Report on the Annual Report on Human Rights in the World 2005 and the European Union's policy on the matter

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This seventh European Union Annual Report on Human Rights covers the period 1 July 2004 to 30 June 2005. The purpose of the report is to provide an overview of the work of the EU, through its institutions, in promoting human rights, democracy and good governance.

The report highlights those topics, institutions and countries where EU action has been particularly significant during the reporting period. It has also introduced some changes to previous formats. For the first time, the European Parliament has contributed a section on the work it has been doing for human rights. The report has also analysed the results of EU actions in terms of their impact. It contains illustrations of how the different instruments, especially financial ones, can be used to contribute to overall policy objectives.

Although the upsets in the ratification process of the EU Constitutional Treaty have diminished the prospect of embedding human rights legally within the EU structures in the near future, the EU remains determined to respect human rights within its own borders and to continue to work for their observance outside them. At a time when terrorist atrocities continue to be perpetrated around the world, the promotion of human rights as a means of combating intolerance and extremism remains more than ever relevant. The report demonstrates how the EU has been active in addressing this issue.

Developments within the EU: This chapter examines the most recent developments, and discusses the future Fundamental Rights Agency, which will provide the relevant EU institutions and member states with expertise and assistance with regard to the implementation of Community law and the development of measures and actions affecting human rights questions. The main points are as follows:

-the Commission adopted on 30 June 2005 proposals for a Council Regulation establishing a

European Union **Agency for Fundamental Rights** (please see COM (2004)0693) and for a Council Decision defining the scope of the Agency’s activities in areas referred to in Title VI of the Treaty on European Union. If the Regulation is approved, the Agency will operate within the competencies of the Community under the Regulation, but its scope would be extended to matters relating to police and judicial co-operation in criminal matters as a result of the parallel Council Decision;

-in January 2005 Javier Solana, EU High Representative for the CFSP, appointed Michael Matthiessen as his Personal Representative on Human Rights. During the period covered by this report the Personal Representative contributed to the mainstreaming of human rights throughout the EU institutions. He enhanced the EU's visibility at the 61st session of the UN Commission on Human Rights and lobbied effectively for EU positions.

-the report discusses in detail the contribution of the European Parliament to promoting human rights, including the workings of its competent committees. It highlights certain events: in 2004, the European Parliament awarded its annual Human Rights Prize, the Sakharov Prize for Freedom of Thought, to the Belarusian Association of Journalists in recognition of its outstanding commitment to the cause of freedom of speech and the promotion of independent journalism in Belarus, despite the continuous danger of persecution by the Belarusian authorities. Also of substantial significance during 2004 was the special

ceremony for the 1995 Sakharov Prize laureate Leyla Zana who had been unable to collect the Prize personally. She was finally released on 9 June 2004.

EU Instruments and Initiatives in third countries: The EU has a number of instruments at its disposal to promote human rights in third countries. These include five EU Guidelines on Human Rights on issues of particular importance to EU member states, which have been adopted by the Council since 1998. The report goes on to give an overview of other legal and policy instruments during this period. They include Common Strategies, Joint Actions, and Common Positions; démarches and declarations; human rights dialogues and ad hoc consultations, notably with China, Iran, and Russia; troika consultations on human rights with US, Canada, Japan, New Zealand and Candidate countries; human rights clauses in co-operation agreements with third countries; activities funded under the European Initiative for Democracy and Human Rights (EIDHR), the resources of which in 2004 amounted to over EUR 100 million, to fund a wide range of projects in 32 countries.

The analysis of effectiveness of EU instruments and initiatives in this chapter demonstrates many of the effective ways in which the EU instruments have been used to actively promote human rights. The EU aims to be a "convincing power" rather than an "imposing power", with engagement and dialogue as the preferred means of interaction with third states, and effectiveness the aim. The EU has to seek a balance between persuasion and critical action. Promoting human rights involves building relations of trust, having a genuine exchange of views, setting conditions for fruitful co-operation and offering assistance to meet them, but being willing to indicate clearly when red lines have been crossed.

Available instruments include incentives as well as restrictive measures. The EU is a major donor and trade partner but does not shy away from suspending certain provisions of co-operation agreements, introducing critical resolutions at major UN fora or a visa ban, or sending teams of civilian and military staff, until a human rights situation improves.

During the Dutch Presidency, COHOM (Council Working Party on Human Rights) took the initiative to periodically review all EU human rights dialogues.The main points in this section are as follows:

-the EU has been encouraged by some signs of progress in the China dialogue;

-there has been little overall progress since the EU-Iran dialogue began;

-it is too early to evaluate progress in the EU-Russia consultations, which were only launched in May 2004;

-Troika consultations with the US, Canada, Japan and New Zealand have helped align common approaches;

-the EIDHR supports a range of vital human rights work in third countries. EU political priorities are reflected in the programming of community aid. However, greater effort accordingly needs to be made to reduce the gap between priority setting (through programming) and its implementation;

-the European Parliament plays a very wide-ranging role in promoting human rights. It has undertaken activities that are topical and specific, as well as focused on issues, like UN reform, that are more long-term in their impact. In addition, the Parliament continues to keep up pressure on both the Commission and the Council to sustain their efforts in these fields. The active involvement of MEPs in election observation missions demonstrates how all three EU institutions effectively cooperate together.

The report goes on to detail other Community action in the field of human rights. The following should be noted:

Thematic issues: this chapter discusses the death penalty, torture, and other cruel, inhuman and degrading treatment or punishment, rights of the Child (including Children and Armed Conflict) human rights Defenders, and asylum, migration, refugees and displaced persons. The breadth of activities on human rights themes which the EU undertakes in international fora, bilateral and regional relations and through funding programmes demonstrates a strong commitment to advancing human rights. Such action is particularly effective where the EU is perceived as having a strong record of promoting and protecting particular human rights within its own borders. EU policy may be particularly effective where there is a concerted effort by EU member states to ratify and implement a new human rights instrument, thereby providing a solid basis for the EU to secure wider international support. The EU's political, diplomatic and financial efforts to promote the Rome Statute of the International Criminal Court – which now enjoys 99 ratifications – demonstrate this. Where such an approach is not possible, the EU's policy goals may not be realised as effectively.

Financial instruments: EU policy is also furthered most effectively where EU financial instruments – in particular the EIDHR – are successfully complementing EU policy priorities. However, the EIDHR cannot support projects relating to all EU human rights priorities. Extensive support is also available for human rights and democracy programmes under mainstream bilateral and regional EU funding. Where the EU wishes to ensure that EU and member state funding programmes complement and reinforce each other, problems may arise due to different programming procedures and priorities. For example, the Plan of Action on children and armed conflict is designed to ensure that projects funded by the EU and by individual member states contribute to a wide range of concerns: establishing a comprehensive response has proved difficult. Effective EU action may also require institutional innovation. One example relates to the human rights of women. Despite an extensive array of legislation and programmes, significant gender gaps remain in most policy areas. These challenges have led to the Commission proposal for a European Institute for Gender Equality, which enjoys the support of Equality ministers and the European Parliament.

Country-Focused Issues: The prospect of EU membership has acted as a powerful incentive for new member states to undertake political and economic reforms, and is now acting as a spur to reform in the accession and candidate states (Bulgaria, Romania, Croatia and Turkey), the Western Balkans and in the wider European neighbourhood. The report goes on to discuss the European Neighbourhood Policy, and ENP Action Plans with a first series of countries with whom contractual relations were already in force (Israel, Jordan, Moldova, Morocco, the Palestinian Authority, Tunisia and Ukraine). A second group of Action Plans (Armenia, Azerbaijan, Egypt, Georgia and Lebanon) is being prepared. The report highlights the declarations focused on the growing oppression of political opposition forces in **Belarus**. It discusses some progress on human rights in **Egypt,** and states that the EU has taken up its concerns with the **Israeli and Palestinian authorities** at all levels, to respect human rights. The EU continues to have concerns about human rights in **Russia**, and **China**. There has been little or no progress in a number of areas of concern during the period under review. Serious violations of human rights have continued to occur in **Iran**and in the **Democratic Republic of the Congo,** as well as **Darfur, Western Sudan.** The deepening conflict in **Nepal** is also discussed. The influence of the EU varies enormously, and in most places it can only encourage and cajole, and occasionally condemn. In Europe, the EU has significant influence and acts as a powerful catalyst for change. One example is **Turkey,** where the enlargement process has provided significant incentive for reform.

Conclusion: This seventh human rights annual report demonstrates the extent to which human rights, democracy and good governance now decisively underpin the EU's external policies. The increase in the membership of the EU to 25 has only served to enhance the common purpose of the member states. Many of the new member states have had recent experience of human rights abuses and the absence of democracy and this has added a sharper focus and impetus to EU work in this field. The appointment of Michael Matthiessen as the Personal Representative on Human Rights to the Council's Secretary General, Javier Solana, together with an increasing number of EU Special Representatives, demonstrates that the EU is committed to dedicating resources and specialist skills to take forward its policies. The strength of

the EU resides in its potential to co-ordinate and co-operate on policies and actions. Where this is effective, it has the capacity to be persuasive, effective and to add real value to the efforts of member states. The adoption of Common Strategies and Common Positions, by aligning the foreign policies of member states, has limited the capacity of human rights transgressors to divide the EU. The report demonstrates that all the main political institutions of the EU play an active role in the promotion of human rights. Where the EU can demonstrate that it is fully respecting human rights

within its borders, its voice on such issues carries greater authority when it speaks in international

fora. It is noteworthy that the EU's stance on the death penalty carries greater weight, now that all member states have abolished it.

The successes highlighted in the report are very welcome. These include an enhanced regime to control the export of material used for torture, the tackling of child abuse via the internet, the focus on human rights defenders, and the promotion of the ICC within the States adhering to the Cotonou agreement. However, there have also been set-backs, including the failure to make real progress in a number of countries, and the active unwillingness of some in the UN General Assembly to address these situations. The reform of the UN machinery for protecting human rights is likely to be a major challenge for the EU in the year ahead.