Situation of fundamental rights in the European Union (2010-2011)

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The Committee on Civil Liberties, Justice and Home Affairs adopted the own-initiative report by Monika FLAŠÍKOVÁ BEOVÁ (S&D, SK) on the situation of fundamental rights in the European Union.

Members recall that Article 2 of the Treaty on European Union (TEU) founds the Union on a community of indivisible and universal values of respect for human dignity, freedom, democracy, gender equality, non-discrimination, solidarity, the rule of law and respect for human rights and civil liberties, for all persons on the territory of the EU, including those belonging to minorities, stateless persons and those who are temporarily or irregularly on the territory of the European Union. However, the gap between fundamental rights and their implementation undermines the credibility of the EU and of its Member States and the effective respect for and promotion of human rights, within its territory and throughout the world.

That is why Members call on the Commission, the Council and the Member States to fully assume their responsibilities in relation to the proper and full application of the EU's mandate and competences with regard to fundamental rights, on the basis of both the Charter and the articles of the Treaties dealing with fundamental rights and citizens' rights issues, in particular Articles 2, 6 and 7 of the TEU. To deal with the democracy, rule of law and fundamental rights crisis and tensions that are affecting it and its Member States, the Members call for the urgent **strengthening of European mechanisms to ensure that democracy, the rule of law and fundamental rights are respected in the European Union.**

To reinforce the impact of proposed measures on fundamental rights, Members call on the Commission to take tangible steps to verify whether:

- the proposals are consistent with the Charter of Fundamental Rights;
- the implementation of the legislation by Member States is satisfactory from this perspective;
- the European Parliament and the national parliaments are fully involved in the procedure of assessing measures taken;
- the systematic use of external independent expertise, notably from the Fundamental Rights Agency, during the preparation of impact assessments;
- the role of the Parliament is fully taken into account within the framework of its autonomous impact assessment on fundamental rights.

Members call on the Commission to draft an annual report on the situation of fundamental rights in the EU, including an analysis of the situation in the Member States, including concerns expressed by civil society.

More generally, Members recommend that the Commission and the Council jointly and formally recognise the **existence of positive obligations to protect and promote human rights** as part of EU law.

They call on the Commission to revise the EU legislative *acquis* by duly taking into account the rights outlined in the EU Charter, and to revise the former third pillar domain (police and judicial cooperation in criminal matters) in the light of the Charter.

Transparency: the Members regret the lack of transparency in the Commission's dialogue with Member States when fundamental rights or the interests of European citizens are at stake. Such a lack of transparency with regard to the transposition of EU law is contrary to the EU rules on transparency and is extremely prejudicial for EU citizens. They also regret the lack of transparency and openness in international negotiations (which has led Parliament to reject international anti-counterfeiting agreements such as ACTA).Members propose that steps be taken to ensure continuous channels of information-sharing on fundamental rights in the EU between the relevant bodies and within the EU institutions and EU agencies, and to hold a **yearly interinstitutional forum in order to assess the EU fundamental rights situation**, bringing together a large gathering of representative organisations.

European Court of Human Rights (ECHR): Members deplore the delays in the EU's accession to the ECHR. They call on the Council to act so that the procedures for EU accession to the ECHR are concluded. They remind all Member States to comply with their obligations to respect fundamental freedoms and rights. They particularly regret the Commission's weak response to specific violations of fundamental rights and the weakening of democratic checks and balances and the rule of law in Member States.

Monitoring: Members call on the Commission to draw up before the end of 2012 a detailed proposal for a clear-cut monitoring mechanism and early warning system in the event of infringement of the fundamental rights. They demand the setting-up of appropriate national human rights institutions (NHRIs) in all Member States and for measures to facilitate networking between these bodies across the EU. A closer cooperation between Union institutions and other international bodies, particularly with the Council of Europe and the Venice Commission, could make use of their expertise in upholding the principles of democracy, human rights and the rule of law.

Worsening of rights in the EU: Members regret the worsening situation of media freedom in various Member States, especially of the written press. They condemn the conditions under which some journalists work and the obstacles they face. They welcome the adoption by the UN Human Rights Council of a resolution recognising internet rights, particularly concerning access to the internet and freedom of expression. They also call for a parliamentary evaluation of policies in the sphere of Civil Liberties, Justice and Home Affairs.

Fundamental Rights Agency (FRA): Members considers it unacceptable that Parliament has not been permitted to define, as a co-legislator, the thematic areas for the multi-annual framework (MAF) of the FRA and that police and judicial cooperation in criminal matters, which has become standard EU policy, are still not explicitly included in the mandate of the FRA. They ask more financial means for this Agency and above all a clear widening of its remit.
For better information for citizens on their rights: Members called again on the Commission to better inform people about the rights conferred upon them by the Charter and to enforce their rights in relevant fora. In particular, they invited the Commission to inform those citizens contacting it in relation to fundamental rights violations of these additional or more appropriate possibilities in detail, to keep record of these indications and to report on this in full detail in its annual reports on fundamental rights in the EU.
State of play on fundamental rights in the EU: the report covers all the actions carried out within the framework of the EU as regards fundamental rights and are expressed as follows:

- **discrimination**: Members deplore the current blockage of Council negotiations on the Commission's proposal for a horizontal directive extending comprehensive protection against discrimination on all grounds and call for its rapid adoption. They also demand a reinforced complaints procedure for wronged citizens;

- **protection of minorities**: Members call on the Member States to address racial and ethnic discrimination in employment, housing, education, health, access to goods and services but also to fight against the rise of political parties which are openly racist, xenophobic, Islamophobic and anti-Semitic. Whilst no single solution exists for improving the situation of national minorities in all the Member States, they consider that some common and minimum objectives for public authorities in the EU should be developed, taking account of the relevant international legal standards and existing good practices;

- **the Roma question**: Members most particularly regret that **citizens of Roma origin are subjected to collective expulsion procedures** by Member States and deplores the weak reaction of the Commission in certain cases. They call on Member States to provide an effective response to Roma exclusion by implementing the measures presented in their national Roma integration strategies, eliminating their spatial segregation and providing sufficient means to develop effective actions:

- **equal opportunities**: once again Members called for measures in favour of women, especially as regards equal pay. They consider that violence against women is the most pervasive violation of girls' and women's human rights worldwide, including in the EU; measures are also sought for migrant women and to fight against the sexual exploitation of women;

- **gender identity**: the Members invite Member States to adopt the national legislative framework to address discriminations experienced by LGBT people and same-sex couples on grounds of their sexual orientation or gender identity; they further call on Member States to ensure the effective protection of participants in LGBT public events, including "Gay Pride" marches;

- **young people, the elderly and people with disabilities**: several measures are sought to protect these persons both in the Member States and at the EU level, and to combat all forms of discrimination of which they are victims. Among other things, Members call for **people's dignity to be respected at the end of life**, in particular by ensuring that decisions expressed in living wills are recognised and respected;
- **migrants et refugees**: Members call on the Member States to a set up a procedure for more coordinated rules governing asylum seekers. They call on the Council and Member States to ensure that the Common European Asylum System (CEAS) is implemented by the end of 2012 as planned. They strongly condemn the extensive use by most Member States of detention to facilitate removal of immigrants, including minors;
- **rights of the child**: overall, Members call on all EU institutions to effectively address challenges such as the removal of children from the custody of one or both parents, missing children, sexual exploitation of children and child pornography, protection of unaccompanied migrant children and the situation of institutionalised children with disabilities; they underline that no unaccompanied minor should be detained.

Measures are still sought to reinforce the rights of victims across the territory of the Union and to address remaining barriers, such as time limits, legal standing, the length of proceedings, legal costs and procedural formalities.

Lastly, Members seek specific measures to i) reinforce the citizenship of the Union (in particular, as regards electoral rights); ii) to improve citizens' rights as regards **data protection** (notably by establishing a comprehensive data protection framework with a uniform and high level of harmonisation and by improving the international framework in the context of European Passenger Name Record (PNR) agreements concluded with several third countries).