















Procedure file

Basic information		
INL - Legislative initiative procedure	2015/2254(INL)	Procedure completed
Establishment of an EU mechanism on democracy, the rule of law and fundamental rights		
Subject		
1.10 Fundamental rights in the EU, Charter		
8.30.10 Principles common to the Member States, EU values		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	 Civil Liberties, Justice and Home Affairs	 IN 'T VELD Sophia	03/09/2015
		Shadow rapporteur	
		 ENGEL Frank	
		 BEŇOVÁ Monika	
		 KIRKHOPE Timothy	
		 SPINELLI Barbara	
		 LUNACEK Ulrike	
		 FERRARA Laura	
		 LEBRETON Gilles	
	Committee for opinion	Rapporteur for opinion	Appointed
	 Constitutional Affairs		22/10/2015
		 SCHÖPFLIN György	
	 Women's Rights and Gender Equality	The committee decided not to give an opinion.	
European Commission	Commission DG	Commissioner	
	Secretariat-General	TIMMERMANS Frans	

Key events			
29/10/2015	Committee referral announced in Parliament, 1st reading/single reading		
03/10/2016	Vote in committee, 1st reading/single reading		
10/10/2016	Committee report tabled for plenary, single reading	A8-0283/2016	Summary

25/10/2016	Results of vote in Parliament		
25/10/2016	Debate in Parliament		
25/10/2016	Decision by Parliament, 1st reading/single reading	T8-0409/2016	Summary
25/10/2016	End of procedure in Parliament		

Technical information

Procedure reference	2015/2254(INL)
Procedure type	INL - Legislative initiative procedure
Procedure subtype	Request for legislative proposal
Legal basis	Rules of Procedure EP 47
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/8/04625

Documentation gateway

Committee draft report		PE576.988	05/04/2016	EP	
Committee opinion		PE578.528	16/06/2016	EP	
Amendments tabled in committee		PE583.901	21/06/2016	EP	
Amendments tabled in committee		PE585.458	24/06/2016	EP	
Committee report tabled for plenary, single reading		A8-0283/2016	10/10/2016	EP	Summary
Text adopted by Parliament, single reading		T8-0409/2016	25/10/2016	EP	Summary
Commission response to text adopted in plenary		SP(2017)16	17/02/2017	EC	

Establishment of an EU mechanism on democracy, the rule of law and fundamental rights

The Committee on Civil Liberties, Justice and Home Affairs adopted the own-initiative report by Sophia in 't VELD (ADLE, NL) containing recommendations to the Commission on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights (Initiative Rule 46 of the Rules of Procedure).

Members recalled that the Union is founded on the values 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, enshrined in its core principles and objectives in the first articles of the TEU, and in the criteria for Union membership.

Accordingly, the committee considered that the Union institutions and bodies and the Member States should set an example by genuinely fulfilling their obligations and move towards a shared culture of the rule of law as universal value in the 28 Member States and in the Union institutions to be applied by all concerned even-handedly.

Conclude an EU Pact for DRF: Members requested that the Commission submit, by September 2017, on the basis of Article 295 TFEU, a proposal for the conclusion of a Union Pact for democracy, the rule of law and fundamental rights (EU Pact for DRF) in the form of an interinstitutional agreement.

The Pact for DRF must include all relevant actors and consist of:

- an annual report on democracy, the rule of law and fundamental rights (European DRF Report) with country-specific recommendations incorporating the reporting done by the European Union Agency for Fundamental Rights (FRA), the Council of Europe, and other relevant authorities in the field;
- an annual inter-parliamentary debate on the basis of the European DRF Report,
- arrangements for remedying possible risks and breaches, as provided for by the Treaties, including the activation of the preventative or corrective arms of Article 7 TEU,
- a DRF Policy Cycle within the Union institutions.

The European DRF Report shall be drawn up by the Commission, in consultation with the panel of independent experts (DRF Expert Panel) composed one independent expert designated by the parliament of each Member State and ten further experts designated by the European Parliament.

The Commission shall transmit the European DRF Report to the European Parliament, the Council and the national parliaments. The Report shall be made available to the public.

Recommendations: Members recommended, in particular, that the EU Pact for DRF include preventative and corrective elements, and address all Member States equally as well as the three main Union institutions, while respecting the principles of subsidiarity, necessity and proportionality. While the main purpose of the EU Pact for DRF would be to prevent and correct breaches of Union values, it should also contain possible sanctions that can act as effective deterrence.

The Commission was called upon to bundle, from 2018 onwards, its relevant annual thematic reports as well as the outcome of existing monitoring mechanisms and periodic assessment tools, to be presented all on the same day feeding into the DRF Policy Cycle.

Members emphasised the key role that the European Parliament and the national parliaments should play in measuring the progress of, and monitoring the compliance with, the shared values of the Union, as enshrined in Article 2 TEU. Any inter-parliamentary debate should include civil society.

Members invited the Commission to:

- present, by June 2017, a new draft agreement for the accession of the Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR);
- take measures to ensure general access to legal assistance to individuals and organisations litigating cases relating to violations of DRF by national governments or the Union institutions;
- partner with civil society to develop an awareness raising campaign, to enable Union citizens and residents to take full ownership of their rights deriving from the Treaties and from the Charter of Fundamental Rights.

For his part, the European Ombudsman should highlight within a dedicated chapter, as part of its annual report, cases, recommendations and decisions related to citizens fundamental rights, as well as the principles of democracy and the rule of law.

DRF Expert Panel: Members recommended that the Panel undertake an assessment of access to justice at Union level, including aspects such as:

- independence and impartiality of courts and judges,
- duration and cost of litigation,
- adequacy and effectiveness of the legal aid system,
- implementation of court rulings,
- scope of judicial control and redress available to citizens, and
- options for cross border collective redress.

Endowment: Members called for the setting up of an endowment for democracy grant-giving organisation that supports local actors promoting democracy, rule of law and fundamental rights within the Union.

They recommended, furthermore, that the EU Pact for DRF include the regular monitoring of the compatibility of the international agreements ratified by the Member States and the Union with Union primary and secondary law.

Establishment of an EU mechanism on democracy, the rule of law and fundamental rights

The European Parliament adopted by 405 votes to 171, with 39 abstentions, a resolution containing recommendations to the Commission on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights.

Members recalled that there are several instruments for addressing the risk of a serious breach of Union values but clear and objective benchmarks need to be developed for those instruments to be sufficiently strong and dissuasive to prevent infringements of the rule of law and fundamental rights.

However, the Union has no legally binding mechanism in place to monitor regularly compliance of the Member States and Union institutions with the Union values and fundamental rights.

Conclude an EU Pact for DRF: Parliament requested that the Commission submit, by September 2017, on the basis of Article 295 TFEU, a proposal for the conclusion of a Union Pact for democracy, the rule of law and fundamental rights (EU Pact for DRF) in the form of an interinstitutional agreement.

The EU Pact for DRF should: (i) be evidence based; (ii) be objective and not subject to outside influence, in particular political influence, non-discriminatory and assessing on an equal footing; (iii) respect the principle of subsidiarity, necessity and proportionality; (iv) address both Member States and institutions of the Union; and (v) be based on a graduated approach, including both a preventative and corrective arm.

The Pact for DRF must include all relevant actors and consist of:

- an annual report on democracy, the rule of law and fundamental rights (European DRF Report) with country-specific recommendations incorporating the reporting done by the European Union Agency for Fundamental Rights (FRA), the Council of Europe, and other relevant authorities in the field;
- an annual inter-parliamentary debate on the basis of the European DRF Report,
- arrangements for remedying possible risks and breaches, as provided for by the Treaties, including the activation of the preventative or corrective arms of Article 7 TEU,
- a DRF Policy Cycle within the Union institutions.

The European DRF Report shall be drawn up by the Commission, in consultation with the panel of independent experts (DRF Expert Panel) composed one independent expert designated by the parliament of each Member State and ten further experts designated by the European

Parliament.

The Commission shall transmit the European DRF Report to the European Parliament, the Council and the national parliaments. The Report shall be made available to the public.

Recommendations: Members emphasised the key role that the European Parliament and the national parliaments should play in measuring the progress of, and monitoring the compliance with, the shared values of the Union, as enshrined in Article 2 TEU. Any inter-parliamentary debate should include civil society.

Parliament invited the Commission to:

- present, by June 2017, a new draft agreement for the accession of the Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR);
- take measures to ensure general access to legal assistance to individuals and organisations litigating cases relating to violations of DRF by national governments or the Union institutions;
- partner with civil society to develop an awareness raising campaign, to enable Union citizens and residents to take full ownership of their rights deriving from the Treaties and from the Charter of Fundamental Rights.

DRF Expert Panel: Members recommended that the Panel undertake an assessment of access to justice at Union level, including aspects such as: (i) impartiality of courts and judges; (ii) duration and cost of litigation; (iii) adequacy and effectiveness of the legal aid system; (iv) implementation of court rulings; (v) redress available to citizens, and options for cross-border collective redress.

Revision of future treaties: Members considered that if in the future Treaty revision would be considered, the following changes may be provided for:

- providing for Article 2 TEU and the Charter to become a legal basis for legislative measures to be adopted under the ordinary legislative procedure;
- 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;
- 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 Council voting rights) that may be suspended, for example financial sanctions or the suspension of Union funding;
- 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;
- enabling natural and legal persons who are directly and individually affected by an action to bring actions before the Court of Justice for alleged violations of the Charter either by the Union institutions or by a Member State, by amending Articles 258 and 259 TFEU;
- reviewing the unanimity requirement in areas relating to respect for and protection and promotion of fundamental rights, such as equality and non-discrimination.

Endowment: Members called for the setting up of an endowment for democracy grant-giving organisation that supports local actors promoting democracy, rule of law and fundamental rights within the Union.

They recommended, furthermore, that the EU Pact for DRF include the regular monitoring of the compatibility of the international agreements ratified by the Member States and the Union with Union primary and secondary law.