



The FRAME Toolbox for the EU Fundamental and Human Rights Policies

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3 March 2017

Large-Scale FP7 Collaborative Project

GA No. 320000

1 May 2013–30 April 2017

The FRAME Toolbox for the EU Fundamental and Human Rights Policies

Work Package No. 14 – Deliverable No. 3

Due date	28 February 2017
Submission date	3 March 2017
Dissemination level	PU
Lead Beneficiary	European Inter-University Centre for Human Rights and Democratisation
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<http://www.fp7-frame.eu>

Executive Summary

FRAME Deliverable 14.3 is the final report in Work Package 14 discussing the EU's human rights toolbox. The report can be considered as a brief based on the previous two reports. It aims to guide the readers in a simplified way through the EU human rights toolbox that was mapped and analysed in the FRAME authors' previous work. The present report is divided into two main parts: the first part contains the main findings of the earlier research done on the EU's human rights toolbox, the second part accommodates eight factsheets, each presenting one set of tools.

In the first part, the report recalls the authors' understanding of the definition of 'toolbox' that was interpreted by FRAME researchers in different ways. In this regard, the traditional internal-external tools division seems to be no longer adequate. This is especially visible in the second part of the report that breaks with this division when representing the eight categories of tools. The initial part also explains the seven assumptions (recommendations) that guided the authors, and that can be considered as findings of their previous research.

The authors believe that the EU policy toolbox is overflowing and requires simplification. More attention and effort should be placed on the implementation of EU policies. Similarly, more effective monitoring and evaluation is needed. As stated above, the internal-external divide on human rights must be bridged for better human rights promotion and protection in and by the EU. The authors also emphasise the importance of the Charter of Fundamental Rights that shall be considered as a solid reference point in achieving EU policy objectives. It is also essential to leave some flexibility in policy options that enable the EU institutions to react according to the circumstances. Here the authors refer to the Cotonou Agreement. The final guiding principle is the changing of approach from imposing policies on legal subjects across and beyond the EU, to engaging them that makes it possible to build the EU together.

Three main recommendations close the first part of the report. The authors make suggestions for the simplification of the EU human rights toolbox. They point to two guiding principles, resilience and sustainability, as key to the use of the human rights toolbox within and beyond the EU. They also explain that vertical and horizontal coherence in the use of the toolbox are necessary components contributing to the overall success of the EU human rights policies.

The second part of the report presents eight factsheets as categories of EU human rights policy tools. It distinguishes the following tools within the following types of tools:

Diplomatic tools: Demarches, Statements, Resolutions, Human Rights Dialogues, and Quiet Diplomacy;

Political tools: Strategies and Guidelines;

Legal tools: Legal Acts and International Agreements;

Outreach and reflexive tools: Transparency Toolbox, Stakeholder Consultations, Implementation Platforms, and Engagement with Human Rights Defenders;

Actor-based tools: the EU Special Representative for Human Rights, the EU Human Rights Focal Points, and National Human Rights Institutions;

Information and monitoring tools: Indicators, Impact Assessments, and Reports;

Enforcement tools: Article 7 Procedure, Infringement Procedure, and the Rule of Law Framework;

Counter-terrorism tools: General strategic internal security policy and legal tools, Specific strategic internal security policy and legal tools, and Judicial Procedures.

Each factsheet contains a brief description of the tools and concrete examples identified by FRAME research. The easy-to-read factsheets also formulate recommendations, first of all to the EU institutions, i.e. the European Parliament, the European Commission, and the Council of the EU, as well as to the decision makers of the Member States.

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List of Abbreviations

ACTA	Anti-Counterfeiting Trade Agreement
AFSJ	Area of Freedom, Security and Justice
AICHR	ASEAN Intergovernmental Commission on Human Rights
ASEAN	Association of Southeast Asian Nations
CAAC	Children and Armed Conflict
CFR	Charter of Fundamental Rights
CFSP	Common Foreign and Security Policy
CHR	Charter of Human Rights
CJEU	Court of Justice of the European Union
CSDP	Common Security and Defence Policy
CSR	Corporate Social Responsibility
DG	Directorate General of the European Commission
DG JUST	Directorate General for Justice and Consumers
DROI	European Parliament's Subcommittee on Human Rights
EAW	European Arrest Warrant
ECHR	European Convention of Human Rights
ECtHR	European Court of Human Rights
EEAS	European External Action Service
EFTA	European Free Trade Association
EIDHR	European Instrument for Democracy and Human Rights
ESS	European Security Strategy
EU	European Union
EUISS	European Union Institute for Security Studies
EUSR	EU Special Representative for Human Rights
FRA	EU Agency for Fundamental Rights
GRULAC	Group of Latin American and Caribbean Countries
GSP+	Generalised Scheme of Preferences
HRs	Human Right(s)
HRC	Human Rights Council
HRD(s)	Human Rights Defender(s)
LGBTI	Lesbian, Gay, Bisexual, Transgender, and Intersex
LIBE	Committee on Civil Liberties, Justice and Home Affairs
MoFAs	Ministry of Foreign Affairs
MS(s)	Member State(s)
NGOs	Non-governmental Organisations
NHRIs	National Human Rights Institutions
OAS	Organization of American States
OHCHR	Office of the UN High Commissioner of Human Rights
OMC	Open Method of Coordination
OSCE	Organization for Security and Co-operation in Europe

PNR	Personal Name Record
RAN	Radicalisation Awareness Network
RoL	rule of law
SAHRC	South African Human Rights Commission
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
TTIP	Transatlantic Trade and Investment Partnership
UN	United Nations
UNGA	United Nations General Assembly
UPR	Universal Periodic Review
US	United States
WP	Work Package
WTO	World Trade Organization

I. Introduction

FRAME Work Package (WP) 14 discusses the content and the use of the European Union (EU) human rights toolbox. The work proceeded in three steps. Firstly, we focused on mapping all the tools in one single report, Report 14.1 'Analysing the Findings of the Research of the Other Work Packages on Policy Tools',¹ then based on the selected case studies built around the EU's responses to crisis situations in Hungary, Poland, Turkey, and Ukraine, we explored the meaning of the strategic use of such tools in Report 14.2, 'Assessing the Strategic Use of the EU Fundamental and Human Rights Toolbox'.²

The purpose of the present third report is to guide readers through the overall set of FRAME reports from the perspective of the tools. The rationale behind this exercise lies in the fact that FRAME output is extremely rich and, thus, possibly difficult to access by policy makers who do not necessarily have much time. Starting with the information gathered in Report 14.1 and the conclusions of Report 14.2, in addition to the conclusions of other reports that focus explicitly on particular tools, we have created eight brief factsheets providing basic information on specific sets of tools which were identified by the general use of the tools following the initial categorisations.

The factsheets are to be used as reference tools for anyone wishing to quickly learn about the tools that the EU has at its disposal when addressing its human rights commitments. They present a first-level enquiry, which can be easily deepened using the references to other FRAME reports that are cited.

The report is divided into two main parts. In the first part, we describe the premises on which this report and the categorisation of tools were built. In doing so, we point to the general conclusions of FRAME reports that guided our considerations and attempt to reflect general recommendations.

In the second part, we present eight factsheets focussed on the various categories of policy tools listed below:

1. Diplomatic tools
2. Political tools
3. Legal tools
4. Outreach and reflexive tools
5. Actor-based tools
6. Information and monitoring tools

¹ Haász, V., Podstawa, K., Vita, V., 'Report Analysing the Findings of the Research of the Other Work Packages on Policy Tools', (2016) FRAME Deliverable 14.1, available at <http://www.fp7-frame.eu/wp-content/uploads/2017/03/Deliverable-14.1.pdf>.

² Altafin, C., Haász, V., Podstawa, K., 'Assessing the Strategic Use of the EU Fundamental and Human Rights toolbox' (2016) FRAME Deliverable 14.2, available at <http://www.fp7-frame.eu/wp-content/uploads/2017/03/Deliverable-14.2.pdf>.

7. Enforcement tools

8. Counter-terrorism tools.

Each factsheet follows the same basic structure: a brief description of the category of tools is followed by concrete examples. The theoretical introduction is followed by the set of identified issues based on FRAME research, including scenarios and best practices. Each factsheet concludes with a presentation of the relationship between various tools, and recommendations addressed, if possible, to specific actors.

II. Key premises of the report

A. The toolbox

For the purposes of the analysis performed within the WP 14, a policy tool is understood as ‘the actual means and/or devices at the disposal of the government to advance governance goals/ policy agenda’.³ This broad understanding permits the inclusion in this category of the vast range of initiatives undertaken by the EU for the benefit of human rights externally and fundamental rights internally. The EU policy makers thus also use the term when they refer to human rights country strategies,⁴ the Early Warning System,⁵ or the Charter of Fundamental Rights (CFR) and fundamental rights-related legislation.⁶ Similarly, the FRAME reports have been using the category in the broadest possible sense, yet with the conscious attempt to classify the existing tools according to selected categories.⁷ Possibly the most elaborate presentation of the existing classifications can be found in relation to the foreign policy instruments in Report 6.1, ‘Report on Mapping, Analysing and Implementing Foreign Policy Instruments in Human Rights Promotion’.⁸

Based on these categorisations in Report 14.1, we have mapped all the instruments in the manner summarised in the table below.

³ Howlett, M. M., Ramesh, M. M. and Anthony Perl, *Studying Public Policy: Policy Cycles and Policy Subsystems* (Oxford University Press 2003) 87, as cited in: Churrua Muguruza, C., et. al., ‘Report mapping legal and policy instruments of the EU for human rights and democracy support’, (2014) FRAME Deliverable 12.1, available at <http://www.fp7-frame.eu/wp-content/uploads/2017/03/Deliverable-12.1.pdf>.

⁴ EEAS, ‘EU Annual Report on Human Rights and Democracy in the World in 2014’ (2015) <https://eeas.europa.eu/sites/eeas/files/2014-human-rights-annual_report_en.pdf> accessed 12 February 2017, 1.

⁵ Ibid, p. 45.

⁶ European Commission, ‘2015 Report on the Application of the EU Charter of Fundamental Rights’ (*Luxembourg: Publications Office of the European Union*, 2016).

⁷ For instance on the basis of their legal basis or whether the application is positive or negative or both.

⁸ Fraczek, S. et al., ‘Mapping, analysing and implementing foreign policy instruments’, (2015) FRAME Deliverable 6.1, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/08/11-Deliverable-6.1.pdf>.

Table 1: Categorisation of tools

Internal	External	Categories	Function
Policy documents (e.g. Stockholm Programme)	Policy documents (e.g. Strategic Framework and Action Plan)	Soft law, conceptualisation and operationalisation	Objective-setting
Sources of law (distinction according to form and content; focus on human rights specific and non-specific tools, accompanied by the soft law instruments)	Sources of law (multi- and bilateral- international agreements, unilateral instruments adopted by the EU accompanied by the soft law instruments)	Hard and soft law, mainly operationalisation (but contributing to conceptualisation and evaluation)	Concretisation of the objective through documents
Specific implementation instruments characteristic of internal fundamental rights policy Open Method of Coordination	Specific implementation instruments characteristic of external human rights policy (e.g. tools available in international forums)	Mainly soft, but sometimes hard measures, operationalisation (but contributing to conceptualisation and evaluation)	Process towards objective attainment
Judicial and other remedies —the EU Fundamental Rights Protection System (courts and other remedies)	Enforcement mechanisms	Hard law measures, hard power measures (if possible)	Enforcement
Tools used to measure or evaluate progress in human rights (qualitative reports, indicators, impact assessments)	Tools used to measure or evaluate progress in human rights (qualitative reports, indicators, impact assessments)	Soft law, evaluation (but used also for conceptualisation and operationalisation purposes)	Checking against the advancement of policy objectives

The table starts with the basic division of tools used in internal and external policies. Across this primary divide, we further present categorisations of the tools following the policy cycle logic whereby the initial policy documents are implemented through the selection of sources of law, concrete implementation and enforcement instruments, and measured in terms of the progress that has been made. The third column adds another layer of complexity, pointing to further categories of instruments which can add to the understanding of the difficulties connected with specific tools. Thus, the distinction between hard and soft law instruments provides additional information as to whether specific tools can be enforced or not, whilst the distinction between hard and soft power applicable in external relations reflects the leverage that the EU may have in external relations.

However, contrary to the findings in Report 14.2 on the strategic use of tools and in other FRAME reports, it became clear that these categorisations may be problematic in themselves. This led us to adopt eight cross-cutting categories that could exemplify the totality of the toolbox without necessarily dividing the instruments across the internal/external divide. This does not mean that each of the instruments would be equally applicable within an internal and external policy setting as some of them are clearly *sui generis*. The alternative categorisation was devised to ensure that the continuum in the EU's approach to its internal and external policy objectives and tools could be perceived. And so, the factsheets include the following categories of tools operating in the internal or external sphere:

Table 2: Category of tools in the factsheets

Category of tools	External/Internal Policy
1. Diplomatic tools	External <i>sui generis</i>
2. Political tools	Internal/external
3. Legal tools	Internal/external
4. Outreach and reflexive tools	Internal/external
5. Actor-based tools	Internal/external
6. Information and monitoring tools	Internal/external
7. Enforcement tools	Internal/external ⁹
8. Counter-terrorism tools	Internal/external

Each set of tools is described using the examples explored in FRAME research with the intention to demonstrate that the tools can be transferred, by all means possible, between the two spheres and that the two policy environments should be considered as a part of one general setting, implementing the objectives outlined in Art. 2 of the Treaty on European Union (TEU).

B. Seven recommendations and underlying assumptions for the FRAME policy toolbox factsheets

Whilst the earlier section described the evolution of the policy toolbox, as presented in Report 14.1, to the eight categories addressed by the factsheets below, this section presents in more detail the broad cross-cutting assumptions that guided the authors. These assumptions, in a broader perspective, may be considered also recommendations addressed to the EU human rights community made up of the EU institutions, Member States and the civil society at large.

1. The policy toolbox is overflowing and requires simplification

Having considered and analysed the variety of findings present in FRAME research, it must be stated that the EU fundamental and human rights toolbox is full, if not overflowing. The variety of instruments,

⁹ This report, in addressing enforcement tools, focuses on internal aspects of the EU policies, however, it must be acknowledged that analogous tools have been developed in external relations. Consider, in particular, restrictive measures, enforcement mechanisms present in specific international documents such as Cotonou Agreement Art. 96 procedure.

interactions between them, and the associated institutional interplays are sufficiently complicated for the insiders,¹⁰ not to mention the general public.

It seems fair to state that it is time for the toolbox to be simplified, yet in a manner which will reflect the EU's commitment to human rights as well as the two remaining values: democracy and the rule of law (RoL). The format of the factsheets presented below reflects, to a certain extent, this observation. To reflect the connections between the tools, the factsheets use figures and tables, presenting the variety of tools available and showing the implications of their use for the human rights causes.

2. Implementation, implementation, implementation...

In addition, the conclusions of the FRAME research outlined above illustrate another problem connected with the toolbox. It is a rather common problem that has been reflected in virtually all the conclusions of FRAME research. Namely, regardless of the design and simplification of the EU human rights policy toolbox, the actual success of EU policies and instruments will largely depend on their implementation.

Such efforts may involve voluntary action on the part of the institutions and the MSs, but also disciplinary measures. The latter must be willingly implemented by the institutions also in relation to the fundamental and human rights. From this perspective, the role of the CFR cannot be underestimated especially once its scope of application has been sufficiently clarified. At the same time, as proven in the Polish or Hungarian cases, where the Charter does not reach, the MSs may choose to stray from the values path leaving the institutions with only the nuclear option of Art. 7 TUE, softened by the preceding RoL Framework procedures.¹¹ Perhaps, through enhanced efforts to implement the Charter and possibly expand the understanding of the functional connection between a national norm or the Charter's provisions, such situations could be avoided in the future.

3. Evaluating and monitoring EU human rights policy?

The improved implementation of the EU human rights policy toolbox requires another element, which to-date is largely confusing and incoherent in its use. Namely, not one commonly used system for evaluating human rights that also provides access to quantitative and qualitative human rights information as a one-stop-shop, currently exists; thus, it is very difficult to determine the effectiveness of EU policy. FRAME dedicated ample attention to indicators¹² and impact assessments,¹³ yet in both cases the conclusions were similar—the existing systems of information provision are multiple, complex, and lengthy to use (especially the elaborate impact assessment studies). In addition, they reflect diverse methodologies

¹⁰ Ginsborg, L., et al., 'Policymakers' Experiences Regarding Coherence in the European Union Human Rights Context', (2016) FRAME Deliverable 8.3, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/09/Deliverable-8.3.pdf>.

¹¹ For more on the Polish-Hungarian crisis, see contribution by Haász in: Altafin, C., Haász, V., Podstawa, K., 'Assessing the Strategic Use of the EU Fundamental and Human Rights toolbox' (2016) FRAME Deliverable 14.2, available at <http://www.fp7-frame.eu/wp-content/uploads/2017/03/Deliverable-14.2.pdf>.

¹² Erken, E., et al., 'Access Guide to Human Rights Information', (2015) FRAME Deliverable 13.2, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/08/Deliverable-13.2.pdf>.

¹³ Brando, N., Hachez, N., Lein, B., Marx, A., 'The impact of EU trade and development policies on human rights', (2015) FRAME Deliverable 9.2, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/08/Deliverable-9.2.pdf>.

which puts into question the credibility and reliability of the information generated. One would assume that a policy decision is made with reference to the sources, which should be considered as a starting point (or, to an extent possible, as benchmarks) when evaluating the EU human rights policies and their effects.

4. Bridging the internal-external divide on human rights

As mentioned previously, in drafting the factsheets we departed from the rigid division between internal and external policy toolboxes, which constituted a canvas of our work in FRAME Report 14.1,¹⁴ and instead we adopted a slightly altered approach to the division between the different policy tools.

The renunciation of the internal-external policy divide is a rational decision with normative implications: for the sake of simplicity and effectiveness it is advisable to think of the EU human rights policy as a single policy with internal and external components. In this way, also the different stages of development of the policies can be aligned and the commitment of the EU to human rights and the other two values becomes more visible. Otherwise, as it is currently, it is easy both for the MSs and the institutions to escape their responsibilities to protect human rights.

5. The positive force of the Charter of Fundamental Rights (CFR)

In our understanding, the CFR should constitute a chief reference point for the EU institutions when they are pursuing EU policy objectives. It is a standard against which their activities and those of the MSs should be evaluated. Whilst one can observe the efforts of the EU institutions to make the Charter the chief reference point,¹⁵ these efforts are not so visible from the MSs level,¹⁶ nor do they pervade to the external dimensions of human rights policies.¹⁷

6. Flexibility within set procedures

Whenever pursuing any policy objective, the EU should have the flexibility to adjust its methods to the given circumstances. However, if this is the case, the implementation of specific measures can be easily subject to political considerations that can impact on the strong commitment to human rights. In order to amend this, systemic adjustment is needed whereby the set procedures constrain EU actors to undertake

¹⁴ Haász, V., Podstawa, K., Vita, V., 'Report Analysing the Findings of the Research of the Other Work Packages on Policy Tools', (2016) FRAME Deliverable 14.1, available at <http://www.fp7-frame.eu/wp-content/uploads/2017/03/Deliverable-14.1.pdf>.

¹⁵ See, for instance, 'Communication from the Commission: Strategy for the effective implementation of the Charter of Fundamental Rights by the European Union COM(2010) 573 final 2010.' And the subsequent European Commission, 'Operational Guidance on Taking Account of Fundamental Rights in Commission Impact Assessments, SEC (2011) 567 Final' <http://ec.europa.eu/justice/fundamental-rights/files/operational-guidance_en.pdf> accessed on 15 April 2017.

¹⁶ See, for instance, the limited impact of the Charter on national courts' jurisprudence as proven by the general collection of the case law within a number of projects. See, for instance, the FRA's Charterpedia <<http://fra.europa.eu/en/charterpedia>> accessed on 14 February 2017 or the Charterclick! Database <<http://www.charterclick.eu/portfolio/database/>> accessed on 14 February 2017.

¹⁷ Dimitry Kochenov and Fabian Amtenbrink, *The European Union's Shaping of the International Legal Order* (Cambridge University Press 2013).

certain measures or even enforce directly the human rights commitment. In other words, measures foreseeing limited flexibility should be included in the picture.

This is not to say that such proceduralisation is going to address all the concerns. For example, in the context of conditionality it seems that proceduralisation gives rise to criticisms. The EU is negatively perceived as it does not implement the non-execution clause under the Cotonou Agreement, but rather it engages in a (more or less constructive) dialogue with the perpetrators of violations, thus limiting itself to the first step in the procedure provided for by Art. 96 of the Cotonou Agreement.¹⁸ In doing so, it complies with the procedural rules, yet, arguably, it does not advance its human rights agenda.

7. Engagement rather than imposition

When speaking of the trade policy, one of the interviewees for Report 8.3 referred to the change of paradigm visible in trade policies as no longer patronising but engaging.¹⁹ We believe that this approach is to an extent already visible across EU policies in the way in which the EU reaches out to local communities, local authorities, and individuals. This trend, we believe, proves to be much more effective than the top-down approach.²⁰ Such engagement creates channels for EU learning and adjusting its own policies, pooling the expertise coming from the joint efforts of the EU MSs and other stakeholders. For this reason, we gave importance to the EU Reflexive and Outreach tools as a separate category essential for the attainment of the EU policy goals.

C. Final recommendations on the policy toolbox

1. The human rights policy toolbox is overflowing and requires simplification

This general conclusion implies that the final recommendations of WP 14 focuses on the use of the toolbox rather than on the design of its components. In fact, the use of the human rights toolbox in the EU depends on two issues: the availability of the tools and the willingness of the institutions and their agents to make use of them. Therefore, we recommend the following:

- that the fundamental and human rights become mainstream in all the actions and procedures of the institutions. This should be done, however, in a simpler and a more focused manner. We strongly believe that choosing one instrument, as a reference point, is necessary; the CFR is a natural choice in this respect. However, the institutions should embrace their obligation to promote fundamental rights contained therein, despite the limitations of Art. 51(1) of the CFR as clarified by the case law of the Court of Justice of the European Union (CJEU). Whilst it is true (as indicated above) that the European Commission has placed the Charter in the centre of policy-

¹⁸ See 'Partnership Agreement 2000/483/EC between the African, Caribbean and Pacific Group of States of the one part, and the EU, of the other part', Art. 96.

¹⁹ Ginsborg, L., et al., 'Policymakers' Experiences Regarding Coherence in the European Union Human Rights Context', (2016) FRAME Deliverable 8.3, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/09/Deliverable-8.3.pdf>, pp. 22-23.

²⁰ See the contribution by Haász in: Altafin, C., Haász, V., Podstawa, K., 'Assessing the Strategic Use of the EU Fundamental and Human Rights toolbox' (2016) FRAME Deliverable 14.2, available at <http://www.fp7-frame.eu/wp-content/uploads/2017/03/Deliverable-14.2.pdf>.

making at the internal level, this has not occurred externally nor has it not become the centrepiece of the dialogue between the EU and the MSs.

And yet, the CFR should be a starting and reference point for the EU's relations with its MSs and third countries. This should be done both in internal and external relations. As a result, the case law of the CJEU can serve as a guide for establishing the benchmarks of the realisation of rights and, similarly, to enhance the accountability of the actors involved long-term (as already done in the European Commission's approach to impact assessments). In this setting, the role of the Fundamental Rights Agency (FRA) is of high importance.

- that the accountability mechanisms of the EU institutions are built around fundamental rights issues and principles, with due regard given to the identification of the rights that imply duties of result (such as the core of the civil and political rights) and those that require their progressive realisation (and so benchmarks). Once this is the case, the actual progress of human rights can be better defined and, therefore monitored.
- that the decisions regarding the EU fundamental and human rights matters are made in a transparent manner based on facts and with sufficient grounds provided (following the principles of Art. 41 CFR). To this end, EU institutions should identify and make consistent use of the knowledge base, serving as a foundation for their decisions. Whilst impact assessments provide such knowledge, they tend to focus on one perspective or area only and responds to the needs of a specific legislative act. The broader Instead, an integrated monitoring mechanism pointing to the deficiencies of MSs' actions and the implementation and enforcement of EU measures is needed.

2. Resilience and sustainability as a key to the use of the human rights toolbox within and beyond the EU

If the EU fundamental and human rights policies are to produce sustainable results, they must be focused on creating and supporting both institutions and societies sensitive to human rights, which both on their own and if necessary with the help of the EU, can guard the social contract between the EU and citizens based on human rights. To this end, the following are necessary:

- that the EU targets the use of its tools to the collaborating human rights actors and human rights institutions, civil society organisations, and individuals, rather than focusing on interactions with the MSs and politicians.
- that the support to these actors is constant both within and beyond EU borders and not withdrawn on the basis of arbitrary decisions. And that if withdrawn, based on objective criteria, it is restored once the legal conditions are fulfilled again.

3. Vertical and horizontal coherence in the use of the toolbox as necessary components of the EU human rights policies success

The final recommendation refers to the use of the tools across the EU levels of governance (vertical coherence) and its policies (horizontal coherence). Here, it is particularly important to ensure coherence

between internal and external policies as there is no doubt that the successes and failures of the two impact the perceptions of the EU as a human rights actor. Again, use of the policy tools should be visible at all levels of EU governance, exploiting the relevant potential of the CFR.

III. FRAME policy toolbox factsheets

A. Factsheet No. 1: Diplomatic tools

1. Brief description of tools

a) *Démarches*

Démarche is a classic diplomatic tool widely employed by the EU to foster its external human rights goals. Their potential for efficiency is enhanced by the fact that within the Common Foreign and Security Policy (CFSP) the EU employs both the European External Action Service (EEAS) and diplomacy of the MSs, making it possible for EU external action to simultaneously *démarche* many capitals at once, a feat attainable by few other diplomacies.

b) *Statements*

EU Statements, issued either unilaterally, in co-operation with third countries and international organisations or within multilateral forums, is another typical diplomatic tool used to express the position of the EU and its views on human rights issues. Candidate and associated states as well as Eastern Partnership countries and European Free Trade Association (EFTA) members frequently align themselves with the EU Statements when present in the same forum.

c) *Resolutions*

At the United Nations (UN), the EU has the capability to table and support resolutions on human rights and related topics, thanks to its special observer status. These resolutions concern thematic or country-specific human rights issues.

d) *Human rights dialogues*

Apart from an array of classical diplomatic tools, the EU also employs various formats of dialogues and consultations with third countries and regional organisations. Currently, there are over 40 such engagements, ranging from structured dialogues (e.g. with the African Union, China, and Kazakhstan) to loosely organised consultations (e.g. with Canada, Japan, and the US).

e) *Quiet diplomacy*

For sake of clarity, we distinguish what is meant by the term ‘quiet diplomacy’ in this report—it shall be used to refer to preventive diplomacy conducted by confidential and non-coercive means, as opposed to public diplomacy (which includes statements and resolutions) and coercive diplomacy based on direct projection of power (e.g. sanctions and threats). Here too, the collective strength of the EEAS and MS diplomacies gives the EU salient capabilities for resolving human rights crises.

What is the role of diplomatic tools?

- To elaborate the official position of the EU on human rights issues
- To promote human rights worldwide
- To deliver criticism and praise of developments related to human rights
- To persuade third actors towards safeguarding human rights
- To achieve progress in the protection and promotion of human rights by means of supporting international and regional organisations, governments, NHRIs, HRDs and civil society on the ground

2. Concrete examples of tools

a) Statements

Example: EU Statement – Item 5: Human Rights bodies and mechanisms

'I have the honour to speak on behalf of the European Union and its Member States.

The Candidate Countries the former Yugoslav Republic of Macedonia ... and Montenegro, Serbia and Albania, the country of the Stabilisation and Association Process and potential candidate Bosnia and Herzegovina, and the EFTA countries Iceland and Liechtenstein, members of the European Economic Area, as well as Ukraine, the Republic of Moldova, Armenia and Georgia align themselves with this statement.

Mr. President,

The respect, protection and fulfilment of human rights are central to every aspect of the everyday life of all people. They underpin security and development around the world.

The High Commissioner and the OHCHR play a prominent role in advancing human rights in every corner of our planet and turning norms into reality thus helping to make an impact on the ground. The EU reiterates its support for and will strongly defend the independence and integrity of the mandate of the High Commissioner and his office, which is indispensable in order to ensure impartial, objective and effective scrutiny of a state's human rights record and the provision of technical assistance.'

Source: [33rd Session of the United Nations Human Rights Council Geneva, 13-30 September 2016](#)

[EU Statement - Item 2: Human Rights bodies and mechanisms.](#)

b) Resolutions

Series of resolutions on the rights of the child at UN forums

'Originally a Swedish initiative, the promotion of the rights of the child ranks among the most long-standing and most consistently pursued human rights objectives of the EU in the UNGA Third Committee and the CHR/HRC. ... the annual resolutions on the rights of the child are a **cross-regional initiative** of the EU and the Group of Latin American and Caribbean countries (GRULAC). Every year, both actors jointly table the draft resolution, and share the responsibility for the drafting process, which alternates each year between the EU and GRULAC. ... The EU's engagement with regard to the rights of the child has been and remains one the Union's core priorities in the UN human rights forums. It is a good example for a successful and long-standing cross-regional initiative despite sometimes differing approaches, but it also exemplifies the schism that existed between the EU and the US during the Bush era, and while the Obama Administration is more favourable towards the resolution initiatives in the UNGA and the HRC, the US still remains among the three countries that have not ratified the Convention on the Rights of the Child. The resolution on the rights of the child is lastly the only thematic EU initiative, which contains provisions on economic, social and cultural rights. Although the EU has not yet introduced a general resolution on these issues, it has addressed the right to physical and mental health, to education and to an adequate standard of living with regard to children as a vulnerable group.'

Source: Baranowska, G. et al., 'EU human rights engagement in UN bodies', (2015) FRAME Deliverable 5.1, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/08/13-Deliverable-5.1.pdf>, p. 126-127.

c) Quiet diplomacy

Quiet diplomacy in a multilateral context

An example of the successful use of quiet diplomacy by the EU is the negotiations carried out jointly by EU and US diplomats with Israel towards ensuring that the latter does not abandon the Universal Periodic Review.

The very nature of quiet diplomacy, where confidentiality and trust are of paramount importance, does not lend itself to researching its conduct and highlighting case studies. However, the FRAME project could discern some of the achievements of EU's quiet diplomacy thanks to interviews carried out under the Chatham House rule.²¹

3. Recommendations

a) All diplomatic tools

Council, EEAS, Commission, MSs – The effectiveness of EU human rights diplomacy is directly related to the amount of relevant expertise present. The EU bodies and MSs have outstanding diplomats and experts with knowledge on human rights at their disposal. For the continued success of EU human rights diplomacy, this excellence should be maintained and expanded. The actors involved should work towards ensuring that state of the art human rights training and knowledge are available to all personnel involved in the CFSP. Member States should also consider drawing upon the experiences of countries which have established their own successful human rights training programmes, tailored for the needs of diplomats and foreign relations specialists.

b) Statements and resolutions

Council, EEAS, MSs – One criticism leveraged frequently at EU activity in multilateral forums is that the goals and priorities it defines are not translated into actions, including statements and resolutions. However, one must keep in mind that while only few resolutions at the UN are tabled by the EU, the CFSP relies heavily on the joint, collective action of the EU external service and the MS diplomacies. While many resolutions continue under the sponsorship of respective MSs which pursue a given topic at the UN, in practice it is the collective action of the entire EU that ensures the success of the bloc. The EU and the MSs should seize the upcoming opportunity for enhancing the common nature of the CFSP and mitigating the 'EU and its Member States' duality which was insisted upon by the United Kingdom.

c) Human rights dialogues

Council (COHOM), EEAS – The FRAME project has detailed several conclusions and recommendations regarding the Human Rights Dialogues, as analysed in FRAME Deliverables 3.5 and 12.3. Three of those reflections are of particular importance. First is the necessity to avoid double standards.²² The issue of double standards appears on two levels. One is the inconsistency between the position of the EU on human rights within the EU and in third countries it maintains dialogue with, the other is the differing stances towards specific countries (stricter on some, more flexible on others) without presenting credible

²¹ Interviews carried out with members of the EU Delegation and MS diplomats in Geneva, October 2013.

²² Majtényi, B., Sosa, L., Timmer, A., 'Human rights concepts in EU Human Rights Dialogues', (2016) FRAME Deliverable 3.5, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/11/Deliverable-3.5.pdf>, p. 73.

criteria for such variation in their approaches. These shortcomings pave the way towards perceptions of the EU 'turning a blind eye' where economic interests prevail over human rights concerns and that countries are being treated 'unfairly' compared to European standards. These issues could be mitigated by ensuring that human rights topics, which are problematic internally for the EU, would be consistently included in Human Rights Dialogues and by departing from the practice of treating countries differently despite similar human rights records. The second recommendation concerns the need to confront disputes on the indivisibility of human rights,²³ which is challenged by notions of cultural relativism and an *a la carte* approach to human rights in some countries and regions. In particular, this concerns the area of economic, social, and cultural rights, where the EU is perceived as not being as single-minded and as strong as it is on civil and political rights. Finally, the third recommendation concerns the necessity to ensure that EU diplomats can rely on quality background information,²⁴ including analyses on the domestic conceptions of human rights and the differences between positions held by state governments, National Human Rights Institutions (NHRIs) and civil society.

²³ Ibid. p. 74.

²⁴ Ibid. p. 76.

B. Factsheet No. 2: Political tools

1. Brief description of tools

a) *The Global Strategy for the EU's foreign and security policy*²⁵

This general document sets the objectives for the EU's global foreign and defence policy. It outlines the four principles guiding the EU's external action (i.e. unity, engagement, responsibility, and partnership), the five core priorities (i.e. security of the EU, state and societal resilience east and south of the EU, an integrated approach to conflicts and crises, co-operative regional orders, and global governance), and the steps envisioned to implement the priorities. Human rights are assumed to be mainstreamed throughout all priorities. Moreover, the Global Strategy goes beyond being a purely external-focused tool, as it focuses on reinforcing resilience of both EU MSs and third countries.²⁶

What is the role of strategies and guidelines in external action?

- To place the EU action on human rights in the wider context of EU external policy
- To elaborate the official EU position on thematic areas of human rights
- To set out principles, define objectives and priorities
- To provide guidance for EU institutions and MSs
- To act as points of reference for external stakeholders
- To signal the focus areas of EU human rights action worldwide
- To ensure vertical and horizontal coherence within the CFSP

Source: Starl, K. et al., 'Human Rights Indicators in the Context of the European Union', (2014) FRAME Deliverable 13.1, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/08/12-Deliverable-13.1.pdf>, p. 15.

b) *Strategic Framework/Action Plan*

Unique within the EU array of policies related to human rights, this tool consists of a pair of documents that have been joined: the permanent Strategic Framework ([Council of the European Union, 'EU Strategic Framework and Action Plan on Human Rights and Democracy', Doc No 11855/12, 25 June 2012](#)), which sets general human rights objectives of the EU, and the periodic Action Plan ([Council of the European Union, 'Council conclusions on the Action Plan on Human Rights and Democracy 2015-2019' \(20 July 2015\), ST 10897 2015 INIT](#)), which operationalises the Strategic Framework, sets out concrete goals with associated timeframes and assigns relevant stakeholders. The Strategic Framework outlines, on a general level, the core human rights priorities of the EU: promoting the universality of human rights, increasing coherence of EU action on human rights, mainstreaming human rights throughout all external policies, implementing EU priorities on human rights, and working with bilateral partners and multilateral institutions. The current Action Plan covers the years 2015-2019 and contains 34 types of actions, corresponding to the following objectives: boosting ownership of local actors, addressing human rights

²⁵ European Council, European Council meeting (28 June 2016) – Conclusions, EUCO 26/16, Brussels, 28 June 2016 <http://www.consilium.europa.eu/en/meetings/european-council/2016/06/European-Council-conclusions_pdf> accessed 20 April 2017.

²⁶ For an elaboration on the core concepts of the EU Global Strategy and their importance for human rights, see Altafin, C., Haász, V., Podstawa, K., *The New Global Strategy for The EU's Foreign and Security Policy at the Time of Human Rights Crises*, forthcoming in Netherlands Human Rights Quarterly.

challenges, ensuring comprehensive human rights approaches to conflicts and crises, and fostering better coherence and consistency and a more effective EU human rights and democracy support policy.

c) Human Rights Guidelines

The 11 thematic EU Human Rights Guidelines elaborate the general aims, goals and actions that the relevant actors of the CFSP undertake to achieve the EU's objective of promoting human rights. The Guidelines are focused on general human rights areas (e.g. Human Rights Defenders (HRDs), rights of the child) as well as civil and political rights (e.g. prevention of torture and inhuman/degrading treatment, freedom of expression).

d) Priorities for multilateral venues

Depending on the venue in question, the EU priorities for human rights engagement in multilateral venues can include extensive multi-documents with an array of priorities (e.g. the priorities for the UN), single documents focused on human rights (Council of Europe (CoE)), elements of wider objective-setting documents (Organization for Security and Co-operation in Europe (OSCE)), or brief mentions in general documents (Association of Southeast Asian Nations (ASEAN)). These priorities are defined by the working groups/parties within the Council of the EU with input from EU delegations and MSs.

e) Country strategies

The Country Strategies are documents outlining the goals, aims, and means of EU diplomatic action and other external policy tools towards a given country or territory. Human rights are one of the policy areas specifically addressed in these documents. Due to their politically sensitive content, these strategies are confidential. Apart from items of a general nature, they contain very specific references such as to Human Rights Defenders (HRDs) or Non-Governmental Organisations (NGOs) with which the EU engages.

2. Concrete examples of tools

a) The Global Strategy for the EU's foreign and security policy

Selected references to human rights in the Global Strategy

Executive Summary — Section 1 'Our Shared Interests and Principles'

'In a more contested world, the EU will be guided by a strong sense of responsibility. We will engage responsibly across Europe and the surrounding regions to the east and south. We will act globally to address the root causes of conflict and poverty, and to promote human rights.' (p. 8)

Executive Summary — Section 3 'From Vision to Action'

'**A Joined-up Union.** We must become more joined up across our external policies, between Member States and EU institutions, and between the internal and external dimensions of our policies. This is particularly relevant to the implementation of the Sustainable Development Goals, migration and security, notably counter-terrorism. We must also systematically mainstream human rights and gender issues across policy sectors and institutions.' (p. 11)

Priority 3.5 — 'Global Governance for the 21st Century'

'**Widening** We will seek to widen the reach of international norms, regimes and institutions. ... The EU will also promote the responsibility to protect, international humanitarian law, international human rights law and international criminal law. We will support the UN Human Rights Council and encourage the widest acceptance of the jurisdiction of the International Criminal Court and the International Court of Justice.' (pp. 41-42)

b) Strategic Framework/Action Plan

EU human rights and democracy objectives as outlined by the current Action Plan:

- I. Boosting ownership of local actors
- II. Addressing human rights challenges
- III. Ensuring a comprehensive human rights approach to conflicts and crises
- IV. Fostering better coherence and consistency
- V. A more effective EU human rights and democracy support policy

Source: Council of the European Union, [‘Council conclusions on the Action Plan on Human Rights and Democracy 2015-2019’](#), 20 July 2015, ST 10897 2015 INIT.

The Action Plan as a reference point for further objective-setting

‘The Council recalls its Conclusions on the EU Action Plan on Human Rights and Democracy 2015–2019 of 20 June 2015, in which the EU and its member States committed to actions to make advances on business and human rights.’

Source: Council of the European Union, [‘Council Conclusions on Business and Human Rights’](#), 20 June 2016, 10254/16, p. 2.

Table 3: Example of human rights objective-setting in the Strategic Framework and operationalisation in the Action Plan

Strategic Framework: ‘The EU will intensify its efforts to promote economic, social and cultural rights’ (p. 2)
Action Plan:²⁷

17. Fostering a comprehensive agenda to promote Economic, Social and Cultural Rights (ESCR)	a.	Increase the EU's focus on ESCR in its external policy, including in its programming of external assistance, while also underlining that human rights are indivisible and interlinked; emphasize the clear recognition of the human rights dimension in areas such as social policy, health, education, access to food and water, or standard of living; promote and support the development and increased coverage of national social protection floors and gradual implementation of higher standards of social guarantees.	Ongoing	EEAS, COM, Council, MS
	b.	Strengthen capacity building and develop political and operational guidance on economic, social and cultural rights in order to ensure that all relevant EU and Member State staff are informed of the international treaties related to economic, social and cultural rights, in particular those related to fundamental principles and rights at work (ILO fundamental conventions); consider accession to the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.	Ongoing	EEAS, COM, Council, MS
	c.	Step up efforts to protect Human Rights Defenders including social partners, who are working to uphold economic, social and cultural rights, with a particular focus on human rights defenders working on labour rights, land-related human rights issues, and indigenous peoples, in the context of inter alia 'land grabbing' and climate change.	Ongoing	EEAS, COM, MS

²⁷ COM – Commission, MS – Member States

c) Human Rights Guidelines

1. [Death Penalty \(updated in 2013\)](#)
2. [Torture and other Cruel, Inhuman or Degrading Treatment or Punishment \(updated in 2012\)](#)
3. [Human Rights Dialogues \(updated in 2009\)](#)
4. [Children and Armed Conflict \(CAAC\) \(updated in 2008\)](#)
5. [Human Rights Defenders \(updated in 2008\)](#)
6. [Promotion and Protection of the Rights of the Child \(updated in 2008\)](#)
7. [Violence against Women and Girls and Combating all Forms of Discrimination against them \(2008\)](#)
8. [Promoting Compliance with International Humanitarian Law \(updated in 2009\)](#)
9. [Promotion and Protection of Freedom of Religion or Belief \(2013\)](#)
10. [Promotion and Protection of the Enjoyment of all Human Rights by Lesbian, Gay, Bisexual Transgender and Intersex \(LGBTI\) Persons \(2013\)](#)
11. [Freedom of Expression Offline and Online \(2014\)](#)

The EU Human Rights Guidelines as a tool for mainstreaming human rights in external action

PURPOSE OF THE GUIDELINES

– ‘In promoting and protecting freedom of opinion and expression, the EU is guided by the universality, indivisibility, inter-relatedness and interdependence of all human rights, whether civil, political, economic, social or cultural. These Guidelines should therefore be read in light of other EU Guidelines adopted in the field of human rights.’

– ‘The Guidelines explain the international human rights standards on freedom of opinion and expression and provide political and operational guidance to officials and staff of the EU Institutions and EU Member States for their work in third countries and in multilateral forums as well as in contacts with international organisations, civil society and other stakeholders.’

– ‘The Guidelines also provide officials and staff with practical guidance on how to contribute to preventing potential violations of freedom of opinion and expression, how to analyse concrete cases and to react effectively when violations occur in order to protect and promote freedom of opinion and expression in the EU’s external action. They also outline how and in what strictly prescribed circumstances the freedom of opinion and expression can be limited.’

Source: [EU Human Rights Guidelines on Freedom of Expression Online and Offline](#), p. 2.

The EU Human Rights Guidelines as means of reinforcing EU diplomacy

‘Defending freedom of religion or belief as a universal human right and countering intolerance and discrimination based on religion or belief are essential priorities of the European Union’s human rights policy. The promotion of religious tolerance, respect for diversity and mutual understanding are of utmost importance in the creation of an environment conducive to the full enjoyment of freedom of religion or belief by all. **The EU Guidelines on the promotion and protection of freedom of religion or belief send a clear signal on the importance given to this human right everywhere, and for everyone.** The resolution we are introducing today is in line with this long-standing commitment.’

Source: [Introduction statement on behalf of the European Union at the 71st United Nations General Assembly Third Committee on Draft Resolution L.36 on Freedom of Religion or Belief](#).

d) Priorities for multilateral venues

An extensive array of priorities exists regarding the EU's action at the UN. Currently, apart from the general strategies and guidelines, the EU's action is guided by the following:

- [EU priorities for the United Nations General Assembly](#) (adopted ahead of every UN General Assembly (UNGA) session)
- [EU priorities at the UN Human Rights Council](#) (adopted in 2012)
- [EU priorities at the UN Human Rights Fora](#) (adopted annually)

The EU priorities at UN Human Rights forums at a glance

The 2016 EU priorities for action at UN Human Rights Fora can be summarised as follows:

- I. Supporting the OHCHR
- II. Mainstreaming human rights across the UN
- III. Cooperation with special procedures
- IV. Country situations: Syria, DPRK, Ukraine (Crimea), Burundi
- V. Thematic areas: freedom of expression, freedom of assembly and association, freedom of religious beliefs, civil society, death penalty, torture, gender equality, rights of the child, rights-based approach to development, rights of migrants/refugees/asylum-seekers

Source: [Council Conclusions on EU priorities at UN Human Rights Fora in 2016](#).

3. Relationship between tools

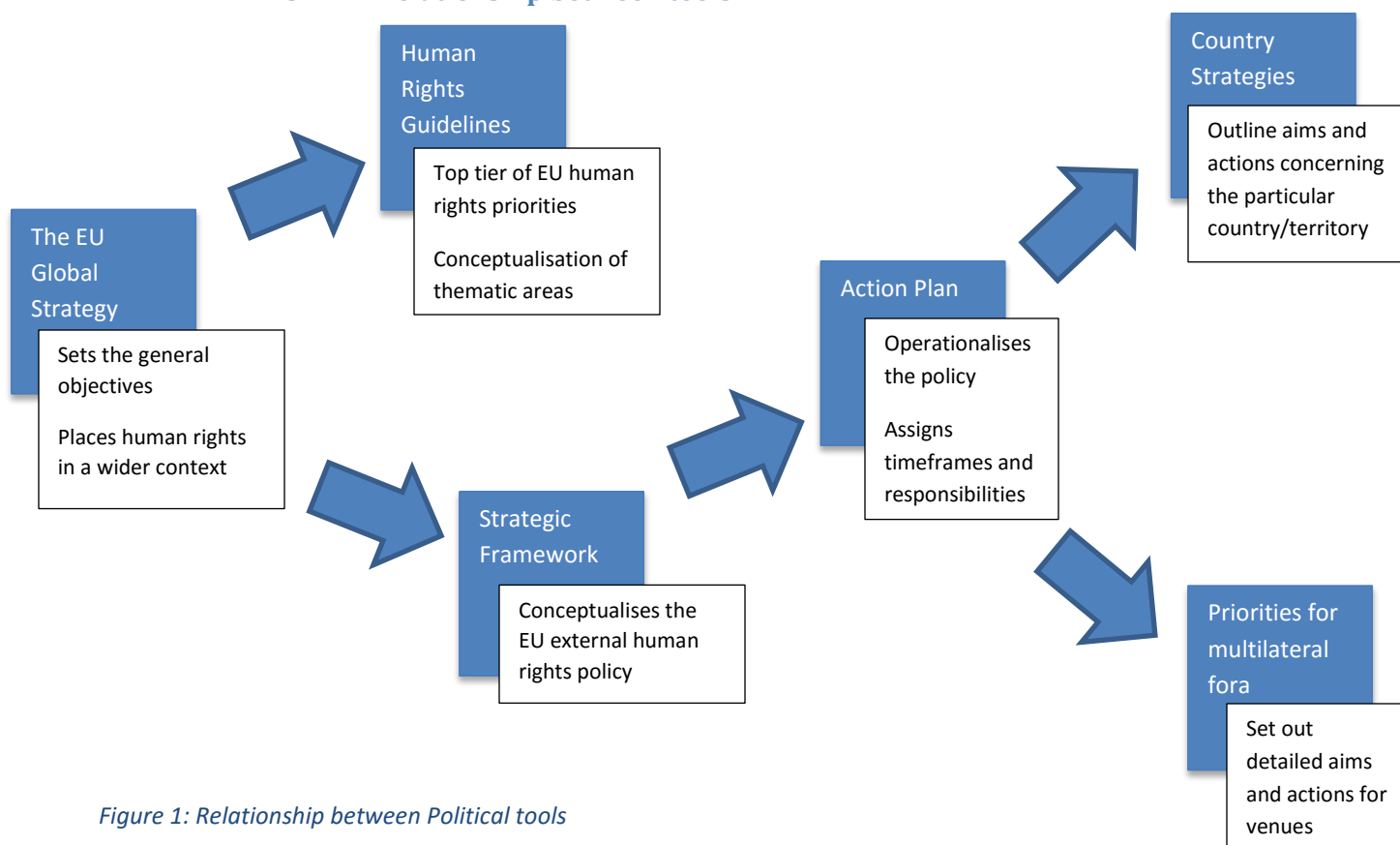


Figure 1: Relationship between Political tools

4. Recommendations

a) The EU Global Strategy

All actors – The EU Global Strategy is a new tool, introduced in June 2016. At this stage, it is of principal importance that all EU policy-making actions are aligned with the Global Strategy. The Global Strategy highlights human rights as an important element of the EU's foreign policy, yet stops short of setting them as one of the five core priorities for the CFSP. The relevant actors responsible for setting lower-level objectives and carrying out their implementation need to ensure that the Global Strategy is realised in accordance with Art. 21 TEU and that all the core principles guiding the EU's external action are taken into consideration.

b) Strategic Framework/Action Plan

The Council of the EU – The Strategic Framework is envisioned to be a permanent cornerstone of the EU's external policy. One should keep in mind that the Strategic Framework was adopted at a time when the principal CFSP strategy was outlined in the now defunct 2003 European Security Strategy (ESS). Both the ESS and the Strategic Framework were elaborated in the very different environment that the EU was in at that time, most notably with a very different set of challenges facing the Union. Several key concepts of the new EU Global Strategy, most notably the idea of boosting the EU's internal resilience by means of strengthening the resilience of foreign neighbours and partners, are not reflected in the Strategic Framework. The Council could consider reviewing the Strategic Framework in light of the new principles and priorities outlined in the Global Strategy, in order to strengthen the coherence and alignment of both documents. Any adjustments to the Strategic Framework to align it closer with the Global Strategy should also aim to enhance and expand its current content.

The Council of the EU, EEAS, Commission, MSs – The current 2015–2019 Action Plan should undergo its mid-term review in 2017. A thorough analysis of the implementation of the Action Plan is a critical challenge for all actors involved. The Action Plan has set out several ambitious objectives for the EU's external action and a review of these areas should be a major element of the mid-term review. Special attention should be given to objectives which lie outside the EU's traditional areas of human rights expertise, such as the goal of upgrading the role of economic, social, and cultural rights in the CFSP.

c) Human Rights Guidelines

The Council of the EU – The 11 EU Human Rights Guidelines published to date represent important elements of the EU's external action toolkit. After a period of heightened activity regarding the Guidelines in the years 2012–2014, since May 2014 the Council has not adopted any new guidelines or revised the existing ones. The Council would do well to move forward with elaborating new guidelines and updating the earlier ones. In particular, the 2009 'EU guidelines on violence against women and girls and combating all forms of discrimination against them', which did not insofar receive an update. In adopting new guidelines, the Council should focus on areas which lie outside the EU's 'comfort zone' when it comes to human rights. Introducing guidelines on select areas of economic, social, and cultural rights or tackling

areas which pose a challenge for the EU such as the right to privacy or the rights of migrants and refugees would strengthen the toolbox and help cast away the argument on selectivity and insufficient credibility.²⁸

EEAS, MSs – Mainstreaming the Human Rights Guidelines in the work of MSs' authorities by implementation of the CFSP remains an important challenge for all actors involved. The EEAS and the MSs continue to work together to ensure that the Guidelines are utilised to their full potential. While mainstreaming the Guidelines should be focused on MSs MoFAs, it is important to ensure that officials from all segments of MS governments are involved in the process.

d) Priorities for multilateral venues

The Council of the EU – Depending on the venue in question, the EU human rights strategies and policies for multilateral forums are elaborated in various forms, from extensive, public, multi-documents with an array of priorities to brief sections in confidential documents. While this granularity is a natural consequence of differences between venues and varied levels of EU engagement, the situation leads to risks of incoherence, both vertically and horizontally. An example of vertical incoherence found by the FRAME project is that while the 2015–2019 Action Plan outlines an upgrade of action on economic, social, and cultural rights, this goal is yet to be picked up in the priorities for all multilateral engagements. Concerning horizontal incoherence, the EU has outlined action on protecting the human rights of asylum seekers, refugees, migrants, and all displaced persons in the 2016 priorities at UN human rights forums, but this area has all been omitted from its 2016-2017 priorities for cooperation with the CoE. The Council of the EU should revisit the relationship between the venue priorities and other strategies/guidelines as well as consider a move towards greater uniformity and consistency across the venue priorities. Specifically, the extensive and highly visible priorities for engagement with the UN could serve as an example of a successful elaboration of the EU's human rights strategy at multilateral forums.

e) Country strategies

EEAS, EU Delegations – The confidential nature of country strategies left the FRAME project with very limited ability to discern their contents. Therefore, the recommendations here follow the general themes of our reflections on tools, namely of ensuring vertical coherence with general documents and horizontal coherence with priorities for multilateral forums and other country strategies. The priorities for action at multilateral forums should be mutually reinforced by linked country strategies to maximise the efficiency of EU external action. The EU should consider detaching the politically sensitive part of the country strategies and making the vital non-sensitive elements public to ensure that the core values of the CFSP are as visible in bilateral relations as they are in multilateral engagements.

²⁸ Wouters, J., and Hermez, M., 'EU Guidelines on Human Rights as a Foreign Policy Instrument: An Assessment', KU Leuven GGS Working Paper no. 170, February 2016
<https://ghum.kuleuven.be/ggs/publications/working_papers/new_series/wp161-170/wp-170-wouters-hermez-web.pdf> accessed 20 April 2017, p. 20.

C. Factsheet No. 3: Legal tools

1. Brief description of tools

Legal tools are regulations, directives and decisions adopted in the ordinary legislative procedure (Art. 289 of the Treaty on the Functioning of the

Chief characteristics:

1. Binding force
2. Existence of judicial remedies

Main challenge: Implementation

European Union (TFEU)) and international agreements (adopted following the provisions of Art. 218 TFEU) that contain the essential elements of the EU human rights policy either directly or indirectly.

The regulations, directives and decisions focus on the internal policy fields and tend to provide for the minimum harmonisation threshold. The externally adopted regulations enable the unilateral actions on the part of institutions, be it in the form of the disbursement of funding or granting specific privileges to third countries that comply with the human rights-related requirements set by the EU institutions. The binding force implies that there are consequences should an obligation stemming from a legal instrument not be fulfilled. Such consequences may include the undertaking of enforcement measures by the institutions in the form of infringement proceedings or other enforcement measures.

Externally, the adoption and interaction of legal instruments reflects the EU's belief in certain methods which it uses when dealing with third countries. Firstly, whenever possible, the EU's interaction with third countries will imply the bloc building and so the measure may take a form of a **multilateral** instrument (however, in the trade context instruments outside of the WTO are preferred). Secondly, this interaction will be based on the belief that observance of certain standards is a **condition** to obtain a privileged treatment, or to incur a sanction (positive and negative conditionality). Finally, the **Common Security and Defence Policy (CSDP)** inter-governmental method should be considered as a final modality according to which the measures can be undertaken through the unanimous decisions taken by the Council.

Internally, the EU outlines its commitment to fundamental rights in Art. 2 TEU which is not to say that it is free to adopt any measures relating to fundamental rights.

In fact, in order to adopt specific measures the EU must be equipped with competence to act in a specific area of fundamental rights; this depends on whether the Treaty attributes a specific direct competence in a specific field to the EU. This is the case, for instance, for the non-discrimination on the basis of Art. 19 TFEU or data protection under Art. 15 TFEU.

In the remaining areas, the EU institutions are obliged to ensure the compliance of the adopted measures with the CFR of the European Union and in light of the relating European Commission guidelines.

For a more elaborate description of various tools in this category, see: Haász, V., Podstawa, K., Vita, V., 'Report Analysing the Findings of the Research of the Other Work Packages on Policy Tools', (2016) FRAME Deliverable 14.1, available at <http://www.fp7-frame.eu/wp-content/uploads/2017/03/Deliverable-14.1.pdf>, pp. 44-46.

2. Concrete examples of tools

a) Legal acts

(1) Internal

In internal settings, the EU adopts acts on a legal basis existing in the Treaties. In particular, the EU has been regulating internally for the attainment of non-discrimination on the basis of Art. 19 TFEU (as well as Art. 8 and Art. 157 TFEU)²⁹ especially in work situations. In addition, there was legislation issued on the basis of Art. 16 TFEU.³⁰ Finally, the EU legislated on the right to fair trial on the basis of Art. 82(2) TFEU³¹ and Art. 47 CFR.

The influence of the fundamental rights on other policy areas is particularly visible in the policy fields gathered under the umbrella of the Area of Freedom, Security and Justice (AFSJ). Here, the migration policy comes to the forefront for the inadequate handling of the fundamental rights aspects.

²⁹ Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin [2000] OJ L 180 22–26. Council Directive 75/117/EEC of 10 February 1975 on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women [1975] OJ L 045. Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions [1976] OJ L 039. Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) [2006] OJ L 204/23. Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law.

³⁰ See, in particular, Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data OJ 1995 L 281 and the subsequent Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (Text with EEA relevance) OJ 2016 L 119. The Regulation will come into force on 25 May 2018.

³¹ Directive 2016/343 of the European Parliament and of the Council on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings OJ 2016 L 65/1 or Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, OJ 2012 L315/57.

Examples

For an in-depth case study on discrimination, see: Lassen, E. M., et. al., 'Report on in-depth studies of selected factors which enable or hinder the protection of human rights in the context of globalisation', (2015) FRAME Deliverable 2.2, available at <http://www.fp7-frame.eu/wp-content/uploads/2017/03/Deliverable-2.2.pdf>, p. 51.

For a description of the EU's endeavours in the area of data protection, see: Lassen, E. M. (ed). et al., 'Factors which enable or hinder the protection of human rights', (2014) FRAME Deliverable 2.1, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/08/03-Deliverable-2.1.pdf>; Engström, V., Heikkilä, M., 'Fundamental rights in the institutions and instruments of the Area of Freedom, Security and Justice', (2014) FRAME Deliverable 11.1, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/08/09-Deliverable-11.1.pdf> in the context of the VIS and SIS I, II.

For an exhaustive list of measures relating to the migration policy, see: Engström, V., Heikkilä, M., 'Fundamental rights in the institutions and instruments of the Area of Freedom, Security and Justice', (2014) FRAME Deliverable 11.1, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/08/09-Deliverable-11.1.pdf>, pp. 98-106.

(2) External

External measures involve, in particular, the financial instruments adopted for the purposes of particular policy areas such as, the European Neighbourhood Instrument³² or the Partnership Instrument,³³ which are to be applied in concrete policy settings including for human rights purposes. They permit for a facilitated disbursement of funding outside of the cumbersome budget procedures. In the area of EU human rights policy, the European Instrument for Democracy and Human Rights (EIDHR)³⁴ deserves particular merit. It is the chief instrument of financing not only for institutions such as the CoE and the Office of the UN High Commissioner for Human Rights (OHCHR), but also for projects and individual initiatives of HRDs. Together with the Peace and Stability Instrument it is the only one that goes beyond the state-to-state relations targeting individuals.

³² Regulation (EU) No 232/2014 of the European Parliament and of the Council of 11 March 2014 establishing a European Neighbourhood Instrument (ENPI), OJ 2014 L 77/27.

³³ Regulation (EU) No 234/2014 of the European Parliament and of the Council of 11 March 2014 establishing a Partnership Instrument for cooperation with third countries, OJ 2014 L 77/77.

³⁴ Regulation (EU) No 235/2014 of the European Parliament and of the Council of 11 March 2014 establishing a financing instrument for democracy and human rights worldwide, OJ 2014 L 77/85.

In addition, the EU legislates for the possibility to introduce specific trade concessions in cases where third countries try to adhere to specific standards within the Generalised Scheme of Preferences + (GSP+) scheme, and for the content of foreign trade (for instance of dual use goods), which may affect the human rights situation in third countries.

Conditionality according to the GSP+: FRAME research revealed in particular that the GSP+ scheme, which is based on conditionality has not been functioning as well as anticipated. Firstly, we specifically questioned the motives when it was used (e.g. the EU is not making such great concessions in terms of trade preferences, while obtaining great leverage in developing countries) and secondly, the implementation (lack of monitoring, double standards, etc.). Similarly, other specific measures seem to be having questionable impact. *For a more elaborate study, see: Brando, N., Hachez, N., Lein, B., Marx, A., 'The impact of EU trade and development policies on human rights', (2015) FRAME Deliverable 9.2, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/08/Deliverable-9.2.pdf>.*

b) International agreements

International agreements are made in line with the procedure of Art. 218 TFEU in connection with the specific competence provision, unless when they constitute CFSP measures whereby Art. 37 is evoked together with Art. 218 TFEU. Their typology differs depending on a range of policy areas covered, from agreements focusing on solely one issue (such as trade under Art. 207 TFEU) to those foreseeing a broad range of cooperation activities (such as partnership and collaboration agreements under Art. 216 TFEU) or those that contain reciprocal rights and obligations (such as association agreements in line with Art. 217 TFEU).

The agreements may have as their sole subject human rights, however, it occurs very rarely and requires a specific legal basis (see: the possible accession to the European Convention of Human Rights (ECHR) or the [UN Convention on the Rights of Persons with Disabilities](#)).

In the vast majority of cases, human rights feature as the 'essential element' of the agreement constituting the circumstantial background and condition on which the agreement is based. Echoing Art. 60 of the Vienna Convention on the Law of Treaties, the breach of such an essential element may lead to a suspension or even a termination of such an agreement.

Such conditionality has become the basis for the systematic inclusion of human rights conditionality clauses in the agreements made by the EU which was later confirmed by the European Parliament's resolution on the human rights and democracy clause in EU agreements 2005/2057 (INI). The clause evolved into taking the form of two interacting clauses: the essential elements and the non-execution clause, which have since been included in the vast majority of international agreements.

In other cases, human rights become the components of sustainable development chapters, featuring as a part of labour and environmental standards. This trend has been visible in the EU-Cariforum and the EU-Singapore Agreements.

Sustainable development chapters: FRAME research, in addition to bringing to the surface the recent developments concerning the workings of conditionality, focused on the developments relating to the more recent EU-Colombia Agreement which contains also sustainable development chapters. These chapters include specific provisions relating to the labour and environmental standards which should be observed in the course of the collaboration between the EU and third countries.

For a more detailed account, see: Beke, L., D'Hollander D., Hachez, N., Pérez de las Heras, B., 'The integration of human rights in EU development and trade policies', (2014) FRAME Deliverable 9.1, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/08/07-Deliverable-9.1.pdf>, pp. 59-71, and the subsequent section on sustainable development chapters etc.

3. Relationship between tools

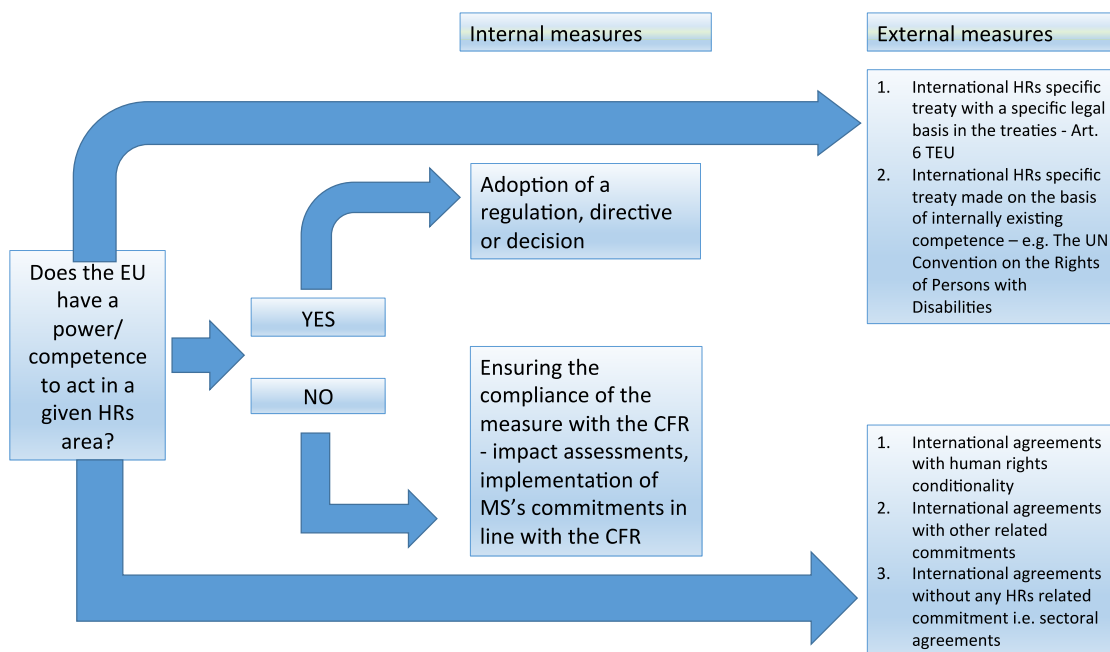


Figure 2: Relationship between Legal tools

4. Recommendations

a) To the European Commission

- To obtain **coherence**, ensure that fundamental rights impact assessments are consistently present in both *ex ante* and *ex post* contexts. To this end, make sure to develop such methodology to be applied on the basis of the European Commission checklist and with the use of the CFR across the EU policies and in respect of all relevant legislation. To develop and maintain the internal and external institutional structures necessary to combat structural incoherence in the legal policy creation and implementation processes.
- To ensure **implementation**, make certain that fundamental rights-related issues become the basis of infringement proceedings regardless of political pressure from the MSs.
- To ensure **efficiency**, in the creation and implementation of the legal fundamental and human rights tools, set clear objectives and benchmarks determining the progress on fundamental rights.

b) To the Council of the European Union and the European Parliament

- To obtain **coherence**, exert pressure on the European Commission ensuring that it conducts thorough fundamental rights impact assessments of policy proposals.
- To exert the control of the policy process, to develop their own (even simplified) impact assessments. It is also desirable that the Councils and the European Commission strive to eliminate the structural incoherence in collaboration by developing the common fundamental rights information exchange system and the relevant knowledge base.

c) To the Member States (MSs)

- To obtain **coherence**, to align as soon as possible their own legislation with the obligations stemming from the legal instruments of the EU.
- In order to ensure **efficiency** when acting beyond the EU borders with relation to human rights, to seek guidance and assistance to the MSs engaged in specific third countries whenever the first signs of violations are reported either by the international community or civil society, and in particular to seek alliances with the latter in order to ensure local ownership of the fundamental rights. This recommendation is equally valid for the European institutions engaged in third countries.
- To effectively **implement** the EU obligations, ensure the trickle-down effect of EU legislation and/or its potential impacts on fundamental rights, to adequately train judges and public officials so that even in the absence of relevant domestic legislation they ensure the rights of individuals are protected with the use of the CFR and the EU legislation.

D. Factsheet No. 4: Outreach and reflexive tools

1. Brief description of tools

The outreach and reflexive toolbox of EU fundamental and human rights policy include instruments **used to involve civil society at large, individual stakeholders, as well as the units within the MSs both in the process of creating and implementing the EU hard and soft law measures.** By their very nature, these instruments involve the creation of a platform of engagement with these various groups of stakeholders (the exact composition will depend on the platform and tool), with a view to exchanging knowledge, engaging in discussions on encountered issues, coordinating activities, assessing the implications of proposed legislation, or the need for

new legislation. The rationale for creating such platforms builds on the awareness that the contemporary challenges require multiple sources of knowledge and diverse perspectives, inclusion of which can only be achieved once all the actors engaged in a specific activity are on board.

Platforms of engagement

1. Transparency toolbox permitting access to information for the general public
2. Stakeholders consultations and human rights-related discussion forums
3. Implementation platforms
4. HRDs

2. Concrete examples of tools

a) Transparency toolbox

Ensuring transparency involves:

1. 'the transparency of legislative procedures, on the basis of relevant legislation and case-law, including an appropriate handling of trilateral negotiations' (Art. 28 of the [Interinstitutional agreement on better regulation](#)).
2. joint press conferences announcing the successful end of the legislative process
3. Art. 15 TFEU providing for citizens' and residents' access to documents of the European Commission, the European Parliament and the Council

The concept of transparency and the entire mechanism existing at the EU level should be considered as the cornerstones of the platforms of engagement. Without them none of the outreach or reflexive instruments could exist or would make sense. The issue of the lack of transparency has come to the forefront in external relations of the EU, having significant impact on the citizens' engagement within the EU and beyond (which was extremely visible in case of the Anti-Counterfeiting Trade Agreement (ACTA) and more recently the Transatlantic Trade and Investment Partnership (TTIP)).

Internally, the transparency recently came to the forefront in the context of the so-called 'trilogues',

4. enforcing the right to access documents, and transparency conceived as a parallel to the right to good administration under Arts. 41 and 42 CFR respectively, through the procedures before the European Ombudsman in line with Art. 43 CFR
5. ensuring access to information on the lobbyists present in the course of, and affecting the legislative processes
6. improving communication channels between the European institutions and broadly conceived stakeholders

which are informal meetings between the Council, the European Parliament and the European Commission. In order to enhance the transparency of the legislative process the three institutions were to set up a joint database of legislative and policy acts by 31 December 2016 (Art. 28 of the [Inter-institutional agreement on better regulation](#)).³⁵

The transparency toolbox encompasses access to information on the legislative and policy processes, permitting the reaction and involvement of civil society.

See: Kenner, J., Schmitt, P., Sissins, K., Wallace, S., 'Structures and mechanisms to strengthen engagement with non-state actors in the protection and promotion of human rights', (2016) FRAME Deliverable 7.3, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/08/26-Deliverable-7.3.pdf>, pp. 18-29.

b) Stakeholder consultations

Consultation forums are a standard occurrence in the EU policies. Following the 2015 Guidelines on Better Regulation, the non-state actors should involve a vast majority of actors in their activities. Unfortunately, the fundamental rights issues do not feature themselves in the Guidelines, but in the Better Regulation Toolbox.

The consultations may take place in relation to a specific policy area or take the form of a discussion forum with a specific set of actors on a regular basis.

Better Regulation Toolbox regarding fundamental rights (pp. 177-178):

‘(Q)uestions on fundamental rights should be addressed during the early preparatory stage of any envisaged initiative i.e. when the initial Roadmap is being prepared. Stakeholder consultations and studies should include collection of data on any potential fundamental rights aspect. If an early screening suggests that any policy options may raise substantial questions about fundamental rights requiring further guidance, you should consult colleagues from SJ and DG JUSTICE (and DG EMPL as regards the rights of persons with disabilities) who could also be invited to participate in the IA work of the interservice group. The EU Agency for Fundamental Rights (FRA) also provide a source of valuable information relating to fundamental rights, e.g. through providing relevant information or data or carrying out research, surveys and studies.’

³⁵ At the time of writing no information has been published concerning the future database. See: European Commission, *Better Regulation*

For more on consultation forums, see: Kenner, J., Schmitt, P., Sissins, K., Wallace, S., 'Structures and mechanisms to strengthen engagement with non-state actors in the protection and promotion of human rights', (2016) FRAME Deliverable 7.3, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/08/26-Deliverable-7.3.pdf>, pp. 4-18.

Examples of discussion forums taking place on a regular basis

- [European Development Days](#) organised annually by the European Commission since 2006 'bring the development community together each year to share ideas and experiences in ways that inspire new partnerships and innovative solutions to the world's most pressing challenges'.
- [Multi-stakeholder Forum on Corporate Social Responsibility](#) last of which took place in February 2015. 'The Commission is managing the CSR file in close cooperation with stakeholders. Around key milestones, multi-stakeholder forums are convened with a large number of participants.'
- [Fundamental Rights Forum](#) convened for the first time in 2016 by the FRA under the motto 'Rights, Respect, Reality: the Europe of Values in Today's World' with the view of holding biannual meetings of the type engaging various members of the fundamental rights community.
- [EU-NGO Forum](#), taking place on annual basis. The December 2016 meeting was dedicated to combating torture.

c) *Implementation platforms (Open Method of Coordination, OMC)*

The OMC is a platform for the implementation of specific policy solutions, initially devised to align the employment policies of the MSs. They consist of stages whereby the Council devises the goals, which are then translated into the policies of the MSs. The identified best practices serve as the basis for the establishment of benchmarks and indicators upon which the progress is measured. Finally, monitoring and evaluation of results takes place. The best-known instances of the OMC are **the European Employment Strategy** (which is considered to be rather centralised, involving the bringing to account MSs according to the set of agreed benchmarks) and the **social inclusion policy**.

The engagement of the public in the OMC depends to a large degree on the MSs that are responsible for designating the members of the OMC working groups, yet in certain settings (such as in the social inclusion policy) they must engage representatives of local communities. The OMC has been heavily criticised for not delivering on its promises, however, its potential is continuously explored in the areas where coordinated flexibility is necessary.

d) *Engagement with Human Rights Defenders (HRDs)*

The EU has been long aiding individual HRDs in its external policies, through the use of its funding, and the [European Instrument for Democracy and Human Rights \(EIDHR\)](#) in particular. Under this instrument, HRDs are offered small and ad hoc grants aiming to provide them with support for their activities, including those in the most vulnerable settings. In such cases the EU delegations ensure that the EU support does not put the HRDs at risk.

In addition, since 2004 the EU delegations have been equipped with the Guidelines on HRDs which provide the basic rules for supporting the individuals in combat for human rights.

The Guidelines on HRDs: The adoption of the Guidelines on HRDs was applauded by the human rights community. Yet, since 2004 the reality of HRDs' work has undergone major changes brought about by the omnipresence of internet. For this reason, it was argued in FRAME research that the Guidelines should be updated to address the specific contemporary exigencies of such work requiring the high level of online presence and technological literacy.

See: Kenner, J., Schmitt, P., Sissins, K., Wallace, S., 'Structures and mechanisms to strengthen engagement with non-state actors in the protection and promotion of human rights', (2016) FRAME Deliverable 7.3, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/08/26-Deliverable-7.3.pdf>, pp. 133-142.

Benedek, W. et al., 'Improving EU Engagement with Non-State Actors', (2015) FRAME Deliverable 7.2, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/08/14-Deliverable-7.2.pdf>, pp. 137-162.

3. *Relationship between tools*

The outreach and reflexive tools are used in the course of the policy cycle to harness knowledge on any given phenomena. In particular, they are used to feed the initial process of policy making and then the evaluation. In exceptional cases these platforms also serve as tools for the implementation of aligned standards or best practices as in the case of the OMC.

4. *Recommendations*

- It seems that in the areas of the EU's action where there are the weakest competence CFR standards, implementation platforms could be used to make it easier for the EU institutions to create alliances and exchange experiences between various stakeholders from various MSs. The stronger the legal basis, the more the MSs will be expected to comply with benchmarks and indicators. Such use of the OMC, for instance, could aid in determining, even in detail, the exigencies of implementation of specific rights within the EU context and complement existing legislation or the structural funds.
- The documents presenting the results of consultations should be freely available to the broader public through the centralised databases relating to specific tools. For instance, the EU Guidelines on Freedom of Religion have undergone a broad consultation with the wider public yet nowhere can one find the complete set of contributions. The situation has been amended, for instance, in the case of drafting the EU Global Strategy where the results of the consultation process are accessible, and have been processed and addressed by the EUISS (European Union Institute for Security Studies) (see

the dedicated section of the EU Global Strategy website: <https://europa.eu/globalstrategy/en/comments-analysis?type=comment>).

- The civil society should continue to participate in the outreach tools, using them also in a strategic manner to exert pressure on EU institutions and to advance specific fundamental rights-friendly solutions. Such engagement is particularly necessary in the areas where the EU competence is weak and does not permit EU institutions to exert high pressure on MSs (e.g. in the area of social inclusion).
- With reference to HRDs, it has been argued that their specific needs are addressed given the exigencies of their online presence. At the same time, it has been argued that they should be provided with an opportunity for more structured dialogue with the EU institutions, possibly through the dedicated forum (and not only the EIDHR one).

E. Factsheet No. 5: Actor-based tools

1. Brief description of tools

At the European level, instead of the existence of one single institution or unique point of entry, multiple European institutional tools have been elaborated to address human rights problems at the regional level. They have been especially created in order to contribute to the specific objective of the promotion of human rights and democracy worldwide. This factsheet focuses on two of these institutional tools belonging to the European level of governance: the EU Special Representative for Human Rights and the Human Rights Focal Points in the EU Delegations. As a third actor, their national allies, i.e. National Human Rights Institutions (NHRIs) are also introduced.

a) *The EU Special Representative for Human Rights (EUSR)*

The EUSR is mandated to enhance the EU's effectiveness, presence, and visibility in protecting and promoting human rights. Stavros Lambrinidis was appointed as the EUSR on 25 July 2012, and his mandate has been extended until 2017. The EUSR primarily uses diplomatic channels; he contributes to political dialogues with third countries, business, civil society, and international and regional organisations. The overall aim is to improve the coherence of the EU's action on human rights and mainstream human rights in all areas of the EU's external action.

b) *Human Rights Focal Points*

The Human Rights Focal Points in EU Delegations and CSDP missions and operations are responsible for dealing with democracy and human rights issues in their countries, such as interacting with HRDs.

Contact details for the focal points are published on the [EIDHR homepage](#) subdivided into regional groups.

c) *National Human Rights Institutions (NHRIs)*

The NHRIs are bodies with a mandate in domestic law to monitor, promote, and protect human rights in a given country.

The Paris Principles

The UN General Assembly adopted the Paris Principles in 1993 in its Resolution 48/134. 'The global principles adopted govern the status and functioning of independent NHRIs. The Paris Principles prescribe that NHRIs shall ensure the effective implementation of international human rights standards and work to ensure that national legislation, regulations and practices conform to the fundamental principles of human rights.'

Source: Mayrhofer, M. (ed), et al., 'International Human Rights Protection: The Role of National Human Rights Institutions - a Case Study', (2016) FRAME Deliverable 4.3, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/08/Deliverable-4.3.pdf>, p. 6.

NHRI Accreditation status

‘Those NHRIs which are in full compliance with the Paris Principles are accredited as ‘A-Status’ institutions. The A-Status allows access to international forums, most prominently the UN Human Rights Council (notably during all phases of the Universal Periodic Review (UPR)), but also to the Special Procedures, and the Treaty Body System. B-Status NHRIs only partially comply with the Paris Principles and receive observer rights in the meetings of the Global Alliance of NHRIs. Also, they may not participate in UN Human Rights Council sessions. C-Status institutions, which do not comply with the Paris Principles, have no rights in the UN forums or in the global NHRI network, but may attend the meetings of the network if allowed by the chair of the bureau. Accredited NHRIs are reviewed every five years.’

Source: Mayrhofer, M. et al., ‘International Human Rights Protection: Institutions and Instruments’, (2014) FRAME Deliverable 4.1, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/08/02-Deliverable-4.1.pdf>, p. 70.

2. Examples of institutions as tools

a) EU Special Representative for Human Rights

Both the EU Special Representative for Human Rights and the Human Rights Focal Points originate from the [EU Strategic Framework on Human Rights and Democracy \(2012\)](#) and the [EU Action Plan on Human Rights and Democracy \(2012-2014\)](#). The next [EU Action Plan on Human Rights and Democracy \(2015\)](#) reaffirms the roles of these tools.

[Council Decision 2012/440/CFSP](#) of 25 July 2012 appointed the European Union Special Representative for Human Rights. The mandate was extended by [Council Decision 2014/385/CFSP](#) of 23 June 2014 and the [Council Decision \(CFSP\) 2015/260](#) of 17 February 2015.

b) Human Rights Focal Points

According to the [EU Strategic Framework on Human Rights and Democracy \(2012\)](#) and the [EU Action Plan on Human Rights and Democracy \(2012-2014\)](#), by the end of 2013 a network of focal points on human rights and democracy had to be completed in EU delegations and CSDP missions and operations.

All EU delegations and offices have one or two focal points for democracy and human rights. Twenty-five focal points exist in the Asia, Central Asia and Pacific Islands region, 13 in the Eastern European partners and Russia region, 22 in the Latin America, Central America and Caribbean region, 14 in the Middle East and Northern Africa region, and 37 in Sub-Saharan Africa, accounting for a global total of 111 focal points.

c) National Human Rights Institutions (NHRIs)

The first objective of the [EU Action Plan on Human Rights and Democracy \(2015\)](#) is to support the capacity of NHRIs.

Necessary actions of the EU

- 'To support and engage with A-status NHRIs; to strengthen the involvement of NHRIs in consultation processes (HRs Dialogues)
- To strengthen A-status NHRIs; to support B-status NHRIs (accreditation); to cooperate with their regional and international networks
- To facilitate cooperation between NHRIs in EU MSs and NHRIs in partner countries'

The EU promotes NHRIs through funds under the [European Instrument for Democracy and Human Rights](#) (EIDHR).

Main funds provided to NHRIs

2014-2020: global NHRI grant for supporting capacity building

2015: 5 million EUR global programme on support to the International Coordinating Committee of NHRIs, the four regional networks and their secretariats, as well as individual NHRIs

Source: Mayrhofer, M. (ed), et al., 'International Human Rights Protection: The Role of National Human Rights Institutions - a Case Study', (2016) FRAME Deliverable 4.3, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/08/Deliverable-4.3.pdf>, p. 123.

Concrete examples of funding NHRIs

The Commission has funded or co-funded the Human Rights Commission in Rwanda (2002 and 2004), in Mexico (2003), in Kenya (2005), in the Philippines (2006), and the National Council for Human Rights and Women in Egypt (2006).

Source: Consortium PARTICIP-ADE-DIE-DRN-ECDPM-ODI, [Thematic evaluation of the European Commission support to respect of Human Rights and Fundamental Freedoms \(including solidarity with victims of repression\), Volume 3: Inventory of Human Rights Interventions](#), Brussels/Freiburg, 2011.

3. Using the tools

a) EU Special Representative for Human Rights

(1) In the European context

The EUSR contributes to the high-level political dialogue between the EU and the CoE through meetings with the Secretary-General, the Commissioner for Human Rights, representatives of the monitoring bodies, and the European Court of Human Rights (ECtHR). Similarly, the EUSR takes part in meetings with the OSCE representatives and participates in OSCE conferences.

Examples of institutional tools working externally

‘Myanmar’s political opening was supported by the EU’s quick establishment of a Human Rights Dialogue in 2014 and 2015, conducted by the EUSR.’

Source: Jaraczewski, J., Kędzia, Z., Mocker, S., Satayanurug, P., 'Engagement with regional multilateral organisations. Case study: ASEAN Perspective', (2016) FRAME Deliverable 5.5, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/08/Deliverable-5.5.pdf>, p. 32.

‘The Ministry of External Affairs in India is very sensitive to allowing the EUSR to come to India—this is a big red flag, both for the Ministry of External Affairs and the Ministry of Home Affairs.’

Source: Majtényi, B., Sosa, L., Timmer, A., 'Human rights concepts in EU Human Rights Dialogues', (2016) FRAME Deliverable 3.5, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/11/Deliverable-3.5.pdf>, p. 21.

‘The EUSR led dialogues between Africa and the EU (Partnership on Democratic Governance and Human Rights) aimed at developing a common understanding of democratic governance and promoting and consolidating a shared human rights agenda, most recently in November 2015.’

Source: Majtényi, B., Sosa, L., Timmer, A., 'Human rights concepts in EU Human Rights Dialogues', (2016) FRAME Deliverable 3.5, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/11/Deliverable-3.5.pdf>, p. 60.

Examples of institutional tools working internally

‘The strategy development process of EU external human rights activity spans four consecutive stages. In a first step, the COHOM is responsible for drafting the policy document and gathering internal and external input. Internally, the COHOM cooperates, inter alia, with other Council working parties (including COASI), the EEAS, the European Commission, the European Parliament, the EUSR and with EU delegations.’

Source: Jaraczewski, J., Kędzia, Z., Mocker, S., Satayanurug, P., 'Engagement with regional multilateral organisations. Case study: ASEAN Perspective', (2016) FRAME Deliverable 5.5, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/08/Deliverable-5.5.pdf>, p. 28.

‘In 2012, the European Parliament’s Subcommittee on Human Rights (DROI) formally exchanged views with the EUSR, a starting point for future regular consultations regarding EU human rights policies.’

Source: Lewis, T., 'Coherence of human rights policymaking in EU institutions and other EU agencies and bodies', (2014) FRAME Deliverable 8.1, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/08/06-Deliverable-8.1.pdf>, p. 37.

‘The European Parliament has encouraged the EUSR to make digital freedoms as well as the ‘No Disconnect Strategy’ part of his key priorities.’ Source: [European Parliament Resolution of 11 December 2012 on a digital freedom strategy in EU foreign policy](#), 2012/2094(INI), para. 12.

(2) In the international context

In line with his mandate, the EUSR has met with the ASEAN and the Organization of American States (OAS) representatives or participated in their events. The EUSR visited the ASEAN Intergovernmental Commission on Human Rights (AICHR).

b) Human Rights Focal Points

When it comes to the implementation of the human rights country strategies, human rights focal points play a 'crucial role' as they coordinate the local implementation of human rights country strategies. Moreover, they provide headquarters with expertise on local developments, address individual cases, deliver démarches, and conduct outreach on EU priorities at the UNGA and the HRC. They are also involved in the launching of calls and selection of proposals for funding under the EIDHR. They also support the work of HRDs worldwide.

A country study, assessing the implementation of the EU Guidelines in Kyrgyzstan, Thailand, and Tunisia, indicates that the appointment of the human rights focal points has been a success. It has significantly strengthened the EU's institutional capacities to engage with HRDs.

Source: Benedek, W. et al., 'Improving EU Engagement with Non-State Actors', (2015) FRAME Deliverable 7.2, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/08/14-Deliverable-7.2.pdf>, p. 142.

c) National Human Rights Institutions (NHRIs)

The NHRIs' collaboration with the EU is a relatively new phenomenon. It happens in three different areas:

A. EU policy-making

- Consulting with all EU institutions
- Delivering information for impact assessments

B. MSs compliance with the CFR

- Consulting with governments
- Providing information to the European Commission's report on the implementation of the Charter
- Applying the Charter in the institutions' own case-handling
- Raising awareness about the Charter at the national level

C. EU external human rights policy

- Providing domestic information to human rights country strategies and European Neighbourhood Policy action plans
- Providing mutual support between NHRIs and the EU in the UN HRC

Source: Haász, V., *National Human Rights Institutions as human rights tools of the EU*, Presentation, FRAME Workshop: [*The European Union, Latin America and Human Rights: achievements, challenges and opportunities*](#), Lima, Peru, 6 December 2016.

4. Relationship between tools

The EUSR works under the direct authority of the High Representative and in close cooperation with the EEAS, which provides the EUSR with full support. The EEAS also supports the Human Right Focal Points in the EU Delegations by providing them with training on human rights and democracy, and maintaining their network etc. The link between these actors and the NHRIs is not that evident. As shown above, NHRIs can feed into many activities, such as conducting human rights dialogues by the EUSR or drafting human rights country strategies by Human Rights Focal Points.

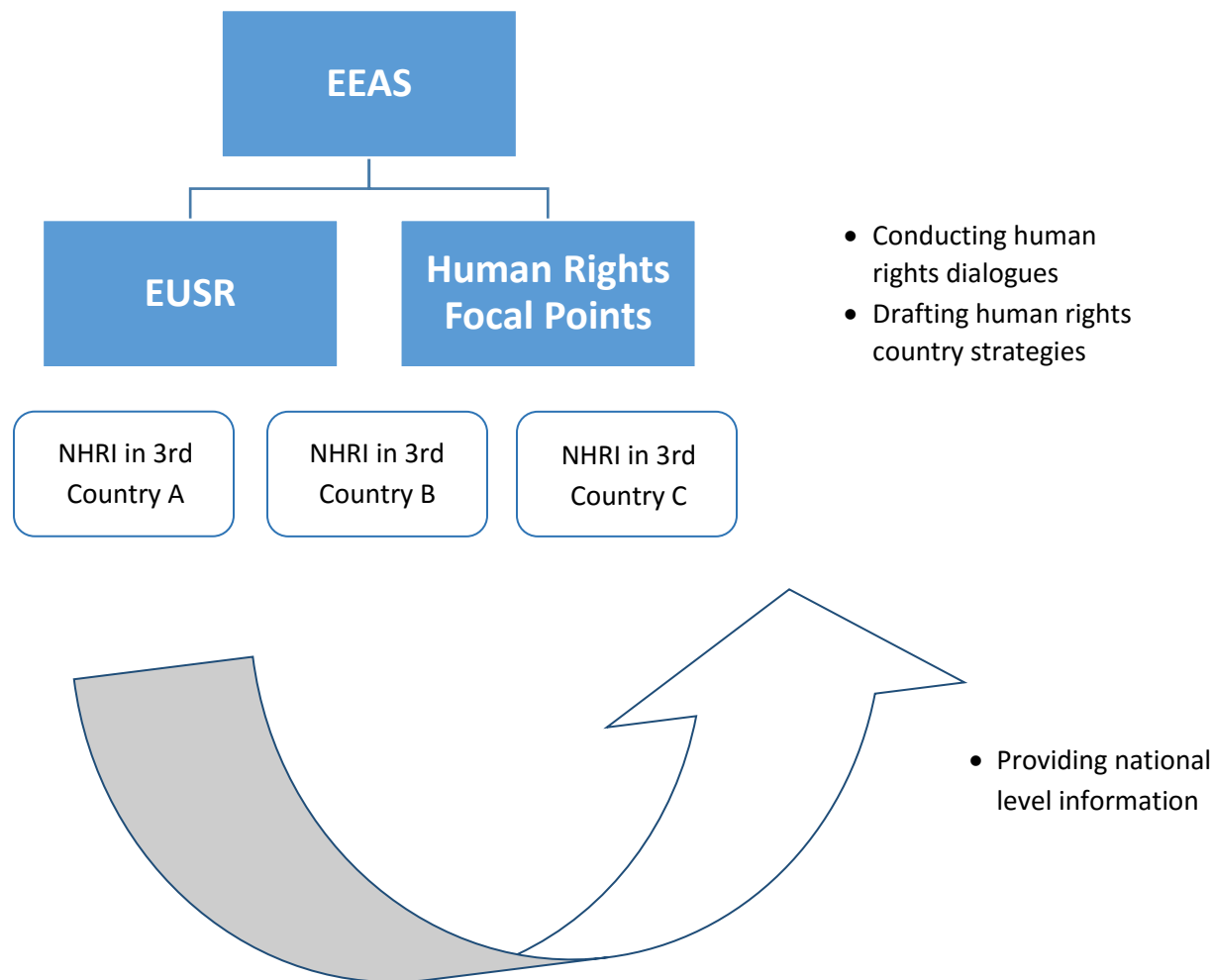


Figure 3: Relationship between Actor-based tools

5. Recommendations

These recommendations indicate to the EU institutions how they could make better use of its institution-building tools, and the tools themselves.

a) *EU Special Representative for Human Rights (EUSR)*

The EUSR clearly experiences incoherence regarding the EU's internal and external human rights performance, as he promotes human rights in the EU's foreign policy and receives criticism regarding the MSs' human rights performance. The main difficulties in measuring the EUSR's contribution to the coherence is that there is hardly any information on and follow-up to the outcome of his activity. Therefore, the EUSR should make publicly available a report on its activities, which would allow an assessment on the impact of his work.

Similar to UN human rights monitoring mechanisms (Treaty-Bodies and Special Procedures), the EUSR should elaborate working methods and a good practice regarding its cooperation with the NHRIs.

EUSR and NHRI cooperation potential

See for example the case study on the South African Human Rights Commission (SAHRC).

Source: Mayrhofer, M. (ed), et al., 'International Human Rights Protection: The Role of National Human Rights Institutions - a Case Study', (2016) FRAME Deliverable 4.3, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/08/Deliverable-4.3.pdf>, p. 112.

b) *Human Rights Focal Points*

- The Human Rights Focal Points need guidelines, for their work, from the EU.
- Human Rights Focal Points should exchange information with networks of local NGOs, and as a first step, create databases of contacts.
- Delegations, including Human Rights Focal Points, need to reach out to local human rights projects and activists also working in the more remote areas and explain how the delegation can support the work of activists beyond project work and financial support.
- The accessibility and capacity of Human Rights Focal Points needs strengthening. For example, delegations should be able to respond rapidly to changing situations on the ground (e.g. protecting HRDs at risk), and therefore, their Heads need to be better empowered to make decisions and access funding without obtaining prior permission from Brussels.

Source: Balfour Rosa, Directorate-General for External Policies of the Union, Directorate B, Policy Department: [The Role of EU Delegations in EU Human Rights Policy](#), 2013.

- Trainings should be organised not only in Brussels but regionally.
- Brussels should react to country strategies.

Source: Haász, V., Interview with Tomaz Gorisek, Human Rights Focal Point in Uruguay, Montevideo, 15 December 2016.

c) *National Human Rights Institutions (NHRIs)*

EU institutions should approach NHRIs in a more coherent way and their cooperation should be more structured and formalised. The EU is committed to support NHRIs in third countries, while one third of NHRIs in the EU (8 out of 21) do not comply with the Paris Principles.

Need for more external-internal coherence

Practitioners suggest that either 'the EU aspires to change its own behaviour internally in relation to NHRIs, or it should stop demanding these standards from third countries'.

Source: Ginsborg, L., et al., 'Policymakers' Experiences Regarding Coherence in the European Union Human Rights Context', (2016) FRAME Deliverable 8.3, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/09/Deliverable-8.3.pdf>.

The European Network of NHRIs (ENNHRI) should be involved in every consultation process.

The capacity-building of NHRIs should be maintained.

Regarding EU funded projects involving NHRIs, more effective implementation, follow-up, sustainability and higher visibility are needed.

Example of unsuccessful implementation of an EU funded project in Peru

In relation to a project with the Peruvian Defensor del Pueblo, 'the EU was reluctant to accept a multiplicity of responsible actors', and the procedure established by the EU for the execution of the project was 'incredibly cumbersome' for the NHRI as is was not compatible with the work methodology of the NHRI. Other projects could not be realised because of 'a lack of cooperation between the EU and national public authorities'.

Source: Mayrhofer, M. (ed), et al., 'International Human Rights Protection: The Role of National Human Rights Institutions - a Case Study', (2016) FRAME Deliverable 4.3, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/08/Deliverable-4.3.pdf>, p. 79.

F. Factsheet No 6: Information and monitoring tools

1. Brief description of tools

At the European level, three types of tools are used for the purposes of measuring progress on human rights: indicators, impact assessments, and reports.

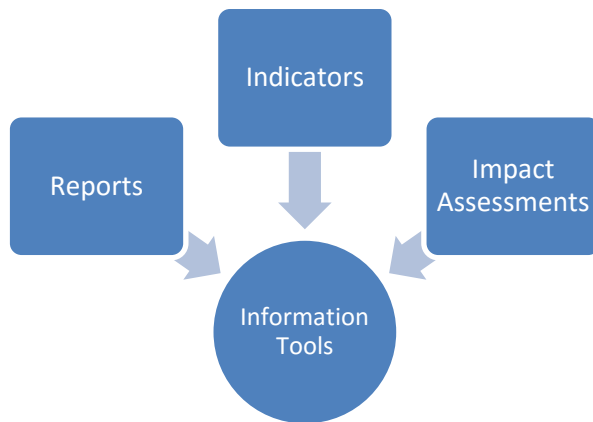


Figure 4: Information tools

The aim of information tools:

- To provide evidence for policy making
- To strengthen coherence of EU human rights policies
- To help EU institutions designing policies and laws in compliance with fundamental rights
- To support a more consistent implementation of policies
- To strengthen accountability
- To hold duty-bearers accountable for their actions

Source: Starl, K. et al., 'Human Rights Indicators in the Context of the European Union', (2014) FRAME Deliverable 13.1, available [at http://www.fp7-frame.eu/wp-content/uploads/2016/08/12-Deliverable-13.1.pdf](http://www.fp7-frame.eu/wp-content/uploads/2016/08/12-Deliverable-13.1.pdf), pp. 16-17.

a) Indicators

Human rights indicators are an internationally, regionally, or nationally agreed set of benchmarks that allow for the collection of objective, comparable, and reliable data that are used to monitor and evaluate a state's human rights progress. Human rights indicators are essential instruments for planning, monitoring, and evaluating the effectiveness of human rights protection and promotion.

a) Impact Assessments

An impact assessment is the procedure of gathering and analysing evidence for public policy choices. In this process, an impact assessment verifies the existence of a problem, identifies its underlying causes, assesses whether EU action is needed, and analyses the advantages and disadvantages of available solutions and their impacts. Source: [Handbook for Trade Sustainability Impact Assessment](#). Human rights impact assessments are valuable tools to assess whether and how EU policies, as well as bilateral or multilateral agreements with third countries have effects on fundamental and human rights.

b) Reports

Every year the EU produces a number of qualitative reports concerning the situation of fundamental rights in Europe.

In particular, the following reports are produced in the EU:

1. The European Commission's Annual Report on the Application of the Charter. First published in 2010, it contains an overview of how the Charter is taken into consideration by the EU bodies when making decisions, promoting legislation, or in the case law of the Court of Justice of the EU. ... The reports do not offer an evaluation on the status of fundamental rights in the EU, but provide an overview of recent developments on how the Charter was considered within the EU bodies.
2. The European Parliament's Annual Report on the Situation of Fundamental Rights in the EU drafted by a Rapporteur within the European Parliament's *Committee on Civil Liberties, Justice and Home Affairs* (LIBE Committee) and adopted as a resolution.
3. The FRA reports on the situation in EU 28 'focusing on those issues mentioned in its multiannual framework, covering for example the topics of asylum and integration, equality and non-discrimination, racism and xenophobia, data protection, or rights of the child'.
4. European Commission's Anti-corruption report established in 2011 to be published biannually—published for the first time in 2014.

Source: Haász, V., Podstawa, K., Vita, V., 'Report Analysing the Findings of the Research of the Other Work Packages on Policy Tools', (2016) FRAME Deliverable 14.1., available at <http://www.fp7-frame.eu/wp-content/uploads/2017/03/Deliverable-14.1.pdf>, p. 79.

2. Concrete examples of tools

a) Indicators

We can distinguish human rights-related indicator schemes according to the area of human rights, e.g. prohibition of torture, freedom of expression, the rights of the child, the right to an adequate standard of living, the right to health, and the right to social security.

The OHCHR uses a structure/process/output classification that was also endorsed by FRA and FRAME. This model is designed to measure the extent to which human rights dimensions respect, protect, fulfil, and promote human rights standards in any given environment.

Table 4: Indicators to measure 'Access to Justice'

Source: Starl, K. et al., 'Human Rights Indicators in the Context of the European Union', (2014) FRAME Deliverable 13.1, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/08/12-Deliverable-13.1.pdf>, Annex II, p. 152.

Access to Justice		
Structural indicators	Process indicators	Outcome Indicators
<ul style="list-style-type: none"> • Legal framework in place guaranteeing a three-tier jurisdiction • Legal framework in place facilitating quicker proceedings • Legal provisions in place to provide human resources to courts • Legal framework in place ensuring the qualification and training of judicial staff • Legal framework in place to guarantee legal aid 	<ul style="list-style-type: none"> • Budget available for the judiciary • Speed of execution of rulings • Quality of investigation • Human resources available in courts • Material conditions in courts (court buildings, courts equipped with computer systems, unified information systems in place etc.) • Availability of trainings for the judicial staff • Budget available to provide free legal aid 	<ul style="list-style-type: none"> • Length of judicial proceedings • Length of pre-trial detention • Backlog of cases • Transparent and efficient handling of cases • Number of cases sent back to investigation • Number of trainings attended by judicial staff • Number of defendants without legal representation in judicial proceedings • Perceptions of judicial shortcomings

For concrete examples of different methodologies see Erken, E., et al., 'Access Guide to Human Rights Information', (2015) FRAME Deliverable 13.2, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/08/Deliverable-13.2.pdf>.

b) Impact assessments

Tools for assessing the impact of legislative proposals on fundamental rights:

- [European Commission: Impact Assessment Guidelines \(Communication\) COM\(2002\) 276](#)
- [European Commission: Operational Guidance on taking Account of Fundamental Rights in Commission Impact Assessment \(Commission Staff Working Paper\) SEC\(2011\) 567 final](#)

Impact assessments in the European Commission

DG JUST and DG HOME conduct *ex ante* impact assessments of policy options. The Commission does not use indicators but checklists and guidelines.

Source: Starl, K. et al., 'Human Rights Indicators in the Context of the European Union', (2014) FRAME Deliverable 13.1, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/08/12-Deliverable-13.1.pdf>, p. 79.

Impact assessments in the European Parliament

The Parliament's Impact Assessment Unit was established in 2012 as part of the new Directorate for Impact Assessment and European Added Value. This unit provides a detailed assessment of the Commission's Impact Assessment.

Source: Starl, K. et al., 'Human Rights Indicators in the Context of the European Union', (2014) FRAME Deliverable 13.1, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/08/12-Deliverable-13.1.pdf>, p. 79.

c) Reports

Reports inform the public about the status of human rights at the European and the national levels. They may also contain concrete suggestions for measurements in order to improve the human rights performances of the MSs.

Table 5: Example of reports

Name	Author Institution	Focus	Conclusions	Impact
Annual report on the application of the Charter	European Commission	The annual report monitors progress in the areas where the EU has powers to act, showing how the Charter has been taken into account in actual cases, notably when new EU legislation is proposed.	The Commission is committed to a high level of protection of fundamental rights in the EU. It seeks to ensure that all legislative proposals and actions are fully compatible with the Charter. The Commission intends to improve cooperation with other EU institutions and agencies, notably the FRA and the CoE to ensure that fundamental rights are given priority.	The annual report provides an opportunity for an annual exchange of views with the European Parliament and the Council of the EU. It is aimed at helping EU citizens determine where they should turn to when they believe that their fundamental rights have been violated by an EU institution or by a national authority implementing EU law.

			The Commission intends to promote awareness of common EU values and, in particular, the Charter through targeted funding and training, dialogue with civil society and practical tools to encourage dialogue between courts in MSs.	
Anti-corruption report	European Commission	The European Commission provides a picture of the situation in each MS: measures in place, outstanding issues, policies that are working, and areas that could be improved.	The report shows that the nature and scope of corruption varies from one MS to another and that the effectiveness of anti-corruption policies is quite different. It also shows that corruption deserves greater attention in all EU MSs.	The report calls for stronger integrity standards in the area of public procurement and suggests improvements in control mechanisms in a number of MSs. Detailed information and specific points suggested for further attention can be found in the country chapters.
Annual report on the situation of fundamental rights in the EU	European Parliament	The report is divided into two parts, the first part deals with institutional questions and the second analyses the state of specific fundamental rights.	In the first part of the report, the rapporteur proposes formulating a genuine internal strategy on fundamental rights in the EU based on the enforcement of Art. 2 of the EU Treaty and which involves all of the organs of the EU active in the field of respect for fundamental rights. In the second part of the report, the rapporteur deals in detail with a series of violations that they consider should have priority in light of the current political situation.	-
Annual report on human rights and democracy in the world	European Council	The report sets out the efforts and achievements of the EU, through the High Representative, the EUSR and the EU global network of	-	The report gives an overview of the EU's concrete activities in promoting human rights worldwide. It informs policy makers about the steps taken

		delegations, to promote the universality of human rights across the world. The 'country and regional issues' section provides a short overview of the human rights situation and covers EU policy support on the ground on a country-by-country basis.		in specific areas of human rights.
Annual Reports	FRA	FRA's annual activity report provides an overview of the FRA activities and achievements in the given year. Each year, FRA focuses on a specific fundamental rights challenge.	FRA offered its expertise at 240 presentations and hearings at EU- and MS-levels, as well as at events of other international organisations. The agency itself organised 60 events, bringing together its key partners and stakeholders to discuss fundamental rights issues in various thematic areas.	Several FRA findings fed into the work of EU institutions and MSs, including references in several European Parliament resolutions and different Council of the EU documents.

3. Using the tools

a) Indicators

In the human rights sphere, indicators are used to measure, for example:

- the human rights-based approach,
- the level of enjoyment of particular rights,
- democracy, the rule of law, and the independence and accountability of the judiciary,
- the impact of non-state actors on human rights.

The case study of Ghana

FRAME research showed that human rights are most clearly integrated into the objectives and indicators of the governance sector. Nevertheless, the prioritised focus on employment and social protection does contain elements that are relevant to human rights.

Source: Lassen, E. M., et. al., 'Report on in-depth studies of selected factors which enable or hinder the protection of human rights in the context of globalisation', (2015) FRAME Deliverable 2.2, available at <http://www.fp7-frame.eu/wp-content/uploads/2017/03/Deliverable-2.2.pdf>.

The indicators applied to measure the RoL in Bulgaria

The Commission has used predominately structural indicators, reflecting decisions taken, legislation adopted, and international conventions ratified. Process and outcome indicators were used to assess the implementation of legislation and its application in practice.

Source: Starl, K. et al., 'Human Rights Indicators in the Context of the European Union', (2014) FRAME Deliverable 13.1, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/08/12-Deliverable-13.1.pdf>, Annex II, p. 146.

b) Impact assessments

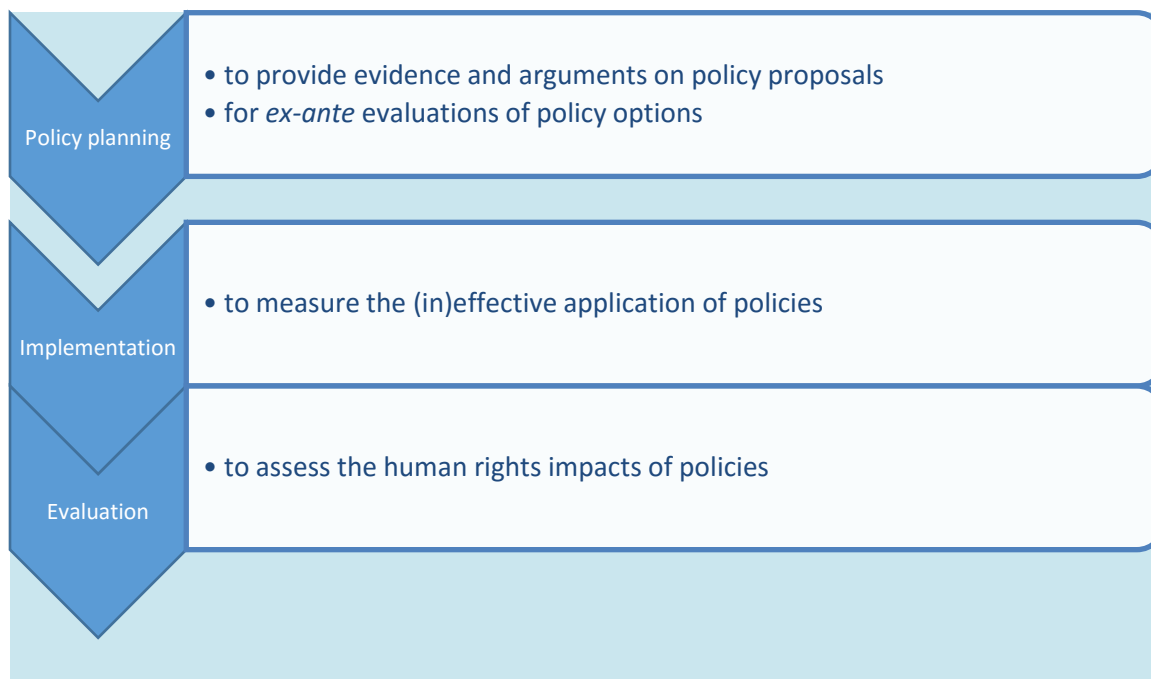


Figure 5: The use of impact assessments in the different phases of policy making for different purposes

Examples

- [Impact Assessment accompanying the Proposal for a Directive on the right to information in criminal proceedings – SEC \(2010\) 908](#)
- [Impact Assessment on the rights of passengers in bus and coach transport and amending Regulation \(EC\) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws - SEC \(2008\) 2953](#)
- [Impact Assessment accompanying the Proposal for a Regulation establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third country national or a stateless person \(recast\) - SEC \(2008\) 2963](#)

c) Reports

Reports can be used in a variety of ways: from informing academic research, being reflected in the work of NGOs, to advising policy-making both at the European and national levels. They transmit the views of different EU institutions, enabling them to exchange views on specific human rights topics. Reports also educate and inform EU citizens about their rights, the performance of their state in this area, and the activities of different EU institutions. Beyond containing detailed information, they may contain suggestions regarding improving the status of human rights.

Examples

The FRAME Research Project is informed by the European Parliament's Annual Report on the Situation of Fundamental Rights in the EU and the FRA Annual Reports, when offering creative solutions to enhance the effectiveness and coherence of EU human rights policy and provides concrete guidance to EU policy-makers to help resolve problems hindering the protection and promotion of human rights.

Transparency International provides regular analysis based on the European Commission's Anti-corruption Report. Source: <http://www.transparencyinternational.eu/tag/eu-anti-corruption-report>.

4. Relationship between tools

Information tools play a role in each phase of EU policy-making, from legislative proposals to *ex post* evaluations.

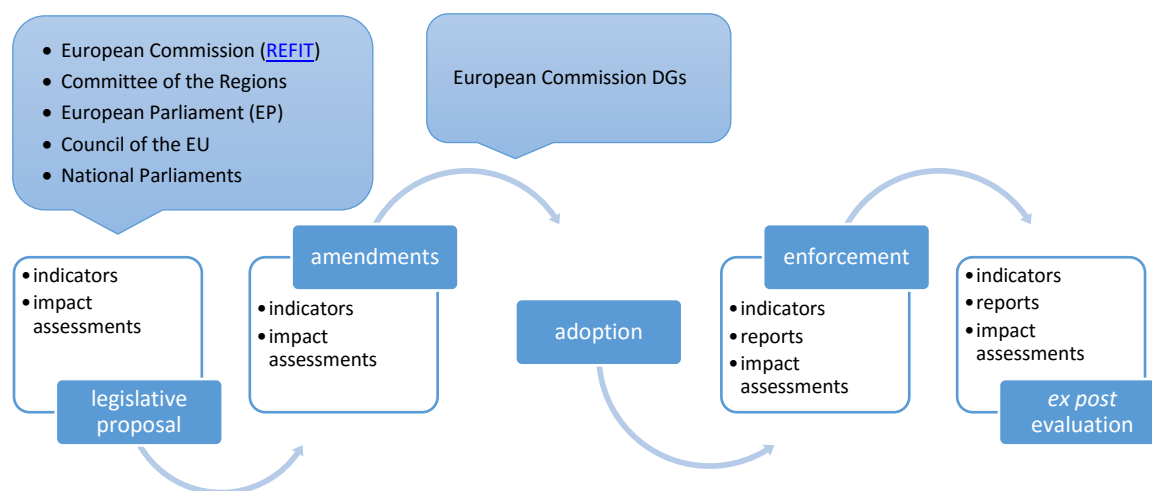


Figure 6: Relationship between Information tools

5. Recommendations

Information tools are to be considered by the EU institutions and the MSs when they propose new legislations, amendments, or implementation policies.

a) European Commission

- To continue to use its Guidelines for impact assessments.
- To consider lowering the threshold of the Guidelines and use it for not only major legislative proposals.
- To undertake impact assessments before negotiating any bilateral or multilateral agreement with third countries.
- To adopt special vulnerability impact assessments in order to make vulnerability and the attention to differently resilient individuals a more central goal for the EU's policies on migration and asylum.

b) European Parliament

- To reconsider impact assessments in a consistent manner when legislative proposals are amended in Parliament.
- To devise a specific procedure or mechanism to systematically assess the human rights conformity of certain policies or their follow-up.

c) Member States

- As European NHRIs are increasingly involved in development assistance to third countries, there is also room and opportunity to establish peer-group review in relation to the impact assessment tools of the EU.

G. Factsheet No. 7: Enforcement tools

1. Brief description of tools

The EU is devoted to the protection of common fundamental values established by Art. 2 TEU. The protection of EU values is guaranteed through existing mechanisms, such as Art. 258, 259, and 260 TFEU, (infringement procedures), and Art. 7 TEU (Art. 7 procedure). In 2014, the European Commission adopted the RoL Framework in order to address systematic threats to the rule of law in any of the MSs.

a) Infringement procedure

Multi-level protection of fundamental rights

Beyond the tools presented in this factsheet, there are further procedures for ensuring the protection of fundamental and human rights in the EU MSs. These are:

- Procedures before the ECtHR;
- Preliminary ruling by the Court of Justice (Art. 267 TFEU);
- Financial instruments.

Source: Altafin, C., Haász, V., Podstawa, K., 'Assessing the Strategic Use of the EU Fundamental and Human Rights toolbox' (2016) FRAME Deliverable 14.2, available at <http://www.fp7-frame.eu/wp-content/uploads/2017/03/Deliverable-14.2.pdf>, pp. 62-64.

Soft law and monitoring tools

- Dialogue within the Council to promote and safeguard the rule of law;
- Annual report on the Situation of Fundamental Rights by the European Parliament;
- Annual report on application of the CFR by the Commission;
- Justice Scoreboard;
- Petition to the European Parliament (Art. 227 TFEU);
- Conclusions and opinions of the FRA.

Source: Altafin, C., Haász, V., Podstawa, K., 'Assessing the Strategic Use of the EU Fundamental and Human Rights toolbox' (2016) FRAME Deliverable 14.2, available at <http://www.fp7-frame.eu/wp-content/uploads/2017/03/Deliverable-14.2.pdf>, p. 64.

Art. 258, 259, and 260 TFEU cover failures by MSs to meet Treaty obligations, thus, infringement actions are brought by the Commission to challenge a specific and concrete violation of EU law by a MS. Breaches must be real, specific, and limit the scope of protection of fundamental rights and values, including the RoL that are rather ambiguous.

b) Art. 7 Procedure

Art.7 TEU provides the legal basis for action by the EU against a MS in breach of Art. 2 of the TEU in relation to actions and/or measures that lie outside the scope of EU law. It is a comprehensive tool that includes preventive and penalty mechanisms. The preventive mechanism of Art.7(1) TEU can be activated only in case of a 'clear risk of a serious breach'. It allows the Council to give the MS concerned a warning before a 'serious breach' has actually materialised. The sanctioning mechanism of Art.7(2) TEU can be activated only in case of a 'serious and persistent breach by a Member State' of the values set out in Art.2 TEU. It allows the Council to suspend certain rights deriving from the application of the Treaties to the MS in question, including the voting rights of that country in the Council.

c) RoL Framework

The purpose of the RoL Framework is to enable the Commission to enter into a (political) dialogue with the MS concerned, in order to find a solution together with the MS and to prevent the emergence of a systemic threat to the RoL that could develop into a 'clear risk of a serious breach' and in this way to avoid having to trigger the mechanisms of Art.7.

2. Concrete examples of tools

a) *Infringement procedure*

The [TFEU](#) contains the different stages of the infringement procedure. According to Art. 258 TFEU, if the Commission considers that a MS has failed to fulfil an obligation under the Treaties, it shall deliver a reasoned opinion on the matter after giving the MS concerned the opportunity to submit its observations. If the MS concerned does not comply with the opinion within the period laid down by the Commission, the latter may bring the matter before the CJEU. If the MS fails to comply with a judgement of the CJEU, it is open to the Commission to take further action against that MS under Art. 260 TFEU.

Art. 259 TFEU enables the MSs themselves to initiate an infringement procedure against other MSs. The MS initiating such procedure must first approach the Commission, which takes over the action if it agrees to the presented arguments.

b) *Art. 7 Procedure*

The modalities of the Art. 7 procedure are described among the common provisions of the [Treaty on European Union](#) (TEU). It contains the reasons for activating the procedure and the required voting

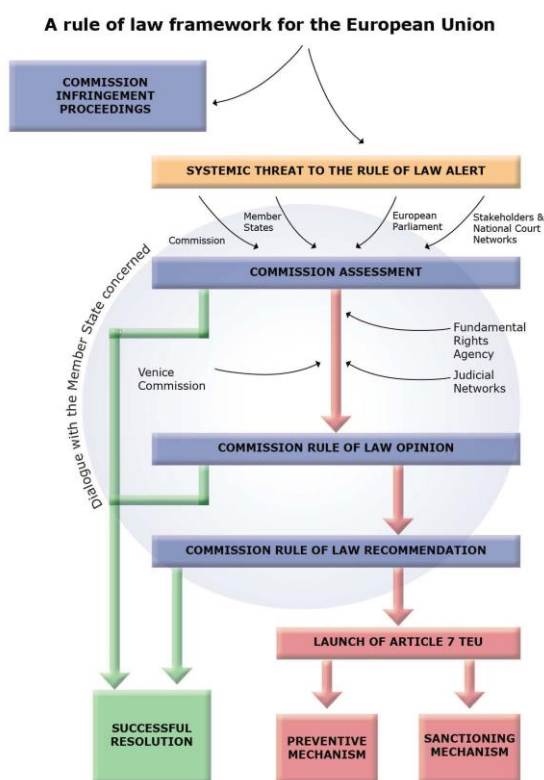
Examples of policy document references to Art. 7 TEU

- [Communication from the Commission to the Council and the European Parliament on Article 7 of the Treaty on European Union. Respect for and Promotion of the Values on Which the Union Is Based, COM\(2003\) 606 Final](#)
- [European Parliament, Committee on Civil Liberties, Justice and Home Affairs, Working Document on Establishment of an EU Mechanism on Democracy, the Rule of Law and Fundamental Rights - Methods and Existing Mechanisms, 26.01.2016](#)
- [European Parliament, Respect for and Promotion of the Values on Which the Union Is Based, P5_TA\(2004\)0309](#)

proportions needed in the different EU institutions. According to Art. 7 TEU, a four-fifth majority in the Council is needed to determine that there is a 'clear risk of a serious breach' and the Council needs to decide by unanimity whether there is 'a serious and persistent breach' of the EU values. In both cases, the European Parliament's consent is required, by a two-thirds majority of the votes cast, representing an absolute majority of all Members (Art. 354(4) TFEU).

c) *RoL Framework*

The RoL Framework was endorsed by a European Commission Communication ([COM\(2014\) 158 final](#)). It explains why the concept of the RoL is of fundamental importance for the EU and why a new EU Framework to strengthen the RoL was needed. The Communication also describes how the RoL Framework will work, including the triggers, and how the three-stage process works.



Three stages of the RoL Framework

First, the Commission collects and examines all the relevant information and assesses whether there are clear indications of a systemic threat to the RoL.

Following an objective assessment of the situation, the Framework allows the Commission to react swiftly. If the assessment results in the belief of a systemic threat to the RoL, the Commission initiates a dialogue with the MS, by sending a 'RoL opinion'.

If the first step cannot resolve the situation, the Commission can issue a 'RoL recommendation' addressed to the MS as a next step. At a third stage, the Commission shall monitor the follow-up of the MS to the recommendation.

Figure 7: A Rule of Law Framework for the EU

Source: [Annexes to the Communication from the Commission to the European Parliament and the Council. A new EU Framework to strengthen the Rule of Law](#), Annex II

3. Using the tools

a) Infringement Procedure

Infringement procedures (Art. 259 TFEU) have been used—either by evoking one or just by raising the possibility of evoking—with success in the past in relation to fundamental rights-related issues.

Table 6: Examples of infringement procedures in relation to the policy area of RoL

Year	Member State	Issue	Infringement decision
2010	France	Implementing a collective deportation policy aimed at EU citizens of Romani ethnicity despite contrary assurances given to the Commission that Roma people were not being singled out	2010: envisaging infringement procedure
2011	Hungary	Implementing an early mandatory retirement policy in the judiciary	2012: implementing infringement procedure
2015	Hungary	Adopting new legislation on asylum law	2015: implementing infringement procedure

Information about Commission decisions on infringements is available online. [The infringement database](#) is searchable by EU MS, policy area, or date. The Commission also publishes [annual reports](#)—including national factsheets—reviewing key aspects of the application of EU law and presenting infringement cases by policy area and country.

b) Art. 7 Procedure

The Art. 7 procedure has not been used to date. The non-use of this tool is due to different factors, according to the literature and practitioners. It might be because the activation requires high thresholds in the EU institutions: it is difficult to interpret ‘serious and persistent breach’ and therefore decide when the level of seriousness has been reached, the MSs may fear that this procedure might also be applied against them, and launching the Art. 7 procedure may also increase Euroscepticism in the population, something that the EU decision makers try to avoid.

c) RoL Framework

In January 2016, the Commission decided for the first time to activate the RoL procedure and the Vice-President of the Commission, Frans Timmermans, sent a letter to the Polish Government as a first step of starting a structured dialogue under the RoL Framework. In the following June, the Commission adopted its first [Rule of Law Opinion](#) on the situation in Poland, in July it adopted a [Rule of Law Recommendation](#) and in the December it then issued a [complementary Rule of Law Recommendation](#). The Commission invited the Polish Government to solve the problems identified in this RoL Recommendation as a matter of urgency, within 2 months.

4. Relationship between tools

While the infringement procedure applies to breaches within the scope of EU law, the Art. 7 procedure is applicable to MS actions outside the scope of EU law. At the same time, the infringement procedure is seen as an alternative to the mechanisms provided for in Art. 7 TEU.

Regarding the connection between the RoL Framework and the Art. 7 procedure, the RoL Framework is considered as a ‘pre-Article 7 procedure’ because if there is no satisfactory follow-up within the time-limit set, the Commission can resort to the Art. 7 procedure.

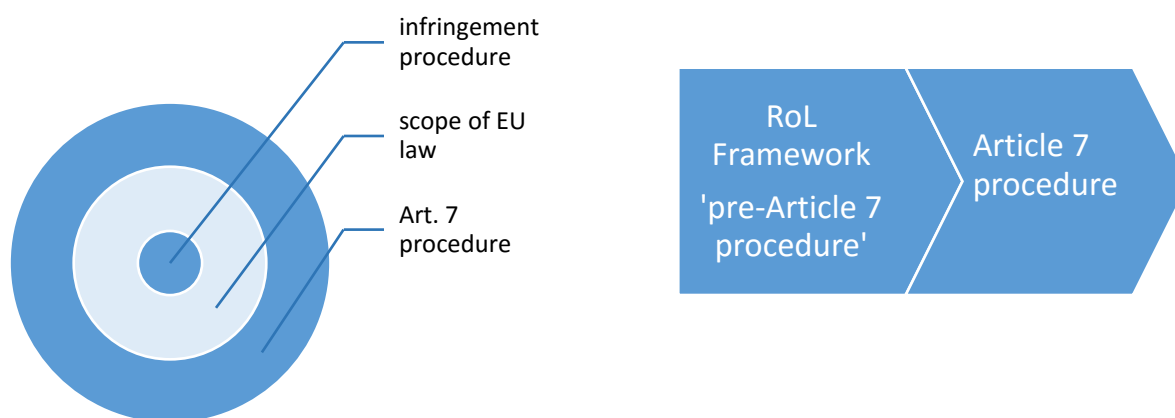


Figure 8: Relationship between Enforcement tools

5. Recommendations

The following are recommendations for the EU institutions:

- To continue to perform regular monitoring activities, make important assessments, and to follow-up on the RoL performances of the EU MSs, as well as to make these data available to the public.
- To develop, in cooperation with the FRA and national human rights bodies in the MSs, and with input from the broadest civil society, a database that collates and publishes all available data and reports on the situation regarding fundamental rights in the EU and in individual MSs.
- In terms of using the RoL Framework, to define in clear terms the criteria for the application of the RoL Framework, particularly those for 'clear risk of breach' and 'serious and persistent breach', building, inter alia, on the case-law of the CJEU and the ECtHR.
- To use the expertise of the CoE on the issue of RoL in a more effective way.
- To be more consistent in using the tools for similar situations in the different MSs.

H. Factsheet No. 8: Counter-terrorism Tools

1. Brief description of tools



a) *General strategic internal security policy tools*

Overarching documents which elaborate general principles, priorities, and methods of ensuring security within the EU. These strategic tools outline action in several areas, one of them being counter-terrorism.

b) *Specific counter-terrorism policy tools*

A general outline of the EU counter-terrorism policy was presented in the 2005 EU counter-terrorism strategy, which details the strategic commitments to be taken by the EU to effectively counter terrorism internally and externally. These commitments are grouped into four categories: prevent, protect, pursue, and respond.

c) *General counter-terrorism legal tools*

The recent 2017 Directive on Combating Terrorism updates the previous general counter-terrorism legislation ([Council Framework Decision 2002/475/JHA](#), as amended by [Framework Decision 2008/919/JHA](#)). The Directive outlines the legal principles of EU action on counter-terrorism, provides a catalogue of offences directly or indirectly related to terrorism, and details the legal means of preventing terrorism. Specifically, the Directive also implements at the EU level the UN Security Council resolution 2178 aimed at so-called 'foreign terrorist fighters'.

d) *Specific counter-terrorism legal tools*

The EU employs several specific legal tools in the fight against terrorism. The three primary areas where the EU has introduced specific legal solutions are: information exchange, operational cooperation, and

support actions (training, research, and funding). These tools include both internal cooperation measures (such as the EAW), international agreements (such as the Personal Name Record (PNR) sharing agreements with third countries), and targeted sanctions and restrictive measures (primarily asset-freezing).

e) Judicial remedies

The CJEU is responsible for safeguarding human rights within EU counter-terrorism policy. Ever since its landmark rulings in the Kadi cases, the CJEU has played an ever-increasing role in reviewing the conformity of EU counter-terrorism architecture with the principles of EU law.

2. Concrete examples of tools

The European Agenda on Security

Executive Summary - Section 1 'Our Shared Interests and Principles'

'[...] we need to ensure full compliance with fundamental rights. Security and respect for fundamental rights are not conflicting aims, but consistent and complementary policy objectives. The Union's approach is based on the common democratic values of our open societies, including the rule of law, and must respect and promote fundamental rights, as set out in the Charter of Fundamental Rights. All security measures must comply with the principles of necessity, proportionality and legality, with appropriate safeguards to ensure accountability and judicial redress. The Commission will strictly test that any security measure fully complies with fundamental rights whilst effectively delivering its objectives.'

Source: European Commission, [*Communication from The Commission to The European Parliament, The Council, The European Economic and Social Committee and The Committee of The Regions The European Agenda On Security*](#), 28 April 2015, COM (2015) 185.

Directive on Combating Terrorism

From the preamble:

‘(35) This Directive respects the principles recognised by Article 2 TEU, respects fundamental rights and freedoms and observes the principles recognised in particular by the Charter, including those set out in *Titles II, III, V and VI* thereof which encompass, inter alia, the right to liberty and security, freedom of expression and information, freedom of association and freedom of thought, conscience and religion, the general prohibition of discrimination, in particular on grounds of race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, the right to respect for private and family life and the right to protection of personal data, the principles of legality and proportionality of criminal offences and penalties, covering also the requirement of precision, clarity and foreseeability in criminal law, the presumption of innocence as well as freedom of movement as set out in Article 21(1) of the Treaty on the Functioning of the European Union (TFEU) and in Directive 2004/38/EC of the European Parliament and of the Council. This Directive must be implemented in accordance with those rights and principles taking also into account the European Convention for the Protection of Human Rights and Fundamental Freedoms, the International Covenant on Civil and Political Rights, and other human rights obligations under international law.’

‘Article 23

Fundamental rights and freedoms

1. This Directive shall not have the effect of modifying the obligations to respect fundamental rights and fundamental legal principles, as enshrined in Article 6 TEU.’

Source: European Parliament, [European Parliament legislative resolution of 16 February 2017 on the proposal for a directive of the European Parliament and of the Council on combating terrorism and replacing Council Framework Decision 2002/475/JHA on combating terrorism \(COM\(2015\)0625 – C8-0386/2015 – 2015/0281\(COD\)\)](#), P8_TA-PROV(2017)0046.

3. Using the tools

Implementation of the European Agenda on Security

Select milestones in the implementation of the European Agenda on Security as of January 2017 include:

- Launch of the EU Radicalisation Awareness Network (RAN) Centre of Excellence (Oct 2015)
- Launch of an EU Internet Forum to counter terrorist content and hate speech (Dec 2015)
- Launch of the European Counter Terrorism Centre (Jan 2016)
- Adoption of a list of third countries with deficiencies in fighting money laundering and terrorism financing (July 2016)
- Presentation of the EU PNR Implementation Plan (Nov 2016)
- Adoption of the new Directive on Combating Terrorism (Feb 2017)

Judicial remedies

Kadi cases (Joined Cases C-402/05 P and C-415/-5 P) - national courts must ensure the full review of the lawfulness of all Union acts giving effect to the asset freezing resolution adopted by the UN Security Council.

Mojahedin cases (Case T-228/02; Case 5-157/07) - successful legal challenge by individuals and entities to the placement of their names on EU terrorist lists.

Melloni cases (Case C-399/11) - national authorities and courts can apply 'national standards of protection of fundamental rights only in so far as the level of protection provided for by the EU, as interpreted by the Court, and the primacy, unity and effectiveness of EU law [were] not thereby compromised'.

European Arrest Warrant in counter-terrorism cases

The EAW was used to allow the extradition of Hamdi Adus Isaac (Osman Hussain), a suspect in the July 2005 London bombings. On the grounds of an EAW issued by the British government, he was extradited from Italy and subsequently found guilty of conspiracy to murder and given a life sentence.

The same year, the Italian authorities issued an EAW against twenty-two alleged agents of the CIA accused of participating in an extraordinary rendition of Hassan Mustafa Osama Nasr.

The EU Counter-Terrorism Strategy

'We will further strengthen and implement our commitments to disrupt terrorist activity and pursue terrorists across borders. Our objectives are to impede terrorists' planning, disrupt their networks and the activities of recruiters to terrorism, cut off terrorists' funding and access to attack materials, and bring them to justice, while continuing to respect human rights and international law.'

Source: [Council of the EU, The European Union Counter-Terrorism Strategy, 30 November 2005, 14469/4/05 REV4.](#)

4. Recommendations

a) *Directive on Combating Terrorism*

The new EU Directive on Combating Terrorism, set to replace the outdated 2002/2008 Directive, was adopted in February 2017. Although the Directive was adopted outside the timeframe of the FRAME project's research on AFSJ and counter-terrorism measures, several critical observations made by civil society³⁶ and other stakeholders warrant highlighting. One example is the issue of insufficiently precise language defining the offences proscribed by the Directive, paving the way for uncertainty and the possibility of criminalising acts which do not constitute terrorist activity. Other concerns relate to the wide criminalisation of activities associated with visiting so-called 'terrorist websites' and downloading materials which might be interpreted as receiving terrorist training.

b) *The European Arrest Warrant (EAW)*

Originally envisioned to be a counter-terrorism tool, the EAW has quickly become a general tool of judicial cooperation within the EU. Its first major weakness comes from reliance on the principle of mutual recognition. Developments within the EU MSs invite the question as to whether the level of safeguarding of fundamental rights across the EU remains as consistent as it was when the principle of mutual recognition was coined. The post-Lisbon expansion of EU legislation on procedural rights safeguards, as well as the recent activity of the CJEU (e.g. the cases of *Aranyosi* and *Caldararu*,³⁷ *Bob-Dogi*³⁸ and *Kovalkovas*³⁹) are welcome developments, yet they also encourage legislative action towards mitigating some remaining human rights concerns within the EAW architecture. Two such concerns, in particular, warrant attention from EU institutions: the problem of rendering an individual to a country suffering from overcrowding in detention centres and the issue of length of pre-trial detention.

c) *Legal basis for sanctions and restrictive measures*

The FRAME project has identified several incoherencies in the legal framework for EU counter-terrorist measures. One example of such issues, which clearly stems from a gap in EU primary law, is the case of two possibilities for using sanctions or restrictive measures: Art. 75 TFEU or Art. 215 TFEU. The former requires normal legislative procedures with equal powers of the Council and the European Parliament, while the latter only requires the Parliament to be informed and then it can be, as confirmed by the CJEU, used as a counter-terrorism measure. Given the history of the Parliament acting as a safeguard against counter-terrorism measures which infringe on fundamental rights, leaving it out of a major area of executive action raises concerns as to the degree of oversight over Commission proposals for restrictive measures.⁴⁰

³⁶ European Digital Rights, 'The time has come to complain about the Terrorism Directive', <<https://edri.org/the-time-has-come-to-complain-terrorism-directive/>> accessed on 20 February 2017.

³⁷ Joined Cases C-404/15 and C-659/15.

³⁸ Case C-241/15.

³⁹ Case C-477/16.

⁴⁰ Heikkilä, M., et. al., 'Report on human rights integration in AFSJ policies', (2015) FRAME Deliverable 11.2, available at <http://www.fp7-frame.eu/wp-content/uploads/2017/03/Deliverable-11.2.pdf>, pp. 184-185.

d) Judicial oversight over counter-terrorism

EEAS, EU Delegations – The CJEU plays a critical role in providing judicial review of counter-terrorism measures, as illustrated by the *Kadi* cases. However, its role as a tool for enforcing the protection of fundamental rights is impeded by several factors. The FRAME project has identified several shortcomings of the current judicial review system, most notably the deficiency in transparency of proceedings before the CJEU due to confidentiality of the pleadings⁴¹ as well as the impact of the practice of writing a single judgment in the case, thereby limiting itself to explanations of the points agreed upon without including divergent thoughts and reasoning.⁴² Furthermore, the CJEU remains confined to the scope of its jurisdiction, which does not include the actions of national counter-terrorism bodies and agencies. As a consequence, a vast majority of the counter-terrorist activity of the MSs falls outside the scope of CJEU.

⁴¹ Ibid. p. 186

⁴² Ibid.

Bibliography

1. Legal and policy documents

EU Action Plan on Human Rights and Democracy (2015)

European Council, European Council meeting (28 June 2016) – Conclusions, EUCO 26/16, Brussels, 28 June 2016 <http://www.consilium.europa.eu/en/meetings/european-council/2016/06/European-Council-conclusions_pdf> accessed 20 April 2017

EU Human Rights Guidelines on Freedom of Expression Online and Offline

EU Strategic Framework on Human Rights and Democracy (2012) and the EU Action Plan on Human Rights and Democracy (2012-2014)

Partnership Agreement 2000/483/EC between the African, Caribbean and Pacific Group of States of the one part, and the EU, of the other part

a) Council of the European Union

Council of the European Union, Council Conclusions on EU priorities at UN Human Rights Fora in 2016

—, Council Decision 2012/440/CFSP of 25 July 2012

—, Council Decision 2014/385/CFSP of 23 June 2014

—, Council Decision (CFSP) 2015/260 of 17 February 2015

—, Council Directive 75/117/EEC of 10 February 1975 on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women [1975] OJ L 045

—, Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions [1976] OJ L 039

—, Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin [2000] OJ L 180 22–26

—, ‘Council Conclusions on the Action Plan on Human Rights and Democracy 2015-2019’, 20 July 2015, ST 10897 2015 INIT

—, ‘Council Conclusions on Business and Human Rights’, 20 June 2016, 10254/16

—, ‘The European Union Counter-Terrorism Strategy’, 30 November 2005, 14469/4/05 REV4

—, Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law

—, Council Framework Decision 2002/475/JHA of 13 June 2002 on EU rules on terrorist offences and related penalties

—, Council Framework Decision 2008/919/JHA of 28 November 2008. amending Framework Decision 2002/475/JHA on combating terrorism

b) European Commission

European Commission, 'Communication from the Commission to the Council and the European Parliament on Article 7 of the Treaty on European Union. Respect for and Promotion of the Values on Which the Union Is Based, COM(2003) 606 Final'

—, 'Communication from the Commission: Strategy for the effective implementation of the Charter of Fundamental Rights by the European Union COM(2010) 573 final 2010'

—, 'Communication from the Commission to the European Parliament and the Council, A New EU Framework to Strengthen the Rule of Law, COM(2014) 158 Final'

—, Communication from The Commission to The European Parliament, The Council, The European Economic and Social Committee and The Committee of The Regions The European Agenda On Security, 28 April 2015, COM (2015) 185

—, '2015 Report on the Application of the EU Charter of Fundamental Rights' (*Luxembourg: Publications Office of the European Union*, 2016)

—, Impact Assessment Guidelines (Communication) COM(2002) 276

—, Operational Guidance on taking Account of Fundamental Rights in Commission Impact Assessment (Commission Staff Working Paper) SEC(2011) 567 final

c) European Parliament

European Parliament, 'Committee on Civil Liberties, Justice and Home Affairs, Working Document on Establishment of an EU Mechanism on Democracy, the Rule of Law and Fundamental Rights - Methods and Existing Mechanisms, 26.01.2016'

—, 'Respect for and Promotion of the Values on Which the Union Is Based, P5_TA(2004)0309'

—, 'Resolution of 11 December 2012 on a digital freedom strategy in EU foreign policy, 2012/2094(INI)'

—, 'Resolution of 16 February 2017 on the proposal for a directive of the European Parliament and of the Council on combating terrorism and replacing Council Framework Decision 2002/475/JHA on combating terrorism (COM(2015)0625 – C8-0386/2015 – 2015/0281(COD))', P8_TA-PROV(2017)0046

d) European Parliament and the Council

Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data OJ 1995 L 281

Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) [2006] OJ L 204/23

Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, OJ 2012 L315/57

Directive 2016/343 of the European Parliament and of the Council on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings OJ 2016 L 65/1

Regulation (EU) No 232/2014 of the European Parliament and of the Council of 11 March 2014 establishing an European Neighbourhood Instrument (ENPI), OJ 2014 L 77/27

Regulation (EU) No 234/2014 of the European Parliament and of the Council of 11 March 2014 establishing a Partnership Instrument for cooperation with third countries, OJ 2014 L 77/77

Regulation (EU) No 235/2014 of the European Parliament and of the Council of 11 March 2014 establishing a financing instrument for democracy and human rights worldwide, OJ 2014 L 77/85

Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data

2. Case law

Joined Cases C 404/15 and C 659/15.

Case C 241/15.

Case C-477/16.

3. Literature

a) Books

Kochenov D and Amtenbrink F, *The European Union's Shaping of the International Legal Order* (Cambridge University Press 2013)

b) Journal articles

Altafin, C., Haász, V., Podstawa, K., *The New Global Strategy for The EU's Foreign and Security Policy at the Time of Human Rights Crises*, forthcoming in *Netherlands Human Rights Quarterly*.

c) Policy and other reports

Balfour, R., Directorate-General for External Policies of the Union, Directorate B, Policy Department: The Role of EU Delegations in EU Human Rights Policy, 2013

Consortium PARTICIP–ADE–DIE–DRN–ECDPM–ODI, *Thematic evaluation of the European Commission support to respect of Human Rights and Fundamental Freedoms (including solidarity with victims of repression)*, Volume 3: Inventory of Human Rights Interventions, Brussels/Freiburg, 2011

EEAS, 'EU Annual Report on Human Rights and Democracy in the World in 2014' (2015)

Impact Assessment accompanying the Proposal for a Directive on the right to information in criminal proceedings – SEC (2010) 908

Impact Assessment on the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws - SEC (2008) 2953

Impact Assessment accompanying the Proposal for a Regulation establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third country national or a stateless person (recast) - SEC (2008) 2963

d) Online sources

Charterclick! Database <<http://www.charterclick.eu/portfolio/database/>> accessed on 14 February 2017

FRA's Charterpedia <<http://fra.europa.eu/en/charterpedia>> accessed on 14 February 2017

Haász, V., National Human Rights Institutions as human rights tools of the EU, Presentation, FRAME Workshop: The European Union, Latin America and Human Rights: achievements, challenges and opportunities, Lima, Peru, 6 December 2016 <<http://www.fp7-frame.eu/event/workshop-lima>> accessed 20 February 2017

Introduction statement on behalf of the European Union at the 71st United Nations General Assembly Third Committee on Draft Resolution L.36 on Freedom of Religion or Belief <<http://eu-un.europa.eu/eu-statement-united-nations-3rd-committee-freedom-religion-belief>> accessed 20 February 2017

33rd Session of the United Nations Human Rights Council Geneva, 13-30 September 2016. EU Statement - Item 2: Human Rights bodies and mechanisms <https://eeas.europa.eu/delegations/un-geneva/9801/hrc-33---eu-statement-item-2_en> accessed 20 February 2017

Transparency International provides regular analysis based on the European Commission's Anti-corruption Report <<http://www.transparencyinternational.eu/tag/eu-anti-corruption-report>> accessed 20 February 2017

Wouters, J., and Hermez, M., 'EU Guidelines on Human Rights as a Foreign Policy Instrument: An Assessment', KU Leuven GGS Working Paper no. 170, February 2016 <https://ghum.kuleuven.be/ggs/publications/working_papers/new_series/wp161-170/wp-170-wouters-hermez-web.pdf> accessed 20 April 2017, p. 20.

e) FRAME publications

Abrisketa, J., Churrua, C., de la Cruz, C., García, L., Márquez, C., Morondo, D., Nagore, M., Sosa, L., Timmer A., 'Human rights priorities in the European Union's external and internal policies: an assessment of consistency with a special focus on vulnerable groups', (2015) FRAME Deliverable 12.2, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/08/24-Deliverable-12.2.pdf>

Altafin, C., Haász, V., Podstawa, K., 'Assessing the Strategic Use of the EU Fundamental and Human Rights

toolbox' (2016) FRAME Deliverable 14.2 <<http://www.fp7-frame.eu/wp-content/uploads/2017/03/Deliverable-14.2.pdf>> accessed 20 February 2017

Ark, M., Islam, M., Kenner, J., Lein, B., Peake, K., 'The integration of EU development, trade and human rights policies', (2016) FRAME Deliverable 9.4, available at <https://doi.org/20.500.11825/116>

Balcerzak, F., Chané, A-L., Marinelli, C., Romero, A., Salmón, E., 'The EU's engagement with regional multilateral organisations. Case study: Inter-American perspective', (2015) FRAME Deliverable 5.6, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/09/Deliverable-5.6.pdf>

Baranowska, G., Chané, A-L., D'Hollander, D., Hauser, A., Jaraczewski, J., Kędzia, Z., Lewicki, M., Połczyńska, A., 'EU human rights engagement in UN bodies', (2015) FRAME Deliverable 5.1 <<http://www.fp7-frame.eu/wp-content/uploads/2016/08/13-Deliverable-5.1.pdf>> accessed 20 February 2017

Beke, L., D'Hollander D., Hachez, N., Pérez de las Heras, B., 'The integration of human rights in EU development and trade policies', (2014) FRAME Deliverable 9.1 <<http://www.fp7-frame.eu/wp-content/uploads/2016/08/07-Deliverable-9.1.pdf>> accessed 20 February 2017

Benedek, W., Footer, M., Kenner, J., Mustaniemi-Laakso, M., Nindler, R., Nolan, A., Wallace, S., 'Improving EU Engagement with Non-State Actors', (2015) FRAME Deliverable 7.2 <<http://www.fp7-frame.eu/wp-content/uploads/2016/08/14-Deliverable-7.2.pdf>> accessed 20 February 2017

Bijlmakers, S., Footer, M., Hachez, N., 'The EU's engagement with the main Business and Human Rights instruments', (2015) FRAME Deliverable 7.4, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/09/Deliverable-7.4.pdf>

Brando, N., Hachez, N., Lein, B., Marx, A., 'The impact of EU trade and development policies on human rights', (2015) FRAME Deliverable 9.2 <<http://www.fp7-frame.eu/wp-content/uploads/2016/08/Deliverable-9.2.pdf>> accessed 20 February 2017

Chané, A-L., Hauser, A., Jaraczewski, J., Jóźwicki, W., Kędzia, Z., Šimáková, M. A., Suchocka, H., Wallace, S., 'EU engagement with other European regional organisations', (2016) FRAME Deliverable 5.2, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/10/Deliverable-5-2.pdf>

Chané, A-L., HoTu Nam, N., Killander, M., Lewandowski, T., Miamingi, R., Nkrumah, B., 'The EU's engagement with regional multilateral organisations. Case study: African perspective', (2015) FRAME Deliverable 5.4, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/09/Deliverable-5.4.pdf>

Churrua Muguruza, C., Gómez Isa, F., García San José, D., Fernández Sánchez, P. A., Márquez Carrasco, C., Muñoz Nogal, E., Nagore Casas, M., Timmer, A., 'Report mapping legal and policy instruments of the EU for human rights and democracy support', (2014) FRAME Deliverable 12.1 <<http://www.fp7-frame.eu/wp-content/uploads/2017/03/Deliverable-12.1.pdf>> accessed 20 February 2017

David, N., Dowell-Jones, M., Footer, M., Kenner, J., Mustaniemi-Laakso, M., Nolan, A., Pribyla, P., 'The positive and negative human rights impacts of non-state actors', (2014) FRAME Deliverable 7.1, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/08/04-Deliverable-7.1.pdf>

Dunay, P., Ekeke, A., Ghazaryan, N., Gunn, J., Huszka, B., Killander, M., Nkrumah, B., Körtvélyesi, Zs., Rác, A. with the collaboration of Balogh, L., Halász, P., Kopper, Á., Majtényi, B., Nagy, A., 'The role of human rights in the EU's external action in the Eastern Partnership, the Southern Neighbourhood and in Sub-Saharan Africa', (2016) FRAME Deliverable 6.3, available at <https://doi.org/20.500.11825/113>

Engström, V., Heikkilä, M., 'Fundamental rights in the institutions and instruments of the Area of Freedom, Security and Justice', (2014) FRAME Deliverable 11.1 <<http://www.fp7-frame.eu/wp-content/uploads/2016/08/09-Deliverable-11.1.pdf>> accessed 20 February 2017

Erken, E., Kähler, L., Marslev, K., Meier, I., Sano, H-O., Sax, H., P. A. Sosa, L., Vivona, M. ; edited by Vivona, M., Möstl, M., Starl, K., 'Access Guide to Human Rights Information', (2015) FRAME Deliverable 13.2 <<http://www.fp7-frame.eu/wp-content/uploads/2016/08/Deliverable-13.2.pdf>> accessed 20 February 2017

Fraczek, S., Huszka, B., Hüttner, C., Körtvélyesi, Zs., Majtényi B., Romsics, G, 'Mapping, analysing and implementing foreign policy instruments', (2015) FRAME Deliverable 6.1 <<http://www.fp7-frame.eu/wp-content/uploads/2016/08/11-Deliverable-6.1.pdf>> accessed 20 February 2017

Fraczek, S., Huszka, B., Körtvélyesi, Z., 'The role of human rights in the EU's external action in the Western Balkans and Turkey', (2016) FRAME Deliverable 6.2, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/09/Deliverable-6.2.pdf>

Ginsborg, L., Benedek, W., Finlay, G., Haász, V., Meier, I., Starl, K., Vivona, M., Wallace, S., 'Policymakers' Experiences Regarding Coherence in the European Union Human Rights Context', (2016) FRAME Deliverable 8.3 <<http://www.fp7-frame.eu/wp-content/uploads/2016/09/Deliverable-8.3.pdf>> accessed 20 February 2017

Gómez Isa, F., Muñoz Nogal, E., Nagore, M., Szoszkiewicz, L., Wladasch, K., Dai, W., Lv, S., Nie, X., Zhou, Z., Uchuypoma Soria, D. A., Marinelli, C., Constantino, R., 'Challenges to the Effectiveness of EU Human Rights and Democratisation Policies', (2016) FRAME Deliverable 12.3, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/09/Deliverable-12.3.pdf>

Gomez Isa, F., Muñoz Nogal, E., 'EU Promotion of Deep Democracy in the Southern Mediterranean: A Missed Opportunity?', (2010) FRAME Deliverable 12.4, available at <https://doi.org/20.500.11825/119>

Gunn, J., Lagresa, A., 'Engagement with regional multilateral organisations. Case study: OIC and League of Arab States', (2016) FRAME Deliverable 5.3, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/09/Deliverable-5.3.pdf>

Haász, V., Podstawa, K., Vita, V., 'Report Analysing the Findings of the Research of the Other Work Packages on Policy Tools', (2016) FRAME Deliverable 14.1 <<http://www.fp7-frame.eu/wp-content/uploads/2017/03/Deliverable-14.1.pdf>> accessed 20 February 2017

Hachez, N., Hegde, V.G., Lein, B., Nyarko, M., 'The impact of international global governance and regulatory frameworks in trade', (2016) FRAME Deliverable 9.3, available at <https://doi.org/20.500.11825/115>

Hachez N., Marx, A., Lein, B., Meuwissen, K., Schmitt, P., Jaraczewski, J., Lewis, T., Raube, K., Roszak, J., Starl, K., Morondo Taramundi, M. D., Tuvionen, A. K., Weatherburn, A., 'Report on the results of policy benchmarking', (2017) FRAME Deliverable 15.3, available at <https://doi.org/20.500.11825/120>

Hachez, N., 'The outcome of the research realised in the FRAME Project', (2015) FRAME Deliverable 15.1, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/11/Deliverable-15.1.pdf>

Häusler, K., Kállai, P., Kortvelyesi, Zs., Majtényi, B., Sosa, L., Timmer, A., Killander, M., Ho Tu Nam, N., Okeowo, A., Gunn, J., Lagresa, A., 'Human rights, democracy and rule of law: Different organisations, different conceptions?', (2016) FRAME Deliverable 3.4, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/11/Deliverable-3.4.pdf>

Heikkilä, M., Mustaniemi-Laakso, M., Egan, S., Finlay, G., Lewis, T., Heschl, L. M., Salomon, S., Planitzer, J., Sax, H., 'Report on human rights integration in AFSJ policies', (2015) FRAME Deliverable 11.2 <<http://www.fp7-frame.eu/wp-content/uploads/2017/03/Deliverable-11.2.pdf>> accessed 20 February 2017

Jaraczewski, J., Kędzia, Z., Mocker, S., Satayanurug, P., 'Engagement with regional multilateral organisations. Case study: ASEAN Perspective', (2016) FRAME Deliverable 5.5 <<http://www.fp7-frame.eu/wp-content/uploads/2016/08/Deliverable-5.5.pdf>> accessed 20 February 2017

Jørgensen, R. F., Møller Pedersen, A., Benedek, W., Nindler, R., 'ICT and Human Rights', (2015) FRAME Deliverable 2.3, available at <https://doi.org/20.500.11825/108>

Kenner, J., Schmitt, P., Sissins, K., Wallace, S., 'Structures and mechanisms to strengthen engagement with non-state actors in the protection and promotion of human rights', (2016) FRAME Deliverable 7.3 <<http://www.fp7-frame.eu/wp-content/uploads/2016/08/26-Deliverable-7.3.pdf>> accessed 20 February 2017

Kopper, A., (ed.), K. Jain, R., Killander, M., Mkhabela, J., Nkrumah, B., Pillay, K., Zhou, Z., Yin, L., He, F., Li, L., 'Bilateral relations with China, India and South Africa', (2016) FRAME Deliverable 6.4, available at <https://doi.org/20.500.11825/114>

Lassen, E. M. (ed), Mayrhofer, M., Vedel Kessing, P., Sano, H.-O., García San José, D., Jørgensen, R. F., 'Factors which enable or hinder the protection of human rights', (2014) FRAME Deliverable 2.1 <<http://www.fp7-frame.eu/wp-content/uploads/2016/08/03-Deliverable-2.1.pdf>> accessed 20 February 2017

Lassen, E. M. (ed), Mayrhofer, M., Zarrehparvar, M., Sano, H-O., Marslev, K., Møller Pedersen, A., Vedel Kessing, P., 'Report on in-depth studies of selected factors which enable or hinder the protection of human rights in the context of globalisation', (2015) FRAME Deliverable 2.2 <<http://www.fp7-frame.eu/wp-content/uploads/2017/03/Deliverable-2.2.pdf>> accessed 20 February 2017

Lewis, T., 'Coherence of human rights policymaking in EU institutions and other EU agencies and bodies', (2014) FRAME Deliverable 8.1 <<http://www.fp7-frame.eu/wp-content/uploads/2016/08/06-Deliverable-8.1.pdf>> accessed 20 February 2017

Lewis, T., Portaru (Raducanu), A., Schoen, R., Murphy, K., McIntyre, TJ, Finlay, G., 'EU and Member State competences in human rights', (2015) FRAME Deliverable 8.2, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/09/Deliverable-8.2.pdf>

Majtényi, B., Sosa, L., Timmer, A., 'Human rights concepts in EU Human Rights Dialogues', (2016) FRAME Deliverable 3.5 <<http://www.fp7-frame.eu/wp-content/uploads/2016/11/Deliverable-3.5.pdf>> accessed 20 February 2017

Márquez Carrasco, C., Iñigo Alvarez, L., Loozen, N. Salmón Gárate, E., 'Human rights violations in conflict settings', (2014) FRAME Deliverable 10.1, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/08/08-Deliverable-10.1.pdf>

Márquez Carrasco, C., Abrisketa, J., Salmón, E., Nagore, M., Marinelli, C., Zafra, R., Sánchez, R. A., García Martín, L., Iñigo Álvarez, L., 'Applicable regulatory frameworks regarding human rights violations in conflicts', (2015) FRAME Deliverable 10.2, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/09/Deliverable-10.2.pdf>

Márquez Carrasco, C., Churrua Muguruza, C., Alamillos Sánchez, R., 'Case study: Common Security and Defence Policy (CSDP)', (2016) FRAME Deliverable 10.3, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/11/Deliverable-10.3.pdf>

Márquez Carrasco, C., Alamillos Sánchez, R., Iñigo Álvarez, L., 'Coherence and efficiency of the EU external policy related to conflict and crisis', (2016) FRAME Deliverable 10.4, available at <https://doi.org/20.500.11825/117>

Marx, A., Soares, J., 'Quantitative Analysis of Factors Hindering or Enabling the Protection of Human Rights', (2016) FRAME Deliverable 2.4, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/09/Deliverable-2.4.pdf>

Mayrhofer, M., Chavez, C., Hegde, V., Killander, M., Larik, J., Nkrumah, B., Salmón, E., Yigen, K., 'International Human Rights Protection: Institutions and Instruments', (2014) FRAME Deliverable 4.1 <<http://www.fp7-frame.eu/wp-content/uploads/2016/08/02-Deliverable-4.1.pdf>> accessed 20 February 2017

Mayrhofer, M., Häusler, K., Bregaglio, R., Chavez, C., Dai, T., Gómez Isa, F., Hegde, V., Jaraczewski, J., Killander, M., Lukas, K., Nagore, M., Nkrumah, B., Yin, L., 'The global human rights protection governance system', (2015) FRAME Deliverable 4.2, available at <https://doi.org/20.500.11825/106>

Mayrhofer, M. (ed), Aquilar, F., Azeriah, M., Bregaglio, R., Gunn, J., Harris, P., Idrissi, A., Lagresa, A., Lengua, A., Y.S.R. Murthy, Nkrumah, B., Yigen, K., 'International Human Rights Protection: The Role of National Human Rights Institutions - a Case Study', (2016) FRAME Deliverable 4.3 <<http://www.fp7-frame.eu/wp-content/uploads/2016/08/Deliverable-4.3.pdf>> accessed 20 February 2017

Mustaniemi-Laakso M., Heikkilä, M., Del Gaudio, E., Konstantis, S., Nagore Casas, M., Morondo, D., G. Hegde, V., Finlay, G., 'The protection of vulnerable individuals in the context of EU policies on border checks, asylum and immigration', (2016) FRAME Deliverable 11.3, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/08/Deliverable-11.3.pdf>

Sosa, L., Timmer, A., with contributions from Nkrumah, B., Ncube, V., Kapapelo, E., Killander, M., Constantino, R., Rodríguez, J., Uchuypoma, D., Yan, Z., Patel, S., P. Vijapur, A., 'Conceptions of human rights, democracy and the rule of law in selected third countries', (2015) FRAME Deliverable 3.3, available at <https://doi.org/20.500.11825/109>

Starl, K., Apostolovski, V., Meier, I., Möstl, M., Vivona, M., Kulmer, A. in collaboration with Sanno, H-O. and Andersen, E. A., 'Human Rights Indicators in the Context of the European Union', (2014) FRAME Deliverable 13.1 <<http://www.fp7-frame.eu/wp-content/uploads/2016/08/12-Deliverable-13.1.pdf>> accessed 20 February 2017

Timmer, A., Goldschmidt, J., Buyse, A., Mihr, A., 'Concepts of human rights, democracy, and the rule of law: a literature review', (2013) FRAME Deliverable 3.1, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/08/01-Deliverable-3.1.pdf>

Timmer, A., Majtényi, B., Häusler, K, Salát, O., 'EU Human rights, democracy and rule of law: from concepts to practice', (2014) FRAME Deliverable 3.2, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/08/10-Deliverable-3.2.pdf>

Unger, A., Wallace, S., Ziegler, T. D., 'The Role of Human Rights in EU-US bilateral Relations', (2016) FRAME Deliverable 6.5, available at <https://doi.org/20.500.11825/112>

Wallace, S., 'Case Study on Holding Private Military and Security Companies Accountable for Human Rights Violations', (2016) FRAME Deliverable 7.5, available at <http://www.fp7-frame.eu/wp-content/uploads/2016/08/25-Deliverable-7.5.pdf>