



Human Rights, Democracy & Rule of Law

PROF. DR. DR. ARNDT KÜNNECKE

Human Rights



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The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.

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ART. 2 OF THE TREATY ON THE EUROPEAN UNION (TEU)

EU and Human Rights

- ★ Respect for human rights and dignity, together with the principles of freedom, democracy, equality and the rule of law, are values common to all EU countries
- ★ They also guide the EU's action both inside and outside its borders
- ★ Human rights are at the heart of EU relations with other countries and regions

EU Human Rights Policy

- ★ Two main streams of human rights policy and action within the EU:
 - ★ **protecting the fundamental human rights for EU citizens**
 - ★ **promoting human rights worldwide**

EU Human Rights Policy

- ★ EU action in this area is based on the **Treaty on the Functioning of the European Union (TFEU)** to which the **Charter of Fundamental Rights**, proclaimed in 2000, is annexed

EU Charter on Fundamental Rights

- ★ Since 2009, the Charter has been **legally binding** on the EU institutions and national governments (when they are implementing EU law)
- ★ The Charter is consistent with the **European Convention on Human Rights** (adopted in the framework of the Council of Europe)
 - ↳ however, the Charter does not establish any new rights but serves to collect existing rights that had been scattered between different sources

EU Charter on Fundamental Rights

- ★ The Charter on Fundamental Rights reaffirms:
 - ★ the rights from the **constitutional traditions** and **international obligations** common to EU countries
 - ★ the **European Convention for the Protection of Human Rights and Fundamental Freedoms**
 - ★ the **Social Charters** adopted by the EU and by the Council of Europe
 - ★ the **case-law** of the **Court of Justice of the European Union** and of the **European Court of Human Rights**

EU Charter on Fundamental Rights

- ★ By making fundamental rights clearer and more visible, the Charter creates **legal certainty** within the EU
- ★ The Charter of Fundamental Rights contains a preamble and 54 articles, grouped in 7 chapters:

EU Charter on Fundamental Rights

- ★ **Chapter I: Dignity** (human dignity, the right to life, the right to the integrity of the person, prohibition of torture and inhuman or degrading treatment or punishment, prohibition of slavery and forced labour)
- ★ **Chapter II: Freedoms** (the right to liberty and security, respect for private and family life, protection of personal data, the right to marry and found a family, freedom of thought, conscience and religion, freedom of expression and information, freedom of assembly and association, freedom of the arts and sciences, the right to education, freedom to choose an occupation and the right to engage in work, freedom to conduct a business, the right to property, the right to asylum, protection in the event of removal, expulsion or extradition)

EU Charter on Fundamental Rights

- ★ **Chapter III: Equality** (equality before the law, non-discrimination, cultural, religious and linguistic diversity, equality between men and women, the rights of the child, the rights of the elderly, integration of persons with disabilities)
- ★ **Chapter IV: Solidarity** (workers' right to information and consultation within the undertaking, the right of collective bargaining and action, the right of access to placement services, protection in the event of unjustified dismissal, fair and just working conditions, prohibition of child labour and protection of young people at work, family and professional life, social security and social assistance, health care, access to services of general economic interest, environmental protection, consumer protection)

EU Charter on Fundamental Rights

- ★ **Chapter V: Citizens' Rights** (the right to vote and stand as a candidate at elections to the European Parliament and at municipal elections, the right to good administration, the right of access to documents, European Ombudsman, the right to petition, freedom of movement and residence, diplomatic and consular protection)
- ★ **Chapter VI: Justice** (the right to an effective remedy and a fair trial, presumption of innocence and the right of defence, principles of legality and proportionality of criminal offences and penalties, the right not to be tried or punished twice in criminal proceedings for the same criminal offence)
- ★ **Chapter VII: General Provisions**

EU Human Rights Policy

★ EU Human Rights Policy includes:

- ★ promoting the rights of women, children, minorities and displaced persons
- ★ opposing the death penalty, torture, human trafficking and discrimination
- ★ defending civil, political, economic, social and cultural rights
- ★ defending human rights through active partnership with partner countries, international and regional organisations, and groups and associations at all levels of society
- ★ inclusion of human rights clauses in all agreements on trade or cooperation with non-EU countries



EU Human Rights Actions

https://ec.europa.eu/info/aid-development-cooperation-fundamental-rights/human-rights-non-eu-countries/eu-action-topic_en

Democracy



EU and Democracy

- ★ This EU commitment to democracy as a principle underpinning its external action is reflected in numerous policies:
 - ★ the November 2009 Council Conclusions on **'Democracy support in the EU's external relations'**
 - ★ the 2011 **'Agenda for Change'** guiding EU development cooperation
 - ★ the 2015-2019 **Action Plan for Human Rights and Democracy**
 - ★ the new **European Consensus on Development**

EU and Democracy

- ★ Based on this framework, the **EU supports democratisation and fundamental freedoms in partner countries**, recognising the crucial importance of encouraging broad participation in political decision-making and local ownership of development processes
- ★ Depending on the particular objectives of each action, it **works with a wide range of partners**, including grass-roots organisations, international parliamentary associations, advocacy and watch-dog organisations, electoral bodies, political foundations, parliaments and the media

EU and Democracy

- ★ The geographical programmes support the implementation of the policy at national and regional level: the **European Development Fund** (in the African, Caribbean and Pacific countries), the **Development Cooperation Instrument** (in Latin America, Asia and South Africa), the **European Neighbourhood Instrument** (in the neighbouring regions)
- ★ Several thematic programmes and instruments fund activities in specific sectors of development co-operation

EU and Democracy

- ★ The **European Instrument for Democracy and Human Rights (EIDHR)**, a thematic instrument that works with and through civil society organisations, is the European Union's main vector of support in the area of democracy and human rights
- ★ The **Instrument contributing to Stability and Peace (IsCP)**
- ★ Two thematic programmes implemented under the **Development Cooperation Instrument**: '**Global public good and challenges**' and '**Civil society organisations and local authorities**'



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The new Action Plan should not endeavour to cover exhaustively all aspects of the Union's Human Rights/ Democracy support policies. It should rather be strategic and focus on priorities where additional political momentum and enhanced commitment is needed.

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EU ACTION PLAN ON HUMAN RIGHTS AND DEMOCRACY (2015-2019)

Action Plan Principles

- ★ The EU should **empower interlocutors in third countries** (governmental, parliamentary, and quasi-governmental), **reinforce the role of the judiciary**, continue to **support to civil society** including social partners and promote enabling environments, **strengthen the role and impact of regional organisations** and mechanisms and reinforce cooperation with the United Nations which, with its universal membership, has greater leverage

Action Plan Principles

- ★ The EU must **lead by example**

- ▶ it is under severe scrutiny for what are perceived as discrepancies in its approach to human rights issues (double standards and internal/external inconsistencies)

- ★ The EU must **focus on the most pressing human rights challenges**, which must be tackled both internally and externally

- ▶ these challenges include in particular combatting discrimination, the respect for freedom of expression and privacy as well as insuring that human rights are upheld in migration, trade or counter-terrorism policies

Action Plan Principles

- ★ The EU should empower itself - the different instruments, tools and policies at its disposal need to be used **more smartly** and in a **more strategic** way, both in bilateral work and in engagement in multilateral cooperation
- ★ The EU should **communicate better** what it does, improve the capacity to measure impact and, whenever appropriate, devise alternative and more efficient approaches

Action Plan Strategic Areas

- ★ **Boosting the ownership of local actors:**
Human rights and democracy can only fully take root where there is strong local ownership
 - ▶ focus on actions and activities aimed at improving the way in which the EU interacts with all external stakeholders, both governmental and non-governmental
 - ▶ specific emphasis is given to challenges concerning the space for civil society

Action Plan Strategic Areas

★ Addressing key human rights challenges:

Human rights issues have to be addressed specifically in order to be promoted effectively

- ▶ focus on targeted thematic human rights challenges, while maintaining the necessary balance between civil and political rights on the one end and economic, social and cultural rights on the other

Action Plan Strategic Areas

★ Ensuring a comprehensive human rights approach to conflict and crises:

Need for the EU to adjust its existing tools to the changing nature of conflicts

- ▶ proposes a range of actions to promote and support the development of tools and policies at national, regional and international level to prevent, address and redress human rights violations, with particular emphasis on the most serious crimes of concern to the international community

Action Plan Strategic Areas

★ **Fostering better coherence and consistency:**

Need for the EU to be more convincing in its human rights policy

- ▶ mainstream further human rights considerations in the external aspects of EU policies, particularly with regard to trade/investment, migration/refugee/asylum and development policies as well as counter-terrorism, in order to ensure better policy coherence

Action Plan Strategic Areas

★ Deepening the effectiveness and results culture in human rights and democracy:

Need for better use of existing instruments, activities and policies to increase the EU impact, on human rights

- ▶ proposes actions which will help the EU develop more result-oriented and strategic approaches

Rule of Law



Rule of Law

- ★ Within the EU, the rule of law is of particular importance, because respect for the rule of law is a prerequisite for the protection of all the fundamental values listed in Art. 2 TEU
- ★ Respect for the rule of law is also a prerequisite for upholding all rights and obligations deriving from the treaties and from international law

Rule of Law Framework

- ★ March 2014: new framework for addressing systemic threats to the rule of law in any of the EU's Member States was adopted
- ★ New **rule of law framework**: complementary to infringement procedures - when EU law has been breached - and to the so-called 'Article 7 TEU procedure' which allows for the suspension of voting rights in case of a 'serious and persistent breach' of EU values by an EU country

Rule of Law Framework

- ★ The framework allows the Commission to enter into a dialogue with the EU country concerned to prevent the escalation of systemic threats to the rule of law
- ★ In preparing its assessment, the Commission can draw on the expertise of other EU institutions and international organisations (notably, the European Parliament, the Council, the Fundamental Rights Agency, the Council of Europe, the OSCE)

Rule of Law Framework

- ★ If no solution is found within the Framework, Art. 7 TEU will always remain the last resort to resolve a crisis and ensure compliance with EU values:
 - ★ **Preventive mechanism:** allows the Council to give the EU country concerned a warning before a 'serious breach' has actually materialised
 - ★ **Sanctioning mechanism:** allows the Council to suspend certain rights deriving from the application of the treaties to the EU country in question, including the voting rights of that country in the Council. In that case the 'serious breach' must have persisted for some time

Rule of Law

- ★ EU is based on the **Rule of Law**: every action taken by it is founded on treaties approved voluntarily and democratically by all EU member countries
- ★ All new countries joining the EU must also respect the rights and obligations enshrined in:
 - ★ **European Convention on Human Rights**
 - ★ **Charter of Fundamental Rights of the European Union**

Accession Process

- ★ Key requirements for EU membership, including the rule of law, are set out in the so-called **Copenhagen criteria**
- ★ Two specific negotiating chapters are meant to assist enlargement countries to establish a society based on the rule of law:
 - ★ **Chapter 23 - Judiciary and Fundamental Rights**
 - ★ **Chapter 24 - Justice, Freedom and Security**

cover a wide variety of aspects of justice, internal security, fundamental rights and the fight against corruption and organised crime

Obligations for candidate countries

Countries that want to join the EU have to make sure that:

- ★ their judiciary is independent and impartial. This includes, for example, guaranteed access to justice, fair trial procedures, adequate funding for courts and training for magistrates and legal practitioners
- ★ their government and its officials and agents are accountable under the law and that political leaders and decision-makers take a clear stance against corruption
- ★ the process by which laws are prepared, approved and enforced is transparent, efficient, and fair. Laws must be clear, publicised, stable, fair, and protect fundamental rights

Benefits for all

- ★ When countries respect the rule of law, their citizens, businesses, state institutions and the economy as a whole are protected from crime (including cyber-crime)
 - ↳ law enforcement services must be adequately trained and equipped to enforce the law, as regards both fundamental rights and data protection rules

Benefits for all

- ★ Explicit protection is also needed for vulnerable people - the victims of crime, people belonging to minorities or fleeing persecution or serious harm in their own country and therefore in need of international protection



E-mail: kuennecke@web.de

For any questions or
further information
contact me per e-mail

