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P8_TA(2019)0127

The right to peaceful protest and the proportionate use of force**European Parliament resolution of 14 February 2019 on the right to peaceful protest and the proportionate use of force (2019/2569(RSP))**

(2020/C 449/18)

The European Parliament,

- having regard to the EU Treaties, and in particular Articles 2, 3, 4, 6 and 7 of the Treaty on European Union (TEU),
 - having regard to the Charter of Fundamental Rights of the European Union (hereinafter ‘the Charter’),
 - having regard to the European Convention on Human Rights (ECHR) and the related case-law of the European Court of Human Rights (ECtHR),
 - having regard to its resolution of 16 January 2019 on the situation of fundamental rights in the European Union in 2017 ⁽¹⁾,
 - having regard to Rule 123(2) of its Rules of Procedure,
- A. whereas the EU is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities; whereas these values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail;
- B. whereas the rule of law is the backbone of democracy and is one of the founding principles of the EU, operating on the basis of the presumption of mutual trust that Member States uphold respect for democracy, the rule of law and fundamental rights, as enshrined in the Charter and the ECHR;
- C. whereas the EU is committed to respecting freedom of expression and information, as well as freedom of assembly and association;
- D. whereas Article 11 of the ECHR and Article 12 of the Charter state that everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and join trade unions for the protection of his or her interests;
- E. whereas Article 11 of the ECHR states that ‘no restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others’;
- F. whereas Article 11 of the ECHR also states that the freedom of assembly ‘shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the state’;
- G. whereas Article 12 of the Charter also states that ‘political parties at Union level contribute to expressing the political will of the citizens of the Union’;
- H. whereas freedom of association should be protected; whereas a vibrant civil society and pluralistic media play a vital role in promoting an open and pluralistic society and public participation in the democratic process, and in strengthening the accountability of governments;

⁽¹⁾ Texts adopted, P8_TA(2019)0032.

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- I. whereas freedom of assembly goes hand in hand with freedom of expression, as ensured by Article 11 of the Charter and Article 10 of the ECHR, stating that everyone has the right to freedom of expression, which includes the freedom to hold opinions and to receive and impart information and ideas without interference by public authorities and regardless of frontiers;
- J. whereas the exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary, as prescribed by Article 10 of the ECHR;
- K. whereas Article 52 of the Charter states that ‘any limitation on the exercise of the rights and freedoms recognised by this Charter must be provided for by law and respect the essence of those rights and freedoms’;
- L. whereas, in accordance with Article 4(2) of the TEU, the EU ‘shall respect [the Member States] essential state functions, including ensuring the territorial integrity of the state, maintaining law and order and safeguarding national security’; whereas ‘in particular, national security remains the sole responsibility of each Member State’;
- M. whereas according to the case law of the ECtHR and the Court of Justice of the European Union all restrictions of fundamental rights and civil liberties must respect the principles of legality, necessity and proportionality;
- N. whereas law enforcement authorities in several Member States have been criticised for undermining the right to protest and using excessive force;
 1. Calls on the Member States to respect the rights of freedom of peaceful assembly, freedom of association and freedom of expression;
 2. Stresses that public debate is vital to the functioning of democratic societies;
 3. Condemns the adoption of restrictive laws concerning freedom of assembly in several Member States in recent years;
 4. Condemns the use of violent and disproportionate interventions by state authorities during protests and peaceful demonstrations; encourages the relevant authorities to ensure a transparent, impartial, independent and effective investigation when the use of disproportionate force is suspected or has been alleged; recalls that law enforcement agencies must always be held accountable for the fulfilment of their duties and their compliance with the relevant legal and operational frameworks;
 5. Calls on the Member States to ensure that the use of force by law enforcement authorities is always lawful, proportionate, necessary and the last resort, and that it preserves human life and physical integrity; notes that the indiscriminate use of force against crowds contravenes the principle of proportionality;
 6. Notes the important role of journalists and photojournalists in reporting cases of disproportionate violence, and condemns all instances in which they have been deliberately targeted;
 7. Believes that violence against peaceful demonstrators can never be a solution in a debate or in politics;
 8. Acknowledges that the police, among whom there have also been many casualties, are operating in difficult conditions, owing in particular to the hostility of some protesters, but also to an excessive workload; condemns every kind of violence against individuals or property by violent, militant protesters, who only come for a violent purpose and harm the legitimacy of peaceful protests;
 9. Encourages the Member States’ law enforcement officials to actively participate in training provided by the European Union Agency for Law Enforcement Training (CEPOL) on ‘Public order — policing of major events’; encourages the Member States to exchange best practices in this regard;

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10. Emphasises the importance of guaranteeing the safety of law enforcement officers, police officers and soldiers engaged in security maintenance operations during public protest demonstrations;
 11. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States, the Council of Europe, the Organisation for Security and Cooperation in Europe and the United Nations.
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