

# The protection of fundamental rights in the EU: European Parliament achievements during the 2014-2019 legislative term and challenges for the future

In the years between 2014 and 2019, the EU has faced serious challenges related to the protection of fundamental rights within its territory, notably in connection to the rule of law (RoL) and democracy in some EU Member States. Both the European Commission and, with the Committee on Civil Liberties, Justice and Home Affairs (LIBE) taking the lead role, the European Parliament (EP) have addressed these challenges by activating - for the first time since its introduction in the Treaties - the procedure foreseen in Article 7.1 of the Treaty on European Union (TEU), respectively against Poland and against Hungary. The EP has also consolidated its former requests in the proposal for an EU mechanism on Democracy, the Rule of Law and Fundamental Rights (EU DRF Pact). Important legislative dossiers on procedural rights have been approved (presumption of innocence, safeguards for children in criminal proceedings, legal aid). While the EP has continued to report annually on the situation of fundamental rights in the EU and on traditional issues of interest (including minorities, Roma, anti-Semitism, right-wing extremism, prisons and media freedom, as well as follow-up activities on mass surveillance and the CIA), it has also addressed new issues, such as protection of whistle-blowers (a Commission proposal was issued following the insistence of the EP), Islamophobia, Afrophobia and the fundamental rights of intersex persons. The EP has also adopted resolutions on the situation in specific Member States, such as Malta, Slovakia and Romania, expressing rule of law concerns. Among the challenges that remain open for the next term are the Article 7 TEU procedures against Hungary and Poland, the strengthening of the protection of Article 2 TEU values including through the promotion of the EU DRF Pact, EU accession to the ECHR, the enhancement of the EU and EP monitoring mechanisms, the adoption of pending files, including rule of law conditionality for EU funds, the Rights and Values and Justice programmes, the equal treatment directive, the reform of the transparency regulation, and, in the longer term, a possible reform of the Treaties.

## 1. Main fundamental rights references: EU Treaties and other European and international treaties

The [Treaty on European Union \(TEU\)](#): Preamble, Articles 2 (Union values), 3.1 (Union objectives), 3.3, second subparagraph (Union objectives), 4.3 (loyal cooperation), 6 (Charter, ECHR), 7 (risk of breach of EU values), 9 (equality, Union citizenship), 19.1 (effective judicial protection).

The [Treaty on the Functioning of the European Union \(TFEU\)](#): Articles 8 (equality between men and women), 10 (EU policies and actions to fight discrimination), 18 (anti-discrimination on grounds of nationality), 19 (anti-discrimination), 20 (citizenship), 21 (free movement), 22 (elections), 23 (diplomatic protection), 24 (European Citizens' Initiative, petitions, Ombudsman), 67 (AFSJ, fundamental rights).

The [EU Charter of Fundamental Rights](#).



Other relevant EU references: Article 49 TEU (EU accession) and the **Copenhagen criteria**, notably the political criteria (stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities); the [Commission communication of 15 October 2003](#) entitled '[Article 7](#) of the Treaty on European Union: respect for and promotion of the values on which the Union is based' (COM(2003)0606); the Commission communication of 11 March 2014 entitled '[A new EU Framework to strengthen the Rule of Law](#)' (COM(2014)0158); the Commission communication of 3 April 2019 entitled '[Further strengthening the Rule of Law within the Union](#). State of play and possible next steps' (COM(2019)0163).

The **European Convention for the Protection of Human Rights and Fundamental Freedoms** of 4 November 1950 (**ECHR**), the case law of the European Court of Human Rights (ECtHR), as well as the conventions, recommendations, resolutions and reports of the Parliamentary Assembly, the Committee of Ministers, the Human Rights Commissioner, the Venice Commission and other bodies dealing with fundamental rights of the Council of Europe.

**United Nations** conventions, resolutions, reports and other documents on human rights and fundamental freedoms.

## 2. The EU fundamental rights architecture

The EU fundamental rights architecture has developed impressively since the creation of the European Community (EC), which was initially intended as a European organisation focusing on economic cooperation, while human rights were guaranteed by the Council of Europe and the ECHR, to which EC Member States were party. For this reason the EC Treaties did not make any reference to human rights.

When issues of compatibility of EC rules with human rights emerged, the Court of Justice developed a jurisprudence to affirm that the Treaties protect fundamental rights, as guaranteed by the ECHR and as they result from the constitutional traditions common to the Member States, as general principles of EU law. Subsequent Treaties progressively anchored the EC/EU to fundamental rights (including by codifying the jurisprudence): the Single European Act introduced a reference in the Preamble to 'democracy, compliance with the law and with human rights'; the Maastricht Treaty included an obligation for the EU to 'respect fundamental rights, as guaranteed by the ECHR and as they result from the constitutional traditions common to the Member States, as general principles of EU law'; the Amsterdam Treaty inserted Article 6 stating that 'the Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States' and introduced a sanctioning mechanism in Article 7; the Treaty of Nice introduced, also in Article 7, a preventive mechanism, and proclaimed the Charter of Fundamental Rights; the Lisbon Treaty changed 'principles' into 'values' in what is now Article 2 TEU, introduced an obligation for the EU to accede to the ECHR, and made the Charter of Fundamental Rights binding in the EU.

The successive Treaties have contributed to the building of an EU founded on, and anchored to, fundamental rights, in a process of 'stratification' and progressive - but reactive - adjustment. The result is an institutional set-up that continues to suffer from gaps in terms of protection of fundamental rights. Among these are the obstacles to achieving the accession of the EU to the ECHR, as well as the weakness of the available instruments for ensuring the effective respect of EU values, including fundamental rights (namely Articles 2 and 7 TEU, the Charter, and infringement proceedings).

The EP has striven to solve these concerns during the parliamentary term now ending, through a series of proposals, notably the **EU Pact on the Rule of Law, democracy and fundamental rights** (report by Sophie In't Veld, ALDE/NL), which would not require Treaty changes, as well as further improvements to the EU fundamental rights architecture which would require Treaty changes, such as:<sup>1</sup>

- implementing the Treaty requirement to accede to the ECHR (Ferrara report paragraph 3; Nagy report paragraph 4); new draft agreement for EU accession to the ECHR (In't Veld report);
- Interinstitutional agreement (Pact) to establish a mechanism on democracy, the rule of law and fundamental rights (In't Veld report and subsequent reports dealing with fundamental rights - see dedicated section below);
- providing for Article 2 TEU and the Charter to become a legal basis for legislative measures to be adopted under the ordinary legislative procedure (In't Veld report);
- enabling national courts, under Article 2 TEU and the Charter, to bring before the Court of Justice proceedings relating to the legality of Member States' actions (In't Veld report);
- reviewing Article 7 TEU in order to provide for relevant and applicable sanctions against any Member State, identifying the rights of Member States at fault (in addition to voting rights in Council) that may be suspended, for example by means of financial sanctions or the suspension of Union funding (In't Veld report; Ferrara report paragraph 9; partly Engel report paragraph 4);

<sup>1</sup> During the 1999-2014 term, the EP has also requested, inter alia, a 'freezing procedure' (whereby the Member States would suspend the adoption of a measure while the EU institutions examined its impact on fundamental rights); reviewing the voting requirements (unanimity, qualified majority) in Article 7; including the EP among the initiators of the procedure under Article 7.2 and 7.3; and enlarging the mandate of the FRA to allow for monitoring of Member States' acts.

- repealing Article 51 of the Charter (Spinelli report, Verhofstadt report, In't Veld report, Ferrara report paragraph 21 - revision)<sup>2</sup>;
- converting of the Charter into a Bill of Rights of the Union (Verhofstadt report, In't Veld report);
- amending of Article 258 TFEU in order to explicitly allow the Commission to take 'systemic infringement action' against Member States that violate fundamental values<sup>3</sup> (Verhofstadt report);
- extending the right of natural and legal persons who are directly and individually affected by an action to bring a case before the ECJ for alleged violations of the Charter of Fundamental Rights either by EU institutions or by a Member State, by amending Articles 258 and 259 TFEU (Verhofstadt report, In't Veld report);
- making it possible for Union legislation, after its adoption and before its implementation, to be referred to the Court of Justice by one-third of the Members of Parliament (In't Veld report);
- reviewing the unanimity requirement in areas relating to respect for and protection and promotion of fundamental rights, such as equality and non-discrimination (In't Veld report).

These proposals are relevant in the view of the coming term, notably considering the recent important developments in Court of Justice jurisprudence, the Belgian-German initiative in the Council on a rule of law peer review mechanism, and the upcoming Commission proposal scheduled for June 2019 on the further strengthening of the Rule of Law mechanism.

### 3. Achievements of the European Parliament during the legislative term 2014-2019

During this term, the European Union has lived through important challenges as to respect for fundamental rights and Article 2 TEU values at large, to which it has responded by using the instruments provided by the Treaties and by developing and proposing new ones. The LIBE committee, being the committee responsible for 'the protection within the territory of the Union of citizens' rights, human rights and fundamental rights, including the protection of minorities, as laid down in the Treaties and in the Charter of Fundamental Rights of the European Union' and for 'the determination of a clear risk of a serious breach by a Member State of the principles common to the Member States', is at the heart of EU and EP activities in this area. Most of the fundamental rights dossiers have passed through LIBE, variously in the form of legislative reports, own-(legislative) initiative reports, annual reports on fundamental rights in the EU, implementation reports, oral questions and resolutions. LIBE has also held hearings and workshops and undertaken missions related to its activities. The EP has also examined in plenary issues related to fundamental rights of direct or indirect LIBE competence or interest, brought to plenary directly by political groups (through oral questions or statements by the Commission or the Council, followed by resolutions), or by other committees (for instance AFCO or PETI). This note consequently attempts to cover these issues too, or at least the most relevant ones.

#### EU DRF Pact

The EP has made over time a large number of suggestions aimed at reinforcing the protection of fundamental rights in the EU by proposing new mechanisms and actions to fill the existing gaps<sup>4</sup>, as explained in Section 2 of this note. In its landmark [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](#), the EP consolidated its former proposals and called for the establishment of an 'EU mechanism on democracy, the rule of law and fundamental rights', which would be based on a Union Pact taking the form of an interinstitutional agreement with the Commission and the Council. This would include an annual policy cycle based on a report drafted by the Commission and by an expert panel, followed by a parliamentary debate and accompanied by arrangements to address risks to or breaches of fundamental rights in the EU.

Since the EU DRF Pact included the organisation of an annual interparliamentary debate as a key element for the monitoring of the situation in Member States, LIBE organised an [Interparliamentary Committee Meeting](#) on 22 June 2017 on 'The Establishment of an EU Mechanism on Democracy, Rule of Law and Fundamental Rights'.

In the [debate of 23 October 2018](#) following statements by the Commission and the Council, and in 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](#), the EP called once again on the Commission to propose the draft interinstitutional agreement on the EU Pact for DRF in its initiative to strengthen the enforcement of the rule of law in the European Union. The Commission submitted, on 3 April 2019, a communication on the state of play and possible next steps in relation to the further strengthening of the rule of law in the EU, which was presented on 11

<sup>2</sup> Report by Barbara Spinelli (GUE/IT) for AFCO - [European Parliament resolution of 12 February 2019 on the implementation of the Charter of Fundamental Rights of the European Union in the EU institutional framework](#); report by Guy Verhofstadt (ALDE/BE) for AFCO - [European Parliament resolution of 16 February 2017 on possible evolutions of and adjustments to the current institutional set-up of the European Union](#).

<sup>3</sup> a 'systemic infringement action' is the bundling of a group of related individual infringement actions suggesting a serious and persistent violation of Article 2 TEU by a Member State.

<sup>4</sup> In various resolutions since 2012, Parliament had called for the creation of a Copenhagen commission, as well as of a European fundamental rights policy cycle, an early warning mechanism, a freezing procedure and the strengthening of the FRA.

April 2019 in LIBE and will be followed by a Commission initiative in June.

### EP activating the Art. 7 procedure: Hungary

Since 2011, the European Parliament has expressed concerns in relation to the changes progressively introduced in a wide array of key areas, both in laws and in the Constitution, by the government led by Viktor Orban in Hungary. During the previous term, the EP followed these developments and expressed its views both through resolutions by political groups in plenary and through a specific report drafted by the LIBE committee (based on working documents authored by Members from different political groups) and adopted in plenary. Parliament, notably, repeatedly called on the Commission to activate Article 7 TEU against Hungary<sup>5</sup>.

During the term now ending, the EP continued to follow closely the situation in Hungary. It adopted a [resolution on 10 June 2015 on the situation in Hungary](#), in which it condemned the statements by Prime Minister Orban instigating a debate on the reintroduction of the death penalty and the way the public consultation on migration was carried out in Hungary. Parliament called on the Commission to launch the first stage of the Rule of Law framework (the monitoring phase of the Member State) and deplored the lack of action by the Commission. The resolution instructed LIBE to draft an own-initiative report on a European mechanism on democracy, the rule of law and fundamental rights.

Parliament discussed in plenary an oral question by LIBE of [10 November 2015 on the follow-up to the European Parliament resolution of 10 June 2015](#). The EP asked the Commission for explanations on the follow-up to its request for activation of the Rule of Law Framework to monitor the situation of Hungary - a request turned down by the Commission in its answer. The plenary debate of 2 December was followed by the [EP resolution of 16 December 2015 on the situation in Hungary](#). The resolution criticised the changes introduced to the law on access to international protection, welcomed the infringement proceedings launched by the Commission on the asylum acquis, criticised the inaction of the Council, and called on the Commission again to activate the first stage of the Rule of Law procedure and to continue the investigations on the alleged misuse of EU funds in Hungary.

In its [resolution of 17 May 2017 on the situation in Hungary](#), Parliament criticised the new measures on NGOs and on the Central European University, expressed its belief that there was a clear risk of a serious breach of Article 2 TEU in Hungary, and instructed LIBE to draft a report with a reasoned proposal to activate Article 7.1 TEU. In the framework of the preparation of that report, LIBE held a [public hearing on 7 December 2017 on 'The situation in Hungary'](#).

The landmark [European Parliament resolution of 12 September 2018 on a proposal calling on the Council to determine, pursuant to Art. 7\(1\) of the Treaty on European Union, the existence of a clear risk of a serious breach by Hungary of the values on which the Union is founded](#) represents the first ever **formal launching of Article 7.1 TEU by the EP**, as proposed by the LIBE committee (report by Judith Sargentini, Greens/NL). The annex contains a proposal for a Council decision listing all the concerns of the EP by area.<sup>6</sup> On 12 November 2018 the LIBE Chair and EP rapporteur were invited to present the EP position during an informal preparatory meeting with Members States' representatives organised by the Austrian Presidency of the Council. This was followed by other invitations to have informal exchanges with the Romanian Presidency in the preparation of the meetings of the General Affairs Council where this point was on the agenda.

On 30 January 2019, Parliament heard statements by the Commission and the Council, and [debated](#) in plenary the rule of law and fundamental rights in Hungary and developments since September 2018, while on 21 of March 2019 the Commission gave the LIBE committee an update on discussions in the Council.

### Art. 7 procedure: Poland

Following a serious dispute about the nomination of a number of judges of the Polish Constitutional Tribunal, the Commission decided on 13 January 2016 to launch for the first time ever the first phase of the Rule of Law Framework (structured dialogue), making a statement in plenary, followed by a debate, [on 19 January 2016 on the situation in Poland](#). The EP expressed its support for the Commission's decision in its [resolution of 13 April 2016 on the situation in Poland](#).

A series of concerns relating to different laws (media, police, criminal procedure and prosecution, civil service, anti-terrorism, women's rights) were expressed in the European Parliament resolution of 14 September 2016

<sup>5</sup> During the previous term, the EP adopted a number of resolutions on Hungary: [EP resolution of 10 March 2011 on the media law in Hungary](#); [EP resolution of 5 July 2011 on the Revised Hungarian Constitution](#); [EP resolution of 16 February 2012 on the recent political developments in Hungary](#); [EP resolution of 3 July 2013 on the situation of fundamental rights: standards and practices in Hungary \(pursuant to the European Parliament resolution of 16 February 2012\)](#) (Rui Tavares, PT/Greens). Although Parliament is one of the institutions that can trigger Article 7.1 TEU, in substance it lacked the political majority to do it.

<sup>6</sup> These included: the functioning of the constitutional and electoral system; the independence of the judiciary and of other institutions and the rights of judges; corruption and conflicts of interest; privacy and data protection; freedom of expression; academic freedom; freedom of religion; freedom of association; the right to equal treatment; the rights of persons belonging to minorities, including Roma and Jews, and protection against hateful statements against such minorities; the fundamental rights of migrants, asylum seekers and refugees; and economic and social rights.



on ['Recent developments in Poland and their impact on fundamental rights as laid down in the Charter of Fundamental Rights of the European Union'](#).

The [European Parliament resolution of 15 November 2017 on the situation of the rule of law and democracy in Poland](#) expresses further concerns in relation to the laws on NGOs, asylum and freedom of assembly, as well as on police surveillance of opposition and civil society leaders. The resolution supported the Rule of Law Recommendations issued by the Commission, as well as the infringement proceedings launched by it against Poland for breaches of EU law. It expressed the belief that the situation in Poland represented a clear risk of a serious breach of the values referred to in Article 2 of the TEU and **instructed LIBE to draw up a specific report with a reasoned proposal calling on the Council to act pursuant to Article 7(1) of the TEU.**

The Commission decision of 20 December 2017 to activate Article 7(1) in relation to Poland made the drafting of an EP reasoned proposal unnecessary, and led the **EP to back the Commission in its decision** via the [European Parliament resolution of 1 March 2018 on the Commission's decision to activate Art. 7\(1\) TEU as regards the situation in Poland](#).

LIBE sent a [Rule of Law Mission to Poland](#) (19-21 September 2018), while a LIBE [hearing](#) on 'the situation of the Rule of Law in Poland, in particular as regards the independence of the judiciary' took place on 20 November 2018.

LIBE discussed the possibility of drafting an interim consent report in accordance with Rule 99(5) of the Rules of Procedure on the proposal 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, but without taking a definitive decision, finally leaving the issue to the next Parliament. LIBE heard the Commission on 11 April 2019 on the Commission decision of 3 April 2019 to launch further infringement proceedings against Poland.

### **Rule of Law monitoring group: focus on Malta and Slovakia**

Following the assassination of Maltese journalist **Daphne Caruana Galizia** on 16 October 2017, the EP adopted on 15 November 2017 a [resolution on the rule of law in Malta](#) tabled by political groups following statements by the Commission and the Council. Parliament notably regretted that 'developments in Malta in recent years have led to serious concerns about the rule of law, democracy and fundamental rights, including freedom of the media and the independence of the police and the judiciary'. Parliament sent a [LIBE-PANA ad hoc delegation to Malta on 30 November - 1 December 2017 \(see mission report\)](#).<sup>7</sup>

Following the murder of Slovak investigative journalist **Ján Kuciak** and his partner Martina Kušnírová on 25 January 2018, Parliament organised a [fact-finding mission to Slovakia from 7 to 9 March 2018](#), composed of LIBE and CONT members.

The EP subsequently held a [debate](#) in plenary, after hearing Commission and Council statements, on 14 March 2018 on 'the protection of investigative journalists in Europe: the case of Slovak journalist Ján Kuciak and Martina Kušnírová'. This led to the adoption of the [EP resolution of 19 April 2018 on protection of investigative journalists in Europe: the case of Slovak journalist Ján Kuciak and Martina Kušnírová](#), tabled by political groups, condemning the killings and calling on the authorities to launch investigations and bring the perpetrators to justice.

On 5 June 2018, LIBE decided to set up a [Rule of Law monitoring group \(ROLMG\)](#) of LIBE members tasked with monitoring the situation of the rule of law in the EU, with a specific focus on corruption and freedom of the press, to ensure the follow-up of the conclusions and recommendations adopted by plenary. The group had a mandate until 31 December, subsequently extended to April 2019.

In order to discuss the situation of journalists in the EU, LIBE held a hearing on 11 July 2018 on '[Rule of law and Safety of Journalists](#)'. LIBE also decided to send an [ad hoc delegation to Slovakia and Malta on 17-20 September 2018 \(mission report\)](#).

The Rule of Law monitoring group (ROLMG) also held an exchange of views on the 'safety of journalists in **Bulgaria**' following the murder of Bulgarian journalist Viktoria Marinova on 6 October 2018.

The ROLMG concluded its work by proposing that the LIBE committee should put oral questions to the [Commission](#) and the Council and table a resolution on the **Situation of rule of law and fight against corruption in the EU, specifically in Malta and Slovakia**, which was adopted and tabled in plenary. The debate took place on 25 March, while the [resolution](#) was adopted on 28 March. Parliament notably called on the Commission to launch the Rule of Law Framework by entering into a dialogue with the Maltese Government.

### **Romania: rule of law issues**

The EP held a [debate](#) in plenary on democracy and justice in Romania, following a Commission declaration, on 2 February 2017, with a subsequent exchange of views in LIBE on 22 March 2017. Another [debate](#) on threats to the rule of law arising from the reform of the Romanian justice system took place in plenary on 7 February 2018, after a statement by the Commission; a further [debate](#) on the rule of law in Romania was held on 3 October 2018. At an

<sup>7</sup> The European Parliament had already sent a delegation to Malta in February 2017 in the framework of its inquiry into the Panama Papers.

extraordinary meeting on 1 October 2018 in Strasbourg, LIBE held also an exchange of views with Commissioner Timmermans on the situation in Romania, including the independence of the judiciary. On 13 November 2018 Parliament adopted a [resolution on the rule of law in Romania](#) tabled by political groups, which expressed concern at the redrafted Romanian judicial and criminal legislation, as well as at the situation concerning NGOs, corruption and LGBTI persons, and condemned the violent and disproportionate intervention by the police during the protests in Bucharest in August 2018. During the last part-session of the term on 15 April 2019, Parliament once more debated the rule of law in Romania following a statement by the Commission, which announced that it was ready to use all the means at its disposal should the current dialogue with the Romanian authorities fail.

### **Protection of the Union budget in case of generalised deficiencies as regards the rule of law**

The Commission has [proposed](#) a very important regulation on the protection of the Union budget in case of generalised deficiencies as regards the rule of law in the Member States, which links EU funding to respect for the rule of law. If adopted, this instrument will enable pressure to be put on Member States violating fundamental rights. LIBE is an associated committee on the file, with BUDG and CONT in the lead. In its opinion (Terricabras, Greens/ES), LIBE proposes extending 'rule of law' conditionality to cover 'rule of law and fundamental rights' and introducing into the procedure a representative panel of independent experts (the Democracy, Rule of Law and Fundamental Rights Expert Panel) to advise the Commission before it takes a decision and connects the proposal to the Article 7 TEU procedure and the RoL framework. The text adopted by Parliament as a first reading partial position on 17 January was [confirmed](#) as first reading position on 4 April 2019.

### **Annual reports on the situation of fundamental rights in the EU**

Every year since 1993, Parliament has held a debate followed by the adoption of a resolution on the situation of fundamental rights in the EU, on the basis of a report drafted by the LIBE Committee. The reports address fundamental rights issues of an institutional, legal, political or social nature, putting forward considerations and making recommendations at EU, Member State and sometimes international level.

[The European Parliament resolution of 8 September 2015 on the situation of fundamental rights in the European Union \(2013-2014\)](#) (Laura Ferrara, EFDD/IT) addresses institutional fundamental rights issues and examines specific rights, including: freedom of expression and the media; freedom of religion and conscience; equality and non-discrimination; promotion of minorities; the situation of Roma people; violence against women and equality between women and men; children's rights; rights of people with disabilities; hate crime and hate speech; homeless people; rights of migrants and applicants for international protection; conditions in prisons and other custodial institutions; justice; citizenship; and victims of crime. Compared to the previous report, it also examines the rights of LGBTI people, age discrimination, solidarity in the economic crisis, criminality and the fight against corruption as specific topics, and examines the issue of children's rights and prisons in greater depth.

[The European Parliament resolution of 13 December 2016 on the situation of fundamental rights in the European Union in 2015](#) (József Nagy, EPP/SK) focuses on: the protection of fundamental rights and dignity; freedom and security; combating discrimination, xenophobia, hate crime and hate speech; women's rights and violence against women; children; rights of minorities; rights of people with disabilities; elderly people; Roma rights; LGBTI rights; citizenship; and digital rights. The report focuses on the rule of law, migration, integration and social exclusion, refugees, trafficking in human beings, and digital rights. Reference is made to the Union Pact on DRF, following the adoption of the LIBE report.

[The European Parliament resolution of 1 March 2018 on the situation of fundamental rights in the EU in 2016](#) (Frank Engel, EPP/LU) is structured over 3 main sections: rule of law; migration and integration; and discrimination. The report is more succinct than previous ones while covering the main rights and issues.

The European Parliament [resolution on the situation of fundamental rights in the EU in 2017](#) (Terricabras, Greens/ES), adopted by Parliament on 16 January 2019, focuses on the rule of law, migration, women's rights, media freedom, freedom of expression and assembly, racism and xenophobia, discrimination and hate speech, as well as the Fundamental Rights Agency (FRA). The report stresses that respect for the rule of law is a prerequisite for the protection of Article 2 TEU values, and recalls the need for an impartial and regular assessment of the situation in all Member States, based on objective criteria. It also includes a new, specific section on the important role of the Fundamental Rights Agency.

### **Justice**

[Directive \(EU\) 2016/343](#) of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings was examined by LIBE (Nathalie Griesbeck, ALDE/FR), which successfully inserted amendments to prevent statements by public authorities that might suggest a suspect is guilty before a final conviction, to ensure that the burden of proof stays with the prosecution, and to fully guarantee

the right to remain silent and the right not to incriminate oneself (no negative consequences shall be inferred from the use of those rights), and to be present at one's trial.

Parliament's amendments to [Directive \(EU\) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings](#) (rapporteur: Caterina Chinnici, SD/IT) aimed at strengthening children's rights in the procedure, such as by limiting deprivation of liberty, mandatory assistance by a lawyer, and reinforcement of remedies for violations of children's rights.

[Directive \(EU\) 2016/1919 of the European Parliament and of the Council of 26 October 2016 on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings](#) (Denis De Jong, GUE/NL) included important amendments tabled by the EP to broaden the scope of the proposal to ensure that legal aid is provided at all stages of the procedure, also for persons not deprived of freedom, and that it includes the right to 'ordinary' legal aid (rather than limiting it to 'provisional' legal aid), so as to entitle those who cannot afford a lawyer to funding and assistance to meet part or all of the costs of their defence and of court proceedings.

Parliament also approved implementation reports examining how specific pieces of EU legislation are applied in the EU Member States. LIBE together with FEMM organised a [Joint hearing on victims' rights on 11 January 2018](#) focusing on the application of Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime. In its [resolution of 30 May 2018 on the implementation of Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime](#), Parliament criticised the failure by the Commission to report on implementation, deplored the remaining important shortcomings in the transposition and application of the directive in many Member States, and made recommendations to improve the situation, notably in relation to the fundamental rights of victims.

In the [European Parliament resolution of 19 April 2018 on the implementation of Directive 2011/99/EU on the European Protection Order](#) (Soraya Post, SD/SV and Teresa Jiménez-Becerril Barrio, EPP/ES), Parliament criticised the lack of reporting by the Commission on the implementation of the directive, noted with concern the fact that the EPO has been used only in an extremely limited number of cases, and made recommendations to ensure that the rights of persons in need of protection from violence, notably gender-based violence, are guaranteed.

## Specific issues

### *Minorities*

Following a [mini-hearing on minimum standards for minorities in the EU](#) that took place on 3 September 2018, Parliament adopted the LIBE report with a [resolution of 13 November 2018 on minimum standards for minorities in the EU](#) (József Nagy, EPP/SK). The text called on Member States to step up the fight against discrimination, hate crime and hate speech and to promote equal opportunities. Parliament notably called on the Commission to draw up a common framework of EU minimum standards for the protection of minorities - all national or ethnic, religious and linguistic minorities, regardless of definition - with guidelines on good practices, a Commission recommendation and a legislative proposal for a directive on minimum standards for minorities in the EU, including clear benchmarks and sanctions.<sup>8</sup>

### *Roma*

With the [European Parliament resolution of 15 April 2015 on the occasion of International Roma Day – anti-Gypsyism in Europe and EU recognition of the memorial day of the Roma genocide during World War II](#), Parliament recognised the genocide and called on Member States to do the same. It also declared that 'a European day should be dedicated to commemorating the victims of the genocide of the Roma during World War II', to be called 'European Roma Holocaust Memorial Day'.

In the [European Parliament resolution of 25 October 2017 on fundamental rights aspects in Roma integration in the EU: fighting anti-Gypsyism](#) Parliament urged the Commission to set up a 'truth and reconciliation commission' at EU level and called on Member States to mark 2 August as Roma Holocaust Memorial Day, to upgrade their national Roma integration strategies, and to combat discrimination and promote equality.

On 12 February 2019, Parliament adopted a [resolution](#) on the need for a strengthened post-2020 Strategic EU Framework for National Roma Inclusion Strategies and stepping up the fight against anti-Gypsyism, following a [debate](#) with Council and Commission statements that took place on 30 January 2019. The resolution called on the Commission and the Member States to take specific action to ensure that the new Framework is more effective in bringing about concrete change.

<sup>8</sup> See also the [European Parliament resolution of 7 February 2018 on protection and non-discrimination with regard to minorities in the EU Member States \(2017/2937\(RSP\)\)](#) drafted by the PETI committee.

### **Antisemitism, Islamophobia and hate speech**

LIBE organised a hearing on [29 June 2015 on Antisemitism, Islamophobia and hate speech in Europe](#), to discuss discrimination, hate speech and violence against Jews and Muslims in Europe. As follow-up to the hearing, LIBE tabled an Oral Question to the [Commission](#) on the same subject for plenary, which led to a [debate](#) that took place on 16 September 2015.

With the [European Parliament resolution of 1 June 2017 on combating anti-Semitism](#), the EP welcomed the appointment of the Commission Coordinator on Combating Anti-Semitism and urged for stronger action to fight discrimination, hate speech and to enhance the security of Jewish citizens and organisations, as well as to commemorate International Holocaust Remembrance Day on 27 January.

#### **Prisons**

[The European Parliament resolution of 5 October 2017 on prison systems and conditions](#) (Joëlle Bergeron, EFDD/FR) called on the Member States to improve conditions of detention and to fight overcrowding, including by applying alternative sanctions, as well as to adopt a European Prisons Charter to guarantee the fundamental rights of prisoners.

#### **LGBTI: Intersex, List of Actions**

While LIBE and Parliament routinely include in reports and resolutions references to the protection of the rights of LGBTI persons, during this term LIBE has focused its attention and taken initiative on the specific issue of the rights of intersex people by adopting a resolution and oral questions [to the Council](#) and the [Commission](#) for plenary. The [resolution](#) was adopted in plenary on 14 February 2019, together with a [resolution](#) on the future of the LGBTI List of Actions (2019-2024), following a debate on 13 February on the oral questions, including one by political groups to the [Commission](#) on the future of the LGBTI List of Actions. The resolution reiterates previous calls for an EU Roadmap on LGBTI rights to foster equality in all areas of EU competence.

#### **Whistle-blowers<sup>9</sup>**

Following Parliament's previous calls for better protection of whistle-blowers at EU level, the Commission finally proposed a directive on the protection of persons reporting on breaches of Union law. The text was examined by JURI, and LIBE, as associated committee, tabled amendments to it. Following successful negotiations with the Council, Parliament debated and adopted the [text](#), on respectively 15 and 16 April 2019.

#### **People of African Descent**

A completely novel area of action for the EP during this term was the protection of fundamental rights of people of African descent. Following the adoption by LIBE of an oral question to the Commission of [3 December](#) (re-tabled on [6 March](#)) 2019 and a resolution, a debate in plenary took place on 14 March and a [European Parliament resolution on fundamental rights of people of African descent in Europe](#) was approved on 26 March 2019.

#### **Follow-up resolution on mass surveillance**

Parliament [debated](#) on the basis of oral questions to the [Commission](#) and the [Council](#) the follow-up to the European Parliament resolution of 12 March 2014 on the electronic mass surveillance of EU citizens, and approved the [resolution of 29 October 2015 on the follow-up to the European Parliament resolution of 12 March 2014 on the electronic mass surveillance of EU citizens](#). The resolution expresses concerns at changes in national laws to allow for extended surveillance, which might violate the fundamental right to privacy, and calls for dropping any criminal charges against Edward Snowden and recognise him as a whistle-blower and international human rights defender.

#### **Follow-up resolution on CIA torture**

Following the publication of the US Senate report on the use of torture by the Central Intelligence Agency (CIA), Parliament adopted on 11 February 2015 a [resolution on the US Senate report on the use of torture by the CIA](#), whereby it expressed its condemnation of such practices. The LIBE committee then brought to plenary an oral question to the [Commission](#) on the follow-up to that resolution and adopted a [resolution of 8 June 2016 on follow-up to the European Parliament resolution of 11 February 2015 on the US Senate report on the use of torture by the CIA](#). In the adopted text Parliament reiterates its condemnation of the use of enhanced interrogation techniques and calls for enquiries to be carried out on fundamental rights violations, notably those related to the use of European countries by the CIA for extraordinary renditions and illegal detention of prisoners.

#### **Neo-fascist violence**

In its [resolution of 25 October 2018 on the rise of neo-fascist violence in Europe](#) (tabled by political groups in plenary) Parliament expressed its concern over the 'increasing normalisation of fascism, racism, xenophobia and other forms of intolerance in the European Union' and 'reports in some Member States of collusion between political leaders,

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<sup>9</sup> JURI report on [European Parliament resolution of 24 October 2017 on legitimate measures to protect whistle-blowers acting in the public interest when disclosing the confidential information of companies and public bodies](#)



political parties and law enforcement with neo-fascists and neo-Nazis', as well as over impunity. The resolution proposes a number of actions, from fighting hate crimes to anti-discrimination policies, media and education.

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

[European Parliament resolution of 3 May 2018 on media pluralism and media freedom in the European Union](#) (report by Barbara Spinelli, GUE/IT) recalls that media freedom, pluralism and independence are crucial components of the right to freedom of expression. To counter increased pressures on and threats against journalists in various Member States where nationalism and populism are on the rise, the EP proposes to increase funding, promote transparency of ownership, fight fake news and cyberbullying, and come up with an EU anti-SLAPP directive (SLAPP = strategic lawsuit against public participation), in order to protect independent media from vexatious lawsuits aimed at silencing or intimidating them.

### **Statelessness**

The LIBE committee, together with the PETI committee, held a [hearing on statelessness](#) on 29 June 2017, following the 2015 Policy Department-LIBE-commissioned study on '[Practices and Approaches in EU Member States to Prevent and End Statelessness](#)' which put forward a number of conclusions and recommendations.

### **Rights and Values programme**

On 17 January 2019, Parliament adopted the plenary mandate on the proposal for a regulation of the European Parliament and of the Council establishing the Rights and Values programme (Bodil Valero, Greens/ES), following the debate which took place the day before on 16 January. Parliament introduced a new Union values strand aimed at protecting and promoting democracy and the rule of law, providing support for human rights defenders and civil society organisations, for whistle-blower defence and for initiatives that promote the shared culture of transparency, good governance and the fight against corruption. A Values Support Mechanism was also introduced to fast-track procedures for grant applications by civil society organisations in exceptional cases, where there is a serious and rapid deterioration in a Member State as regards compliance with Union values. Following negotiations with the Council, the EP examined and voted its first reading position, which includes the partial agreement [text](#), on 17 April 2019.

### **Progress in the area of freedom, security and justice**

LIBE tabled in plenary oral questions to the [Commission](#) and to the [Council](#) on the progress made during the 8th parliamentary term regarding the area of freedom, security and justice, with the aim of assessing achievements and challenges in the area, 20 years after Tampere and 10 years after Lisbon.

### **Right to peaceful protest**

The European Parliament adopted a [resolution](#) on 14 February 2019 on the right to peaceful protest and the proportionate use of force, after a [debate](#) and a statement by the Commission of 11 February 2019.

### **Main LIBE opinions for fundamental rights-related reports of other committees**

When giving its opinion (as associated committee, opinion by Csaba Sógor, RO/EPP) to PETI for its [European Parliament resolution of 12 December 2017 on the EU Citizenship Report 2017: Strengthening Citizens' Rights in a Union of Democratic Change](#), LIBE focused on fundamental rights, citizenship rights, non-discrimination and the equality and protection of minorities as key areas to strengthen democracy in the EU.

In its [16 April 2018 opinion to JURI on the 2017 EU justice scoreboard](#) (Sylvie Guillaume, SD/FR), LIBE (as associated committee) called on the Commission to create a separate Justice Scoreboard in criminal matters and also to include Rule of Law issues, such as the independence of the judiciary and the right to a fair trial. It also called for the gathering of more precise information on violations of the rule of law and threats to fundamental rights, including based on the Venice Commission's Rule of Law Checklist.

LIBE gave an [opinion](#) (Denis De Jong, GUE/NL) to AFCO on the [Implementation of the Charter of Fundamental Rights](#) of the European Union in the EU institutional framework. In its opinion, LIBE insisted on the importance of the EU's accession to the ECHR, on ensuring that the conformity of EU legislation and policies with the Charter is ensured through impact assessments, and on the need to clarify and review Article 51 of the CFR.

LIBE also gave an [opinion \(Martina Anderson, GUE/NGL\) to AFCO on the Implementation of the Treaty provisions related to EU citizenship](#), in which it underlined the importance of the rights attached to European citizenship, from free movement within the EU to participation in European and local elections. It expressed concern over 'golden visas' programmes and called for protection of minorities in the EU.

### **Anti-terrorism and fundamental rights**

In its [resolution of 17 December 2014 on renewing the EU Internal Security Strategy](#) drafted by LIBE following Oral Questions and a debate in plenary, the EP stressed 'that security measures should always be evidence-based, in accordance with the principles of necessity, proportionality and respect for fundamental rights and on the basis of proper democratic oversight and accountability' and 'of the rule of law and the protection of all fundamental rights'.

Following the Charlie Hebdo and Kosher grocery store attacks in Paris in January 2015, the EP held a debate in plenary on 28 January 2015 and approved the [European Parliament resolution of 11 February 2015 on anti-terrorism measures](#), in which it emphasised the need for the EU and its Member States to step up the fight against terrorism, which it stressed must be in all circumstances based on the rule of law and respect for fundamental rights.

In reaction to the Paris terrorist attacks of 13 November 2015, on 25 November Parliament approved the LIBE report (Rachida Dati, EPP/FR) and [resolution on the prevention of radicalisation and recruitment of European citizens by terrorist organisations](#). In this text, the EP underlines that measures taken in this area and in the fight against terrorism in general must respect fundamental rights and the EU Charter, including when targeting hate speech online.

On 6 July 2017, the plenary of Parliament adopted the [mandate](#) of a Special Committee on Terrorism, charged with addressing the practical and legislative deficiencies in the fight against terrorism across the EU and with international partners and actors, with a particular focus on cooperation and exchange of information. The committee also assessed the impact of the EU anti-terrorism legislation including on fundamental rights, while the mandate underlined that 'respect for fundamental rights is an essential element in successful counter-terrorism policies'. The [final report](#), which contains a whole section on fundamental rights, was adopted in plenary on 12 November 2018.

### Relations with the Fundamental Rights Agency

The constructive cooperation between the EP, and notably LIBE, and FRA continued during this term. Parliament requested opinions on 11 important LIBE legislative files so to ensure compliance with fundamental rights<sup>10</sup>. Parliament also routinely hosted FRA for presentation of its annual reports and thematic reports, and in 2017 approved the Multiannual Framework for the FRA ([resolution](#) and [consent](#)). LIBE also organized a mission from 24 to 26 September 2018 to FRA on the occasion of the Fundamental Rights Forum.

### Expertise by the Policy Department

The Policy Department on Citizens' Rights and Constitutional Affairs assisted the EP and its committees by providing the required expertise on a number of issues related to fundamental rights, among them:

10-12-2014 [National Security and Secret Evidence in Legislation and before the Courts: Exploring the Challenges](#)

13-03-2015 [The Impact of the Crisis on Fundamental Rights across Member States of the EU - Comparative Analysis](#), and country reports<sup>11</sup>

15-09-2015 [The European Legal Framework on Hate Speech, Blasphemy and its Interaction with Freedom of Expression](#)

15-09-2015 [A Quest for Accountability? EU and Member State Inquiries into the CIA Rendition and Secret Detention Programme](#)

22-12-2015 [Evaluation of the EU Framework for National Roma Integration Strategies](#)

15-02-2016 [The interpretation of Article 51 of the EU Charter of Fundamental Rights: the dilemma of stricter or broader application of the Charter to national measures](#)

13-04-2016 At a glance [The Charter of Fundamental Rights of the European Union – Thematic Digest](#)

16-06-2016 [Openness, Transparency and the Right of Access to Documents in the EU](#)

07-06-2016 [Follow-Up to the European Parliament's Resolution of 8 September 2015 on 'The Situation of Fundamental Rights in the European Union \(2013-2014\)'](#)

15-09-2016 [Obstacles to the Right of Free Movement and Residence for EU Citizens and their Families: Comparative Analysis](#) and related country reports

15-09-2016 [A Comparative Analysis of Media Freedom and Pluralism in the EU Member States](#)

11 - 2016 [The Implementation of the Charter of Fundamental Rights in the EU institutional framework](#)

17-01-2017 Briefing [Prison Conditions in the Member States: Selected European Standards and Best Practices 04 -2017 Discrimination\(s\) as emerging from petitions received](#)

13-06-2017 Thematic Digest [The establishment of an EU mechanism on democracy, rule of law and fundamental rights](#)

30-08-2017 [Towards a comprehensive EU protection system for minorities](#)

<sup>10</sup> 23/03/2016 FRA Opinion concerning an EU common list of [safe countries of origin](#); 08/04/2016 FRA Opinion on the development of an integrated tool of objective fundamental rights indicators able to measure compliance with the shared values listed in [Article 2 TEU](#) based on existing sources of information; 23/11/2016 Opinion of the European Union Agency for Fundamental Rights on the impact on children of the proposal for a [revised Dublin Regulation](#) (COM(2016)0270; 2016/0133 COD); 29/11/2016 Opinion of the European Union Agency for Fundamental Rights on fundamental rights in the 'hotspots' set up in Greece and Italy; 22/12/2016 Opinion of the European Union Agency for Fundamental Rights on the impact on fundamental rights of the proposal for a [revised Eurodac Regulation](#); 30/06/2017 The impact on fundamental rights of the proposed Regulation on the European Travel Information and Authorisation System ([ETIAS](#)); 19/04/2018 [Interoperability](#) and fundamental rights implications; 30/08/2018 The [revised Visa Information System](#) and its fundamental rights implications; 5/9/2018 Fundamental rights implications of storing [biometric data in identity documents and residence cards](#); 30/09/2018 Challenges and opportunities for the [implementation of the Charter](#) of Fundamental Rights; 27/11/2018 The [revised European Border and Coast Guard Regulation](#) and its fundamental rights implications.

<sup>11</sup> 10-03-2015 [Country Reports on Portugal; Cyprus; Italy; Spain; Greece; Ireland; Belgium](#).

- 12-09-2017 [How can the EU and the Member States better help victims of terrorism?](#)  
18-12-2017 [EU and Member States' policies and laws on persons suspected of terrorism-related crimes](#)  
28-03-2018 [Equality and the Fight against Racism and Xenophobia](#)  
30-08-2018 [Criminal procedural laws across the European Union – A comparative analysis of selected main differences and the impact they have over the development of EU legislation](#)  
12-02-2019 [Scaling up Roma Inclusion Strategies; Truth, reconciliation and justice for addressing anti-Gypsyism](#)  
28-02-2019 [Disinformation and propaganda – impact on the functioning of the rule of law in the EU and its Member States](#)  
25-01-2019 [The EU framework for enforcing the respect of the rule of law and the Union's fundamental principles and values](#)

### Expertise by EPRS

EPRS produced a series of relevant studies and briefings on fundamental rights, among which:

- 27-03-2015 [Fundamental rights in the EU. The role of the Charter after the Lisbon Treaty.](#)  
15-01-2016 Briefing: [Understanding the EU rule of law mechanisms](#)  
27-10-2016 [An EU mechanism on democracy, the rule of law and fundamental rights - European Added Value Assessment accompanying the legislative initiative report](#) (Rapporteur: Sophie in 't Veld); [Annex I - An EU mechanism on democracy, the rule of law and fundamental rights](#) and [Annex II- Assessing the need and possibilities for the establishment of an EU Scoreboard on democracy, the rule of law and fundamental rights.](#)  
06-07-2017 Briefing : [EU accession to the ECHR](#)  
07-12-2017 [Cost of Non-Europe Report on Procedural Rights and Detention Conditions.](#)  
28-03-2018 [Cost of Non-Europe Report on Equality and the fight against racism and xenophobia](#)  
12-11-2018 [Briefing: Human Rights](#)

## 4. Achievements of the 2014-2019 EP term and challenges ahead on fundamental rights issues

During this term, the EP has obtained a number of extremely important **achievements** in relation to the protection of fundamental rights in the EU. It managed to trigger Article 7.1 TEU on **Hungary**, thereby taking full political and institutional responsibility in relation to the Treaties, the values included in Article 2 TEU and the mechanism to protect them foreseen in Article 7 TEU. Parliament also showed political coherence in its approach on the rule of law by being ready to follow the same path in relation to **Poland** and then by supporting the Commission's Article 7.1 procedure. It consolidated its previous proposals into a coherent and comprehensive **EU Pact and mechanism on DRF**. It complemented its monitoring of the situation in EU Member States through its annual reports on fundamental rights and its specific resolutions (including on **Romania**) with a dedicated **Monitoring Group** charged with the monitoring of the rule of law situation in two specific Member States, **Malta** and **Slovakia**. LIBE has used the possibility of examining unanswered **parliamentary questions** in committee to scrutinise other institutions' actions, as well as implementation of laws and policies, while Committee delegations to Member States have become **fact-finding** exercises intended to gather information to support political decisions.

Each of these achievements implies a corresponding **challenge** for the EP and its action in the future term: on **Hungary**, it should continue to encourage the Council to issue recommendations (also before determining any course of action, a possibility foreseen in Article 7.1 TEU) and to engage in a dialogue to solve the issues raised by the EP – to be presented by EP representatives directly in the Council, in the same way as this is possible for the Commission on Poland. During the next term, Parliament will have to examine again how to support the Commission's procedure under Article 7.1 TUE against **Poland**. On the basis of its proposal for a **DRF Pact**, it will have to influence the current debate on the strengthening of the rule of law and the proposals of the Commission. Parliament should **enhance its own monitoring activities** and early warning mechanisms - including on the basis of the European Fundamental Rights Information System and by deepening cooperation with the Council of Europe and other international human rights bodies, developing further its own information-gathering tools and, notably, requesting **FRA** to monitor, or re-establishing a **monitoring group** on, Article 2 values - so to prevent and block any further deviations from Article 2 TEU in the Member States. Improved cooperation between EU institutions is important to ensure that all Member States respect the values they have signed up to, and the EP will have to explore new ways to prompt other institutions to act and achieve, for instance, that the Commission launches its rule of law framework, engages in monitoring the respect of Article 2 values in Member States (as stated in its 2003 communication), and enlarges the Justice Scoreboard and the European Semester to cover all values included in Article 2 TUE, or that the Council proceeds earlier, more rapidly and in a more resolute way with Article 7 TEU procedures.

Other challenges that remain open are of a **constitutional** nature, such as EU accession to the **ECHR**, for which a new strategy should possibly be launched to overcome the current stalemate, and the **reform of the Treaties** in order to achieve stronger protection of DRF. In the meantime, the EU should exploit the potential of the current Treaties by launching a fully-fledged **strategy** to guarantee, protect and promote **Article 2 TEU values** in the EU, along with sectorial strategies on specific issues and categories (LGBTI+, Roma, disability, etc). The **revision of the mandate, powers and resources of the FRA** should also be explored in the upcoming years, as well as the monitoring and enhancement of the protection of fundamental rights by the **Agencies** operating in the Area of Freedom, Security and Justice (AFSJ). The strengthening of EU **citizens' rights**, including in relation to free movement and related rights (such as social rights and family law with cross-border aspects under Article 81.3 TFEU, for which the EU has competence), are areas that could be further explored for initiatives.

Very important **pending legislative files** will continue to be discussed during the next term with a view to finding an agreement, notably the proposal for a directive on implementing the principle of **equal treatment** outside the labour market, irrespective of age, disability, sexual orientation or religious belief (blocked in Council since 2008 and for which the Commission might propose moving to qualified majority voting), the reform of Regulation 1049/2001 on transparency and **access to documents**, and the files linked to the **Multiannual Framework**, including the proposal on rule of law conditionality, the Rights and Values programme and the Justice programme. As mentioned above, the debate and measures related to the strengthening of the **Rule of Law / DRF / Article 2 values** will also continue to develop: the EP will have to take a position on the Commission's communication/consultation of 3 April and the upcoming June proposal by the Commission on the strengthening of the rule of law. In this context, LIBE and Parliament will also have to continue ensuring that all legislative measures in the AFSJ fully respect fundamental rights and the rule of law by strengthening its **impact assessment** of fundamental rights implications.

**Democracy** should also be promoted against the risks posed by Member States that experience backsliding over the rule of law - whose number might grow in time, hereby putting at risk other states and the EU as a whole - or populism, extremism, discrimination against minorities, dismantling of checks and balances and of separation of powers, takeover of the media and of the justice system, targeting of the opposition, criminalisation of NGOs, changes in the electoral systems, etc. The defence of democracy, of the rule of law and of fundamental rights is probably the biggest challenge the EU is facing today, and it will continue to have to face it in the future. At the beginning of and during the next term, Parliament will have the opportunity to make sure that the Commission, and notably the Commissioners responsible for the AFSJ, engage to guarantee, protect and promote Article 2 TEU values, use the existing instruments, and develop them as necessary to ensure that the EU remains an area of democracy, rule of law and fundamental rights, where minorities are protected and equality is ensured.

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