

## Regarding the Protection of Rule of Law

Resolution submitted by: *Political Commission 1, Political Commission 2*

### JEF Europe,

- *Recalling* how the project of the European Union, as envisaged by the founding Fathers and Mothers, was aimed at the creation of the European Federation as the only possible way of preserving peace within Europe. However, today that project is severely compromised by the illiberal, nationalist and authoritarian tendencies that have spread across national Governments and our society;
- *Strongly emphasising* the rule of law as one of the core principles which the European Union is built upon;
- *Reiterating* that the European Union is based on a number of fundamental values, outlined in the Treaty on European Union, the Treaty on the Functioning of the European Union, the Charter of Fundamental Rights of the European Union and the common constitutional traditions of the Member States;
- *Recalling* the strong role that legal process and respect for the rule of law at all levels of government have played in European integration and in defining the identity that the EU has ascribed to itself;
- *Alarmed* by the increase in violations of the rule of law especially in the area of fundamental civil rights and political freedoms in EU Member States among which Poland and Hungary, now considered illiberal states, but also countries such as , but not limited to, Italy, Romania, Slovakia and Malta where rule of law has been put at risk by several and different episodes, which is no less serious;
- *Further alarmed* by the reluctance of many other national governments and European leaders to stand up to this development;
- *Worried about* how governments and political parties are exploiting the phenomenon of migration flows to increase citizens' fears and uncertainties in order to justify measures aimed at attacking the basic principles of democracy and limiting freedom;
- *Noting with concern* that some Member States' governments use states of emergency to justify adopting measures which are partly or wholly inconsistent with European rule



of law and oppose the Union's values as well as threaten or restrict fundamental freedoms;

- *Acknowledging* the limits of existing mechanisms such as infringement procedures according to Art. 258 TFEU to address the systematic nature of violating the rule of law;
- *Welcoming* the efforts by the European Commission to safeguard the rule of law in the EU's Member States through the initiation of the Rule of Law Framework;
- *Noting with concern* that so far the Framework has been ineffective, as the ongoing dialogue between the Commission and the governments has not led to any change while instead allowing the governments to buy time;
- *Welcoming* the Democracy, Rule of Law and Fundamental Rights (DRF) pact as proposed by the European Parliament in the Tavares Report (2012), in the in't Veld Report (2015), in the Resolution of 14 November 2018, and as detailed in the European added value Report (2015);
- *Considering* that the EU's legal framework still remains ill-equipped to deal with the violation of the rule of law in Member States; in particular, the Rule of Law procedure, outlined in Art. 7 Treaty on European Union (TEU), whereby the EU is virtually unable to sanction gross violations of EU fundamental values in the Member States, requiring a unanimous vote in the Council for sanctions to be activated;
- *Observing* in particular a gap between the Copenhagen Criteria used to assess the accession of countries to the Union and the reactive nature of the aforementioned Rule of Law Framework and the Rule of Law procedure;
- *Noting further* the difficulty of communicating the urgent character of the topic to citizens when the procedures carry non-descriptive names such as "Art. 7 procedure" or "preventive mechanism" (i.e. Art. 7(1) TEU);
- *Recalling* that the European Court of Justice (ECJ), acting as guardian of the correct interpretation and application of EU law, has always played a fundamental role in the process of European integration by fostering the supranational nature of the Union;
- *Alarmed by* the recent attacks, such as funding cuts and smear campaigns, by some governments of the Member States towards many NGOs that promote European values and the rule of law, as their function is central for any stable democracy;
- *Recalling* JEF Europe's deep commitment to the rule of law and the safeguarding of democracy, especially through the annual pan-European campaign Democracy under Pressure;
- *Reaffirming* how a Federal Europe can exist only on the basis of the rule of law and solid democratic structures to guarantee rights that today are steadily undermined by those who are supposed to safeguard them;



**JEF EUROPE therefore,**

1. *Calls* on the European Commission and European Council to make use of existing instruments, such as the rule of law procedure of Art. 7 TEU, whenever there is the danger of severe violation of fundamental principles and not only when it is politically feasible;
2. *Calls* for the dialogue procedure of the Rule of Law Framework between the European Commission and national governments who violate rule of law to be limited in time to a period of maximum of six months;
3. *Calls* for a reconsideration of the Rule of Law procedure (Article 7(2) TEU) suggesting a qualified majority vote instead of unanimity when identifying a serious and persistent breach of fundamental European values;
4. *Further recommends* the creation of guidelines for the Rule of Law procedure to avoid discussions on procedure that merely buys time for the respective Member State;
5. *Stresses* that access to EU funding should be suspended to any government entity of those Member States that are violating the rule of law in a manner proportionate to the gravity of the violations. However, individual beneficiaries of EU funding should not be affected by this procedure;
6. *Welcomes* the position of the European Parliament on the new instrument proposed by the European Commission for the protection of the Union's budget in case of generalised deficiencies concerning the rule of law in the Member States, as in this way EU funding would be suspended in case of breaches of rule of law and governments are obliged to compensate for such suspended funds in order to prevent non-governmental recipients being affected by the sanctions;
7. *Calls* for formal involvement of the European Parliament in the Rule of Law procedure according to Article 7 TEU in order to ensure representation of the European people;
8. *Calls* on the European Commission to finally follow the European Parliament's proposal and set up a plan for the introduction of a European Review Mechanism on Democracy, Rule of Law and Fundamental Rights (DRF); in particular:
  - a. an annual scoreboard on the state of DRF in the Member States shall be elaborated by an independent panel of experts and formally adopted by the Commission;



- b. the formal adoption of the DRF Scoreboard by the Commission shall initiate the DRF Semester, which shall aim at addressing the results of the DRF Scoreboard and recommendations included in country-specific reports;
    - c. a systematic fundamental rights impact assessment shall be carried out for all legislative proposals by the Commission;
9. *Encourages* that, in the next mandate of the European Parliament, Rule of Law monitoring groups will be re-established within the respective committees;
10. *Calls* on all the European political parties and families and their representatives
  - a. to take responsibility for ensuring that the respective national parties are committed to European values and the rule of law;
  - b. to have clear procedures in case of violation of the European values by one or more of their members and make their rules transparent to the public;
  - c. to include citizens being members of the individual parties in the process, e.g. giving them the possibility to set a problem on the agenda of the assemblies of the respective European political family;
11. *Calls* for Treaty changes with the effect of conferring to the European Court of Justice the authority to effectively ensure the application of the rule of law in the European Union and its Member States and the subsequent necessary increase of the capacities of the ECJ. The ECJ should in particular:
  - a. Make more effort to ensure Member States respect the Charter of fundamental rights addressing laws of EU Member States which are not consistent with it;
  - b. Receive direct complaints from individuals regarding the violation of their fundamental rights as protected by European law;
  - c. Re-evaluate its position regarding the relation between EU law and the European Convention on Human Rights, thus allowing the accession of the EU to the European Convention on Human Rights as mentioned on the Article 6(2) TEU;
12. *Calls* for more ways of funding NGOs that work to protect the rule of law within the EU, as their work is fundamental to the increase in participatory democracy and citizens' support of European values. This should be done by implementing either a stronger operational funding or the creation of an EU fund. Eventually, it should aim at creating a better and stronger NGO sector to hold governments accountable while keeping the public involved;



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13. *Calls* for a sustainable funding of international organisations, including but not limited to, the United Nations and the Council of Europe, which are financed by contributions from nation-states and play an important role in protecting rule of law.