The Commission’s 2021 Rule of Law report

2021/2180(INI) - 19/05/2022 - Text adopted by Parliament, single reading

The European Parliament adopted by 429 votes to 131, with 34 abstentions, a resolution on the Commission's 2021 Rule of Law Report.

While welcoming the Commission's second annual report on the rule of law, Parliament deplored the fact that the Commission had not fully followed up on Parliament’s recommendations in its resolution of 24 June 2021 on the Commission's 2020 rule of law report. It called for the inclusion in the annual report of other important elements of the Venice Commission’s 2016 Rule of Law Checklist, such as the prevention of abuse of powers, equality before the law and non-discrimination and access to justice including aspects of the right to a fair trial.

The Commission is invited to **elaborate its indicators** used when assessing the rule of law situation in the Member States and to differentiate reporting by distinguishing between systemic and deliberate breaches of the rule of law and isolated breaches in a clearer and more comprehensible way.

Parliament regretted that the report failed to clearly recognise the **deliberate process of the rule of law backsliding in countries subject to ongoing Article 7(1) TEU procedures**, notably Poland and Hungary, and to identify rule of law deficiencies in a number of Member States. It also regretted that several Member States, in particular Hungary and Poland, were repeatedly mentioned as areas of concern in the Commission's synthesis report and that no tangible improvements have been recorded since the report was published.

The Commission is invited to: (i) conclude each country chapter with an **assessment of Member States' performance** vis-à-vis the individual pillars of the report, indicating the extent to which the conditions of the rule of law conditionality regulation have been met; (ii) include an assessment of all rule of law measures implemented in the previous year, together with an analysis of their effectiveness and possible avenues for improvement; (iii) accompany the country-specific recommendations included in the 2022 report with deadlines for implementation, targets and concrete actions to be taken.

Judicial systems

Parliament stressed that Member States must fully comply with EU and international law as regards the **independence of the judiciary**. It called on the Commission to include concrete recommendations on this issue in its 2022 report. Recalling that **EU law has primacy over national law** regardless of how national judicial systems are organised, Members called on the Commission to (i) closely monitor national court decisions on the primacy of EU law over national laws and (ii) provide a concrete response to refusals to implement and respect CJEU rulings and report back to Parliament on actions taken in this regard.

Anti-corruption framework

Deeply concerned about the increasing level of corruption and deterioration in some Member States, Members called on the Commission to update and enhance the EU's anti-corruption policy and instruments, including a uniform definition of the crime of corruption and the definition of common standards and benchmarks, as well as ensuring their proper implementation and enforcement.

Freedom of expression and information, media freedom and pluralism

Parliament recalled that journalists and media are increasingly subject to intimidation, threats (including on social networks), criminal prosecution, physical attacks, violent incidents and killings in some Member States. It condemned the oppressive strategies used by governments in some Member States, such as SLAPPs or smear campaigns, as well as the increasing state control over public media, civil society and academic institutions.

Members regretted that the 2021 report does not reflect the gravity of these trends. They called on the Commission to improve the media-related chapters, to adopt EU legislation to combat the use of SLAPPs by setting minimum standards and to present an ambitious legal framework to counter the increasing politicisation of the media in some Member States in the upcoming Media Freedom Act.

Noting that false information and misinformation of European citizens threaten democracy and the rule of law in the EU, Members believe that much remains to be done in European media legislation to create a level playing field in view of the digital transformation of the media sector and the widespread use of online platforms.

Democracy and balance of powers

Parliament defended the position that the principle of the **separation of powers** is essential for the proper functioning of the state. It called on the Commission and Member States to take all necessary measures whenever a risk of election manipulation by state, foreign or private actors is identified in an EU Member State. It stressed that the illegal use of Pegasus and equivalent spyware by Member States against journalists, lawyers, opposition politicians and others poses a direct threat to democracy, the rule of law and human rights. It asked the Commission to assess the misuse of surveillance tools and its impact on democratic processes in the Union.

Fundamental rights and equality

Underlining its concern that women and vulnerable people continue to see some of their rights violated in the EU, Parliament recalled that in some circumstances Member States deliberately resort to measures that are questionable from the point of view of the rule of law, so as to legitimise discriminatory policies that could not otherwise be legislated for, such as provisions specifically targeting LGBTIQ people or the imposition of a near-total ban on abortion. It reiterated its call on the Commission to include in the scope of future reports a thorough assessment of the persistent violations of fundamental rights across the Union, including equality and the rights of persons belonging to minorities.

Mechanism for democracy, rule of law and fundamental rights

Parliament regretted the reluctance of the Commission and the Council to respond positively to Parliament's call, in its resolution of 7 October 2020, for a joint EU mechanism on democracy, the rule of law and fundamental rights, which should cover the full scope of Article 2 TEU values. It reiterated its call on the Commission and the Council to immediately enter into negotiations with Parliament on an interinstitutional agreement.

It also recalled the importance of the Rule of Law Conditionality Regulation where breaches of the principles of the rule of law affect or seriously risk affecting the sound financial management of the Union budget.

Lastly, Parliament called on the Commission to further strengthen the **regular, inclusive and structured dialogue** with national governments and parliaments, NGOs and other stakeholders, and to be more transparent about the criteria used to select the information from these stakeholders to be included in its annual reports.