

PROPOSAL FOR A RESOLUTION [2.1] OF THE UEF FEDERAL COMMITTEE REGARDING THE PROTECTION OF RULE OF LAW

Submitted by JEF Europe

- 1 The Union of European Federalists,
- 2 ● *Recalling* how the project of the European Union, as envisaged by the founding Fathers
3 and Mothers, was aimed at the creation of the European Federation as the only possible
4 way of preserving peace within Europe. However, today that project is severely
5 compromised by the illiberal, nationalist and authoritarian tendencies that have spread
6 across national Governments and our society;
- 7 ● *Strongly emphasising* the rule of law as one of the core principles which the European
8 Union is built upon;
- 9 ● *Reiterating* that the European Union is based on a number of fundamental values,
10 outlined in the Treaty on European Union, the Treaty on the Functioning of the European
11 Union, the Charter of Fundamental Rights of the European Union and the common
12 constitutional traditions of the Member States;
- 13 ● *Recalling* the strong role that legal process and respect for the rule of law at all levels of
14 government has played in European integration and in defining the identity that the EU
15 has ascribed to itself;
- 16 ● *Alarmed* by the increase in violations of the rule of law especially in the area of
17 fundamental civil rights and political freedoms in EU Member States among which Poland
18 and Hungary, now considered “illiberal democracies”, but also countries such as Italy,
19 France, Slovakia and Malta where rule of law has been put at risk by several and different
20 episodes but not any less serious;
- 21 ● *Further alarmed* by the reluctance of many other national Governments to stand up to
22 this development;
- 23 ● *Worried about* how some of the aforementioned Member States are exploiting the
24 phenomenon of migration flows to increase citizens' fears and uncertainties in order to
25 justify measures aimed at attacking the basic principles of democracy and limiting
26 freedom;
- 27 ● *Noting with concern* that Member States use states of emergencies to justify adopting
28 measures which are partly or wholly inconsistent with European rule of law and oppose
29 the Union's values;
- 30 ● *Acknowledging* the limits of existing mechanisms such as infringement procedures
31 according to Art. 258 TFEU to address the systematic nature of violating the Rule of Law;
- 32 ● *Welcoming* the efforts by the European Commission to safeguard the rule of law in the
33 EU's Member States through the initiation of the Rule of Law Framework;

- 34 ● *Noting with concern* that so far the Framework has been ineffective, as the ongoing
35 dialogue between the Commission and the governments has not led to any change while
36 instead allowing the governments to buy time;
- 37 ● *Welcoming* the DRF pact as proposed by the European Parliament in the Tavares Report
38 (2012), in the in't Veld Report (2015), in the Resolution of November 14th 2018, and as
39 detailed in the European added value Report (2015);
- 40 ● *Considering* that the EU's legal framework still remains ill-equipped to deal with the
41 violation of the rule of law in Member States; in particular, the Rule of Law procedure,
42 outlined in Art. 7 Treaty on European Union (TEU), whereby the EU is virtually unable to
43 sanction gross violations of EU fundamental values in the Member States, requiring an
44 unanimous vote in the Council to be activated;
- 45 ● *Observing* in particular a gap between the Copenhagen Criteria used to assess the
46 accession of countries to the Union and the re-active natures of the aforementioned Rule
47 of Law Framework and the Rule of Law procedure;
- 48 ● *Noting* further the difficulty of and irony in communicating the topic to citizens when
49 mentioning "Art. 7 procedure" or "preventive mechanism" (i.e. Art. 7(1) TEU);
- 50 ● *Recalling* that the European Court of Justice (ECJ), acting as guardian of the correct
51 interpretation and application of EU law, has always played a fundamental role in the
52 process of European integration by fostering the supranational nature of the Union;
- 53 ● *Alarmed by* with the recent attacks, such as funding cuts and smear campaigns, by some
54 governments of the Member States towards many NGOs that promote European values
55 and the rule of law, as their function is central for any healthy democracy;
- 56 ● *Recalling* JEF Europe's deep commitment to the Rule of Law and the safeguard of
57 democracy, especially through the annual paneuropean campaign Democracy under
58 Pressure;
- 59 ● *Reaffirming* how a Federal Europe can exist only on the basis of a functioning rule of law
60 and solid democratic structures to guarantee rights that today are steadily undermined
61 by those who are supposed to safeguard them;

62 UEF therefore,

- 63 1. Calls on the European Commission and European Council to make use of existing
64 instruments, such as the rule of law procedure of Art. 7 TEU, whenever there is the
65 danger of severe violation of fundamental principles and not only when it is politically
66 feasible;
- 67 2. Calls for the dialogue procedure of the Rule of Law Framework between the European
68 Commission and national governments who violate rule of law to be limited in time to
69 a period of maximum of six months;
- 70 3. Calls for rethinking the Rule of Law procedure (Article 7 TEU) suggesting a qualified
71 majority vote instead of unanimity when identifying a serious and persistent breach of
72 fundamental European values;

- 73 4. Further suggests to create guidelines for the Rule of Law procedure to avoid discussions
74 on procedure that merely buys time for the respective Member State;
- 75 5. Stresses that access to EU funding should be reduced to any government entity of those
76 Member States that are violating the rule of law in a manner proportionate to the
77 gravity of the violations. However, Individual beneficiaries of EU funding should not be
78 affected by this procedure;
- 79 6. Draws attention to the limited role of the European Parliament in the aforementioned
80 procedure and calls for inviting observers to the respective Council meetings to ensure
81 representation by the European people;
- 82 7. Welcomes the position of the European Parliament on the new instrument proposed
83 by the European Commission for the protection of the Union's budget in case of
84 generalised deficiencies concerning the rule of law in the Member States, as in this way
85 EU funding would be suspended in case of breaches of rule of law and governments
86 are obliged to compensate for such suspended funds in order to prevent that non-
87 governmental recipients are affected by the sanctions;
- 88 8. Calls on the European Commission to finally follow the European Parliament's proposal
89 and set up a plan for the introduction of a European Review Mechanism on Democracy,
90 Rule of Law and Fundamental Rights (DRF); in particular:
- 91 a. an annual scoreboard on the state of DRF in the Member States shall be
92 elaborated by an independent panel of experts and formally adopted by the
93 Commission;
- 94 b. the formal adoption of the DRF Scoreboard by the Commission shall initiate
95 the DRF Semester, which shall aim at addressing the results of the DRF
96 Scoreboard and recommendations included in country-specific reports;
- 97 c. a systematic fundamental rights impact assessment shall be carried out for
98 all legislative proposals by the Commission;
- 99 9. Encourages that, in the next mandate of the European Parliament, Rule of law
100 monitoring groups will be reestablished within the respective committees.
- 101 10. Expects that the European political parties and families and their representatives to
102 take responsibility in ensuring that the respective national parties are committed to
103 European values and are not compliant with violation of rule of law on the national level
- 104 11. Calls for Treaty changes with the effect of conferring to the European Court of Justice
105 the authority to effectively ensure the application of the rule of law in the European Union
106 and its Member States and the subsequent necessary increase of the capacities of the ECJ.
107 The ECJ should in particular:
- 108 a. Provide an independent assessment of the overall compliance of the
109 Member States with European law and in particular the European Charter
110 of Fundamental Rights;

- 111 b. Do more efforts to make Member States respecting the Charter of
 112 fundamental rights addressing laws of EU Member States which are not
 113 consistent;
- 114 c. Receive direct complaints from individuals regarding the violation of their
 115 fundamental rights as protected by the European law;
- 116 12. Encourages the ECJ to allow European countries, when there is a real concern over
 117 having a fair trial, to protect EU citizens from the legal systems of other countries in the
 118 Union;
- 119 13. Calls for more ways of funding NGOs that work to protect the Rule of law within the
 120 EU, as their work is fundamental to the increase in participatory democracy and the citizens'
 121 support to European values. This should be done by implementing either a stronger
 122 operational funding or the creation of an EU fund. Eventually, it should aim at creating a
 123 better and stronger NGO sector to hold governments accountable while keeping the public
 124 involved.

AMENDMENTS TO PROPOSAL FOR A RESOLUTION 2.1

Amendment n.	1	<i>submitted by Leonie Martin</i>
Line number(s):	Line 14	
	Original text	Amended text
	[...] all levels of government has [...]	[...] all levels of government have [...]
Explanatory statement (optional):	Linguistic	

Amendment n.	2	<i>submitted by Leonie Martin</i>
Line number(s):	Line 18	
	Original text	Amended text
	“illiberal democracies”	Illiberal states
Explanatory statement (optional):	We don't want to give into the wording of Viktor Orbán – the words illiberal and democracy stand diametrically opposed.	

Amendment n.	3	<i>submitted by Leonie Martin</i>
Line number(s):	Line 19	

Original text		Amended text	
[...] such as Italy, France, Slovakia and Malta		[...] such as Italy, Slovakia and Malta	
Explanatory statement (optional):	Delete France		

Amendment n.	4	<i>submitted by Leonie Martin</i>	
Line number(s):	Line 19		
Original text		Amended text	
[...] such as Italy, France, Slovakia and Malta		[...] such as [...], Romania, Slovakia and Malta	
Explanatory statement (optional):	add Romania		

Amendment n.	5	<i>submitted by Leonie Martin</i>	
Line number(s):	Line 21		
Original text		Amended text	
[...] many other national governments to stand up to this development		[...] many other national governments and European leaders to stand up to this development	
Explanatory statement (optional):			

Amendment n.	6	<i>submitted by Leonie Martin</i>	
Line number(s):	Line 23		
Original text		Amended text	
[...] how some of the aforementioned Member States are exploiting		[...] how some of the governments and political parties are exploiting	
Explanatory statement (optional):			

Amendment n.	7	<i>submitted by Leonie Martin</i>	
Line number(s):	Line 27		

Original text	Amended text
Noting with concern that Member States use states of emergencies to justify adopting measures which are partly or wholly inconsistent with European rule of law and oppose the Union's values;	Noting with concern that some Member States' governments use states of emergencies to justify adopting measures which are partly or wholly inconsistent with European rule of law and oppose the Union's values as well as threaten or restrict fundamental freedoms;
Explanatory statement (optional):	

Amendment n.	8	<i>submitted by Leonie Martin</i>
Line number(s):	Line 27	
Original text	Amended text	
Noting with concern that Member States use states of emergencies to justify adopting measures which are partly or wholly inconsistent with European rule of law and oppose the Union's values;	Noting with concern that some Member States' governments use states of emergencies to justify adopting measures which are partly or wholly inconsistent with European rule of law and oppose the Union's values as well as threaten or restrict fundamental freedoms;	
Explanatory statement (optional):		

Amendment n.	9	<i>submitted by Leonie Martin</i>
Line number(s):	Line 37	
Original text	Amended text	
Welcoming the DRF pact [...]	Welcoming the Democracy, Rule of Law and Fundamental Rights (DRF) Pact [...]	
Explanatory statement (optional):	Need to explain the abbreviation	

Amendment n.	10	<i>submitted by Leonie Martin</i>
Line number(s):	Line 44	
Original text	Amended text	
[...] requiring an unanimous vote in the Council to be activated;	[...] requiring an unanimous vote in the Council for sanctions to be activated;	

Explanatory statement (optional):	
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Amendment n.	11	<i>submitted by Leonie Martin</i>
Line number(s):	Lines 48-49	
	Original text	Amended text
	Noting further the difficulty of and irony in communicating the topic to citizens when mentioning “Art. 7 procedure” or “preventive mechanism” (i.e. Art. 7(1) TEU);	Noting further the difficulty of communicating the urgent character of the topic to citizens when the procedures carry non-descriptive names such as “Art. 7 procedure” or “preventive mechanism” (i.e. Art. 7(1) TEU);
Explanatory statement (optional):	Amendment explains the problematic better	

Amendment n.	12	<i>submitted by Leonie Martin</i>
Line number(s):	Line 55	
	Original text	Amended text
	[...] for any healthy democracy	[...] for any stable democracy
Explanatory statement (optional):	More appropriate choice of words to describe democracy	

Amendment n.	13	<i>submitted by UEF France</i>
Line number(s):	Lines 56 - 57	
	Original text	Amended text
	<i>Recalling</i> JEF Europe’s deep commitment to the Rule of Law and the safeguard of democracy, especially through the annual paneuropean campaign Democracy under Pressure;	<i>Recalling</i> Federalists’ deep commitment to the Rule of Law and the safeguard of democracy, especially through the annual JEF-Europe paneuropean campaign Democracy under Pressure;
Explanatory statement (optional):	Rule of Law is a principle for all federalists, not only for JEF Europe Nevertheless the Democracy under Pressure campaign is led by JEF-Europe.	

Amendment n.	14	<i>submitted by Leonie Martin</i>	
Line number(s):	Line 59		
Original text		Amended text	
Reaffirming how a Federal Europe can exist only on the basis of a functioning rule of law [...]		Reaffirming how a Federal Europe can exist only on the basis of the rule of law [...]	
Explanatory statement (optional):	There is no such thing as a functioning rule of law as the rule of law either exists or not.		

Amendment n.	15	<i>submitted by Leonie Martin</i>	
Line number(s):	Line 75		
Original text		Amended text	
[...] EU funding should be reduced to any government entity [...]		[...] EU funding should be suspended to any government entity [...]	
Explanatory statement (optional):			

Amendment n.	16	<i>submitted by Leonie Martin</i>	
Line number(s):	Line 79		
Original text		Amended text	
6. Draws attention to the limited role of the European Parliament [...]		6 Welcomes the position of the European Parliament [...]	
7. Welcomes the position of the European Parliament [...]		7. Draws attention to the limited role of the European Parliament [...]	
Explanatory statement (optional):	Change position of former paragraph 6 and 7 for cohesiveness		

Amendment n.	17	<i>submitted by Leonie Martin</i>	
Line number(s):	Line 79		
Original text		Amended text	
Draws attention to the limited role of the European Parliament in the aforementioned procedure and calls for inviting observers to the respective Council		Calls for formal involvement of the European Parliament in the Rule of Law procedure according to Art. 7 TEU in order to ensure representation of the European people;	

meetings to ensure representation by the European people;	
Explanatory statement (optional):	As federalists we should be bolder than merely calling for the EP to be an observer.

Amendment n.	18	<i>submitted by Leonie Martin</i>
Line number(s):	Line 101	
Original text		Amended text
Expects that the European political parties [...]		Calls on all European political parties [...]
Explanatory statement (optional):		

Amendment n.	19	<i>submitted by Leonie Martin</i>
Line number(s):	Line 101	
Original text		Amended text
[...] and their representatives to take responsibility in ensuring that the respective national parties are committed to European values and are not compliant with violation of rule of law on the national level		[...] and their representatives a. to take responsibility in ensuring that the respective national parties are committed to European values and the rule of law, b. to take clear procedures in case of violation of the European values by one or more of their members and make their rules transparent to the public, c. to include citizens being members of the individual parties in the process, e.g. giving them the possibility to set a problem on the agenda of the assemblies of the respective European political family.
Explanatory statement (optional):		

Amendment n.	20	<i>submitted by Leonie Martin</i>
Line number(s):	Lines 108-110	
Original text		Amended text
a. provide an independent assessment of the overall compliance of the Member States with European law		<i>delete</i>

and in particular the European Charter of Fundamental Rights;	
Explanatory statement (optional):	Not the role of the ECJ

Amendment n.	21	<i>submitted by Leonie Martin</i>
Line number(s):	Line 111	
Original text		Amended text
b. do more efforts [...]		b. make more efforts
Explanatory statement (optional):	linguistic	

Amendment n.	22	<i>submitted by Leonie Martin</i>
Line number(s):	Line 115	
Original text		Amended text
/ (add new)		c. Re-evaluate its position regarding the relation between EU law and the European Convention on Human Rights, thus allowing the accession of the EU to the European Convention on Human Rights as mentioned in Art. 6(2) TEU.
Explanatory statement (optional):		

Amendment n.	23	<i>submitted by Leonie Martin</i>
Line number(s):	Lines 116-118	
Original text		Amended text
12. Encourages the ECJ to allow European countries, when there is a real concern [...]		<i>delete</i>
Explanatory statement (optional):		

Amendment n.	24	<i>submitted by Leonie Martin</i>
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Line number(s):	Line 125	
	Original text	Amended text
	/ (add new)	14. Calls for a sustainable funding of international organisations, including but not limited to, the United Nations and the Council of Europe, which are financed by contributions from nation-states and play an important role in protecting rule of law.
Explanatory statement (optional):	As a particular example, the Council of Europe (CoE) is currently facing a 13-15% budget cut due to two Member States either freezing or decreasing their contributions to the budget as a reaction to statements of the CoE.	