Situation of fundamental rights in the European Union (2013-2014)

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The Committee on Civil Liberties, Justice and Home Affairs adopted the own-initiative report by Laura FERRARA (EFDD, IT) on the situation of fundamental rights in the European Union (2013-2014).

Internal strategy on fundamental rights: Members considered it essential to guarantee that the common European values listed in Article 2 TEU are upheld in full. They expect to see an internal strategy on fundamental rights adopted in the near future, in close cooperation with the other institutions. They deplored the **lack of political will to invoke Article 7 TEU against Member States responsible for breaches of fundamental rights** to penalise them and operate as a deterrent. They stressed the need for the full use of existing mechanisms to ensure that the fundamental rights and values of the Union referred to in Article 2 of the EU Treaty and in the Charter of Fundamental Rights are respected, protected and promoted. In this regard, all the instruments currently provided for in the Treaties need to be urgently applied and implemented.

The Commission is called upon to implement and further improve the existing framework with the aim of:

- initiating infringement procedures that might also lead to financial sanctions in accordance with Article 260 TFEU, should systemic or significant violations of Article 2 TEU be identified by the FRA;
- ensuring the automatic triggering of the procedure under Article 7 TEU, should the three-stage process foreseen by the framework fail to resolve the issue;
- stipulating that all EU legislative proposals, policies and actions must comply with the Charter of Fundamental Rights.

The internal strategy should be accompanied by a clear and detailed new mechanism, soundly based on international and European law and embracing all the values protected by Article 2 TEU. Such a mechanism should enable the monitoring of the compliance of all EU Member States with regard to fundamental rights and provide for a systematic and institutionalised dialogue in case of breach of fundamental rights by one or several Member State.

In order to make full use of the Treaties' provisions the Commission should **establish a scoreboard on the basis of common and objective indicators** by which democracy, the rule of law and fundamental rights will be measured.

Alarming increase of discriminatory acts: Members expressed concern at the alarming increase in the number of violations of fundamental rights in the EU, in particular in the areas of immigration and asylum, discrimination and intolerance – especially towards certain communities – and in the number of instances of attacks being carried out and of pressure being exerted on the NGOs which defend the rights of these groups and communities.

The report noted Member States’ unwillingness to ensure that these fundamental rights and freedoms are observed, in particular as regards **Roma people, women, the LGBTI community, asylum seekers, immigrants and other vulnerable group**.

In the second part of the report, Members deal in detail with the main fundamental rights presents a state of play as regards these rights in the EU.

Freedom and Security: Members focused on the rights as regards freedom and security:

Freedom of expression: In particular, Members:

- urged the EU and national authorities to adopt such measures in full respect of the principles of democracy, the rule of law and fundamental rights, especially the right to a legal defence, the presumption of innocence;
- reiterated their call on Member States to ensure accountability for violations of fundamental rights in the context of transportation and illegal detention of prisoners in European countries by the CIA. They urged Member States to conduct open and transparent investigations to find out the truth about the use of their territory and airspace and to offer full cooperation to the European Parliament´s enquiry on the matter;
- strongly condemned the mass surveillance activities discovered to have been taking place since 2013 and deplores their continued existence; calls for clarification of these activities and in particular the current involvement of a number of Member States;
- called on the Commission and the Member States to take full account of the requirements and recommendations of Parliament as set out in its resolution of 12 March 2014 on the US NSA surveillance programme;
- deplored the acts of discrimination, not to say brutality, perpetrated by police forces in some Member States against minority groups such as migrants, Roma, LGBTI people or people with disabilities.

Freedom of religion and conscience: Members condemned any form of discrimination or intolerance and called on the Member States, including regional authorities to protect with all available tools freedom of religion or belief and to **promote tolerance and intercultural dialogue**. Members are alarmed at the rise in anti-Semitism in Europe and the increasingly widespread efforts to deny or downplay the Holocaust. They are deeply concerned at the growth of anti-Islamic demonstrations, attacks on mosques and the widespread tendency to associate Islam with the religious fanaticism of a tiny minority.

Equality and non-discrimination: Members considered that the Union and Member States should step up their efforts to combat discrimination and protect cultural, religious and linguistic diversity, and promote measures to enhance gender equality, the rights of the child, the rights of older persons, the rights of persons with disabilities, and the rights of LGBTI persons and persons belonging to national minorities. The EU is urged to **adopt a directive condemning discrimination based on gender and seeking to counteract gender prejudices and clichés in education and the media.**

Promotion of minorities: Members invited the EU institutions to elaborate a **comprehensive EU protection system** for national, ethnic and linguistic minorities in order to ensure their equal treatment. They called on the Members States to ensure effective equality of these minorities, particularly on issues of language, education and culture. They condemned all forms of discrimination on grounds of language use and calls on those Member States that have not yet done so to ratify and effectively implement the European Charter for Regional or Minority Languages.

- **Situation of Roma people**: Members deplored the increasing tendency towards anti-Roma sentiment in the EU and expressed its concern at the situation of the Roma in the EU and the numerous instances of persecution. They called for a number of measures to facilitate their integration.

- **Violence against women**: Members called on the Member States in particular to deal effectively with the effects of domestic violence and sexual exploitation in all its forms, including genital

mutilation. Measures are also called for as regards under-representation of women in decision-making process. They recognised that **the denial of a life-saving abortion amounts to a serious breach of fundamental rights**.

- **Children's rights**: the Union and Member States are invited to unite in their efforts to combat child-pornography on the internet as well as cross border abductions cases.

- **Rights of LGBTI people**: Members condemned in the strongest terms all forms of discrimination and violence on EU territory against lesbian, gay, transgender, bisexual and intersex people (LGBTI), as fostered by laws and policies that restrict the fundamental rights of LGBTI people. They called, once again, on the Commission to submit a proposal for an ambitious regulation to ensure mutual recognition of civil status documents, including legal gender recognition. They deplored the fact that transgender people are still considered mentally ill in the majority of Member States.

- **People with disabilities**: Members called on the Commission, the Member States and regional and local authorities to implement the European Disability Strategy and to monitor and apply the relevant European legislation.

- **Older people**: Members deplored their access to adequate income, employment and healthcare and to necessary goods and services. They called for people's dignity to be respected notably at the end of life.

Hate crime and hate speech: Members called on the EU to make the fight against hate crimes a **priority** when drawing up European policies against discrimination and in the field of justice. They are concerned at the growing presence of hate speech on the internet and called on the Member States to put in place a simple procedure enabling members of the public to report the presence of hate content on the internet. The Commission is called upon to monitor the correct transposition of the Framework Decision and to **launch infringement procedures against those Member States that fail to transpose it**. Members called, furthermore for a review of the framework decision in order for it to fully cover all forms of hate crime and crimes committed with a bias or discriminatory motive.

Rights of migrants and applicants for international protection: as regard the main issue of migrants, Members called upon the Member States to respect their rights and:

- underlined the need for a **holistic EU approach** that will strengthen the coherence of the EU's internal and external policies;
- reminded Member States of their international obligation to help people in distress at sea;
- called on the Member States to amend or review any legislation penalising people assisting migrants in distress at sea;
- underlines the fundamental right to seek asylum;
- encouraged the EU and the Member States to **open up and devote sufficient resources to create new safe and legal possibilities and channels for asylum seekers to enter the European Union**, so as to reduce the risks inherent in attempting to enter illegally and to combat human trafficking and smuggling networks that profit from endangering the lives of migrants and from their sexual and labour exploitation;
- called on all the Member States to **participate in EU resettlement programmes**, and encouraged the use of humanitarian visas;
- urged the Member States to guarantee decent reception conditions in compliance with existing fundamental rights and asylum legislation;
- called for the establishment of an effective and harmonised EU asylum system for the **fair distribution of asylum seekers** among Member States,

- called on the Commission, its agencies and the Member States to ensure compliance with these and other international and EU obligations.

Overall, Members condemned the indiscriminate recourse to unlawful detention of irregular migrants, including asylum seekers, unaccompanied minors and stateless persons. They called for closer monitoring of migrant reception and detention centres, of the treatment of migrants and of asylum formalities in the Member States and expressed concern at 'hot return' procedures and at the violent incidents occurring in various 'hotspots' in southern Europe.

Conditions in prisons and other custodial institutions: Member States regretted that the three framework decisions covering the transfer of prisoners, probation and alternative sanctions and the European Supervision Order, which have great potential for reducing prison overcrowding, have only been implemented by some Member States. They called on the Commission to assess the impact of detention policies and criminal justice systems on children. They underlined the fact that an estimated 800 000 children in the EU are separated from an imprisoned parent each year, which impacts on the rights of children in multiple ways.

Citizenship: lastly, Members stressed the need to strengthen institutional transparency, democratic accountability and openness in the EU and urged the competent EU institutions and all Member States to:

- step up their efforts with a view to revising without delay Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents;
- bring forward a revision of the European Citizens' Initiative Regulation (Regulation (EU) No 211 /2011) during this parliamentary term in order to improve its functioning;
- bring forward a revision of Directive 93/109/EC laying down detailed arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament for citizens of the Union residing in a Member State of which they are not nationals, in order to help EU citizens who are resident in a state other than their own to participate in the European elections in their country of residence;
- give due consideration to the growing segment of the population that is completely disenfranchised as regards national elections.