

EUROPEAN INTER-UNIVERSITY CENTRE FOR HUMAN RIGHTS AND
DEMOCRATISATION – E.MA THESIS

Does the EU lack legitimacy in promoting human rights abroad?

A critical analysis of the EU's human rights policies

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ABSTRACT:

While the European Union tirelessly promotes the indivisibility and universalism of the human rights as well as the establishment of strict scrutiny of its economic third country-partners, the human rights discourse changes as it come closer to question and scrutinise its own Member States. Although major steps towards better protection of human rights and commitment to respect for fundamental rights have been taken, inter alia by the Court of justice's very active case-law and by the entry into force of the Lisbon Treaty in 2009, double standard remains.

The concrete outcome of new Article 6 of the TEU that gives to the Charter of Fundamental Rights a legal status, binding the Union's Institutions and Member States when implementing EU law; and provides an obligation for the Union to accede the ECHR, remain unclear. Member States are still reluctant in being subjected to internal scrutiny. However, the analysis the EU Institutions' response to the Hungarian case and the use that they made of new sanction procedure provided by Article 7 TEU and of the EU Charter, as well as the analysis of the recent case-law, notably the *NS* case¹, of the ECJ ajar a door of more precisions and an outline answer to the subsisting doubts.

¹ N. S. and M. E. Joined Cases C-411/10 and C-493/10, 2011, OJ C 274/34.

Abbreviations:

AFJS	Area of Freedom Security and Justice
CFR	EU Charter of Fundamental Rights
CFSP	Common Foreign and Security Policy
CoE	Council of Europe
ECHR	European Convention on Human Rights
ECJ	European Court of Justice of the EU
ECR	European Court Reports
ECtHR	European Court of Human Rights
EP	European Parliament
EU	European Union
UNO	United Nations Organisation
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union

“At the end of the day, the Union can only achieve the leadership role to which it aspires through the example it sets to its partners and other states. Leading by example should become the leitmotif of a new European Union human rights policy”.²

- P. Alston and J.H.H. Weiler

²P. Alston and J.H.H. Weiler, Harvard Jean Monnet Working Paper 1/99, p.7

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