



2021/2180(INI)

13.1.2022

DRAFT 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 in several Member States; strongly believes that full protection of all EU citizens can only be ensured throughout the Union if all Member States comply with all principles of the rule of law;
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, the enforcement of judgments including the permanent subjection of all public authorities to established laws and procedures, and equality before the law;
3. Emphasises that judicial accountability and prosecutorial and judicial independence 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 in order to increase citizens' trust in the judiciary;
4. Points to the high amount of petitions¹ in relation to the impact and challenges brought by the COVID-19 pandemic; calls for an investigation into whether COVID-19-related measures were limited in time and whether their necessity and proportionality was justified; requests an assessment of the checks and balances during the pandemic, especially given that courts in several Member States have already ruled that certain measures were not consistent with the national constitution; underlines the need to have a clear legal regime in place before a crisis;
5. 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; draws attention to the lack of participation and the non-involvement of national parliaments in the decision-making and the closure of parliaments during the pandemic, which has increased the power of governments and has led to a lack of accountability and transparency;
6. Calls on the EU institutions and the Member States to improve the effectiveness of the judicial system by developing the digitalisation process;
7. 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

¹ Petitions No 1438/2020, 1469/2020, 1493/2020, 1501/2020, 0038/2021, 0046/2021, 0053/2021, 0106/2021, 0152/2021, 0186/2021 and 0533/2021.

Constitutional requirements²; is further concerned about the impartiality of the judiciary in Hungary³ and the independence of the judiciary in Spain⁴;

8. Stresses the indispensability of enforcing court sentences, both at national and EU level; condemns all national and regional governments on EU territory that refuse to follow judgments; emphasises that sentences of the Court of Justice of the European Union have to be implemented in a timely manner and as soon as possible in accordance with the Treaties, which the Member States agreed to comply with⁵;
9. Invites the Commission to take measures to strengthen corruption prevention⁶ in order to create more transparency in administration and improve access to information about lobbying and oversight of political party financing;
10. Expresses its concern about the security of whistleblowers who report acts of corruption⁷ or other illegal activities⁸ and thereupon experience violations of their fundamental rights;
11. Regrets the fact that the safety of journalists is not universally guaranteed; underlines the importance of media pluralism and the need to protect journalists against threats and attacks in order to assure freedom of expression and the right to information and safeguard the journalistic profession;
12. Draws attention to the need for better regulation and more transparency regarding social networking sites⁹; 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)700);
13. Observes that fake news and the resulting misinformation aimed at EU citizens are a threat to our EU democracies¹⁰; notes, however, that overly extensive control of false information and the increased promotion of disinformation campaigns may lead to a violation of Article 11(1) of the EU Charter of Fundamental Rights which guarantees the right to receive and impart information and ideas without interference by public authorities and regardless of borders¹¹;
14. Is concerned about the increase in hate crimes against minorities, in particular those related to religious beliefs, political ideas and sexual orientation¹²; is aware of the difficult balance between hate speech and freedom of expression and acknowledges that the boundaries are hard to define;

² Petitions No 0559/2020, 1154/2020, 1246/2020, 1360/2020 and 0869/2021.

³ Petition No 1512/2020.

⁴ Petitions No 1180/2020, 1182/2020, 1326/2020, 1367/2020, 1561/2020 and 0353/2021.

⁵ Petition No 0858/2017.

⁶ Petitions No 0822/2020 and 0194/2020.

⁷ Petition No 0242/2021.

⁸ Petition No 1056/2021.

⁹ Petitions No 1336/2020, 0036/2021, 0137/2021, 0691/2021 and 0719/2021.

¹⁰ Petitions No 1310/2019, 0268/2020, 0743/2020 and 1293/2020.

¹¹ Petition No 1336/2020.

¹² Petitions No 0354/2020, 0657/2020, 1038/2020, 0471/2021, 0480/2021, 0667/2021, 0704/2021, 0725/2021, 0820/2021, 0855/2021 and 0894/2021.

15. Stresses that the findings of the Rule of Law report should be operationalised in concrete policy actions and that the report should only serve conjointly with other instruments, such as infringement procedures, the procedures enshrined in the Conditionality Regulation¹³, the rule of law framework and Article 7 of the Treaty on European Union; urges the Commission to use its tools more effectively and in a timely manner; asks the Commission to introduce deadlines for the recommendations based on the Rule of Law report;
16. Underlines that the role of civil society organisations is of particular importance; calls on the Commission to foster debates with civil society organisations in order to take note of all their concerns and involve them more effectively in follow-up meetings; highlights the need to offer longer consultation periods to guarantee proper participation of all civil society organisations.

¹³ 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 budget, OJ L 433I , 22.12.2020, p. 1.