EUROPEAN PARLIAMENT

DIRECTORATE-GENERAL FOR EXTERNAL POLICIES

POLICY DEPARTMENT

POLITICAL DIALOGUE ON HUMAN RIGHTS UNDER ARTICLE 8 OF THE COTONOU AGREEMENT

DEVE

EN

2014

EUROPEAN PARLIAMENT

DIRECTORATE-GENERAL FOR EXTERNAL POLICIES OF THE UNION

DIRECTORATE B

POLICY DEPARTMENT

STUDY

POLITICAL DIALOGUE ON HUMAN RIGHTS UNDER ARTICLE 8 OF THE COTONOU AGREEMENT

Abstract

The aim of this study is to assess the comprehensiveness and effectiveness of the EU's political dialogue on Human Rights under Article 8 of the Cotonou Partnership Agreement with the Group of African, Caribbean and Pacific countries (ACP). Following a set of guiding questions, the study looks into the inclusiveness, comprehensiveness, effectiveness, alignment and impact of EU political dialogue in the area of HR, both within and beyond the Cotonou framework.

Based on a systematic literature review of the legal provisions in place, as well as an analysis of the HR dialogue in practice in a selection of country-cases, the study offers an assessment of current practices and identifies the following four recommendations for improvement:

i) develop a more strategic and structured approach to political dialogue;
ii) enhance the legitimacy of the HR political dialogue;
iii) ensure a result-oriented monitoring of HR dialogue and
iv) fully exploit the potential of development programmes and financial instruments to underpin and strengthen the dialogue.

EXPO/B/DEVE/2013/31 **July 2014**

PE 534.977 **EN**

This study was requested by the European Parliament's Committee on Development.

AUTHORS:

Jean BOSSUYT, Head of Strategy, ECDPM, The Netherlands
Camilla ROCCA, Junior Policy Officer, ECDPM, The Netherlands
Brecht LEIN, Junior Policy Officer, ECDPM, The Netherlands

ADMINISTRATOR RESPONSIBLE:

Manuel MANRIQUE GIL
Directorate-General for External Policies of the Union
Policy Department
SQM 03 M078
rue Wiertz 60
B-1047 Brussels

Editorial Assistant: Simona IACOBLEV

LINGUISTIC VERSION

Original: EN

ABOUT THE EDITOR

Editorial closing date: 06 May 2014.

Printed in Belgium

ISBN: 978-92-823-5858-0
Doi: 10.2861/66849

The Information Note is available on the Internet at
http://www.europarl.europa.eu/activities/committees/studies.do?language=EN

If you are unable to download the information you require, please request a paper copy
by e-mail : poldep-expo@europarl.europa.eu

TABLE OF CONTENTS

ACRONYMS

ACP	African, Caribbean and Pacific countries
ATP	Anti-Terrorism Proclamation
AU	African Union
CBSS	Country-Based Support Scheme
COAFR	Council Africa Working Group
CPA	Cotonou Partnership Agreement
CSDP	Common Security and Defence Policy
CSO	Civil Society Organisation
DCI	Development Cooperation Instrument
DG	Directorate-General
EC	European Commission
ECDPM	European Centre for Development Policy Management
ECOWAS	Economic Community of West African States
EDF	European Development Fund
EEAS	European External Action Service
EEC	European Economic Community
EIDHR	European Instrument for Democracy and Human Rights
EOM	Election Observation Mission
EP	European Parliament
EU	European Union
EUFOR	European Union Force
EUSR	European Union Special Representative
GNU	Government of National Unity
HIV	Human Immunodeficiency Virus
HR	Human Rights
HRD	Human Rights Defenders
HRVP	High Representative of the Union for Foreign and Security Policy
IOB	Institute of Development Policy and Management
IPD	Intensified Political Dialogue
JGA	Joint Governance Assessment
JWF	Joint Way Forward
LGBT	Lesbian, Gay, Bisexual and Transgender
LIS	Local Implementation Strategy
M&E	Monitoring & Evaluation

MFA	Ministry of Foreign Affairs
MINURCAT	United Nations Mission in the Central African Republic and Chad
MS	Member States
NSA	Non-State Actors
NSA-LA	Non-State Actors and Local Authorities in Development
OSCE	Organisation for Security and Cooperation in Europe
PRAJUST	Programme d'Appui à la Justice au Tchad
RENAPDDHO	Réseau National de Protecteurs des Défenseurs des Droits de l'Homme
SMUG	Sexual Minorities Uganda
SSMB	Same Sex Marriage Bill
UHRC	Uganda Human Rights Commission
UN	United Nations
UPR	Universal Periodic Review

EXECUTIVE SUMMARY

About this paper:

- Cooperation between the EU and the Group of African Caribbean and Pacific countries is currently framed in **the Cotonou Partnership Agreement** (CPA, 2000-2020). Compared to its predecessors (Yaoundé I and II, Lomé I-IV), the CPA features a deeper and wider political dialogue with political cooperation as one of the three pillars of the cooperative framework, the others being trade and development cooperation. Another major innovation of the CPA is its inclusive approach since article 2 of the treaty identifies "participation" as one of the fundamental principles underpinning ACP-EU cooperation.
- **Article 8 of the CPA** outlines the specific modalities for a regular, comprehensive, balanced and deep political dialogue. Contrary to past practices, the political dialogue under Cotonou covers a broad range of topics, essentially *"all aims and objectives"* laid down in the Agreement. As such, Article 8 seeks to focus the dialogue on specific political issues of mutual concern, including the regular assessment of progress regarding the essential elements of the CPA as identified in Article 9, most notably the respect for HR, democratic principles, the rule of law and good governance. Article 8 further stipulates, inter alia, that representatives of Civil Society Organisations shall be associated to this political dialogue between both parties.
- The framework for addressing HR (HR) in EU-ACP relations extends **beyond the Cotonou Partnership Agreement** and is subject to continuous evolution and refinement. The Arab Spring induced the EU to embark on a comprehensive revision of its commitment and approach to the promotion and protection of HR. The 2011 EU Agenda for Change reaffirmed in this regard that HR and democracy are vital elements of inclusive and sustainable development. In June 2012, the EU adopted for the first time ever a unified "EU Strategic Framework and Action Plan on HR and Democracy". The Strategic Framework brings together different sectors and instruments to better address HR issues across the board of EU external action and development cooperation.
- Against this evolving background, this study analyses **the use of political dialogue under Article 8 of the Cotonou Partnership to promote, protect and enforce HR** with regard to the ACP partner countries. The study focuses in particular on the following 7 guiding questions in order to assess the overall effectiveness and comprehensiveness of Art. 8 dialogue on HR issues:
    1. Comprehensiveness of the political dialogue in terms of participation
    2. Comprehensiveness of the political dialogue in terms of the substance covered
    3. Effectiveness of the political dialogue in terms of continuity
    4. Alignment of the political dialogue with regard to other EU HR instruments
    5. The role of EU Member States (MS) in the political dialogue
    6. The perceived impact of the political dialogue on the HR situation at country-level
    7. The scope for improvement of the political dialogue's effectiveness and comprehensiveness for HR promotion.
- **In terms of methodology**, the analysis and findings of this study are based on a systematic review of the legal provisions in place, as well as on an analysis of the HR dialogue in practice in a selection of country-cases: Cameroon, Chad, Ethiopia, The Gambia, Nigeria, Rwanda, Uganda and

Zimbabwe. The information used stems from desk research and semi-structured interviews with relevant stakeholders in EU institutions.

Conclusions and recommendations

The discrete and sensitive nature of political dialogue processes causes limitations in terms of access to information. Public information on the practice and content of Article 8 is thus relatively restricted. Despite such limitations, the following conclusions and recommendations are suggested with confidence:

Conclusions:

- ***There is a need for realism***. There are no magic bullets for improving political dialogue on HR issues. Inevitably, such a dialogue is likely to evoke tensions and polarisation. Either because it confronts power structures reluctant to change (authoritarian regimes) or because different views exist on the values the EU seeks to promote (LGBTI issues are a case in point). While the EU should continue to be a 'norm entrepreneur', fostering (universal) HR values in its external action, it needs to do this with sensitivity to local contexts, in a gradual manner and in alliance with domestic drivers of change. Otherwise its efforts may yield limited results and even be counterproductive.
- ***EU leverage and smart incentives*** There are limits to purely 'normative approaches' to promoting HR. In order to be effective, the EU needs to make a down-to-earth assessment of the leverage it can mobilise in a given country through the various foreign policy, trade and cooperation instruments at its disposal. In many countries, this leverage is limited, declining or polluted by other interests. There is a need for the EU to carefully assess what type of 'smart incentives' (beyond the mere prospect of receiving additional funds) could be used to foster genuine change processes in a particular context and moment in time.
- ***Transparency on the EU's interests***. The EU is clear on its intention to promote HR values in its external action, yet tends to be conspicuously silent on its own (less altruistic) interests in partner countries. This asymmetry seems no longer tenable, also in comparison to other international actors. In order to be a credible actor on HR issues, the EU should better reconcile its values and interests. This would help to provide greater clarity to local constituencies and HR activists in partner countries on the overall agenda and level of ambitions of the EU's external action towards country (including the limits of its actions in favour of HR).

Recommendations:

- **Develop a more strategic and structured approach to political dialogue.** Despite the existence of HR strategies it appears that HR dialogues under Article 8 are still primarily organized on an 'ad hoc', reactive basis, with limited preparation and uncertain follow-up. A more strategic and structured approach to HR dialogues, in practice entails going much deeper into the following four critical dimensions of HR dialogues: i) what is feasible in a given context? ii) What are the most useful fora to use and who are the key actors to include? iii) How to move "*beyond the issue of the day*" and engage with a concrete agenda on medium-term processes of change? iv) What political, institutional and human resources are available and is there scope for strategic alliances?
- **Enhance the legitimacy of the HR political dialogue**. To overcome the stalemate so often observed in HR dialogues at different levels (national, regional and continental) and reflected in polarisation and mutual recriminations, the EU is well advised to invest more in the 'legitimacy' of political dialogue processes. All the more because conditionality or financial incentives may be

(increasingly) of limited use in a changing geopolitical environment and in a context of developing countries graduating to middle-income level. Enhancing EU legitimacy in political dialogue on HR can be done by ensuring closer alignment with local, regional and continental HR agenda's (as promoted for instance by the African Union) or by making optimal use of monitoring and enforcement instruments (such as the Universal Peer Reviews). Rebalancing the dialogue to avoid unilateral approaches of EU agenda-setting and exploring new ways and means to report better and more transparently can further contribute to making the EU a more legitimate talking partner.

– **Ensure a result-oriented monitoring of HR dialogue**. Follow-up and monitoring continue to be the Achilles' heel of many political dialogue processes. By definition, effective change in HR related matters takes time and a mechanistic approach to M&E of progress achieved in HR is likely to fail. However, a more structured and strategic approach to fostering a political dialogue on HR may create new opportunities to strengthen the monitoring of results achieved in the field of HR.

– **Fully exploit the potential of development programmes and financial instruments.** While several EU Delegations have made serious attempts to ensure synergies between political dialogue and development programmes (funded through geographic and thematic instruments) much remains to be done to mainstream HR in development cooperation, enhancing the leverage and scope of the dialogue.

Particular recommendations on **how the European Parliament can contribute** to enhancing EU HR efforts under the Art. 8 political dialogue are offered in Chapter 4 of this paper.

INTRODUCTION

Founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for HR, the European Union has committed itself to **advance these values in its external action**, through its relations with third countries and international, regional and global organisations. This includes the Union's dealings with the 79 countries of the Group of African, Caribbean and Pacific Countries (ACP). Subsequent revisions of the intergovernmental agreements guiding this special relationship, from Yaoundé to Lomé to Cotonou, have increasingly reaffirmed and enforced Human Rights (HR) and fundamental freedoms as essential elements of that partnership.

Setting the scene

Uniting over half of the world's nation states, EU-ACP cooperation is currently framed in a **comprehensive and legally binding agreement**, i.e. the Cotonou Partnership Agreement (CPA), signed in June 2000 in Benin. A deeper and wider political dialogue between the parties lies at the heart of this strengthened partnership. Article 8 of the CPA sets out the specific modalities for such a political dialogue. Contrary to past practices, the political dialogue under Cotonou covers a broad range of topics, essentially *"all aims and objectives laid down in this Agreement"*. As such, Article 8 seeks to focus the dialogue on specific political issues of mutual concern, including the regular assessment of progress regarding the essential elements of the CPA as identified in Article 9: respect for HR, democratic principles, the rule of law and good governance. This in turn should help avoid punitive measures of last resort in case of serious violations of the CPA's essential elements.

A major innovation of the CPA was its **inclusive approach**, with 'participation' as a fundamental principle of ACP-EU cooperation (Article 2), thus recognising the complementary role of, and potential contributions by, Non State Actors (NSA). This includes the private sector, socio-economic partners and civil society in all its forms. Article 8 stipulates in this regard that representatives of civil society organisations (CSO) shall be 'associated' to the political dialogue between the two parties.

Available evidence on how political dialogue works in practice under Article 8 of the CPA is relatively scant. This particularly holds true for the dialogue on HR issues. Successive EU Reports on HR and democracy provide basic information on the different types of HR dialogues in which the EU engages. Yet these reports focus primarily on facts and formats, rather than on the concrete implementation modalities and their overall performance and effectiveness.

Experience suggests that the **dialogue on HR is a complex and conflict-ridden arena**. EU reports indicate that Article 8 is used to engage in regular HR dialogues in most ACP countries, many of which face important challenges in the area of HR. The 2011 Thematic Evaluation on EC support in the area of HR noted that the EU often faces major implementation challenges in turning its HR pledges into practice. Governments involved tend to develop *"a quite sophisticated façade of laws and institutions to display an apparent concern for HR"*. Yet this barely hides the reality of authoritarian systems that are *"unwilling to consider change"* in terms of respecting HR standards.[1]

At the same time, the **landscape for HR is constantly evolving**. The international and European normative framework for HR continues to expand and to be refined, including through dynamics at

[1] European Commission (2011c).

regional level[2]. The Arab Spring induced the EU to embark on a comprehensive revision of its commitment and approach to the promotion and protection of HR. The actions of EU Delegations in the field are now guided by country specific HR Strategies. The 2011 EU Agenda for Change reaffirmed in this regard that HR and democracy are vital elements of inclusive and sustainable development and that the EU should differentiate more in its mix of instruments and aid modalities according to, inter alia, the HR situation in the partner country at hand. In this logic, the 2012 Guidelines on Budget support consider commitment to HR, democracy and the rule of law as pre-conditions for the reception of a Good governance and Development Contract' (i.e. the new name for general budget support).

In June 2012, the EU adopted **for the first time a unified strategic document on HR.** The 'EU Strategic Framework and Action Plan on HR and Democracy' spells out 96 possible steps in 36 different priority areas and brings together existing and new tools for HR promotion as a joint responsibility for the EU and its Member States (MS). With regard to bilateral partners, the Strategic Framework stipulates that the EU will seek constructive engagement with third countries and deepen its HR dialogues and consultations in a result-oriented way. Furthermore, the EU is to raise HR issues *"vigorously in all appropriate forms of bilateral political dialogue"*.[3]

Such policy developments in EU external action thus provide a wider framework for dealing with HR in EU-ACP relations. Political dialogue under Article 8 should therefore be considered as **one of the instruments in the EU toolbox** to foster dialogue and reinforce cooperation on HR-related issues.

Methodology and scope

Against the background outlined above, this study analyses the use of political dialogue under Article 8 of the Cotonou Partnership to promote, protect and enforce HR with regard to the ACP partner countries. Particular attention will be given to (i) the overall **effectiveness and comprehensiveness** of the political dialogue; (ii) the **involvement of CSOs** in political dialogue processes and (iii) the extent to which HR initiatives under **Article 8 interact with other instruments** at the disposal of the EU to address HR challenges through its external action.

It is important to clarify the **scope and focus** of the present study. Due to time and resource constraints, this study cannot provide exhaustive information on dialogue in all ACP countries. Neither does it include analysis of the role played by the different regional, continental and all-ACP institutions, since focus is exclusively on EU actors. With regard to the timeframe applied to the selected country cases that are analysed, this study focuses on the period 2008-2013, since a similar study for the European Parliament was issued in 2007.[4]

In terms of **methodology**, the analysis and findings presented in the study are based on information collected through a structured literature review, complemented by a limited number of semi-structured interviews with key officials within the Brussels-based institutions, working on HR and/or at geographical desks, and HR focal points working in the EU Delegations in the selected ACP countries. Considering the limited scope and timeframe of this study, no stakeholders or officials from the ACP-side of the partnership were approached.

[2] The African union is increasingly seeking to define and monitor the implementation of continental norms related to democracy and HR.
[3] Council of the European Union (2012b).
[4] Portela et al. (2007).

To ensure focus and relevance, the **guiding questions** in the box below were used to assess the implementation of Article 8 in relation to HR:

1. How **comprehensive in terms of participation** is the HR dialogue? Article 8 prescribes that the political dialogue should be an inclusive exercise involving actors beyond central government. In practice this primarily means representatives of civil society organisations and HR Defenders. In what way does the EU (Delegation) engage with these actors within and outside the institutional format of the dialogue process?
2. How **comprehensive in terms of substance** is the political dialogue on HR issues? Does the dialogue between the EU and its partner country cover the different core HR issues in a given context or is it rather standard practice to focus on a limited set of (ad hoc) issues?
3. How **effective in terms of continuity** is the dialogue? Article 8 specifies that the dialogue should be a regular practice and conducted in a flexible manner, formal or informal according to the need. Is political dialogue on HR undertaken on a regular basis or is it rather organized in a responsive, incidental manner?
4. In how far are political dialogues on HR **aligned** with and supported by other geographic and thematic EU cooperation instruments, both within and beyond the Cotonou framework?
5. To what extent and in what way have **EU Member States** played a role in EU political dialogue in the respective partner countries. Is EU action meaningfully aligned and/or supported by the MS present in the country?
6. What has been the **perceived impact** of these HR dialogues through Article 8?
7. **What could be improved** in terms of using Article 8 for HR matters? Is this currently the best vehicle to raise HR issues with ACP partner countries?

In terms of structure, chapter 1 of the study briefly outlines the legal provisions for political dialogue under Article 8 and its relation to other EU instruments regarding HR, both within the CPA and beyond. Chapter 2 then looks into how Article 8 has been put into practice in a selection of country case studies. Based on these case studies and other interviews, chapter 3 provides an assessment of the comprehensiveness and effectiveness of the political dialogues on HR in the ACP. Chapter 4 presents key conclusions and offers concrete policy recommendations to improve the quality of the dialogue in this regard.

1 ARTICLE 8 AND THE POLITICAL DIALOGUE ON HUMAN RIGHTS

1.1 Political dimensions and Human Rights in the Cotonou Agreement

The Cotonou Partnership Agreement builds on several generations of previous agreements between the ACP and the EU. Throughout the first two Lomé Conventions (from 1975 to 1985), EEC-ACP cooperation focused exclusively on economic and social development. The EC thus maintained a **neutral stance in political affairs.** The Lomé III Convention (1985-1990) timidly created a first opening to consider issues of human dignity and HR. As democracy increasingly found its way across the global South with the end of the Cold War, ACP-EU relations became more politicised. The mid-term review of the Lomé IV Convention (referred to as Lomé IV bis) took place in 1994-1995. It identified respect for HR and democratic principles as 'essential elements' and allowed any party to take 'appropriate measures' in case the other party failed to comply with these provisions[5].

In 2000, the Cotonou Partnership Agreement (CPA) replaced the Lomé Convention and inaugurated a new cycle for EU-ACP relations, this time for 20 years[6]. The **stronger political foundation** of the partnership is one of the major innovations in the new agreement. Political dialogue features at the core of the CPA and is both deeper and wider than in its predecessors. The rule of law was added as one of the essential elements subject to conditionality. While the EU initially wanted to also add good governance to that list, after lengthy discussions the ACP countries accepted its inclusion as a 'fundamental element'. However, serious cases of corruption, including acts of bribery, would still constitute a violation of that element, potentially leading to a suspension of aid as a measure of last resort.

HR underwent a significant upgrade under the CPA. The section below describes the various legal provisions that allow the respective parties to raise, discuss and enforce their HR concerns vis-à-vis one another.

1.2 HR political dialogue under Article 8

Article 8 of the Cotonou Agreement sets out the modalities for ACP-EU political dialogue. There are no detailed operational guidelines as the dialogue is presented in a spirit of pragmatism to allow for country/case-specific approaches. As such, it is intended to be flexible, formal or informal according to the need and context, within and outside the institutional framework and to be conducted at the level deemed most appropriate (i.e. national, regional, continental or all-ACP level). Common concerns and mutual interests are to dominate the agenda since the overall objective is to exchange information and foster mutual understanding. Such pragmatism and flexibility is believed to allow for a regular, broad and deep dialogue, which does not require a particular event to trigger a meeting, neither should it be halted in case an obstacle arises in one particular area. A variety of stakeholders should be associated, where appropriate, to the political dialogue, including regional organizations, representatives of civil society as well as ACP national parliaments (Article 8).

Thematically, the dialogue covers *"all the aims and objectives laid down in the Agreement"*, ranging from cooperation strategies, over cultural heritage to arms trade. This includes a regular "assessment" of developments in the area of HR, democratic principles, the rule of law and good governance: the

[5] European Union & ACP Countries (1975).
[6] European Commission (2010).

essential and fundamental elements of the relationship. Article 9 specifies that in the context of such a dialogue, the parties are supposed to take into account *"each country's economic, social, cultural and historical context"* when assessing the developments concerning these underpinning elements., ACP-EU political dialogue is also presented as a key instrument to deal with peace and security issues and foresees a particular role for the ACP regional organisations and the African Union in this regard.

At the time of its adoption, a number of ACP countries voiced **concerns** that political dialogue would mainly be activated in case a major problem or serious crisis with a given country would arise, rather than in a constructive way, as an instrument to address the parties' common objectives. One objective of the dialogue under Article 8 is indeed to prevent situations in which one party would deem it necessary to seek recourse to the consultation procedures set out in Articles 96 and 97 of the CPA.

The 2005 revision therefore provided clearer linkages between political dialogue under Article 8 and the conditionality clauses, in an effort to 'de-penalise' the perception of political dialogue and consultations, shifting from monitoring compliance to more constructive objectives. As such, the 2005 revision of the CPA offers the possibility for the parties to engage in ***"Intensified Political Dialogue"*** (IPD) as a tool to exhaust all dialogue before launching consultations in the punitive framework of Articles 96 and 97[7]. ACP countries perceive this approach as less confrontational since it does not entail the possibility of aid suspension. Under IPD, the parties can jointly develop and agree upon a set of specific benchmarks or targets as a means to set intermediate objectives and timeframes for compliance before either returning to regular Article 8 dialogue or entering into consultations. Contrary to the regular political dialogue, IPD requires a systematic and formal approach as a means to explore all possible options before consultations. However, when there is a persistent lack of compliance by any one party, or in cases of urgency, Article 96 consultations may go ahead without preceding IPD.

1.3 Other HR instruments under Cotonou

When all else has failed, Article 96 and the less used Article 97 provide the legal basis for the temporary suspension of the Cotonou Agreement in cases where one of the parties feels that the agreement's essential and fundamental elements have been violated. In such a case, the party suspected of being in breach is to provide the other party and the Council of Ministers with the information required to start a thorough assessment of the situation.

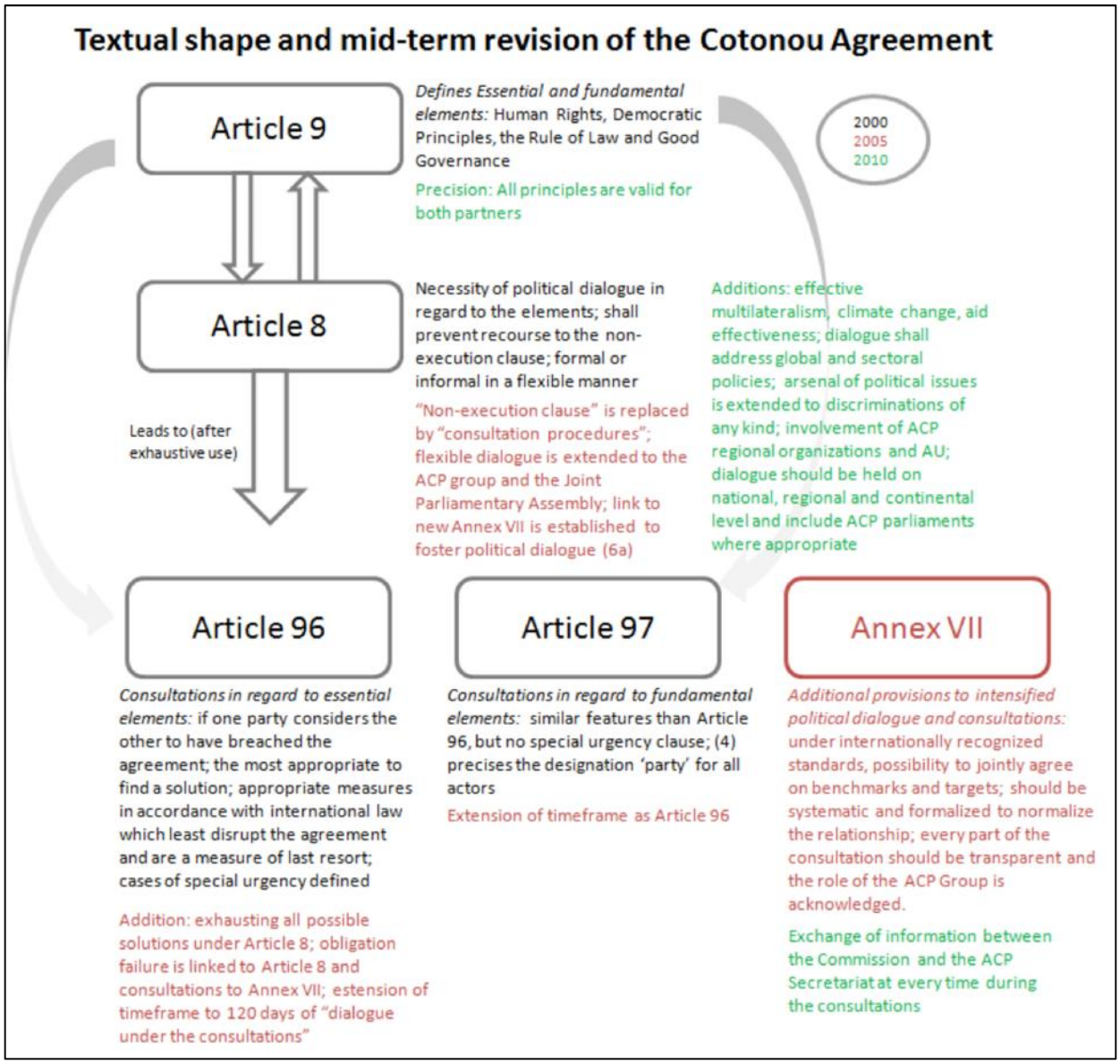
The procedures under articles 96 and 97 are aimed at finding a solution acceptable to all parties in order to avoid sanctioning. To this end, 'consultations' are organised to discuss the measures taken or to be taken on the party concerned. While consultations are highly institutionalized, they can be conducted at the level and in the form that is deemed most appropriate to reach a solution. The appropriate measures referred to under article 96 can include the suspension of aid, though only as a measure of last resort.

In practice, the EU has used Article 96 consultations in a rather selective manner in the sense that they are always initiated in response to a sudden, severe worsening of the political, security or HR situation in a given country[8]. So far, there have been no cases in which HR breaches constituted the only motive to

[7] European Commission (2006).

[8] Between 2008 and 2013, consultations under article 96 were held with the following countries: Mauritania (2008, coup d'état), Guinea (2009, coup d'état), Madagascar (2009, coup d'état), Niger (2009, flawed elections), Niger (2010, coup d'état) and Guinea Bissau (2011, HR and Rule of Law violations). In 2012, appropriate measures were applicable to five countries:

enter consultation procedures. In other cases of politically precarious situations (e.g. a *'coup d'état'* or a civil war) the EU has preferred the road of silent diplomacy above the usage of Article 96 as such cases tend to draw much public attention and foster confrontation. Finally, consultations or appropriate measures are not invoked in all cases of serious violations of the Agreement's essential and fundamental elements. Partially because the EU calls for consultations only when there is a reasonable chance to influence the authorities of the country concerned (IOB, 2013). Figure 1 below illustrates this wider framework for HR dialogue with the ACP countries.



Source: Broghammer (2013)

Zimbabwe, Fiji, Guinea, Guinea Bissau and Madagascar. In the latter case however, political dialogue was resumed in November 2012 (EC, 2013a).

1.4 HR in the overall architecture of the EU external action

The framework for addressing HR in EU-ACP relations extends beyond the Cotonou Partnership Agreement. The progressive definition and extension of the EU HR policy provides opportunities to reinforce the impact of political dialogue under Article 8.

HR, democracy and the rule of law are core values of the European Union. HR are embedded in the EU's foundational Treaties and grounded in MS's national legislations. In 2000, the EU adopted the Charter of Fundamental Rights[9], which ensures the protection of civil, political, economic and social rights of European citizens and all residents in the EU. Regarding the external dimension, the EU seeks to promote HR and democratic principles in its trade and cooperation agreements with third countries - the so-called 'HR clause'). The status of HR in EU external action was legally enshrined in the Maastricht Treaty (1992) and the related creation of a EU Common Foreign and Security Policy (CFSP).

The Lisbon Treaty (2009) put the promotion of HR at the center of EU external action[10]. It underlined the need to ensure coherence and consistency between the different aspects of EU external action as well as between the EU's internal dimensions. The Treaty amplified the EU institutional structure with the creation of the European External Action Service (EEAS) in 2011. The new post of the High Representative of the Union for Foreign and Security Policy (HRVP), with a double-hatted mandate as Vice President of the EC, was geared at improving overall coordination of EU external action.

The EEAS, the EC and the EU MS cooperate and are involved in policies and activities concerning HR. To this purpose, the EU disposes of a number of political, diplomatic and financial instruments beyond the HR clause. The EU has developed a range of thematic 'HR guidelines' for the implementation of the EU HR policy by EU representations in third countries. Various instruments are in place to promote the effective application of the guidelines, such as démarches and declarations, HR and political dialogues. In addition, the EU acts through statements by the HRVP and Council decisions.

To ensure country specific approaches, all EU Delegations have elaborated EU HR Strategies, which are however not disclosed to the public. The implementation of the EU HR policy also applies to the code of conduct of the Common Security and Defence Policy (CSDP) missions and operations. Moreover, the EU is active at multilateral level within the UN (e.g. in the framework of the Universal Peer Review Processes) and contributes to the work of other international organisations such as the Organisation for Security and Cooperation in Europe (OSCE), the Council of Europe or continental bodies such as the Africa Union (AU).

The European Instrument for Democracy and HR (EIDHR) is the EU's main financial tool for projects and programmes for the promotion of HR, democracy and the rule of law[11]. In addition, various other thematic instruments (e.g. geared at non-state actors and local authorities) and geographic instruments, such as the European Development Fund (EDF) and the Development Cooperation Instrument (DCI), can be used to support actions in the areas of governance, democracy, HR and support for institutional reforms. The mainstreaming of HR can also be enhanced through the new budget support guidelines (2011), which make a clear link between the provision of general budget support and the respect for HR and democracy.

[9] The Charter became legally binding with the entry into force of the Lisbon Treaty in 2009.
[10] See Art. 21.

An EU Strategic Framework on HR and Democracy was adopted In June 2012. It consolidates the integration of HR as a 'silver thread' throughout EU external action. The Strategic Framework provides a unified strategic document grouping a number of pre-existing instruments. In July 2012, the first EU Special Representative (EUSR) for HR was appointed to contribute to, and report on, the implementation of the Strategic Framework and the Action Plan and enhance the effectiveness and visibility of EU HR policy.

1.5 Effectiveness of the HR architecture in EU external action?

Before assessing EU practices regarding the use of political dialogue in relation to HR in ACP countries, it is useful to take stock of the main conclusions of the Thematic Evaluation on EC support to HR. This provides a reality test as to how solid the EU architecture for HR is when it comes to translating lofty ambitions into practice.

The overall EU track record in the field of HR was deemed mixed over the past decade. On the positive side, the evaluation noted that the EU managed to put HR increasingly on the map in its external action and made relevant contributions to promoting this agenda at various levels through financial and non-financial instruments. However, EU action was structurally hampered in achieving lasting results by several 'systemic constraints':

- Less than optimal use of **high level EU political leverage** (particularly in countries where major interests of the Union or of MS are at stake);
- **Lack of a clearly spelled out and effectively implemented "joint" strategy** between the EC and MS, adapted to different country contexts;
- A **tendency to 'ghetto-ise" HR** (e.g. by disconnecting it from concrete development challenges and programmes);
- **Limited leadership** by the EC to mainstream HR in all aspects of cooperation;
- A wide range of **downstream implementation problems** (including ill-suited procedures to support HR change processes over time);
- Inadequate levels of **knowledge, capacities and incentives** to deal with HR.

These constraints inevitably affect HR dialogues. The Thematic Evaluation found evidence of countries where the EC could not engage in a meaningful HR dialogues because MS interests (geopolitical, security, economic) interfered (e.g. Ethiopia, Vietnam). Leverage at EU level is diluted when alignment and effective support from Member States is ambiguous and partner authorities receive different messages. The evaluation observed that some EU Delegations tend to focus too much on political rights –even if the environment is particularly difficult to discuss such matters- while not sufficiently exploiting openings to discuss social and economic rights which are often less controversial (Kazakhstan).

The limited degree of mainstreaming HR issues leads to a situation whereby valuable opportunities are missed to discuss HR issues beyond formal fora (such as Article 8) but linked to concrete development challenges, e.g. in sector operations related to water or health. The evaluation furthermore stresses the technical complexity of HR dialogue processes and the need for knowledge. In several countries, the EU is increasingly equipped to address issues to HR defenders (e.g. Guatemala). Yet in other HR areas the knowledge and capacity challenges to pursue HR agendas and dialogues over time remain huge.

Two years after the evaluation report, it appears that the EC has mainly invested in promoting the use of 'rights-based approaches' in its development cooperation and ensuring a decentralized and country specific approach to promoting HR, in line with the key recommendations of the report. Efforts to further flexibilize EIDHR (and applicable procedures) have also been made. As expected, progress is more complicated and slow in areas that go beyond EC competences and involve MS (such as the need for more political coherence and joined-up action).

2 ARTICLE 8 DIALOGUES ON HUMAN RIGHTS IN PRACTICE

As a mandatory obligation of the Cotonou Agreement, the EU entertains a political dialogue with almost all ACP countries, even with those where it does not have a permanent representation (e.g. Sao Tomé). The reporting on these dialogues is not public however and information and research on its content and proceedings is limited. Apart from what is mentioned in country strategy papers, evaluations and the annual thematic HR reports, the whole issue of 'how' the EU (Delegations) address HR concerns in their political dialogue with the ACP partner country is somewhat of a **black box**. Detailed studies would be required to open that black box, unveil the secrets of specific dialogue processes and assess their impact. This is however beyond the scope of this study. Some generic conclusions can be drawn however, based on interviews and a critical review of the available evidence, on the conduct of HR dialogues in a selection of ACP countries.

The selection of country-case HR dialogues represent a mix of countries where the EU (i) uses Article 8 as the main vehicle to discuss HR (Gambia, Uganda, Ethiopia, Cameroon and Rwanda); (ii) has developed complementary frameworks for (HR) political dialogue (Nigeria); or (iii) works under Article 96 (Zimbabwe). Other selection criteria were based on concerns regarding (i) regional diversity; (ii) focus on 'developmental states' combining economic growth with a poor HR record (Ethiopia, Rwanda); (iii) long-standing 'difficult partnerships' (Zimbabwe), authoritarian regimes (Chad, Gambia) as well as countries currently receiving high public resonance in Europe in relation to HR (Uganda) and (iv) examine how HR dialogues are conducted in economic strongholds on the continent (Nigeria).

2.1 Cameroon

In November 2013, president Paul Biya celebrated 30 years in power. Protest actions by opposition groups on the occasion of the anniversary were dispersed by the riot police**.** HR concerns in Cameroon mainly relate to freedom of expression, assembly and association, the discrimination and criminalization of LGBT people and the impunity of violent misbehaviour by security forces[12].

The EU and Cameroon hold political discussions under Article 8 twice a year, focussing on economic governance, rule of law and HR. In terms of HR topics covered, the dialogue has regularly addressed the functioning of the judicial system, in particular in high profile cases. Other topics include LGBT rights, the abolition of the death penalty (there is only a de facto moratorium at present), women's rights (in particular violence against women), child rights (e.g. the ratification by Cameroon of the two optional Protocols to the UN Convention on the Rights of the Child) and freedom of expression and association, as well as the freedom of press. Financial support has also been provided to CSOs working with indigenous people such as the Baka Pygmies[13].

[12] Amnesty International (2013).
[13] European Union External Action (2013a); (2012); (2011); (2010).

The EU engagement on HR and democratisation in Cameroon picked up momentum in 2011, both in terms of political dialogue as well as financial support.[14] In terms of direct assistance, the EU missions in Cameroon have supported the creation of a national network for the protection of HR defenders (RENAPDDHO). In the area of justice and detention conditions, EU support has in particular been critical in reducing the number of people held in pre-trial detention and providing to inmates better health care (including HIV prevention), legal advice and improved sanitary circumstances. The EU is also providing support to media publications on prison conditions which are reproduced free of charge by a number of leading private newspapers. This contributes to the enhancing public awareness of poor prison conditions and related violations of the rights of prisoners.

The EU has provided financial support to CSOs defending the rights of LGBT people, in particular those held in detention or facing legal proceedings. This project has triggered a controversy with the authorities, which accused the EU of promoting homosexuality and demanded a withdraw of the subsidy. The EU however refused to reconsider the project.

In 2012, EU missions in Cameroon have been involved in specific support to HR defenders (HRD) subject to threats, in particular lawyers representing clients accused of homosexuality.[15] The EU continued to voice strong concerns about Court rulings sentencing presumed homosexuals to jail. The HRVP's spokesperson condemned in this regard the sentencing of a person found guilty of homosexual conduct.

Grants have been awarded to help a trade union of journalist people to engage in the discussion of a new law on social communication and a draft code of conduct against corruption in the media as well as to CSOs dealing with the issue of human trafficking. Throughout the period under analysis, the EU carried out actions in support of the universality and implementation of the Rome Statute in Cameroon.[16]

Feedback from interviews with key stakeholders confirms that a regular dialogue takes place, but the process is heavily formalized and the HR agenda is diluted by a systematic addition of other topics. There is no real prioritization of issues and strategies to ensure follow-up are lacking. Cooperation efforts are geared towards HR priorities identified in the political dialogue, yet their effective implementation is hampered by resistance from the state to support the action of autonomous CSOs dealing with sensitive topics. As such, there is a strong perception that the EU is not adequately using the leverage of its cooperation resources to push the HR agenda.

2.2 Chad

Chad has a long history of coups and rebellions, and president Idriss Déby himself seized power after leading his rebel troops to the capital N'Djamena in 1990. In 2008, the conflict between the Chadian government and rebel groups had a destabilising effect on regional security. The EU responded with EUFOR Tchad/RCA, a bridging military mission in Eastern Chad and North Eastern Central African Republic, which subsequently handed over to a UN mission, MINURCAT.

HR violations have been a recurrent feature of the Chadian conflict. During rebel attacks, arbitrary detention of political opponents was reported along with sexual violence, infringement upon freedom

[14] European Union External Action (2013a).
[15] European Union External Action (2013a).
[16] European Union External Action (2012); (2011); (2010).

of expression and harassment of HRD. EUFOR's mandate was central in supporting protection and promotion of HR.[17]

The HR situation in Chad is related to the overall lack of financial and technical resources. On the political level, the EU together with other donors, funded the Commission of Inquiry which was set up to investigate the 2008 events and in particular the disappearance of a prominent opposition leader in. Moreover, the EU stressed the importance of implementing the recommendations from the Commission of Inquiry to provide security while reassuring the population by fighting impunity and ensuring freedom of press. In line with these commitments the EU co-funded with the Chadian government large programmes such as the 'Programme d'Appui à la Justice au Tchad' (PRAJUST) to address problems of impunity and reinforcing the capacity of all justice actors.[18]

In 2012, Chad held its first local elections in its history. This process was in parallel with a relapse in fundamental freedoms. Reportedly, political figures such as journalists and ministers were arrested and arbitrarily detained, under the pretext of a national anti-corruption campaign. The EU was active in advocating on these issues, paid custody visits to political detainees and made a demarche that contributed to the release of a member of the national assembly. In the framework of Art. 8 political dialogue, the EU raised several thematic HR issues, in particular concerning arrest and detention conditions. Chad's cooperation with the ICC and the implementation of recommendations of the Commission of Inquiry. As concerns individual breaches of HR, the EU is constant in urging clarification on 1050 pending cases.[19]

In Chad, both thematic and geographic financial instruments are aligned with the local EU HR strategy. Through its development cooperation, the EU also engages in supporting CSO work in other thematic HR areas such as respect for women's and child's rights as well as displaced persons. In particular through the Technical Cooperation Facility, the EU funds HR organisations for the preparation of reports and participation in international fora such as the country pre-sessions at the UN HR Council. As of September 2013, the EU Delegation along with EU MSs has established a regular dialogue with Chadian HR activists and CSOs.

While stakeholders testify that the dialogue with the Chadian authorities is frank and open, the dialogue tends to be a formality and HR issues are often diluted in the overall agenda. Occasionally however, the EU manages to bring up the issue of arrest on political grounds, and is active in raising the abolishment of the death penalty. The dialogue is conducted in a somewhat regular manner, yet the Delegation has always to take the initiative to arrange the meetings. There is a substantial alignment of positions between the EU and EUMSs, which are systematically present at the dialogue. Moreover, no follow up has taken place to measure progress on the benchmarks set.

2.3 Ethiopia

In August 2013, Prime Minister Zenawi deceased after ruling Ethiopia for 21 years. Hailemariam Desalegn was appointed as his successor, and three deputy prime ministers were appointed to include representation of all ethnic-based parties in the ruling coalition.

Ethiopia's HR record has taken a dive for the worse over the past few years and the countries' authorities continued to severely restrict the basic rights to freedom of expression, assembly and association.

[17] European Union External Action (2010).
[18] European Union External Action (2011); (2010).
[19] European Union External Action (2013); (2012); (2011).

Repressive laws constrain the work of CSOs and independent media, while targeting individuals with politically motivated prosecutions and arbitrary arrests and detentions. Furthermore, there are regular reports of torture and ill treatment of prisoners while forced evictions have displaced thousands of people in the Southern part of the country[20].

In 2008-2009 international concern about allegations of harassment and intimidation against the media in Ethiopia led to a EU declaration on the Ethiopian Charities and Societies Proclamation which severely impacted the functioning of local CSO[21]. Adopted in 2009, the Proclamation prevented NGOs from receiving more than ten percent of their funding from abroad and established an agency to extend government's power over NGOs through surveillance and direct involvement in NGOs running. The Proclamation was detrimental to the work of human rights organisations as it forced them to reduce their operations, and very few domestic human rights organisations remained in place to monitor violations.

HR issues are a regular point on the agenda of Art. 8 dialogue with Ethiopia and a number of official high-level meetings take place with the relevant ministries. The EU priorities are drawn from the UPR process. In such frameworks, the EU monitored the impact of restrictive legislations on the work of human rights organisations. A tripartite dialogue between the Government of Ethiopia, CSO and donors was established to mitigate some of the challenges facing these CSOs with a focus on human rights and democracy issues. As of November 2013, the European Union assumed the role as Co-Chair with Norway for the Human Rights and Democracy Sub Group in Ethiopia, after the United Nations Office of the High Commissioner for Human Rights. In addition, through the its Civil Society Fund the EU provides support to CSOs working on governance and HR issues.[22]

On the front of freedom of expression, in 2011 Ethiopia saw the first arrests and subsequent trials under the 2009 Anti-Terrorism Proclamation (ATP). The pretext of 'counter-terrorism' had been used to silence dissenting media voices, a practice that continued in 2012 with more arrests and trials of journalists, members of the opposition and religious leaders. As concerns individual cases, the EU advocated the release of key opposition leader Birtukan Midekssa, and in 2010 the High Representative issued a statement welcoming the grant of pardon by the Ethiopian justice authorities[23]. The EU was constant in raising the issues of prison conditions, yet with mixed results due to the limited cooperation of the Ethiopian authorities. In 2013 a Delegation of the EP's Subcommittee on HR was denied access to a prison facility, despite having received authorization by the government through the EU Delegation[24].

While Ethiopia's commitment to economic development brought some benefits, communities affected by certain programs - such as the "villagisation" program in Gambella - have reportedly experienced abuses such as forced relocations, inadequate consultation and lack of services in resettlement sites. A number of EU participated MS alongside the EU Delegation in monitoring missions on the implementation of the government's villagisation programme in remote areas of Ethiopia. While the missions found no evidence of systematic HR abuses, concerns remain about the pace and scale of the programme. In 2011, the EU launched a dialogue with the Government of Ethiopia on the matter.

[20] HR Watch (2014).
[21] European Union @ United Nations (2009).
[22] European Union External Action (2013); (2012); (2011); (2010).
[23] European Union (2010a).
[24] Lochbihler (2013).

The EU showed regular commitment in raising the death penalty issue. In June 2011 the EU welcomed the Ethiopian Government's decision to uphold the prevailing moratorium on executions, and in October 2012 it raised concern about death penalty with the Government[25].

Ethiopia was one of the case studies in the 2011 Thematic Evaluation of EC support to HR. The field mission observed that although HR issues are high on the agenda, the nature and structure of the HR dialogue under article 8 hamper its usefulness. The Ethiopian government routinely dismisses serious allegations of human rights abuses as unreliable or politically motivated, and it takes a formal approach to the dialogue and systematically reduces the space for genuine debate on HR matters and wider governance issues. This makes it difficult to agree upon benchmarks or targets for HR and in particular political and civic rights.

Given the limited impact of the political dialogue on HR, the EU makes the best use of its joint representation in Addis Ababa. Despite the difficulties of engaging in such delicate context, the EU Delegation has been active in exploring ways to support the protection of HR defenders and political prisoners. The general approach preferred by the EU is to act through less visible initiatives, as in non-permissive environments a more 'low profile' approach can pay off in terms of impact. Interviews with relevant stakeholders confirmed that the Lisbon Treaty improved the cooperation between the EU and EUMSs. Most of the times the EU manages to act as one, and positively cooperate with the several (around 20) Member States represented in the country.

On paper, one would expect the EU to have some leverage towards the Ethiopian government considering its substantial cooperation portfolio. EU aid to Ethiopia from 2006 to 2013 amounted to €644m, covering food security and rural development, road infrastructure and governance[26]. Despite the overall EU's commitment to supporting HR in Ethiopia, questions were raised regarding the prioritization of the country's development and economic growth over HR and democracy concerns.[27] For instance the role of the Ethiopian government in the Ogaden conflict, and the situation of human rights in the region was repeatedly raised by local and European CSOs and the EP to question why such a large portion of aid is given to an oppressive regime.

2.4 The Gambia

Yahya Jammeh took power in The Gambia after a miliatry coup in 1994. Ever since 1996 he has been president of the country, a function to which he was most recently re-elected in 2011. The HR condition in The Gambia has continued to deteriorate during the period covered in this study. HRDs, including lawyers and journalists, operate in a climate of fear as unlawful arrests, detentions, torture, unlawful executions and enforced disappearances are widely used by the Gambian security forces.[28]

With regard to its relations with the EU, The Gambia has in the past few years continuously been on the verge of Art. 8 political dialogue and Art. 96 consultations. Political dialogue under Article 8 with The Gambia started in 2009 and has since taken place twice a year[29]. HR issues are dealt with as a political item on the agenda, rather than as part of broader sectoral approach.

[25] European Union External Action (2013a).
[26] Ethiopia-European Community (2007).
[27] The Telegraph (2011).
[28] Amnesty International (2013).
[29] European Union External Action (2010).

Well aware of the sensitivity of these issues, the EU Delegation in The Gambia usually proposes a provisional agenda with points for discussion on which The Gambian government can then comment on and suggest alterations. The EU then reviews the order of talking points to ensure a mix of toppics that are of mutual concern to both parties.

Regarding the involvement of NSAs, the EU maintains proactive exchanges with the Gambian CSOs and briefs them regularly on its political dialogue with the Gambian government. CSOs are however not present at the table, neither does the EU link up with them shortly before and/or after the politcial dialogue meetings.

In terms of effectiveness, experience in The Gambia has shown that it is sometimes better to prioritize efforts in areas where progress is politically feasible (e.g. women's rights), rather than focusing on areas where the EU has fundamentally different values from its African counterparts (e.g. LGBTI rights). Hammering continuously on such issues can be highly counterproductive and hampers the overall 'atmosphere' of the diaogue. It was stressed however that sensitive issues such as LGBTI rights should be protected and promoted, for example through high-level official statements by the HRVP.

The overall impact of EU political dialogue on HR issues in The Gambia is very limited. One of the few areas where actual progress is noticible is the area of women's rights since this enjoys the support of the Gambian president. Whereas governance issues and HR have been at the core of the EU's political dialogue with The Gambia, progress and action have been slow in these areas and reached a critical low in 2012.

In 2009, the EU expressed concern on the conviction of six journalists accused of seditious and invidious publications[30]. While the journalists in case were later pardoned and slight improvements regarding the right to freedom of expression were noticed in the following year, the HR situation in Gambia continued to be worrying. As such, the EU decided in 2010 to cancel €22 million initially allocated for General Budget Support, based on concerns over HR and governance in the country. The EU continued to focus on HR issues in the ongoing political dialogue, particularly on the abolition of the death penalty, freedom of media, prison facilities, support to civil society and HRDs, violence against women and LGBTI rights[31].

In August 2012, after 27 years of de facto moratorium on the death penalty, the execution of nine death-row inmates evoked international outrage, including a statement issued by the HRVP.[32] In an initial reaction, the EU reached out to the AU and ECOWAS to put pressure on The Gambia and launched a demarche with the Gambian MFA and the Ministry of Presidential Affairs. Eventually, international pressure and meetings between the EU Heads of Mission and the Gambian authorities, as well as appeals from African leaders and CSOs, resulted in the reinstatement of the moratorium, albeit conditional on the decline of violence in the country[33].

The HR and Rule of Law situation in the country however continued to deteriorate, e.g. intimidation of journalists and unlawful closures of media platforms, and given the persistent lack of progress on other commitments under previous Art. 8 dialogues, the EU Council Africa Working Group (COAFR) decided in January 2013 to launch a phase of Intensified Political Dialogue (IPD) and introduced concrete

[30] Council of the European Union (2009b).
[31] European Union External Action (2012).
[32] European Union (2012b).
[33] European Union External Action (2012).

benchmarks and timelines for progress, as stipulated under Art. 2 of Annex VII in the Cotonou Agreement[34].

At a preparatory meeting in Banjul, the EU proposed a confidential 17-point draft list of possible benchmarks and timelines, to be agreed upon with the Gambian government for future cooperation. Among the EU's proposed points for discussion were the upholding of the previously mentioned moratorium on the death penalty and several provisions on the freedom of media and expression. The proposed 17 points for discussion were thus suggested as food for discussion, yet the Gambian Government immediately leaked the EU proposals to the press, presenting the list as imposed conditional requirements. The office of president Jammeh subsequently announced that it would not implement any of the 17 'demands' and withdrew itself from any diplomatic contact. After somewhat of a 'cooling down' period, the EU re-engaged in informal talks at the level of the Vice President, the Gambian Ministry of Foreign Affairs and the Gambian Ambassador to the EU. As such, the relations between the two parties normalised again. In July 2013, six months after the initial crisis, the EU's Managing Director for Africa, Nick Westcott, met with president Jammeh to officially relaunch the political dialogue. This first regular dialogue after the impasse did not cover the aforementioned 17 points (yet the main HR issues were discussed, as they had been dealt with systematically in the past as well) and included non-HR issues e.g. regarding the EU-Africa summit in April 2014, as well as peace and security issues.

Depending on the outcome of a political dialogue meeting scheduled for March 2014, the EU may duplicate its aid allocation to The Gambia from €75 to €150m in the next seven years. This may create a possible split between EU member states over the development versus HR prioritisation[35]. While the government of Yahya Jammeh is internationally renown for its poor HR track record, a suspension of aid may harm the Gambian population - EU aid accounts for 12.6% of the national budget.[36] Moreover, some EU MS may see development assistance as a means to address the containing migration from the region. Local HR activists have however called for the EU to take action against the government[37].

2.5 Nigeria

The 2011 appointment of President Goodluck Jonathan raised hopes for improvements in Nigeria's deeply entrenched HR challenges. Serious concerns remain however, and EU-Nigeria political relations were affected by the adoption of a 'same-sex marriage bill' in January 2014.

Whereas the political dimension of the relations between Nigeria and the EU is articulated under Art. 8 of the Cotonou Partnership Agreement (CPA), a complementary political framework was developed to spell out specific terms and modalities to intensify the political dialogue and overall cooperation between the two parties. The 'Joint Way Forward' (JWF), established at the EU-Nigeria ministerial meeting in 2009, is based on the guiding principles of HR, good governance, democracy and the rule of law.[38] Since its establishment, the EU and Nigeria have set up three local dialogues under the JWF framework: one on migration and development, one on peace, stability and security (since 2013) and one on HR (since 2009).[39]

[34] European Union External Action (2013a).
[35] Reuters (2014).
[36] Reuters (2014).
[37] Freedom newspaper (2014).
[38] Council of the European Union (2009c).
[39] European Union External Action (2013a); (2012); (2011); (2010).

Nigeria is thus one of the few ACP countries that entertain a dedicated HR dialogue with the EU. Up to now HR issues did – at least for the past four years - not take the form of a political dialogue under article 8 of the CPA. As of 2014 however, the HR dialogue will be integrated into the regular Art. 8 political dialogues in order to address time and capacity concerns on the Nigerian side, given the many dialogue processes, as well as to better anchor HR issues in a more formal setting.

The EU-Nigeria 'local dialogue' started in December 2009 and has since taken place once a year. The informal nature of the local dialogue assured frank and open discussions with the involvement of representatives from all relevant governmental bodies. This includes the Ministry of Foreign Affairs, the Ministry of State, the Ministry of Defence, the Ministry of Women affairs and Social Development, and the Police Department.

In terms of substance, the HR dialogue with Nigeria covers a wide range of topics, focussing mainly on issues regarding extrajudicial killings and impunity, better access to the justice system, abolition of the death penalty and practices of torture. Other key issues concern the implementation of ratified HR conventions at federal and state levels, the protection of ethnic, religious and civil minorities including minors, women and LGBTI people. Finally, socio-economic rights such as the access to work, water and sanitation, are touched upon as well. In 2012, HR were also discussed during the two visits of the EU Counter-terrorism coordinator and the EU has repeatedly raised concerns regarding the violence in northern Nigeria, asking the Nigerian government to show restraint in the use of force and to safeguard HR in its peace efforts in the region.[40]

Whereas Nigerian CSO and the independent media are able to openly criticize the government and its policies, journalists are still subject to intimidation and arrest when their work implicates the country's political and economic elite.[41] Complementary to the local HR dialogue with the Nigerian authorities, the EU conducts regular consultations with local HR organisations and activists. As such, the EU is well aware of their concerns and priorities and includes those in its discussions, within and beyond the local dialogue under the JWF, with the Nigerian authorities.

Nigerian CSOs working on HR also benefit financial support from the EU, including through the European Instrument for Democracy and Human Rights, which reserved EUR 1.2 mln[42]. for Nigeria's Country-Based Support Scheme (CBSS) for 2011-2013. To coordinate EU HR efforts in the country, the EU and the 19 EU MSs represented in the country have established a EU Working Group on Human Rights. The Working Group meets every two to three months to discuss a variety of current HR issues and feed into the meetings of the EU Heads of Mission. Also, the EU takes part in a group of like-minded Donor Partners to discuss and coordinate HR initiatives and dialogue with the Nigerian Authorities, including on LGBTI issues.

In a movement to criminalize same sex relationships, the Nigerian Parliament tabled a 'Same Sex Marriage Prohibition Act' in 2013. The EU organised a meeting with the Chair of the HR Committees of the House of Representatives in November 2012, conveying the EU's position on the Same Sex Marriage Bill (SSMB)[43]. The bill passed however and the country's president Goodluck Jonathan, signed it in January 2014, prompting the arrest of dozens of LGBTI people. Both HRVP Ashton and EEAS Managing

[40] European Union External Action (2013a).
[41] HR Watch (2014).
[42] European Union External Action Service.
[43] European Union External Action (2013a).

Director for Africa Westcott expressed their concern and declared that the law breaches fundamental HR.[44].

Nigeria's position as Africa's leading oil exporter, a geopolitical ally for the EU and a major contributor to UN peacekeeping missions, has led foreign governments and donor organisation to shy away from exerting meaningful pressure on Nigeria over its poor HR track record. Whereas overall EU assistance for Nigeria between 2009 and 2013 is expected to be around €700 million, this only accounts for a small part of the country's total revenues and does not give the EU the required leverage to sufficiently 'weigh' on policy discussions. Moreover, a discrete 'quite diplomacy' approach is perceived to be most effective to address some of the sensitive HR issues at stake in EU-Nigeria relations. Taking an approach that could be perceived as too upfront would risk pushing away the partner and pollute the overall quality of the dialogue. The Universal Periodic Review (UPR) is in this regard identified as a valuable tool to address sensitive issues, as well as to provide legitimacy and an opportunity for the donor community to align around a common HR agenda for the country.

2.6 Rwanda

Paul Kagame has been the president of Rwanda since 2010. As a former rebel commander who helped bring an end to the genocide, he has been a prominent political figure since 1994, and was Rwanda's deputy president and defence minister until 2000. Despite important economic and development gains and progress in the delivery of public services, HR remain a cause of concern in the country as the Rwandan government continues to impose strict limitations on freedom of expression and association. Opposition parties and independent CSOs are obstructed in their operations and cases of arbitrary arrests and detention, as well as enforced disappearances, continue to occur.[45]

Since 2004, EU Ambassadors and Rwandan Government Ministers have held a regular dialogue based on Art. 8.[46] Reportedly, these discussions are open and frank, and the highly confidential nature of the meetings allows the parties to raise sensitive HR issues, either directly or as a cross-cutting matter in sectoral discussions that concerns justice or media.

EU MS are well aligned with the EU, and regular meetings are held to discuss common priorities and strategies.

In 2010, events around the Presidential elections raised concern. While international observers deemed the elections compatible with international standards, doubts were voiced over the consolidation of the result at district level[47]. As concerns HR, the pre- and post- electoral period witnessed incidents and attacks targeting public figures, opposition parties and media. As an immediate response, the EU issued a statement by the HRVP on the murder of André Kagwa Rwisereka, Vice President of the Rwandan Democratic Green Party.[48]

In the period under review the Art. 8 dialogue focused primarily on the electoral process and the UN HR Universal Periodical Review recommendations. The parties also discussed the law on Genocide

[44] AllAfrica (2014b).
[45] HR Watch (2014).
[46] European Union External Action (2013a); (2012); (2011); (2010).
[47] European Union External Action (2011).
[48] European Union (2010b)

ideology, Gacaca[49], the penal code, media legislation, issues regarding extradition and universal jurisdiction.[50]

While the Rwandan civil society does not take part in Art. 8 political dialogue meetings, in order to safeguard the discreet nature of the discussions, the EU Delegation and MS hold regular exchanges with HR organisations and HRDs to help shape the agenda. Since 2011, the Art. 8 dialogue is complemented with an increased support to civil society through thematic budget lines such as the EIDHR, Non-State Actors and Local Authorities in Development (NSA-LA) and the EDF. Furthermore, HR, rule of law and civil liberties are dealt with in the framework of the Joint Governance Assessment (JGA), which the EU co-chairs on behalf of the donor community in the country. The main aim of the JGA is to develop a joint way forward for improving Rwanda's governance landscape.

Since 2009, the EU channels its general budget support to Rwanda through a Millennium Development Goals (MDG) Contract.[51] The MDG Contract with Rwanda spans a 6-year commitment for a maximum amount of EUR 168 mln and assists the government in implementing various rule of law reforms. In line with these goals, the EU and Rwanda are engaged in a regular sectoral dialogue to discuss HR related indicators (including the reduction of the juridical backlog, and improving prison conditions).[52]

EU-Rwandan relations were compromised in mid-2012 by reported HR violations in Eastern Congo, perpetrated by the M23 militia. Following the publication of a draft UN report providing evidence of Rwandan support to the M23 militia[53], the EU reacted swiftly on different fronts. The Foreign Affairs Council[54] and the HRVP[55] called for civilian protection and the prosecution of HR perpetrators. The Netherlands was the firs donor to announce the suspension of its budget support to the Kigali government and the EU partially froze budget support to Rwanda following similar moves by the US, Germany and Sweden. Aid to the country was reinstated in 2013, though re-directed to sector support.[56]

The suspension of budget support also generated some results. From 2008 through 2013, the EU bloc spent €294.4 million to foster pro-poor growth and rural economic development, national reconciliation and justice, and in direct funding to the country's general budget. Economic growth and substantial advancement in the Millennium Development Goals made Rwanda less receptive towards aid pressure, while being committed and open to regular dialogue with the EU. But the country benefitted from increased development assistance and budget support, to ensure continuity in progress. As such, the EU has preferred engagement to punitive measures that could hamper the EU's working relation with the country's authorities. [57] Regarding the impact of EU-Rwanda political

[49] Rwandan government in 2005 re-established the traditional community court system called "Gacaca". In the Gacaca system, communities at the local level elected judges to hear the trials of genocide suspects accused of all crimes except planning of genocide.

[50] EU HR Report (2011).

[51] Started with 10th European Development Fund (EDF) program, the MDG Contract is aimed at providing developing countries with a longer term, more predictable for of aid. Disbursement of funds is subject to commitment by the recipient country to monitoring and achieving the MDGs, to improving domestic accountability for budgetary resources as well as having active donor coordination mechanisms to support performance review and dialogue.

[52] European Union External Action (2012).

[53] The report accused Rwandan officials of violating a UN arms embargo by supplying weapons, ammunition and fighters to the responsible for the heaviest outbreak of fighting in the region in several years. See: Financial Times (2012).

[54] Council of the European Union (2012d).

[55] European Union (2012c).

[56] The Independent (2013).

[57] Del Biondo (2012).

dialogue, the main achievements so far are the deferment of the death penalty and of the anti-homosexuality bill by the Rwandan Parliament.

2.7 Uganda

President Yoweri Kaguta Museveni has been in power in Uganda Since 1986. Increasingly frequent HR breaches in the country concern, inter alia, the freedom of expression, assembly and association. Security forces continue to enjoy impunity for reported cases of torture, extra-juridical killings and the violent public order management. A notorious anti-gay bill was adopted in February 2014, and seriously deteriorated EU-Ugandan relations[58].

The EU's regular and open dialogue on HR issues with the Ugandan authorities goes well beyond the biannual political dialogue meetings under article 8. HR concerns always feature on the agenda and focus on issues of public order management, freedom of speech and assembly, LGBTI rights, the death penalty and torture. In terms of participation, the EU and the EU MS represented in Kigali regularly invite members of the parliament, the head of police as well as relevant ministers, depending on the issues at stake. Despite attempts from the EU to incentivise a more proactive attitude on the Ugandan side, it has so far always been the EU who sets the agenda.

With regard to the involvement of CSO, it was noted that in order to ensure frank and open discussions, CSOs do not take part in the formal dialogue with the government, yet several fora are put in place to ensure regular engagement from the EU with local CSOs and HRDs such as Sexual Minorities Uganda – (SMUG), a local HR organisation focusing on LGBT rights. Also, the EU voice often times finds resonance in the public domain and media.

In accordance with the EU Guidelines on HRDs, the EU Delegation in Kampala established in February 2011 a Local Implementation Strategy (LIS) to support and protect HRDs in Uganda. The LIS included, the establishment of an HRD Focal Group of representatives from EU missions with the mandate to monitor and assess the situation of HRDs and to report to the EU Heads of Mission. EU Missions also organise annual meetings for CSO and individual HRDs to voice their views and concerns to senior diplomats. Since 2012, an annual EU HRD award is given to recognize the exceptional efforts of an individual activist.

Freedom of expression and assembly nonetheless remain areas of concern in Uganda. Public demonstrations face constraints, incidences of violent suppression continue to occur, as well as arbitrary arrests and reported harassment of CSOs and the media. In the framework of its LIS, the EU and EU MSs have held regular and ad hoc meetings with HRDs to assist those HRDs under threat and in emergency situations. When required, this may include custody visits and trial monitoring by diplomatic staff.

Since the Ugandan parliament tabled an anti-homosexuality bill (including a proposed death penalty clause) in October 2009, the EU's HR efforts in the country have focused continuously on concerns regarding the persecution and discrimination of LGBTI people. In the years since, the EU repeatedly reminded the Ugandan authorities of their international obligations, including under the essential elements of the Cotonou Agreement. The issue of LGBT rights was raised at different levels, during meetings with the President, the Prime Minister, the Minister for Foreign Affairs and the Minister of

[58] HR Watch (2014).

Justice, as well as in formal political dialogue meetings under Art. 8 and with the Uganda HR Commission (UHRC).

While the anti-homosexuality bill of 2009 was initially shelved amid the backlash of international outrage, the bill was re-introduced in November 2012, as 'a Christmas gift' for its advocates. In December 2013, the Ugandan parliament finally passed the bill. In a reaction to the adoption of the new legislation, HRVP Catherine Ashton stated that its implementation would "*contravene essential principles of non-discrimination enshrined in the International Covenant on Civil and Political rights and in the African Charter on Human and People's Rights, both ratified by Uganda*".[59] In a resolution adopted mid January 2014, the European Parliament strongly condemned recent moves to criminalise LGBT people in Uganda, Nigeria and India.[60] While president Museveni postponed signing it into law directly, allegedly awaiting the results of a scientific report, he signed it on 24 February 2014.

The EU provided €439mln in development assistance to Rwanda during 2008-2013 First reactions from HR organisations and LGBTI activists called the main international donors to reconsider their aid support to the Ugandan government in view of this evident breach of its citizen's HR. Several aid agencies have in this regard suspended or redirected their development support, yet the EU aims to find common ground in a special political dialogue on the issue, planned for the end of March 2014.

2.8 Zimbabwe

Robert Mugabe has been in power since 1980 in Zimbabwe. Key moments like the 2002 and 2008 elections demonstrated how violence and repression continued to dominate Zimbabwean governance and hamper overall HR progress. Measures under Article 96 of the CPA were applied to Zimbabwe and it is within that frame and reduced space that the EU Delegation sought for years to pursue its HR agenda.

With the establishment of the 'Government of National Unity' (GNU) in 2008, there were hopes for a normalization of relations. Since 2009, a series of high-level events have taken place between the two parties: EU-Zimbabwe troika meeting in Brussels headed by Prime Minister Tsvangirai (June 2009); EU troika visit to Harare (September 2009); and a Ministerial meeting in Brussels where the inclusive Zimbabwean Ministerial Team for Re-engagement met with High Representative Ashton and Commissioner Piebalgs (July 2010).

That same year however, the EU condemned the abduction and detention of HRDs and intimidations of members of Parliament. The EU called upon the Zimbabwean Government to deliver on a media reform, in order to ensure that all state agencies respect the freedom of assembly and expression. Since the inception of the GNU, the EU has called for the early release of imprisoned members from civil society and in 2010 the EU enhanced its cooperation with HRDs, while raising their situation with government authorities.

Despite the sensitivity of the political environment, the EU Delegation remained firmly at the forefront in the promotion and protection of HR. To this end, it engaged in non-structured yet strategic dialogue with a broad variety of interlocutors at different levels. More recently it sought to use the re-engagement process to have a political dialogue with the Government. It mobilised its development portfolio to find suitable programmatic responses when it comes to HR issues. This took the form of a

[59] European Union External Action (2013c).
[60] European Parliament (2014).

two-pronged approach of support to civil society, including support to HDRs as well as institutional support (e.g. Zimbabwe Election Commission, Human Rights Commission). Also, an increased engagement by the EU was noted in the fight against torture. Zimbabwe was selected to be part of an EU initiative to strengthen the local implementation of its EU guidelines on torture.

International observers who monitored the 2013 national elections have reported major flaws, including biased partisan statements by leaders of the security forces and intimidation of journalists and civil society activists. In a Declaration (19 February 2014), the High Representative welcomed the "peaceful manner" in which the elections had taken place, yet she expressed serious concerns about "significant weaknesses in the electoral process and the lack of transparency" which affect the credibility of the elections. However, the EU also recognised that progress has been achieved in the overall situation, amongst others reflected in a new and progressive Constitution. As a result, the regime of sanctions has been reviewed and the number of restrictive measures significantly reduced. The progressive normalisation is also reflected in the launch of the programming cycle of the 11th EDF, which creates new windows of opportunities for the EU to deepen its engagement on HR issues.

Feedback from field actors on past experiences with HR dialogues revealed the pertinence of the EUDs strategic choice to systematically use all available windows of opportunities to engage on HR matters. To this end, the EUD also sought to keep open informal lines of communication/interaction with the government – despite the sanctions and the absence of a formal dialogue. However, this strategic and pragmatic approach by the EC has often been hampered by the uncompromising attitudes of MS favoring a strict application of the sanctions and preferring parallel roads to influence EU decision-making than local-level dialogue between the Commission and the MS. It is argued that this lack of flexibility has led to missing important opportunities to positively influence the HR agenda and to creatively use cooperation funds to provide institutional support to HR agencies.

3 ANALYSIS

3.1 Analysis from preceding chapters

Based on the preceding chapters, this chapter assesses the **effectiveness and comprehensiveness** of the political dialogue on HR on the context of Article 8. The analysis is structured around the key questions presented in Chapter 1.

Some of these questions relate to the comprehensiveness of the political dialogue on HR (e.g. the questions related to the inclusive nature or coverage of the dialogue). Others look at the effectiveness of the dialogue (e.g. the questions related to the regularity and choice of appropriate fora for the HR dialogues).

1) How comprehensive is the dialogue in terms of participation?

In general, the EU engages with representatives of civil society and HRDs **both within and outside the formal framework of political dialogue** processes in ACP countries. It manages to do so even in heavily restrictive environments. Consultations with such actors are deemed essential to draw information on the actual state of the HR situation in specific country contexts and to identify priorities for EU actions and cooperation programmes in this area (such as the most suitable use of the EIDHR. In the framework of Article 8 political dialogue processes, the EU normally holds consultations before and/or after the meeting with the government (whereby the presence of such actors at the dialogue is often not reported). In the cases under analysis, the EU had exchanges with such actors on a regular

basis. EU Member States represented in the country generally participate in these actions and complement them.

Since the formulation of specific guidelines for HRDs in 2004, the EU has **gradually intensified** its relationships with these actors. Local implementation strategies to support HRDs have been elaborated. The EU may support national networks for the protection of HRDs through the provision of in-kind support and assistance. The EU finds itself often in the frontline in cases of HR violations. Support in such cases may vary from attending and monitoring trials or visiting prisons and detention centres. Through the EIDHR, the EU can disburse quick funds for emergency cases to allow targeted individuals to flee from imminent risks and offer access to shelter. The protection of HRDs often stands central in the political dialogue, as evidenced in the above case studies.

While the participation of CSOs and HRDs in political dialogue processes is fairly generalized, the **level of inclusivity and quality of involvement varies substantially** from country to country. Much depends on how EU Delegations deal with recurrent implementation challenges such as: (i) knowledge of the CSO arena; (ii) access to reliable information on concrete HR situations; (iii) availability of qualified staff to engage on a regular basis with CSOs involved in HR (which tends to be a demanding and labour intensive job); (iv) the willingness of the political section to fully engage in HR processes; or (v) the political back-up of the Ambassador and the Heads of Missions.

2) How comprehensive is the dialogue in terms of substance?

Guidelines on the conduct of political dialogue specify that the inclusion of HR issues should be ensured. The cases reviewed show that the EU regularly covers HR issues in Art. 8 dialogues and manages to touch upon **a wide range of subjects**, primarily related to fundamental political rights.

Yet in their efforts to ensure a broad coverage of HR, EU Delegations are generally confronted with **several challenges**:

- First, the dialogue under Article 8 covers a **wide range of other issues**, such as the objectives set in the CPA and additional questions of common, general or regional interest. This tends to reduce the space for putting HR matters on the agenda and discussing them in sufficient depth. This problem is compounded by the tendency of some ACP governments to dilute HR issues by overloading the agenda or turning the dialogue into a highly formal (almost ritual) exercise of limited duration and/or frequency.
- Second, there are **limits to what the EU can demand** in terms of HR compliance. If the levels of 'annoyance' of the partner country with HR requests become too high, the whole dialogue may get blocked. This implies the EU has to carefully pick its battles.
- Third, it has proven particularly **difficult to ensure follow-up** to the HR dialogue. Partly because partner countries are not keen to engage on that path, partly because the EU does not necessarily has the capacity (both in political and institutional terms) to engage on HR issues over a longer period of time and thus allow for a more substance-driven process. This partly explains why the HR dialogue is often reactive and ad hoc.
- Fourth, the EU seems sometimes **too focused on political rights**, which by nature tend to be highly value-driven and open to contestation. There is less attention for social and economic rights, despite the fact that conditions may often be more favourable to make progress in these areas.

– A fifth challenge relates to the **preparedness of the EU to address politically sensitive issues**. The track record in this regard is mixed. In some countries (e.g. The Gambia) the EU has shown a certain persistence to engage on highly sensitive HR dossiers. In others a much more prudent approach is followed, sometimes verging on the limits of self-censorship (Ethiopia, Rwanda). Political economy considerations, linked to objective conditions of limited leverage and/or the protection of EU interests, may explain these differences in approach[61].

3) How effective is the dialogue in terms of continuity?

The EU is reportedly engaged in political dialogue with as good as all ACP countries. The number of political dialogues that systematically deal with HR issues is however quite low and EU action in this regard is particularly **concentrated in Africa**.

As concerns the cases under review, the EU conducts dialogues on a regular basis, yet the overall **format of the political dialogue under Article is not necessarily conducive to discuss HR issues in a continuous manner.** The infrequent organization, highly procedural set-up and limited duration of political dialogue processes are not helpful to ensure an appropriate monitoring of progress. More structured frameworks, such as the 'Joint Way Forward' in Nigeria provide, in theory, opportunities to move beyond ad hoc dialogues and discuss HR issues on a more regular basis.

Political will remains pivotal to table sensitive issues. It is reported that the involvement of high-level personalities, such as Commissioners, was helpful to show the EU's commitment and restart stalled dialogue processes. One should also not underestimate the critical importance of informal dialogue processes on HR, particularly in countries where article 96 applies.

4) How are the HR dialogues under Article 8 aligned with and supported by other geographic and thematic EU cooperation instruments?

While political dialogue is the appropriate political forum for discussing such issues, the EU has a wide range of instruments at its disposal to reinforce the dialogue and implement agreed actions on HR. The EU usually complements its engagement on HR dialogues under Article 8 political with a number of additional financial and non-financial instruments. Evidence (including from the 2011 EC Thematic Evaluation) indicates that a **strategic combination** of these various instruments and related incentives is key to achieving results.

The case studies show how the EU makes recurrent use of **public declarations** (by the HRVP or by Heads of Delegations at the local level) as well as statements to raise awareness on individual HR violations. Several EU Delegations also invest in developing a solid communication strategy regarding HR, making use of windows of opportunities to pass messages through its public relations and social activities.

In the various countries reviewed, the **EIDHR** plays a crucial role in providing strategic support to CSOs involved in HR. Ideally, there is a close link between the priorities identified in the dialogue and the activities funded by EIDHR (or other instruments). The virtuous circle can be completed if the lessons learnt with the projects are in turn used to 'feed' the political dialogue. In some cases the EU adopts a

[61] In this context, it is interesting to note that there has been no structured political dialogue with Equatorial Guinea since 2009. The EU raised HR concerns through high-level informal channels.

more structured approach towards cooperating with civil society actors. A case in point is the Civil Society Fund in Ethiopia. Despite a highly constrained environment and a restrictive legal framework, the EC has managed to keep some 'space' for HR actions by the EU without antagonizing the government.

Budget support has long been shielded off from democracy and HR considerations. In the EU context it was mainly used to promote governance reforms, particularly in the field of public financial management. Only in cases of serious violations of HR, such as the arbitrary killings in 2005 of demonstrators against electoral fraud in Ethiopia, did the EU formally cut its budget support (though substantial funding continued to be channeled indirectly). This may change with the adoption of the new guidelines on budget support. In principle, these condition the provision of general budget support to respect for HR and democracy. It remains to be seen if this will serve as an incentive to partner governments and if the EU will be strict or lenient in the application of this conditionality.

5) To what extent and in what way have EU MSs played a role in EU political dialogue in the respective partner countries?

It is **regular practice** for the EU to engage with MSs (and other key players) represented in partner countries with a view to coordinate efforts, avoid duplication and ensure greater leverage and impact on identified priorities.

In each of the cases presented above, the EU collaborates at different levels with Member States. Their presence in the political dialogue is a consolidated practice, however **numbers and modalities vary** according to the country context. It is reported that the more aligned the relation EU-member states is, the more effective the political dialogue tends to be. Alignment also increases the chances for the dialogue to cover a broader range of thematic HR priorities.

Issues arise when the EU position and action go beyond MSs' individual interests and political stand. Experience suggests that this generally leads to a dilution of the HR agenda and the adoption of the lowest common denominator for EU action. This, in turn, tends to generate double standards and seriously affects the credibility of EU action in the field of HR.

6) What has been the impact of these HR dialogues through Article 8?

Assessing the impact of political dialogue in general and on HR in particular is a challenging task. The actual processes are barely documented. There are obvious limits to the influence of external actors on domestic change processes. This also holds true for a global player and major donor like the EU. Outcomes are by definition uncertain and dependent on a host of factors. EU persistence on the issue of LGBTI paid off in Cameroon (where the partner country dropped its opposition to EU funding of CSOs active in this area) while it led to an escalation in Uganda, resulting in accusations of EU 'imperialism' and likely sanctions.

Geopolitical, security and economic interests may interfere and water down EU positioning in favor of HR in a given country. When changes do happen in a particular country, it is difficult to attribute this to the sole action of the EU. Generally there is a combined international action against HR violations. Furthermore, the formal adoption of new HR obligations or internal laws is no guarantee that HR will be better protected. Numerous countries fail to take additional legal steps to ensure effective application.

Positive effects of HR political dialogues can be observed in the case studies. As in other countries, EU actions on HR help to keep the issue on the agenda. It is reported that EU interpellations on governance and HR issues manage to 'slip in' and may help make a difference in the medium term if

sufficient domestic forces defend similar agendas. EU support (through dialogue and cooperation) often provides a 'lifeline' to CSOs working on HR, particularly in repressive environments. The dialogue on HRDs and HR violations has yielded results in many cases, especially if complemented with other actions such as when both MSs and the EU at appropriate levels engage in custody visits or trials. Complementing the dialogue with smart aid interventions (through thematic and geographic instruments) may further increase the chances of impact.

Experience furthermore suggests that achieving **impact depends on the 'tactics'** used by the EU. Too upfront a confrontation may be detrimental in this regard. The same can be said about too prudent approaches. It is important to ensure that domestic actors back the EU agenda on HR. This can be fostered by investing in the development of a local institutional architecture for defending HR as domestic 'allies' to the EU. Involvement of high-level political leadership is another key to make the dialogue work. For instance, the government of Gambia initially refused to implement the benchmarks proposed by the EU and to enter into intensified political dialogue. A closed-door high-level meeting was necessary to unblock the stalemate.

4 CONCLUSIONS AND RECOMMENDATIONS

4.1 Conclusions

Based on the preceding analysis, a number of recommendations are formulated in this concluding section. Before doing so, it is useful to formulate **three guiding principles for an effective political dialogue on HR**, including:

– ***Need for realism***. There is no 'magic bullet' for improving political dialogue on HR issues. Inevitably, such a dialogue is likely to lead to tensions, polarisation and even conflicts. This is due to the fact that EU discourses on HR are likely to fall largely on deaf ears among authoritarian regimes whose survival is dependent on the use of repression and denial of political rights. They may also land on less than fertile ground when different (culturally-inspired) views exist on the values the EU seeks to promote (e.g. the now high-profile issue of homosexuality). In a similar vein, it would be unrealistic to expect the EU to abruptly make a major leap forward in terms of avoiding double standards or ensuring coherence across the board of its external action. Partner countries know this and will continue to use these incoherencies on the EU side to block any substantive dialogues on HR.

  Considering all these limitations, ensuring an effective political dialogue will remain an art rather than a science, an exploration of what is desirable and possible in a given context at a certain moment, an attempt to 'push for change without being pushy'. While the EU should continue to be a ***'norm entrepreneur'*** and foster (universal) HR values through its external action, it needs to do this with sensitivity to local contexts, in a gradual manner and in alliance with domestic change actors. Experience suggests that the emergence and consolidation of a genuine HR 'culture' takes time –as it amounts to complex societal transformation processes that require the adherence of both public actors and the citizens of a given society. This is a lesson that Europe has also learned in its own history (as illustrated in the gradual and yet not completed story of ensuring gender equality). In the absence of realistic and gradual implementation approaches, EU efforts in the field of HR may yield limited results and even be counterproductive.

– ***EU leverage and smart incentives***. Experience unambiguously demonstrates the limits of purely normative approaches to promoting HR (through political dialogue and otherwise). In order to be effective the EU needs to make a down-to-earth assessment of the actual political and financial clout and leverage it can mobilise to promote an HR agenda in a given country at a given moment in time through various foreign policy and cooperation instruments. In doing so, it essential for the EU to fully acknowledge that its overall leverage vis-à-vis many partner countries may be declining, either because societies no longer accept outside interference or because levels of aid dependency have significantly dropped (as this is the case in a growing number of countries graduating out of poverty). There are indications that the EU has not yet fully come to grips with the reality of its modified (if not eroded) influence as a global player, norm-setter and donor. The EU should therefore carefully examine what 'smart' incentives could be used to foster genuine change processes in terms of HR. Experience suggests that limits of using money as a carrot to induce change[62]. The same may apply to the *"more for more" principle*[63] now fashionable

[62] This is a key lesson learnt from the failed ACP 'Governance Facility', which included an 'Incentive Tranche" whereby the EU would provide additional funds based on the commitment of ACP governments to improve governance, democracy and HR. See Council of the European Union (2013a).

in the European Neighbourhood. The reality is that one cannot buy reforms from the outside. They must be gradually nurtured from within a society and supported by the right mix of incentives (including of a non-financial nature[64]).

– ***Transparency on the EU's interests***. The EU is clear on its intention to promote HR values and its ambitions in this area are spelled out in treaties and cooperation agreements. They are translated through a variety of financial and non-financial instruments. The EU tends to be conspicuously silent however on its own geopolitical, security and economic interests in partner countries. Things may get even more complicated as EU Member States all face the challenge of using 'economic diplomacy' to foster national interests, particularly in terms of ensuring access to growing markets, sources of energy or critical raw materials. This asymmetry seems no longer tenable. In order to be a credible actor (also in political dialogues on HR), the EU should seek to better reconcile its values and interests. This would also help to provide greater clarity to local constituencies and HR activists in partner countries on the overall agenda of the EU's external action towards a given country (including the limits of its actions in favour of HR).

4.2 Recommendations

The above guiding principles are meant to function as a reality check. They may help to avoid unrealistic expectations in terms of improving HR dialogues with partner countries in the ACP. Yet when these limits are recognised, there is no shortage of areas where actual improvements are feasible (in the span of control of the EU). The European Parliament (EP) could play a most useful role in terms of advocating for such changes and monitoring progress achieved.

In this logic, four major recommendations are formulated on how to improve HR-related political dialogue processes (as conducted by EC/EEAS). For each recommendation, concrete actions that the EP could take to advance this agenda are proposed.

4.2.1. Adopt a more strategic and structured approach to political dialogue

Despite the existence of HR strategies it appears that HR dialogues under Article 8 are still primarily organized on an 'ad hoc', responsive and reactive basis, with limited preparation ex ante and uncertain follow-up. This suits the agenda of partner countries that resist a meaningful dialogue on HR. The challenge at hand is to adopt a more strategic and structured approach to HR dialogues. In practice, it means going much deeper into four critical dimensions of the HR dialogues:

(i) **What is feasible in a given context?** A more sophisticated political analysis (informed by domestic actors and knowledge institutions) may help to better identify windows of opportunities to put specific HR issues in a systematic and comprehensive way on the table. Ideally these issues do not only reflect genuine EU concerns related to HR but also deep societal

[63] See European Commission (2011d). In this Communication, the 'more for more' principle is clearly spelled out: *"Increased EU support to its neighbours is conditional. It will depend on progress in building and consolidating democracy and respect for the rule of law. The more and the faster a country progresses in its internal reforms, the more support it will get from the EU"* (p. 3).

[64] The prospect of obtaining membership to the EU has acted as a very powerful incentive for accession candidates to carry out major reforms. Yet this situation cannot be extrapolated to most partner countries of the EU. Even in countries that seek a beneficial 'Association Agreement' with the EU, experience suggests it is not evident to effectively integrate HR considerations in ways that can be enforced. When the relation with the EU is mainly driven by the more traditional 'donor-recipient' logic (like in most ACP countries), other types of incentives will have to be identified to advance HR issues.

demands that can therefore mobilize a local constituency. It may help to prioritize the "HR battles" that the EU should pursue with some chance of success in a specific context.

(ii) **What are the most useful HR dialogue fora to activate and key actors to include?** This question invites the EU to probe deeper into the 'process' conditions for an effective HR dialogue. The limitations of the Article 8 channel are clear: the process is too infrequent, too short and may not involve the 'right actors'. While it has a value in itself (i.e. to raise burning issues and keep HR on the agenda), in most cases it needs to be complemented by other dialogue channels, either at sectoral level (e.g. promoting HR in social or economic sectors) or at national/local level (whereby domestic actors can discuss HR issues on their own). Experience also suggests the great value of informal dialogue processes. A more structured and politically savvy approach to the question of 'what actors to involve' may equally yield substantial benefits. It implies diversifying the set of actors (beyond the 'usual suspects' of urban-based civil society organisations). It also means investing in the (long-term) capacity development of domestic HR institutions and CSOs so as to empower them (over time) to be effective players in these dialogues[65].

(iii) **What substance to put on the table?** This is the third pre-requisite for a meaningful HR political dialogue. It invites the EU to mobilise different sources of knowledge and capacities to move beyond "the issue of the day". This is a source of tension with ACP countries as they see the EU getting into action in cases of grave HR breaches or around elections (with Election Observation Missions coming in and out). The challenge is rather to engage in medium-term processes of change in the overall HR culture by carefully selecting a set of core issues that are crucially important for ensuring development and governance outcomes in a given country and around which the EU can engage over a longer period of time.

(iv) **What means to mobilise for an effective HR dialogue?** All the previous pillars of a more strategic and structured approach to HR dialogues will not be of much use if the EU can also not mobilise the required 'means' to promote its HR agenda. This includes human and financial resources, but above all a clear political mandate to embark on a long journey with partner governments and domestic actors to achieve meaningful changes over time. It also implies building-up strategic alliances with players at regional and continental level that can legitimate and amplify the impact of EU efforts. Regarding Africa, it means inter alia ensuring close linkages with AU efforts to promote the ratification and effective application of the *"African Charter on Democracy, elections and Governance"* (which also contains important provisions on HR) or the work of the *"African Peer Review Mechanism"* (APRM).

Possible actions by the EP:

The EP could be more insistent on having a regular and evidence-based feedback from the EC/EEAS on how the HR strategies are implemented at country level and on the steps taken to ensure a more strategic, structured, well-informed and iterative political dialogue on HR.

[65] This is consistent with the philosophy of the new EU policy towards civil society, as reflected in the Communication: *"The roots of democracy and sustainable development: Europe's engagement with civil society in external relations"*. See: European Commission (2012).

4.2.2. Enhance the legitimacy of the HR political dialogue

In order to overcome the stalemate so often observed in HR dialogues at different levels (national, regional and continental), reflected in polarisation and mutual recriminations, the EU is well advised to invest more in the 'legitimacy' of political dialogue processes. This is linked to what many considered as the dwindling power of the EU as a geopolitical player, norm entrepreneur and donor as well as the decreasing levels of leverage the EU can exercise in many countries (particularly middle-income or resource rich countries).

As a result, conditionality or financial incentives to reform may be of limited use and impact. It thus seems paramount to enhance the legitimacy of dialogue processes on HR. This can be done by:

- ensuring a **closer alignment with local HR agendas** and domestic drivers of change;
- **embedding the HR actions more strongly into regional and continental agendas** (e.g. the African Union Governance Architecture)
- **relying more on international instruments** such as the Universal Periodic Review (UPR) –which offers a potentially useful platform to engage over the medium term in HR dialogues and to monitor effective implementation;
- **rebalancing the dialogue to avoid unilateral approaches** and create more space for ACP countries to also meaningfully discuss their concerns regarding EU performance in the field of HR (e.g. migration policies);
- **exploring ways and means to report better and provide more transparency** on the political dialogue processes, its difficulties and successes. One practical way, already followed by several EU Delegations, is to invest more in solid communication strategies on HR dialogues. This may help to get the HR issues "out of the ghetto" and bring them more into the public domain and domestic policy discussions.

Possible actions by EP:

The EP could consider three types of actions to enhance the legitimacy of HR political dialogues. First, it could request the EC/EEAS to include in the annual report and in other documents (e.g. progress reports) a clear analysis of the various 'smart incentives' used to foster effective HR dialogues in different country contexts, including an overview of lessons learnt (on what works and does not work). Second, it could ensure structured exchanges with EC/EEAS in relevant parliamentary committees on the effectiveness of strategic partnerships with regional and continental organisations (such as the AU, Asean, Caricom, etc.) to foster HR agendas, including EU strategies followed to ensure alignment and the institutional strengthening of these partners. Third, it could advocate for more 'reciprocity' in HR dialogues, amongst others by creating space for structured exchanges on EU performance in the field of HR.

4.2.3. Ensure a result-oriented monitoring of HR political dialogue

If a more structured and strategic approach to fostering a political dialogue on HR is adopted, this may create **new opportunities to strengthen the monitoring of results achieved in the field of HR dialogues**. Follow-up and monitoring are now the Achilles heel of many political dialogue processes. Overcoming these weaknesses will not be easy. Defining relevant indicators for an effective dialogue is a complex matter. By definition, obtaining results on HR issues takes time and this holds true for ensuring sustainability of progresses achieved (through adequate institutional mechanisms, effective enforcement and behavioural change). A mechanistic approach to M&E –which seeks to measure progress achieved in a predominantly linear manner- is likely to fail. As in governance reforms it may

lead partner countries to make all kind of promises while neglecting to translate these commitments into practice.

Possible actions by the EP:

In order to create additional incentives for the EC/EEAS to adopt a more structured and result-oriented approach to HR dialogues, the EP could request the EU to develop more effective tools and indicators to measure progress achieved and to report realistically on the overall strengths and weaknesses of HR dialogues in annual reports and other documents. It could follow-up the implementation of the proposed shift towards a result-oriented approach of HR dialogues at the level of the institution as a whole.

4.2.4. Fully exploit the potential of development programmes and financial instruments

The 2011 Thematic Evaluation of EC support to respect for HR concluded that political dialogue activities were often weakened by poor connection with cooperation interventions. While several EU Delegations have made serious attempts to ensure synergies between political dialogue and development programmes (funded through geographic and thematic instruments) much remains to be done to **mainstream HR in development cooperation**, thus enhancing the leverage and scope of the dialogue. The task at hand is amongst others to ensure a "virtuous circle" between HR dialogue and the programming of the overall development assistance, i.e. all the relevant geographic and thematic instruments. The renewed attention paid by the EU to the application of "rights-based approaches" in a variety of sectors (food, water, health) offers promising opportunities. The same holds true for the new budget support guidelines, particularly related to the 'Good Governance and Development Contracts' (the former general budget support).

Possible actions by the EP:

The EP has shown an interest in the issue of mainstreaming HR since a long period[66]. The timing is now ripe to further push this agenda considering the growing prominence of 'rights-based approaches', the ongoing programming processes (2014-2020) and the existence of a strategic dialogue between the EP and the EC/EEAS on key financial instruments such as the DCI and the EIDHR[67] or on the use of general budget support. Three types of action could be considered. First: to assess the degree of mainstreaming of HR across sectors and development instruments in the new programming documents. This should go beyond the existence of complementarities between the HR dialogue and the EIDHR (and other thematic instruments in favour of civil society) but also encompass the use of sector programmes to mainstream HR. A critical policy domain to complement HR dialogues is the justice and the rule of law sector (as the enforcement of HR ultimately depends on a functioning justice system). Yet the EP could also monitor how the mainstreaming evolves in social and economic sectors, as this is crucial for key EU objectives such as inclusive growth. Second: to assess the coherent application of the new budget support guidelines, particularly in countries targeted to receive a "Good Governance and Development Contract (as this is preconditioned by respect for democracy and HR). Third: to advocate for a new format of annual reporting on progress achieved with mainstreaming HR across instruments. Instead of the current, largely descriptive approach followed, the EU could be invited to provide a much analytical overview of "how" it has managed to better link HR dialogues with the effective use of development cooperation instruments.

[66] Benoit-Rohmer (2009).

[67] Also the EDF would benefit from parliamentary advocacy and monitoring work related to the mainstreaming of HR, yet the role of the EP is more limited here (in legal terms).

BIBLIOGRAPHY

ACP-EU Council. 2013. Report from the ACP-EU Council of Ministers to the ACP-EU Joint Parliamentary Assembly on the implementation of the ACP-EU Partnership Agreement in 2012. ACP-UE 2116/13. Brussels, 4 June 2013. http://www.europarl.europa.eu/intcoop/acp/2013_brussels/pdf/st02116.en13.pdf

All Africa. 2014a. Ethiopia: 'Humanitarian Crisis' for Ogaden Living Near Ethiopia's Oil Fields. http://allafrica.com/stories/201402230077.html

AllAfrica. 2014b. Nigeria: EU - Anti-Gay Law Contradicts Fundamental Human Rights. 16 January 2014. http://allafrica.com/stories/201401160317.html

Amnesty International. 2013. Annual Report 2013 Cameroon. http://www.amnesty.org/en/region/cameroon/report-2013

Benoit-Rohmer, F. et al. 2009. Human Rights Mainstreaming in EU's External Relations. Florence Benoit-Rohmer (EIUC, Project Team Leader). 11.09.2009. http://www.eiuc.org/tl_files/EIUC%20MEDIA/Docs/EST28775.pdf

Bradley, A. 2005. An ACP Perspective and Overview of Article 96 Cases. ECDPM Discussion Paper 64D. Maastricht: ECDPM. www.ecdpm.org/dp64d

Broghammer, D. 2013. Constraints of conditional aid: Analysis of malfunctions and partner perceptions of the EU's external aid conditionality: the consultation procedures of the Cotonou Agreement, Institut d'Etudes Politiques de Strasbourg.

Concord. 2013. CONCORD Cotonou Working Group Briefing Paper. New Perspectives On Civil Society Participation In ACP-EU Cooperation. ACP-EU Joint Parliamentary Assembly 25th Session – Brussels. 15-19 June 2013. ttp://www.aprodev.eu/files/Africa_ACP/ACP-Cotonou/brussels_briefing_papers_civil_society_june%202013.pdf

Council of the European Union. 2009a. EU Guidelines Human Rights and International Humanitarian law. http://eeas.europa.eu/human_rights/docs/guidelines_en.pdf

Council of the European Union. 2009b. Declaration by the Presidency on behalf of the European Union on freedom of expression in The Gambia (12619/09 (Presse 244)). http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/cfsp/109617.pdf

Council of the European Union. 2009c. Nigeria-EU Ministerial Troika Meeting, Prague, 9 June 2009, Joint Communiqué (10906/09 (presse 171)). http://europa.eu/rapid/press-release_PRES-09-171_en.htm

Council of the European Union. 2012a. Council conclusions on Human Rights and Democracy. 3179th Foreign Affairs Council meeting, Luxembourg, 25 June 2012. http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/131171.pdf

Council of the European Union. 2012b. EU Strategic Framework and Action Plan on Human Rights and Democracy. Council of the European Union, Luxembourg, 25 June 2012. http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/131181.pdf

Council of the European Union. 2012c. Factsheet on EU Strategic Framework on Human Rights and Democracy. Council of the European Union, Luxembourg, 25 June 2012. http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/131169.pdf

Council of the European Union. 2012d. Council Conclusions on the Situation in Eastern DRC, 3179th FOREIGN AFFAIRS Council meeting, Luxembourg, 25 June 2012. http://ue.eu.int/uedocs/cms_data/docs/pressdata/EN/foraff/131167.pdf

Council of the European Union. 2013a. Council conclusions on report from the Commission on EU support for democratic governance, with a focus on the governance initiative. Brussels, 12 December 2013. http://eeas.europa.eu/human_rights/docs/hr_report_country_2012_en.pdf

Cuyckens, H. 2010. Human Rights Clauses in Agreements between the Community and Third Countries. The Case of the Cotonou Agreement. KU Leuven, Institute for International Law Working Paper No 147. March 2010. http://www.law.kuleuven.be/iir/nl/onderzoek/wp/WP147e.pdf

D'Hollander, D., M., Marx, and J. Wouters. 2013. Integrating Human Rights In Development Policy: Mapping Donor Strategies And Practices. KU Leuven, Centre for Global Governance Studies, Working Paper No. 108 – June 2013. http://www.fp7-frame.eu/wp-content/materiale/w-papers/WP108-Dhollander-Marx-Wouters.pdf

Del Biondo, K. 2011. EU Aid Conditionality in ACP Countries: Explaining Inconsistency in EU Sanctions Practice. Vol. 7, No. 3. http://www.jcer.net/index.php/jcer/article/view/294

Del Biondo, K. 2012. Norms, self-interest and effectiveness: Explaining double standards in the EU's reaction to violations of democratic principles in sub-Saharan Africa. Paper prepared for the IPSA World Congress of Political Science, Madrid, July 8 to 12, 2012. http://paperroom.ipsa.org/papers/paper_16998.pdf

Sanctions Practice. Journal of Contemporary European Research. Volume 7, Issue 3. http://www.jcer.net/index.php/jcer/article/view/294

ECDPM. 2008. The 2010 Revision and the Future of the Cotonou Partnership Agreement. Report of an informal seminar Maastricht, 4 July 2008. http://www.iadb.org/intal/intalcdi/pe/2011/08545.pdf

Ethiopia-European Community. 2007. Country Strategy Paper and National Indicative Programme 2008-2013. http://ec.europa.eu/development/icenter/repository/scanned_et_csp10_en.pdf

European Commission. 2000. Partnership agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000. http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:22000A1215(01):EN:NOT

European Commission. 2006. Partnership agreement ACP-EC. Signed in Cotonou on 23 June 2000. Revised in Luxembourg on 25 June 2005. http://www.europarl.europa.eu/intcoop/acp/03_01/pdf/cotonou_2006_en.pdf

European Commission. 2007. The European Union: Furthering Human Rights and Democracy in the Globe. http://eeas.europa.eu/human_rights/docs/brochure07_en.pdf

European Commission. 2010. The Cotonou agreement. Signed in Cotonou on 23 June 2000. Revised in Luxembourg on 25 June 2005. Revised in Ouagadougou on 22 June 2010. http://ec.europa.eu/europeaid/where/acp/overview/documents/devco-cotonou-consol-europe-aid-2012_en.pdf

European Commission. 2011a. Communication from the commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Increasing the Impact of EU Development Policy: an Agenda for Change. COM(2011) 637 final. European Commission, Brussels, 13.10.2011. http://ec.europa.eu/europeaid/what/development-policies/documents/agenda_for_change_en.pdf

European Commission. 2011b. Communication From The Commission To The European Parliament, The Council, The European Economic And Social Committee And The Committee Of The Regions The Future Approach To EU Budget Support To Third Countries. COM(2011) 638 final. European Commission, Brussels, 13.10.2011. http://ec.europa.eu/europeaid/how/delivering-aid/budget-support/documents/future_eu_budget_support_en.pdf

European Commission. 2011c. Thematic Evaluation of the European Commission support to respect of Human Rights and Fundamental Freedoms (including solidarity with victims of repression). http://ec.europa.eu/europeaid/how/evaluation/evaluation_reports/2011/1298_docs_en.htm

European Commission. 2011d. A New Response to a Changing Neighbourhood. Joint Communication. Brussels, 25 May 2011. COM (2011) 303. http://ec.europa.eu/europeaid/where/neighbourhood/documents/communication_conjointe_mai_2011_en.pdf

European Commission. 2012. Communication From The Commission To The European Parliament, The Council, The European Economic And Social Committee And The Committee Of The Regions. The roots of democracy and sustainable development: Europe's engagement with Civil Society in external relations. COM(2012) 492 final. European Commission. Brussels. 12.9. 2012. http://csf2.org/sites/default/files/Roots%20of%20Democracy%20_sustainable%20development.pdf

European Parliament. 2013a. ACP-EU Relations after 2020: Review of Options. Policy briefing. 22.02.2013. http://www.europarl.europa.eu/RegData/etudes/briefing_note/join/2013/491488/EXPO-DEVE_SP(2013)491488_EN.pdf

European Parliament. 2013b. European Parliament legislative resolution of 13 June 2013 on the draft Council decision on the conclusion of the Agreement amending for the second time the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States, of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000, as first amended in Luxembourg on 25 June 2005 (16894/2011 – C7-0469/2011 – 2011/0207(NLE)). Text adopted 13 June 2013, Strasbourg. http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2013-0273+0+DOC+XML+V0//EN&language=EN

European Parliament. 2014. Resolution of 16 January 2014 on recent moves to criminalise lesbian, gay, bisexual, transgender and intersex (LGBTI) people (2014/2517(RSP)). http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2014-0046+0+DOC+XML+V0//EN&language=EN

European Union External Action. 2010. Human Rights and Democracy in the World Report. Report on EU action on July 2008 to December 2009. May 2010.
http://eeas.europa.eu/human_rights/docs/2010_hr_report_en.pdf

European Union External Action. 2011. EU Annual Report on Human rights and democracy in the world in 2010. http://eeas.europa.eu/human_rights/docs/annual_hr_report_2010_en.pdf

European Union External Action. 2012. Human rights and democracy in the world report. Report on EU Action in 2011. http://eeas.europa.eu/human_rights/docs/2011_hr_report_en.pdf

European Union External Action. 2013a. Human rights and democracy in the world report. Report on EU Action in 2012 (Country report).
http://eeas.europa.eu/human_rights/docs/hr_report_country_2012_en.pdf

European Union External Action. 2013b. Human rights and democracy in the world report. Report on EU Action in 2012 (Thematic report).
http://register.consilium.europa.eu/doc/srv?l=EN&t=PDF&gc=true&sc=false&f=ST%209431%202013%20INIT&r=http%3A%2F%2Fregister.consilium.europa.eu%2Fpd%2Fen%2F13%2Fst09%2Fst09431.en13.pdf

European Union External Action. 2013c. Statement by EU High Representative Catherine Ashton on the adoption of the Anti-Homosexuality Bill in Uganda (131220/05).
http://eeas.europa.eu/statements/docs/2013/131220_05_en.pdf

European Union External Action Service. EU Delegation to Nigeria.
http://eeas.europa.eu/delegations/nigeria/index_en.htm

European Union @ United Nations. 2009. EU Presidency Declaration on Ethiopia's adoption of Charities and Societies Proclamation. Brussels: European Union. http://www.eu-un.europa.eu/articles/fr/article_8459_fr.htm

European Union. 2004. Resolution on the ACP-EU political dialogue (Article 8 of the Cotonou Agreement) (ACP-EU 3689/04/fin.). ACP-EU Joint Parliamentary Assembly on 25 November 2004 in The Hague (Netherlands).

http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2005:080:0017:0038:EN:PDF

European Union. 2010a. Statement by EU High Representative Catherine Ashton on the pardon of Ethiopian opposition leader Birtukan Midekssa (A 199/10). Brussels: European Union. http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/116917.pdf

European Union. 2010b. Statement by the spokesperson of HR Catherine Ashton on the murder of Rwandan politician (A 138/10).
http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/115851.pdf

European Union. 2012a. Statement by the spokesperson of High Representative Catherine Ashton on the criminalisation of homosexuality in Cameroon (A 585/12). Brussels: European Union. http://consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/134576.pdf

European Union. 2012b. Statement by EU High Representative Catherine Ashton on executions in The Gambia. Brussels, 26 August 2012. http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/132220.pdf

European Union. 2012c. Declaration by the High Representative, Catherine Ashton, on behalf of the European Union on the situation in the eastern Democratic Republic of the Congo. Brussels, 10 July 2012. http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/131682.pdf

European Union & ACP Countries. 1975. Lomé Convention. http://ec.europa.eu/europeaid/where/acp/overview/lome-convention/lomeitoiv_en.htm

Financial Times. 2012. Dutch suspend Rwanda budget support. 26 July 2012. http://www.ft.com/cms/s/0/6d139394-d724-11e1-8c7d-00144feabdc0.html#ixzz2tmRfl7E5

Freedom newspaper. 2014. The European Union must act decisively to end gross human rights abuses in The Gambia. 8 February 2014. http://www.freedomnewspaper.com/Homepage/tabid/36/newsid367/9565/THE-EUROPEAN-UNION-MUST-ACT-DECISIVELY-TO-END-GROSS-HUMAN-RIGHTS-ABUSES-IN-THE-GAMBIA/Default.aspx

Garcia Pérez, M.G. 2006. ACP-EC Partnership Agreement (Cotonou): Political dialogue, peace and security. EU Council Secretariat. Foreign, Security and Defence Policy, 14 September 2006. http://www.abgs.gov.tr/tarama/tarama_files/31/sc31exp_political%20dialogue.pdf

Guillet, S. 2007. Dialogues droits de l'homme, dialogue politique: elements de synthese. 10.07.2007. http://www.droits-fondamentaux.org/spip.php?article125

Hazelzet, H. 2005. Suspension of Development Cooperation: An Instrument to Promote Human Rights and Democracy? (ECDPM Discussion Paper 64B). Maastricht: ECDPM. www.ecdpm.org/dp64b

Human Rights Watch. 2014. World Report. http://www.hrw.org/sites/default/files/wr2014_web_0.pdf

Horn Affairs. 2010. Breaking News: EU Observers Chief says 'Ethiopia refused to host Election Report Presentation' (on Twitter). http://hornaffairs.com/en/2010/11/07/breaking-news-eu-observers-chief-says-ethiopia-refused-to-host-election-report-presentationon-twitter/

Inspectie Ontwikkelingssamenwerking en Beleidsevaluatie. (2013). The Netherlands and the European Development Fund – Principles and practices. Evaluation of Dutch involvement in EU development cooperation (1998-2012). IOB Evaluation. The Hague: Ministry of Foreign Affairs The Netherlands.

Joseph, N.M. 2009. Human Rights Requirements under the Cotonou Agreement. EHDR-UK Brussels, 09 Nov 2009. http://www.eepa.be/wcm/dmdocuments/Eritrea/Presentation_Noel_Joseph.pdf

Keijzer, N., B. Lein, M., Negre and N., Tissi.,. 2013. ACP-EU Relations beyond 2020: Exploring European Perceptions. DIE Briefing Paper Briefing Paper 11/2013. http://www.die-gdi.de/en/briefing-paper/article/acp-eu-relations-beyond-2020-exploring-european-perceptions/

Laakso, L., T. Kivimäki and M. Seppänen. 2007. Evaluation of Coherence and Co-ordination in the Application of Article 96 of the Cotonou Partnership Agreement. CTS-Conflict Transformation Service. http://www.three-cs.net/images/poster_art96.pdf

Laporte, G. 2007. The Cotonou Partnership Agreement: What role in a changing world? Reflections on the future of ACP-EU relations. ECDPM Policy Management Report 13. http://www.ecdpm-talkingpoints.org/the-acp-and-europe/#sthash.CWxR5fB2.dpuf

Lochbihler, B. 2013. On delegation journey in Ethiopia: Press Reviews. http://barbara-lochbihler.de/2/press-reviews/on-delegation-journey-in-ethiopia-press-reviews.html

Mackie, J. and J. Zinke. 2005. When Agreement Breaks Down, What Next? The Cotonou Agreements Article 96 Consultation Procedure. ECDPM Discussion Paper 64A. Maastricht: ECDPM. www.ecdpm.org/dp64a

Mackie, J., Koeb, E. and V. Tywuschik. 2008. For better for worse...Challenges for ACP-EU Relations in 2009. ECDPM InBrief 22. Maastricht: ECDPM. http://www.ecdpm.org/Web_ECDPM/Web/Content/Download.nsf/0/183F7F97AD33B88DC125753500310027/$FILE/InBrief22_e_challenges%202009.pdf

Molenaers, N., L. Cepinskas and B. Jacobs. 2010. Budget support and policy/political dialogue. Donor practices in handling (political) crises. Discussion paper / 2010.06. IOB, University of Antwerp. https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=18&cad=rja&ved=0CGwQFjAHOAo&url=http%3A%2F%2Fwww.researchgate.net%2Fpublication%2F228633976_Budget_support_and_policypolitical_dialogue._Donor_practices_in_handling_(political)_crises%2Ffile%2F9c9605220438e5cbf2.pdf&ei=SrDJUpeFJoTY0QWhjoHgDg&usg=AFQjCNEP-D1Lh_bPzXehkd0CYf-Q_wHSGw&bvm=bv.58187178,d.d2k

Nwobike, J. 2005. The Application of Human Rights in African Caribbean and Pacific–European Union Development and Trade Partnership. German Law Journal Vol.06 No.10. http://www.germanlawjournal.com/pdfs/Vol06No10/PDF_Vol_06_No_10_1381_1406_Developments_Nwobikefinal.pdf

Portela, C. 2007. Political Dialogue and Human Rights in the Framework of the Cotonou Agreement. Department of Social and Political Sciences. European University Institute. 10.07.2007. http://www.europarl.europa.eu/RegData/etudes/etudes/join/2007/381397/EXPO-AFET_ET(2007)381397_EN.pdf

Portela, C. 2011. Impact of sanctions and isolation measures with North Korea, Burma/Myanmar, Iran and Zimbabwe as case studies. Leuven Centre for Global Governance Studies. 31.05.2011. http://www.nonproliferation.eu/documents/other/claraportela503f1b448af45.pdf

Republic of The Gambia-European Community. 2007. Country Strategy Paper and National Indicative Programme 2008-2013. http://ec.europa.eu/development/icenter/repository/scanned_gm_csp10_en.pdf

Reuters. 2014. EU poised to boost Gambia aid despite rights violations. 22 January 2014. http://uk.reuters.com/article/2014/01/22/uk-gambia-eu-rights-idUKBREA0L0WW20140122

The Case of the Cotonou Agreement. KU Leuven, Institute for International Law Working Paper No 147 – March 2010. http://www.law.kuleuven.be/iir/nl/onderzoek/wp/WP147e.pdf

The Independent. 2013. Donors restore aid to Rwanda. 22 March 2013. http://www.independent.co.ug/rwanda-ed/rwanda/7585-donors-restore-aid-to-rwanda

The Telegraph. 2011. Britain and EU increase aid to Ethiopia while ignoring human rights warnings. http://www.telegraph.co.uk/news/worldnews/africaandindianocean/ethiopia/8681975/Britain-and-EU-increase-aid-to-Ethiopia-while-ignoring-human-rights-warnings.html

Vanheukelom, J. 2012. Political conditionality in the EU's development cooperation – pointers for a broader debate. GREAT Insights, Volume 1, Issue 2. March-April 2012. http://www.ecdpm.org/Web_ECDPM/Web/Content/Content.nsf/0/2caa09299aba2810c12579d1002f127b?OpenDocument#sthash.NapNBPEL.dpuf

Wouters, J., S. Basu, P. Lemmens, A. Marx and S. Schunz. 2007. Eu Human Rights Dialogues. Current Situation, Outstanding Issues And Resources. Policy Brief No. 1 – July 2007, Leuven Centre for Global Governance Studies. https://ghum.kuleuven.be/ggs/publications/policy_briefs/pb01.pdf

ANNEX: ARTICLES 8, 9, 96,97 AND ANNEX VII OF THE CPA (2010)

ARTICLE 8

Political dialogue

1. The Parties shall regularly engage in a comprehensive, balanced and deep political dialogue leading to commitments on both sides.

2. The objective of this dialogue shall be to exchange information, to foster mutual understanding, and to facilitate the establishment of agreed priorities and shared agendas, in particular by recognising existing links between the different aspects of the relations between the Parties and the various areas of cooperation as laid down in this Agreement.

The dialogue shall facilitate consultations and strengthen cooperation between the Parties within international fora as well as promote and sustain a system of effective multilateralism. The objectives of the dialogue shall also include preventing situations arising in which one Party might deem it necessary to have recourse to the consultation procedures envisaged in Articles 96 and 97.

3. The dialogue shall cover all the aims and objectives laid down in this Agreement as well as all questions of common, general or regional interest, including issues pertaining to regional and continental integration. Through dialogue, the Parties shall contribute to peace, security and stability and promote a stable and democratic political environment. It shall encompass cooperation strategies, including the aid effectiveness agenda, as well as global and sectoral policies, including environment, climate change, gender, migration and questions related to the cultural heritage. It shall also address global and sectoral policies of both Parties that might affect the achievement of the objectives of development cooperation.

4. The dialogue shall focus, inter alia, on specific political issues of mutual concern or of general significance for the attainment of the objectives of this Agreement, such as the arms trade, excessive military expenditure, drugs, organised crime or child labour, or discrimination of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. The dialogue shall also encompass a regular assessment of the developments concerning the respect for human rights, democratic principles, the rule of law and good governance.

5. Broadly based policies to promote peace and to prevent, manage and resolve violent conflicts shall play a prominent role in this dialogue, as shall the need to take full account of the objective of peace and democratic stability in the definition of priority areas of cooperation. The dialogue in this context shall fully involve the relevant ACP regional organisations and the African Union, where appropriate.

6. The dialogue shall be conducted in a flexible manner. Dialogue shall be formal or informal according to the need, and conducted within and outside the institutional framework, including the ACP Group, the Joint parliamentary Assembly, in the appropriate format, and at the appropriate level including national, regional, continental or all-ACP level.

7. Regional organisations as well as representatives of civil society organisations shall be associated with this dialogue, as well as ACP national parliaments, where appropriate.

ARTICLE 9

Essential elements regarding human rights, democratic principles and the rule of law, and fundamental element regarding good governance

1. Cooperation shall be directed towards sustainable development centred on the human person, who is the main protagonist and beneficiary of development; this entails respect for and promotion of all human rights.

Respect for all human rights and fundamental freedoms, including respect for fundamental social rights, democracy based on the rule of law and transparent and accountable governance are an integral part of sustainable development.

2. The Parties refer to their international obligations and commitments concerning respect for human rights. They reiterate their deep attachment to human dignity and human rights, which are legitimate aspirations of individuals and peoples. Human rights are universal, indivisible and inter related. The Parties undertake to promote and protect all fundamental freedoms and human rights, be they civil and political, or economic, social and cultural. In this context, the Parties reaffirm the equality of men and women.

The Parties reaffirm that democratisation, development and the protection of fundamental freedoms and human rights are interrelated and mutually reinforcing. Democratic principles are universally recognised principles underpinning the organisation of the State to ensure the legitimacy of its authority, the legality of its actions reflected in its constitutional, legislative and regulatory system, and the existence of participatory mechanisms. On the basis of universally recognised principles, each country develops its democratic culture.

The structure of government and the prerogatives of the different powers shall be founded on rule of law, which shall entail in particular effective and accessible means of legal redress, an independent legal system guaranteeing equality before the law and an executive that is fully subject to the law.

Respect for human rights, democratic principles and the rule of law, which underpin the ACP-EU Partnership, shall underpin the domestic and international policies of the Parties and constitute the essential elements of this Agreement.

3. In the context of a political and institutional environment that upholds human rights, democratic principles and the rule of law, good governance is the transparent and accountable management of human, natural, economic and financial resources for the purposes of equitable and sustainable development. It entails clear decision-making procedures at the level of public authorities, transparent and accountable institutions, the primacy of law in the management and distribution of resources and capacity building for elaborating and implementing measures aiming in particular at preventing and combating corruption.

Good governance, which underpins the ACP-EU Partnership, shall underpin the domestic and international policies of the Parties and constitute a fundamental element of this Agreement. The Parties agree that serious cases of corruption, including acts of bribery leading to such corruption, as referred to in Article 97 constitute a violation of that element.

8. Where appropriate, and in order to prevent situations arising in which one Party might deem it necessary to have recourse to the consultation procedure foreseen in Article 96, dialogue covering the essential elements shall be systematic and formalised in accordance with the modalities set out in Annex VII.

4. The Partnership shall actively support the promotion of human rights, processes of democratisation, consolidation of the rule of law, and good governance.

These areas will be an important subject for the political dialogue. In the context of this dialogue, the Parties shall attach particular importance to the changes underway and to the continuity of the progress achieved. This regular assessment shall take into account each country's economic, social, cultural and historical context.

These areas will also be a focus of support for development strategies. The Community shall provide support for political, institutional and legal reforms and for building the capacity of public and private actors and civil society in the framework of strategies agreed jointly between the State concerned and the Community.

The principles underlying the essential and fundamental elements as defined in this Article shall apply equally to the ACP States on the one hand, and to the European Union and its Member States, on the other hand.

ARTICLE 96

Essential elements: consultation procedure and appropriate measures as regards human rights, democratic principles and the rule of law

1. Within the meaning of this Article, the term "Party" refers to the Community and the Member States of the European Union, of the one part, and each ACP State, of the other part.

1a. Both Parties agree to exhaust all possible options for dialogue under Article 8, except in cases of special urgency, prior to commencement of the consultations referred to in paragraph 2(a) of this Article.

a) If, despite the political dialogue on the essential elements as provided for under Article 8 and paragraph 1a of this Article, a Party considers that the other Party fails to fulfil an obligation stemming from respect for human rights, democratic principles and the rule of law referred to in Article 9(2), it shall, except in cases of special urgency, supply the other

Party and the Council of Ministers with the relevant information required for a thorough examination of the situation with a view to seeking a solution acceptable to the Parties. To this end, it shall invite the other Party to hold consultations that focus on the measures taken or to be taken by the Party concerned to remedy the situation in accordance with Annexe VII.

The consultations shall be conducted at the level and in the form considered most appropriate for finding a solution.

The consultations shall begin no later than 30 days after the invitation and shall continue for a period established by mutual agreement, depending on the nature and gravity of the violation. In no case shall the dialogue under the consultations procedure last longer than 120 days.

If the consultations do not lead to a solution acceptable to both Parties, if consultation is refused or in cases of special urgency, appropriate measures may be taken. These measures shall be revoked as soon as the reasons for taking them no longer prevail.

b) The term "cases of special urgency" shall refer to exceptional cases of particularly serious and flagrant violation of one of the essential elements referred to in paragraph 2 of Article 9, that require an immediate reaction.

The Party resorting to the special urgency procedure shall inform the other Party and the Council of Ministers separately of the fact unless it does not have time to do so.

c) The "appropriate measures" referred to in this Article are measures taken in accordance with international law, and proportional to the violation. In the selection of these measures, priority must be given to those which least disrupt the application of this agreement.

It is understood that suspension would be a measure of last resort.

If measures are taken in cases of special urgency, they shall be immediately notified to the other Party and the Council of Ministers. At the request of the Party concerned, consultations may then be called in order to examine the situation thoroughly and, if possible, find solutions. These consultations shall be conducted according to the arrangements set out in the second and third subparagraphs of paragraph (a).

ARTICLE 97

Consultation procedure and appropriate measures as regards corruption

1. The Parties consider that when the Community is a significant partner in terms of financial support to economic and sectoral policies and programmes, serious cases of corruption should give rise to consultations between the Parties.

2. In such cases either Party may invite the other to enter into consultations. Such consultations shall begin no later than 30 days after the invitation and dialogue under the consultation procedure shall last no longer than 120 days.

3. If the consultations do not lead to a solution acceptable to both Parties or if consultation is refused, the Parties shall take the appropriate measures. In all cases, it is above all incumbent on the Party where the serious cases of corruption have occurred to take the measures necessary to remedy the situation immediately. The measures taken by either Party must be proportional to the seriousness of the situation. In the selection of these measures, priority must be given to those which least disrupt the application of this agreement. It is understood that suspension would be a measure of last resort.

4. Within the meaning of this Article, the term "Party" refers to the Community and the Member States of the European Union, of the one part, and each ACP State, of the other part.

ANNEXE VII

POLITICAL DIALOGUE AS REGARDS HUMAN RIGHTS, DEMOCRATIC PRINCIPLES AND THE RULE OF LAW

ARTICLE 1

Objectives

1. The consultations envisaged in Article 96(2)(a) will take place, except in cases of special urgency, after exhaustive political dialogue as envisaged in Article 8 and Article 9(4) of the Agreement.

2. Both Parties should conduct such political dialogue in the spirit of the Agreement and bearing in mind the Guidelines for ACP-EC Political Dialogue established by the Council of Ministers.

3. Political Dialogue is a process which should foster the strengthening of ACP-EC relations and contribute towards achieving the objectives of the Partnership.

ARTICLE 2

Intensified Political Dialogue preceding consultations under Article 96 of the Agreement

1. Political dialogue concerning respect for human rights, democratic principles and the rule of law shall be conducted pursuant to Article 8 and Article 9(4) of the Agreement and within the parameters of internationally recognised standards and norms. In the framework of this dialogue the Parties may agree on joint agendas and priorities.

2. The Parties may jointly develop and agree specific benchmarks or targets with regard to human rights, democratic principles and the rule of law within the parameters of internationally agreed standards and norms, taking into account special circumstances of the ACP State concerned. Benchmarks are mechanisms for reaching targets through the setting of intermediate objectives and timeframes for compliance.

3. The political dialogue set out in paragraphs 1 and 2 shall be systematic and formal and shall exhaust all possible options prior to consultations under Article 96 of the Agreement.

4. Except for cases of special urgency as defined in Article 96(2)(b) of the Agreement, consultations under Article 96 may also go ahead without preceding intensified political dialogue, when there is persistent lack of compliance with commitments taken by one of the Parties during an earlier dialogue, or by a failure to engage in dialogue in good faith.

5. Political dialogue under Article 8 of the Agreement shall also be utilised between the Parties to assist countries subject to appropriate measures under Article 96 of the Agreement, to normalise the relationship.

ARTICLE 3

Additional rules on consultation under Article 96 of the Agreement

1. The Parties shall strive to promote equality in the level of representation during consultations under Article 96 of the Agreement.

2. The Parties are committed to transparent interaction before, during and after the formal consultations, bearing in mind the specific benchmarks and targets referred to in Article 2(2) of this Annex.

3. The Parties shall use the 30-day notification period as provided for in Article 96(2) of the Agreement for effective preparation by the Parties, as well as for deeper consultations within the ACP Group and among the Community and its Member States. During the consultation process, the Parties should agree flexible timeframes, whilst acknowledging that cases of special urgency, as defined in Article 96(2)(b) of the Agreement and Article 2(4) of this Annex, may require an immediate reaction.

4. The Parties acknowledge the role of the ACP Group in political dialogue based on modalities to be determined by the ACP Group and communicated to the European Community and its Member States. The ACP Secretariat and the European Commission shall exchange all required information on the process of political dialogue carried out before, during and after consultations undertaken under Articles 96 and 97 of this Agreement.

5. The Parties acknowledge the need for structured and continuous consultations under Article 96 of the Agreement. The Council of Ministers may develop further modalities to this end.

EUROPEAN PARLIAMENT

QA-01-14-672-EN-N

DIRECTORATE-GENERAL FOR EXTERNAL POLICIES

POLICY DEPARTMENT

Role

Policy departments are research units that provide specialised advice to committees, inter-parliamentary delegations and other parliamentary bodies.

Policy Areas

Foreign Affairs

- Human Rights
- Security and Defence

Development

International Trade

Documents

Visit the European Parliament website: **http://www.europarl.europa.eu/studies**

ISBN 978-92-823-5858-0
doi: 10.2861/66849

Publications Office