



EUROPEAN PARLIAMENT

2009 - 2014

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*Plenary sitting*

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**A7-0051/2014**

27.1.2014

# REPORT

on the situation of fundamental rights in the European Union (2012)  
(2013/2078(INI))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Louis Michel

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## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

### on the situation of fundamental rights in the European Union (2012) (2013/2078(INI))

*The European Parliament,*

- having regard to the preamble of the Treaty on European Union (‘EU Treaty’), notably its second and its fourth to seventh indents,
- having regard in particular to Article 2, Article 3(3), second indent, and Articles 6 and 7 of the Treaty on European Union, and to the articles of the TEU and TFEU relating to respect for and promotion and protection of fundamental rights in the EU,
- having regard to the Charter of Fundamental Rights of the European Union of 7 December 2000 (‘the Charter’), proclaimed on 12 December 2007 in Strasbourg, which 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 United Nations conventions on the protection of human rights and fundamental freedoms,
- having regard to the UN Convention on the Rights of Persons with Disabilities, to which the EU is a party, along with almost all its Member States,
- having regard to the guiding principles on extreme poverty and human rights, adopted on 27 October 2012 by the United Nations Human Rights Council (A/HRC/21/39),
- having regard to the Commission communications entitled ‘Article 7 of the Treaty on European Union – Respect for and promotion of the values on which the Union is based’ (COM(2003)0606), ‘Strategy for the effective implementation of the Charter of Fundamental Rights by the European Union’ (COM (2010)0573), and ‘Operational Guidance on taking account of Fundamental Rights in Commission Impact Assessments’ (SEC(2011)0567),
- having regard to the conclusions on the Council’s actions and initiatives for the implementation of the Charter of Fundamental Rights of the European Union, adopted

by the Council on 23 May 2011, and to the Council's Guidelines on methodological steps to be taken to check fundamental rights compatibility at the Council's preparatory bodies<sup>1</sup>,

- having regard to the 2013 Commission Report on the Application of the EU Charter of Fundamental Rights (COM(2013)0271) and to the accompanying staff working documents,
- having regard to the EU Citizenship Report 2013 entitled 'EU citizens: your rights, your future' (COM(2013)0269),
- having regard to the 'Stockholm Programme – an open and secure Europe serving and protecting citizens'<sup>2</sup>,
- having regard to the Commission Communication on an EU Framework for National Roma Integration Strategies up to 2020 (COM(2011)0173) and the European Council conclusions of 24 June 2011,
- having regard to the Commission communication entitled 'Steps forward in implementing national Roma integration strategies' (COM(2013)0454) and to the proposal for a Council Recommendation on 'Effective Roma integration measures in the Member States' (COM(2013)0460),
- 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>3</sup>,
- having regard to Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin<sup>4</sup>, Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation<sup>5</sup> and 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>6</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>1</sup>,

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<sup>1</sup>Council Document 10140/11 of 18 May 2011.

<sup>2</sup>OJ C 115, 4.5.2010.

<sup>3</sup>OJ L 328, 6.12.2008, p. 55.

<sup>4</sup>OJ L 180, 19.7.2000, p. 22.

<sup>5</sup>OJ L 303, 2.12.2000, p. 26.

<sup>6</sup>OJ L 281, 23.11.1995, p. 31.

- 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 the State of the Union address by Mr Barroso to the European Parliament on 11 September 2013 and the speech by Mrs Reding on the European Union and the rule of law on 4 September 2013 at the Centre for European Policy Studies (CEPS) in Brussels,
- having regard to the letter of 6 March 2013 sent by the Ministers of Foreign Affairs of Germany, Denmark, Finland and the Netherlands to the Commission President, Mr Barroso, calling for the establishment of a mechanism to foster compliance with fundamental values in the Member States,
- having regard to the Council conclusions of 6 and 7 June 2013 on fundamental rights and the rule of law and on the 2012 Commission Report on the Application of the Charter of Fundamental Rights of the European Union,
- having regard to the conclusions of the conference on ‘A Europe of equal citizens: equality, fundamental rights and the rule of law’, organised by the Irish Presidency of the Council on 9 and 10 May 2013,
- having regard to the fourth annual symposium of the European Union Agency for Fundamental Rights (FRA) of 7 June 2013 on ‘Promoting the rule of law in the EU’,
- having regard to the draft Council conclusions on the evaluation of the European Union Agency for Fundamental Rights of 13 September 2013,
- having regard to the activities, annual reports, studies and opinions of the FRA, in particular the Annual Report on the situation of fundamental rights in the EU in 2012,
- having regard to the joint report by the FRA, the UNDP, the World Bank and the Commission entitled ‘The situation of Roma in 11 EU Member States – Survey results at a glance’, published in May 2012,
- having regard to the report by the UN Special Rapporteur on the human rights of migrants, published in April 2013, on ‘Management of the external borders of the European Union and its impact on the human rights of migrants’,
- having regard to NGO reports and studies on human rights and the relevant studies requested by the Committee on Civil Liberties, Justice and Home Affairs, in particular the study on ‘The triangular relationship between fundamental rights, democracy and the Rule of Law in the EU - towards an EU Copenhagen mechanism’,

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<sup>1</sup> OJ L 145, 31.5.2001, p. 43.

- having regard to its resolutions on fundamental rights and human rights, in particular its resolution of 15 December 2010 on the situation of fundamental rights in the European Union (2009) – effective implementation after the entry into force of the Treaty of Lisbon<sup>1</sup> and its resolution of 12 December 2012 on the situation of fundamental rights in the European Union (2010-2011)<sup>2</sup>,
- having regard to its resolution of 22 April 2004 on the risks of violation, in the EU and especially in Italy, of freedom of expression and information (Article 11(2) of the Charter of Fundamental Rights)<sup>3</sup>,
- having regard to its resolution of 8 June 2005 on the protection of minorities and anti-discrimination policies in an enlarged Europe<sup>4</sup>,
- having regard to its resolution of 10 July 2008 on the census of the Roma on the basis of ethnicity in Italy<sup>5</sup>,
- having regard to its resolution of 17 September 2009 on the Lithuanian Law on the Protection of Minors against the Detrimental Effects of Public Information<sup>6</sup>,
- having regard to its resolution of 9 September 2010 on the situation of Roma and on freedom of movement in the European Union<sup>7</sup>,
- having regard to its resolution of 19 January 2011 on violation of freedom of expression and discrimination on the basis of sexual orientation in Lithuania<sup>8</sup>,
- having regard to its resolution of 9 March 2011 on the EU strategy on Roma inclusion<sup>9</sup>,
- having regard to its resolution of 10 March 2011 on media law in Hungary<sup>10</sup>,
- having regard to its resolution of 21 May 2013 on the EU Charter: standard settings for media freedom across the EU<sup>11</sup>,
- having regard to its resolution of 24 May 2012 on the fight against homophobia in Europe<sup>12</sup>,

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<sup>1</sup> OJ C 169 E, 15.6.2012, p. 49.

<sup>2</sup> Texts adopted, P7\_TA(2012)0500.

<sup>3</sup> PJ C 104 E, 30.4.2004, p. 1026.

<sup>4</sup> OJ C 124 E, 25.5.2006, P. 405.

<sup>5</sup> OJ C 294 E, 3.12.2009, p. 54.

<sup>6</sup> OJ C 224 E, 19.8.2010, p. 18.

<sup>7</sup> OJ C 308 E, 20.10.2011, p. 73.

<sup>8</sup> OJ C 136 E, 11.5.2012, p. 50.

<sup>9</sup> OJ C 199 E, 7.7.2012, p. 112.

<sup>10</sup> OJ C 199 E, 7.7.2012, p. 154.

<sup>11</sup> Texts adopted, P7\_TA(2013)0203.

<sup>12</sup> OJ C 264 E, 13.9.2013, p. 54.

- having regard to its resolution of 14 March 2013 on strengthening the fight against racism, xenophobia and hate crime<sup>1</sup>,
- having regard to its resolution of 15 September 2011 on the EU's efforts to combat corruption<sup>2</sup>,
- having regard to its resolution of 23 October 2013 on organised crime, corruption and money laundering: recommendations on action and initiatives to be taken (Final Report)<sup>3</sup>,
- having regard to its resolution of 3 July 2013 on the situation of fundamental rights: standards and practices in Hungary (pursuant to its resolution of 16 February 2012)<sup>4</sup>,
- having regard to its resolution of 11 September 2012 on alleged transportation and illegal detention of prisoners in European countries by the CIA: follow-up of the European Parliament TDIP Committee report<sup>5</sup> and its follow-up resolution of 10 October 2013<sup>6</sup>,
- having regard to its resolution of 11 September 2013 on endangered European languages and linguistic diversity in the European Union<sup>7</sup>,
- having regard to the 1979 UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),
- having regard to the European Pact for Gender Equality (2011-2020), adopted by the Council in March 2011,
- having regard to the Commission communication of 21 September 2010 entitled 'Strategy for equality between women and men 2010-2015' (COM(2010)0491),
- having regard to the Council of Europe Convention on preventing and combating violence against women and domestic violence of 7 April 2011,
- having regard to its resolution of 5 April 2011 on priorities and outline of a new EU policy framework to fight violence against women<sup>8</sup> and of 6 February 2013 on the 57th session on UN CSW: Elimination and prevention of all forms of violence against

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<sup>1</sup> Texts adopted, P7\_TA(2013)0090.

<sup>2</sup> OJ C 51 E, 22.2.2013, p. 121.

<sup>3</sup> Text adopted, P7\_TA(2013)0444.

<sup>4</sup> Texts adopted, P7\_TA(2013)0315.

<sup>5</sup> OJ C 353 E, 3.12.2013, p. 1.

<sup>6</sup> Texts adopted P7\_TA(2013)0418.

<sup>7</sup> Texts adopted, P7\_TA(2013)0350.

<sup>8</sup> OJ C 296 E, 2.10.2012, p. 26.

women and girls<sup>1</sup>,

- having regard to its resolution of 24 May 2012 with recommendations to the Commission on application of the principle of equal pay for male and female workers for equal work or work of equal value<sup>2</sup>,
  - having regard to working documents I and II on the situation of fundamental rights in the European Union in 2012 (rapporteur Louis Michel),
  - having regard to the public hearing held on 5 November 2013 by the Committee on Civil Liberties, Justice and Home Affairs on ‘The situation of fundamental rights in the European Union: how to strengthen fundamental rights, democracy and the rule of law in the EU’,
  - having regard to Rule 48 of its Rules of Procedure,
  - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinions of the Committee on Employment and Social Affairs and the Committee on Women’s Rights and Gender Equality (A7-0051/2014),
- A. whereas European integration is a political project born out of the ashes of the Second World War and the persecution and repression of individuals by totalitarian regimes, and whereas its aim has been to anchor European states to democracy and the rule of law in order to respect and promote human rights, fundamental rights, equality and the protection of minorities, on the basis of the Universal Declaration of Human Rights (UDHR), the European Convention on Human Rights (ECHR) and other instruments on human rights and fundamental freedoms, and avoid a return to any kind of authoritarian regime;
- B. whereas the individual, citizen or resident, must be at the centre of the European Union, and whereas fundamental rights protect any individual against possible interference, abuse and violence by authorities – at all levels – with respect to their private life and their rights and freedoms; and whereas respect for and promotion of human rights, fundamental freedoms, democracy and the values and principles enshrined in the EU treaties and international human rights instruments (UDHR, ECHR, ICCPR, ICESCR, etc.) must be at the centre of European integration;
- C. whereas the European Union has developed a fundamental acquis, which aims to ensure that fundamental rights are respected, protected and promoted, including through the development of the ‘Copenhagen criteria’, the inclusion of Articles 2, 6 and 7 in the EU

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<sup>1</sup> Texts adopted, P7\_TA(2013)0045.

<sup>2</sup> OJ C 264 E, 13.9.2013, p. 75.



Treaty, the Charter of Fundamental Rights, the obligation to accede to the European Convention on Human Rights and the corresponding national legislative provisions of the Member States;

- D. whereas, with the entry into force of the Treaty of Lisbon, the Charter has transformed values and principles into tangible and enforceable rights and whereas, having the same value as the Treaty of Lisbon, it has become legally binding on the institutions, bodies and agencies of the EU, as well as the Member States when implementing EU law;
- E. whereas a genuine culture of fundamental rights must be developed, promoted and reinforced in the institutions of the Union but also in Member States, especially in applying and implementing Union law, both internally and in relations with third countries; whereas the implementation of these values and principles must also be based on effective monitoring of respect for the fundamental rights guaranteed in the Charter, for example when legislative proposals are being drawn up; whereas other considerations may not take precedence over respecting and guaranteeing those fundamental rights, since this would risk discrediting the role and image of the European Union regarding human rights, particularly in its relations with third countries;
- F. whereas the European Union operates on the basis of the presumption and mutual trust that EU Member States conform with democracy, the rule of law and fundamental rights, as enshrined in the ECHR and the Charter of Fundamental Rights, notably in relation to the development of an Area of Freedom, Security and Justice and the operation of the mutual recognition principle;
- G. whereas the mutual recognition principle leads to a situation where people can be transferred from one jurisdiction to another, without any prior human rights scrutiny of the respective decisions;
- H. whereas the Court of Justice of the European Union underlined in joined cases C-411/10 and C-493/10 that such a presumption of compliance with fundamental rights must be rebuttable and that judges must therefore check whether there are substantial grounds for believing that there are systemic flaws in the judicial system of the other Member States;
- I. whereas it is consequently necessary to make sure that national authorities have sufficient evidence available in order to take an informed decision as to whether or not there are systemic flaws in the judicial systems of other Member States;
- J. whereas corruption causes social harm and violations of fundamental rights, as organised crime groups use it to commit other serious crimes, such as trafficking in

human beings; whereas an efficient, independent and impartial judicial system is essential for the rule of law and to ensure the protection of the fundamental rights and civil liberties of citizens in Europe;

- K. whereas the European Union is going through a period of economic and financial crisis, and also a democratic and constitutional crisis, as demonstrated by recent events in certain Member States, and whereas these tensions have highlighted the lack of appropriate instruments to cope with this crisis, as well as the lack of political will and the difficulties in applying the monitoring, evaluation and sanctioning mechanisms provided for in the existing treaties, in particular the requirements under Articles 2 and Article 7 of the EU Treaty;
- L. whereas Parliament has repeatedly called for a strengthening of the mechanisms to ensure that the values of the Union set out in Article 2 of the EU Treaty are respected, protected and promoted, and for crisis situations in the Union and in the Member States to be addressed, and whereas a debate is under way on the creation of a ‘new mechanism’, in which the Commission, the Council and Member States are joining Parliament and NGOs;
- M. whereas the FRA underlined in the focus section of its Annual Report on 2012 dedicated to ‘The European Union as a Community of values: safeguarding fundamental rights in times of crisis’ the fact that a common understanding of the Article 2 values and the legal obligations deriving therefrom is an aspiration that calls for the establishment of a regular dialogue within the EU;
- N. whereas the Commission has indicated its desire to strengthen the rule of law in the European Union and whereas it could propose the use of letters of formal notice under Article 7(1) of the existing EU Treaty; whereas it has also spoken of the need to amend the treaties and has announced that it might propose amendments before the end of 2013, or in early 2014, with a view to holding a debate during elections (including on Article 7) and seeking a consensus on these proposals, the aim of which should be to ensure that the EU policy on fundamental rights in the EU is based on clear rules and mechanisms, objective indicators, data and evidence which are transparent, fair and predictable and provide strong protection for individual rights, democracy and the rule of law;
- O. whereas any decision on the matter should guarantee, as soon as possible, the proper application of Articles 2, 6 and 7 of the EU Treaty and ensure that every decision is taken on the basis of objective criteria and an objective evaluation, in order to address criticisms of a lack of indicators and evaluation criteria, of differential treatment and of political bias;

- P. whereas numerous fundamental rights violations are still occurring in the European Union and in the Member States, as detailed in (annual and special) reports by the Commission, the FRA, the Council of Europe (annual reports and judgments of the European Court of Human Rights, documents and reports of the Commissioner for Human Rights, CoE Parliamentary Assembly documents), UN documents (including the documents and reports of the UN Human Rights Council, of the UN High Commissioner for Human Rights, of the Special Rapporteurs, etc.), documents produced by NGOs (such as Human Rights Watch, Amnesty International, the Open Society Institute, ILGA-Europe, ECRE, Reporters without Borders, Freedom House, FIDH, etc.), etc.; whereas such violations require appropriate responses from the Commission, the Council and Member States, given their gravity and recurrence;
- Q. whereas these organisations have expressed and recorded their concerns, particularly with regard to the situation of Roma, migrants, asylum seekers, refugees, minorities, members of LGBT communities, the media and journalists, the actions of the security forces, police and secret services, the investigations necessary to prosecute and punish those responsible for human rights violations, state involvement in acts of torture and ill-treatment committed in third countries, the use of evidence thus obtained, conditions of detention and the ill-treatment of detainees;
- R. whereas the preamble of the Treaty on European Union, Articles 8, 9, 10, 19 and 21 of the EU Charter of Fundamental Rights and the case law established by the EU Court of Justice acknowledge the importance of fundamental social rights through their embodiment in cross-cutting principles of Community law, thus making it clear that the EU must guarantee fundamental rights and freedoms, such as trade union rights, the right to strike, and the right of association, assembly, etc., as defined in the European Social Charter, and whereas Article 151 of the Treaty on the Functioning of the European Union contains an explicit reference to fundamental social rights such as those set out in the European Social Charter;
- S. whereas Articles 2 and 3 of the Charter of Fundamental Rights recognise the right to life and the right to the integrity of the person;
- T. whereas there are about 100 million children in the European Union and about 80 million European persons with disabilities; whereas persons with disabilities, especially children, are still suffering from a lack of assistance and support as regards their inclusion in schools, and are experiencing difficulties in accessing buildings or services and trouble in being heard and participating in decisions affecting their lives; whereas the EU, as a party to the UN Convention on the Rights of Persons with Disabilities, has the obligation to promote, protect and respect the rights of persons with disabilities as

enshrined in the Convention, to adopt a strategy to implement the Convention and to ensure that policies and existing and future primary and secondary law comply with the provisions of the Convention;

- U. whereas women and girls are the main victims of gender-based violence, given that, according to estimates in the EU, 20-25 % of women have suffered physical violence at least once during their lives; whereas hundreds of thousands of women living in Europe have been subjected to genital mutilation and thousands of girls are at risk;
  - V. whereas women in the EU earn around 16 % less per hour than men;
  - W. whereas poverty, gender inequality and gender stereotypes increase the risk of violence and other forms of exploitation, including trafficking in women and prostitution, and hamper the full participation of women in all areas of life;
  - X. whereas fundamental freedoms, human rights and equal opportunities should be guaranteed for all citizens of the European Union; whereas, however, the protection of national minorities and regional and minority languages in an enlarged EU is a major issue, which cannot be resolved simply by combating xenophobia and discrimination, but by adopting specific legal, linguistic, cultural, social, etc. regimes and treatments;
1. Stresses, that as a political, historical and ethical project, the European Union endeavours to bring together countries which share and together promote common European values, such as those laid down in Article 2 TEU and in the Charter of Fundamental Rights, as well as the ECHR, including respect for human dignity, democracy, the rule of law, fundamental rights, equality, freedom, non-discrimination and protection of minorities, which are closely linked and are mutual preconditions, and believes therefore that a fundamental pillar of the European identity is, and must be, the internal and external promotion of human rights, fundamental freedoms and democracy, which are European values;
  2. Recommends that Parliament, the Commission and the Council recognise the existence of positive obligations to protect and promote human rights; emphasises that respect for fundamental rights and freedoms implies actions at various levels; highlights the role played in this area by regional and local authorities, NGOs and civil society, and asks the Commission and the Council to improve their cooperation with these actors;
  3. Reminds the Union institutions and the Member States of the need to comply with their obligations to respect fundamental freedoms and rights; notes that participation in international treaties for the protection and promotion of human rights can only serve to strengthen the protection of fundamental rights within the EU;

4. Condemns the worrying trends with regard to breaches of human rights within the European Union, particularly in the fields of immigration and asylum, and with regard to discrimination and intolerance – especially affecting certain population groups (minorities and migrants) – security and terrorism, freedom of the press, freedom of movement within the Union and social and trade union rights; observes more and more frequently that Member States are adopting obstructive attitudes towards respect for these fundamental rights and freedoms, particularly with regard to Roma, women, LGBT people, asylum-seekers, migrants and other vulnerable population groups;

#### *Institutional questions*

5. Points out that it is essential for the European Union, its institutions and the Member States to guarantee respect for the common European values set out in Article 2 TEU, that all the instruments currently provided for in the treaties in this regard urgently need to be applied and implemented, and that where necessary amendments to the treaties should be prepared; stresses that the obligation to fulfil the Copenhagen criteria does not lapse after accession but remains incumbent on the Member States, that fundamental rights are part of Union primary law and that they must be respected when Union law is applied by any court or authority, be it at Union or national level; in this connection, regrets in particular the length of time taken by ECHR accession negotiations and the fact that EU accession to the ECHR has not already been completed;
6. Reminds the European institutions and the Member States that any policy relating to fundamental rights must first of all prevent any violations from occurring, particularly by means of accessible procedures for prevention and redress before a decision or measure is taken, to enable particular cases to be considered and judged as quickly as possible and in an effective, just and equitable manner, without discrimination;
7. Considers that the general public are increasingly concerned about respect for fundamental rights and about their protection and promotion, as demonstrated by the mobilisation in relation to, and greater attention devoted to, cases of violations, abuses or inequalities, both in everyday life and in symbolic or well-known cases, thanks in part to the better circulation of information with the aid of new technologies, social networks and the media; recalls that any violation, abuse or inequality is detrimental to democracy and the rule of law, as well as to the confidence of citizens in institutions and their representatives, particularly political decision-makers; stresses that institutions and political decision-makers must note and support this democratic trend by establishing new procedures for dialogue with citizens and by enhancing scrutiny of State authorities by members of the public, parliaments, courts and the media, while those authorities must be more open and transparent in order to serve the interests of citizens better;
8. Believes that in order to make full use of the potential of the treaties, there is a need to:

- (a) complete the process of acceding to the European Convention on Human Rights and immediately put in place the necessary instruments to fully accomplish this obligation, which is enshrined in the treaties, as it will provide an additional mechanism for enforcing the human rights of its citizens, inter alia with a view to ensuring the application by the Member States of the judgments given by the European Court of Human Rights, particularly ‘pilot judgments; accede, as called for by the Council of Europe, to the European Social Charter, signed in Turin on 18 October 1961 and revised in Strasbourg on 3 May 1996; and for Member States to accede to and ratify the human rights conventions of the Council of Europe, to implement the already existing instruments of the *acquis communautaire* and to reconsider the opt-outs, which might risk affecting the rights of their citizens;
- (b) ensure that legislative proposals and policies comply with the Charter and respect fundamental rights, by taking tangible steps towards ensuring that they are verified against the Charter in all phases of the drafting of legislation and that the impact on fundamental rights of EU legislation and its implementation by the Member States is systematically examined in the evaluation reports on the implementation of such legislation, as well as in the annual report on the monitoring of the application of EU law;
- (c) ensure that the Commission – and the Council, where it initiates legislation – where appropriate, make use of the external independent expertise of the FRA;
- (d) intensify the cooperation between the Commission and the Member States, as well as with the European Parliament and the national parliaments, in order to improve the implementation of existing EU human rights legislation;
- (e) ensure that the drafting and transposition of EU law which affects and develops fundamental rights are strengthened and are carried out correctly, by following a rigorous policy of evaluation and monitoring and by bringing violations before the Court of Justice, particularly in areas within the competence of the EU, such as non-discrimination, equality, gender, disability, data protection, asylum and immigration;
- (f) ensure the promotion of a substantial rule of law approach which takes into account how fundamental rights are protected in practice;
- (g) acknowledge that a strong political will is required to address these issues, especially in times of economic and financial crisis;
- (h) strengthen and ensure transparency in the interinstitutional dialogue on fundamental rights or when European citizens’ interests are at stake;
- (i) ensure that the Commission makes full use of the existing mechanisms and that it launches objective evaluations and investigations and initiates infringement proceedings if a case is well grounded, thus avoiding double standards, wherever a Member State violates the rights enshrined in the Charter when implementing EU law;

- (j) plan ambitious, efficient and far-reaching policies and action programmes relating to fundamental rights and common European values, particularly in order to comply proactively and systematically with the EU's obligations with regard to combating discrimination and promoting equality, as referred to in Articles 8 and 10 TFEU and Article 21 of the Charter;
  - (k) cooperate in a more systematic and coordinated fashion at all levels, in particular with the Council of Europe and other international institutions, according to their specific expertise, in order to avoid any duplication;
  - (l) streamline the multiplicity of mechanisms already available to prevent violations of fundamental rights in the EU, tackle breaches of fundamental rights and avoid forum shopping, and to step up the role which can be played by regional and local authorities, together with human rights organisations;
  - (m) prepare comparative and summary country-by-country tables, on the basis of which the Commission should issue country-specific recommendations on fundamental rights policy, as it does for EU27 economic policy; the Council could endorse or amend these recommendations and the Commission's proposals regarding blatant fundamental rights violations, by the next European Council summit;
  - (n) develop a peer review mechanism, with the participation of national human rights bodies, similar to the OECD's Development Assistance Committee (DAC): each Member State would be peer-reviewed once every three or four years, the main objectives being to help the country concerned understand in what ways it could improve its fundamental rights strategy and structures; and to identify and share good practice in human rights policy and strategy within the EU;
  - (o) establish a 'new Copenhagen mechanism' to ensure that the fundamental rights and values of the Union referred to in Article 2 of the EU Treaty and in the Charter of Fundamental Rights are respected, protected and promoted;
9. Stresses that this 'new Copenhagen mechanism', aimed at monitoring compliance with the Copenhagen criteria by every Member State in an effective and binding manner, could be activated immediately, on the basis of a Commission decision, with the full involvement of Parliament, and that it should:
- (a) set indicators – on the basis of existing or already developed and recognised fundamental rights standards – such as those developed at UN and Council of Europe level, taking into account the advice of NGOs working in the area of human rights and fundamental freedoms (FRA and Commission);

- (b) be based on objective and reliable data and information structured around such indicators, which would be further developed through a transparent and credible process (FRA, Commission);
- (c) monitor the situation in the EU and in the individual Member States through a regular and objective process (FRA, Commission, Council, European Parliament and national parliaments);
- (d) carry out objective, comparative and regular assessments, for each of the fundamental rights and/or subject areas and for each institution and Member State individually – while striving for maximum comparability - also on the basis of the findings and recommendations issued by existing monitoring mechanisms of the Council of Europe, the United Nations and the EU institutions and bodies, in addition to information submitted by civil society organisations (FRA reports, Commission annual reports, Parliament annual reports, Council annual reports) and on this basis issue recommendations;
- (e) establish a European policy cycle on the application of Article 2 of the EU Treaty (democracy, rule of law, fundamental rights, equality) to provide an annual and multiannual framework, and an open annual interinstitutional forum on these European values, in particular the protection of fundamental rights;
- (f) bring all existing data and analysis from national, European and international bodies together in order to ensure that existing information that is relevant for the protection of fundamental rights, the rule of law, democracy and equality is more accessible and visible;
- (g) ensure that DG Justice and the FREMP working party in the Council work with Parliament's Committee on Civil Liberties, Justice and Home Affairs to establish a regular structured dialogue between these institutions and civil society organisations on fundamental rights issues inside the EU;
- (h) develop and adopt a set of recommendations along with effective and proportionate penalties which act as an effective deterrent (e.g. the temporary suspension of Fund commitments, the application of certain acts, etc.) to deal with violations of Articles 2 and 7 of the EU Treaty and to ensure that the rights enshrined therein are successfully upheld;



- (i) incorporate an early-warning system, political and technical dialogue, letters of formal notice and a ‘freezing procedure’, as already called for by Parliament, to ensure that Member States, at the request of EU institutions, suspend the adoption of laws that might disregard or breach fundamental rights or the EU legal order; the Commission should hold meetings at technical level with the services of the Member State concerned but not conclude any negotiations in policy areas other than those relating to Article 2 TEU until full compliance with Article 2 TEU has been ensured;
10. Calls on the Commission, in collaboration with the FRA, to adopt a decision establishing this ‘new Copenhagen mechanism’, as it did for the monitoring of corruption in the EU and in the Member States, and to revise the FRA rules in order to give it enhanced powers and competences;
11. Calls for the establishment, preferably under an interinstitutional agreement, of a ‘Copenhagen commission’ composed of independent high-level experts on fundamental rights, to be appointed *inter alia* by Parliament, whose aim should be to ensure compliance by all Member States with the common values enshrined in Article 2 TEU and continuous compliance with the ‘Copenhagen criteria’ and to advise and report on fundamental rights matters, pending the amendment of the FRA Regulation to allow the agency to have stronger powers and a wider remit, including in monitoring individual Member States in the field of fundamental rights, as requested on repeated occasions by Parliament;
12. Recommends the opening of a dialogue between the EU institutions and a Member State where there is a risk of a serious breach of the values of the Union, as well as the possibility for the European institutions to make recommendations as provided for in Article 7(1) of the EU Treaty; fully supports the Commission’s proposal to use letters of formal notice in this context;
13. Invites the Commission and the Council to set up, together with Parliament, a contact group to follow up on the effective implementation of the values of the Union, and to specifically carry out joint assessments of the fundamental rights situation in specific cases that have been noted with concern by any of these three institutions of the Union; calls also on these institutions to take into account the resolutions of the Council of Europe and decisions of the European Court of Human Rights;
14. Welcomes the statements made by the President of the Commission and by Vice-President Reding announcing a communication setting out possible changes to the Treaties, in addition to the options available under the current Treaties, and calls on its competent committees to examine the following proposals in detail, with a view to strengthening the protection of fundamental rights in the EU Treaties:
- revision of Article 7 of the EU Treaty, adding an ‘application of Article 2 of the EU Treaty’ stage, separating the ‘risk’ stage from the ‘violation’ stage, with different thresholds for the majorities provided for, a strengthening of technical and objective

(not only political) analysis, enhanced dialogue with the Member States' institutions and a wider range of detailed and predictable penalties which are applicable throughout the procedure;

- drawing on Article 121 of the Treaty on the Functioning of the European Union to devise a stronger and detailed fundamental rights coordination and supervision mechanism;
- extending the scope for redress and the powers of the Commission and the Court of Justice;
- a reference to the FRA in the Treaties, including a legal base making it possible to amend the Agency's founding regulation not by unanimity as is currently the case but via the ordinary legislative procedure;
- deletion of Article 51 of the Charter of Fundamental Rights;
- enabling Parliament to launch proceedings on the violation of Article 2 TEU on an equal footing with the Commission and the Council, and for the FRA to be able to contribute its necessary specialised support to the procedure;
- reviewing the unanimity requirement in areas relating to respect for and protection and promotion of fundamental rights, such as equality and non-discrimination (e.g. Article 19 TFEU);

calls also on its competent committee to clarify the application of, and eventually review, the procedure whereby Parliament can activate Article 7 TEU;

15. Calls on the FRA to set up a public website collecting and pooling information and documents related to fundamental rights issues drawn up by the UN, the Council of Europe, the OSCE, NGOs, the FRA, the European Parliament, courts, national parliamentary committees, ombudsmen, etc.; considers that such information should be retrievable by date, state, author and right, so as to provide sources and information on the fundamental rights situation in the EU and its Member States;

### ***Specific rights based on the Charter of Fundamental Rights***

#### **Dignity**

16. Expresses its alarm at the persistence of instances of violation of human dignity in the Union and in its Member States, whose victims include minorities, Roma in particular, asylum-seekers, migrants, people suspected of having links with terrorism and people who are deprived of their freedom, as well as vulnerable groups and poor people; stresses that public authorities must abide by the absolute prohibition on torture and cruel, inhuman or degrading treatment, carry out swift, effective and independent in-depth investigations into any breach and prosecute those responsible;

17. Expresses its concern about the numerous instances of ill-treatment by police and the forces of law and order, particularly in relation to the disproportionate use of force against peaceful participants and journalists in connection with demonstrations, and the excessive use of non-lethal weapons, such as batons, rubber bullets and tasers; calls on the Member States to ensure that the uniforms of law enforcement personnel bear a means of identifying the wearer and that such personnel are always held to account for their actions; calls for an end to police checks that are based on ethnic and racial profiling; expresses concern at the increasing number of restrictions on freedom of assembly and peaceful demonstration and points out that the rights of assembly, association and freedom of expression form the basis to the right to demonstrate; calls on the Member States not to take measures that would undermine or criminalise people's exercise of their fundamental freedoms and rights, urges them to take measures to ensure that force is used only in exceptional cases duly justified by a real and serious threat to public order and recalls that the primary role of the police forces is to guarantee people's safety and protection;
18. Reiterates its support for a European initiative to ensure that the fundamental rights of persons deprived of their freedom are upheld and that persons who are imprisoned can be reintegrated into society upon their release; expresses concern at the disastrous level of prison overcrowding in many Member States, and at bad prison conditions and treatment of inmates, and calls for a European initiative to be launched to ensure that the recommendations of the European Committee for the Prevention of Torture and the judgments of the European Court of Human Rights are implemented, including by the police and in immigration centres and psychiatric hospitals; recommends that measures be taken to reduce prison overcrowding, such as avoiding excessive use of pre-trial detention, providing alternatives to custodial sentences, considering the decriminalisation of certain offences and/or shortening the periods for which people can be held without charge;
19. Reiterates its call for a full investigation into collaboration by European states in the 'extraordinary rendition' programme of the United States and the CIA, flights and secret prisons within the territory of the Union, and insists that Member States must perform effective, impartial, in-depth, independent and transparent investigations and that there is no place for impunity; reminds the Member States that the ban on torture is absolute and, therefore, that state secrecy cannot be invoked to limit the obligation on states to investigate serious human rights violations; stresses that the Member States' reputation and trust in their commitment to protect fundamental rights will be at stake should they fail to comply with the above;
20. Stresses that the climate of impunity as regards the CIA programme has made it possible for fundamental rights violations to continue under EU and US counter-terrorism policies, as emphasised by the revelations concerning the mass

espionage activities which were conducted under the surveillance programme of the US National Security Agency and by intelligence bodies in various Member States and which are currently being considered by Parliament; calls for legislation concerning EU and Member State security and intelligence agencies to be revised, with a particular focus on ex-ante judicial and parliamentary scrutiny, and the right to appeal and to rectify data collected, held or processed by these agencies;

21. Calls on those Member States which have not yet done so to fully transpose and implement Directive 2011/36/EU of the European Parliament and of the Council on preventing and combating trafficking in human beings and protecting its victims, and to take appropriate measures to ensure that victims of trafficking in human beings are adequately assisted and protected, that traffickers are prosecuted and handed down effective, proportionate and dissuasive sanctions and that preventive measures are also put in place;
22. Calls on the Member States to fully transpose Directive 2012/29/EU of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime, adopting appropriate measures to ensure adequate assistance and protection of victims of crime;
23. Calls for respect for dignity at the end of life, notably by ensuring that decisions expressed in living wills are recognised and respected;
24. Recognises that sexual and reproductive health and rights (SRHR) are an essential element of human dignity, which need to be addressed in the broader context of structural discrimination and gender inequalities; calls on the Member States to safeguard SRHR through the FRA and the European Institute for Gender Equality (EIGE), not least by providing for reproductive health programmes and services, including the types of care and medicines essential for voluntary family planning and maternal and new-born health, and by maintaining vigilance on policies and/or legislation which may infringe upon sexual and reproductive health and rights;

## **Freedoms**

25. Stresses that democracy and the rule of law are based on respect for fundamental rights and freedoms and that any action or measure against terrorism or organised crime, and international cooperation with this aim, must not breach European fundamental rights standards but must strictly comply with them, notably in relation to the presumption of innocence, due process, rights of the defence, protection of privacy and personal data, etc.; underlines the need for stronger democratic scrutiny, and protection of and respect for fundamental rights in the context of cross-border cooperation in these fields, in particular in the light of ever greater collection and use by authorities of personal data; calls, therefore, for measures to be taken to guarantee privacy and the protection of

personal data in this field;

26. Criticises the fact that the Internal Security Strategy (ISS) focuses on security to the detriment of civil liberties, fundamental rights and the adoption of preventive measures; deplores the widening gulf between stated objectives and the way policies are actually implemented, ; believes that Parliament should play a decisive role in the evaluation and framing of internal security policies, given that they have serious consequences for the fundamental freedoms and rights of all persons residing in the Union, with a view to ensuring democratic monitoring and scrutiny of security policies, including intelligence activities, and, where necessary, the revision of those policies in order to safeguard human rights and fundamental freedoms;
  
27. Expresses its concern about the revelations concerning the flagrant breach of the right to private life and protection of personal data committed in the secret programmes of mass surveillance of European citizens, without case-by-case judicial authorisation and without appropriate parliamentary control, established by European and non-European states; condemns such practices and urges these states to end such infringements without delay; calls for full details of these programmes and possible international involvement in them to be disclosed, and for the programmes to be reviewed immediately; stresses that the EU and its Member States should take firm action against states which violate the fundamental right to privacy by spying on the communications of EU citizens and institutional, political and economic representatives and actors in Europe; is concerned at the fact that intelligence services have escaped democratic, parliamentary and judicial control, conducting secret programmes and operations without political approval; calls, consequently, for an urgent revision of mechanisms for the judicial and parliamentary oversight of secret services so as to ensure that intelligence services are anchored in democracy, the rule of law and fundamental rights, as required by Article 2 TEU; condemns the secret involvement of private undertakings in mass surveillance activities; stresses that the EU should react more forcefully and that it should call for measures to be taken at international level to ensure that European privacy and data protection rules are enforced and upheld, and should promote technologies that guarantee the confidentiality of communications in Europe;
  
28. Deplores the fact that discussions on the adoption of a draft regulation and directive on the protection of personal data are stalling in the Council despite the fact that Parliament has expressed strong support for more stringent rules; regrets the decision taken by the European Council at its meeting of 24-25 October 2013 to complete the digital single market only by 2015, thereby delaying the adoption of the data protection package, and calls on the Council to move forward with the data protection directive and regulation negotiations in order to have the data protection package adopted before the end of this parliamentary term;

29. Believes that the EU and its Member States should adopt a whistle-blower protection system for persons revealing serious violations of fundamental rights by intelligence services that have eluded all democratic, parliamentary and judicial scrutiny;
30. Stresses that the rapid pace of change in the digital world (including increased use of the internet, applications and social networks) necessitates more effective protection of personal data and privacy in order to guarantee confidentiality;
31. Welcomes the fact that a growing number of Member States are respecting the right to found a family through marriage, civil partnership or registered cohabitation and adoption, without discrimination on grounds of sexual orientation, and calls on the remaining Member States to do the same; welcomes the recent judgment by the European Court of Human Rights in the case of *Vallianatos and others v. Greece* affirming that same-sex couples must be able to enter into civil unions; calls on the Commission and all Member States to propose and adopt legislation and policies to combat homophobia, transphobia and hate crimes, and welcomes the publication of Opinion No 2/2013 of the FRA on the Framework Decision on Racism and Xenophobia – with special attention to the rights of victims of crime; calls on the Commission and all Member States to enforce the directive on freedom of movement without discrimination on grounds of sexual orientation; reiterates its call for the Commission to propose an ambitious regulation on the mutual recognition of the legal effects of civil status documents;
32. Is extremely concerned about the number of suicides among young people who are the victims of homophobia; recalls the findings of the FRA's EU LGBT survey which showed that 26 % of all respondents had been attacked or threatened with violence at home or elsewhere, a figure which rises to 35 % among all transgender respondents, while 19 % of respondents felt discriminated against at work or when looking for a job, despite legal protection under EU law; calls on the Commission, therefore, to use these findings as a basis for a comprehensive European response to the fundamental rights problems of LGBT persons, in the shape of an EU roadmap for equality on grounds of sexual orientation and gender identity, as repeatedly called for by Parliament and NGOs;
33. Regrets the fact that legal gender recognition procedures for transgender people still include compulsory sterilisation in 14 Member States; calls on the Member States to review these procedures so that they fully respect transgender people's right to dignity and bodily integrity; congratulates the Commission on its commitment to working within the World Health Organisation to withdraw gender identity disorders from the list of mental and behavioural disorders and ensure a non-pathologising reclassification in the negotiations on the 11th version of the International Classification of Diseases (ICD-11);

34. Recognises freedom of thought, conscience, religion, belief and non-belief, and freedom to practise the religion of one's choice and to change religion; condemns any form of discrimination or intolerance, and believes that secularism defined as the strict separation between non-confessional political authorities and religious authorities, as well as the impartiality of the State, are the best means of guaranteeing non-discrimination and equality between religions and between believers and non-believers; calls on the Member States to protect freedom of religion or belief, including the freedom of those without a religion not to suffer discrimination as a result of excessive exemptions for religions from laws on equality and non-discrimination;
35. Recalls that national laws that criminalise blasphemy restrict freedom of expression concerning religious or other beliefs, that they are often applied to persecute, mistreat, or intimidate persons belonging to religious or other minorities, and that they can have a serious inhibiting effect on freedom of expression and on freedom of religion or belief; recommends that the Member States decriminalise such offences;
36. Regrets the fact that young people in some Member States are still being prosecuted and sentenced to imprisonment because the right to conscientious objection to military service is still not adequately recognised, and calls on the Member States to stop the persecution of and discrimination against conscientious objectors;
37. Recalls that freedom of expression, information and the media are fundamental with a view to ensuring democracy and the rule of law, and reiterates its call for the Commission to review and amend the audiovisual media services directive along the lines indicated by Parliament in its report on the subject; strongly condemns violence, pressure or threats against journalists and the media, including in relation to the disclosure of their sources and information about breaches of fundamental rights by governments and states; calls on the Union institutions and the Member States to respect, guarantee, protect and promote the fundamental right to freedom of expression and information, and hence to refrain from exerting or developing mechanisms to impede those freedoms;
38. Is concerned at the impact of the economic crisis in Europe on the ownership of media outlets and the prospect of privatisation of public service media in some Member States; calls on the Member States to safeguard the independence of public service media and comply with their institutional duty to safeguard media pluralism and provide high-quality, diversified, accurate and reliable information; believes that media ownership and management should always be transparent and not concentrated; stresses that transparency of media ownership is crucial for the monitoring of intra-EU media

investments and non-European investors exerting an increasing influence in the information that is provided in Member States;

39. Stresses the importance of respecting and protecting the rights of refugees and migrants, and underlines the fact that special attention should be paid to women and children migrants; expresses its concern about the numerous breaches of the right to asylum and of the obligation to ensure protection in the event of removal, expulsion and extradition of any migrant; stresses the obligation to comply with international human rights conventions, particularly the UN Convention relating to the Status of Refugees and the principle of non-refoulement, and the obligation to come to the assistance of people at sea who are risking their lives to reach the EU, and to arrange for reception conditions and procedures which respect their dignity and fundamental rights; calls on the EU and the Member States to amend or review any legislation sanctioning people assisting migrants in distress at sea; calls on the Commission to review Council Directive 2002/90/EC defining the sanctions in case of facilitation of unauthorised entry, transit and residence in order to clarify that providing humanitarian assistance to migrants at sea who are in distress is to be welcomed and not an action which should ever lead to any form of sanctions;
40. Welcomes the completion of the Common European Asylum System (CEAS) and calls on the Member States to make the necessary legislative and administrative reforms to effectively implement it so as to ensure that the CEAS is fully established as planned, provides better access to the asylum procedure for those who seek protection, leads to fairer, quicker and better-quality asylum decisions and provides dignified and decent conditions both for those who apply for asylum and those who are granted international protection within the EU; deplores, however, the fact that children can still be placed in detention and calls for them to be systematically excluded from accelerated procedures; reiterates its call for the Commission to draw up strategic guidelines based on best practices to establish common minimum standards for the reception and protection of unaccompanied children; underlines the fact that procedural safeguards must be adequate and appropriate; calls for the application of the recent ECJ judgment stating that LGBT applicants for asylum can constitute a particular social group who are liable to be persecuted on account of their sexual orientation and that the existence of a term of imprisonment in the country of origin sanctioning homosexual acts may constitute an act of persecution per se;
41. Condemns the fact that a large number of migrants continue to die at sea attempting to reach the EU despite the many and varied technical means provided by the Member States and the EU for the surveillance and control of the EU's external borders;



demands that the EU and its Member States implement the recommendations made in the resolution adopted by the Parliamentary Assembly of the Council of Europe on 24 April 2012, entitled ‘Lives lost in the Mediterranean Sea: who is responsible?’<sup>1</sup>; welcomes the decision of the Court of Justice which annulled Council Decision 2010/252/EU;

42. Stresses the vulnerability of persons crossing Europe’s southern sea borders, calls for a viable solution of the overall issue of immigration in the Mediterranean fully respecting the principle of non-refoulement and calls for the Member States and EU institutions to take into account, as an absolute minimum, the recent opinions of the FRA on how best to protect the fundamental rights of migrants in the context of maritime surveillance;
43. Welcomes the handbook on European law relating to asylum, borders and immigration produced by the FRA together with the European Court of Human Rights as a concrete contribution assisting legal practitioners in Europe in upholding fundamental and human rights;
44. Calls on the Member States and the Council to speed up the work of the Task Force Mediterranean in order to ensure a significant expansion of rescue capacity at sea and launch a comprehensive plan on migration and asylum, based on solidarity and responsibility sharing, focusing on all relevant aspects such as the revision of EU and Member State laws allowing the criminalisation of humanitarian assistance to persons in distress at sea, the development of safe and legal routes for refugees and migrants to Europe and development cooperation with third countries with a view to strengthening democracy, fundamental rights and the rule of law in order to ensure that tragedies such as those which have occurred off Lampedusa do not happen again;
45. Condemns the increasingly frequent violations of migrants’ fundamental rights, particularly where they are deported to non-EU countries as highlighted by the UN Special Rapporteur on the human rights of migrants in his special report published on 24 April 2013<sup>2</sup> and by the FRA report<sup>3</sup>; stresses, in this connection, the need for the Return Directive, the readmission agreements and the work of Frontex to be genuinely appraised in terms of their respect for fundamental rights; calls on the Commission to provide a tangible follow-up to its 2011 report criticising the EU’s readmission measures and agreements with non-EU countries; condemns the restrictive policies of Member States with regard to issuing visas to nationals of some specific non-EU countries;

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<sup>1</sup> Resolution 1872(2012) of the Parliamentary Assembly Council of Europe adopted on 24 April 2012.

<sup>2</sup> Regional study: management of the external borders of the European Union and its impact on the human rights of migrants, Report of the Special Rapporteur on the human rights of migrants, François Crépeau, 24 April 2013, A/HRC/23/46

<sup>3</sup> FRA report on Fundamental rights at Europe’s southern sea borders, March 2013

46. Calls on the Member States to adopt policies encouraging legal migration and to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families;

## **Equality**

47. Stresses that the principles of human dignity, equality before the law and the prohibition of discrimination on any grounds are among the foundations of democratic society; considers that the Union and the Member States should step up their measures to promote equality, combat discrimination and protect cultural, religious and linguistic diversity, and their measures relating to gender equality, the rights of the child, the rights of older persons, the rights of persons with disabilities, the rights of LGBT persons and the rights of persons belonging to national minorities;
48. Calls on the Member States to adopt a national legislative framework to address all forms of discrimination and guarantee the effective implementation of the existing EU legal framework, including by launching infringement proceedings; deplores the deadlock in the Council negotiations on the proposal for a directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age and sexual orientation and reiterates yet again its call for the Council to adopt the proposal; welcomes the position taken by the Lithuanian Council Presidency to back the proposal and calls on other Member States to follow this example; welcomes, in this connection, the FRA's Opinion 1/2013 on the situation of equality in the European Union 10 years on from initial implementation of the equality directives; considers that discrimination on linguistic grounds should also be tackled;
49. Recalls its resolution of 25 October 2011 on mobility and inclusion of people with disabilities and the European Disability Strategy 2010-2020<sup>1</sup>, calling for full respect for the Charter of Fundamental Rights of the European Union;
50. Expresses its concern at the fact that persons with disabilities continue to face discrimination and exclusion, which hinders their ability to enjoy their fundamental rights on an equal basis with others; calls on the EU institutions and EU Member States to continue implementing the United Nations Convention on the Rights of Persons with

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<sup>1</sup> OJ C 131 E, 8.5.2013, p 9.

Disabilities (CRPD) in their respective fields of competence; notes that the further development of EU law and policy in the area of non-discrimination could play a role in the process of harmonising legislation with the CRPD across the EU, for example regarding equality before the law; encourages the Member states to develop adequately resourced policies to better integrate persons with disabilities and facilitate their access to housing, education, labour market, public transport and facilities, and participation in the political process, notably by abolishing legal and practical discrimination and restrictions to their right to vote and stand for election; deplores the fact that certain persons with disabilities have no choice but to live in special homes, given the lack of community-based alternatives, and calls on the Member States to champion arrangements which enable more persons with disabilities to live independently;

51. Calls on the Commission to carry out a comprehensive review of EU legislation and policies in order to assess their compliance with the UN Convention on the Rights of Persons with Disabilities; believes that EU legislative procedures and policy making should be adapted so as to ensure respect, and provide for the implementation, of the CRPD; calls on the Commission to adopt specific impact assessment guidelines to this end and to submit the draft EU progress report on the implementation of the CRPD in the EU to Parliament; believes that Parliament should hold regular debates and formulate recommendations through a resolution on the progress achieved in the enjoyment by persons with disabilities of their rights enshrined in the CRPD, including on the basis of the Commission report; supports the ongoing initiatives to set up a cross-committee task force in Parliament on the implementation of the CRPD in order to ensure that Parliament's actions in monitoring and supporting the implementation of the Convention are comprehensive and consistent;
  
52. Calls on the Member States and the Commission to protect, promote and enforce children's rights in all internal and external actions and policies having an impact on them; expresses its concern about children who suffer violence and sexual exploitation and calls on the Member States to complete the transposition of Directive 2011/92/EU on combating the sexual abuse and sexual exploitation of children and child pornography; calls on the Member States, the Commission and the FRA to continue their efforts to assess the way in which children are treated during judicial proceedings; considers that, when parents separate or divorce, the best interests of the children should always be taken into consideration and that every child ought to be able to be in regular and direct contact with both parents;

53. Expresses its concern about the situation of Roma in the EU and the numerous instances of persecution, violence, stigmatisation, discrimination, evictions, relocations and unlawful forced evictions, unlawful registration and ethnic profiling by law enforcement authorities, which are contrary to fundamental rights and European Union law; reiterates its position stated in its resolution of 12 December 2013 on the progress made in the implementation of the National Roma Integration Strategies<sup>1</sup> and calls once more for the effective implementation of strategies to foster real inclusion and for strengthened and pertinent action to promote integration, particularly in the field of fundamental rights, education, employment, housing and healthcare, and to combat violence, hate speech and discrimination of Roma; calls for an end to unlawful forced evictions, to the dismantling of settlements without alternative housing being provided, and to segregation of Roma children in schools and their illicit placement in special schools; calls on the Member States to make greater use of the EU funds placed at their disposal to implement integration projects in cooperation with local authorities, on the front line managing daily new arrivals on their territory;
54. Calls on the Commission and the Member States to provide an effective response to Roma exclusion by developing integrated policies and implementing the measures set out in the strategies focusing on anti-discrimination measures and measures aiming to increase their employability and access to the labour market in cooperation with representatives of the Roma population, while also ensuring their full participation in the management, monitoring and evaluation of projects affecting their communities, and to allocate sufficient budget resources to this end and ensure the efficiency of spending; calls also on the Commission and the FRA to present common, comparable and reliable indicators to monitor progress in Member States;
55. Believes that the Commission should take strong action in cases of violation of the fundamental rights of Roma in Member States, especially by opening infringement proceedings in the event of failure to allow them access to and the exercise of their economic and social rights, the right to freedom of movement and of residence, the right to equality and non-discrimination and the right to the protection of personal data; calls on the Commission to set up a monitoring mechanism on hate crime against Roma, and calls on the Commission and the Member States to address the lack of birth registration and birth certificates for Roma residing in the EU; reiterates its call for a targeted approach to the social inclusion of Roma women in order to avoid multiple discrimination; calls for the European Framework for National Roma Integration Strategies to be developed into a fully-fledged European Strategy;

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<sup>1</sup> Texts adopted, P7\_TA(2013)0594.

56. Stresses that it is essential that the fundamental rights and freedoms of persons belonging to national or ethnic, religious or linguistic minorities are respected; expresses its concern at the fact that, in everyday life, people belonging to these minority communities encounter obstacles in justice, health and social services, as well as in education and culture, and that this undermines their rights and dignity as human beings and citizens of the Union and leads to situations in which they are treated as second-class citizens by the national authorities of their own Member States; considers that such minorities have specific needs that are different from those of other minority groups, that public policies should be more focused and that the Union itself must address these needs in a more appropriate way;
57. Considers that no single solution exists for improving the situation of such minorities in all the Member States, but that some common and minimum objectives for public authorities in the EU should be developed, taking account the relevant international legal standards and existing good practices; calls on the Member States to ensure that their legal systems guarantee that persons belonging to a recognised national minority will not be discriminated against, and to adopt adequate measures to promote effective equality, based on the relevant international norms and good practice, inter alia the Council of Europe Framework Convention for the Protection of National Minorities; calls on the Commission to establish a policy standard for the protection of national minorities, including indigenous, traditional ethnic and linguistic minority communities, bearing in mind that they comprise more than 10 % of the total population of the EU, in order to avoid applying double standards that differentiate between candidate countries and Member States; stresses the need for a comprehensive EU protection system for traditional national minorities, regional linguistic groups and constitutional regions accompanied by a functioning monitoring mechanism, following the example of the EU Framework for National Roma Integration Strategies; calls on the Member States to provide comprehensive data on violations of the fundamental rights of minorities, so as to allow the FRA and the EU to ensure data collection and reporting;
58. Points out that positive measures implemented for the purpose of protecting minority persons and groups, fostering their appropriate development and ensuring that they are granted equal rights and treatment with respect to the rest of the population in the administrative, political, economic, social and cultural fields and in other spheres should not be considered as discrimination;
59. Condemns racist, anti-Semitic, homophobic/transphobic and xenophobic violence and

violence against migrants, religious minorities and ethnic groups, which have reached alarming levels, in particular on the internet, in the absence of strong action by the authorities to combat these types of violence; calls on the Member States to implement Council Framework Decision 2008/913/JHA on combating certain forms and expressions of racism and xenophobia by means of criminal law, to address discrimination, to ensure that hate speech and hate crimes are investigated, to adopt criminal legislation prohibiting incitement to hatred on any grounds including sexual orientation, and to ensure that there is effective protection against racism, anti-Semitism, anti-gypsyism, xenophobia and homophobia and that victims are offered proper assistance; calls on the Commission to launch infringement proceedings against Member States that fail to implement the framework decision correctly from 1 December 2014; calls for the revision of the framework decision to ensure that it also covers hate speech and acts of anti-Semitism, Islamophobia and religious intolerance, anti-Gypsyism, homophobia and transphobia, and strengthen its application; fully supports the initiative launched under the Irish Presidency of the Council to strengthen the fight against intolerance and calls the Council to continue such constructive work;

60. Calls on the Commission and the Member States to launch a coordinated and comprehensive action to combat and prevent hate crime systematically in the EU and to make hate crime visible through data, ensuring that such data is comparable so as to allow an EU overview of the situation, by working together with the FRA to improve hate crime data collection and harmonisation; condemns hate speech stigmatising groups of people on account of their social, cultural, religious or foreign origins and incitement to racial hatred, notably when made by public figures; points to FRA Opinion 2/2013 on the Framework Decision on Racism and Xenophobia and stresses the need to ensure respect for the rights of victims of crime, and in particular in cases of hate crime;
61. Calls on the Member States, recognising that education is vital in the fight against discrimination, to ensure that their integration strategies focus on reforming national curriculums to include xenophobia, racism and anti-gypsyism within syllabuses and to establish this as a form of discrimination in public discourse from a young age;

62. Urges the EU and the Member States to:

- ensure equality between women and men and prevent, combat and prosecute all forms of violence against women as a fundamental rights violation, while ensuring support and protection for victims;
  - sign and ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), and set up a data collection system to support the parties to the Convention by providing accurate and comparable data on the extent, forms and consequences of violence against women;
  - step up their efforts to achieve the objectives of the European Pact for Equality between women and men (2011-2020), and to take adequate measures to tackle all forms of direct and indirect discrimination against women, in particular the gender pay gap, occupational segregation, stereotyping, and all forms of violence against women, since women continue to suffer multiple discrimination in various areas of everyday life in spite of the legislation in force on combating discrimination;
  - promote gender equality education, gender mainstreaming and sufficient monitoring mechanisms for the implementation of EU gender policy;
  - step up their efforts to combat human trafficking, in a bid to end sexual exploitation which affects women in particular, and forced labour;
  - ensure the proper implementation of the existing gender equality directives including by initiating infringement proceedings;
  - bring forward a European strategy on combating violence against women which will follow on from its previous commitments in this field and will meet the many demands made by Parliament; welcomes, in this connection, the Commission’s ‘Zero tolerance of violence against women’; calls, however, for more action, including an EU-wide strategy to end violence against women, as announced in the Council conclusions of March 2010, comprising legally binding instruments and awareness-raising actions;
  - keep the issue of violence against women – including violence in close relationships, sexual violence (rape, sexual assault and harassment), sexual exploitation and harmful traditional practices, such as forced marriage and ‘honour crimes’ – high on the agenda as gender-based violence is both a consequence of the inequalities between women and men and an obstacle to equality and. Therefore, should not be tolerated;
  - apply a zero tolerance policy to female genital mutilation;
  - take measures and launch projects for better reconciliation of family and working life for all generations of women, welcoming the decision to declare 2014 as the European Year of Work and Family Life Balance;
63. Calls on the Commission and the Member States to take account of women’s needs and concerns by, inter alia, collaborating with civil society and women’s NGOs, when drawing up legislation and analysing the situation of fundamental rights in the EU; stresses the importance of monitoring and evaluating the implementation of European legislation relating to gender equality in Member States;

64. Calls on the Member States to guarantee decent wages and pensions, reduce the gender pay gap and create more high-quality jobs for women, and to enable women to benefit from high-standard public services and improve welfare provisions;
65. Calls on the Member States to take action to combat the economic and social causes that foster violence against women, such as unemployment, low wages and pensions, housing shortages, poverty, and non-existent or inadequate public services, in particular public health, education and social security services;
66. Calls on the Commission to step up its efforts against the violation of the fundamental rights of young girls, specifically against that industry which perceives young girls as sexual objects and which triggers an increase in sexual trafficking in young girls within the EU;
67. Calls on the Member States to ensure the implementation of national strategies concerning respect for and the safeguarding of women's sexual and reproductive health and rights (SRHRs); insists on the role of the Union in awareness-raising and promoting best practices on this issue, given that health is a fundamental human right essential for the exercise of other human rights;
68. Invites the Commission to put forward a proposal for a legal framework on the issue of multiple and intersectional discrimination;
69. Considers that women's underrepresentation in political and business decision-making constitutes a deficit; calls, therefore, on Member States to introduce positive discrimination measures such as legislation for parity systems and gender quotas;
70. Stresses the fact that progress in narrowing the gender pay gap is extremely slow; points out that the implementation of the principle of equal pay for the same work and for work of equal value is crucial to achieve gender equality; urges the Commission to revise without delay Directive 2006/54/EC and to propose amendments thereto in accordance with Article 32 of the directive and on the basis of Article 157 TFEU, following the detailed recommendations set out in the annex to Parliament's resolution of 24 May 2012;
71. Stresses the fact that cutbacks in public services providing childcare have a direct impact on the economic independence of women; points out that in 2010 28.3 % of women's inactivity and participation in part-time work was explained by a lack of care services, compared with 27.9 % in 2009; points out also that, in 2010, the employment rate of women with young children in the EU was 12.7 % lower than that of women without children, an increase from 11.5 % in 2008;
72. Deplores the fact that the fundamental rights of older women are too often violated, including a high number of cases of violence, physical abuse, emotional abuse and financial abuse in several Member States; calls on the Commission and the Member States to take further action to protect elderly women from all forms of abuse, including ill-treatment in care homes for the elderly;
73. Considers that women with disabilities suffer from double discrimination as a result of



their gender and their disability; calls, therefore, on the Commission and the Member States to take measures to safeguard and protect the fundamental rights of disabled women in the EU;

74. Calls for a stronger commitment by the Commission and the Member States to ending the sexist stereotypes conveyed in the media, and in particular advertising, given the crucial role they may play in transforming the way in which male and female roles are generally portrayed;
75. Calls on the Commission and the Member States to increase citizens' awareness and knowledge about all their rights enshrined in the Charter and to encourage participative democracy by maintaining a continuous dialogue with civil society, relevant NGOs and women's organisations; calls on women's organisations in particular to share their invaluable expertise regarding persisting stereotypes and discrimination as women have always been the most vulnerable victims;
76. Calls for greater involvement of EU institutions and improved multi-stakeholder dialogue on the challenges which older people face in the full application of their human rights;

## **Solidarity**

77. Stresses that the financial and economic crisis and the measures taken to tackle it have had a greater impact on the poorest and most deprived sections of the population, often affecting them very seriously, as reflected in the issue paper by the Council of Europe's Commissioner for Human Rights entitled 'Safeguarding human rights in times of economic crisis', in which reference is made to groups at risk of social marginalisation such as migrants, asylum seekers, Roma, women and children; points out that in 2012 a quarter of the population in EU 28 was at risk of poverty or social exclusion; calls for particular attention to be paid and appropriate, more incisive and effective measures to be taken to remedy this situation and fight inequalities and poverty; condemns remarks by politicians which aim to make scapegoats of these groups; expresses its concern at the fact that economic and social crises put fundamental rights, the rule of law and democratic values under strain, at both national and supranational level;

78. Underlines the fact that social rights are fundamental rights, as recognised by international treaties, the ECHR, the EU Charter of Fundamental Rights and the European Social Charter; highlights that these rights must be protected both in law and in practice to ensure social justice, notably in periods of economic crisis and austerity measures; underlines the importance of the right to dignity, occupational freedom and the right to work, the right to non-discrimination, including on the basis of nationality, protection in the event of unjustified dismissal, the right to health and safety at work, social security and social assistance, the right to health care, freedom of movement and of residence, the right to protection against poverty and social exclusion, through the provision of effective access to employment, adequate housing, training, education, culture and social and medical assistance, and in relation to remuneration and social benefits, guaranteeing a decent standard of living for workers and the members of their families, as well as of other conditions of employment and working conditions, autonomy of social partners, and freedom to join national and international associations for the protection of workers' economic and social interests and to bargain collectively;
79. Recommends that all Member States lift their remaining reservations on the European Social Charter as soon as possible; considers that Parliament should stimulate a permanent dialogue on progress made in this respect ; believes that the reference to the ESC in Article 151 TFEU should be used more effectively, for example by including a social rights test in the impact assessments of the Commission and Parliament;
80. Calls for stronger action to help homeless persons and provide them with shelter and support, condemns – notably at a time when the persistent economic and financial crisis is driving more and more people in vulnerable situations onto the streets – laws and policies at national or local level criminalising those persons, who are more in need, as this amounts to a striking and inhumane violation of fundamental rights;
81. Stresses the need to ensure that crisis-remedying measures are compatible with the values and objectives of the Union, and particularly to ensure respect for the rule of law in relation to Union actions in the countries most afflicted by the effects of the crisis in the euro area;
82. Reiterates as a matter of urgency its appeal to the Council to include the topic 'Access by the poorest groups to all of their fundamental rights' in the thematic areas of the FRA's next multiannual framework;
83. Deplores the fact that in some Member States transitional rules on free movement of workers are still in place; stresses that fears of negative impacts of labour migration are

unfounded; points out that estimates show a long-term increase of almost 1 % in the GDP of the EU15 countries as a result of post-enlargement mobility (in 2004-09)<sup>1</sup>;

84. Notes that the recent labelling of free movement as migration to benefit from social security systems is not based on facts<sup>2</sup>; emphasises that discrimination is a major obstacle preventing European citizens from enjoying fundamental rights; stresses that EU citizens residing permanently in another Member State enjoy the right to equal treatment regarding social security pursuant to Regulation (EC) No 883/2004;
85. Emphasises the need for the Commission and the Member States to strengthen their work on developing and guaranteeing labour rights and fundamental social rights as a crucial step towards ensuring that equal treatment, decent jobs and living salaries are obtained in the European Union;
86. Calls on the Commission and the Member States to recognise that the right of workers to safe and healthy working conditions, as set out in Article 3 of the European Social Charter, is essential for workers to have the opportunity to live a decent life and to ensure that their fundamental rights are respected;
87. Highlights the importance of the social partners' role in collective bargaining for safeguarding the fundamental rights and equal treatment of workers, particularly with regard to young people, women, persons with disabilities and other socially disadvantaged groups in the labour market;

## **Citizenship**

88. Stresses that the entry into force of the Lisbon Treaty and of the Charter of Fundamental Rights, and the rising expectations of citizens and civil society – as demonstrated by the failure of ACTA and the surveillance scandals – make it necessary to strengthen and increase democratic and institutional transparency and openness in the EU, in particular in its institutions, bodies, offices and agencies and in its Member States; is of the opinion that transparency and openness are key principles that must be further strengthened and promoted in order to ensure good governance and the full participation of civil society in the EU's decision-making process;
89. Deplores the interinstitutional blockage of the revision of Regulation (EC) No

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<sup>1</sup> Employment and social developments in Europe 2011, chapter 6: Intra-EU labour mobility and the impact of enlargement, p. 274.

<sup>2</sup> See 'A fact finding analysis on the impact on the Member States' social security systems of the entitlements of non-active intra-EU migrants to special non-contributory cash benefits and healthcare granted on the basis of residence', DG Employment, Final report submitted by ICF GHK in association with Milieu Ltd., 14 October 2013.

1049/2001 on the right of access to documents and information; calls on the Council and the Commission to resume their work on the revision of this regulation, on the basis of Parliament's proposals to guarantee greater transparency in the EU decision-making process and improved access to documents for EU citizens; calls on all EU institutions, offices, bodies and agencies to fully implement Regulation 1049/2001 as required by the Lisbon Treaty and notes, in the light of the case-law of the ECJ and complaints to the Ombudsman, that they have not done so; calls on the Council and the Commission at the same time to take the necessary measures to ensure transparency in informing the general public of how the funding passed on to Member States from the EU budget is used;

90. Emphasises that the right to good administration also entails a duty on the authorities to inform citizens of their fundamental rights, to help the most deprived to have their rights explained to them, and to support them in ensuring that these rights are respected;
91. Recalls that citizenship implies, under Article 21 of the UDHR, the right of every person to participate in the public affairs of their country of residence; recalls that European citizenship is not limited to the right to vote and stand in municipal and European elections, nor to the exercise of their rights, however essential they may be, as regards freedom of movement and residence; stresses therefore that European citizenship implies the ability of each resident in the territory of the Union to participate actively and without discrimination of any kind in the democratic, political, social and cultural life of the Member State in which he or she resides and to exercise all the fundamental political, civil, economic, cultural and social rights and freedoms recognised by the European Union;
92. Draws attention to the need to organise awareness-raising and information campaigns in order to promote the values and objectives of the Union among citizens, and calls specifically for the widest possible dissemination of the texts of the relevant articles of the TEU and of the Charter of Fundamental Rights;
93. Welcomes the decision to declare 2013 the European Year of Citizens; calls, however, on the Commission, together with the Member States, to continue to inform EU citizens about their rights, so that they can fully enjoy their EU citizenship;
94. Calls on the Member States to launch information campaigns to inform EU citizens about their right to vote and stand for election; calls for the necessary reform of European election procedures to be carried out in all Member States in order to promote active EU citizenship; calls on the Member States to encourage the active participation of citizens through citizens' initiatives and the exercise of the right of petition and the right to submit complaints to the European Ombudsman;
95. Reiterates the importance of the work of the European Ombudsman to the rights of

individuals; stresses that the Ombudsman's independence is an important means of ensuring that his work has credibility and calls, therefore, for the Ombudsman's Statute to be amended so that members of the body appointing the Ombudsman, whether former members or members still in office, are officially not eligible to stand as candidates for the post;

96. Stresses that the right to freedom of movement and residence of European citizens and their families, as well as the freedom to choose an occupation and the right to engage in work, laid down in the Treaties and guaranteed by the Directive on freedom of movement, is one of the fundamental rights of European citizens and represents an important economic benefit for host countries, contributing to addressing skill and job mismatch and helping to compensate for the European Union's demographic deficit; underlines the fact that the directive already provides for exceptions and restrictions to the right to free movement; condemns any attempt to review this acquis, and calls for any breach of the rules to result in action before the Court of Justice;

## **Justice**

97. Stresses that the independent, equitable, effective, impartial and just administration of justice, within reasonable time limits, is fundamental to democracy and the rule of law and to their credibility; expresses its concern about the numerous breaches which have occurred in this context, as demonstrated by the number of cases in which the European Court of Human Rights has found against states; calls on the Member States to fully implement the Court's decisions; stresses that any impunity on grounds of a position of power, force or influence over persons or the judicial or political authorities cannot be tolerated in the EU;
98. Acknowledges the importance of – in addition to courts – non-judicial and quasi-judicial institutions for access to justice, such as national human rights institutions, equality bodies, ombudsperson institutions, and data protection authorities as well as other such institutions with a human rights remit; stresses, in this context, that national human rights institutions should be appointed or established in all the Member States with a view to their full accreditation under the so called Paris Principles (Principles relating to the status and functioning of national institutions for protection and promotion of human rights, UN General Assembly resolution 48/134, 20 December 1993); stresses that a full independence requirement would also benefit other institutions with a human rights remit;
99. Calls on the FRA to conduct a study, in collaboration with the UN Special Rapporteur concerned, on special laws and procedures justified on grounds of combating terrorism, and on their compliance with fundamental rights; rejects any exceptional procedure

which manifestly creates an imbalance in the positions of the prosecution and the defence in judicial proceedings, such as secret hearings or sentencing in secret, or which gives governments special powers to censor the media or allow secret surveillance on the population; notes and deplores the fact that policies on combating terrorism are being gradually extended to a growing number of crimes and offences, giving rise in particular to an increase in the number of summary judicial proceedings and of minimum sentences that must be served in full, and in the information being recorded on the population;

100. Calls on the Commission to continue its work on criminal justice and the implementation of the road map on procedural safeguards and calls on the Member States to take up a more ambitious stance on the matter;
101. Welcomes the FRA report on access to justice in cases of discrimination in the EU and stresses that accessing justice is often complicated and cumbersome; believes that improvements could include facilitated procedures and enhanced support to those seeking justice;
102. Notes the justice scoreboard issued by the Commission, which unfortunately covers only civil, commercial and administrative justice issues, notwithstanding the fact that Parliament had requested that it also cover criminal justice matters, fundamental rights and the rule of Law; calls, therefore, for the scoreboard to be developed so as also to cover these areas; stresses that it should be incorporated into the new Copenhagen mechanism and the European policy cycle on the application of Article 2 of the TEU; stresses also that improving the functioning of justice systems cannot have as its sole objective to make a country a more attractive place to invest and do business, targeting above all the efficiency of judicial proceedings, but that it should also be aimed at safeguarding the right to a fair trial and respect for fundamental rights;
103. Urges the Commission to examine the effective implementation in the EU of the right of access to justice in the context of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being;
104. Expresses its concerns about the politicisation of constitutional courts in certain Member States and recalls that an independent judicial system is of the utmost importance;
105. Believes that the current policies on drugs should be reconsidered as a matter of urgency, as they have not achieved their stated objectives, and that the current approach, which is based on criminalisation and imprisonment, leads only to further stigmatisation and marginalisation, as well as to an overload of the justice and prison systems, instead

of saving lives and providing drug abusers with specific help; calls, therefore, for the revision – at national, EU and international level – of laws and policies on the basis of a more rational approach based on fundamental rights, medical care and harm reduction;

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106. 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 Council of Europe and the Organisation for Security and Cooperation in Europe.

6.12.2013

## **OPINION OF THE COMMITTEE ON EMPLOYMENT AND SOCIAL AFFAIRS**

for the Committee on Civil Liberties, Justice and Home Affairs

on the situation of fundamental rights in the European Union (2012)  
(2013/2078(INI))

Rapporteur: **Ádám Kósa**

### **SUGGESTIONS**

The Committee on Employment and Social Affairs calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

- A. whereas Article 18 of the Treaty on the Functioning of the European Union prohibits discrimination of any kind on the basis of nationality, whether direct or indirect;
  - B. whereas, pursuant to Article 151 of the Treaty on the Functioning of the European Union, the Union has as its objective the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion;
  - C. whereas the right of freedom of assembly and of association is laid down in Article 12 of the Charter of Fundamental Rights, and whereas the autonomy of the social partners must be respected at all times pursuant to Article 152 of the Treaty on the Functioning of the European Union;
  - D. whereas everyone residing and moving legally within the European Union is entitled to social security benefits and social services pursuant to Article 34 of the Charter of Fundamental Rights;
  - E. whereas the right to collective bargaining and action is a fundamental right pursuant to Article 28 of the Charter of Fundamental Rights;
1. Recalls its resolution of 25 October 2011 on mobility and inclusion of people with disabilities and the European Disability Strategy 2010-2020 calling for full respect for the



Charter of Fundamental Rights of the European Union;

2. Points out that it is necessary to strengthen the protection of fundamental rights in order to safeguard the credibility of the European Union institutions; stresses that the Union has to contribute to the preservation and development of these common values in compliance with the Treaties and the Charter of Fundamental Rights; stresses that a clear and systematic evaluation process should be pursued in order to ensure compliance with the Treaties;
3. Points out that the Court of Justice of the European Union has jurisdiction in matters relating to the Treaties and to the secondary legislation, including application of the Charter of Fundamental Rights and the area of employment<sup>1</sup>, and that it must proceed in dispute hearings in a way which is appropriate, transparent and fair ('right to a fair trial'); emphasises that the Court of Justice of the European Union is required to use the Charter of Fundamental Rights as an interpretative guide in litigation concerning social and labour rights and that such litigation may take the form of legal action by means of preliminary references by national courts (Article 267 TFEU) challenging Member States' implementation of Union law which they believe violates the fundamental social rights of workers as laid down in the Charter of Fundamental Rights; welcomes the Commission's proposal to create a new mechanism to promote the values set out in Article 2 of the Treaty on European Union;
4. Believes that in order to make full use of the potential of the Treaties, there is a need to carry out objective and comparative assessments of finely balanced individual and collective labour rights by reflecting on national legislation while respecting national competencies;
5. Stresses that the financial and economic crisis and the measures taken to tackle it have had a serious impact on the poorest and most deprived sections of the population, rather than on those whose irresponsible actions caused the crisis; calls for more incisive measures to be taken to remedy the situation and to prevent it ever occurring again;
6. Points out that Parliament itself has stressed that the Treaties currently in force already grant the EU extensive competence in the area of fundamental rights<sup>2</sup>; notes that the provisions of the Charter of Fundamental Rights, in accordance with Article 51 thereof, are addressed to the Member States with regard to any matter in which they are implementing Union law, including matters concerning anti-discrimination, health and safety, social inclusion and the right to social and housing assistance;
7. Reminds the institutions of the European Union that in order to safeguard and apply human rights we need guarantees enshrined in the Treaties, as well as appropriate procedures laid down in EU law, including in secondary legislation;
8. Recalls its resolution of 4 July 2013 on the impact of the crisis on access to care for

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<sup>1</sup> Article 16 and 22 of the Charter of Fundamental Rights of the European Union in the case of C-202/11, judgment of the Court of 16 April 2013 Anton Las v PSA Antwerp

<sup>2</sup> Working document II on the situation of fundamental rights in the European Union in 2012, rapporteur Louis Michel, page 2.

vulnerable groups, in which it called on the Member States to carry out impact assessments to ensure that measures which might impact the most vulnerable are in compliance with the principles laid down in the Charter of Fundamental Rights and in conformity with Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, as well as with Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation; considers that austerity measures should not under any circumstances deprive citizens of access to basic social and health services and fundamental rights;

9. Stresses the need for common horizontal anti-discrimination legislation to remove barriers to free movement; calls on the Council to end its blockade of the proposal tabled by the Commission;
10. Notes that the Troika has pushed programme countries into deep recession by bringing pressure to bear to freeze salaries; stresses that the autonomy of the social partners has to be protected and promoted at all times in accordance with the Treaty;
11. Recalls its resolution of 14 September 2011 on an EU Homelessness Strategy, urging the EU Agency for Fundamental Rights (FRA) to enhance its work on the implications of extreme poverty and social exclusion in terms of access to and enjoyment of fundamental rights, bearing in mind that the exercise of the right to social and housing assistance is critical for the enjoyment of a full range of other rights, including political and social rights; calls on the Commission to closely monitor whether fundamental rights such as human dignity are being upheld in the Member States and to do its utmost to urgently end the criminalisation of homeless people;
12. Recalls its resolution of 15 December 2011 on the mid-term review of the European strategy 2007-2012 on health and safety at work, in which it stated that the right to access to health is a fundamental right and that all workers should enjoy a legal guarantee of working conditions which respect their health, safety and dignity;
13. Underlines the right of workers working in another EU country to equal treatment with national workers concerning employment, remuneration and other working conditions without having to apply for a work permit, as well as regarding tax benefits, the right to portability of social security benefits, family reunification and the right of their children to education;
14. Urges the Commission to monitor the implementation of the Employment Equality Directive 2000/78/EC, including the provisions of Article 9 thereof on remedies and defence of rights, and to launch infringement procedures against Member States which fail to enforce it; calls on the Commission to strengthen the right to legal representation in employment disputes;
15. Stresses that the coordination of social security is a precondition for free movement; calls on the Commission to bring forward a proposal for reform of Regulation (EC) No 883/2004 in order to extend the export of unemployment benefits to a mandatory six months instead of three;
16. Notes that cross-border labour markets and intra-EU mobility in general are becoming

increasingly important; points out, however, the lack of information on rules and regulations applying to the workplace, including labour rights, working conditions and social security; stresses that the appropriate provision of information (e.g. the preparatory action to establish information centres for posted workers) is a precondition for these workers to be able to enjoy their right to free movement;

17. Underlines the need for a European quality framework for traineeships setting out the rights and obligations of both sides, enabling mobility and protecting trainees from exploitation;
18. Deplores the fact that in some Member States transitional rules on free movement of workers are still in place; stresses that fears of negative impacts of labour migration are unfounded; points out that estimates show a long-term increase of almost 1 % in the GDP of the EU15 countries as a result of post-enlargement mobility (in 2004-09)<sup>1</sup>;
19. Notes that the recent labelling of free movement as migration to benefit from social security systems is not based on facts<sup>2</sup>; emphasises that discrimination is a major obstacle preventing European citizens from enjoying fundamental rights; stresses that EU citizens residing permanently in another Member State enjoy the right to equal treatment regarding social security pursuant to Regulation (EC) No 883/2004;
20. Emphasises the need for the Commission and the Member States to strengthen their work on developing and guaranteeing labour rights and fundamental social rights as a crucial step towards ensuring that equal treatment, decent jobs and living salaries are obtained in the European Union;
21. Calls on the Commission and the Member States to recognise victims of all forms of labour exploitation, undeclared work, forced labour, labour trafficking and any other form of labour rights violation as victims of exploitation in violation of workers' fundamental human rights;
22. Stresses the need for the Member States to strengthen labour inspections in order to fight effectively against labour trafficking, forced labour, exploitation of workers, undeclared work and other forms of violation of workers' fundamental human rights;
23. Calls on the Commission and the Member States to recognise that the right of workers to safe and healthy working conditions, as set out in Article 3 of the European Social Charter, is essential for workers to have the opportunity to live a decent life and to ensure that their fundamental rights are respected;
24. Highlights the importance of the social partners' role in collective bargaining for safeguarding the fundamental rights and equal treatment of workers, particularly with

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<sup>1</sup> Employment and social developments in Europe 2011, chapter 6: Intra-EU labour mobility and the impact of enlargement, p. 274.

<sup>2</sup> See 'A fact finding analysis on the impact on the Member States' social security systems of the entitlements of non-active intra-EU migrants to special non-contributory cash benefits and healthcare granted on the basis of residence', DG Employment, Final report submitted by ICF GHK in association with Milieu Ltd., 14 October 2013.

regard to young people, women, persons with disabilities and other socially disadvantaged groups in the labour market.

## RESULT OF FINAL VOTE IN COMMITTEE

<b>Date adopted</b>	5.12.2013
<b>Result of final vote</b>	+: 33 -: 1 0: 0
<b>Members present for the final vote</b>	Regina Bastos, Edit Bauer, Heinz K. Becker, Phil Bennion, Vilija Blinkevičiūtė, Alejandro Cercas, Ole Christensen, Minodora Cliveti, Emer Costello, Frédéric Daerden, Richard Falbr, Thomas Händel, Marian Harkin, Stephen Hughes, Ádám Kósa, Jean Lambert, Patrick Le Hyaric, Verónica Lope Fontagné, Olle Ludvigsson, Elisabeth Morin-Chartier, Csaba Óry, Siiri Oviir, Licia Ronzulli, Elisabeth Schroedter, Joanna Katarzyna Skrzydlewska, Gabriele Stauner, Jutta Steinruck, Traian Ungureanu, Inês Cristina Zuber
<b>Substitute(s) present for the final vote</b>	Georges Bach, Sergio Gutiérrez Prieto, Anthea McIntyre, Evelyn Regner, Csaba Sógor

29.11.2013

## **OPINION OF THE COMMITTEE ON WOMEN'S RIGHTS AND GENDER EQUALITY**

for the Committee on Civil Liberties, Justice and Home Affairs

on the situation of fundamental rights in the European Union (2012)  
(2013/2078(INI))

Rapporteur: Antigoni Papadopoulou

### **SUGGESTIONS**

The Committee on Women's Rights and Gender Equality calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

- having regard to the 1979 UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),
- having regard to the European Pact for Gender Equality (2011-2020), adopted by the Council of the European Union in March 2011,
- having regard to the Commission Communication of 21 September 2010 on the Strategy for equality between women and men 2010-2015 (COM(2010)0491),
- having regard to the Council of Europe Convention on preventing and combating violence against women and domestic violence of 7 April 2011,
- having regard to its resolution of 5 April 2011 on priorities and outline of a new EU policy framework to fight violence against women<sup>1</sup> and of 6 February 2013 on the 57th session on UN CSW: Elimination and prevention of all forms of violence against women and girls<sup>2</sup>,
- having regard to its resolution of 24 May 2012 with recommendations to the Commission on application of the principle of equal pay for male and female workers for equal work or work of equal value<sup>3</sup>,

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<sup>1</sup> OJ C 296 E, 2.10.2012, p. 26.

<sup>2</sup> Texts adopted, P7\_TA(2013)0045.

<sup>3</sup> Texts adopted, P7\_TA(2012)0225.

- A. whereas equality between men and women is a fundamental right and a common principle of the EU and whereas, despite the progress made over the years, gender equality remains an unachievable goal;
- B. whereas the political orientation of dealing with the economic and financial crisis has been to the detriment of women, as it has featured severe spending cuts in public health care and social care services in most Member States and has resulted in noticeable reductions in the allocation of funding at both national and European level for initiatives promoting women's rights;
- C. whereas gender-based violence remains a serious and unacceptable violation of human rights; whereas important steps need to be taken at European and national level to eliminate this phenomenon and to decisively mitigate its side-effects;
- D. whereas poverty, gender inequality and gender stereotypes increase the risk of violence and other forms of exploitation, including the trafficking in women and prostitution, and hamper the full participation of women in all areas of life;
- E. whereas equal pay for work of equal value is a basic principle of the EU, enshrined in the 1957 Treaty of Rome; whereas in 2010 women still earned an average of approximately 16.4 % less than men who carried out the same jobs in the EU; whereas the pay gap varies within the Member States, with some exceeding an average of 22 % in 2011;
1. Calls on the Commission and the Member States to take account of women's needs and concerns by, inter alia, collaborating with civil society and women's NGOs, when drawing up legislation and analysing the situation of fundamental rights in the EU; stresses the importance of monitoring and evaluating the implementation of European legislation relating to gender equality in Member States;
  2. Calls on the Member States to guarantee decent wages and pensions, reduce the gender pay gap and create more high quality jobs for women, as well as enable women to benefit from high-standard public services and improve welfare provisions;
  3. Underlines the need for special support for and protection of women and children victims of gender-based violence, including violence in close relationships, sexual violence (rape, sexual assault and harassment), trafficking in human beings, slavery and harmful traditional practices, such as forced marriage, female genital mutilation and 'honour crimes'; calls on the Commission and the Member States to adopt and continually improve legislation, and to take concrete measures, such as the provision of increased funding for women's shelters, the prosecution of aggressors and the prevention of violence; supports Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime; calls on the Commission and the Member States to sign and ratify the Istanbul Convention on preventing and combating violence against women and domestic violence;
  4. Urges the Commission to propose without delay a comprehensive strategy and a legislative act to combat and eradicate violence against women, as promised in the Stockholm programme and as requested by Parliament in several resolutions;

5. Calls on the Member States to take action to combat the economic and social causes that foster violence against women, such as unemployment, low wages and pensions, housing shortages, poverty, and non-existent or inadequate public services, in particular public health, education and social security services;
6. Calls on the Commission to step up its efforts against the violation of the fundamental rights of young girls, specifically against that industry which perceives young girls as sexual objects and which triggers an increase in sexual trafficking in young girls within the EU;
7. Underlines the fact that growing prostitution markets, legalised and institutionalised in certain Member States, have been proven to fuel trafficking; calls, therefore, for measures to weaken prostitution markets, such as placing sanctions on exploiters, including pimps and those who buy sex;
8. Calls on the Member States to ensure the implementation of national strategies concerning respect for and the safeguarding of women's sexual and reproductive health and rights (SRHRs); insists on the role of the Union in awareness-raising and promoting best practices on this issue, given that health is a fundamental human right essential for the exercise of other human rights;
9. Invites the Commission to put forward a proposal for a legal framework on the issue of multiple and intersectional discrimination;
10. Considers that women's underrepresentation in political and business decision-making constitutes a deficit; calls, therefore, on Member States to introduce positive discrimination measures such as legislation for parity systems and gender quotas;
11. Stresses the fact that progress in narrowing the gender pay gap is extremely slow; points out that the implementation of the principle of equal pay for the same work and for work of equal value is crucial to achieve gender equality; urges the Commission to revise without delay Directive 2006/54/EC and to propose amendments thereto in accordance with Article 32 of the Directive and on the basis of Article 157 TFEU following the detailed recommendations set out in the annex to Parliament's resolution of 24 May 2012;
12. Calls on Member States to adopt measures aimed at facilitating the reconciliation of private and professional life, providing affordable and accessible quality care facilities for children and vulnerable dependents, protecting the rights of pregnant workers; calls also on the Council to reach an agreement on the maternity leave directive;
13. Calls on the Commission to come forward with a legislative proposal for different types of leave (paternity, adoption, care leave and filial) in order to improve the reconciliation of professional, family and private life, which at the same time could put an end to the blocking of the maternity leave directive by the Council;
14. Stresses the fact that cutbacks in public services providing childcare have a direct impact on the economic independence of women – in 2010 28.3 % of women's inactivity and participation in part-time work was explained by a lack of care services, compared with 27.9 % in 2009. In 2010, the employment rate of women with young children in the EU



was 12.7 % lower than that of women without children, an increase from 11.5 % in 2008;

15. Deplores the fact that the fundamental rights of older women are too often violated, including a high number of cases of violence, physical abuse, emotional abuse and financial abuse in several Member States; calls on the Commission and Member States to take further actions in order to protect elderly women from all forms of abuse, including ill treatment in care homes for the elderly;
16. Considers that women with disabilities suffer from double discrimination as a result of their gender and their disability; calls, therefore, on the Commission and Member States to take measures to safeguard and protect the fundamental rights of disabled women in the EU.

## RESULT OF FINAL VOTE IN COMMITTEE

<b>Date adopted</b>	26.11.2013
<b>Result of final vote</b>	+: 25 -: 2 0: 1
<b>Members present for the final vote</b>	Regina Bastos, Andrea Češková, Edite Estrela, Zita Gurmai, Mikael Gustafsson, Mary Honeyball, Sophia in 't Veld, Silvana Koch-Mehrin, Rodi Kratsa-Tsagaropoulou, Constance Le Grip, Astrid Lulling, Barbara Matera, Elisabeth Morin-Chartier, Angelika Niebler, Antonia Parvanova, Marc Tarabella, Britta Thomsen, Marina Yannakoudakis, Anna Záborská, Inês Cristina Zuber
<b>Substitute(s) present for the final vote</b>	Iñaki Irazabalbeitia Fernández, Kent Johansson, Nicole Kiil-Nielsen, Doris Pack, Zuzana Roithová
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	Birgit Collin-Langen, Jill Evans, María Irigoyen Pérez

## RESULT OF FINAL VOTE IN COMMITTEE

<b>Date adopted</b>	13.1.2014
<b>Result of final vote</b>	+: 31 -: 18 0: 5
<b>Members present for the final vote</b>	Jan Philipp Albrecht, Roberta Angelilli, Edit Bauer, Rita Borsellino, Arkadiusz Tomasz Bratkowski, Salvatore Caronna, Philip Claeys, Carlos Coelho, Agustín Díaz de Mera García Consuegra, Frank Engel, Cornelia Ernst, Tanja Fajon, Monika Flašíková Beňová, Kinga Gál, Kinga Göncz, Sylvie Guillaume, Anna Hedh, Salvatore Iacolino, Sophia in 't Veld, Teresa Jiménez-Becerril Barrio, Timothy Kirkhope, Juan Fernando López Aguilar, Baroness Sarah Ludford, Monica Luisa Macovei, Svetoslav Hristov Malinov, Clemente Mastella, Véronique Mathieu Houillon, Anthea McIntyre, Nuno Melo, Roberta Metsola, Louis Michel, Claude Moraes, Jacek Protasiewicz, Carmen Romero López, Birgit Sippel, Csaba Sógor, Renate Sommer, Nils Torvalds, Wim van de Camp, Axel Voss, Renate Weber, Josef Weidenholzer, Cecilia Wikström, Tatjana Ždanoka, Auke Zijlstra
<b>Substitute(s) present for the final vote</b>	Anna Maria Corazza Bildt, Monika Hohlmeier, Stanimir Ilchev, Jean Lambert, Ulrike Lunacek, Jan Mulder, Carl Schlyter, Marco Scurria
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	Katarína Neved'alová