

Establishment of an EU mechanism on democracy, the rule of law and fundamental rights

2015/2254(INL) - 10/10/2016 - Committee report tabled for plenary, single reading

The Committee on Civil Liberties, Justice and Home Affairs adopted the own-initiative report by Sophia in 't VELD (ADLE, NL) containing recommendations to the Commission on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights (Initiative – Rule 46 of the Rules of Procedure).

Members recalled that the Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities, enshrined in its core principles and objectives in the first articles of the TEU, and in the criteria for Union membership.

Accordingly, the committee considered that **the Union institutions and bodies and the Member States should set an example** by genuinely fulfilling their obligations and move towards a shared culture of the rule of law as universal value in the 28 Member States and in the Union institutions to be applied by all concerned even-handedly.

Conclude an EU Pact for DRF: Members requested that the Commission submit, by September 2017, on the basis of Article 295 TFEU, **a proposal for the conclusion of a Union Pact for democracy, the rule of law and fundamental rights (EU Pact for DRF) in the form of an interinstitutional agreement.**

The Pact for DRF must include all relevant actors and consist of:

- **an annual report** on democracy, the rule of law and fundamental rights (European DRF Report) with **country-specific recommendations** incorporating the reporting done by the European Union Agency for Fundamental Rights (FRA), the Council of Europe, and other relevant authorities in the field;
- an **annual inter-parliamentary debate** on the basis of the European DRF Report,
- arrangements for remedying possible risks and breaches, as provided for by the Treaties, including the activation of the preventative or corrective arms of Article 7 TEU,
- a **DRF Policy Cycle** within the Union institutions.

The European DRF Report shall be drawn up by the Commission, in consultation with the **panel of independent experts** (DRF Expert Panel) composed one independent expert designated by the parliament of each Member State and ten further experts designated by the European Parliament.

The Commission shall transmit the European DRF Report to the European Parliament, the Council and the national parliaments. The Report shall be made available to the public.

Recommendations: Members recommended, in particular, that the EU Pact for DRF include **preventative and corrective elements**, and address all Member States equally as well as the three main Union institutions, while respecting the principles of subsidiarity, necessity and proportionality. While the main purpose of the EU Pact for DRF would be to prevent and correct breaches of Union values, it should also **contain possible sanctions** that can act as effective deterrence.

The Commission was called upon to **bundle, from 2018 onwards, its relevant annual thematic reports** as well as the outcome of existing monitoring mechanisms and periodic assessment tools, to be presented all on the same day feeding into the DRF Policy Cycle.

Members emphasised the **key role that the European Parliament and the national parliaments** should play in measuring the progress of, and monitoring the compliance with, the shared values of the Union, as enshrined in Article 2 TEU. Any inter-parliamentary debate should include civil society.

Members invited the Commission to:

- present, by June 2017, a new draft agreement for the accession of the Union to the **European Convention for the Protection of Human Rights and Fundamental Freedoms** (ECHR);
- take measures to ensure **general access to legal assistance** to individuals and organisations litigating cases relating to violations of DRF by national governments or the Union institutions;
- partner with civil society to develop **an awareness raising campaign**, to enable Union citizens and residents to take full ownership of their rights deriving from the Treaties and from the Charter of Fundamental Rights.

For his part, the **European Ombudsman** should highlight within a dedicated chapter, as part of its annual report, cases, recommendations and decisions related to citizens' fundamental rights, as well as the principles of democracy and the rule of law.

DRF Expert Panel: Members recommended that the Panel undertake an assessment of **access to justice at Union level**, including aspects such as:

- independence and impartiality of courts and judges,
- duration and cost of litigation,
- adequacy and effectiveness of the legal aid system,
- implementation of court rulings,
- scope of judicial control and redress available to citizens, and
- options for cross border collective redress.

Endowment: Members called for the setting up of an endowment for democracy grant-giving organisation that supports local actors promoting democracy, rule of law and fundamental rights within the Union.

They recommended, furthermore, that the EU Pact for DRF include the regular monitoring of the **compatibility of the international agreements** ratified by the Member States and the Union with Union primary and secondary law.