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## TEXTS ADOPTED

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### **P9\_TA(2024)0108**

#### **Report on the Commission's 2023 Rule of Law report**

#### **European Parliament resolution of 28 February 2024 report on the Commission's 2023 Rule of Law report (2023/2113(INI))**

*The European Parliament,*

- having regard to the Treaty on European Union (TEU), in particular Articles 2, 3(1), 3(3), second subparagraph, 4(3) and Articles 5, 6, 7, 11, 19 and 49 thereof,
- having regard to the Treaty on the Functioning of the European Union (TFEU), in particular to the Articles thereof relating to respect for and the protection and promotion of democracy, the rule of law and fundamental rights in the Union, including Articles 70, 258, 259, 260, 263, 265 and 267,
- 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 Union (CJEU),
- having regard to the Commission communication of 5 July 2023 on the 2023 Rule of Law Report – the rule of law situation in the European Union (COM(2023)0800),
- 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 budget<sup>1</sup> (the Rule of Law Conditionality Regulation),
- having regard to Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy<sup>2</sup> (the Common Provisions 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

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<sup>1</sup> OJ L 433 I, 22.12.2020, p. 1.

<sup>2</sup> OJ L 231, 30.6.2021, p. 159.

programme and repealing Regulation (EU) No 1381/2013 of the European Parliament and of the Council and Council Regulation (EU) No 390/2014<sup>1</sup>,

- having regard to the Universal Declaration of Human Rights,
- having regard to the UN instruments on the protection of human rights and fundamental freedoms, and the recommendations and reports of the UN Universal Periodic Review, as well as the case-law of the UN treaty bodies and the special procedures of the Human Rights Council,
- having regard to the European Convention on Human Rights, the European Social Charter, the case-law of the European Court of Human Rights and the European Committee of Social Rights, and the conventions, recommendations, resolutions, opinions and reports of the Parliamentary Assembly, the Committee of Ministers, the Human Rights Commissioner, the European Commission against Racism and Intolerance, the Steering Committee on Anti-Discrimination, Diversity and Inclusion, the Venice Commission and other bodies of the Council of Europe,
- having regard to the memorandum of understanding between the Council of Europe and the European Union of 23 May 2007 and the Council conclusions of 30 January 2023 on EU priorities for cooperation with the Council of Europe 2023-2024,
- having regard to the Commission’s reasoned proposal of 20 December 2017 for a Council decision on the determination of a clear risk of a serious breach by the Republic of Poland of the rule of law (COM(2017)0835), issued in accordance with Article 7(1) TEU,
- having regard to the reports of the European Union Agency for Fundamental Rights (FRA) of 19 July 2022 entitled ‘Europe’s civil society: still under pressure’, of 8 June 2022 entitled ‘Fundamental Rights Report 2022’, of 19 August 2022 entitled ‘Protecting civic space in the EU’ and of 3 November 2022 entitled ‘Antisemitism – Overview of antisemitic incidents recorded in the European Union 2011-2021’, and its other reports, data and tools, in particular the European Union Fundamental Rights Information System (EFRIS),
- having regard to its resolution of 25 October 2016 with recommendations to the Commission on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights<sup>2</sup>,
- having regard to its resolution of 1 March 2018 on the Commission’s decision to activate Article 7(1) TEU as regards the situation in Poland<sup>3</sup>,
- having regard to its resolution of 19 April 2018 on the need to establish a European Values Instrument to support civil society organisations which promote fundamental values within the European Union at local and national level<sup>4</sup>,
- having regard to its resolution of 12 September 2018 on a proposal calling on the

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<sup>1</sup> OJ L 156, 5.5.2021, p. 1.

<sup>2</sup> OJ C 215, 19.6.2018, p. 162.

<sup>3</sup> OJ C 129, 5.4.2019, p. 13.

<sup>4</sup> OJ C 390, 18.11.2019, p. 117.

Council to determine, pursuant to Article 7(1) TEU, the existence of a clear risk of a serious breach by Hungary of the values on which the Union is founded<sup>1</sup>,

- having regard to its resolution of 13 November 2018 on minimum standards for minorities in the EU<sup>2</sup>,
- having regard to its resolution of 14 November 2018 on the need for a comprehensive EU mechanism for the protection of democracy, the rule of law and fundamental rights<sup>3</sup>,
- having regard to its resolution of 7 October 2020 on the establishment of an EU Mechanism on Democracy, the Rule of Law and Fundamental Rights<sup>4</sup>,
- having regard to its resolution of 13 November 2020 on the impact of COVID-19 measures on democracy, the rule of law and fundamental rights<sup>5</sup>,
- having regard to its resolution of 17 December 2020 on the European Citizens' Initiative 'Minority SafePack – one million signatures for diversity in Europe'<sup>6</sup>,
- having regard to its resolution of 10 June 2021 on the rule of law situation in the European Union and the application of the Conditionality Regulation (EU, Euratom) 2020/2092<sup>7</sup>,
- having regard to its resolution of 24 June 2021 on the Commission's 2020 Rule of Law Report<sup>8</sup>,
- having regard to its resolution of 8 July 2021 on the creation of guidelines for the application of the general regime of conditionality for the protection of the Union budget<sup>9</sup>,
- having regard to its resolution of 16 September 2021 with recommendations to the Commission on identifying gender-based violence as a new area of crime listed in Article 83(1) TFEU<sup>10</sup>,
- 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 society<sup>11</sup>,
- 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

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<sup>1</sup> OJ C 433, 23.12.2019, p. 66.

<sup>2</sup> OJ C 363, 28.10.2020, p. 13.

<sup>3</sup> OJ C 363, 28.10.2020, p. 45.

<sup>4</sup> OJ C 395, 29.9.2021, p. 2.

<sup>5</sup> OJ C 415, 13.10.2021, p. 36.

<sup>6</sup> OJ C 445, 29.10.2021, p. 70.

<sup>7</sup> OJ C 67, 8.2.2022, p. 86.

<sup>8</sup> OJ C 81, 18.2.2022, p. 27.

<sup>9</sup> OJ C 99, 1.3.2022, p. 146.

<sup>10</sup> OJ C 117, 11.3.2022, p. 88.

<sup>11</sup> OJ C 205, 20.5.2022, p. 2.

- funds in case of emergency funds and crisis-related spending areas<sup>1</sup> ,
- having regard to its resolution of 8 March 2022 on the shrinking space for civil society in Europe<sup>2</sup> ,
  - having regard to its resolution of 10 March 2022 on the rule of law and the consequences of the ECJ ruling<sup>3</sup> ,
  - having regard to its resolution of 19 May 2022 on the Commission’s 2021 Rule of Law Report<sup>4</sup> ,
  - 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)<sup>5</sup> ,
  - having regard to its resolution of 15 September 2022 on the situation of fundamental rights in the European Union in 2020 and 2021<sup>6</sup> ,
  - having regard to its resolution of 20 October 2022 on the rule of law in Malta, five years after the assassination of Daphne Caruana Galizia<sup>7</sup>,
  - having regard to its resolution of 20 October 2022 on growing hate crimes against LGBTIQ+ people across Europe in light of the recent homophobic murder in Slovakia<sup>8</sup>,
  - having regard to its resolution of 10 November 2022 on racial justice, non-discrimination and anti-racism in the EU<sup>9</sup>,
  - having regard to its resolution of 24 November 2022 on the assessment of Hungary’s compliance with the rule of law conditions under the Conditionality Regulation and state of play of the Hungarian RRP<sup>10</sup>,
  - having regard to its resolution of 30 March 2023 on the 2022 Rule of Law Report – the rule of law situation in the European Union<sup>11</sup>,
  - having regard to its resolution of 1 June 2023 on the breaches of the Rule of Law and fundamental rights in Hungary and frozen EU funds<sup>12</sup>,
  - having regard to its recommendation of 15 June 2023 to the Council and the Commission following the investigation of alleged contraventions and maladministration in the application of Union law in relation to the use of Pegasus and

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<sup>1</sup> OJ C 251, 30.6.2022, p. 48.

<sup>2</sup> OJ C 347, 9.9.2022, p. 2.

<sup>3</sup> OJ C 347, 9.9.2022, p. 168.

<sup>4</sup> OJ C 479, 16.12.2022, p. 18.

<sup>5</sup> OJ C 493, 27.12.2022, p. 108.

<sup>6</sup> OJ C 125, 5.4.2023, p. 80.

<sup>7</sup> OJ C 149, 28.4.2023, p. 15.

<sup>8</sup> OJ C 149, 28.4.2023, p. 22.

<sup>9</sup> OJ C 161, 5.5.2023, p. 10.

<sup>10</sup> OJ C 167, 11.5.2023, p. 74.

<sup>11</sup> OJ C 341, 27.9.2023, p. 2.

<sup>12</sup> OJ C, C/2023/1223, 21.12.2023.

equivalent surveillance spyware<sup>1</sup> and the report of 22 May 2023 of its Committee of Inquiry to investigate the use of Pegasus and equivalent surveillance spyware,

- having regard to its resolution of 11 July 2023 on the electoral law, the investigative committee and the rule of law in Poland<sup>2</sup>,
  - having regard to its resolution of 19 October 2023 on the rule of law in Malta: six years after the assassination of Daphne Caruana Galizia, and the need to protect journalists<sup>3</sup>,
  - having regard to its resolution of 18 January 2024 on the situation of fundamental rights in the European Union – annual report 2022 and 2023<sup>4</sup>,
  - having regard to resolution 2262 (2019) of the Parliamentary Assembly of the Council of Europe on promoting the rights of persons belonging to national minorities,
  - having regard to the recommendations and reports of the Office for Democratic Institutions and Human Rights, the High Commissioner on National Minorities, the Representative on Freedom of the Media and other bodies of the Organization for Security and Co-operation in Europe (OSCE) and to the cooperation between the EU and the OSCE on democratisation, institution-building and human rights and to the annual OSCE hate crime report, in which participating states have committed themselves to passing legislation that provides for penalties that take into account the gravity of hate crime, to taking action to address under-reporting and to introducing or further developing capacity-building activities for law enforcement, prosecution and judicial officials to prevent, investigate and prosecute hate crimes,
  - having regard to its PEGA Inquiry Committee report and the PEGA resolution and recommendations<sup>5</sup>,
  - having regard to the feedback reports, mission reports, written questions and answers of its Democracy, Rule of Law and Fundamental Rights Monitoring Group (DRFMG)<sup>6</sup>,
  - having regard to Rule 54 of its Rules of Procedure,
  - having regard to the opinion of the Committee on Legal Affairs,
  - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A9-0025/2024),
- A. whereas the Union is founded on the common values enshrined in Article 2 TEU of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities – values that are common to the EU Member States and to which candidate countries must adhere in

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<sup>1</sup> OJ C, C/2024/494, 23.01.2024.

<sup>2</sup> Texts adopted, P9\_TA(2023)0268.

<sup>3</sup> Texts adopted, P9\_TA(2023)0374.

<sup>4</sup> Texts adopted, P9\_TA(2024)0050.

<sup>5</sup> Texts adopted, P9\_TA(2023)0244.

<sup>6</sup> For all DRFMG monitoring activities, see: <https://www.europarl.europa.eu/committees/en/libe-democracy-rule-of-law-and-fundament/product-details/20190103CDT02662>

order to join the Union as part of the Copenhagen criteria, which cannot be disregarded or reinterpreted after accession; whereas democracy, the rule of law and fundamental rights are mutually reinforcing values which, when undermined, may pose a systemic threat to the Union and the rights and freedoms of its citizens; whereas respect for the rule of law is binding on the Union as a whole and its Member States at all levels of governance, including subnational entities;

- B. whereas the Conference on the Future of Europe clearly expressed a desire for the EU to systematically uphold the rule of law across all Member States, to protect citizens' fundamental rights and to retain the EU's credibility when promoting its values within the EU and abroad;
- C. whereas the principle of sincere cooperation laid down in Article 4(3) TEU places an obligation on the Union and the Member States to assist each other in carrying out obligations that arise from the Treaties in full mutual respect, and on Member States to take any appropriate measure, general or in particular, to ensure the fulfilment of the obligations arising from the Treaties or resulting from the acts of the institutions of the Union;
- D. whereas it is necessary to strengthen and streamline existing mechanisms and to develop a single comprehensive EU mechanism to protect democracy, the rule of law and fundamental rights effectively and to ensure that the values laid down in Article 2 TEU are upheld throughout the Union and promoted among candidate countries, so as to prevent Member States from developing domestic law that runs counter to the protection of Article 2 TEU;
- E. whereas Parliament has at various moments addressed the rule of law situations in Bulgaria, Hungary, Malta, Poland, Romania, Slovenia and Slovakia in its resolutions; whereas the Democracy, Rule of Law and Fundamental Rights Monitoring Group (DRFMG) of Parliament's Committee on Civil Liberties, Justice and Home Affairs has also monitored certain issues in Belgium, Bulgaria, Czechia, France, Greece, Malta, Poland, Slovakia, Slovenia and Spain;
- F. whereas parliamentary elections took place in Poland in October 2023, ending the rule of the Law and Justice-led government; whereas the new government, representing a broad democratic coalition, made strong commitments to restore the rule of law and judicial independence in Poland and is cooperating to this end with the Commission and the Council of the EU;
- G. whereas the Commission has suggested setting up an interinstitutional 'contact group' on the rule of law; whereas Parliament has taken up this suggestion and proposed to the Commission and the Council to create an 'interinstitutional pilot project on democracy, the rule of law and fundamental rights'; whereas the Council Presidency has responded by stating that it might consider this after its evaluation of its rule of law dialogue and the Commission reiterated its openness to discussing an informal rule of law contact group;
- H. whereas some Member State governments have unfortunately not made themselves available for an exchange of views in the DRFMG and have not answered its written questions or met with its members during missions in the Member States; whereas other Member States, however, have made themselves available for DRFMG sessions,

questions and missions, as part of their joint responsibility for safeguarding EU values;

### ***Justice and prosecutorial systems***

1. Reiterates that an independent judiciary is the backbone of the rule of law, as it is a precondition for an effective remedy when laws, rights, freedoms and democratic principles are withheld or violated; underlines that an independent and effective judiciary is not only vital in maintaining the rule of law and democracy in the Member States and the Union, but it is also key in implementing EU law, given that the Commission relies on the national judicial authorities to enforce EU law; expresses the importance of mutual trust, while also underlining that the Commission cannot ignore the shortcomings of national judicial authorities in some Member States or assume that they are all able to provide effective judicial remedies; notes, with concern, that while some judicial systems may look robust and satisfactory on paper, in some cases they are not immune to state capture, political interference or nepotism; is aware of the fact that this is difficult to detect by simply assessing the formal structures; urges the Commission, therefore, to conduct a more qualitative analysis, including contextual elements, particularly about long-term implementation;
2. Notes that the Commission finds wide disparities between EU Member States in terms of judicial independence and safeguards; notes that the report mentions a number of positive initiatives and ongoing developments concerning the Councils for the Judiciary, notably in Luxembourg, the Netherlands, Portugal, Italy, Sweden, Finland and Hungary<sup>1</sup>; notes that the Commission finds that concerns on the Councils for the Judiciary still have to be addressed in Poland, Slovakia, Bulgaria, Spain and Cyprus; notes, with concern, that disciplinary proceedings may be used as a means of curtailing judicial independence, as is the case in Bulgaria and was the case in Poland under the Law and Justice-led government; notes that the Commission has finally referred Poland to the CJEU for violations of EU law by its Constitutional Tribunal; notes that the current Minister of Justice of the Republic of Poland is committed to ending the unlawful disciplinary regime for judges in Poland, in accordance with the CJEU and European Court of Human Rights rulings;
3. Notes that the Commission finds that whereas certain Member States, including Finland, Austria, Slovenia, Cyprus, Sweden and Hungary, have taken or announced initiatives to improve judicial appointment processes and the functioning of high courts, challenges persist in appointing high-level judges in Malta, Greece, Lithuania, Latvia and Ireland; highlights that the Commission finds that serious concerns persist in Poland regarding previously appointed Supreme Court judges, including its First President, and regarding the continuous non-implementation of a CJEU preliminary ruling on a judicial appointment to the Chamber of Extraordinary Control; notes that the Commission finds that in Slovakia the crime of abuse of law introduced for judges as regards their judicial decisions continues to raise concerns, as it has a negative psychological impact on judges and is burdensome for the investigatory authorities; highlights that serious concerns persist in Hungary regarding judicial independence, in contravention of the Commission's super milestones, including the persistence of obstacles to preliminary references, problems with the allocation of cases in Kúria and

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<sup>1</sup> Hungarian Helsinki Committee, Fundamental deficiencies of the Hungarian judicial reform, 31 October 2023.

the deficient system of nomination of the President of the Kúria;

4. Underlines that the judiciary should be allocated sufficient means to be truly accessible and able to provide an effective remedy to citizens; notes that the Commission finds that increased resources for the judiciary and other measures taken by Malta, Cyprus and Greece have not yet resulted in a reduction as regards the length of proceedings, with backlogs of cases remaining a serious challenge; whereas in Croatia, Italy and Portugal some steps in the right direction have been taken, but the effectiveness of the reforms remains to be seen; notes that the Commission has called on Germany to ensure adequate resources for the justice system, including on the level of remuneration for judges, taking into account European standards on resources and remuneration for the justice system; calls on Germany to continue implementing the ‘Pact for the Rule of Law’ and to provide sufficient resources for the justice system by increasing the number of judges to strengthen the federal justice system; recognises that the Commission finds that some progress can be seen in the implementation of the recommendation made in the 2022 rule of law report on the efficiency of the justice system, including in Malta and Spain;
5. Welcomes the funding through the justice programme to support judicial cooperation in civil and criminal matters and to contribute to the further development of European justice;
6. Believes that for citizens to have effective access to justice, the Member States should do more to provide free of charge or affordable legal aid, in particular for those unable to afford such aid themselves, and should further facilitate access to a lawyer; notes that the Commission finds that efforts are being made to address concerns related to access to justice and legal aid in Spain, France, Finland, Bulgaria, Malta and Lithuania, and that concerns persist in Ireland, Denmark, Luxembourg and Hungary; notes also that the Commission finds that steps towards ensuring the right of access to a lawyer are ongoing in several Member States including Spain, France, Finland, Bulgaria and Malta, and that in other Member States, such as Lithuania, Ireland, Denmark, Luxembourg and Hungary, improvements are still pending; calls, in this context, on the Commission to include in the next rule of law report an assessment of the application of the EU *acquis* on legal aid in civil and criminal matters, such as Council Directive 2002/8/EC<sup>1</sup> of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes, as CJEU case-law reveals that questions still remain about its interpretation;
7. Underlines the important role of the Councils for the Judiciary in safeguarding judicial independence; considers it necessary to evaluate the reforms that are in the process of being adopted in different Member States and encourages the adaptation of the composition and functioning of these bodies to the standards established by the Commission and the Council of Europe, and which have been endorsed by the CJEU;
8. Points out that the prosecution service is a key element for the capacity of the judiciary to fight crime and corruption; highlights the importance of guaranteeing the autonomy and accountability of the prosecution service; stresses the need for safeguards to be put in place to help preserve the autonomy and accountability of the prosecution service, including ensuring that it is free from undue political pressure, especially from the

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<sup>1</sup> OJ L 26, 31.1.2003, p. 41.



government;

9. Calls on all Member States to adopt a code of conduct for judges, following the Group of States against Corruption (GRECO) recommendations and taking into account such codes being applicable at the European Court of Human Rights (ECtHR) and the CJEU, to create independent mechanisms to investigate alleged violations of the code of conduct and other laws, to improve disclosure and transparency in conflicts of interest and in gifts received by the judiciary, to address the issue of revolving doors and to require justices to explain their recusal decisions publicly;
10. Expresses concern over the substantial personnel changes and the announced significant structural and organisational changes in the Slovak police and other independent democratic institutions, including among investigators working on serious crimes and cases of high-level corruption in Slovakia's National Criminal Agency (NAKA), raising doubts as to the motivations behind such changes; expresses deep concern over the Slovak Government's unjustified accelerated legislative process, particularly regarding the proposed amendments to the criminal code and the dissolution of the Special Prosecutor's Office, which threaten the integrity of judicial processes, undermine the EU's fight against fraud and endanger the protection of European financial interests and nature in Slovakia; calls on the Slovak Government to reconsider these amendments in the light of their potential consequences for the rule of law and the Union's financial interests as well as the EU anti-corruption framework; recalls that any criminal reform must contain sufficient and adequate safeguards to ensure the continuation and effectiveness of new and ongoing criminal cases, especially in relation to high-level corruption, and to guarantee the independence of the judiciary and the autonomy of the prosecution in line with the Commission recommendations in subsequent rule of law reports; expresses concern that the assignment of the cases of the Special Prosecutor will lead to considerable delays and some cases may collapse in view of the statute of limitations;
11. Notes the actions of the Spanish Government linked to it being sworn into office recently, including the future adoption of an amnesty law; acknowledges the questions, opinions and concerns expressed by various stakeholders in reaction to these developments, including by associations of judges, prosecutors, lawyers, academics, civil society and the general public; notes that the Commission has also written to the Spanish Government to request explanations; underlines that this merits an independent assessment; calls on the Spanish Government, in this regard, to provide full transparency to the European institutions about this amnesty law and notes that the Spanish Senate has asked for an opinion of the Venice Commission regarding its constitutionality and compliance with European rules and standards; regrets also the long-standing blocking situation of the Council for the Judiciary, on which the Commission has made specific recommendations to the Spanish authorities in its rule of law report;

### ***Corruption***

12. Reiterates that corruption is a serious threat to the rule of law and severely undermines trust in democracy and equality before the law; calls on the Member States and the Commission to increase their efforts to eradicate corruption;
13. Underlines that the 2022 Eurobarometer on corruption shows that corruption remains a

serious concern for EU citizens and businesses, with a large proportion of Europeans believing that corruption is widespread in their country (68 %) and that the level of corruption has increased (41 %); appreciates that all Member States now have anti-corruption strategies in place, which are regularly evaluated and reviewed; recalls that not only a sound legal framework, but also effective implementation are needed to eradicate corrupt practices and that the prevention of such practices also requires transparent and accountable governance and integrity frameworks;

14. Regrets the fact that, despite all Member States having anti-corruption strategies in place, perceptions of corruption vary greatly across the EU, with Denmark, Finland, Sweden and the Netherlands ranking among the least corrupt, while the perceived levels of corruption in Bulgaria, Malta, Hungary, Greece and Slovenia are worrying<sup>29</sup>; notes, also with concern, that the Commission finds that some Member States, such as Bulgaria, Malta, Hungary, Greece and Slovenia, have yet to establish a solid track record in the investigation and prosecution of high-level corruption cases that lead to final convictions that have a deterrent effect; notes that GRECO recently published a report on Cyprus, highlighting the lack of actual effectiveness of the anti-corruption legislation and pointing out specific risks within law enforcement<sup>1</sup>;
15. Underlines that Member State government and EU officials, politicians, elected representatives and leaders should set an example by refraining from any corrupt practices and that there should be no government or political interference in corruption investigations; calls on the DFRMG to follow up on Parliament resolutions on the rule of law to help combat impunity for corruption; points out that EU officials, politicians, elected representatives and leaders may also be involved in corruption, as demonstrated by Qatargate; reiterates, therefore, its demand for the annual report to also cover the EU institutions; reiterates its call on the Commission to finalise negotiations on the EU's full membership of GRECO as soon as possible;
16. Stresses that citizens and businesses should feel safe to report cases of corruption, in particular through whistleblowing; notes that the Commission finds that there are still major obstacles to whistleblowing across the EU, although some Member States, such as Slovakia, Cyprus, Denmark and Malta, have taken steps to try and improve this situation; calls on the Slovak Government to respect the binding principles of the EU Whistleblower Directive<sup>2</sup> and to reconsider the proposed changes in the protection of whistleblowers in Slovakia; expresses particular concern about whistleblowers being retroactively stripped of their protection, resulting in a lack of legal certainty; notes that the whistleblower office has flagged the issues to the Commission;
17. Condemns the fact that Malta continues to operate its citizenship by investment (CBI) scheme, which brings a major risk of corruption and other crimes, especially in the light of the steps taken by several other Member States to ensure that investor citizenship schemes are abolished; notes the pending action brought before the CJEU by the Commission against Malta for its CBI scheme and reaffirms its position that the

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<sup>1</sup> GRECO, Fifth evaluation round, preventing corruption and promoting integrity in the central governments (top executive functions) and law enforcement agencies - Evaluation report Cyprus, 2 October 2023.

<sup>2</sup> Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law (OJ L 305, 26.11.2019, p. 17).

Commission should use its prerogative to propose legislation and initiate an EU legislative ban on all CBI schemes in the EU;

18. Acknowledges the important role of the European Public Prosecutor's Office (EPPO) in safeguarding the rule of law and in combating corruption in the Union, and encourages the Commission to closely monitor Member States' level of cooperation with the EPPO in subsequent reports; calls on the Member States that have not yet done so to join the EPPO; welcomes that fact that Poland has initiated the procedure to join the EPPO, which demonstrates the new government's strong commitment to protecting the EU's financial interests and to effectively fighting against corruption; considers that membership of the EPPO should be a precondition for receiving EU funds; reiterates its call for an expansion of the mandate of the EPPO;
19. Finds that European bodies, such as Europol, Eurojust, the European Court of Auditors, EPPO and the European Anti-Fraud Office (OLAF) should improve their cooperation to prevent corruption both in the EU Member States and in the European institutions; calls also, in this context, for the creation of an effective EU ethics body;
20. Notes that corruption may involve national authorities, including judicial and police authorities – the very authorities that are supposed to be combating it; remains concerned, in this regard, that slow and limited progress has been made in eliminating the culture of impunity at the highest level in Malta, as identified by the independent public inquiry into the assassination of Daphne Caruana Galizia; considers that EU bodies, such as Europol, play an important role in investigating corruption and gathering evidence, but that the requirement for national approval of Europol involvement is an obstacle; calls for the reinforcement of the Europol mandate to enable it to investigate corruption cases of the kind described above; stresses the importance of oversight of Europol being guaranteed at EU level, of EU independent accountability mechanisms, bodies and agencies being strengthened and of democratic scrutiny of Europol's activities being improved, including by the Joint Parliamentary Scrutiny Group, including a systematic evaluation of all the activities of the agency and compliance with its mandate, as well as the duty to follow up on recommendations issued by Parliament to the agency;
21. Welcomes the Commission's anti-corruption proposals, which respond to Parliament's calls to step up the fight against corruption; notes that the Commission intends to mainstream the prevention of corruption in the development of EU policies and programmes and to actively support Member States' efforts to implement sound anti-corruption policies and legislation; welcomes the willingness to address the cross-border dimension of corruption by criminalising corruption offences and harmonising penalties across the EU;
22. Stresses that corruption and money laundering are intrinsically linked and that money laundering is one of the most important enablers of the illegal activities of organised crime and thus an attack on the rule of law through which criminals transfer the proceeds of crime into the legal economy; is aware that fraud against the EU budget can also be a precursor to money laundering; reaffirms its firm belief that only by strengthening the EU's anti-fraud architecture and increasing transparency in the European institutions can the protection of the EU's financial interests be effectively and efficiently pursued and strengthened, overcoming the inherent limitations of national systems which are not sufficient to counter increasingly transnational attacks

on the Union's financial interests;

### ***Independent authorities***

23. Highlights that checks and balances can only function when constitutional courts, ombudspersons, national human rights institutions, audit firms, equality bodies and all other independent authorities are able to function and have sufficiently broad mandates, independence, integrity and adequate funding;
24. Notes that the Commission finds that the situation concerning ombudspersons, national human rights institutions, equality bodies and other independent authorities varies greatly among the Member States, with some developments in the right direction in Cyprus, Slovakia, Luxembourg, Portugal, Slovenia and Poland, with challenges remaining in Lithuania, Hungary and Croatia, with still no national human rights institution established in line with the UN Paris Principles in Italy, Czechia, Malta and Romania, with delays in appointments in various independent authorities in Bulgaria, Spain and Austria, and with Poland putting the effective functioning of the Supreme Audit Office at risk; notes, with great concern, the recent developments in Greece, where independent authorities such as the Hellenic Authority for Communication Security and Privacy (ADAE) and the Greek Data Protection Authority have been under increasing pressure due to their work concerning the illegitimate use of spyware, with the ADAE's board members having been hurriedly replaced recently by the Greek Parliament, apparently as a result of the ADAE's imminent decision to impose a fine on the Greek intelligence agency;

### ***Media pluralism and media freedom***

25. Highlights that without media pluralism and media freedom, democratic life and the rule of law cannot survive;
26. Considers that the transparency of media ownership is the basic minimum to preserve media pluralism; notes that the Commission finds that, since the 2022 rule of law report, new legislation increasing the transparency of media ownership or improving public availability of media ownership information has been adopted in Greece, Luxembourg and Sweden and that such legislation has been strengthened in Cyprus; notes that change remains pending in Bulgaria, Czechia and France; encourages the European institutions to finally adopt and implement a robust and ambitious Media Freedom Act to ensure the harmonisation of transparency of media ownership legislation at EU level;
27. Notes that the Commission finds that media regulators are insufficiently protected by safeguards against undue political influence, such as in Hungary, Slovenia and, until recently, Poland under its former Law and Justice-led government, and that the authorities lack resources, particularly in Greece and Romania; calls on the Commission to take all the necessary measures to ensure the effective implementation of Article 30 of the Audiovisual Media Services Directive<sup>1</sup>, stipulating the requirement of safeguards for the independence of national regulatory authorities;

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<sup>1</sup> Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (OJ L 95, 15.4.2010, p. 1).

28. Stresses the importance of the editorial independence of public service media and the duty of all Member States to respect this; stresses the need to establish safeguards against internal and external interferences; considers that public service media should be shielded against political pressures, including undue dismissals, and that safeguards should be put in place to guarantee that editorial decisions can be taken freely; notes that the Commission finds that Luxembourg, Slovenia, Germany, Estonia, Slovakia and Czechia have taken initiatives to strengthen the legal safeguards or budgetary means to improve the independence of national public service broadcasters, with Cyprus, Ireland and Sweden also discussing reforms, and an absence of measures to that effect in Romania, Malta and Hungary; notes the efforts by the new Polish Government to restore the independence of the public broadcaster; notes that the most recent Media Pluralism Monitor rated the risk to editorial autonomy and political independence in Malta as 'high', and re-evaluated the overall risk to media pluralism in Malta, changing it from 'medium' to 'high';
29. Notes, with concern, the planned restructuring of the Radio and Television of Slovakia (RTVS), the country's main public broadcaster; underscores the importance of maintaining free, independent media as a cornerstone of a democratic society; regrets the decision of the Slovak Prime Minister and several government officials to halt communication with key media outlets, recognising this as a significant impediment to the public's right to receive relevant governmental information; emphasises that such actions curtail media freedom and transparency and contribute to the spread of manipulative disinformation in public spaces;
30. Calls on the Council and the Commission to provide adequate funding for independent and European-wide quality journalism at national, regional and local levels;

### ***Protection of journalists***

31. Recalls that independent journalism is a vital element of the democratic rule of law as part of the essential checks and balances and an element of public scrutiny; expresses its concerns at the deliberate attempts of several governments and economic powers to silence journalists who are exposing wrongdoing; stresses that unwarranted interference and pressure, fear and self-censorship have a chilling effect on the exercise of journalistic freedom of expression;
32. Regrets the worrying trends in the safety of journalists in several Member States; notes that the Council of Europe's Platform to promote the protection of journalism and safety of journalists has registered more than 1 600 threat alerts since 2015; regrets the intimidation of journalists during election campaigns, such as recently happened in the election in Slovakia; regrets Malta's failure to improve the working conditions of journalists since the assassination of Daphne Caruana Galizia, including the failure to effectively implement all the recommendations of the public inquiry report of 29 July 2021; calls on Slovak government officials to refrain from verbal attacks on individuals; underscores the duty of public and government officials to serve all citizens, especially in a country with a history of hate crime and the murder of a journalist;
33. Is alarmed by the persistence of SLAPPs across the European Union; calls on the

Member States to implement Commission Recommendation (EU) 2022/758<sup>1</sup> and adopt domestic anti-SLAPP measures to protect journalists and human rights defenders who engage in public participation from manifestly unfounded or abusive court proceedings; remarks that this can be done by removing prison sentences for defamation cases, decriminalising defamation and favouring civil or administrative procedures instead; welcomes the political agreement between the EU co-legislators on the anti-SLAPP directive<sup>2</sup>; calls on the Commission to explore the possibility of proposing further legislation to cover all SLAPP cases, including domestic cases; regrets that despite concerns raised by various international organisations, Malta's proposed anti-SLAPP provisions are deemed not sufficient to protect the work of journalists<sup>3</sup> ; reiterates its call on some Maltese politicians, including the former Maltese prime minister, to withdraw the libel cases inherited by Daphne Caruana Galizia's heirs that are still ongoing several years after her assassination;

34. Calls on the Greek Government to address the serious challenges identified by the Media Freedom Rapid Response (MFRR), an alliance that tracks, monitors and reacts to violations of press and media freedom, in particular related to arbitrary surveillance, impunity or crimes against journalists, SLAPPs, media independence and pluralism<sup>4</sup>; welcomes the creation of a task force on the 'protection, safety and empowerment of journalists and other media professionals', with the aim of strengthening the safety and independence of journalists and other media professionals, raising awareness, as well as monitoring the safety of journalists which the task force has initiated in line with Commission Recommendation (EU) 2021/1534 of 16 September 2021 on ensuring the protection, safety and empowerment of journalists and other media professionals in the European Union<sup>5</sup>; notes with great concern the recent detention of a reporter by the French authorities, apparently for the purpose of uncovering her sources, as well as the illegal wiretapping of a Dutch journalist working for 'De Correspondent';
35. Strongly condemns the lack of a decisive breakthrough in the investigation into the murder of Giorgos Karaivaz; notes that the two alleged killers were arrested more than two years after the murder on the basis of evidence that appears to have been available to the police the entire time; considers that the mastermind behind the murder has still not been identified; notes that Karaivaz – like Daphne Caruana Galizia and Ján Kuciak – was investigating corruption and crime, and may have made enemies in high places, including in political circles; points out that the suspected mastermind of the murder of Daphne Caruana Galizia has still not been convicted, nor have all the cases of corruption and crime she was investigating been adequately addressed by the

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<sup>1</sup> Commission Recommendation (EU) 2022/758 of 27 April 2022 on protecting journalists and human rights defenders who engage in public participation from manifestly unfounded or abusive court proceedings ('Strategic lawsuits against public participation') (OJ L 138, 17.5.2022, p. 30).

<sup>2</sup> 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.

<sup>3</sup> Council of Europe Commissioner for Human Rights, letter to the Speaker of the House of Malta, 26 September 2023.

<sup>4</sup> International Press Institute, *Murdered, surveilled and sued: decisive action needed to protect journalists and salvage press freedom in Greece*, 27 September 2023.

<sup>5</sup> OJ L 331, 20.9.2021, p. 8.

authorities;

36. Condemns the illegal surveillance of journalists, in particular by means of spyware; is dismayed at the Commission's refusal to implement all the recommendations of the Pegasus Special Inquiry Committee and considers it a failure to act; reiterates its call on the Commission to assess the fulfilment of the specific conditions for Cyprus, Greece, Hungary, Poland and Spain set out in the Recommendation, the deadline for which was 30 November 2023; welcomes the creation of the special inquiry committee with investigative powers in the Sejm, the lower house of the Polish Parliament; calls for a thorough investigation of alleged severe violations of national and EU laws related to unlawful surveillance for political purposes by the Law and Justice-led government; is alarmed that the alleged list of victims is very long and includes multiple politicians, lawyers, prosecutors, journalists, business people, activists and other persons; points out that in none of the many cases of abuse of spyware against journalists, activists, politicians, lawyers and other political targets, has justice been served; concludes therefore that, contrary to the Commission's assumption, many national authorities are neither willing nor able to address the matter, leaving the victims without effective remedy and democracy unprotected; is deeply concerned at the chilling effect of the impunity of spyware abuse on journalists and their sources; underlines that the illegitimate use of spyware by national governments directly and indirectly affects the integrity of decision-making, thereby undermining European Union democracy and highlighting the urgency for the greater transparency and legal accountability of the surveillance industry;
37. Recalls that the trade in and use of spyware need to be regulated strictly, that the use of spyware by Member States must be proportionate and must not be arbitrary, and that surveillance must only be authorised in narrowly, pre-determined circumstances; considers that effective *ex ante* mechanisms to ensure judicial oversight are critical to protecting individual freedoms; reaffirms that individual rights cannot be put at risk by permitting unfettered access to surveillance; underlines that the ability of the judiciary to perform meaningful and effective *ex post* oversight in the area of requests for surveillance for national security is also important in order to ensure that the disproportionate use of spyware by governments can be challenged;
38. Stresses that the impact of the illegitimate use of spyware is much more pronounced in Member States where the authorities that would usually be tasked with investigating, providing redress to persons targeted and ensuring accountability, are captured by the state and where a rule of law crisis exists and the independence of the judiciary is endangered, such that the national authorities cannot be relied upon; calls therefore on the Commission to put in place dedicated country-specific monitoring and recommendations related to Member States' unlawful use of spyware in the rule of law report, assessing the responsiveness of state institutions to provide redress to targeted persons;

### ***Transparency and access to information***

39. Regrets the continuous difficulties that many citizens, journalists and parliamentarians in many Member States face in obtaining information and access to documents; underlines that, too often, public authorities deliberately frustrate access to information and documents, such as by disproportionately delaying decisions or giving only

artificial access by making information only partially available; notes that the Commission has found that several Member States have taken initiatives to better regulate access to information, such as in Czechia, Lithuania and Slovakia, and certain others are working towards improvements in this area, such as Germany, Spain, Croatia, Luxembourg and Hungary; notes, however, that some Member States still do not fully address concerns, such as Malta, Austria and Finland; reiterates its call on the Maltese Government to withdraw its appeals against a series of freedom of information requests filed by *The Shift News*;

40. Calls on the EU institutions to show exemplary behaviour when it comes to access to information and documents; notes in this regard the recent European Ombudsman's Special Report concerning the time the European Commission takes to deal with requests for public access to documents, following her strategic inquiry into this matter in which she found maladministration because the Commission showed systemic and significant delays in dealing with confirmatory applications<sup>1</sup>; calls on the Commission to address this recurrent problem once and for all;
41. Encourages the Member States to regulate lobbying, such as by introducing national mandatory transparency registers for all politicians, members and officials of governments, authorities and agencies; encourages politicians, government officials and officials of authorities and agencies to make public a list of all their meetings;

#### ***Economic dimension of the rule of law***

42. Calls for the strengthening of the principle of the rule of law in the internal market; underlines that reliable and stable rule-of-law structures are key pillars for investment and trade, which are essential for competitiveness and therefore for the capacity of the welfare system and the labour market in the European Union; regrets Member States' measures in this area that violate Union law, such as certain protectionist measures;
43. Demands that monitoring of the economic dimension of the rule of law should be intensified; calls on the Commission to give the economic dimension greater consideration and specific attention in the rule of law report under a broadened scope of the report;
44. Recalls its condemnation of the reported systemic discriminatory, non-transparent and unfair practices against companies in certain sectors in Hungary and the use of EU funds to enrich political allies of the government, contrary to EU competition and public procurement rules; is deeply concerned by the growing concentration of businesses in the hands of oligarchs with ties to the current government who have publicly signalled their intention to buy into key sectors, as well as by the targeting of the competitors of those businesses;
45. Recalls that, within the scope of application of the Treaties, any discrimination on the grounds of nationality is prohibited in accordance with the Charter, and that freedom of establishment, service provision and movement of capital are fundamental to the single market; underlines that the rules regarding equality of treatment forbid overt and covert

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<sup>1</sup> European Ombudsman, Special Report of the European Ombudsman in her strategic inquiry concerning the time the European Commission takes to deal with requests for public access to documents (OI/2/2022/OAM), 18 September 2023.



discrimination by reason of nationality or, in the case of a company, its seat; underlines that the proper implementation of competition and public procurement rules is also in the interest of Hungarian companies;

46. Calls on the Member States to demonstrate their commitment to the rule of law to the international community and to implement all adopted EU restrictive measures accurately and consistently, and to prevent their circumvention; calls on the Commission to closely monitor this;

### ***Civil society space***

47. Acknowledges the crucial role civil society and a healthy civic space play in upholding and protecting the rule of law, and reiterates its call for a separate chapter to be dedicated to the condition of civil society in Member States; notes that the Commission finds that Malta, Ireland, Bulgaria, Lithuania and Germany have announced or initiated efforts to improve the framework for civil society, and finds that civil society faces particular challenges in Cyprus, Greece, Spain, Italy and France, and continued authoritarian and serious systemic restrictions in Hungary and Poland under its former Law and Justice-led government; calls on all Member States to accept civil society organisations (CSOs) as important stakeholders in democratic life and to create an enabling environment for civil society;
48. Calls on the Commission to further invest, through dedicated funding, in building capacity for CSOs to monitor and report on the rule of law situation in the Member States, such as through the Citizens, Equality, Rights and Values Programme, and to ensure adequate protection to CSOs engaging in this process; is concerned that the biased distribution of funding in certain countries impacts CSOs working on promoting the rights of vulnerable groups or working, more generally, for causes that governments do not support; encourages a thorough assessment of these issues in all countries covered by the report and stresses the need for country recommendations to address these issues; urges the Commission to consider direct management of EU funds, in order to ensure that eligible beneficiaries, such as CSOs, businesses and local authorities, receive the EU funding intended for them;
49. Welcomes the Commission proposal for a Directive on European cross-border associations (COM(2023)0516) and commits to prioritising its adoption; urges the Commission, further, to establish a strategy providing for minimum standards for the protection of CSOs in all Member States in order to promote a regulatory and political environment free from threats and attacks, and to provide them with sustainable and non-discriminatory access to resources while supporting and encouraging their engagement in civil dialogue and participation in policy-making;
50. Is deeply concerned about plans announced by the Slovak Government to adopt legislation that would undermine the civic space, including by restricting the work of NGOs and stigmatising organisations in receipt of foreign funding;
51. Deplores the fact that the situation of human rights defenders in the EU has continued to increasingly deteriorate in recent years; urges the Commission and the Member States to take the necessary measures to ensure that human rights defenders are able to work free from hindrance and insecurity;

***The legitimate use of force by police under the rule of law, as well as the freedom of expression and peaceful assembly***

52. Emphasises that law enforcement plays an essential role in preserving the rule of law, creating a safe environment for people and allowing them to enjoy fundamental rights; regrets that, according to the Commission's 2023 Rule of Law Report, in many Member States, including Belgium, Cyprus, Portugal and Slovakia, law enforcement lacks sufficient resources to effectively perform tasks such as the fight against corruption; calls on the Member States to ensure adequate funding, training and human resources for the police and other law enforcement agencies;
53. Stresses that the prerogative of use of force has to be treated with extreme caution and emphasises that Member States must ensure that the police use force only when strictly necessary and only to the extent required to obtain a legitimate objective; recalls the need for the police to fulfil their tasks in compliance with the principle of impartiality and non-discrimination; calls on the Member States to thoroughly investigate any cases of excessive use of force or discriminatory treatment by law enforcement and to ensure systemic guarantees against such abuses;
54. Calls on the Member States to take into account the Council of Europe's Code of Police Ethics in this regard; considers that police officers should be trained in employing alternative practices for maintaining public order that do not endanger the lives of demonstrators or detainees; calls on the Member States to introduce EU-wide guidelines for a transparent, independent and consistent selection, testing and trialling process for the weapons used by law enforcement agents, based on UN standards, recommendations and guiding principles; notes that this assessment should determine compliance with international human rights law and standards prior to selection and deployment; calls on the Member States to collect data on all instances of use of force in order to enable evidence to be gathered about its use, misuse, unexpected consequences, injuries and deaths and their causes; is concerned by the use of excessive force by law enforcement authorities across the EU; stresses that the French police are more heavily armed than most other police forces elsewhere in the EU; is concerned about the fact that law enforcement authorities in France also carry out arbitrary detentions of demonstrators, which constitutes a violation of the right to liberty, as most detainees are released within a few hours without any charges;
55. Is deeply concerned about the fact that many instances of disproportionate use of force against demonstrators continue to be reported across the EU, including the beating of demonstrators; notes that law enforcement authorities in some Member States are increasingly using 'less lethal weapons' to control or disperse crowds of demonstrators, which has also led to a considerable number of people being seriously wounded in recent years, which therefore requires clear guidelines on their use;
56. Believes that in several places across the EU, the freedoms of expression and assembly are being exercised under worrying conditions; stresses that restrictions to the right to peaceful assembly cannot in principle be based on the substance of the message which the participants of a protest wish to convey, since the right to peaceful assembly is closely connected with the right to freedom of expression, except for assemblies aimed at inciting violence; insist that laws and practices concerning assemblies should always abide by international human rights standards on freedom of assembly and policing of demonstrations, including the provision of thorough human rights training for police

officers; calls on the Member States not to adopt laws or practices that preventively restrict the right to peaceful assembly or that would criminalise protesters in advance without judicial oversight;

57. Expresses deep concern about the many cases of excessive use of force by police services against minority groups, such as against Roma people, across various Member States; calls on the Member States' authorities to fully and independently investigate all such instances; is deeply concerned by the fact that three young Roma have been killed in three years in Greece and by the lack of thorough investigation thereof;

### ***Equality, non-discrimination and pluralism***

58. Notes that democratic and rule of law backsliding and the undermining of minority rights often go hand in hand, once more underlining the need for a comprehensive approach to monitoring democracy, rule of law and fundamental rights (DRF) in the future reports; regrets the lack of progress on protecting minorities across the EU; condemns hate speech, including by government or political officials, against minority groups;
59. Stresses the necessity to fight against all types of discrimination, hate speech and crimes specifically targeting minority groups and members of national, ethnic, linguistic and religious minorities; calls on the Commission to include a specific new pillar on this in the next report, mapping all forms of xenophobia, racism, antisemitism, islamophobia, anti-gypsyism, LGBTIQ-phobia, hate speech and discrimination across all Member States;
60. Is alarmed by the recent surge in antisemitism, including acts of violence, intimidation and symbols of hate displayed in public spaces;
61. Is also alarmed by the level of islamophobia in the EU, including smear campaigns and disinformation;
62. Expresses its disappointment at the Commission's slowness to address non-compliance with fundamental rights laws and case law by Member States; urges the Commission, as the guardian of the Treaties, to meet its responsibility for the enforcement of EU human rights law, and not to rely only on citizens going to court themselves to ensure the application of EU law; recommends that the Commission, in particular, take action regarding failures to implement CJEU judgments under Article 260(2) TFEU and the Rule of Law Conditionality Regulation in cases of non-compliance;
63. Calls on the EU Member States to make the protection of LGBTIQ+ rights a real and cross-cutting priority across all policy fields; calls on the Commission to use all means available to ensure that LGBTIQ+ rights are respected throughout the EU, including the use of infringement procedures against Member States; calls on the Member States to take into account the Council of Europe's Steering Committee on Anti-Discrimination, Diversity and Inclusion's 12 recommendations to combat hate crimes against LGBTIQ+ people, as well as the recommendations of the European Commission against Racism and Intolerance<sup>1</sup>; notes the recent Romanian draft law, aiming to comply with the

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<sup>1</sup> Council of Europe, Steering Committee on Anti-Discrimination, Diversity and Inclusion, 'Thematic review of the implementation of Recommendation

CJEU's 2018 *Coman* ruling<sup>1</sup>, as well as the criticism that the draft law implements that ruling only very narrowly and that it does not guarantee equal rights for same-sex couples<sup>2</sup>; calls on all other Member States without legal recognition of same-sex partnerships in place, such as Bulgaria, Lithuania, Poland, Romania and Slovakia, to ensure that this right is stipulated in law;

64. Deeply regrets that legal gender recognition through a change of civil status is still not possible in several Member States; regrets the lack of effort and will on the part of the Bulgarian Government to come up with a credible plan of action to implement the judgment handed down by the European Court of Human Rights in *Y.T. v Bulgaria* on 9 July 2020; recalls, further, Bulgaria's continuing failure to implement the CJEU judgment in the 'Baby Sara' case (C-490/20);
65. Calls for including the grounds of sexual orientation, gender identity, gender expression and sex characteristics in the EU's anti-discrimination legal framework, based on a broad interpretation of the grounds of sexual orientation and sex and the principle of equality between women and men set forth in the Treaties; notes that this will ensure legal certainty and the comprehensiveness of the protection of all citizens of our Union, and that this interpretation has already been agreed by the co-legislators in the proposal for a directive establishing standards for equality bodies in the field of equal treatment and equal opportunities between women and men in matters of employment and occupation (COM(2022)0688);
66. Calls for a European ban on 'conversion practices'; calls for a ban on genital mutilation that also harms intersex people (intersex genital mutilation – IGM); calls for a ban on forced abortions and forced sterilisations, which constitute a form of gender-based violence and particularly harm people with disabilities; underlines the importance of respecting self-determination and autonomy and of promoting LGBTIQ+ people's physical and mental health; underlines that its position on the proposal for a directive on combating violence against women and domestic violence (COM(2022)0105) includes adding FGM, IGM and forced sterilisation to the list of so-called eurocrimes;
67. Reaffirms that women's rights are human rights and that nothing can justify a regression in women's rights and autonomy; condemns in particular the attack on the sexual and reproductive health and rights of women and girls taking place in several Member States; believes that the right to safe and legal abortion should be anchored in the Charter;
68. Stresses that gender-based violence, both online and offline, is a particularly serious crime and a widespread violation of fundamental rights and freedoms in the Union which needs to be addressed with greater efficiency and determination on a common

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CM/Rec(2010)5', 14 September 2023; Council of Europe, European Commission against Racism and Intolerance, 'ECRI General Policy Recommendation No 17 on preventing and combating intolerance and discrimination against LGBTI persons', 28 September 2023.

<sup>1</sup> Judgment of the Court of Justice of 5 June 2018, reference for a preliminary ruling under Article 267 TFEU from the Curtea Constituțională (Constitutional Court, Romania), ECLI:EU:C:2018:385.

<sup>2</sup> Euractiv, 'Romanian LGBTQ+ community wants equal rights, not special conditions', 22 September 2023.

basis; stresses that gender-based violence is the result of societal and systemic structural gender inequalities that have a cross-border dimension; points, in particular, to the growing anti-gender, anti-LGBTIQ+ and anti-feminist movements, which are well-organised and have a cross-border nature; considers, in addition, that the cross-border dimension of gender-based cyber violence and the great individual, economic and societal impact of gender-based violence across all Member States reaffirm the need to combat gender-based violence in its multiple dimensions on a common Union basis;

69. Stresses that the failure to combat violence against women and girls and other forms of gender-based violence on a common basis also results from the lack of minimum rules concerning the definition of criminal offences and sanctions; notes that this includes a common definition of gender-based violence, minimum rules concerning key issues of prevention, underreporting, victim protection, support and reparation, and the prosecution of perpetrators; underlines that the approaches and levels of commitment of Member States to prevent and combat gender-based violence vary significantly and that, therefore, a common-basis approach would also contribute to law enforcement in cross-border operations;
70. Believes that, although national electoral laws do not fall under Union competence, all elected bodies in the European Union should be representative of the diverse voices within the electorate; expresses its deep concern about certain electoral systems across the Union that quash pluralism, such as by putting into place a high electoral threshold in order to be elected; encourages national electoral reforms in cases where large parts of the population remain unrepresented;
71. Strongly deplores the numerous deaths of refugees and migrants at sea who are often victims of human trafficking and who have to face inhumane and degrading treatment without any consideration for their safety or fundamental rights; reminds the Member States of their obligation under the international law of the sea to assist persons in distress and calls for the establishment of a comprehensive EU search and rescue mission implemented by the Member States' competent authorities and Frontex; notes the work of Frontex and its Fundamental Rights Officer, as well as of the EU Asylum Agency; stresses the need for an effective EU asylum system that respects human rights; notes the progress made on the New Pact on Asylum and Migration, making it possible to adopt the pact before the end of this legislative term;
72. Welcomes the fact that, on 15 February 2024, Greece became the 16th Member State to legislate marriage equality with the passing of a landmark bill by the Greek Parliament legalising same-sex marriage and granting full parental rights to same-sex couples;

***Cross-cutting findings on the state of democracy, the rule of law and fundamental rights across the EU***

73. Expresses its deep concern, in light of the above, that democracy, the rule of law and fundamental rights across the EU are being eroded; highlights that whereas the state of affairs presented by the Commission's rule of law report reveals many worrying developments, the situation looks even more concerning when taking other independent reports and sources into account; underlines that the erosion of these values in Member States compromises and undermines the EU institutions and the situation in the EU as a whole, even if some Member States are exemplary in protecting and promoting these values;

74. Underlines that this state of affairs is not merely an abstract conclusion but impacts the daily lives of EU citizens and businesses, as they experience, for example, an inefficient or non-independent judiciary and rampant corruption and cannot access independent and quality journalism; highlights that this undermines trust in our democratic system based on the rule of law; believes that restoring respect for EU values across the Member States is vital for avoiding the disintegration of our societies and Union; calls on the Commission, the Council and the European Council to fully acknowledge that democracy, the rule of law and fundamental rights are not only national matters, but are matters of direct concern for the European Union and its institutions;
75. Calls on the Member States to fully comply with the values on which the Union is founded, as enshrined in Article 2 TEU; calls, in this regard, on the Member States to respect legality and legal certainty, to prevent abuses of power and to ensure equality before the law and non-discrimination, access to justice, the separation of powers, the independence of the judiciary and the protection of human rights, as these are key principles for the proper functioning of the mechanisms of checks and balances of every healthy democracy; calls on the Commission to independently analyse whether these principles are being complied with in all Member States;

### ***Enforcement of EU law***

76. Notes that the proper enforcement of all EU law is the very precondition for a union based on the rule of law; condemns the sometimes open and unashamed non-compliance of several Member States with EU law in various fields, such as the right to effective judicial protection, anti-corruption laws, asylum, the implementation of sanctions, and human rights law; underlines that this risks making the EU an area where some Member States feel more equal than others and citizens' EU rights and freedoms are not evenly protected;
77. Reminds the Commission that it is first and foremost the guardian of the Treaties; underlines that issuing a report is not enough to reinforce our union based on the rule of law but that the report should lead to concrete enforcement action, especially where the recommendations are not fully complied with;
78. Strongly regrets the fact that the Commission is not taking stronger action to enforce EU law; calls therefore on the Commission to step up the number of new infringement procedures and to push forward existing infringement procedures with more audacity and urgency; calls on the Commission to systemically resort to expedited procedures and applications for interim measures before the CJEU; calls on the Commission not to use 'dialogue' with Member States or the 'pilot' procedure as an open-ended means to avoid launching actual infringement procedures; calls on the Commission to revise its policy, outlined in its 2022 communication on enforcing EU law, not to use infringement actions for 'individual' redress, as this policy has led to serious deprivation of rights for citizens across the EU, especially where their own governments are refusing to comply with EU law or CJEU judgments, also as most of these cases are not merely individual but address strategic and fundamental issues;
79. Notes the persistent problem of the incomplete implementation of ECtHR judgments, noting the decisions of the Council of Europe's Committee of Ministers; welcomes the inclusion of the systemic indicators on the implementation of ECtHR leading judgments in the rule of law report since its 2022 edition; calls on the Commission, however, to set

up a scoreboard dedicated to monitoring the implementation of each and every CJEU and ECtHR judgment relating to democracy, the rule of law and fundamental rights, and to fully integrate it into the annual rule of law report; calls on the Member States to implement pending judgments without delay, and calls on the Commission to assess the consequences for the compliance with EU law and to take infringement action where needed;

### ***The Rule of Law report as a tool***

80. Welcomes the rule of law report as a crucial cornerstone of the EU rule of law toolbox and commends the Commission for delivering a diligently researched and well-written report; recalls that the annual rule of law report was introduced in response to a Parliament resolution adopted on the basis of a legislative own-initiative report in 2016<sup>1</sup>;
81. Recognises that the rule of law report has become a benchmark for the EU institutions' work on rule of law issues in the EU and in specific Member States; acknowledges the Commission's continuous commitment throughout the years to enhancing the relevance of the report, such as by its inclusion of country-specific recommendations in the previous edition and an assessment of their fulfilment in the current report;
82. Acknowledges that the Commission's rule of law report has become more comprehensive since its inception in 2020; deplores, however, the fact that essential elements from the 2016 Parliament resolution have not yet been implemented and that the Commission has not fully addressed the recommendations made by Parliament in its previous resolutions; calls on the Commission to take steps to address this; regrets, in particular, that the 2023 edition of the report was not significantly expanded by adding a comprehensive new pillar; calls for the inclusion in the annual report of important missing elements of the Venice Commission's 2016 Rule of Law Checklist, such as prevention of the abuse of powers, equality before the law and non-discrimination; reiterates its position that the report should cover the full scope of the values of Article 2 TEU, as these cannot be seen in isolation; calls on the Commission to expand the scope of the report next year;
83. Is concerned that the Commission, in its effort to be factual and even-handed, sometimes ends up being too diplomatic and imprecise when identifying rule of law problems in Member States; regrets that the use of euphemistic language and the artificial equal number of conclusions and recommendations per Member State conceals the very real differences between Member States; reiterates the recommendation to differentiate between systemic and individual breaches, to avoid the risk of trivialising the most serious breaches of the rule of law; calls on the Commission to make clear that when the Article 2 TEU values are systematically, deliberately and gravely violated over a period of time, Member States could fail to meet all criteria that define a democracy; believes that the assessment of the fulfilment of the recommendations should be more precise and qualitative, not relying only on legislative changes but also on real and independent evidence of their implementation in practice; reiterates the need to set out a timeline, targets and concrete actions for the implementation of the recommendations and to detail the possible consequences in the event of non-compliance; notes the sometimes stark differences between the summaries of country

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<sup>1</sup> OJ C 215, 19.6.2018, p. 162.

chapters and the in-depth content of the chapters themselves, suggesting an editorial intervention;

84. Reaffirms that many of these challenges could be overcome by involving an independent panel of experts in the drafting of the report, as they would be less bound by diplomatic considerations; calls on the Commission to reconsider its position on this point and to explore all possibilities to involve independent experts in subsequent editions of the rule of law report; repeats its call on the Commission to invite the FRA to provide methodological advice and conduct comparative research in order to add detail in key areas of the annual report, given the intrinsic links between fundamental rights and the rule of law;
85. Acknowledges the Commission's effort to conduct a wide range of consultations and collect various inputs in each Member State, including from national authorities and CSOs; calls on the Commission to expand this further and, as much as possible, to conduct on-site rather than virtual visits in Member States, as these could paint a fuller and more contextual picture of the local situation; recalls, in particular, the importance of consulting legal professionals, such as through bar associations and judges' associations;
86. Recognises the role of notaries in numerous Member States, which functionally exercise court tasks; believes that notaries' contribution to rule of law standards should be addressed in relevant country chapters of subsequent editions of the rule of law report;
87. Welcomes the Commission's decision to expand the geographical scope of future rule of law reports to include candidate countries, in line with previous Parliament calls for it to do so<sup>1</sup>;
88. Believes that continuously and ambitiously expanding the scope, candour and enforcement consequences of the report is the best way to ensure its continued relevance and impact;
89. Urges the Commission to invest more in awareness-raising about the Union's values and applicable tools, including the annual report, especially in countries where there are serious concerns;
90. Affirms that the annual rule of law report is not an end in itself, as monitoring the situation is not enough but should rather lead to specific enforcement action on the identified shortcomings; calls, therefore, on the Commission to ensure that this rule of law report is indeed part and parcel of an entire process within the ambit of the rule of law mechanism as a whole, and to ensure full use of the complete rule of law toolkit at its disposal, including Article 7 TEU in cases where the rule of law report keeps finding continuous breaches year after year in certain Member States;

#### ***Interinstitutional cooperation and procedures on rule of law***

91. Takes note of the Council's evaluation of its rule of law dialogue and the Council's stated position that it will consider further possible interinstitutional cooperation in that context; calls on the Council to make its rule of law dialogue more inclusive, by inviting

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<sup>1</sup> OJ C 341, 27.9.2023, p. 2.



other institutions and stakeholders to its sessions, in particular Council of Europe bodies such as the Venice Commission, the Human Rights Commissioner, as well as representatives of the European Parliament;

92. Regrets that the Commission and the Council have so far rejected Parliament's offer to enter into an interinstitutional agreement on democracy, the rule of law and fundamental rights; reaffirms its willingness to resume talks on this agreement;
93. Calls on the other institutions, in the meantime, to at least explore further cooperation in the context of the proposed interinstitutional pilot on democracy, rule of law and fundamental rights, which would help build trust between the institutions in a practical way, in particular by sharing monitoring, dialogue and meeting practices;
94. Asks its Bureau, in the light of the reluctance of the Commission and the Council, to organise a public procurement procedure in order to create a temporary panel of independent experts under the auspices of Parliament, in line with the commitment undertaken in its previous resolutions, in order to advise Parliament on compliance with the values under Article 2 TEU in various Member States and to show by example how such a panel could work in practice;
95. Condemns the total lack of progress in the ongoing Article 7(1) TEU procedures; urges the Council to address all new developments affecting the rule of law, democracy and fundamental rights; reiterates its call on the Council to address recommendations in the framework of this procedure, underlining that any further delaying of such action would amount to a breach of the rule of law principle by the Council itself; insists that Parliament's role and competences be respected;
96. Calls on the Commission to include, strictly monitor and safeguard the DRF conditions in all budgetary instruments and processes; reaffirms its serious concerns about the Commission decision considering that the horizontal enabling condition of the Charter had been fulfilled in relation to judicial independence, thus enabling the Hungarian authorities to submit reimbursement claims of up to EUR 10,2 billion, even though even following the recent reforms, Hungary does not meet the standard of judicial independence set out in the Charter; calls on the Commission and the Council to apply the Rule of Law Conditionality Regulation further and without delay where needed, and not to lift the measures adopted in the case of Hungary until all the preconditions and milestones have been effectively fulfilled; calls on the Commission to rigorously verify that the rule of law related milestones in the various Member State recovery and resilience plans are fulfilled as a condition for disbursing funding when Member States make payment requests; calls on the Commission to assign the primary responsibility for the application of these conditions to the Commissioners responsible for the rule of law;

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97. Instructs its President to forward this resolution to the Council, the governments of the Member States and the Commission.