

EP Wants New Strong Rule-of-Law Mechanism



Thomas Wahl

News

On 7 October 2020, a large majority of MEPs voted in favour of the [Resolution](#) on the establishment of an EU Mechanism on Democracy, the Rule of Law and Fundamental Rights. The Resolution was adopted with 521 to 152 votes and 21 abstentions. The EP has thereby intensified its demand to establish an EU mechanism on democracy, the rule of law and fundamental rights, which has been repeatedly called for since 2016 ([eucrim 2/2020, 69-70](#) with further references). MEPs warn “that the Union is facing an unprecedented and escalating crisis of its founding values, which threatens its long-term survival as a democratic peace project.” They voiced grave concerns over “the rise and entrenchment of autocratic and illiberal tendencies, further compounded by the COVID-19 pandemic and economic recession, as well as corruption, disinformation and state capture, in several Member States.” This trend endangers “the cohesion of the Union’s legal order, the protection of the fundamental rights of all its citizens, the functioning of its single market, the effectiveness of its common policies and its international credibility.”

The EP has annexed a concrete proposal for an inter-institutional agreement on reinforcing Union values. The core element of this proposal is an Annual Monitoring Cycle, which covers all aspects of Art. 2 TEU and applies equally, objectively and fairly to all Member States. The Annual Monitoring Cycle must contain country-specific clear recommendations, with timelines and targets for implementation, to be followed up in subsequent annual or urgent reports. The failure to implement the recommendations is linked to concrete Union measures, e.g. procedures under Article 7 TEU, infringement procedures and budgetary conditionality (once in force).

MEPs propose that the new mechanism consolidates and supersedes existing rule of law instruments, in particular the Commission’s annual Rule of Law Report, the Commission’s Rule of Law Framework, the Commission’s annual reporting on the application of the Charter, and the Council’s Rule of Law Dialogue. The findings of the Annual Monitoring Cycle should be used in the assessment for the purposes of triggering the Article 7 TEU procedure and of budgetary conditionality (once in force).

In relation to current rule of law concerns, the Resolution also raises the following issues:

- Demand for consistent action against attempts to jeopardise judicial independence;
- Swift conclusion of accession of the EU to the ECHR;
- Need for effective protection of civil society organisations, in particular human rights defenders and reporting actors;
- Actions (e.g. by funding and trainings) to promote awareness of the rule of law and judicial independence among the judiciary;

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- Better coordination between the EP and the Council as regards the progresses of Article 7 procedures;
- Need for a robust and effective budgetary conditionality mechanism;

The EP's resolution of 7 October 2020 is a first reaction to the Commission's strategy to strengthen the rule of law within the EU. In the opinion of the Parliament, the Commission's rule of law report (→ separate news item) – tabled one week before the Resolution – does not go far enough since it only invites to a dialogue with the EU institutions or countries concerned but does not include specific recommendations to address specific problems. MEPs also criticised that the Commission's report does not address all aspects of fundamental Union values as enshrined in Art. 2 TEU, e.g.. democracy and fundamental rights issues like freedom of association and respect for the rights of vulnerable persons, including women, persons with disabilities, Roma, LGBTI persons, and the elderly. The EP resolution backs a report by MEP *Michael Šimečka* (Renew, SK) that was discussed in the committees before the summer break ([eucrim 2/2020, 69](#)) and in [September 2020](#).

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