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

2011/2069(INI) - 12/12/2012 - Text adopted by Parliament, single reading

The European Parliament adopted by 308 votes to 229, with 48 abstentions, a resolution on the situation of fundamental rights in the European Union.

Parliament recalls 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.

The current economic crisis is challenging the principle of solidarity and the underlying bond bringing together EU citizens as members of the same political community. It is therefore important that social and economic rights, which are an essential element of the Charter of Fundamental Rights, should be given prominent recognition.

That is why Parliament calls 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. It calls in particular for the preparation of a report on the situation of the protection and promotion of, as well as the respect for, fundamental rights in the Union and its Member States, containing specific recommendations for improvements.

To deal with the democracy, rule of law and fundamental rights crisis and tensions that are affecting it and its Member States, Parliament calls for the **urgent strengthening of European mechanisms to ensure that democracy, the rule of law and fundamental rights are respected in the European Union**. The Plenary invites the Commission to ensure that its annual report on the application of the Charter addresses the situation of social and economic rights in the Union and, in particular, how these are implemented in the Member States.

To reinforce the impact of proposed measures on fundamental rights, Parliament calls 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.

More generally, Parliament recommends 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. It calls 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: Parliament regrets 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. It also regrets the lack of transparency and openness in international negotiations (which has led Parliament to reject international anti-counterfeiting agreements such as ACTA). Parliament proposes 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): Parliament deplores the delays in the EU's accession to the ECHR. It calls on the Council to act so that the procedures for EU accession to the ECHR are concluded. It reminds all Member States to comply with their obligations to respect fundamental freedoms and rights. In an amendment adopted in Plenary, Parliament expresses its concern about the situation of fundamental rights in some Member States and, in particular, about the **practice by those in power of selecting, appointing or dismissing people occupying independent positions** in, for example, constitutional courts, the judiciary, public broadcasting media, media regulatory bodies and the offices of ombudsmen or commissioners, **merely on the basis of political affiliation rather than on that of competence, experience and independence**. Parliament particularly regrets 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: Parliament calls 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. In particular, it suggests the **introduction of a freezing procedure** to ensure that Member States, at the request of EU institutions, **suspend the adoption of laws suspected of disregarding fundamental rights or breaching the EU legal order**. It also demands 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: Parliament regrets the worsening situation of media freedom in various Member States, especially of the written press. It condemns the conditions under which some journalists work and the obstacles they face. It welcomes the adoption by the UN Human Rights Council of a resolution recognising internet rights, particularly concerning access to the internet and freedom of expression. It also calls for a parliamentary evaluation of policies in the sphere of Civil Liberties, Justice and Home Affairs.

Fundamental Rights Agency (FRA): Parliament considers it unacceptable that it 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. It asks more financial means for this Agency and above all a clear widening of its remit. It also calls on EU institutions to ensure that the FRA is consulted on any legislative proposal having an impact on fundamental rights, and to respect the independence and competences of the FRA.

Opt-out: Parliament is concerned about the 'opt-outs' of some Member States, which risk affecting the rights of their citizens, who will suffer more from discrimination than other EU citizens. It recalls that, in accordance with the case-law of the ECJ, the 'opt-outs' are not intended to exempt the Member States from the obligation to comply with the provisions of the Charter or to prevent a court of one of those Member States from ensuring compliance with those provisions.

For better information for citizens on their rights: Parliament calls once 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, it invites 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 resolution covers all the actions carried out within the framework of the EU in the area of fundamental rights:

- **discrimination:** Parlaiment deplores the current blockage of Council negotiations on the Commission's proposal for a horizontal directive extending comprehensive protection against discrimination on all grounds and calls for its rapid adoption. It also demands a reinforced complaints procedure for wronged citizens and insists on the protection of religious freedom;
- **protection of minorities:** Parliament calls 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, it considers 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:** Parliament most particularly regrets 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. It calls 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, Parliament calls for measures in favour of women, especially as regards equal pay. It considers 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:** Parliament invites Member States to adopt the national legislative framework to address discriminations experienced by LGBT (lesbian, gay, bi- or trans-) people and same-sex couples on grounds of their sexual orientation or gender identity; it further calls on Member States to ensure the effective protection of participants in LGBT public events, including "Gay Pride" marches. Parliament calls on Member States which have adopted legislation on same-sex partnerships to recognise provisions with similar effects adopted by other Member States;
- **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:** Parliament calls on the Member States to a set up a procedure for more coordinated rules governing asylum seekers. It calls on the Council and Member States to ensure that the Common European Asylum System (CEAS) is implemented by the end of 2012 as planned. It strongly condemns the extensive use by most Member States of detention to facilitate removal of immigrants, including minors;

- **rights of the child:** Parliament calls 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; it underlines that no unaccompanied minor should be detained. The Plenary is concerned about the recent scandals involving cases of paedophilia, and calls on the EU and the Member States to ensure that **impunity is not tolerated in investigations of paedophilia**.

Measures are again sought to (i) reinforce the rights of victims across the territory of the Union (in particular as regards electoral rights and the protection of non-citizens) and (ii) to improve citizens' rights as regards **data protection**.

It should be noted that an alternative motion for resolution tabled by the EPP group was rejected in plenary.