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

2015/2254(INL) - 25/10/2016 - Text adopted by Parliament, single reading

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.