

Resolution of the European Committee of the Regions — on the Rule of Law in the EU from a local and regional perspective

(2017/C 272/02)

THE EUROPEAN COMMITTEE OF THE REGIONS (CoR)

- having regard to the Commission communication of 11 March 2014 entitled ‘A new EU Framework to strengthen the Rule of Law’ (COM(2014) 158) and the conclusions of the Council of the EU and the Member States meeting within the Council of 16 December 2014 on ensuring respect for the rule of law;
 - having regard to its opinion of 12 February 2015 on ‘local and regional authorities and the multilevel protection of the rule of law and fundamental rights in the EU’;
 - having regard to the European Parliament’s resolution of 25 October 2016 with recommendations to the Commission on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights;
 - having regard to Article 4(3) and Article 5 TEU on the application of the principles of subsidiarity;
1. is concerned that a number of developments in recent years within the European Union and globally are challenging the rule of law, a fundamental pillar of democracy;
 2. points out that the European Union is founded on a common set of fundamental values, which include respect for democracy and the rule of law, as stipulated in Article 2 of the Treaty on European Union (TEU), the Charter of Fundamental Rights of the EU, and the European Convention on Human Rights (ECHR);
 3. expects Member States to abide by their obligation to respect these values, as they form the basis for mutual trust between the Member States, between the Member States and the EU institutions, and in particular between citizens and all levels of government;
 4. likewise notes that the European Commission, European Council, European Court of Justice, and European Court of Human Rights, as well as the Council of Europe, have at various stages confirmed that the rule of law requires compliance with at least the following principles: legality, transparency, accountability, separation of powers, a democratic and pluralistic process for the enactment of laws, legal certainty, prohibition of arbitrary acts by the executive powers, independent and impartial courts, effective judicial review, respect for fundamental rights, equality before the law, freedom of expression, and freedom of assembly;
 5. points out, however, that existing instruments have fallen short in ensuring full application and enforcement of these principles;
 6. underlines therefore that how citizens experience the rule of law at local and regional level is just as important as their experience of it at national and European level;
 7. points out that there are nearly one hundred thousand subnational authorities in the EU, which bear much of the responsibility for implementing fundamental rights and freedoms in their dealings with people in all their diversity;
 8. considers that the stakes are higher than ever when it comes to the EU to equipping itself with an effective rule of law mechanism: against the backdrop of a changing security environment for Europe and the withdrawal of one of its Member States, the EU needs to become more cohesive, based on the understanding that European solidarity is not a one-way street. All EU Member States and all levels of government should live up to their mutual obligations and defend the European project as a value-based entity against a rising pan-European movement which puts Europe’s fundamental values into question;
 9. emphasises that, in order to uphold the rule of law and fundamental rights, the participation of active, independent and pluralistic civil society organisations and NGOs in the democratic processes and in overseeing the proper functioning of checks and balances on state institutions and powers is essential;

10. highlights that, while rule of law recommendations based on the 2014 Framework are still in effect, the Framework has not led to tangible outcomes so far. It is particularly regrettable that the Rule of Law Framework provides guidance for 'constructive dialogue' between the Commission and the Member State concerned, but does not involve at the earliest possible stage the different levels of governance, including the local and regional levels, as well as civil society. This is all the more regrettable since the EU institutions and Member States should always make it clear that, while proceedings are ongoing with the government of a given Member State, they do not intend to isolate a country and are still willing to engage with the society of that state;

11. therefore endorses the European Parliament's resolution of 25 October 2016 with recommendations to the Commission on the establishment of a single EU mechanism on democracy, the rule of law and fundamental rights which would incorporate the existing instruments, and calls for that mechanism to be applicable to all levels of government;

12. stresses that such a mechanism should be objective, based on evidence and facts, fair assessment, and the principle of equal treatment of all Member States, and consistent with the principles of subsidiarity and proportionality;

13. expects the mechanism, on the one hand, to fully involve local government in the dialogue between the Commission and the Member States, and on the other, to give them the opportunity to refer matters directly to the Commission if they identify threats to the rule of law;

14. points out that the obligations incumbent on candidate countries under the Copenhagen criteria continue to apply to the Member States after joining the EU by virtue of Article 2 TEU and that, in light of this, all levels of government in all Member States should be assessed in accordance with the mechanism in order to ascertain their continued compliance with the EU's basic values of respect for fundamental rights, democratic institutions and the rule of law;

15. points out that organised crime and corruption undermine democracy and the rule of law and lead to significant economic, social and political distortions. The new mechanism should provide for better implementation and enforcement of international and EU standards, tackling the gaps and barriers that hinder the fight against organised crime and corruption at all levels of government. A strong commitment on the part of local, regional and national authorities is key to encouraging concrete steps to combat corruption and to making anti-corruption efforts sustainable and irreversible. Corruption laws must apply equally to all and be enforced at every level in order to guarantee the trust that citizens, civil society and public authorities have in the legal systems of the EU Member States;

16. expresses concern that the Rule of Law recommendations might encourage calls to introduce political conditionality. The Committee of the Regions strongly opposes the idea of local and regional authorities being held hostage to policies pursued by national governments, which might lead to a suspension of EU funding for cities and regions; it nevertheless supports the provisions contained in the Partnership Agreements to suspend funding in case of a breach of the rule of law by local and regional authorities;

17. notes that the curtailment of freedom of the press and pluralism, and the manipulation of information which has been facilitated by the development of modern technologies and social media, impact negatively on the exercise of democracy at all levels of government. The ongoing review of the Audio-visual Media Services Directive (AVMSD) is therefore very important. As emphasised by the CoR, this should ensure that:

— the independence of national regulatory authorities, both from public authorities, audiovisual actors and political parties, is a cornerstone of the European Audiovisual Media Regulation, which Member States are responsible for ensuring at all costs, and which is the primary guarantee of the diversity of information and a pluralistic media market at European, national, local and regional level;

— transparency of media ownership is established;

— the role of platform providers in both the AVMSD and the Directive on Electronic Commerce is defined;

- general guidelines and recommendations for social media network providers and other public platforms to limit the spread of unreliable and false information from unverified sources, or ‘fake news’ and ‘alternative facts’, as these pose a threat to the democratic process, in particular in the run-up to elections, are set out;
18. instructs its President to forward this resolution to the Commission, the European Parliament, the Council, the President of the European Council and the Maltese Presidency of the Council of the EU, as well as the Congress of Local and Regional Authorities of the Council of Europe.

Brussels, 24 March 2017.

*The President
of the European Committee of the Regions*

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