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P6_TA(2005)0208

Promotion and protection of fundamental rights

European Parliament resolution on promotion and protection of fundamental rights: the role of national and European institutions, including the Fundamental Rights Agency (2005/2007(INI))

The European Parliament,

- having regard to the Constitutional Treaty signed by Heads of State and Governments on 29 October 2004, which includes the Charter of Fundamental Rights of the European Union as its second part,
- having regard to Articles 6 and 7 of the Treaty on European Union, and Articles I-2 and I-9 of the Constitutional Treaty,
- having regard to Articles 13 and 192(2) of the Treaty establishing the European Community,
- having regard to the decisions of the Court of Justice of the European Communities and the European Court of Human Rights,
- having regard to the Communication from the Commission 'Fundamental Rights Agency — Public consultation document' (COM(2004)0693),
- having regard to the decision of the Representatives of the Member States meeting within the European Council on 12-13 December 2003 in Brussels, stressing the importance of human rights data collection and analysis with a view to defining Union policy in this field, to build upon the existing European Monitoring Centre on Racism and Xenophobia and to extend its mandate to make it a Human Rights Agency,
- having regard to the outcome of the public seminar 'Promoting EU fundamental rights policy: from words to deeds or how to make rights a reality?' held on 25-26 April 2005 at the initiative of the Committee on Civil Liberties, Justice and Home Affairs,
- having regard to its resolution of 20 April 2004 on the Commission communication on Article 7 of the Treaty on European Union: Respect for and promotion of the values on which the Union is based ⁽¹⁾,
- having regard to its resolution of 28 April 2005 on the Annual Report on Human Rights in the World 2004 and the EU's policy on the matter ⁽²⁾,
- having regard to Rules 39 and 45 of its Rules of Procedure,
- having regard to the report of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs and the opinions of the Committee on Foreign Affairs, the Committee on Development and the Committee on Constitutional Affairs (A6-0144/2005),

The EU constitutional framework as a new impetus to fundamental rights

1. Considers that effective protection and promotion of fundamental rights is the basis of democracy in Europe and an essential condition for the consolidation by the European Union of the area of freedom, security and justice;
2. Points to the fact that the incorporation of the Charter of Fundamental Rights into the Constitutional Treaty and the EU's future accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) bring with them fundamental changes, substantially strengthening the Union's obligations to ensure that fundamental rights are actively promoted across all policy areas;

⁽¹⁾ OJ C 104 E, 30.4.2004, p. 408.

⁽²⁾ Texts Adopted, P6_TA(2005)0150.

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3. Considers that the European Union is establishing itself increasingly as a political community of shared values and is further broadening its initial objective, clearly focused on the market;
4. Considers that several Union objectives, such as those of developing the area of freedom, security and justice, combating discrimination, promoting transparency and protecting data protection, are already indissociable from the promotion of fundamental rights;
5. Notes the need for fundamental rights and individual freedoms to be fully asserted and observed following the broadening of the competences of the Union, and that the new form of terrorism has further increased the need to ensure collective security; is therefore of the opinion that a balance between individual freedoms and collective security has to be achieved through adequate policies in order to make these two objectives compatible;
6. Considers it essential to give effect to the values proclaimed in the founding Treaties and in the new Constitution;
7. Notes that transparency is a democratic principle which is essential for the relationship between the Union and its citizens, the Community judiciary and its legislature, the EU and its Member States, as well as the EU and the Council of Europe;
8. Notes that the European Union and Member States share competence for human rights, and that therefore they are obliged to respect human rights and fundamental freedoms in their respective spheres of competence in accordance with the principle of subsidiarity, taking into account its abovementioned resolution of 20 April 2004; urges the Commission to take steps to guarantee all the cooperation and assistance required, even before it initiates any legal proceedings, with a view to enabling the Member States to overcome any problems they encounter in implementing Community law and Union measures; regards a special degree of transparency as essential when it comes to transposing Union measures which have a bearing on fundamental rights;

Towards an EU fundamental rights policy

9. Welcomes the signature of the Constitutional Treaty, insofar as it provides for the Court of Justice to be fully competent for the area of freedom, security and justice, the accession to the ECHR, the incorporation of the Charter of Fundamental Rights into the Treaty and more extensive use of the co-decision procedure, thereby enhancing the role of the European Parliament;
10. Considers that the implementation of fundamental rights is a goal of all European policies; to this end EU institutions should actively promote and therefore protect fundamental rights and fully take them and their relevance across borders into account when drafting and adopting legislation;
11. Regards it as politically essential to incorporate the notion of promoting fundamental rights among the objectives to be pursued in connection with the simplification and reorganisation of the Community and Union acquis; calls for any new policy, legislative proposal and programme to be accompanied by an impact assessment as regards respect for fundamental rights; that assessment should form part of the justification for the proposal;
12. Welcomes the establishment of a Group of Commissioners on 'Fundamental Rights, anti-discrimination and equal treatment'; calls on the Commission and especially the Commissioners responsible for fundamental rights to work out a comprehensive and coherent strategy to ensure that fundamental rights are observed in all areas of Union policy;
13. Takes the view that the Court of Justice has performed a decisive role in making the Community and the Union a 'Community' and a Union of law, in particular as a result of the fruitful dialogue between national and European judges in connection with the task of providing preliminary interpretations which the Treaties confer on the Court; supports the proposal put forward by the European Council in the programme adopted at The Hague to strengthen dialogue between the supreme courts of the Member States, and takes the view that such steps not only demonstrate the determination of the highest courts to share their experience, but also constitute the beginnings of a European public policy which finds its rationale in the shared objective of protecting fundamental rights;

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14. Points out that the Member States and the Union institutions enjoy a special right to bring actions before the Court in the interests of the law and takes the view that Parliament can, using that means, defend the rights of citizens in cases where fundamental rights might be affected by a Union act;

15. Regrets the fact that, in connection with the implementation of Community and Union law, the Member States are becoming more and more reluctant to accept the principle of mutual recognition, claiming that the level of protection of fundamental rights is inadequate in a given Member State; draws attention, in this connection, to the case law of the Court ⁽¹⁾ and calls on both the public authorities of the States required to supply detailed information in order to justify their reluctance and the authorities of the States requesting such information to provide any clarifications necessary;

Cooperation with national human rights institutions and national parliaments

16. Notes that some Member States have established national institutions for the protection and promotion of fundamental rights, in particular with reference to the United Nations 'Paris principles'; calls on the other Member States to take steps to this end and to provide the national committees and institutes with adequate financial resources, bearing in mind, inter alia, that one of the functions of those bodies is to review governments' human rights policies to prevent shortcomings and suggest improvements, since efficiency lies in prevention and not only in solving problems;

17. Supports the establishment of an ongoing dialogue on fundamental rights with the national parliaments of the Member States;

18. Is of the opinion that collecting data is a priority, as is methodological work to enable the data to be compared and analysed; considers that national institutions are key in this regard;

19. Remains convinced that fundamental rights can be protected all the more effectively if citizens themselves are made aware of their rights and are in a position to demand the protection thereof well before legal action becomes necessary, by encouraging their involvement in shaping and implementing decisions; is of the opinion that, with that aim, the establishment of national committees and institutes for fundamental rights can enable NGOs both to establish clearer standpoints and to target more effectively their calls for action and their exposure of treatment regarded as unlawful; restates its view that national governmental and non-governmental organisations should exchange best practice regarding human rights;

20. Considers that the Commission should pay attention to the repeated and continuous violations of human rights — in particular civil rights such as the active and passive right to participate in election processes — committed in some Member States, which were the subject of reports by the Human Rights Commissioner of the Council of Europe, Mr Alvaro Gil-Robles;

Spreading the principle of the protection of fundamental rights outside the Union

21. Takes the view that the universality and indivisibility of fundamental rights must prompt the European Union and its Member States to encourage the spread of such rights in their relations with third countries, not least with a view to the conclusion of association agreements with third countries, and international organisations, such as the United Nations, which has embarked on a reform process which places particular emphasis on the protection of fundamental rights; stresses that the European Union as a body should play an active part in implementing such a reform by strengthening further its external action in this area and by contributing to the drafting of a United Nations report on this matter;

22. Proposes the drafting of an interinstitutional code of conduct, designed to confer greater coherence and fairness on the Union's external action in the field of democratisation and human rights — a step already approved in its resolution of 25 April 2002 on the Communication from the Commission to the Council and the European Parliament on the European Union's role in promoting human rights and democratisation in third countries ⁽²⁾; believes that the Code should govern relations between the Union and the more than 120 countries to which the democratic clause is currently applicable, as an essential element of the agreements of all kinds which bind them;

⁽¹⁾ Joined Cases C-187/01 and C-385/01 *Gözütok and Brügge* [2003] ECR I-1345.

⁽²⁾ OJ C 131 E, 5.6.2003, p. 147.

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23. Calls on the Commission to undertake and to present to Parliament, in conjunction with its position on this Agency, a thorough study on the need for a similar structure (inside or outside the Commission) dealing with the provision of relevant information on human rights and democracy concerns in countries which are not covered by this Agency;

Cooperation with international human rights organisations

24. Recalls the significant role of the various Council of Europe monitoring mechanisms and institutions in the human rights field; urges the EU institutions and the Agency to build on this experience, taking account of these mechanisms to incorporate them into a procedure for working in a network, and to make use of the standards developed by the Council of Europe and the other substantive results of its work; is adamant that this cooperation should not lead to any decline in EU standards;

25. Believes that a functional model of cooperation should be worked out and that there should be concrete proposals in the Commission's forthcoming legislative proposal on the Agency, including clear definitions of the competences of the Agency and of the various other agencies and an institutionalised link between the Council of Europe and the future Agency on Fundamental Rights, both to avoid duplication and to give the Agency all necessary input and to ensure its effectiveness;

The Agency as an operational tool for the EU's human rights policy as a whole

26. Points out that establishing the Agency should make a contribution to further enhancing mutual confidence between Member States and constitute a guarantee of continued observance of the principles set out in Articles 6 and 7 of the Treaty on European Union and considers that the Agency should provide all the information required to develop the Union's legislative activity, monitoring role and policy on awareness raising for fundamental rights;

27. Takes the view that the Agency must have a strong mandate and the power to follow the development of the implementation of the Charter of Fundamental Rights within the European Union and accession countries; stresses that the Agency should also be able to cover third countries when they are involved in human rights issues affecting the Union, for example in cases where there are suspected violations of the democracy clause;

28. Believes that the Fundamental Rights Agency should have special standing among EU agencies; believes that the Agency will enjoy enhanced legitimacy if its management bodies are appointed by, and answerable to, the European Parliament and report to the competent parliamentary committees; is convinced that the independence and credibility of the Agency is a prerequisite for proper interaction between it and the European institutions;

29. Considers it essential for the Agency to be seen as fully independent in every respect; emphasises, therefore, that it should have sufficient staff and budgetary resources to allow it to fulfil its ambitious mandate and should be staffed with high-quality personnel with scientific expertise, unimpeachable integrity and personal credibility;

30. Considers that the key bodies of the Agency should be composed of independent experts (possibly including members of constitutional courts) of the highest professional repute from the Member States and high-level representatives of EU institutions, the Council of Europe and international NGOs; stresses that its head should enjoy an excellent record in the field of human rights and should be appointed by the European Parliament;

31. Takes the view that most of the recommendations set out in this resolution, such as those contained in the following paragraphs:

- 11: impact evaluation of every legislative and strategic EU initiative taking as model the approach on impact evaluation adopted by the Commission on April 27 2005;
- 13: promotion of dialogue and cooperation between supreme courts;
- 16, 18 and 19: support for Member State Institutes for fundamental rights and 'equality' commissions established under Directive 2000/43/EC, in so far as data collection is concerned;

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- 17: establishment of a permanent forum with national parliaments on fundamental rights issues and establishment of the EU as an area of freedom, security and justice;
- 23: financing a study on the external factors which could affect EU policies as regards human rights and the possible consultative role to be played by a European Fundamental Rights Agency;
- 24 and 25: structured operational cooperation and synergy with the Council of Europe;
- 49: EU Institutions' information and communication strategy in so far as EU policies affect fundamental rights;
- 26, 27, 28, 32, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 50: as a possible reference for the future Agency's tasks and mandate;
- 29, 30, 34, 35, 36, 38: for the governing bodies and organisational structure of the future Agency,

seek to ensure that information is collected, analysed and processed with a view to the assessment of the impact of measures to protect human rights when the Community and the Union exercise their competences; moreover, they also seek to improve the organisation of administrative and legislative procedures and find their legal justification, in particular, in the policies which deal with measures to combat discrimination (Article 13 of the EC Treaty), freedom of movement (Article 18 EC), asylum (Article 63 EC), judicial cooperation in civil matters (Article 65 EC), data protection (Article 286 EC) and transparency (Article 255 EC);

32. Takes the view, in that connection, that the very act which defines the task of collecting information may constitute the legal basis for establishing the Fundamental Rights Agency, whose task is subsidiary to that of the institutions in the areas dealt with in this resolution; accordingly, the codecision procedure involving Parliament, and with the Council acting by a qualified majority, should apply;

33. Calls on the Commission, pursuant to Article 192 of the EC Treaty, to submit a legislative proposal on the basis of the indications given above; the proposal should particularly refer to policies for which Parliament is co-legislator; taking into account the Court of Justice case-law on cases of multiple legal bases, the main (and non-exclusive) legal basis should be Article 13 of the EC Treaty, which, by preventing discrimination, serves to protect human dignity, which is the key element of any policy dealing with fundamental rights; leaves the Commission to judge whether a measure under the third pillar, and referring to the Community measure, would be necessary, in keeping with the initiatives linked to judicial and police cooperation on criminal law matters;

34. Considers that the Agency should operate as an umbrella organisation covering all human rights issues, so as to avoid having different structures doing the same work;

35. Considers that the Agency should be designed as a multi-layered structure ('network of networks'), a specialised body with horizontal competences, in which each of the layers must play a role and contribute to the development of a fundamental rights culture in the Union; believes that the Agency should gather all relevant information, analyses and experience available in European and national institutions, national parliaments, governments and human rights bodies, Supreme/Constitutional Courts, NGOs and existing networks, such as the Network on Independent Experts in Fundamental Rights, and especially the expertise of the European Monitoring Centre on Racism and Xenophobia (EUMC) and its information network, RAXEN;

36. Opines that existing European and national human rights institutions should be part of the 'network of networks', the Agency being a tool to ensure the quality and coherence of the EU's human rights policy; there should be established a map of European, national institutions and operating networks to this end;

37. Sees this framework as an opportunity to establish an effective network linking existing bodies, instruments and procedures through the establishment of a Fundamental Rights Agency;

38. Considers that before new organisations are set up to defend fundamental rights, there is a need to study the consolidation of existing organisations and the possibility of merging them in order to improve their operation; insists, therefore, that the future Gender Institute should be part of the Agency on Funda-

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mental Rights, seen as a 'network of networks', should work under its own name and could be situated in the same location, in order to follow a rational, cost-effective and consistent approach when creating new bodies to deal with fundamental rights;

39. Proposes that the Agency should be structured on the basis of areas of concern of the Charter of Fundamental Rights — as a complement to the EUMC's remit to fight against racism and xenophobia — inter alia, the freedoms of expression, assembly and association and thought, the right to participate under equal conditions in election processes, the rights to education and liberty, solidarity and social rights, children's rights, gender equality, violence against women, trafficking in human beings, citizens' rights and justice, the right to asylum, the Roma issue and minority rights and respect for cultural, religious and linguistic diversity; where there is already a Union-wide body covering a particular area, the tasks of the Agency should be performed in that area by the specialised institute becoming an integral part of the Agency;

40. Notes that protecting national minorities in an enlarged EU is a major issue and that it will not be achieved simply by fighting against xenophobia and discrimination; points out that this complex problem must also be addressed from other angles and that the question of the protection of ethnic and national minorities should be one of the Agency's specific tasks;

41. Contends that, when designing this new instrument, special attention should be paid to the three main functions that such an institution must fulfil (promoting fundamental rights, monitoring the observance of fundamental rights and raising the awareness of the key players, namely, the Member States, the EU institutions and citizens) in order to meet the strategic needs of a common area of freedom, security and justice;

42. Is of the opinion that, in order to fulfil its three main functions, the Agency should collect data through its networks and analyse them and should be empowered to deliver opinions and make recommendations to Parliament, the Council and the Commission;

43. Considers that, as part of its task to promote fundamental rights, the future Agency should provide proactive support to human rights policy-making in two ways: by identifying where legislative improvements would be most welcome and by monitoring the implementation and enforcement of existing legislation;

44. Considers that the Agency, as a part of its work to protect fundamental rights, should draw up an annual report on the situation of those rights falling within its sphere of activity, to be delivered to the European Parliament, the Council and the Commission; further believes that the Agency, without having judicial competence, should answer directly and primarily to the European Parliament, on which basis the European Parliament can draw conclusions and adopt recommendations, and to the Council;

45. Considers that the Agency's monitoring will have the added value of providing a horizontal view of the protection and promotion of fundamental rights, for which reason all the rights contained in the Charter of Fundamental Rights and the relevant provisions of the first part of the Constitutional Treaty should be covered; holds that the Agency's annual work programme might have a thematic focus;

46. Stresses that there is no question of preparing the ground for anything equivalent to an EU Court of Human Rights; realises that dealing with individual violations of human rights is altogether different from monitoring a political system or its legal instruments which may not be living up to generally recognised human rights standards;

47. Maintains that the Agency should be endowed with an advisory and consultative role regarding the provisions of Article 6 and Article 7 of the TEU, supporting the action of the Parliament and the Council and using the information, knowledge and expertise gathered from its networks;

48. Asserts that concrete steps should be taken by the Agency to find the best ways of making the people of the European Union aware of the fundamental rights they enjoy and create a culture of fundamental rights within the EU, which can then be successfully promoted beyond the borders of the Union as one of its basic values;

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49. Believes that an enhanced information and communication strategy is necessary if the objectives of promoting fundamental rights and raising awareness of fundamental rights issues (creating a culture of respect for fundamental rights) are to be attained; believes that the inclusion of a subject on the Member States' school curricula to cover both fundamental rights and the human rights recognised by the international community could help to attain these objectives;

50. Takes the view that these concrete steps should include training measures organised by the Agency for those working in the field of human rights in Europe, whether representatives of civil society or professional organisations;

51. Instructs its President to forward this resolution to the European Council, the Council and the Commission, the governments and parliaments of the Member States, national human rights bodies, the Council of Europe, the OSCE and the UN.

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BEPGs

European Parliament resolution on the Commission recommendation on the broad guidelines for the economic policies of the Member States and the Community in the framework of the integrated guidelines for growth and jobs (2005-2008) (COM(2005)0141 — 2005/2017(INI))

The European Parliament,

- having regard to the Commission recommendation (COM(2005)0141),
 - having regard to Article 99(2) of the EC Treaty,
 - having regard to the Spring 2005 economic forecasts drawn up by the Commission for the euro area and the European Union (2005-2006),
 - having regard to the conclusions of the Presidency of the Lisbon European Council of 23 and 24 March 2000, the Gothenburg European Council of 15 and 16 June 2001 and the Barcelona European Council of 15 and 16 March 2002,
 - having regard to the conclusions of the Presidency of the European Councils held in Brussels on 20 and 21 March 2003, 16 and 17 October 2003, 25 and 26 March 2004, 4 and 5 November 2004 and 22 and 23 March 2005,
 - having regard to its resolution of 22 February 2005 on the European economic situation — preparatory report on the broad economic policy guidelines ⁽¹⁾,
 - having regard to Rule 107 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A6-0150/2005),
- A. whereas growth in the euro area and the 25-member European Union is failing to achieve its potential on a sustained basis and is still too weak, particularly in the four leading economies in the euro area; whereas household consumption is still faltering and the economic outlook for 2005 and 2006 continues to be unsatisfactory, contributing to a continuing high level of unemployment which will decline only slowly; whereas, despite the lowest interest rates since the Second World War, there is little willingness to invest;
- B. whereas structural reforms of product, energy and labour markets and taxation systems and the implementation of the internal market have not been carried out in all the Member States with the requisite care, and whereas reforms at Community level are making only slow progress,

⁽¹⁾ Texts Adopted, P6_TA(2005)0034.