Situation of fundamental rights in the European Union (2009) - Effective implementation after the entry into force of the Treaty of Lisbon

2009/2161(INI) - 15/12/2010 - Text adopted by Parliament, single reading

The European Parliament adopted by 585 votes to 40, with 51 abstentions, a resolution on the situation of fundamental rights in the European Union (2009) – effective implementation after the entry into force of the Treaty of Lisbon.

The new post-Lisbon fundamental-rights architecture: Parliament stresses that the effective protection and promotion of human rights and fundamental freedoms constitutes the core of democracy and the rule of law in the EU and an essential condition of the consolidation of the European area of freedom, security and justice and that it requires actions at various levels (international, European, national, regional and local level). It stresses, moreover, the role that regional and local authorities can play in the concrete implementation and in the promotion of such rights and calls on all EU institutions, Member States' governments and parliaments to build on the new institutional and legal framework created by the Treaty of Lisbon to devise a comprehensive internal human rights policy for the Union.

Parliament recalls that the entry into force of the Treaty of Lisbon created a new situation in the EU in the field of human rights by making the Charter of Fundamental Rights ('the Charter') legally binding, thus **transforming basic values into concrete rights**. In this context, it indicates that a genuine culture of fundamental rights must be developed, promoted and reinforced in both the EU institutions and the Member States, which is why there is a need for a new fundamental rights architecture.

Reaffirming that the Charter has the same legal value as the Treaties, offering a good balance between rights and solidarity and encompassing civil, political, economic, social and cultural rights as well as 'third generation' rights (i.e. the rights to good administration, freedom of information, a healthy environment and consumer protection), Members consider that the EU should develop a regulatory framework to protect against fundamental rights abuses, in particular by businesses, and define the **scope of the new architecture for fundamental rights** as follows:

- with the entry into force of the Lisbon Treaty, the reiteration of the EU as a community of shared values and principles and reaffirmation of the legally binding value of the Charter;
- in this context, the incorporation of the Charter into primary EU law, the creation of **new responsibilities for the institutions and the Member States** as regards the enforcement of EU legislation at national level with the Charter's provisions thus becoming directly enforceable by European and national courts;
- the setting of a common denominator for EU-third country relations based on respect for the fundamental values of the EU and the protection of human rights and fundamental freedoms (in this context, ensuring that there is a human-rights-based approach to the European External Action Service's structure, resources and activities);
- reaffirmation of the pioneering role played by the Union in the promotion of human rights in the world and, in this context, the reaffirmation of the fundamental value of the Charter with regard to the application and enforcement of relevant measures on the respect for human rights clauses in international agreements (human rights clauses), as a guarantee of coherence between internal and external human rights policy in the EU;
- **EU accession to the Convention on Human Rights** as a minimum level of protection for human rights and fundamental freedoms in Europe providing citizens with the possibility of lodging a

complaint with the ECtHR and a clear political commitment to complete the accession process within a reasonable time limit;
- the need, in line with the new obligations introduced by the Lisbon Treaty to combat social exclusion and discrimination, promote justice and social protection, equality between men and women, respect for privacy and family life, solidarity between the generations and rights of the child, as well as the common asylum and immigration policies, combat against human trafficking, as new fundamental values of the Union;
- the need for the full and consistent implementation of the Stockholm Programme and its main strategic elements in the area of freedom, security and justice.

The most pressing challenges of the new era: Parliament underlines that the new architecture will be measured on how effectively the most pressing issues and the most recurrent infringements are handled by the institutions responsible, both in the Member States and at EU. In this context, it recalls the main problems which require urgent concrete steps, that have been the subject of Parliament's resolutions and debates on fundamental rights question, such as:

- protecting the four fundamental freedoms as the basic EU achievements, with specific attention to the freedom of movement of EU citizens,
- securing the rights of all persons present in the EU territory, irrespective of citizenship,
- ensuring legal certainty and the existence of appropriate checks and balances of a sound democratic system,
- guaranteeing the protection of personal data and privacy, including the collection, processing, transfer and storage of financial and personal data, in accordance with the principles of purpose, necessity and proportionality and the rights of rectification and appeal,
- combating trafficking of human beings – especially women and children,
- protecting the rights of refugees and migrants, ensuring that EU management of migration flows and negotiations on readmission agreements with third countries do not put such individuals at risk of human rights violations,
- protecting the rights of victims of violence, crime, war and human rights violations, without redirecting attention and resources that go into prevention, combating criminals and terrorists and into addressing root causes,
- developing EU strategy on the rights of the child through practical measures to combat child abuse, sexual exploitation and child pornography, to promote safer use of the internet and to eliminate child labour and child poverty,
- developing an EU strategy on the rights of disabled people,
- prohibiting and eliminating all forms of discrimination, based on Article 21 of the Charter, in all areas of life, including ethnic profiling,
- protecting language diversity, as a cultural heritage of Europe, including minority languages,
- prohibiting the sanctioning of the use of a language different from the official language of a Member State,
- combating poverty and social exclusion,
- drawing up an action-oriented EU-level strategy to foster the inclusion of Roma,
- setting up an EU-wide framework on procedural rights for suspects in criminal proceedings,
- guaranteeing and promoting freedom of the press in the European Union,
- evaluating the existing EU readmission agreements and assessing their fundamental rights impact,
- promoting the social inclusion of the more vulnerable people through education and positive action,
- the right to education for all,
- protecting migrants, particularly asylum-seekers;
- combating all forms of racism, xenophobia and anti-Semitism,
- promoting greater interfaith and intercultural understanding,
- protecting freedom of thought, conscience and religion.

Institutions implementing the new fundamental-rights architecture: Parliament calls for improved interinstitutional cooperation with a view to better monitoring the human rights situation in the EU. Noting the creation of a new 'Justice, Fundamental Rights and Citizenship' portfolio within the Commission, Members consider that such a division between justice and security should not reinforce the **misconceived dichotomy** between the need to protect the human rights of all people and the need to guarantee their security. The new Commissioner should pay particular attention to EU policies on fighting irregular migration and terrorism.

The resolution calls on the Commission to make 2013 the European Year of Citizenship in order to give momentum to the debate on European citizenship. Parliament awaits concrete actions by the new Commissioner responsible, such as the introduction of a fundamental-rights impact assessment of all new legislative proposals or the application of a 'zero tolerance' policy on violations of the Charter. The latter would also involve the conduct of in-depth investigations and initiating infringement procedures when Member States are in breach of their human rights obligations.

Members call on **the Commission**:

- for follow-up to the 2003 Communication on Article 7 of the Treaty on European Union to define a transparent and coherent way to address possible violations of human rights and make relevant use of Article 7 TEU on the basis of the new fundamental-rights architecture;
- draws attention to the recent revival of nationalism, xenophobia and discrimination in some Member States;
- to enforce the values and principles enshrined in the Treaty and Charter and the strategy set out in the Stockholm Programme call for the 'Lisbonisation' of the current acquis in the field of police and judicial cooperation and for a strengthening of democratic accountability in the AFSJ;
- establish a working relationship between the Commissioners responsible for Justice, Fundamental Rights and Citizenship and Home Affairs and the Committee of Civil Liberties, Justice and Home Affairs, by regularly inviting the Commissioners to exchange views on current issues and developments related to fundamental rights.

The **Council** is called upon to adapt to the changes required by the Treaty and to comply with the Charter when legislating. Members welcome the establishment of the Council's standing Working Party on Fundamental Rights. This new body shall have a broad mandate to include issues in relation to fundamental rights with EU and Member States relevance and provide a forum for a Council exchange of views on internal human rights matters, and for the work of this new body to be transparent and efficient, also in relation to the European Parliament.

As for the **Parliament**, Members call for: (i) respect of its right to democratic scrutiny based on the treaties; (ii) the necessity of enhancing transparency and access to documents between EU institutions; (iii) a better follow up its resolutions related to fundamental rights in the EU; (iv) its right to be immediately and fully informed at all stages of the procedure for concluding international agreements between the Union and third countries or international organisations.

Members call on all European institutions and agencies to uphold their commitment to the protection of fundamental rights and to integrate a fundamental-rights approach into all their activities.

The resolution underlines the fact that the EU and the Member States share obligations in the field of the implementation and/or enforcement of human and fundamental rights, in their respective spheres of responsibility, in accordance with the principle of subsidiarity, and that this shared responsibility and competence represents both an opportunity and an obligation on the part of the Member States and of EU

institutions. It highlights the enhanced role of the national parliaments provided by the Treaty of Lisbon and supports the establishment of a formal ongoing dialogue between the European Parliament and national parliaments.

Parliament believes that EU action should not only address violations of fundamental rights after they have happened, but should also seek to prevent them. It consequently calls for a reflection on **mechanisms for early detection of potential violations of fundamental rights in the EU and in its Member States**, temporary freezing of the measures which constitute such violations, accelerated legal procedures for determining if a measure is contrary to EU fundamental rights and for sanctions in the event that these measures are nonetheless implemented contrary to EU law. The EU institutions and the Member States are asked to redouble their efforts aimed at properly informing and raising the awareness of the public, as fundamental rights can be protected more effectively if individuals themselves are aware of their rights and the mechanisms available to protect them.

Cooperation with international organisations in the new fundamental-rights architecture: Parliament suggests that ways be found for EU institutions and agencies to cooperate better with international organisations committed to the protection of fundamental rights and freedoms. It calls on the EU institutions to exploit the full potential of the Memorandum of Understanding between the Council of Europe and the EU, in the interests of greater synergy and consistency at European level, thus avoiding duplication of work. The resolution also calls on the EU Member States to sign up to, and ratify, the core Council of Europe and United Nations human-rights conventions and the additional optional protocols.