The Human Rights and Democracy Clause in European Union agreements

2005/2057(INI) - 14/02/2006 - Text adopted by Parliament, single reading

The European Parliament adopted a resolution based on the own-initiative report drafted by Vittorio **AGNOLETTO** (GUE/NGL, IT) on the human rights and democracy clause in EU agreements. It welcomed the European Community's general practice of incorporating human rights and democracy clauses – the so-called 'essential elements' and 'non-execution' clauses – into its international agreements since 1992. The clause has now been introduced into more than 50 agreements and applies to more than 120 countries. However, many sectoral agreements, such as those on textiles, agriculture and fisheries, as well as agreements with developed countries, still lack the clause. Parliament stated that it was no longer prepared to give its assent to new international agreements that do not contain a human rights and democracy clause.

One of the factors that has compromised the application of the clause, MEPs said, was the generic nature of its wording: this does not spell out detailed procedures for 'positive' and 'negative' interventions under EU/third country cooperation, leaving the Council and Member States' national imperatives to hold sway over the more general requirements of human rights. Nonetheless, Parliament applauded the experiment conducted to date with the human rights and democracy clause in Articles 9 and 96 of the Cotonou Agreement, which has even led to the temporary suspension of economic and trade cooperation with some ACP States on the grounds of serious human rights violations, thus enhancing the European Union's determination and credibility. Parliament advocated the development of this experiment and its inclusion as a standard feature in EU/third country agreements. It also advocated the drafting of a new "model clause" to correct the current wording. The text should take certain principles into account:

the promotion of democracy, human rights, including minority rights, the rule of law and good governance;

- the European Union must pay special attention to implementing policies for gender equality and women's rights, whilst satisfying itself that the third-country authorities uphold the fundamental rights not to be arbitrarily arrested, tortured or executed and that their citizens have access to an impartial court of law as a priority;

- opposition to any discrimination based on sexual orientation or concerning the rights of disabled people;

- observance of sectoral rights that cooperation should promote, in particular those of the ILO,

- a procedure for consultation between the parties, detailing the political and legal mechanisms to be used in the event of a request for bilateral cooperation to be suspended on the grounds of repeated and/or systematic human rights violations in breach of international law; suspension is obviously an extreme measure in EU/third country relations, and therefore a clear system of sanctions should be developed so as to offer an alternative course of action, but the accepted, essential positive approach on human rights should not exclude the possibility of a temporary suspension of cooperation having to be invoked on the grounds of a breach of the human rights and democracy clause;

- a mechanism to allow for the temporary suspension of a cooperation agreement as well as a "warning mechanism" in response to a breach of the human rights and democracy clause;

- the clause should be based on reciprocity and thus should constitute a legal basis which enables the parties to discuss and act together, with regard both to the territory of the European Union and that of the third country.

Parliament went on to make a series of recommendations on the need to ensure an effective mechanism for monitoring respect for human rights and democratic principles by the partners. In particular, it recommended an enhanced role for the heads of the Commission's external delegations in third countries. There should be "country-by-country multiannual strategy documents" to be drawn up under the responsibility of delegation heads, and for the Country Strategy Papers to pay greater attention to the human rights situation, identify the priorities and spell out the means and instruments deployed by the EU.

Furthermore, Parliament pointed out that the Association Councils generally govern EU/third country relations, and called for the general establishment of sub-committees on human rights under association agreements, with a mandate to: review compliance with the human rights and democracy clause, propose specific positive actions to improve democracy and human rights and monitor the direct and indirect impact of the implementation of the Agreement on the full enjoyment of fundamental rights in the States parties. The European Parliament should be associated with the Association Councils and with the subcommittees on human rights, and its interparliamentary delegations ought to have an enhanced role in this connection.

Finally, with particular regard to the countries covered by the European Neighbourhood Policy, the clause should specify that the signatories of such agreements should grant each other – on a mutual basis – the right to observe their legislative and presidential elections. Parliament called on the Council and the Commission to further encourage the countries concerned to admit international observers at the time of their elections, in the interests of transparency.