



EUROPEAN PARLIAMENT

2014 - 2019

*Committee on Civil Liberties, Justice and Home Affairs*

24/04/2015

**AMENDMENTS 1 - 1**

**Laura Ferrara**

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

**Motion for a resolution** PE546.782 - 2014/2254(INI)

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PE546.782\_Recital D b (new)  
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This document has been signed by:  
Ely Schlein (24/04/2015)  
Ana Gomes (24/04/2015)  
Dennis de Jong (24/04/2015)  
Ignazio Corrao (24/04/2015)

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**Amendment 1**

**Ana Gomes, Ignazio Corrao, Elly Schlein, Dennis de Jong**

**Motion for a resolution**

**Recital D b (new)**

*Motion for a resolution*

*Amendment*

*D b. (new) Whereas corruption perpetuates and aggravates unequal, unjust and discriminatory outcomes with regard to the equal enjoyment of fundamental rights, be these civil, political and economic or social and cultural rights; whereas corruption affects disproportionately the most disadvantaged and marginalised groups in society, namely by barring them from equal access to political participation, public services, justice, safety, land, jobs, education, health and housing; whereas corruption distorts the size and composition of government expenditure, seriously harming the state's capacity to harness to a maximum its available resources in order fully to realise economic, social and cultural rights, and whereas corruption diverts large amounts of funding from investment in the economy, hindering the recovery of Member States in economic hardship; whereas corruption fuels human rights*

*violations of the whistleblowers and  
victims to cover up the implicit crimes and  
criminals;*

Or. en



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**Motion for a resolution** PE546.782 - 2014/2254(INI)

**Amendment 1**

**Ana Gomes, Elly Schlein, Ignazio Corrao, Dennis de Jong**

**Motion for a resolution**

**Paragraph 21**

*Motion for a resolution*

21. Stresses that corruption *represents a* serious fundamental rights *violation*; calls on *the* Member States and *institutions to* devise *effective instruments for combating* corruption *and to monitor regularly the use of public funds, be they European or national*;

*Amendment*

21. Stresses that corruption *in the public and private sectors may lead to* serious *violations of* fundamental rights; calls on *all* Member States and *the EU to join the Open Government Partnership, and* devise *concrete strategies to promote transparency, empower citizens, fight* corruption; *calls on Member States to follow up on the recommendations of the European Commission's Anti-Corruption Report and strenghten police and judicial cooperation in fighting corruption*;

Or. en



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**2014/2254(INI)**6.3.2015 **DRAFT REPORT** on the situation of  
fundamental rights in the European Union (2013-  
2014)(2014/2254(INI))Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Laura Ferrara

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## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

### on the situation of fundamental rights in the European Union (2013-2014) (2014/2254(INI))

*The European Parliament,*

- having regard to the preamble of the Treaty on European Union (TEU), in particular its second and its fourth to seventh indents,
- having regard, inter alia, to Article 2, the second indent of Article 3(3) and Articles 6 and 7 TEU,
- having regard to the Charter of Fundamental Rights of the European Union of 7 December 2000 ('the Charter'), which was proclaimed on 12 December 2007 in Strasbourg and entered into force with the Treaty of Lisbon in December 2009,
- having regard to the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), the case law of the European Court of Human Rights, the conventions, recommendations, resolutions and reports of the Parliamentary Assembly, the Committee of Ministers, the Human Rights Commissioner and the Venice Commission of the Council of Europe,
- having regard to the European Social Charter, as revised in 1996, and the case law of the European Committee of Social Rights,
- having regard to the United Nations conventions on the protection of human rights and fundamental freedoms,
- having regard to the Communications from the Commission on the Strategy for the effective implementation of the Charter of Fundamental Rights by the European Union (COM(2010)0573) and the Operational Guidance on taking account of Fundamental Rights in Commission Impact Assessments (SEC(2011)0567),
- having regard to the Communication from the Commission on a new EU framework to strengthen the Rule of Law (COM(2014)0158) and the conclusions of the Council dated 16 December 2014 entitled 'ensuring respect for the Rule of Law',
- having regard to the 2013 Commission Report on the Application of the EU Charter of Fundamental Rights (COM(2014)0224), and to the accompanying working documents,
- having regard to the 2013 Commission Report on EU citizenship – EU citizens: your rights, your future (COM(2013)0269),
- having regard to the Commission Report on the 'implementation of the EU framework for national Roma integration strategies' (COM (2014)0209), and to the Council recommendation of 9 December 2013 on 'Effective Roma integration measures in the Member States',



- having regard to Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law<sup>1</sup>,
- having regard to the Commission’s ‘European Anti-corruption Report’ (COM(2014)0038),
- having regard to the proposal for a Council directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation (COM(2008)0426),
- having regard to Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data<sup>2</sup>,
- having regard to Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents<sup>3</sup>,
- having regard to the decisions and case law of the Court of Justice of the European Union, and the case law of national constitutional courts, which use the Charter as a reference for interpreting national law,
- having regard to Opinion 2/2013 delivered by the ECJ regarding the draft agreement on accession of the EU to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR),
- having regard to the hearing of Frans Timmermans before the European Parliament on 7 October 2014,
- having regard to strategic guidelines for establishing an area of freedom, security and justice adopted by the Council of Europe on 27 June 2014,
- having regard to the political guidelines for the new European Union Commission presented by President Juncker to the European Parliament on 15 July 2014,
- having regard to the annual conference of the European Union Agency for Fundamental Rights (FRA) on 10 November 2014 on the theme of ‘Fundamental Rights and Migration to the EU’,
- having regard to the work, annual reports and studies of the FRA,
- having regard to the reports and research carried out by nongovernmental organisations (NGO) on the subject of human rights and research requested in that field by the Committee on Civil Liberties, Justice and Home Affairs, in particular the study by Policy

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<sup>1</sup> OJ L 328, 6.12.2008, p. 55.

<sup>2</sup> OJ L 281, 23.11.1995, p. 31.

<sup>3</sup> OJ L 145, 31.5.2001, p. 43.

Department C on the impact of the crisis on fundamental rights across the Member States of the EU,

- having regard to its resolutions on fundamental rights and human rights, in particular the latest dated 27 February 2014 on the situation of fundamental rights in the European Union (2012),
  - having regard to Rule 52 of its Rules of Procedure,
  - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A8-0000/2015),
- A. whereas, under Article 2 TEU, the EU is founded on respect for human dignity, freedom, democracy, equality, the rule of law and human rights, values which are shared by all the Member States and which must be upheld by the EU, and by each individual Member State, in everything they do;
- B. whereas establishing an area of freedom, security and justice as described in Title V of the Treaty on the Functioning of the European Union (TFEU) requires the EU and each Member State to uphold fundamental rights in full;
- C. whereas the EU is undergoing a period of economic and financial crisis, and whereas the response of the EU and the Member States has seriously compromised the wellbeing of citizens and their fundamental rights;
- D. whereas, following recent terrorist attacks on EU territory, fundamental rights are at risk of being seriously compromised in the name of a supposed need for tighter security;
- E. whereas, under Article 6 TEU, the EU has a responsibility to uphold and enforce fundamental rights in any action it takes, regardless of its powers in the area concerned;
- F. whereas Member States cannot reduce the level of guarantees offered in their own constitutions in respect of certain rights on the pretext that the Charter of Fundamental Rights provides for a lower level of protection;
- G. whereas many fundamental rights violations still occur in the EU and in Member States, as pointed out in reports by the Commission, the FRA, NGOs, the Council of Europe and the UN;

### ***Institutional questions***

1. Notes that it is essential to guarantee that the common European values listed in Article 2 TEU are upheld in full in both European and national legislation;
2. Notes that Article 6 TEU requires the Union to accede to the ECHR; notes Opinion 2/2013 of the Court of Justice of the European Union; calls on the Commission and the Council to draw up proposals designed to ensure that the aforementioned obligation is met as quickly as possible, on the basis of full transparency and with the aim of enhancing the protection of individuals and making the European institutions more accountable for their actions or failings regarding fundamental rights;

3. Welcomes the appointment of the first Vice-President of the Commission with powers relating to respect for the rule of law and the Charter, and expects to see an internal strategy on fundamental rights based on Article 2 TEU adopted in the near future, in close cooperation with the other institutions and in consultation with civil society and other interested parties;
4. Urges the Commission to ensure that any such internal strategy is accompanied by an action plan, in order to supplement and strengthen the Strategic Framework on Human Rights and Democracy already applied in EU external relations; notes that the strategy should:
  - a) make provision for an annual policy cycle that monitors its application, taking account of the results of annual and specific reports from the various parties involved, institutional and otherwise, and contribute towards improving coordination between those involved and the drafting of policies on the basis of greater transparency and dialogue;
  - b) develop a pro-active plan of action consistent with the principle of subsidiarity that:
    - lays down the measures to be taken in order to enforce all the rights and principles laid down by the Charter, for example by identifying areas in which reforms are necessary, introducing new standards, improving monitoring and ensuring more effective application of existing standards;
    - stipulates that all European policies and actions, including in the economic sphere, and all EU-funded measures must undergo a detailed *ex ante* and *ex post* assessment of their impact on fundamental rights;
  - c) develop, in cooperation with the FRA, a database that collates and publishes data on the situation regarding fundamental rights in the EU and in individual Member States; reiterates, in that connection, the need for the Commission to propose a revision of the FRA Regulation in order to grant the FRA wider powers;
  - d) broaden the scope of the EU Justice Scoreboard to cover the assessment of criminal justice systems and of efforts to uphold fundamental rights and the rule of law;
5. Notes the Commission's Communication on a new EU Framework to strengthen the rule of law; considers, however, that the proposed mechanism will not act as a sufficient deterrent when it comes to preventing and resolving fundamental rights violations in Member States;
6. Calls on the Commission to review the said mechanism with the aim of:
  - a) making it part of the internal strategy on fundamental rights;
  - b) clearly defining the criteria for its application and ensuring that it is implemented swiftly without waiting for fundamental rights violations to materialise;
  - c) ensuring the full involvement, at the launch and dialogue stages, not only of the Commission and the Member State in question, but also of the European Parliament, the

Council, national parliaments, the FRA and civil society, and guaranteeing the use of all available data;

- d) ensuring that Article 7 TEU is implemented automatically, should such a mechanism fail, and that the possibility of imposing further penalties in keeping with European law is considered;

### **Freedom and security**

7. Deplores recent instances of anti-Semitic and anti-Islamic discrimination and violence; calls on Member States to protect freedom of religion or belief and to promote tolerance;

### **Equality**

8. Deplores the fact that even today people belonging to minorities are still victims of discrimination;
9. Strongly deplores the fact that negotiations within the Council on the proposal for an anti-discrimination directive have stalled, and reiterates its call to the Council to adopt the proposal as soon as possible;
10. Urges the EU and the Member States to ban all discrimination on grounds of gender identity and to combat and prosecute all forms of violence and discrimination against women;
11. Condemns all forms of discrimination and violence on EU territory against lesbian, gay, transsexual, bisexual and intersex people (LGBTI), as fostered by laws and policies that restrict the fundamental rights of these persons; calls on the Commission and Member States to adopt laws and policies to combat homophobia and transphobia;
12. Deplores the discrimination and exclusion that persons with a disability still face today; calls on the Commission and the Member States to implement the European Disability Strategy and to monitor and apply the relevant European legislation;
13. Expresses its concerns regarding investigations and convictions in connection with hate crimes in the Member States; calls 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; calls for a review of the framework decision on racism and xenophobia;

### **Migrants and refugees**

14. Deplores the repeated and tragic losses of life in the Mediterranean; reiterates the need to make every possible effort to:
  - save the lives of persons in danger;
  - improve legal avenues for refugees;
  - introduce new procedures for legal entry into the EU;

15. Condemns the practice of detaining irregular migrants, including unaccompanied minors, as a prelude to their expulsion; calls on Member States to comply with the provisions of the ‘Return Directive’;
16. Calls for an investigation into the use of funds earmarked for home affairs;

### **Solidarity in the crisis – austerity**

17. Deplores the way in which the financial and economic crisis and the measures taken to deal with it have had an impact – in some cases a drastic one – on economic, social and cultural rights, resulting in poverty, isolation and exclusion especially in light of the fact that social exclusion determines marginalisation of individuals and makes them vulnerable to a parallel criminal or terrorist system which offers power, money and sense of belonging.
18. Emphasises that, in Member States subject to economic adjustment programmes, the EU institutions are also responsible for the associated conditions; stresses that the EU institutions are always under an obligation to observe the Charter, even when acting outside the framework of EU law;
19. Calls on the EU institutions to look into the impact on fundamental rights of the measures proposed or implemented to deal with the crisis and to take remedial action immediately;
20. Calls on the EU institutions, when adopting and implementing austerity measures, to guarantee that sufficient resources are still made available to ensure the satisfaction of minimum essential levels of economic and social rights;

### **Criminality and the fight against corruption**

21. Stresses that organized criminal groups, included mafia-style ones, are systems of exploitation based on privileges and on the deprivation of basic rights; these groups are fueled by unemployment, by under-development, by corruption and also and especially, by social exclusion;
- ~~22.~~ Ascertains that criminal organizations see their power increase through usury and money laundering which are two phenomenons endorsed also by a liquidity and solvency crisis, “credit crunch”, social fragmentation and loss of trust in institutions; which means that the more poverty increases, the more social inequity develops, the more criminal organizations, included mafia-style ones, are strengthened and the more corruption flourishes;
23. ~~Stresses that corruption represents a serious fundamental rights violation;~~ calls on the Member States and institutions to devise effective instruments for combating corruption and to monitor regularly the use of public funds, be they European or national;
24. Recognises that adequate social welfare provisions (such as minimum income) are one of the most effective ways to contrast poverty, to guarantee a standard of life which respects human dignity and to promote social integration which, in turn, determine freedom of choice and make individuals less liable to be blackmailed thus making these

economic measures a fundamental tool in the fight to overcome organized crime and corruption;

25. Realizes that continued efforts need to be made in order to implement and maintain the above mentioned measures in all Member States.

#### **Detention conditions**

22. Deplores the conditions in the prisons of numerous Member States; regards it as essential that the EU should adopt an instrument which guarantees that the recommendations of the European Committee for the prevention of torture and inhuman or degrading treatment and punishment (CPT) and the judgments of the ECtHR are implemented;
23. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States and the candidate countries, the United Nations, the Council of Europe and the Organisation for Security and Cooperation in Europe.

## EXPLANATORY STATEMENT

This report on the state of fundamental rights in the EU in 2013 and 2014 should be seen within an institutional context that is particularly favourable and sensitive with regard to the respect for fundamental rights in the European Union of today. A new parliamentary term has just started and the new Commission has just taken office, in which respect for the Charter of Fundamental Rights plays an important part in the light of the mandate of the first Vice-President and his role of guarantor of the protection of fundamental rights in the European Union.

The Charter of Fundamental Rights recognises a series of personal, civil, political, economic and social rights of citizens and residents of the EU. When the Treaty of Lisbon came into force, the Charter was given the same binding legal status as the Treaties. All citizens and residents of the EU should be able to enjoy the rights contained therein, without distinction of sex, religion, sexual orientation or colour of skin. Unfortunately, institutional players and non-governmental organisations are reporting an alarmingly high number of instances of violations of fundamental rights still taking place within the territory of Member States of the European Union.

This is unacceptable. The reaction of European Institutions and Member States must be firm and resolute in preventing and putting an end to such violations. Too many actions have been proposed in the past by this Parliament that have not been properly followed through and there have been too many violations of fundamental rights that have not been prevented or that continue to be perpetrated.

In this report, the rapporteur would like to start with the proposals and recommendations made by this Parliament in previous reports on the state of fundamental rights and propose new solutions. The report is divided into two parts, the first part dealing with institutional questions and the second analysing the state of specific fundamental rights.

In her work, the rapporteur has consulted major institutional players including the European Union Agency for Fundamental Rights and the Commissioner for Human Rights of the Council of Europe, the ombudsmen of Member States and all the major players from civil society who were consulted by means of a questionnaire on the state of fundamental rights in their countries and areas of competence.

In the first part of the report, the rapporteur proposes formulating a genuine internal strategy on fundamental rights in the European Union based on the enforcement of Article 2 of the EU Treaty and which involves all of the organs of the European Union active in the field of respect for fundamental rights. It is necessary to ensure consistency with the Strategic Framework on Human Rights and Democracy in the context of foreign relations and above all to overcome the so-called 'Copenhagen dilemma', namely to verify thoroughly that there is respect for fundamental rights and the Rule of Law not only in those countries applying for membership of the EU but also in States that are already members. Furthermore, in order that the proposed strategy can be truly effective, it is necessary to introduce a mechanism that can act as a real deterrent that is sufficient to prevent and eradicate instances of violations of

fundamental rights in Member States.

In the second part of the report, the rapporteur deals in detail with a series of violations that she considers should have priority in the light of the current political situation such as freedom of expression, the need to guarantee a fair balance between respect for fundamental rights and guaranteed collective safety, the impact of austerity policies and corruption on fundamental rights, and the situation inside prisons. Furthermore, areas are touched on for which the EU has full powers such as the fight against discrimination and the protection of the rights of migrants and refugees.