

IKV BRIEF

THE EUROPEAN UNION'S NEW HUMAN RIGHTS STRATEGY

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EU's new human rights strategy: Brussels' strong ambitions

The Foreign Affairs Council, convening on the 25th of June 2012, endorsed a historic document “Strategic Framework on Human Rights and Democracy” together with an Action Plan to translate it into action. It is the first time that the importance of human rights and democracy in its relations with the rest of the world has been openly recognized by the EU. The document sets ambitious objectives such as the integration of human rights and democracy at the heart of all aspects of EU's external relations from energy to trade, as well as the appointment of a European Union Special Representative (EUSR) to engage with different actors and lead human rights dialogues with various countries. The Action plan accompanying the Strategic Framework Document sets more than 90 actions to be achieved by end of 2014. This paper analyzing the new human rights strategy will argue that despite the ambitious commitments made by the EU in promoting human rights and democracy globally, the success of the strategy will depend on its implementation. Ensuring coherence and consistency in the implementation of the human rights strategy especially in this complex context with most of the Eurozone members trying to find their way out of recession will prove to be the ultimate test.

Easier said than done: “Putting human rights at heart of EU action”

Human rights promotion was officially incorporated into the EU's external relations with the Maastricht Treaty. Under the Common Foreign and Security Policy (CFSP) created with the Maastricht Treaty human rights promotion has been defined as a principle objective¹. Since then, the EU has developed a wide range of instruments to enforce human rights and democracy promotion in its external relations, ranging from declarations and demarches to human rights dialogues and election observation missions with third countries on the one hand, from the introduction of human rights clauses in agreements to enforcement of sanctions on the other. Despite the plethora of tools available for the promotion of human rights and democracy, ensuring coherence and consistency has turned out to be the Achilles' heel in the efforts to do so in practice.

¹ Rosa Balfour, “UN Declaration of Human Rights at 60: what role for EU foreign policy?”, EPC Policy Brief, December 2008.
<http://www.epc.eu/en/pb.asp?TYP=TEWN&LV=187&see=y&t=30&PG=TEWN/EN/detailpub&l=12&AI=951> (accessed on August 20, 2012)

Therefore, the EU's foreign policy outcomes vis-à-vis some of its partners has not necessarily matched its human rights rhetoric.

Rather than being a gesture of goodwill developed overnight, the EU human rights strategy comes as a natural consequence of the principles laid down by the Treaty of Lisbon which increased the significance of human rights and democracy for the EU. It was through the Treaty of Lisbon that the EU finally acquired the opportunity to accede to the European Convention of Human Rights and will therefore upon its accession, accept the jurisdiction of the European Court of Human Rights (ECtHR). In addition, the Lisbon Treaty has made it clear that :*"The Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law"*.²

The human rights strategy builds on the Communication³ announced by High Representative Ashton as a result of the extensive human rights review launched in June 2010⁴. The human rights strategy demonstrates High Representative Ashton's dedication to making human rights "the silver thread running through every area of EU activity".

The document is quite timely as it comes at a time when the historic developments, such as the popular uprisings in the Arab world and pro-democracy protests in many other parts of the world from the Red Square in Moscow to Tahrir Square in Cairo, point to a global yearning for rights and dignity. The timing reflects a self-assessment on the part

² Lisbon Treaty Article 21 par. 1. Consolidated Texts of the EU Treaties as Amended by the Treaty of Lisbon. Foreign Commonwealth Office. <http://www.official-documents.gov.uk/document/cm73/7310/7310.pdf> (accessed on August 20, 2012)

³ Joint Communication to the European Parliament and the Council on Human Rights and Democracy at the Heart of EU External Action – Towards A More Effective Approach, COM(2011)886. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0886:FIN:EN:PDF> (accessed on August 20, 2012)

⁴ Catherine Ashton EU High Representative for Foreign Affairs and Security Policy and Vice President of the European Commission Speech to the European Parliament on human rights European Parliament Strasbourg, 16 June 2010. <http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/10/317&format=HTML&aged=0&language=EN&guiLanguage=en> (accessed on August 20, 2012)

of the European Union and its member states, which came under harsh criticism due to their initial hesitation in responding to the popular protests in the Arab world. The EU has often been criticized for turning a blind eye to poor records of human rights when dealing with the autocratic regimes of the Middle East and North Africa, as well as Russia and China where its energy and security interests are at stake.

On a negative note, as the contagion in the Eurozone is spreading, with Spain and the Greek Cypriot Administration currently in the queue for a bailout, human rights concerns are likely to be pushed to the very bottom of the agenda. This suggests that the human rights strategy is likely to remain an attempt of the EU to rebrand itself as a “force for good”, but falls short in implementation. In addition, the current global economic meltdown has decreased the attractiveness of liberal democracies, with most European countries struggling to overcome the effects of the global financial crisis and trying to foster growth and jobs, while, the record high economic growth in authoritarian China has discredited the argument that economic success is a natural consequence of liberal democracy⁵.

The EU Human Rights Strategy is a turning point not only because it is the first time that the human rights aspect of EU foreign policy has been clearly spelled out, but because it is also endorsed by individual member states as well as EU institutions. The EU has repeatedly come under fire due to the contradiction between its human rights rhetoric and policies followed by the individual member states. It was not so long ago that the former president of Italy was speaking supportively of Muammar Gaddafi, the ousted leader of Libya, due to the lucrative oil contracts granted to the Italian oil giant ENI⁶, nor can one forget the former French Foreign Minister Michele Alliot-Marie’s kind offer to Tunisia’s ousted leader Ben Ali of *savoir faire* on riot control when the Jasmine Revolution started⁷. All these cases point to the fact that it is the national interests of

⁵ Susi Dennison and Anthony Dworkin, “Towards an EU Human Rights Strategy for a Post-Western World” European Council on Foreign Relations, September 2010. <http://ecfr.eu/page/-/towards-an-EU-human-rights-strategy-for-a-post-western-world.txt.pdf> (accessed on August 20, 2012)

⁶ Stephan Faris, “Bye-Bye, Gaddafi: How Italy Will Profit from the New Libyan Regime” Time. 24.08.2011. <http://www.time.com/time/world/article/0,8599,2090116,00.html#ixzz23hxm9pac> (accessed on August 20, 2012)

⁷ Roula Khalaf and Scheherazade Daneshkhu, “France regrets misjudgment over Ben Ali” Financial Times. 18.01.2011. <http://www.ft.com/intl/cms/s/0/68bef0c2-232a-11e0-b6a3-00144feab49a.html#axzz23i0UCmER> (accessed on August 20, 2012)

member states that undermine the EU's stance on human rights. Therefore, ensuring coherence and consistency in implementing the human rights strategy is likely to be a challenge.

The EU, in the strategic framework document, makes a commitment to place human rights in all areas of external action, from trade and energy on the one hand to CSDP and freedom, justice and security on the other⁸. This statement should be taken with a grain of salt, for evidence suggests the EU has been reluctant to voice its human rights concerns in its relations with countries such as Saudi Arabia, Libya and Russia where its oil and gas interests are at stake. In contrast, the EU and its member states have been quite vocal when criticizing the Lukashenko regime in Belarus over its crack down on civil society and treatment of political opposition. The EU's selective and uneven application of human rights norms has raised questions.

In addition, the strategic framework states that in pursuing its objectives the EU will cooperate with partner countries, international and regional organizations, and civil society. The emphasis on cooperation with civil society is pronounced once again when the EU commits itself to form regular dialogue with civil society and denounces the attempts by some countries to restrict the independence of civil society. This comes as a result of the Union's realization of how little contact the EU had with the civil society in its southern neighborhood prior to the Arab Spring.

The Action Plan accompanying the document lays out the steps to be taken to make the human rights strategy a reality. The Action Plan identifies 96 actions in 36 areas to be undertaken with regards to specific policy objectives over a period of 2.5 years by 31 December 2014, the date on which High Representative Ashton's mandate is set to expire. The responsibility to oversee the actions to be undertaken is distributed among the External Action Service, the Commission, the Council, the Delegations, and the member states depending on their relevance.

⁸ EU Strategic Framework and Action Plan on Human Rights and Democracy. Council of the European Union. 25.06.2012. http://eeas.europa.eu/delegations/thailand/documents/news/20120625_en.pdf (accessed on August 20, 2012)

The major problem with the action plan concerns the general nature of the actions and possible overlaps between institutions. The actions should be incorporated to individual country plans to be designed in accordance with the specifics of each country. The document makes a commitment to review the existing country plans and to set benchmarks depending on the situation in each country. More clarity is needed in identifying which institution is responsible for each action, as the multitude of actors involved might further complicate implementation. In addition, in order to scrutinize the extent to which the objectives set out in the strategic framework document have been met, the EU commits itself to review the implementation of the actions through annual reports.

On the EU's relations with third countries, the new strategy states that the EU is to design its human rights policy in line with the specifics of each country and channel its resources into financing projects that could foster human rights. The EU's relations with its eastern and southern neighbors will continue to be based on the "more for more" principle; rewarding the states which undertake the reforms deemed necessary and eventually "less for less" meaning less economic and trade incentives for those who refuse to transform. EU's enlargement policy is another area in which human rights will continue to be of central importance, which will require aspirant countries to pay a special attention to their record of human rights and democracy. With the new approach the EU commits itself to voice human rights and democracy-related issues in its relations with third countries in every possible way, among which bilateral dialogues and human rights clauses in agreements are the most well-known. The human rights clause is not a new practice. However, the extent to which those provisions will be implemented will depend on their compatibility with the interests at stake.

In addition, the controversies within the EU's own borders, such as the expulsion of the Roma including Romanian citizens from the suburbs of Paris in 2010 whose right to travel freely in the EU is guaranteed by EU legislation, as well as certain member states' refusal to ratify Optional Protocol to the Convention against Torture (OPCAT) continue to raise questions about the extent to which EU member states can set an example with regards to the implementation of universally recognized human rights norms when they

fail to comply with them themselves⁹. Another major question about the Action Plan involves the issue of material resources. The objectives and actions laid out in the document will have to be matched with credible financial resources.

As ambitious as the Action Plan may sound, the extent to which it will make a difference in the EU's relations with states such as Saudi Arabia and China remains to be seen. Despite the efforts to create a "European Foreign Policy", the realm of foreign policy remains jealously guarded by member states in order to advance their national interests where the EU is used as a platform to further their national interests. Member states do not hesitate to go it alone when their national interests do not overlap with common positions. Therefore, the extent to which this noble approach will be realized will depend on its compatibility with the national interests of the influential member states such as Germany, France and the UK.

The EUSR on Human rights: the public face of EU human rights policy

The document also calls for the creation of an EU Special Representative for Human Rights. The appointment of an EUSR on human rights is of great importance, as the newly created post will be the first of a kind on a thematic issue. In principle, EUSRs are appointed for problematic countries and geographic areas. There are currently 10 EUSRs that specialize on various geographic areas and assist the High Representative in her work¹⁰. The appointment of an EUSR in the area of human rights will undoubtedly increase the salience of the human rights aspect of EU foreign policy.

In contrast to other EUSRs, the EUSR on human rights will be appointed for a period of two and a half years, rather than the usual one year. The rationale behind a longer mandate for the EUSR for Human Rights is to ensure trust as well as continuity and effectiveness in EU's human rights policies. The mandate of the EUSR will be renewable once.

⁹ Heather Grabbe, "Threading the silver thread" European Voice. 27.06.2012.
<http://www.europeanvoice.com/article/2012/june/a-silver-thread-in-need-of-polish/74702.aspx>
(accessed on August 20, 2012)

¹⁰ The EU has ten EUSRs covering issues related to **Afghanistan, the African Union, Bosnia and Herzegovina, Central Asia, the Horn of Africa, Kosovo, the Middle East Peace Process, the South Caucasus and Georgia, the Southern Mediterranean region as well as Sudan and South Sudan.**

As the EUSR will assume the huge portfolio of managing human rights consultations with third countries, the person to be appointed to this post needs to have a high profile and international reputation. The EUSR will be covering a whole range of issues such as gender equality, rights of the child, freedom of expression, abolition of the death penalty, and the rule of law. The EUSR will chair meetings with third countries and will need to coordinate with international and regional organizations depending on the situation at hand.

On the 25th of July 2012, a former Greek Minister of Foreign Affairs Stavros Lambrinidis was named as the first ever EUSR for Human Rights. Lambrinidis will officially assume his duties on the 1st of September 2012 and his initial mandate is set to expire on the 30th June 2014. Lambrinidis will have a flexible mandate in order to allow him to adapt to different circumstances, however it remains to be seen how the new EUSR will operate without overstepping the agendas of the other EUSRs and how potential overlaps in their agendas will be prevented. The new EUSR will need to be provided with the necessary funding and staff in order to carry out the ambitious duty of “raising the EU’s human rights profile internationally”¹¹.

Conclusion

The new human rights strategy presents an opportunity to match the EU’s economic weight with its human rights objectives. As early as it is to draw conclusions about the new human rights strategy, one thing that is clear is that implementation will be a challenge. Given the unfavorable economic climate in the Eurozone, human rights issues are likely to be pushed aside in cases where economic and strategic interests are involved. It remains to be seen how economic interests and human rights objectives will be balanced and how the EU and its member states will find common ground when dealing with human rights issues.

¹¹ “Parliament calls for high-level EU human rights envoy with strong mandate”. European Parliament Press Release. 13.06.2012.
<http://www.europarl.europa.eu/news/en/pressroom/content/20120612IPR46700/html/Parliament-calls-for-high-level-EU-human-rights-envoy-with-strong-mandate> (accessed on August 20, 2012)