

**ЧОВЕКОВИТЕ ПРАВА И ДЕМОКРАТИЈАТА ВО НАДВОРЕШНАТА
ПОЛИТИКА НА ЕУ****HUMAN RIGHTS AND DEMOCRACY IN EU FOREIGN POLICY****Zorica Saltirovska, PhD.****Faculty of Philosophy, Institute of security, defence and peace, Skopje****E mail: zorica_ind@yahoo.com**

АПСТРАКТ: Надворешната политика на ЕУ се темели на цврстата решеност за унапредување на мирот и стабилноста во светот во кој ќе се почитуваат човековите права, ќе се јакне демократијата и ќе има владеење на правото. Човековите права се универзални правни норми подеднакво значајни во секој дел од животот. Демократијата е, исто така, нешто кон што се тежнее бидејќи луѓето од целиот свет посакуваат живот во отворени и демократски општества во кои ќе се почитуваат човековите права и во кои тие ќе се чувствуваат безбедно, слободно и достоинствено. Унапредувањето и почитувањето на човековите права, демократијата и владеењето на правото се темел за одржлив мир и просперитет на секое општество и на светот во целина. Поради тоа, ЕУ посветено и одговорно соработува со своите партнери, мултилатерални форуми и меѓународни организации на полето на човековите права и демократијата, интегрирајќи ги во својата политика, програми и проекти. Активната политика во оваа сфера, ЕУ ја реализира преку политички дијалози, клаузули во договорите со партнерските држави, на меѓународни форуми, како и преку нејзините програми за помош на развојот, особено преку Европскиот инструмент за демократија и човекови права (ЕИДЧП), преку кој финансира широк спектар на проекти за човекови права низ светот. Покрај унапредувањето на човековите права и слободи, ЕИДЧП е фокусиран и на заштитата на активистите за човекови права низ светот и на јакнење на граѓанското општество, особено во држави и региони во кои има најголем ризик да бидат загрозувани. Преку Европската соседска политика, ЕУ успеа за прв пат да постави форуми за дискусија за човековите права во држави во кои тие најмногу без загрозувани (Јордан, Тунис, Мароко, Либан и други) и да предизвика реформи во насока на унапредување на човековите права, демократијата и доброто владеење. Справувајќи се со најзначајните прашања во својата надворешна политика за човекови права, ЕУ стана еден од клучните актери на меѓународната сцена во нивното унапредување и заштитата низ светот.

Клучни зборови: Човекови права, Демократија, ЕУ, ЕИДЧП, Безбедност

ABSTRACT: EU's foreign policy is based on the firm dedication to the promotion of peace and stability in the world in which human rights will be respected, democracy will be strengthened, and rule of law will be a standard. Human rights are universal legal norms, equally significant in any aspect of human existence. Democracy is a persistent aspiration for people around the world, since we all wish to live in an open democratic society where human rights are respected and where people feel safe, and lead a life of freedom and dignity. The promotion and respect of human rights, democracy, and rule of law are the cornerstones of sustainable peace and prosperity for any society, as well as for the world in general. In an effort to attain these three prerequisites, the EU is collaborating devotedly and responsibly with its partners, multilateral forums, and international organizations in the field of human rights and democracy, integrating these into its policy, programmes, and projects. The EU is implementing the active policies in this area through political dialogues, clauses in contracts with partner countries, at international forums, as well as through its assisted development programmes, most notably the European Instrument for Democracy and Human Rights (EIDHR), through which it is providing funding for a wide spectre of human rights projects throughout the world. Alongside the promotion of human rights and freedoms, the EIDHR is focusing on protection of human rights activists worldwide, and strengthening of the civil society, especially in countries and regions where they are at most risk of being under threat. Through the European Neighbourhood Policy, for the first time the EU succeeded in organising human rights discussion forums in countries where human rights were under largest risk of violation (Jordan, Tunisia, Morocco, Lebanon, and others), and encourage reforms in the direction of promotion of human rights, democracy, and rule of law. Managing the most crucial issues in its foreign policy on human rights, the EU has become one of the key actors in their promotion and protection on a global scale.

Keywords: Human rights, Democracy, EU, EIDHR, Security

Introduction

The development of democracy and the protection of human rights are dependent on an entire array of factors, among which are economic prosperity, the character of the government, the existence of security threats, ethnic conflicts or conflicts of another nature, level of cooperation with other countries through international and regional mechanisms for human rights protection, and many more. Democratisation of societies and respect for human rights within those societies are essential prerequisites allowing for stable and secure societies, societies which will not generate violence, neither in the relation of one society to another, nor in the one of a society to its citizens as individuals or social groups. The efforts towards achieving this degree of social development in Europe dates back in history, being conceived in the Magna Carta of 1215 and the French Declaration of the rights of man and citizen of 1789, spanning across to the creation of the modern system of the UN where the promotion of human rights is granted a pivotal role. The adherence to human rights and fundamental freedoms is one of the founding principles of the EU as well, and is therefore an irreplaceable prerequisite for its legitimacy. Alongside the promotion of freedom, democracy, and

human rights at the home front, the EU is working on their promotion and protection in countries and regions outside its borders. They comprise an essential aspect of its foreign policy and are the most valuable trait of the political cooperation with third countries and international partners and organisations, which make for more reliable partners and associates when they can guarantee the adherence to human rights and generate peace and stability.

1. **EU instruments for promotion of human rights and democratisation in its foreign policy**

In an effort to promote human rights and democracy outside its borders, the EU is using a wide array of instruments, ranging from traditional diplomacy and foreign politics (declarations, demarches through diplomatic representatives of third countries, resolutions, and interventions within the UN) to the implementation of various programmes for cooperation and assistance, and political dialogues with third countries. One specific legal basis of all operations in this direction is the human rights clause which, as a quintessential element, is embedded into almost all of EU's third countries agreements.

Within the Common Foreign and Security Policy (CFSP), the EU has created multiple instruments for the promotion of human rights and democracy:

- Specific directives for speedier and more efficient coherent actions on EU level in third countries, regarding fight against death penalty, torture and cruel and inhumane treatment or punishment, support for children in armed conflicts, support for human and children's rights activists, etc.;
- Common strategies and actions;
- Démarches and declarations;
- Dialogues and consultations with third countries; and
- Handbooks on EU policies regarding third countries and specific human rights issues in these countries.

Furthermore, the EU has adopted a number of crucial international human rights instruments (from the UN, OSCE and Council of Europe), thus encouraging countries to sign, ratify, and consistently implement them, as well as adhere to the commitments they impose. Among these documents are the 1948 Universal Declaration of Human Rights, the 1965 International Convention on the Elimination of all forms of Racial Discrimination, the 1966 International Covenant on Economic, Social and Cultural Rights, the 1979 Convention on the Elimination of all Forms of Discrimination against Women, the 1984 Convention against Torture or other cruel, inhuman or degrading treatment or punishment, the 1989 Convention on the Rights of Children, and the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms, etc. By publishing the text of the

EU Charter of Fundamental Rights in 2000, the EU placed the civil, political, economic and social rights of EU citizens on the same pedestal, while the Lisbon Treaty of 2007, in its Article 6, defined its legal nature and value on an equal stand as that of the Agreements. This Article from the TEU represents a crucial provision regarding the fundamental human rights since it defines the basic common principles on which the Union is founded: freedom, democracy, adherence to human rights and fundamental freedoms, and rule of law. The candidate-countries also have to comply with these principles and demonstrate effective commitment to the protection of the human rights of their citizens in compliance to the Copenhagen criteria.

Within the CFSP, political dialogues and human rights consultations with third countries or regional groups are a key EU instrument in all aspects of its foreign policy. They are being conducted on several levels:

- At the level of human rights activists (with countries with which the EU has either not concluded agreements, or these agreements do not include a human rights clause, such as China or Iran);
- At local levels or within EU agreements;
- Detailed consultations (with African, Caribbean, or Pacific countries in compliance with the Cotonou agreement);
- Regular biannual consultations (with the Russian Federation) as a significant segment of the general relations;
- Regular consultations on the basis of common stands, such as biannual expert meetings, preceding crucial human rights experts meetings at the UN (with the USA, Canada, Japan and New Zealand).

Specific goals of the human rights dialogues vary for different countries - to acquire information regarding the condition of human rights in a specific country, to identify practical activities for the improvement of the real situation (especially through the establishment of cooperation projects and discussions on issues of common interest), to improve the cooperation for promotion of human rights at multinational fora, to identify human rights issues in a timely manner before they trigger conflicts, to encourage governments to comply with EU human rights standards and its policy in this sphere, etc. One key goal of the dialogues is for them to contribute to a concrete improvement of the situation of human rights in practice (Ferrero-Waldner, Benita, 2007).

According to the human rights clause included in third countries agreements ever since the mid 1990s, the adherence to human rights and democratic principles is the pillar for all internal and external policies of the parties. In case of their being violated, the EU could undertake certain

restrictive measures, spanning from refusal to grant visas and freezing assets the transgressors own in the EU, to suspending the agreements. The aim is to create a positive basis for the improvement of human rights in third countries through dialogue and persuasion, and their implementation into the society through assessments on the situation, and foreign aid. Since the beginning of 2007, the structure of the foreign aid has been deeply reformed and it includes a number of financing instruments, and thematic programmes established through the instrument of developing cooperation with third countries. Furthermore, since 2004, the European Neighbourhood Policy has been developed, aiming to disable a potential creation of new lines of division between the enlarged EU and its neighbours, and enable their participation in the activation on the promotion of human rights and freedoms, and strengthening of the democratisation.

Civil society organisations are also listed among the strategic partners of the EU in the implementation of human rights policies. The direct cooperation with them is a priority for the EU since they play a crucial role in the monitoring of adherence to human rights and democratic reforms processes in all parts of the world. Consequently, the Union supports their activities through the European Instrument for Democracy and Human Rights (EIDHR), which finances projects in this area in third countries, but also supports the efforts of international and regional organisations in the field of promotion and protection of human rights and democratisation of societies.

1. Strategic commitments on human rights and democracy in the foreign policy

The common document of the European Commission and the High Representative of the EU on foreign affairs and security policies – “Human Rights and Democracy at the heart of EU external action – Towards a more effective approach”, which suggests areas for further action, has given a significant contribution towards the development and promotion of human rights via external action compliant to the strategy of the EU on human rights and democracy. The determination for such external action has been demonstrated even in Article 21 of the TEU, and the enforcement of the EU Charter on fundamental rights and the joining of the EU to the European Convention on human rights has further deepened the complete dedication of the EU to the promotion of human rights in all spheres. Within its borders, the EU and its members are under obligation of posing as example in guaranteeing the respect for human rights, and outside the borders – it is their common responsibility. The EU is insistent on protecting human rights in every portion of the world, on providing access to justice and redress to victims, and responsibility and sanctions for transgressors. In this direction, the EU has increased the efforts in all aspects of external action. According to the commitments on external action drafted in the strategic framework and action plan of 2012 (11855/12), the EU:

- Strengthened the capacities and mechanisms for early warning and prevention of crises that might jeopardise human rights;
- Deepened the cooperation with partner-countries, civil society and international organisations, and established new partnerships;

- Persisted in promoting freedom of expression, thought, association, and assembly, freedom of religious conviction and expression;
- Strengthened the campaigns against discrimination in all its forms, especially campaigns on human rights and empowering women, fight against discriminatory laws, gender violence and marginalisation;
- Strengthened the efforts towards promotion of economic, social, and cultural rights, with a palpable focus on poverty and vulnerable groups;
- Strengthened the campaign on abolition of the death penalty world-wide, and on the fights against torture and cruel, inhuman, and degrading treatment;
- Strengthened the efforts towards promotion of right to due process and equality in the face of the law, as well as respect for international humanitarian law and punishment of serious crime, especially sexual violence in armed conflicts;
- Intensified the political and financial support of human rights activists and civil societies which are the pillar for successful human rights policy;
- Placed human rights in the core of its relations with all third countries, including the strategic partners, designing policies according to the specific circumstances in each country, deepened the dialogue on human rights with these countries, identified areas in need of support of projects on fortifying human rights and comprehensive agendas on locally-led political reforms by focusing on human rights and democracy;
- Highlighted the leading role of the Council of human rights of the UN in the resolution of urgent cases of human rights violations, and is contributing on a large scale to an efficient functioning of the Council;
- Opposes efforts to challenge universality of human rights and underscores the willingness to cooperate with countries from all regions world-wide, but to also utilise the entire array of instruments at its disposal to condemn and sanction those who violate or endanger these instruments;
- Makes a pledge for partnership and greater cooperation with the Council of Europe, the OSCE, and other international and regional organisations, aiming to encourage consolidation of regional mechanisms for human rights.

Striving to implement the human rights and democracy strategy with enough adaptability to respond to any new challenge, the EU has adopted an action plan covering the period until 2015. The plan targets results in the promotion of human rights and democratisation of societies in seven areas of external action by the Union:

1. Human rights and democracy in EU policies, including:
 - Integration of human rights in all significant areas,
 - Partnership with the civil society on all levels, and
 - Regular reports on the strategy's implementation;
2. Promotion of the universality of the human rights, focusing on:
 - Universal support on the application of crucial international and regional agreements on human rights, and
 - Strengthening of the culture of human rights and democracy outside EU borders;
3. Monitoring the coherent policy goals, by:
 - Effective support of democracy,
 - Maintaining a constant capacity of the EU Council for promotion of human rights and democracy,
 - Achieving a greater coherence between home and foreign human rights policies of the EU, and
 - Adherence to economic, social, and cultural rights;
4. Human rights in EU's foreign policy, focusing on:
 - Operations in the direction of rights-based approach in the cooperation for development,
 - Trading in a manner stimulating to human rights,
 - Mirroring human rights in the conflict prevention and crises management activities,
 - Embedding human rights into anti-terrorist activities,
 - Guaranteeing that human rights will be embedded in the external dimension of the

- operations on the area of freedom, security, and justice, and
 - Promotion of human rights in the external dimension of employment and social policy;
1. Implementing EU priorities regarding human rights:
 - Abolition of death punishment,
 - Eradicating torture and other forms of cruel or inhuman punishments,
 - Effective support for human rights activists,
 - Promotion and protection of the rights of children,
 - Protection of the rights of women and protection against gender violence,
 - Evoking international humanitarian law,
 - Protection of the rights of the LGBTQI community,
 - Freedom of religion and belief,
 - Freedom of expression online or offline,
 - Implementation of the UN's leading principles on human rights in business,
 - Law enforcement,
 - Accountability for human rights violations,
 - Promotion of minorities' rights,
 - Fortified policy on issues regarding indigenous communities, and
 - Support for the rights of persons with disabilities;
 2. Working with bilateral partners, including individual approaches, dialogue, and application of external political instruments of the EU regarding human rights and democracy; and
 3. Working with multilateral institutions aspiring to fortify the regional human rights mechanisms, and to share responsibilities effectively (EU Action Plan on Human Rights and Democracy, 2012).

The EU is elaborating on the advancement and main achievements in the implementation of the Action plan in its annual reports. The Action plan is being implemented by the European Commission and the EU member-states, and it is being closely controlled by the European Parliament and the civil society. In the 2014 Report, it is being underscored that significant progress has been achieved in the implementation of 97 measures determined in the Action plan, especially regarding EU's engagement with third countries and regional organisations.

1. European Parliament's conclusions in the EU Annual report regarding the implementation of the Action plan on human rights and democracy in the world - challenges for the period following 2015

Human rights and democratic principles are a significant part of the operations of the European Parliament, thus they are omnipresent in their public reports and high-level meetings.

In the 2014 Report, the European Parliament acclaimed the adoption of the Strategic framework and the Action Plan on human rights and democracy, defining them as a crucial turning point in the integration of human rights in the EU's foreign policy. However, the Parliament underscored the need for a general consensus and a greater coordination in EU's human rights policies, above all between EU institutions and the member-states, and it also announced the new 2015 Action plan. Furthermore, the Parliament highlighted the role of the EU Special Representative on human rights, pointing to the need for improvement of the coherency, consistency, and efficacy of EU policy on human rights, as well as for an evaluation of the cooperation projects, assessing their influence in the area of human rights. In April 2013, based on that Report, the Parliament adopted a resolution on the influence of the financial and economic crisis on human rights, asking for the creation of a Global Fund for Social Protection and involvement of higher human rights standards in the development agenda for the period following 2015. Regarding the influence of corruption on human rights, in the Report and the resolution (October 2013), the Parliament pointed to their strong correlation and the lack of ambition on the side of the EU in this sphere, calling for the adoption of more ambitious policies on dealing with corruption in the world. Moreover, the Parliament emphasized the urgent need of synchronisation of EU policy with international legal norms concerning human rights during armed conflicts, the urgent need of diverting political discussions regarding human rights on a lower level, and if these are not constructive – to place the emphasis on public diplomacy and démarches.

Pursuant to the Parliament's Human rights resolution, a great challenge for the upcoming period starting in 2015 will be posed by the improvement of the coherency between EU's home and foreign human rights policies and the guarantee of their being respected in significant areas of politics where they are reflected, for instance trade, migration, and relations with strategic partners. Human rights issues are the subject of debate in EU's Foreign Affairs Commission, parliamentary foreign affairs reports, or international agreements containing human rights clauses. The Committee

on civil freedoms, justice, and internal affairs is a key actor with a great responsibility in the external aspects in EU's internal policy (migration and asylum policies, for instance).

In the Report, the Parliament expressed its concern regarding the improvement of the rule of law, the pluralist democracy, and human rights in Russia, confirmed the need for a more extensive dialogue on human rights with China, and expressed its concern due to the condition of human rights and democratisation in its neighbourhood in its South and East. Consequently, it underlined the need for encouraging countries to augment their dedication in the furthering of the values of democracy, rule of law and adherence to human rights and fundamental freedoms.

In 2013, the European Parliament debated on the topic of future instruments for foreign financial assistance for the period of 2014 – 2020, coming to the conclusion that one of the crucial determinants in the decision process will be the dedication and progress of partner countries regarding democracy, rule of law and human rights. The new EIDHR ought to provide a greater flexibility, respond to new situations, and include a revision provision, on the basis of which the list of priority areas for financial assistance could be altered, as well as a provision for the activation of urgent measures on human rights protection. The European Neighbourhood Instrument (2014 - 2020) and the Instrument for Pre-accession Assistance (2014 - 2020) are mentioned as significant. The latter holds protection and promotion of human rights and freedoms as an indicator on development assessment, and along with the rule of law – as priority areas for financial assistance.

Concerning third countries agreements and including human rights into them, the greatest role is played by the European Parliament – which gives the consent -, the Committee on Foreign affairs, and the Committee on International trade. The Parliament holds it of utmost importance that greater attention be paid to the source of information and communication technologies, which might be used in cases of human rights violations, as well as in the eradication of child and forced labour.

In the 2013 Resolution on transportation and illicit detention of prisoners in European countries by the CIA, the Parliament expresses regrets about the lack of success (of the Council, the Commission, the member-states' governments, the candidate-countries, the NATO, and the US authorities) in the implementation of the 2012 resolution's recommendations, especially regarding serious abuses of fundamental freedoms of victims by the interrogation programmes of the CIA. Therefore, the Parliament stated that it is expecting an investigation about the acts and operations of the US National Security Agency, and is expecting it to create state bodies for monitoring and democratic control of intelligence services in EU countries.

The civil society, having a crucial role in the protection of human rights, is a key partner of the EU in their common endeavour for promotion of human rights. Therefore, the EU is constantly strengthening the interaction with the civil society, judging that a functional democracy is characterised by the fact that its citizens can freely exercise their right to peaceful assembly and association. Unfortunately, at the General Assembly in October of 2013, the EU expressed concern regarding the fact that in many countries the civil society is facing intimidation, maltreatment, even violence. The EU strongly rejected the limitation of the space of the civil society and the obstruction of the work of human rights activists. The civil society is the leading recipient of EU support in the realisation of projects for strengthening of democracy and human rights. In 2013, the EIDHR supported more than 530 such projects in 135 countries on a global scale, investing more than €150 million, with 2500 more projects being in progress. Furthermore, the EIDHR provided support for the formation of the civil society in more than 20 EU partner- states. Regarding the new EU policy towards civil societies, at the start of 2013, the European Council adopted the resolution “Europe’s Engagement with Civil Society in External Relations”, as well as conclusions on the topic of “EU support of implementing reforms in transition societies” where it underscored once again the key role of the civil society in the furthering of human rights and democratic processes.

Conclusion

The EU holds human rights to be universal and indivisible, and is thus actively and dedicatedly working towards their promotion and protection inside and outside its borders. The principles of sustainable peace, development, and prosperity in societies cannot be upheld unless human rights are being adhered to in these societies. This is the founding principle of the EU, on the basis of which it is constantly striving to further human rights, democracy, and rule of law. This commitment is an underlying trait of its home and foreign policies. These principles are an integral part of the founding agreements of the EU, further strengthened by the Charter of fundamental rights, especially after the Lisbon Treaty of 2009, when the Charter became legally binding. Pursuant to the Lisbon Treaty, the activities of the EU on the international scene have been inspired by these principles, as well as the principles of the UN Charter and international law. EU agreements signed with third countries also contain clauses unequivocally stating that human rights are an essential element in the relations between parties.

The EU provides full support to individuals and organisations which are working on the promotion of freedom, democracy, and human rights across the world and is also actively engaged in multilateral fora, supporting the efforts of regional organisations in the improvement of their human rights agendas. In the direction of assisting the civil society’s growth into an effective force in the protection of human rights and democratic processes, the EU has created the EIDHR which focuses on sensitive political issues, using innovative approaches in the direct collaboration with local civil organisations which ought to preserve their independence from the local authorities. This enables the EIDHR to be flexible and have an increased capacity for response to variable circumstances. It

can intervene without the consent of third countries' governments, and supports the work of individuals or groups in the civil society which protect human rights and democracy, as well as intergovernmental organisations which are implementing international mechanisms for human rights. Thus, it complements other instruments used for the implementation of EU policy on democracy and human rights. The new financial regulation enables EIDHR to finance not only registered organisations, but also physical persons or individual human rights activists. The Multiannual Indicative Programme stipulates financial support from the EIDHR amounting to €1.3 billion in the period of 2014 – 2020.

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