule of law with candidate countries;
23. Is concerned about the forest of Białowieża, where EU environmental law on forest management is not being complied with, as specified in petition 0805/2017 submitted by Polish citizens; calls on the Commission to take the petition into account and to investigate further the effects of the wall on both flora and fauna, and reiterates that the

Commission should consider this issue in the country-specific recommendations for Poland;

24. Shows its total solidarity and full support for all victims of terrorism; condemns the fact that current governments negotiate with the leaders of armed groups; regrets that there are still unsolved terrorist attacks, especially the 379 unsolved murders committed by the terrorist group ETA<sup>14</sup>.

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<sup>14</sup> Fact-finding mission to Vitoria and Madrid, Spain, for the 379 unsolved cases of murders perpetrated by the terrorist group ETA.



## INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

<b>Date adopted</b>	15.3.2022
<b>Result of final vote</b>	+: 20 -: 9 0: 5
<b>Members present for the final vote</b>	Alviina Alametsä, Andris Ameriks, Marc Angel, Margrete Auken, Jordan Bardella, Alexander Bernhuber, Markus Buchheit, Ryszard Czarnecki, Tamás Deutsch, Francesca Donato, Eleonora Evi, Agnès Evren, Gheorghe Falcă, Emmanouil Fragkos, Gianna Gancia, Alexis Georgoulis, Peter Jahr, Stelios Kypouropoulos, Cristina Maestre Martín De Almagro, Dolors Montserrat, Ulrike Müller, Emil Radev, Frédérique Ries, Alfred Sant, Massimiliano Smeriglio, Yana Toom, Loránt Vincze, Michal Wiezik, Tatjana Ždanoka, Kosma Złotowski
<b>Substitutes present for the final vote</b>	Isabel Benjumea Benjumea, Maite Pagazaurtundúa, Demetris Papadakis, Anne-Sophie Pelletier

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

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PPE	Isabel Benjumea Benjumea, Alexander Bernhuber, Agnès Evren, Gheorghe Falcă, Peter Jahr, Stelios Kympouropoulos, Dolors Montserrat, Emil Radev, Loránt Vincze
Renew	Ulrike Müller, Maite Pagazaurtundúa, Frédérique Ries, Yana Toom, Michal Wiezik
S&D	Andris Ameriks, Marc Angel, Cristina Maestre Martín De Almagro, Demetris Papadakis, Alfred Sant, Massimiliano Smeriglio

9	-
ECR	Ryszard Czarnecki, Emmanouil Fragkos, Kosma Złotowski
ID	Jordan Bardella, Markus Buchheit, Gianna Gancia
NI	Tamás Deutsch
The Left	Alexis Georgoulis, Anne-Sophie Pelletier

5	0
NI	Francesca Donato
Verts/ALE	Alviina Alametsä, Margrete Auken, Eleonora Evi, Tatjana Ždanoka

Key to symbols:

+ : in favour

- : against

0 : abstention