Situation of fundamental rights in the European Union (2012)

2013/2078(INI) - 27/02/2014 - Text adopted by Parliament, single reading

The European Parliament adopted by 312 votes to 244, with 27 abstentions, a resolution on the situation of fundamental rights in the European Union.

Parliament condemned the **worrying trends with regard to breaches of human rights** within the EU, particularly in the fields of immigration and asylum, and with regard to discrimination and intolerance – especially affecting certain population groups (minorities and migrants) – security and terrorism, freedom of the press, freedom of movement within the Union and social and trade union rights.

It recommended that Parliament, the Commission and the Council **recognise the existence of positive obligations** to protect and promote human rights, and highlighted the role played in this area by regional and local authorities, NGOs and civil society, with whom the Commission and the Council should improve cooperation.

Institutional questions: Parliament noted that the general public were increasingly concerned about respect for fundamental rights and they made a series of recommendations on making full use of the potential of the treaties in this regard, including **establishing a 'new Copenhagen mechanism'** to ensure that the fundamental rights and values of the Union are respected, protected and promoted.

Copenhagen mechanism: this would be aimed at monitoring compliance with the Copenhagen criteria by every Member State in an effective and binding manner, could be activated immediately, on the basis of a Commission decision, with the full involvement of Parliament. It should, inter alia:

- **set indicators** such as those developed at UN and Council of Europe level, taking into account the advice of NGOs working in the area of human rights and fundamental freedoms (European Union Agency for Fundamental Rights (FRA) and Commission);
- carry out **objective, comparative and regular assessments**, for each of the fundamental rights and /or subject areas and for each institution and Member State individually;
- establish **a European policy cycle** on the application of Article 2 of the EU Treaty (democracy, rule of law, fundamental rights, equality) to provide an annual and multiannual framework, and an open annual interinstitutional forum on these European values, in particular the protection of fundamental rights;
- bring all existing data and analysis from national, European and international bodies together in order to ensure that **relevant information is more accessible and visible**;
- adopt a set of **recommendations** along with effective and proportionate **penalties which act as an effective deterrent** (e.g. the temporary suspension of Fund commitments, the application of certain acts, etc.) to deal with violations of Articles 2 and 7 of the EU Treaty;
- incorporate an early-warning system, political and technical dialogue, letters of formal notice and a 'freezing procedure', to ensure that Member States, at the request of EU institutions, **suspend the adoption of laws** that might disregard or breach fundamental rights or the EU legal order.

The Commission was asked to **adopt a decision establishing this 'new Copenhagen mechanism**', as it did for the monitoring of corruption in the EU and in the Member States, and to revise the FRA rules in order to give it enhanced powers and competences. Members want to see the establishment of a ' **Copenhagen commission'** composed of independent high-level experts on fundamental rights, to be appointed inter alia by Parliament, whose aim should be to ensure compliance by all Member States with

the common values enshrined in Article 2 TEU and continuous compliance with the 'Copenhagen criteria' and to advise and report on fundamental rights matters, pending the amendment the FRA Regulation to allow the agency to have stronger powers and a wider remit.

Parliament noted a recent statement from the Commission announcing a communication setting out **possible changes to the Treaties**, and called on Parliament's competent committees to examine specified proposals in detail, with a view to strengthening fundamental rights:

- **revision of Article 7 of the EU Treaty**, adding an 'application of Article 2 of the EU Treaty' stage, separating the 'risk' stage from the 'violation' stage, with different thresholds for the majorities provided for, a strengthening of technical and objective (not only political) analysis, enhanced dialogue with the Member States' institutions and a wider range of penalties which are applicable throughout the procedure;
- **extending the scope for redress** and the powers of the Commission and the Court of Justice;
- **enabling Parliament to launch proceedings on the violation of Article 2 TEU** on an equal footing with the Commission and the Council, and for the FRA to be able to contribute its necessary specialised support to the procedure;
- **reviewing the unanimity requirement** in areas relating to fundamental rights, such as equality and non-discrimination (e.g. Article 19 TFEU).

On specific rights, Parliament expressed its concern about the numerous instances of ill-treatment by police and the forces of law and order, particularly in relation to the **disproportionate use of force against peaceful participants and journalists in connection with demonstrations**, and the excessive use of non-lethal weapons, such as batons, rubber bullets and tasers. It called on the Member States to ensure that the uniforms of law enforcement personnel bear a means of identifying the wearer and that such personnel are always held to account for their actions. It called for an **end to police checks that are based on ethnic and racial profiling**.

Parliament also stressed that the climate of impunity as regards the CIA programme has made it possible for fundamental rights violations to continue under EU and US counter-terrorism policies. It called for legislation concerning EU and Member State security and intelligence agencies to be revised, with a particular focus on ex-ante judicial and parliamentary scrutiny, and the right to appeal and to rectify data collected, held or processed by these agencies.

As regards freedoms: Parliament criticised the fact that the Internal Security Strategy (ISS) focuses on security to the detriment of civil liberties, fundamental rights and the adoption of preventive measures. It considered that Parliament should play a decisive role in the evaluation and framing of internal security policies. It expressed its concern about the revelations concerning the flagrant breach of the right to private life and protection of personal data committed in the secret programmes of mass surveillance of European citizens, without case-by-case judicial authorisation and without appropriate parliamentary control, established by European and non-European states. It stressed that the EU and its Member States should adopt a **whistle-blower protection system for persons revealing serious violations of fundamental rights by intelligence services** that have eluded all democratic, parliamentary and judicial scrutiny.

The Member States and the Council are urged to speed up the work of the Task Force Mediterranean in order to **ensure a significant expansion of rescue capacity at sea** and launch a comprehensive plan on migration and asylum, based on solidarity and responsibility sharing in order to ensure that tragedies such as those which have occurred off Lampedusa do not happen again.

As regards equality: Parliament considered that the Union and the Member States should step up their measures to promote equality, combat discrimination and protect cultural, religious and linguistic diversity, and their measures relating to gender equality, the rights of the child, the rights of older persons,

the rights of persons with disabilities, the rights of LGBT persons and the rights of persons belonging to national minorities. It called on the Member States and the Commission to protect, promote and **enforce children's rights** in all internal and external actions.

Parliament called on the Commission to ensure **equality between women and men** and prevent, combat and prosecute all forms of violence against women as a fundamental rights violation, while ensuring support and protection for victims.

As regards solidarity: Parliament underlined the fact that unemployment, poverty or social marginalisation makes it much more difficult, if not practically impossible, for people to exercise the rights and freedoms and to gain access to basic social, financial and other services.

Lastly, **on justice**, Parliament urged the Commission to examine the effective implementation in the EU of the **right of access to justice** in the context of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being.

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