Challenges to the Effectiveness of EU Human Rights and Democratisation Policies

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Executive Summary

Since the end of the Cold War, the EU has projected itself as a normative power, placing human rights and democratic principles as essential pillars of EU's identity at both internal and external level.

The Lisbon Treaty represents the culmination of a process in which the EU has tried to legally ground human rights and democracy as core goals of its foreign policy. The Lisbon Treaty also made a significant change in the institutional architecture to deal with its foreign policy, namely the creation of the European External Action Service (EEAS). It has generated great expectations, but it is still in a process of institutional consolidation. A strong EEAS is a precondition for an effective EU's human rights and democratization policy.

In spite of these significant legal and institutional developments, there are serious concerns about the capacity of the EU to have a significant impact on the democratization processes taking place in different regions of the world. The EU suffers from a *delivery gap*, an enormous distance between the rhetoric proclamations in Brussels and the impact on the ground of its policies and programmes.

This Deliverable is aimed at exploring the effectiveness of EU policies in the field of human rights and democracy promotion against the background of a number of selected case studies. Cases from different regions of the world have been chosen, including Ukraine, Serbia and Albania from Europe, Peru and Bolivia from Latin America, Egypt and Tunisia from the Middle East and North Africa (MENA region), and China from Asia. The goal is to compare the policies of the EU across the countries and regions to identify best practices and challenges for the EU.

There are inherent methodological difficulties associated with the attempt to measure the effectiveness and impact of human rights and democratization policies and programmes. While in the field of development cooperation the EU has developed a long tradition and well-established methodologies to assess the impact and effectiveness of its interventions, that is not the case in the area of human rights and democratization support. The main methodological constraints are the conceptual indeterminacy of the concept of democracy; the problem of attribution; the multidimensional and multi-level character of democratization processes; and the so-called *counterfactual*, given that one cannot know what would have happened in a given process of democratization without the external support. Taking into account these difficulties, this report has used both quantitative tools (especially the funds allocated to the different countries and programmes) and qualitative methods. The report is primarily based on a desk review of primary (agreements, norms and EU documents) and secondary sources. While academic literature was of utmost importance, the report has also relied on previous evaluations of EU policies and programmes in the field of human rights and democracy promotion. The information was also complemented with semi-structured interviews to EU officials, academics and other stake-holders such as relevant members of both international and local human rights NGOs.

The capacity of the EU to have a significant impact globally is conditioned by the ever-changing international context. The current international system is characterized by a progressive decline of

Western power, with an increasing economic and political relevance of emerging countries such as Brazil, Russia, India, China, South Africa (the so-called BRICS), the Gulf States or Turkey. In this new scenario, the EU and the US cannot take the lead any more in issues that have to do with the promotion of a value-based international system. Some of these emerging countries have a rather different approach to human rights and democracy, thus questioning the legitimacy of the EU to promote its human rights and democracy agenda internationally. The case-studies on Ukraine and on Egypt and Tunisia illustrate this significant challenge, since Russia and Saudi Arabia, respectively, are reacting to the democracy promotion efforts of the EU in those countries. But this counter-revolutionary role played by some states points to one of the greatest contradictions of the foreign policies of both the EU and the US. Once again, the West has prioritized security, stability, and economic interests over democracy and human rights.

Another challenge to the human rights and democracy promotion strategy of the EU is its underlying economic agenda. Most of the time the human rights and democracy support package is accompanied by the promotion of a liberal market economy. This is precisely the model that is under strong criticisms after the Arab Spring. The cases of Egypt and Tunisia show that the root causes of the revolts have much to do with the deep inequalities and exclusions brought about by the liberalization policies imposed by Western countries and by the Bretton Woods institutions. Besides internal factors such as widespread corruption, repression of political rights, and abuse of power by political and economic elites, the economic exclusion of large sectors of Arab populations is at the origin of the revolts in the MENA region.

The EU cannot pretend simply to export its model of human rights and democracy, since it generates strong reactions and contestations. The EU needs to be more modest in its approach, paying attention to the local context, to the local actors, and the local ways of framing concepts such as human dignity, democracy, participation, inclusion... *National* and *local ownership* are key components of any meaningful strategy of promoting human rights and democracy.

As this report and the case studies clearly illustrate, the EU has both the ambition and the potential to become a global human rights actor, but the changing international context and the challenges identified are significant obstacles that are yet to be overcome.

List of abbreviations

AA	Association Agreement
ALP	Analytical Legislative Programme
BRICS	Emerging countries (Brazil, Russia, India, China, South Africa)
CARDS	Community Assistance for Reconstruction Development and Stabilisation
CCP	Chinese Communist Party
CFSP	Common Foreign and Security Policy
CJEU	Court of Justice of the European Union
CSPs	Country Strategy Papers
CSOs	Civil Society Organisations
CoE	Council of Europe
DPOs	Disabled Persons' Organisations
EaP	Eastern Partnership
ECtHR	European Court of Human Rights
EEAS	European External Action Service
EIDHR	European Instrument for Democracy and Human Rights
EESC	European Economic and Social Committee
EInDHR	European Initiative for Democracy and Human Rights
ENP	European Neighbourhood Policy
ENPI	European Neighbourhood and Partnership Instrument
EOM	Election Observatory Missions
EP	European Parliament
ESC rights	Economic, social and cultural rights
EU	European Union
EUAM Ukraine	EU Advisory Mission for Civilian Security Reform Ukraine
EURALIUS	European Assistance Mission to the Albanian Justice System
EUSR	EU Special Representative
FRA	Fundamental Rights Agency
GONGOs	Government-Operated NGOs
HDL	High-Level Dialogue
HPPD	EU-China High Level People-to-People Dialogue
HRDs	Human Rights Defenders
ICT	Information and Communication Technologies
ICTY	Criminal Tribunal for the former Yugoslavia
IMED-Italie	Instituto per il Mediterraneo
IMF	International Monetary Fund
IPA	Instrument for Pre-Accession Assistance
IRADA	Initiative for Support to Regional Sustainable Development
LGBTI	Lesbian, Gay, Bisexual, Transgender and Intersex persons
MEP	Chinese Ministry of Environment Protection
MIPDs	Multi-Annual Indicative Planning documents
MOFCOM	Ministry of Commerce of China
NATO	North Atlantic Treaty Organization
NAD	National Priorities for International Assistance in the Republic of Serbia 2014-17
NGOs	Non-Governmental Organisations
NIP	National Indicative
NSDI	National Strategy for Development and Integration

OSCE	Organization for Security and Cooperation in Europe
PAMECA	Police Assistance Mission of the European Community to Albania
PAR	Public Administration Reform
PCA	Partnership and Cooperation Agreement
PCF	the Programmatic Co-operation Framework
PIDCP	Pacte International relatif aux Droits Civils et Politiques des Nations Unies
SF	Strategic Framework
SAA	Stabilisations and Association Agreement
SAP	Stabilisation and Association Process
SEIO	Serbian European Integration Office
SMP	Sanjiangyuan Region National Ecological Conservation and Development Experimental Zone Master Plan
SPRING	Support for Partnership, Reforms and Inclusive Growth
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
OHCHR	Office of the United Nations High Commissioner for Human Rights
UN	United Nations
UPR	Universal Periodic Review
US	United States
VP/HC	Vice-President/High Commissioner
WTO	World Trade Organization

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I.   Introduction: EU human rights and democratisation policies: from rhetoric to impact

A.   Background

Since the end of the Cold War, the EU has tried to accompany the so-called third wave of democratization processes in a number of countries, and has projected itself as what some scholars refer to as a 'normative power Europe'.[1] Accordingly, human rights and democratic principles have become one of the essential pillars of the EU's identity both at the internal (*ad intram*) and at the external level (*ad extram*),[2] at least as a proclamation of principles.[3] Against this background, some scholars argue that the EU can be defined as a 'democracy promotion community which has both a tangible *presence* and which manifests most of the requirements for *actornesss*'.[4] Others manifest a more cautious approach, and argue that while the EU has developed an 'international presence,'[5] this does not amount to the actorness of the nation-state; at best, one could eventually point to the 'EU's *sui generis* features as an international actor'.[6]

With the adoption of the Treaty of Maastricht in 1992, the EU started to pay particular attention to human rights and democratization issues in its relations with third countries.[7] Since then, the EU has significantly upgraded its human rights and democratization policies *vis-à-vis* third countries, and has placed human rights and democracy 'at the heart of EU external action'.[8] As a clear manifestation of this commitment,

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[1] Ian Manners, 'Normative Power Europe: A Contradiction in Terms?' (2002) 40 Journal of Common Market Studies, 235-258.

[2] Esther Barbé, 'La UE como promotora de los derechos humanos en Naciones Unidas' in Esther Barbé (dir.), *La Unión Europea en las relaciones internacionales* (Tecnos, 2014) 395.

[3] Commentators such as Dimitry Kochenov express a very critical account of the auto-characterization of the EU as a democracy promoter. In his view, 'the huge literature claiming the contrary notwithstanding, the EU's credentials as a democracy promoter seem quite weak both internally and externally', Dimitry Kochenov, 'Law Perspective: Praise Undeserved? The EU as a Democracy Promoter: A Sceptical Account', in Anne Wetzel and Jan Orbie (eds.) *The Substance of EU Democracy Promotion. Concepts and Cases* (Palgrave Macmillan, 2015) 27.

[4] Peter Simmons, *The Impact of EU Democracy Promotion: the View from Brussels* (Jean Monnet Centre of Excellence Research Student Workshop, King's College London, 2011) 6. *Actorness* has been defined as 'the capacity to behave actively and deliberately in relation to other actors in the international system', Gunnar Sjöstedt, *The External Role of the European Community* (Saxon House, 1977) 16. Pérez de las Heras has identified the EU as a 'global champion of human rights', Beatriz Pérez de las Heras, 'EU and US External Policies on Human Rights and Democracy Promotion: Assessing Political Conditionality in Transatlantic Partnership' (2015) 15 (2) Romanian Journal of European Affairs, 82.

[5] Richard Youngs, *The European Union and the Promotion of Democracy. Europe's Mediterranean and Asian Policies* (Oxford University Press, 2001) 44.

[6] *Ibid*., 45.

[7] Karen E Smith, *European Union Foreign Policy in a Changing World* (Polity Press, 2008). A very comprehensive and critical analysis of the role of human rights in EU's policies in the 1990s can be found in Philip Alston (ed.), *The EU and Human Rights* (Oxford University Press, 1999).

[8] European Commission and High Representative of the European Union for Foreign Affairs and Security Policy, Joint Communication to the European Parliament and the Council,' Human Rights and Democracy at the Heart of EU External Action-Towards a More Effective Approach' COM(2011) 886 final.

the EU has adopted a wide range of instruments, policy statements, guidelines and programmes (both thematic and geographic) to support human rights and democracy as an integral dimension of EU foreign policy.[9]

From the outset there are serious concerns about the capacity of the EU to have a significant impact on the democratization processes taking place in different regions of the world. In that sense, some commentators have underlined the *delivery gap* in the EU human rights and democratization policies,[10] the distance between the rhetorical proclamations in Brussels and their actual impact on the ground. The European Commission itself has emphasized that it 'wants to be judged on its performance in meeting the EU's policy goals'.[11]

Against this background, this Deliverable aims to shed some light on the impact of the EU policies and programmes in the field of human rights and democracy. In order to do so, we will start by outlining the main challenges faced by the EU in a continuously changing and challenging international environment, after which we then explore the effectiveness and impact of specific policies and programmes in a number of selected countries.

B.   The EU in a changing international context: A decline of Western power?

In the recent decades we have witnessed a progressive decline in Western power, with an increasing economic and political relevance of emerging countries such as Brazil, Russia, India, China, South Africa (the so-called BRICS), the Gulf States or Turkey. This has led some commentators proclaim that we have entered a 'post-Western World,'[12] a new context in which the EU and the US cannot take the lead any more in issues that have to do with the promotion of a value-based international system. Contrary to the prophecy advanced by Francis Fukuyama with his idea of *The End of History* and the victory of the liberal democratic paradigm after the fall of communism,[13] we are facing a troubling weakening of human rights and democracy as shared values of a universal scope. Against the background of this dramatic change in the global balance of power, Richard Youngs warns that the EU is running the risk of becoming globally irrelevant.[14] In order to regain relevance and credibility as a normative actor, the EU needs to rethink its

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[9] See Cristina Churruca et al, 'Report mapping legal and policy instruments of the EU for human rights and democracy support, FRAME Deliverable No. 12.1' (2014) http://www.fp7-frame.eu/wp-content/materiale/reports/05-Deliverable-12.1.pdf.

[10] See the seminal paper by Christopher Hill, 'The capability-expectations gap, or conceptualizing Europe's international role' (1993) 31 (3) Journal of Common Market Studies 305-328.

[11] European Commission, 'The European Union's role in promoting human rights and democratization in third countries' (Communication from the Commission to the Council and the European Parliament) COM(2001) 0252 final.

[12] Susi Dennison and Anthony Dworkin, *Towards an EU Human Rights Strategy for a Post-Western World* (ECFR, 2010).

[13] Francis Fukuyama, 'The End of History?' (1989) The National Interest.

[14] Richard Youngs, *Europe's Decline and Fall. The Struggle against Global Irrelevance* (Profile Books, 2010).

strategies and to rebuild a North-South consensus on a new human rights and democracy agenda based on a common understanding with these rising partners on the compatibility between political rights, economic growth, social justice and human development.[15]

Some of these emerging countries (or already 'emerged', as the case of China) have a rather different approach to human rights and democracy, thus questioning the legitimacy of the EU to promote its human rights and democracy agenda internationally.[16] To some extent, the so-called *Beijing Consensus* is progressively substituting the *Washington Consensus* as a paradigm to be followed in many countries outside the West.[17] The main consequence of this trend is that economic liberalization can go hand in hand with authoritarian or semi-authoritarian policies and practices.[18] Some of these countries have initiated a strategy of 'autocracy promotion'[19] in third countries to counter-react to Western efforts at human rights and democracy support when they perceive these efforts 'as a threat to its own regime survival…, or as a threat to its geostrategic interests'.[20]

A particular case is the strong support from Saudi Arabia and, to a lesser extent, from Qatar, to authoritarian regimes in the Middle East and North Africa (MENA region) to avoid any influence of the democratic wave brought about by the Arab Spring and to maintain the status quo.[21] Saudi Arabia has been able 'to buy influence and undermine Western leverage for political reforms'.[22] But this counter-revolutionary role played by Saudi Arabia points to one of the greatest contradictions of the value-based foreign policies of both the EU and the US. Once again, the West has prioritized security, stability, and economic interests over democracy and human rights, very much in line with the strategic interests of Saudi Arabia.[23] We cannot but remember that Saudi Arabia is one of the closest allies of the West in the region, in spite of its manifestly poor record on human rights and democracy.[24] This is a crystal-clear

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[15] This is the main idea defended by Ted Piccone in a recent illuminating essay in which he analyses the path to democracy followed by five big rising democracies such as India, Brazil, South Africa, Turkey and Indonesia over the last three decades, and the implications for human rights and democracy worldwide, Ted Piccone, *Five Rising Democracies and the Fate of the International Liberal Order* (Brookings Institution Press, 2015). See also the thought-provoking reflections by Richard Youngs, *The Puzzle of Non-Western Democracy* (Carnegie Endowment for International Peace, 2015).

[16] Christopher Walker, 'Authoritarian Regimes Are Changing How the World Defines Democracy', The Washington Quarterly (2014) https://www.washingtonpost.com/opinions/christopher-walker-authoritarian-regimes-are-changing-how-the-world-defines-democracy/2014/06/12/d1328e3a-f0ee-11e3-bf76-447a5df6411f_story.html.

[17] Susi Dennison and Anthony Dworkin, *Towards an EU Human Rights Strategy for a Post-Western World* (ECFR, 2010) 2.

[18] Stephan Keukeleire and Tom Delreux, *The Foreign Policy of the European Union* (Palgrave Macmillan, 2014) 287.

[19] Peter Burnell, 'Is There a New Autocracy Promotion?' (2010) 96 FRIDE Working Paper.

[20] Thomas Risse and Nelli Babayan, 'Democracy promotion and the challenge of illiberal regional powers: introduction to the special issue' (2015) 22 Democratization 385-386.

[21] Ester Sigillò, 'Challenges to Normative power Europe in the Mediterranean. Impact on Arab civil societies and the role of Islamic donors' (2015) Working Paper, ECPR General Conference.

[22] Os Hazan, 'Undermining the transatlantic democracy agenda? The Arab Spring and Saudi Arabia's counteracting democracy strategy' (2015) 22 Democratization 492.

[23] Danya Greenfield and Rosa Balfour, *Arab Awakening: Are the US and the EU Missing the Challenge?* (Atlantic Council, 2012).

[24] This challenging situation has been put on the table by the European Parliament Committee on Foreign Affairs. While the Committee 'recognises the interdependence between the EU and KSA in terms of regional stability,

manifestation of one of the main deficits of the EU human rights and democracy policies: the *credibility gap*, the use of double standards when European strategic interests are at stake in third countries. Obviously, this lack of credibility strongly undermines the EU's legitimacy to pursue a human rights and democracy agenda, thus hindering the effectiveness and impact of its human rights and democracy promotion efforts. This contradiction is clearly illustrated in the case of Egypt, where a window of opportunity for promoting democracy opened after the revolution of 2011. When General Al-Sisi organized a *coup d'état* in July 2013 to oust Islamist President Mohammed Morsi, 'the counter-revolution was straightforwardly institutionalized with the implicit approval of the US and the EU,' prioritizing strategic interests over the promotion of democratic principles.[25]

The Arab Spring was a wake-up call for an EU which for decades had supported the authoritarian regimes that offered stability and access to their natural resources in the region (the *democratization-stability dilemma*).[26] These uprisings clearly illustrate the shortcomings of the EU's interest-driven approach to the promotion of human rights and democracy worldwide, paving the way to criticisms of selectivity and double standards. The EU has tried to accommodate to the new scenario in the region (new ENP, the reference to the concept of 'deep democracy' and a strengthened role for civil society), but it remains to be seen to what extent the EU meets its declared intentions and not only its strategic interests. Unfortunately, the case of Egypt just analyzed points in the wrong direction.[27]

Another telling illustration of this emerging autocratic wave is exemplified by Russia's support to authoritarian regimes in its neighbourhood (its 'zone of influence' in the eyes of the Russian regime, reinvigorating the old language of the Cold War)[28] to counter-react democracy promotion by the EU and the US. Russia perceives human rights and democracy promotion as an orchestrated campaign by a number of actors in the West (the EU, the US, the Soros Foundation and other think-tanks) aimed at curtailing its influence in its neighbouring countries, therefore undermining its strategic interests not only in the region but, ultimately, worldwide. This confrontational attitude adopted by Russia is based on its

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relations with the Islamic world, the fate of the transitions in the Arab Spring countries, the Israel-Palestine peace process, the war in Syria, improving relations with Iran, counter-terrorism, stability of the global oil and financial markets, trade, investment and global governance issues,…', it also 'expresses grave concern that human rights violations such as arbitrary arrests and detention, torture, travel bans, judicial harassment and unfair trials continue to be widespread', European Parliament Committee on Foreign Affairs, 'On Saudi Arabia, Its Relations with the EU and its Role on the Middle East and North Africa' (2014) paras 1 and 9.

[25] Os Hazan, 'Undermining the transatlantic democracy agenda? The Arab Spring and Saudi Arabia's counteracting democracy strategy' (2015) 22 Democratization 491.

[26] See Vincent Durac, 'The impact of external actors on the distribution of power in the Middle East: the case of Egypt' (2009) 14 The Journal of North African Studies 75-90.

[27] Tommaso Virgili, 'The Arab Spring and the EU's Democracy Promotion in Egypt: A Missed Appointment?' (2014) 6 Perspectives on Federalism 42-75; Jan Claudius Völkel, 'More for More, Less for Less-More or Less: A Critique of the EU's Arab Spring Response à la Cinderella' (2014) 19 European Foreign Affairs Review 263-282.

[28] The rhetoric of the Cold War is regaining momentum as the relations between Western countries and Russia worsen due to competing views and interests in a number of conflicts such as Libya, Syria or Ukraine. In a recent international conference on Syria in Munich, the Russian Prime Minister Dmitry Medvedev said the world is slipping into a 'new cold war' after European leaders condemned his country's airstrikes on Syria, *The Guardian*, 13 February 2016, available at http://www.theguardian.com/world/2016/feb/13/russia-warns-of-new-cold-war-amid-syria-accusations-munich.

perception of the actions sponsored by the West as arrogant and based on a sense of moral superiority. In the end, Russia is suffering from what some scholars refer to as 'imperial nostalgia'.[29] As Nelli Babayan has rightly pointed out, Russia's strong and, somehow, bewildering reaction to human rights and democracy promotion from the outside is mainly based on 'its ambitions of restoring its great power status and maintaining its regional influence'.[30] And in order to do so, Russia is prone to contain any attempt to challenge authoritarian rule and to promote democratic ideals. The accurate reflection by Christopher Walker speaks for itself:

> 'Russia's destabilization of Ukraine, where Moscow has annexed Crimea and provoked a debilitating separatist rebellion in the eastern part of that country, has dominated the news recently. But this action should be seen for what it is: a Kremlin containment effort to prevent Ukrainians from achieving a democratically accountable government that would threaten Russia's corrupt authoritarian system. The Ukraine example is just one small part of a vast containment ambition led by the regimes in Moscow, Beijing, Riyadh and Tehran, which may disagree on many things but share an interest in limiting the spread of democracy'.[31]

The rise of China as a competing economic power is also a source of concern in Western capitals due to the negative influence it may have on the EU and the US human rights and democracy promotion policies.[32] China and the EU 'compete for the same resources, markets and political influence' in the Middle East, Africa, Latin America and other parts of the world. [33] China's disregard for the human rights situations in the countries with which it cooperates is a relevant source of distrust and suspicion, since the EU firmly believes that it can pave the way to 'undermining the EU's human rights, democracy and development policies'.[34] China's approach to the EU's democracy promotion policies is dominated by pragmatism, and it will only react to those policies when regime survival at home is at risk. If Chinese strategic interests are at stake, China will definitely counter-react to human rights and democracy promotion from the outside. Domestically, 'the Chinese Communist Party (CCP) is clearly determined to withstand, repress, outperform, and outsmart home-grown as well as external pressures for democratization'.[35] In terms of Chinese foreign policy, it will try to block any attempt of democratization from the outside when its geostrategic interests or regime survival are at risk, as the example of Hong

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[29] Andrej Krickovic, 'Imperial Nostalgia or Prudent Geopolitics? Russia's Efforts to Reintegrate the Post-Soviet Space in Geopolitical Perspective' (2014) 30 Post-Soviet Affairs 503-528.

[30] Nelli Babayan, 'The return of the empire? Russia's counteraction to transatlantic democracy promotion in its near abroad' (2015) 22 Democratization 438.

[31] Christopher Walker, 'Authoritarian Regimes Are Changing How the World Defines Democracy', The Washington Quarterly (2014) https://www.washingtonpost.com/opinions/christopher-walker-authoritarian-regimes-are-changing-how-the-world-defines-democracy/2014/06/12/d1328e3a-f0ee-11e3-bf76-447a5df6411f_story.html.

[32] Andrew J. Nathan, 'China's Challenge to Democracy' (2015) 26 Journal of Democracy 156-170. See also Deborah Brautigam, *The Dragon's gift. The Real Story of China in Africa* (Oxford University Press, 2009).

[33] Stephan Keukeleire and Tom Delreux, *The Foreign Policy of the European Union* (Palgrave Macmillan, 2014) 285.

[34] Stephan Keukeleire and Tom Delreux, *The Foreign Policy of the European Union* (Palgrave Macmillan, 2014) 286.

[35] Dingding Chen and Katrin Kinzelbach, 'Democracy promotion and China: blocker or bystander?' (2015) 22 Democratization 412.

Kong clearly illustrates.[36] If that is not the case, and China's ambitions remain unaltered, it will not challenge the human rights and democratization policies of Western countries. As the cases of Angola and Ethiopia in Africa show, 'the presence of China has had limited influence on the implementation of the US and the EU's democracy promotion strategies'.[37] As Dennison and Dworkin have emphasized however, 'instead of simply criticizing China's role in Africa as undermining Western efforts, Europeans should look critically at the record of their own governments and businesses'.[38]

In purely economic terms, the EU has been defined as a powerful 'agent of globalization,'[39] since it fully supports the current process of globalization through its trade policy and the establishment of a neoliberal international economic order. Ultimately, the EU 'contributes to international structures that, while positive in many ways, also reproduce and reinforce patterns of exclusion, alienation and uncertainty,'[40] thus paving the way to legitimate criticisms of arrogance and neocolonialism coming from the Global South[41] and even from some protest movements in the West.[42] This situation of social and economic exclusion associated with neoliberal economic and social agendas is precisely what ignited the protests that led to the revolutions in a number of Arab countries in 2011. As Pace and Cavatorta have critically underlined, 'ordinary Arab citizens rose up against precisely those rigged neo-liberal reforms imposed by Western organizations like the IMF and the World Bank that have led to an even more unequal distribution of wealth in their countries and impoverished the masses over the last two decades'.[43]

But the financial crisis that the euro-zone has been suffering since 2008 is probably the most serious crisis in the history of the EU, and is undermining the privileged role the EU has played so far in the international

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[36] Sonny Shiu-hing Lo, *Competing Chinese Political Visions: Hong Kong versus Beijing on Democracy* (Praeger, 2010). See also Stan Hok-wui Wong, 'Authoritarian Co-optation in the Age of Globalization: Evidence from Hong Kong' (2012) 42 Journal of Contemporary Asia 182-209.

[37] Christine Hackenesch, 'Not as bad as it seems: EU and US democracy promotion faces China in Africa' (2015) 22 Democratization 431.

[38] Susi Dennison and Anthony Dworkin, *Towards an EU Human Rights Strategy for a Post-Western World* (ECFR, 2010) 11.

[39] Stephan Keukeleire and Tom Delreux, *The Foreign Policy of the European Union* (Palgrave Macmillan, 2014) 33.

[40] Ibid.

[41] Esther Barbé, 'La UE como promotora de los derechos humanos en Naciones Unidas' in Esther Barbé (dir.), *La Unión Europea en las relaciones internacionales* (Tecnos, 2014) 413.

[42] Movements such as Occupy Wall Street in the US, Syriza in Greece or 15-M in Spain, share a very critical stance on the way in which the current globalization process is being led, focusing the main criticisms on the US, the EU and the International Financial Institutions. See Daniela Huber, 'US and EU Human Rights and Democracy Promotion since the Arab Spring. Rethinking its Content, Targets and Instruments' (2013) 48 The International Spectator, 108. As the Occupy Wall Street Movement states in its website, 'Occupy Wall Street is a people-powered movement that began on September 17, 2011 in Liberty Square in Manhattan's Financial District, and has spread to over 100 cities in the United States and actions in over 1,500 cities globally. #ows is fighting back against the corrosive power of major banks and multinational corporations over the democratic process, and the role of Wall Street in creating an economic collapse that has caused the greatest recession in generations. The movement is inspired by popular uprisings in Egypt and Tunisia, and aims to fight back against the richest 1% of people that are writing the rules of an unfair global economy that is foreclosing on our future', available at http://occupywallst.org/about/.

[43] Michelle Pace and Francesco Cavatorta, 'The Arab Uprisings in Theoretical Perspective- An Introduction' (2012) 17 Mediterranean Politics 130.

financial system.[44] Some emerging countries are strongly criticizing the supremacy of the West in the International Financial Institutions that were created in Bretton Woods in 1944, and are giving rise to alternative organizations such as the recently created *New Development Bank BRICS* (2014)[45] to challenge the prevailing status quo.[46] This situation also points to one major incoherence of the EU's foreign policy. While being very active at promoting democracy and human rights in third countries, the EU and European countries enjoy a privileged situation in a number of international organizations such as the IFIs, the World Trade Organization (WTO) or the United Nations Security Council, where two members of the EU hold permanent seats. In spite of increasing criticisms coming from emerging countries, the EU, together with the US, show great reluctance to accept democratic principles in the functioning of these major international organizations.[47]

C.   Emerging Countries as International Donors

As a consequence of the new geo-economic scenario, some of the emerging powers (China, Saudi Arabia, Qatar, Russia, Turkey, India, Brazil or Venezuela with its *oil diplomacy*) have dramatically increased their roles as international donors,[48] competing with traditional Western donors such as the EU and the US.[49] One of the results of this shift in the development aid pattern is that the EU's conditionality of aid to progress in human rights and democracy can be undermined, given that recipient countries may be less inclined to follow the European recipes. As has been remarked by Laurence Chandy, 'emerging donors are perceived as showing less regard for environmental and labour standards and for the democratic credentials of recipient governments'.[50] In this new context, we can expect that the EU will have much less leverage to push for democratic change in third countries.[51] But we need to be cautious since 'little is known about the development cooperation practices of emerging donors or, most importantly, the

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[44] Milja Kurki, 'Political Economy Perspective: Fuzzy Liberalism and EU Democracy Promotion: Why Concepts Matter', in Anne Wetzel and Jan Orbie (eds.) *The Substance of EU Democracy Promotion. Concepts and Cases* (Palgrave Macmillan, 2015) 45.

[45] The Agreement on the New Development Bank was signed in Fortaleza, Brazil, on 15 July 2014, http://ndbbrics.org/agreement.html.

[46] Unlike the World Bank and the International Monetary Fund, which assign votes based on capital share, in the New Development Bank each participant country will be assigned one vote, and none of the countries will have veto power.

[47] Stephan Keukeleire and Tom Delreux, *The Foreign Policy of the European Union* (Palgrave Macmillan, 2014) 143.

[48] One development aid analyst has underlined that 'they are long-standing providers of foreign assistance, with the People's Republic of China (PRC) commencing its foreign assistance programs in 1950, Russia in 1955, Brazil in 1960, and South Africa in 1968. However, the BRICS' foreign assistance programs have grown in recent years, some dramatically', Cinnamon Dornsife, 'BRICS countries emerging as major aid donors', *Asia Pathways* (2013) http://www.asiapathways-adbi.org/author/cinnamon-dornsife/.

[49] Richard Manning, 'Will 'Emerging Donors' Change the Face of International Co-Operation?' (2006) 24 Development Policy Review 371-385.

[50] Laurence Chandy, 'New in Town: A Look at the Role of Emerging Donors in an Evolving Aid System' (2012) The Brookings Institution http://www.brookings.edu/research/articles/2012/04/emerging-donors-chandy.

[51] Lindsay Whitfield (ed.), *The Politics of Aid. African Strategies for dealing with Donors* (Oxford University Press, 2009).

impact of their aid in recipient countries'.[52] More research and more evidence-based reflections are necessary in order to be able to come to reliable conclusions in this field.

D.   Backlash against Human Rights and Democracy Promotion

As part of the new international climate brought about by the relative decline of Western power and the rise of emerging actors, many countries are expressing a growing hostility to the human rights and democracy support policies and programmes sponsored by the EU and other international donors,[53] 'especially those that seek to empower civil society; promote free media; and strengthen democratic political parties, institutions, and processes'.[54] Accordingly, these countries are progressively erecting barriers to the activities of both local and international actors trying to promote human rights and democracy in their territories. The restrictions are increasingly sophisticated, and have taken the form of new laws imposing state control mechanisms to the operation of local and international NGOs, difficulties and limitations to access foreign funding, expulsion of human rights activists working for international organizations, creation of government-operated NGOs (the so-called GONGOs), or obstacles to international election monitoring.

The root causes of this global phenomenon are complex, multifaceted, and inextricably linked to structural changes in global politics and in global economy.[55] In the view of Carothers and Brechenmacher, two main factors help us understand the reactions against human rights and democracy promotion. First of all, after the post-Cold War decade in which democracy assistance was favourably perceived, the 2000s witnessed a 'loss of democratic momentum,'[56] and power holders in many countries began to view such assistance as 'excessively intrusive and politically threatening'.[57] This counter-reaction has also much to do with the 'democracy rhetoric that accompanied the 2003 Iraq War'.[58] This disastrous military intervention deepened the weakening of the credibility of the West and negatively affected global views on human rights and democracy support policies. Therefore, the democracy promotion discourse 'became synonymous for Western-imposed regime change,'[59] something that faced radical opposition by many countries. The second reason that explains this global pushback is the 'greater recognition and fear on the

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[52] Lidia Cabral and Julie Weinstock, 'Brazil: an emerging aid player. Lessons on emerging donors, and South-South and trilateral cooperation' (2010) 64 Briefing Paper, Overseas Development Institute 1.

[53] Thomas Carothers, 'The Backlash Against Democracy Promotion' (2006) 85 Foreign Affairs 55-65.

[54] Carl Gershman and Michael Allen, 'The Assault on Democracy Assistance' (2006) 17 Journal of Democracy 36.

[55] Larry Diamond, Marc F. Plattner and Christopher Walker (eds.), *Authoritarianism Goes Global. The Challenge to Democracy* (Johns Hopkins University Press, 2016).

[56] Thomas Carothers and Saskia Brechenmacher, *Closing Space. Democracy and Human Rights Support Under Fire* (Carnegie Endowment for International Peace, 2013) 23.

[57] Ibid.

[58] Daniela Huber, 'US and EU Human Rights and Democracy Promotion since the Arab Spring. Rethinking its Content, Targets and Instruments' (2013) 48 The International Spectator 105.

[59] Thomas Carothers and Saskia Brechenmacher, *Closing Space. Democracy and Human Rights Support Under Fire* (Carnegie Endowment for International Peace, 2013) 25.

part of many power holders of the capacity of independent civil society to challenge entrenched regimes, especially in light of ongoing advances in communications technology'.[60] The protagonist role of civil society in the uprisings that led to revolutionary changes in the Arab world in 2011 only reinforced this negative perception on the part of those in power (*demonstration effect*), paving the way for more repression and more obstacles to the activities of civil society organizations. The power of civil society to question undemocratic regimes, to inform about human rights violations, to forge domestic and international alliances to advance democratic change, and to use the information and communication technologies (ICT) to mobilize people, has grown exponentially over the last decades.[61] That is why the backlash against these actors is so overwhelming in some countries.

This troubling situation once again poses an old dilemma to the EU and other international donors, since they have to make a difficult choice in a continuously changing international environment: either to support the drivers of change (even against the wishes of local governments), or to continue with the traditional *business as usual* for the sake of stability.

The case of the EU is especially relevant, given that the protection and support to human rights defenders (HRDs) is one of its strategic goals in the area of human rights and democracy promotion. As a clear manifestation of this priority, the EU adopted its *Guidelines on Human Rights Defenders* in 2004, and revised and updated them in 2008.[62] Along the same lines, in 2010 the EU created the position of *EU Liaison Officers on Human Rights Defenders* in a high number of EU Delegations, a very promising step forward if adequately used. The EU has repeatedly proclaimed that it is 'profoundly concerned at attempts in some countries to restrict the independence of civil society', and that it will 'continue supporting human rights defenders under the European Instrument for Democracy and Human Rights (EIDHR)'.[63] Accordingly, one of the objectives of the *EU Strategic Framework and Action Plan on Human Rights and Democracy* is to offer 'effective support to Human Rights Defenders'.[64] As stated in the *EU Annual Report on Human Rights and Democracy in the World in 2014*,

> 'EU delegations were active in working to protect human rights defenders, who have continued to face increasing pressure from the authorities and from non-state actors in many countries. EU diplomats monitored trials, visited detained activists and issued statements on individual cases.

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[60] Thomas Carothers and Saskia Brechenmacher, *Closing Space. Democracy and Human Rights Support Under Fire* (Carnegie Endowment for International Peace, 2013) 61.

[61] See, among many other references, Margaret E. Keck and Kathryn Sikkink, *Activists Beyond Borders. Advocacy Networks in International Politics* (Cornell University Press, 1998); Paul Nelson and Ellen Dorsey, *New Rights Advocacy: Changing Strategies of Development and Human Rights NGOs* (Washington D.C.: Georgetown University Press, 2008).

[62] Council of the European Union, 'Ensuring Protection-Updated European Union Guidelines on Human Rights Defenders' [2008].

[63] Council of the European Union, 'EU Strategic Framework and Action Plan on Human Rights and Democracy' [2012] 11855/12.

[64] Ibid, Outcome 18.

The EU regularly raised individual cases at bilateral meetings, including high-level political dialogues, and urged partner governments to release imprisoned human rights defenders'.[65]

In financial terms, the EU has funded more than 150 projects under the EIDHR in support of human rights defenders, with a total value of more than EUR 120 million.[66] As we can see, human rights defenders are one of the core priorities of the EU's human rights and democracy policy but, despite these valuable efforts and very positive initiatives, 'pushback continues to spread'.[67] Much remains to be done for a meaningful and effective policy that deals with the protection of human rights defenders and with the necessary responses to the backlash against human rights and democracy promotion worldwide. As Karen Bennet has adequately affirmed in this regard, 'human rights defenders are key agents of change… and make a significant contribution to the international community's efforts to support democracy and human rights'.[68]

E.   The Credibility Gap

The EU must practice what it preaches if it wants to be considered as a credible global actor in the field of human rights and democracy promotion in third countries. Although the EU has strongly tried to develop norms and mechanisms to uphold the defense of human rights internally, there is still much room for improvement to avoid legitimate criticisms of double standards and lack of coherence between internal and external policies.[69] According to the illustrative words of Jean Bossuyt, head evaluator of the 2011 evaluation on EU Human Rights policies, 'the lack of coherence and use of double standards has been widely identified as the Achilles heel of Western democracy promotion efforts'.[70]

One telling example of this incoherence is the application of the *Copenhagen criteria* to those countries that want to join the EU. These criteria adopted in 1993 establish strict conditions in the field of human rights and democracy to candidate countries in order to enter the EU. But once these countries are accepted as full members of the EU, their human rights situations are not systematically monitored and supervised by EU bodies and mechanisms.[71]

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[65] Council of the European Union, 'EU Annual Report on Human Rights and Democracy in the World in 2014 [2015] 10152/15, 62.

[66] Ibid, 63.

[67] Thomas Carothers and Saskia Brechenmacher, *Closing Space. Democracy and Human Rights Support Under Fire* (Carnegie Endowment for International Peace, 2013) 48.

[68] Karen Bennett, 'European Union Guidelines on Human Rights Defenders: a review of policy and practice towards effective implementation' (2015) 19 The International Journal of Human Rights 908.

[69] Jessica Williams, 'The Failure of the EU's Human Rights Policy' (2013) E-International Relations 2.

[70] Jean Bossuyt, 'Providing effective support to *deep democracy*: How can it realistically be done?', (2014) 4 (3) International Development Policy 131.

[71] One exception is established in Article 7 of the Treaty on the European Union (TEU), where the Council of the EU 'may determine that there is a clear risk of a serious breach by a Member State of the values referred to in Article 2'. In accordance with Article 7.3, the Council 'may decide to suspend certain of the rights deriving from the

Recent initiatives such as the adoption of the EU Charter of Fundamental Rights, the establishment of an EU Fundamental Rights Agency (FRA), the ratification of the UN Convention on the Rights of Persons with Disabilities or the future ratification of the European Convention on Human Rights are valuable attempts to upgrade the protection of human rights within the EU. But the situation of human rights in some countries of the EU is lagging behind in issues such as the protection of minorities, the rights of the Roma people, the rights of the child, or the rights of migrants and asylum-seekers, as has been pointed out in the Universal Periodic Review (UPR) of the UN Human Rights Council.[72] To mention just an example, the rejection by the 28 EU member states of the recommendations of the UPR to ratify the UN Convention on the Protection of the Rights of All Migrant Workers and Their Families strongly undermines the coherence and credibility of both member states and the EU as leading players in the global human rights arena,[73] thus opening the door to strong criticisms by third countries.

The recent crisis of refugees escaping from bloody conflicts in Syria, Libya or Iraq is a tragic manifestation of the inability of the EU to offer common solutions based on the values and principles in which we say we believe. It is the very European project that is at stake. In the words used by Javier de Lucas, 'Europe is sinking in the Mediterranean'.[74] Also socking is the way in which the EU is 'sub-contracting' the solution to the refugee crisis to Turkey, promising 'an initial 3 billion euro of additional resources'[75] and an acceleration of the negotiations of accession to the EU, irrespective of the human rights situation in the country. According to Amnesty International, 'talks between the EU and Turkey on 'migration management' risk putting the rights of refugees a distant second behind border control measures designed to prevent refugees from reaching the EU'.[76] Once again, it seems that the EU is putting more emphasis on the control of its borders, in a move towards an increasing securitization of its migration policies, rather than on the protection of the rights of those seeking asylum.[77]

Last but not least, the economic crisis that European states have been suffering since 2008 is putting at serious risk the enjoyment of socio-economic rights within the Union, since the austerity measures imposed jointly by the European Commission, the European Central Bank and the International Financial Institutions (the *Troika*) are having a dramatic impact on the increase of inequalities and social exclusion

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application of the Treaties to the Member State in question, including the voting rights of the representative of the government of the Member State in the Council.'

[72] Felipe Gómez Isa and María Nagore Casas, 'EU Member States under the Universal Periodic Review of the Human Rights Council: Achievements and Challenges', in Wolfgang Benedek *et al.* (eds.) 2015 *European Yearbook on Human Rights* (Intersentia-Verlag, 2015) 261-278.

[73] Alan Desmond, 'The Triangle that could Square the Circle? The UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the EU and the Universal Periodic Review' (2015) 17 European Journal of Migration and Law 39-69.

[74] Javier de Lucas, *Mediterráneo: El Naufragio de Europa* (Tirant lo Blanch, 2015).

[75] Meeting of Heads of State or Government with Turkey- EU-Turkey Statement, Statements and Remarks [2015] 870/15.

[76] https://www.amnesty.org/en/latest/news/2015/10/turkey-merkel-must-ensure-rights-of-refugees-not-cut-out-of-eu-turkey-deal/.

[77] For a general analysis of the readmission agreements between the EU, some member states, and Turkey see Bugra Yilmaz, *The Readmission Agreement between the EU and Turkey. Compatible with the right to seek asylum?* (Uppsala Universitet, Master Thesis, 2014).

in a number of EU countries.[78] According to the EU Network of Independent Experts on Social Inclusion, 'the impact of the financial and economic crisis and of the austerity measures has led to an increase in poverty and social exclusion in more than half of the Member States,'[79] thus undermining the very soul of the European project.[80]

F.   Post-Lisbon normative developments and institutional architecture

The Lisbon Treaty represents the culmination of a long process in which the EU has tried to legally ground human rights and democracy as core goals of its foreign policy. Both the Preamble and Articles 1 and 2 state that 'the Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights'. Additionally, Article 2.5 establishes that the external relations of the EU will be based on the promotion of peace, security, sustainable development, eradication of poverty and the protection of human rights. But the key provision as to the role of human rights and democracy in its relations with third countries is Article 21.1:

> 'The Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law.'

In order for the EU to be able to live up to these ambitious objectives, it made a significant change in the institutional architecture to deal with its foreign policy, including the creation of the European External Action Service (EEAS), which generated great expectations.[81] We will assess to what extent this change has translated into an effective tool to have a coherent and consistent foreign policy in the field of human rights and democracy.

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[78] Felipe Gómez Isa, 'The Reversibility of economic, social and cultural rights in crisis context' in Eider Muniategi and Lina Klemkaite (coords.) *Local Initiatives to the Global Financial Crisis* (Deusto University Press, 2012) 33-42. See also Nicholas Lusiani and Ignacio Saiz, *Safeguarding human rights in times of economic crisis* (Council of Europe, 2013); Margot E. Salomon, 'Of Austerity, Human Rights and International Institutions' (2015) 2 LSE Law, Society and Economy Working Papers 1-29.

[79] Hugh Frazer and Eric Marlier, *2011 Assessment of Social Inclusion Policy Developments in the EU* (European Commission, 2012) 3.

[80] See Daniel Vaughan-Whitehead (ed.), *The European Social Model in Crisis. Is Europe Losing its Soul?* (Edward Elgar Publishing-ILO, 2015).

[81] Steven Blockmans and Marja-Liisa Laatsit, 'The European External Action Service: Enhancing Coherence in EU External Action? in Paul James Cardwell (ed.) *EU External Relations Law and Policy in the Post-Lisbon Era* (Asser Press, 2012) 135-159.

One of the main structural features of the Common Foreign and Security Policy (CFSP) is its dual nature. On the one hand, it mainly has an intergovernmental character but, on the other, the EU is progressively assuming more and more functions.[82] Therefore, the relevant EU bodies must always take into consideration the domestic foreign policies of member states, particularly in such sensitive issues as human rights and democracy promotion. It is important to recognize that when key strategic interests of relevant member states are at stake, the margin of manoeuvre for the EU tends to be much more limited. The political backing of member states is an essential ingredient of sound and effective EU action in the field of human rights and democracy. The challenge is to turn the CFSP into a positive-sum game that can be seen by member states as a reinforcement of their foreign policies.[83]

The creation of EU Delegations in third countries is an important step forward for a 'localized' foreign policy of the EU, since these are closer to the realities and to the societies of those countries where the EU wants to advance a human rights and democratization policy. But in particular we have to welcome the creation of *Human Rights Focal Points* and *Liaison Officers for Human Rights Defenders* in a high number of EU Delegations. These positions are of utmost importance to develop tailor-made local human rights and democratization strategies. This is the aim of the recently launched Country Strategy Papers and Human Rights Strategy Papers. The participation of relevant stakeholders, including civil society organizations (CSOs), in the elaboration of these strategy papers is something that needs to be encouraged by the EU,[84] as has been emphasized by the recent Action Plan on Human Rights and Democracy (2015-2019) adopted by the Council of the EU on 20 July 2015.[85] The European Partnership for Democracy, a network of European CSOs working on democracy assistance, has advocated for the establishment of a 'regular and structured dialogue on democracy assistance… between the institutions, civil society from beneficiary countries and regions and the experts involved in transformation processes'.[86]

Another far-reaching institutional development was the creation of the EU Special Representative for Human Rights on 25 July 2012,[87] the first ever thematic EU Special Representative (EUSR).[88] This position

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[82] Pol Morillas, 'Institutionalization or Intergovernmental Decision-Taking in Foreign Policy: The Implementation of the Lisbon Treaty' in Paul James Cardwell (ed.) *EU External Relations Law and Policy in the Post-Lisbon Era* (Asser Press, 2012) 119-134. See also Wolfgang Wessels and Franziska Bopp, *The Institutional Architecture of CFSP after the Lisbon Treaty- Constitutional breakthrough or challenges ahead?* (2008) CEPS Research Paper No. 10.

[83] Stephan Keukeleire and Tom Delreux, *The Foreign Policy of the European Union* (Palgrave Macmillan, 2014) 19.

[84] See European Commission, 'The roots of democracy and sustainable development: Europe's engagement with Civil Society in external relations' COM(2012) 492 final. See also European Commission, 'Empowering Local Authorities in partner countries for enhanced governance and more effective development outcomes' COM(2013) 280 final.

[85] Council of the European Union, 'Council Conclusions on the Action Plan on Human Rights and Democracy (2015-2019)' [2015] 10897/15.

[86] European Partnership for Democracy, 'Contribution to the review of the EU Strategic Framework and Action Plan on Human Rights and Democracy' (2014).

[87] Council Decision 2012/440/CFSP.

[88] Waldemar Hummer, 'The Common Foreign and Security Policy of the EU and the Human Rights Issue' in Sven Gareis, Gunther Hauser and Franz Kernic (eds.) *The European Union- A Global Actor?* (Barbara Buldrich Publishers, 2013) 300.

was created with the aim of enhancing the visibility and the effectiveness of the EU's human rights and democratization policies. Although the Council of the EU has stressed that the EUSR has improved the coherence of EU's action, it remains to be seen whether the creation of this position is an added value or simply an additional source of institutional confusion.

G.   Human Rights Mainstreaming

Article 21.3 of the Treaty of the European Union (TEU) makes a call to guarantee *consistency* between the wide range of external policies of the EU. According to this provision,

> 'the Union shall ensure consistency between the different areas of its external action and between these and its other policies. The Council and the Commission, assisted by the High Representative of the Union for Foreign Affairs and Security Policy, shall ensure that consistency and shall cooperate to that effect.'

Lack of consistency is one of the main long-standing criticisms of the EU's actions in the field of human rights and democracy.[89] As has been pointed out by some scholars, the objectives of the EU 'are not always compatible in practice,'[90] leading to inherent problems of inconsistency (insisting on human rights issues can deteriorate relations with some countries and impede cooperation on issues such as climate change, migration or the fight against terrorism).

At the same time, there is a tendency to deal with human rights and democracy as separate issues, a tendency to 'ghetto-ise' the activities of the EU to promote human rights and democracy in its external relations.[91] Human rights and democracy mainstreaming is the challenge if the EU wants to use in a systematic and complementary manner the different instruments and programmes at its disposal (from development and trade policies to the European Instrument on Democracy and Human Rights and the ENP). Two areas have been identified where the need for mainstreaming is more pressing: trade and development. But there are technical and political difficulties when dealing with these efforts both in Brussels and in EU Delegations.

The EU has to develop strategies and specific tools to systematically and effectively mainstream human rights and democracy as an integral dimension of all its external policies.[92] The EU has a great potential to advance human rights and democracy if it uses all its policies in a coherent and consistent way.

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[89] See Joana Abrisketa et al., 'Report on the assessment of consistency in the prioritization of human rights throughout EU Policies' FRAME Deliverable No. 12.2 (2015) http://www.fp7-frame.eu/wp-content/materiale/reports/.

[90] Stephan Keukeleire and Tom Delreux, *The Foreign Policy of the European Union* (Palgrave Macmillan, 2014) 26. These authors refer to 4 types of inconsistency: *horizontal*, *institutional*, *vertical* and *interstate* inconsistency.

[91] Thematic Evaluation of the European Commission support to respect of Human Rights and Fundamental Freedoms (including solidarity with victims of repression) (2011) 68.

[92] European Parliament, 'Human Rights Mainstreaming in the EU's External Relations' [2009] EXPO/B/DROI/2008/66.

H.   Methodological considerations

We have to start by recognizing the inherent methodological difficulties associated with the attempt to measure the effectiveness and impact of human rights and democratization policies and programmes.[93] While in the field of development cooperation there is a long tradition and well-established methodologies of evaluation and impact assessment, that is not the case in the area of human rights and democratization support. There is neither a general methodology nor an accepted set of benchmarks and indicators to measure progress and impact. Evaluation of the effectiveness of the different instruments for the promotion of democracy is 'surprisingly under-researched'.[94] In spite of this *lacuna*, increasing attention is being paid to it by both academics and consultants working in this (emerging) field. We must rely on these sources to develop our methodological approach.

Before we start our analysis, we have to identify some of the major methodological constraints that we will face when trying to ascertain the impact of human rights and democracy support programmes.

While the concept of human rights is more generally accepted, given that they are anchored in the standards gradually established by International Human Rights Law after 1945,[95] the concepts of democracy and democratization are much more diverse, multidimensional, and contested in local settings.[96] Against the background of this conceptual indeterminacy, we have to admit that it is very difficult to measure the impact of external assistance on human rights and democratization processes. How can you isolate the impact of a specific project or program in the multifaceted process of democratization of a country or region? We face here the significant challenge of *attribution*, given that the causal links are not clearly delineated, and other factors and actors also influence the democratization process.[97] Most of the time, the best you can do is to speculate and make informed assumptions rather than proven statements about the impact of one project or program in a process of democratization.[98] At the same time, a number of actors (mainly local) intervene in the process of democratization: civil society organizations, political parties, elites, religious groups, and other donors (USAID and private foundations). That is why the *political context* of the country is of utmost importance to evaluate the impact of external

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[93] Thomas Carothers, *Aiding Democracy Abroad: The Learning Curve* (Carnegie Endowment for International Peace, 1999).

[94] Peter Simmons, *The Impact of EU Democracy Promotion: the View from Brussels* (Jean Monnet Centre of Excellence Research Student Workshop, King's College London, 2011) 18.

[95] Felipe Gómez Isa and Koen de Feyter (eds.), *International Human Rights Law in a Global Context* (Deusto University Press, 2009).

[96] Anne Wetzel, 'The Substance of EU Democracy Promotion: Introduction and Conceptual Framework' in Anne Wetzel and Jan Orbie (eds.) *The Substance of EU Democracy Promotion. Concepts and Cases* (Palgrave Macmillan, 2015) 1-23.

[97] Peter Burnell, 'Methods and experiences of evaluating democracy support: a moving frontier' in Peter Burnell (ed.) *Evaluating Democracy Support. Methods and Experiences* (International IDEA, 2007) 26.

[98] Philippe C. Schmitter and Imco Brouwer, 'Conceptualizing, Researching and Evaluating democracy Promotion and Protection' (1999) 9 EUI Working Paper.

interventions.[99] In this sense, the EU has incorporated a good practice that helps understand the context in which its support is going to work: the *Country Strategy Papers* (CSPs). It would be a sound policy to open the elaboration of CSPs to the input of local stakeholders (academics, experts, NGOs, NHRIs) so that they better reflect the complexities and competing interests present in local scenarios.

It is also important to distinguish between human rights and democratization projects and programs. Projects mainly work at micro level, and can be evaluated against the background of their objectives. The problem lies with the programs, where impact at macro-national level has to be measured. For that reason, it is important to trace the connections between the *micro*, the *meso* (a number of projects on a given priority issue or vulnerable group: women, LGTBI, death penalty), and the *macro* levels.[100]

Another reason that limits our capacity to conduct impact evaluations is the so called *counterfactual.*[101] By definition, one cannot know what would have happened in a given process of democratization without external support. That is why a certain degree of speculation will always be present when evaluating the impact of human rights and democracy promotion programmes.

Finally, we should not forget that democratization is a long-term process, while the projects and programmes of international donors such as the EU have a much more limited time-frame, and are forced to 'show' results and impact relatively soon.

Taking into account these structural constraints to our methodological efforts, we will mention the basic ingredients of a sound methodology to try to evaluate the effectiveness and impact of the EU human rights and democratization policies and programmes.

First of all, a combination of *quantitative* (data and statistics on programmes, projects, and funds allocated) and *qualitative* methods (analysis of academic literature and official documents, interviews with relevant stakeholders, round tables and conferences) is applied.[102]

Critical analysis and impartial observation are also very important for the quality and utility of an impact evaluation, and for the ability to learn from past experiences. Critical analysis is an adequate means to allow the evaluations to identify any unintended impacts.[103] Sometimes, external support can have side-effects and negative impacts (the support ends up in the 'wrong hands', it fosters ethnic rivalries, it creates a culture of dependency, corruption),[104] but international donors do not easily accept this. A reliable and

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[99] Richard Youngs, *The European Union and the Promotion of Democracy. Europe's Mediterranean and Asian Policies* (Oxford University Press, 2001).

[100] Gordon Crawford, 'Evaluating European Union Promotion of Human Rights, Democracy and Good Governance: Towards a Participatory Approach' (2002) 14 Journal of International Development 911-926.

[101] Peter Burnell, Methods and experiences of evaluating democracy support: a moving frontier' in Peter Burnell (ed.) *Evaluating Democracy Support. Methods and Experiences* (International IDEA, 2007) 29.

[102] See an interesting methodological approach in *Final Report. Evaluation of the PHARE and TACIS Democracy Programme, 1992-1997* (ISA Consult-European Institute-GJW Europe, 1997) 11-16.

[103] Jean Bossuyt, 'Providing effective support to *deep democracy*: How can it realistically be done?', (2014) 4 (3) International Development Policy 131.

[104] See William Easterly, *The White Man's Burden: Why the West's Efforts to Aid the Rest Have Done So Much Ill and So Little Good* (Penguin Press, 2006).

professional evaluation should be as transparent and sincere as possible, identifying unintended or unexpected impacts. Unfortunately, this is not the general trend in evaluations contracted by donors, and evaluations tend to be influenced by a culture of complacency. As rightly stressed by Gordon Crawford, donor agencies define the terms of reference of the evaluations, thus 'limiting the framework of study'.[105] The evaluations are conducted mainly by consultants that are independent 'in theory, but dependent on ongoing donor contracts in practice'.[106] And, finally, the beneficiaries of the projects 'are unlikely to report negatively,'[107] since they hope to continue receiving funds from donor agencies, avoiding open criticisms.

 The incorporation of *participatory methods* in the process of evaluation is worth considering,[108] while a participatory evaluation, although ideally desirable, is out of the scope of our Deliverable 12.3. We have neither the means nor the time necessary to conduct a participatory evaluation, in which the beneficiaries of the human rights and democracy promotion programs are the main protagonists during the whole evaluation cycle; they become the essential source of knowledge in the evaluation process.

The evaluation exercise should finish with a brief and precise set of recommendations, so that the EU can react and modify its policies and practices accordingly.[109] The challenge is to turn international donors into 'learning organizations'[110] after impact evaluation processes. Institutional memory and learning capacity are vital to improve the performance of human rights and democratization programmes. But experience tells that it is very difficult to transfer the knowledge developed by evaluations into real institutional and policy change. A number of reasons can be mentioned as obstacles to the effectiveness of recommendations: bureaucracy and institutional inertia, personal and institutional resistance, and political control of the process. It is also important to share the lessons learnt with other donors so that they can complement each other instead of competing on the 'market' of human rights and democracy promotion activities. But reality shows that international donors are inclined to be suspicious, and have doubts about 'what should be communicated to other members of the democracy assistance industry'.[111]

Evaluation must also address the program and project procedures and management. In this sense, EU projects are said to be very complex and cumbersome, very bureaucratic, the calls for proposals are not always translated into the local languages, which limits access to grass-root actors. And implementation is also affected by serious problems of management in terms of delays in signing contracts, and delays in

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[105] Gordon Crawford, Evaluating European Union Promotion of Human Rights, Democracy and Good Governance: Towards a Participatory Approach' (2002) 14 Journal of International Development 920.

[106] Ibid.

[107] Gordon Crawford, Evaluating European Union Promotion of Human Rights, Democracy and Good Governance: Towards a Participatory Approach' (2002) 14 Journal of International Development 921.

[108] See Gordon Crawford, Evaluating European Union Promotion of Human Rights, Democracy and Good Governance: Towards a Participatory Approach' (2002) 14 Journal of International Development*.

[109] Anja Mihr, 'Human Rights Benchmarks for EU's External Policy' [2011] EXPO/B/DROI/2011/15.

[110] Jean Bossuyt *et al*., 'Final Report. Thematic Evaluation of the EC Support to Good Governance' (European Commission,   2006) http://ec.europa.eu/europeaid/how/evaluation/evaluation_reports/reports/2006/884_vol3_en.pdf.

[111] Peter Burnell, 'Does International Democracy Promotion Work?' (2007) 17 Discussion Paper (German Development Institute, 8).

payments.[112] In the end, this category of problems can also affect the political impact of external support and the image and credibility of the EU.

Against the background of the inherent methodological difficulties of measuring the impact of human rights and democratization policies and programmes, this report has used a varied set of methodological tools, combining quantitative analysis (especially the funds allocated to the different countries and programmes) and qualitative methods. Our study is primarily based on a desk review of primary (agreements and other EU documents) and secondary sources. As to the secondary sources, while academic literature was of utmost importance, we also heavily relied on some previous evaluations of EU's policies and programmes in the field of human rights and democracy promotion. When needed, we have also complemented the information available with semi-structured interviews with EU officials, academics and other key stake-holders such as relevant members of both international and local human rights NGOs. Due to the sensitive nature of the issue at stake and for the sake of security and confidentiality, most interviewees prefered to remain anonymous. Finally, some members of the research teams participated in international seminars and conferences whcih dealt with this topic. A particularly useful academic space was the FRAME Seminar on 'Challenges to the Effectiveness of EU Human Rights and Democratization Policies' organized by the Institute of Human Rights of the University of Deusto in April 2016. We had the opportunity to share with academics, EU officials and human rights practitioners some of our preliminary findings, and received accurate feedback to improve the conclusions of our research.

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[112] ISA Consult-European Institute-GJW Europe, 'Final Report. Evaluation of the PHARE and TACIS Democracy Programme, 1992-1997' (ISA Consult-European Institute-GJW Europe, 1997) 47.

II.   Case studies: introduction

Against the background of the challenges identified in the previous chapter, now we will try to measure the impact and effectiveness of the EU's human rights and democratization policies developed in a number of selected countries. We have chosen eight countries from different regions of the world and under diverse contexts and circumstances, in order to be able to make comparisons and to get to sound conclusions that can inform the necessary accommodation of EU's policies and programmes in a rapidly changing international context.

First, we will analyse Serbia and Albania, two countries in the Western Balkans that are candidates to accession to the EU. In principle, the EU can exert a high degree of leverage through the application of the Copenhagen Criteria established in 1993. The 'carrot' of accession is still a powerful incentive to push candidate countries to accommodate to the EU's conditionality in the field of human rights and democracy, thus paving the way for a significant impact of the EU's policies and programmes.

Ukraine is the EU's largest neighbouring country and has great geopolitical importance for Eurasia. In spite of the European aspirations of Ukranian society, the EU has continuously avoided any clear declaration concerning the future accession of Ukraine to the EU. This situation marks a significant difference with Serbia and Albania, where the EU has opened negotiations for future membership. The Ukrainian case is much more difficult, given that the EU has to counter-act the increasing pressures coming from Russia. Actually, the rivalry between the EU's approach to Ukraine and the Russia's perception of Ukraine as a core part of its area of influence lies at the origin of the current conflict. But it is a highly relevant case, taking into account the rising imperialistic attitudes coming from the other side of the Ukrainian border. Some commentators have even referred to Russia as an example of 'autocracy promotion' instead of democracy promotion. This confrontational attitude from a regional power such as Russia poses a number of challenges and dilemmas to the EU's approach to Ukraine and to the EU's ability and willingness to advance a coherent and effective human rights and democracy agenda.

The EU also faces challenging obstacles in the Middle East and North Africa (MENA region), a highly strategic region due to its geographical proximity and the common interests at stake. The EU needs stability in its southern neighbourhood, but not to the detriment of human rights and democracy. Problems such as illegal migration, jihadist terrorism or supply of natural resources will always be present in the EU-MENA region relations. That is why we have selected Egypt and Tunisia to illustrate the potential but also the limitations of the EU's human rights and democracy promotion strategies in a post-Arab Spring scenario. Initially, the EU responded positively to the Arab uprisings. It increased significantly the funding through the EIDHR and other instruments to assist the transitional processes, with a special focus on training and support to civil society organisations. Along the same lines, the EU also reviewed the European Neighbourhood Policy (ENP) in 2011 to accommodate to the new context. However, some concerns have been raised as to the nature, scope and impact of these changes put forward by the EU. According to some scholars, these changes are basically cosmetic and do not meet the expectations brought about by the social revolutions in the region. The old stability vs. democratization dilemma is

always present in a highly volatile region. Once again, the EU has to face criticisms about its credibility gap.

The cases of Bolivia and Peru show the potential of EU's human rights and democracy promotion programmes when there is an alignment between EU's objectives and regional and domestic goals. Both Peru and Bolivia are members of the Andean Community of Nations (Comunidad Andina de Naciones, CAN). The EU Partnership with the Andean Community of Nations established as one of its main objectives the 'strengthening of democracy and the rule of law'. According to the relevant sources consulted in both countries, the impact of the EU human rights and democracy promotion projects has been rather positive. One relevant comparison between the two countries is the different attitude of the government towards civil society organisations (CSOs). While in Peru CSOs work in a relatively favourable environment, that is not the case in Bolivia, where some NGOs working in sensitive issues such as human rights or democracy face bureaucratic barriers to their registration and funding.

China has become a very powerful economic power, and the EU has a strong interest in having adequate relations with it. On the other hand, while China has made significant efforts to ameliorate the situation of economic and social rights of Chinese citizens, there are serious concerns about the situation of a number of civil and political rights. This is why the EU insists on the issue of human rights and democracy in the context of the relation with China. In spite of a number of programmes and projects to promote human rights and democracy, in particular the launch of the EU-China Human Rights Dialogues, the impact and effectiveness of said programmes seem very limited outside academic and judicial circles. These programmes have fostered mutual understanding of the different conceptions of human rights and democracy existing at governmental level, but the insistence of the Chinese government in the principle of non-interference in its domestic affairs is a significant barrier to the impact of these programmes sponsored by the EU.

III.   Serbia and Albania

A.   Introduction

EU intervention in the countries of the Western Balkans differs from its activities in other countries as the Balkan countries all have the status of candidate or potential candidate countries for accession to the EU. The presumption the analysis is based on, is that that EU's activities in the field of democracy support are closely interconnected with the process of accession which might have a positive impact on their effectiveness.

Democratisation and human rights are key elements of the accession criteria, the so-called Copenhagen Criteria (after the European Council in Copenhagen in 1993, which defined them), the essential conditions all candidate countries must satisfy to become member states. In its 2013-2014 enlargement strategy the Commission refers to the Copenhagen criteria as reflecting the values on which the EU is founded, namely democracy, the role of law and respect for fundamental rights (as well as a functioning market economy of course).[113]

In the 2013-2014 strategy the Commission also defines five key priorities for the opening of accession negotiations, which have a strong focus on issues related to democratisation and human rights, namely

- Economic governance and competitiveness
- The rule of law
- The functioning of institutions guaranteeing democracy
- Fundamental rights
- Dealing with bilateral issues and overcoming the legacy of the past

All these areas are addressed in the consecutive enlargement strategy papers as well as in the progress reports on each candidate country published by the Commission on an annual basis.

In its last strategic paper on enlargement,[114] the Commission reaffirms the focus on those 'fundamentals' and the indivisibility of political, economic and institutional priorities. Freedom of expression and media is particularly stressed noting a back-slide in the field, with political interference in the work of public broadcasters as well as intimidation of journalists in their work in the Western Balkans. Better protection of minorities, in particular the Roma, and fighting discrimination and hostility towards other vulnerable groups are the other fields of action addressed, calling for improvements of the institutional framework

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[113] European Commission, 'Enlargement Strategy and Main Challenges 2013-2014' (Communication from the Commission to the European Parliament and the Council) [2013] http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/strategy_paper_2013_en.pdf accessed 14 February 2016.

[114] European Commission, 'EU Enlargement Strategy' (Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions) [2015] http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_strategy_paper_en.pdf accessed 4 December 2015.

set up for the protection of fundamental rights like Ombudsmen and equality bodies. In terms of a proper functioning of democratic institutions, obstructionism in national parliaments and the practice of seeing elections as an opportunity to gain political control of state institutions, are addressed as problems whilst the quality of public administration, active involvement of citizens in policy-making and *de-facto* independence of Ombudsmen institutions including respect for their recommendations are mentioned as important aspects for improvements in this regard.

In its action plan on human rights and democracy (2015-2019),[115] the European Commission clearly states that it will continue to monitor the commitment of candidate countries towards promoting the values of democracy, rule of law and respect for human rights and to provide guidance and support to ensure tangible and sustained progress in these *key reform areas*.

In her working paper on the Stabilisation and Association Process in the Balkans (SAP), the overall framework for EU policies in the Balkans aiming at eventual membership, Arolda Elbasani addresses the high expectations to change that had been present as regards the EU intervention in the Balkans at the beginning of the process.[116] The author depicts the strong pre-assumption on the transformative potential of EU enlargement conditionality and seeks to check it with reality. In contrast to the Eastern European countries, the Balkan countries with the ending of the communist system could not immediately start with a transformation of their system but either entered into a state of national and ethnic conflict or a complete collapse of state institutions like in Albania. EU (like other international) intervention therefore was rather reactive, with the aim of ending the war and to then assure stability in the region, rather than seeking in a strategic way to assist transition according to Elbasani's analysis. Nor were disagreements on how to handle war crimes and how to deal with the endeavours of Montenegro and Kosovo to become independent supportive for the development of a coherent strategy. The author recalls the adoption of a new regional approach for the states of former Yugoslavia (apart from Slovenia) and Albania in 1997, introducing 'the Western Balkans' as a new political category and establishing a more strategic approach with a clear linkage between the advancement of bilateral relations and democratic conditions. In contrast to Central and Eastern European countries, EU relations were however rather characterised by negative conditionality operating with a limitation of contractual relations or even sanctions. This only changed with the intensification of the Kosovo crisis in 1998-1999 and with the idea to establish a Stability Pact unifying the intervention of various stakeholders like the EU, the Council of Europe, the OSCE, the NATO, etc. The Stability Pact marked a shift in EU policies towards the Balkans, which now also included the membership perspective, the latter being considered as the most promising tool to achieve lasting peace and stability in the region. This approach also caused a strong conditionality approach in relation to the fulfilment of the Copenhagen criteria and the expectation to carry out democratic and institutional reforms for receiving EU assistance, i.e. the Community Assistance for Reconstruction Development and Stabilisation (CARDS). The double agenda of stabilisation and association of the SAP according to Elbasani

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[115] European Council, 'Action Plan on Human Rights and Democracy (2015-2019). Keeping Human Rights at the Heart of the Agenda' [2015] http://data.consilium.europa.eu/doc/document/ST-10897-2015-INIT/en/pdf.

[116] Arolda Elbasani 'The Stabilisation and Association Process in the Balkans: Overloaded Agenda and Weak Incentives?' (2008) SPS 2008/03European University Institute Working Paper, http://ssrn.com/abstract=1138185 or http://dx.doi.org/10.2139/ssrn.1138185 accessed 4 December 2015.

is constituting a significant hurdle to smooth transformation procedures as the strong focus of the EU on security issues has led to a subordination of democratisation. This in combination with the rather weak commitment to a membership perspective is identified as a risk to factual change.

The working paper was written in 2008 and, since then, most of the countries of the Western Balkans, including Serbia and Albania, have obtained candidate status. However, the membership perspective is still lacking a clear timeline and the stability factor is rather being reinforced than losing importance. Recent developments and the EU's interests in involving the countries of the Western Balkans in steering routes of refugees and managing their access to asylum procedures might again support this focus, rather than a shift towards more attention to democratisation and human rights. With a clear focus on stability it might be sufficient for candidate countries of the Western Balkans to 'pretend to implement reforms' in the fields of democratisation and human rights, as the author puts it.[117]

1.   Serbia

The importance of progress in the countries of the Western Balkans towards democracy and the rule of law and the positive conditionality of such progress for the prospect of accession to the EU was stressed at the Zagreb summit of the European Council in 2000. The political commitment of the Council to support a European perspective for the Balkans was transferred into political action at the Thessaloniki meeting of the European Council in 2003, when Serbia, at the time still the Former Republic of Yugoslavia – along with five other Western Balkans countries – was identified as a potential candidate for EU membership.

What followed was the establishment of the Stabilisation and Association Process (SAP), which in the first years was very much driven by the EU's interest to avoid the dissolution of Serbia and Montenegro. The pressure of Montenegro to become independent was considered as a destabilising factor for the whole area. In December 2004, the EU adopted the so-called 'twin-track approach'. The State Union of Serbia and Montenegro according to this approach was partner of negotiations in relation to the political part of the Stabilisations and Association Agreement (SAA), whilst Serbia and Montenegro were accepted as separate partners for the field of trade.

In the framework of the SAP, the European Commission has since 2002 drafted annual reports on Serbia, analysing the political and economic progress in the country and identifying priority areas to be given attention in the next reporting period.

The path towards the EU and the reform process in Serbia was slowed down when the EU suspended the SAA in May 2006, when Serbia had let pass a deadline to arrest Ratko Mladić. Full cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY) and handing over Mladić and other war criminals to the Tribunal was introduced as a conditionality for joining the EU. This step promoted action. In July 2006, the Serbian government issued an action plan for his arrest; in July 2007 the new government

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[117] Ibid, 16.

created a National Security Council and two weeks later Serbian officials made two key arrests of indicated war criminals. As a result, on 13 June 2007, the European Union decided to reopen negotiations. On 21 July 2008, Radovan Karadžić was arrested. On 26 May 2011 Mladić was arrested. This in fact was the only example of the EU applying negative conditionality towards Serbia.

In 2006, a European Partnership for Serbia-Montenegrowas adopted,[118] setting out priorities for the country's membership application that have functioned as a monitoring parameter for the subsequent years. It not only makes clear which criteria have to be fulfilled in order to come closer to an accession perspective, but also formulates negative conditionality, when it declares that the community assistance 'under the stabilisation and association process to the Western Balkan countries is conditional to further progress in satisfying the Copenhagen political criteria' and that failure 'to respect these general conditions could lead the Council to take appropriate measures …' Furthermore, community assistance is also made conditional 'in particular as regards the recipients' to undertaking to carry out democratic, economic and institutional reforms'. Priority number one at that time was the functioning of the State Union of Serbia and Montenegro, subsequently followed by a reform of public administration and the judiciary, effective democratic control over the military and ensuring full cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY) as well as respect for the international recognition of the Kosovo. This shows that rather than based on an analysis of democratic deficiencies, the main approach for the definition of priorities was political stability in the region.

After the end of the state union with Montenegro in 2006 negotiations for accession continued with both countries separately. In 2008, the Stabilisation and Association Agreement (SAA) between the EU and Serbia,[119] was signed, followed by Serbia's formal application in 2009. In October 2010, the Council invited the European Commission to submit its Opinion on such application. In March 2012, Serbia was granted EU candidate status and in September 2013, the SAA, which had been temporarily blocked in between, came into effect. The SAA refers to democratic principle and human rights in the preamble and in its Article 2 as general principles. The formal start of Serbia's accession negotiations was in January 2014 with the staging of the 1st Intergovernmental Conference.

Negotiation procedures have been characterised by several parameters unique to the relationship between the EU and Serbia. These were the political interest of keeping Montenegro within the State Union of Serbia and Montenegro at the beginning of negotiations, the introduction of the conditionality to cooperate with the ICTY and, still an important factor until now, different attitudes over the status of the Kosovo. Given this rather complex context together with the general focus on stability in the region,

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[118] European Council, 'Council Decision of 30 January 2006 on the principles, priorities and conditions contained in the European Partnership with Serbia and Montenegro including Kosovo as defined by the United Nations Security Council Resolution 1244 of 10 June 1999 and repealing Decision 2004/520/EC' [2006] http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32006D0056&from=EN accessed 15 January 2016.

[119] Stabilisation and Association Agreement between the European Communities and their Member States on the one side, and the Republic of Serbia, on the other, http://ec.europa.eu/enlargement/pdf/serbia/key_document/saa_en.pdf accessed 04 December 2016.

the conditionality of EU instruments and the fostering of democracy and human rights have been more limited than in other countries.

Various 'generations' of financial instruments have accompanied the EU's intervention procedures in Serbia as well as accession procedures.

- The **PHARE Programme** (1992-2002), Poland and Hungary: Assistance for the Restructuring their Economies, from 2000 on
- The **CARDS Programme** (2002-2006), Community Assistance for Reconstruction, Development and Stabilisation
- The **IPA I** (2007-2013) and **IPA II Programmes** (2014-2020), Instruments for Pre-Accession Assistance

Apart from these main programmes aiming explicitly at assisting the beneficiary countries close to the EU and paving the way to EU accession, Serbia is also entitled to participate in a number of EU programmes principally addressed to EU Member States, like PROGRESS and the 7th Framework Programme for research and technological development. Projects in Serbia are furthermore eligible for the European Instrument for Democracy and Human Rights (EIDHR) that aims to help establish democracy, the rule of law, and the protection of human rights and basic freedoms.

Literature on EU intervention in Serbia and its effects on democratisation and human rights is rather limited. What there is does not specifically look at concrete instruments or measurements but rather analyses the conditionality of the accession perspective on transition procedures and the circumstances that could determine the effectiveness of the conditionality approach as such.

Igor Bandovic and Marko Vujacic in an analysis of the European influence on Serbia's party politics refer to three main challenges that had accompanies Serbia's EU integration process at the beginning.[120] These are identified as the dissolution of Serbia's federal union with Montenegro, the pressure of the EU on the country's full cooperation with the ICTY and the status of the Kosovo. According to the authors, influence on Serbia's party politics by the EU has also very much been determined by focus on these issues and the Union's related interests. The membership perspective together with the 'stick and carrot approach' applied in offering financial support are considered as having been main drivers for acting in line with the EU's ideas. However, EU requirements were also perceived as illegitimate interference in national affairs by wide parts of the general public, a sentiment that Bandovic and Vujacic also find as having been exploited by nationalistic parties for political competitive advantage. Even if the perspective of EU accession seems to have gained ground and is identified as the winning track, politicians in Serbia still tend to play a double strategy and their political preferences towards the EU are inclined to shift depending on whether they are in power or in opposition. The scepticism within the Serbian general public due to the economic circumstances and the lack of a persuasive perspective of EU accession in the near future and

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[120] Igor Bandovic and Marko Vujacic, 'The European Question in Serbia's Party Politics' in Corina Stratulat (ed.) *EU integration and party politics in the Balkans* **(**2014) 77 European Policy Centre Issue Paper 47-67 http://www.epc.eu/documents/uploads/pub_4716_eu_integration_and_party_politics_in_the_balkans.pdf accessed 4 December 2015.

clear benefits that might result from this, is considered to contribute to the political parties' tendencies to water down the meaning of political agreements for example on the question of Kosovo to their domestic audience and to stay on a track of rather fulfilling formal criteria for accession than focussing on their implementation in practise.

In analysing the European Union's strategy to promote democracy in four case studies, Elena Baracanishows that it is based on a supply of institutional ties and economic assistance complemented by the demand to comply with certain political conditions.[121] In her analysis, the author refers to two different levels of conditionality, namely formal or 'proclaimed' conditionality and the effective conditionality that refers to the implementation of the formerly declared political conditionality and to the concrete content of requested political reforms. According to Baracani, all various forms of EU assistance have become accession-driven, meaning that financial and technical assistance is designed to help candidate countries to satisfy the priorities set by the EU in Accession Partnership contracts. She describes the set of methodologies in pre-accession phases as composed by the Stabilisation and Association Process (SAP) that is, even if developed after consultation with country stakeholders, clearly defined unilaterally by the European Union, the elaboration of Action Plans, the monitoring of progress in meeting the priorities listed in the Action Plans and assistance programmes to help partners in satisfying these priorities.

The question, if conditionality is working for the Serbian case as a promoter of more effective human rights protection, is analysed by Teresa Maria Cierco.[122] In that regard, the author stresses the need of two actors being in place with certain interests that can be met by ways of meeting the conditions agreed upon. Incentives offered by one of the actors can be either social (national or international prestige) or material (financial aid or trade liberalisation), but they have to be attractive for the second actor. As a main limitation for the conditionality approach Cierco mentions the fact that conditionality can only put pressure on governments but not on other actors of high relevance for democratisation processes like civil society, political parties, public administration or the judiciary. Consequently she deems conditionality as a potential driver for formal changes rather than for factual ones. Effective implementation of a framework of human rights protection is not seen as something that can be approached by conditionality as it is viewed as beyond the scope of governmental influence.

As for the case of Serbia, the author acknowledges a certain will from the government to meet the EU's expectations in relation to human rights guarantees, referring to the ratification of a number of international human rights conventions and agreements like the UN Convention on the Rights of Persons with Disabilities including its Optional Protocol, but she also detects a social climate that cannot be considered as appropriate for the respect of human rights, especially when it comes to the rights of

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[121] Elena Baracani, 'The European Union's Democracy Promotion in Romania, Serbia, Turkey and Ukraine' in *Inequality, Poverty and Democratic Governance in Developing Societies* (2007) 25 ECPR Joint Sessions of Workshops https://ecpr.eu/Filestore/PaperProposal/7e0a3c16-9d5e-458b-a361-21f4cda72202.pdf   accessed 13 November 2015.

[122] Teresa Maria Cierco, 'Human Rights promotion in Serbia: a difficult task for the European Union' 54(1) Revista Brasileira de Política Internacional 142-158 http://www.scielo.br/scielo.php?script=sci_arttext&pid=S0034-73292011000100009&lng=en&tlng=en accessed 26 November 2015.

vulnerable and minority groups. What is also of specific significance in Serbia is the fact that there is no political agreement on a Pro-European course but anti-European and anti-West 'alliances of powers' established not only within political parties but also within influential circles in the Serb Orthodox Church and academic and cultural elites are identified as barriers for change. Pressure from the EU and also the Council of Europe is considered as having been fruitful in relation to national minorities, leading to the ratification of relevant conventions but also to strategies and action plans (for the Roma communities) that would be a first step towards implementation – if there were also enough funds allocated also from the side of the national government in order to bring them into practise. Consequently the economic situation of the country is also mentioned as a barrier for transformation. However, the main obstacle for effective protection of human rights according to Cierco lies within the absence of a culture of rights and of protection of rights among citizens as well as state officials. This will only be overcome if the government is willing to and also succeeds in on the one hand implementing positive obligations in this regard but on the other also persuading the general public of the acceptability of such measures. This can be a quite risky field for example in the area of minority protection, where nationalist ideas, as well as the redistribution or reallocation of scarce public resources are affected.

Sedelmeier (2006) notes that conditionality credibility is of utmost importance. He refers to two sides of credibility.[123] 'The candidates have to be certain that they will receive the promised rewards after meeting the EU's demands. Yet they also have to believe that they will only receive the reward if they indeed fully meet the requirements'. This is considered to be specifically relevant at this stage for the countries of the Western Balkans, including Albania and Serbia as there is limited certainty about their accession perspective, at least in the near future.

A very recent analysis of the EC Progress Reports on Serbia and their potential for driving a change in relation to the political criteria for accession is quite pessimistic. Bodo Weber and Kurt Bassuener identify significant shortcomings in the reports in terms of consistency and accuracy.[124] Main points of concern are that the European Commission tends to downplay negative developments specifically in the areas of democracy and rule of law or even ignore significant problems in these areas in order to avoid conflict with the Serbian government. The report starts its analysis in 2012, when a change in government, from the declared pro-European and democratic partners, Boris Tadić and the Democratic party, to the Serbian Progressive Party headed by Aleksandar Vučić, also changed the field of action for EU integration. Even though a pragmatic pro-EU policy was maintained, this was combined with an authoritarian policy approach, creating major challenges for the EU integration policy and the EU's position towards the

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[123] Ullrich Sedelmeier, 'Europeanisation in new member and candidate states' (2011) 6(1) Living Reviews in European Governance   http://europeangovernance-livingreviews.org/Articles/lreg-2011-1/download/lreg-2011-1Color.pdf accessed 15 January 2016.

[124] Bodo Weber and Kurt Bassuener, 'Analyzing the EC Serbia Progress Reports – Useful tool or tactical whitewash?' (2015)   9   DPC   Policy   Note http://www.democratizationpolicy.org/uimages/DPC%20Policy%20Note_Analyzing%20the%20EC%20Serbia%20Progress%20Reports_.pdf accessed 13 November 2015.

country. According to Weber/Bassuener the Commission tries to downplay actual problems regarding the political criteria in order to make them manageable. The authors recommend

- Stating things as they are
- Ending the practise of refraining from citing certain developments for the sake of avoiding potential conflict
- Identifying the actors and institutions responsible for negative developments
- Extending the provision of conclusions and recommendations
- Enhancing transparency by ways of including references to external sources of information like NGOs and other domestic interest groups, international organisations and national administration and government
- Documenting the status as well as success or failure of IPA reform projects in the relevant chapters of the reports

In his paper on Serbia's politics of LGBT rights as an example of how the country is steering its transformation into a European state, Marek Mikuš stresses that Europeanisation and democratisation cannot be considered as a 'set of self-evident supranational institutions impacting on national institutions,[125] but rather (as a) multi-actor process of negotiating'.[126] He criticises the way Serbia's path to Europe is presented by politicians, media and EU representatives, namely as a way characterised by European values and standards to be 'promoted, introduced, accepted and adopted'.[127] This approach, according to the author, neglects the need to also reflect on opinions that are different and maybe even Europe sceptical, but still aimed at democratisation. Moreover, politicians are identified as tending to provide a picture of values and standards being imposed on Serbia by the EU. In referring to the LGBT Pride in 2010 and how it was handled by politicians and police, Mikuš demonstrates the tendency of Serbian politics to fulfil formal criteria and react to key priorities demanded by the European Union on the one hand and not to take the practical realisation or the need to change the culture of rights within the general public too seriously. Referring to several interlocutors, the author also makes clear that there is a certain amount of scepticism in Serbia in relation to European values and their applicability to the Serbian context as well as to the relevance of those values for the EU in practise. The importance of a participatory approach in implementing democratic ideals and identifying a Serbian way of concretely implementing a national strategy of reforms is mentioned repeatedly.

An issue that has not been specifically addressed by the literature reviewed but might also be of relevance in this regard would be the question of whether the membership perspective is still attractive for the general population. This seems to be taken for granted by the EU actors, but could well be a misleading assumption especially for the Serbian context and its capital city Belgrade. The impression that the EU is interfering in issues of national competency as mentioned by Bandovic and Vujacic combined with the

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[125]   Marek   Mikuš,   'State   Pride:'   Politics   of   LGBT   Rights   (2011)   Academia.edu *https://www.academia.edu/966279/_State_Pride_Politics_of_LGBT_Rights_and_Democratisation_in_European_S erbia* accessed 4 December 2015.
[126] Ibid, 4.
[127] Ibid, 4.

hesitant approach of the EU in terms of a concrete timeline for accession and the uncertainty relating to how membership would really change things for the better for the individual citizen in Serbia is not setting the scene for unquestioned enthusiasm about accession to the EU within the general population.

2.   Albania

Along with other countries of the Western Balkans, Albania too was identified as a potential candidate for EU membership during the Thessaloniki European Council summit in June 2003. Similar to other Balkan countries, this also marked the intensification of EU interventions in relation to democratisation and human rights. An agreement on the establishment of a European partnership with Albania was signed in 2008.[128] The European partnership, as an instrument of the SAP, was the main instrument for assisting authorities in 'realising their country's EU perspective'. The European partnership intended to provide additional and tailored support, aimed at identifying priority areas where further efforts and reforms are required, and provided a reference framework for financial assistance from Community funds. Albania submitted its formal application for EU membership in 2009. The European Commission, in its Opinion on Albania's application,[129] made clear that Albania, before the formal opening of accession procedures, would have to achieve a necessary degree of compliance with membership criteria and in particular to meet the twelve key priorities identified in its Opinion. Most of these address fields for action in relation to democratisation and human rights, namely to

- Ensure the proper functioning of Parliament on the basis of a constructive and sustained political dialogue among all political parties
- Adopt pending laws requiring a reinforced majority in Parliament.
- Appoint the Ombudsman
- Modify the legislative framework for elections
- Ensure elections are conducted in line with European and international standards.
- Complete essential steps in public administration reform
- Strengthen rule of law . . . ensuring the independence, efficiency and accountability of judicial institutions.
- Effectively implement the government's anti-corruption strategy and action plan
- Strengthen the fight against organised crime
- Prepare, adopt and implement a national strategy and action plan on property rights

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[128] Council of the European Union, 'Council Decision 2008/210/EC of 18 February 2008 on the principles, priorities and conditions contained in the European Partnership with Albania and repealing Decision 2006/54/EC' http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32008D0210&from=EN accessed 14 January 2016.

[129] European Commission, Commission Opinion on Albania's application for membership of the European Union (Communication from the Commission to The European Parliament and the Council), [2010] http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/al_opinion_2010_en.pdf accessed 4 December 2015.

- Take concrete steps to reinforce the protection of human rights, notably for women, children and Roma, and to effectively implement anti-discrimination policies.
- Take additional measures to improve treatment of detainees in police stations, pre-trial detention and prisons. Strengthen the judicial follow-up of cases of ill-treatment and improve the application of recommendations of the Ombudsman in this field.

In 2012, the Commission recommended that Albania should be granted candidate status on the condition that it continued to take action in the fight against organised crime and corruption. Combating corruption and organised crime, reform of the judiciary, administrative reform and promotion of human rights were identified as the key priorities for opening accession negotiations. The EU delayed the country's candidacy application twice (in 2010 and 2013), because of deficiencies in the area of rule of law and democratisation and only in 2014 granted Albania candidate status.

The Stabilisation and Association Agreement (SAA),[130] which entered into force in April 2009 builds the legal basis for accession procedures and therefore also sets the frame for policies and measures implemented by the EU in the fields of democratisation and human rights. Aims of the agreement, as defined in Article 1, include supporting *'*the efforts of Albania to strengthen democracy and the rule of law'. Its Article 2 adds that

> 'Respect for democratic principles and human rights [...] shall form the basis of the domestic and external policies of the Parties and constitute essential elements of this Agreement'.

The approximation of Albania's existing legislation to that of the Community, its effective implementation and steps for making it gradually compatible with Community *acquis* are recognised as important in Article 70 and formulated as a goal. Equal opportunities are explicitly mentioned as an issue on which emphasis should be put in the course of approximation. The Agreement foresees the elaboration of a programme to be agreed between the European Commission and Albania and an agreement defining the modalities for the monitoring of the implementation of approximation of legislation and law enforcement actions to be taken.

The chapter on justice, freedom and security draws particular attention 'to the consolidation of the rule of law, and the reinforcement of institutions at all levels in the areas of administration in general, and law enforcement and the administration of justice in particular. Cooperation shall notably aim at strengthening the independence of the judiciary and improving its efficiency, improving the functioning of the police and other law enforcement bodies, providing adequate training and fighting corruption and organised crime' (Article 78).

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[130] Stabilisation and Association Agreement between the European Communities and their Member States, on the one side, and the Republic of Albania on the other [2009] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:107:0166:0502:EN:PDF accessed 14 January 2016.

Progress in relation to the commitments formulated in the SAA is monitored by annual reports by the European Commission. Accession is furthermore accompanied by High-Level Dialogue (HDL) meetings between Albania and the European Commission on the five key priorities identified (public administration, judiciary, fight against corruption, fight against organised crime and human rights), with the participation of the government, independent institutions and the opposition parties. The aim of the HDL is to ensure a comprehensive process and to focus energies on the necessary reform for advancing the European agenda of Albania.

The main instruments applied in Albania with the aim of stabilising the country on the one hand and assisting transformation to a country that might become a member state of the European Union like in Serbia have been:

- The **PHARE Programme** (1992-2002) Poland and Hungary: Assistance for the Restructuring their Economies
- The **CARDS Programme** (2002-2006) Community Assistance for Reconstruction, Development and Stabilisation
- The **IPA Programme** (2007-2013) Instrument for Pre-Accession Assistance
- The **IPA II Programme** (2014-2020) Instrument for Pre-Accession Assistance

Like Serbia, Albania is also entitled to participate in other EU funding schemes like Progress or the 7th Framework Programme for research and technological development and in the European Instrument for Democracy and Human Rights (EIDHR).

The relevance of EU intervention and more specifically of EU instruments implemented in Albania for its progress in democratisation and human rights as for Serbia is under-researched. Again, the general question as to what extent the perspective of EU accession can be a stimulus for change in Albania is analysed by some authors.

Albania is a specific case when it comes to democratisation as it had not only been a country characterised by real-socialism with citizens deprived of democratic participation like the other countries of the Western Balkans, but had also been secluded from the rest of the world for quite a long period in time. Joana Allamani very openly poses the question whether the EU can act as a promoter of democracy in Albania and whether Albania's ambitions for memberships might be useful for strengthening democracy in the country at all.[131] The absence of any political ties to any other country of the world according to the author not only had a negative impact on the country' economy but was also an obstacle for the creation of a strong civil society. When analysing EU policies and their potential for democratisation in Albania, Allamani makes a strong point for conditionality, referring to the PHARE programme, which offered aid without connecting it to the perspective of accession. It is clearly this perspective of accession that is considered as the one fostering democratisation, the Albanian government having embraced the Commission's Opinion on Albania's application for memberships as well as the yearly progress reports as

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[131] Joana Allamani, 'The EU as a Democracy Promoter: Can the EU Use Albania's Ambitions for Membership to Strengthen Democracy in the Balkans?' (2012) Claremont-UC Undergraduate Research Conference on the European Union http://scholarship.claremont.edu/urceu/vol2012/iss1/3 13 November 2015.

a legal framework in order to get out of transition. Taking into account that the road to democratisation is a long one, the author pleads for intermediary rewards like visa liberation in order to keep the population and competent institutions on track.

Odeta Barbullushi has analysed the influence of EU conditionality for membership has had on the interaction between Albanian parties in government and opposition, as well as on political and public attitudes towards the EU in the country.[132] The author refers to a lack of political dialogue and party consensus on demanded reforms as a major hurdle along Albania's path to EU integration as repeatedly stressed by the European Commission in their progress reports. Political parties in Albania, according to Barbullushi, are not only important for developing political identities but have also become main entry points to employment. Political parties have infiltrated political institutions and fill the public administration with their own supporters and activists. On the other hand, political parties also fill the gap of a non-functioning civil society and are also held responsible by the European Union for the success of transition procedures. This phenomenon is also considered to be one of the causes why Albania is performing quite well in terms of legislative reform but is far away from a status of accession when it comes to implementation. In order for the membership conditionality to work effectively the EU, according to the author, has to exert pressure on political elites, and in turn domestic politicians must perceive the entire process of adaptation as beneficial, or at least not too costly, to follow it. In practice, Europe, in the rhetoric of both parties, the Socialist Party and the Democratic Party, is rather used to support own agendas and rather fuels inter-party conflict.

B.   EU instruments for Human Rights and democracy support in Serbia

The legal framework for most EU action in the field of human rights and democracy support in Serbia is the Stabilisation and Association Agreement of 2008.[133] Supporting the efforts of Serbia to strengthen democracy and the rule of law is listed as the top priority of the association established by the agreement. In November 2013 a strategic programming document, the National Priorities for International Assistance in the Republic of Serbia 2014-17 (NAD),[134] was adopted, which includes projections until 2020. It was drafted by the Serbian European Integration Office (SEIO) in cooperation with the relevant national authorities and following a consultation process with international and national organisations. The main

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[132] Odeta Barbullushi, 'Albanian Political Parties, Inter-Party Relations and the EU' in Corina Stratulat (ed.) *EU integration and party politics in the Balkans* (2014) 77 European Policy Centre Issue Paper http://www.epc.eu/documents/uploads/pub_4716_eu_integration_and_party_politics_in_the_balkans.pdf accessed 4 December 2015.

[133] Stabilisation and Association Agreement between the European Communities and their Member States on the one   hand,   and   the   Republic   of   Serbia   on   the   other, http://ec.europa.eu/enlargement/pdf/serbia/key_document/saa_en.pdf accessed 4 December 2016.

[134]   National   Priorities   for   International   Assistance   in   the   Republic   of   Serbia   2014-17 http://www.evropa.gov.rs/Documents/Home/DACU/12/74/NAD%202014-2017%20with%20projections%20until%202020%20(english).pdf accessed 14 January 2016.

aim of the NAD is to provide for a strategic framework for international donor activities and as such funded by the state budget as well as for a more coherent approach in relation to financial assistance and national sector priorities. This strategic and comprehensive approach is perceived as an important tool in accelerating EU accession. The NAD defines nine sectors as the basis for its sector approach and contains indicators, a set of verifiable, annual and mid-term, targets, which are planned to be used for assessing the progress of reforms.

1. **EU Assistance in Serbia**

   a) *The PHARE Programme (1992-2002)*

The PHARE (Poland and Hungary: Assistance for the Restructuring of their Economies) programme was initially designed as a tool to provide economic support to the emerging democracies in Poland and Hungary. It subsequently became the EU's main financial instrument for the accession of the Central and Eastern European countries. Activities were mainly focused on the transformation of centralised and state-owned economies into market economies based on the assumption that working close to Western democracies in the economic field would also bolster the path towards democratisation in an almost automatic way.

The PHARE programme, applied in Serbia since 2000, according to Baracani,[135] was still used to be demand driven, rather than accession driven, meaning that assistance was provided according to the needs for transition as established by the recipient.

   b) *The CARDS Programme (2002-2006) Community Assistance for Reconstruction, Development and Stabilisation*

Most programmes supporting Serbia in the period 2002-2006 were financed under the Community Assistance for Reconstruction, Development and Stabilisation (CARDS) programme. Within this period, EU assistance to Serbia under CARDS amounted to EUR 1.15 billion. In the initial years, fields of action were mainly humanitarian aid and medium to long- term investments in sectors like energy, health, rural and enterprise development. Later on, CARDS also provided financial assistance for projects aimed at economic growth, promotion of good governance and strengthening of the rule of law. Only in the last phase of the programme, was assistance targeted at developing solutions to improve the situation of vulnerable groups, promoting the Judiciary, the media, the local governments and the health care system,

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[135] Elena Baracani, 'The European Union's Democracy Promotion in Romania, Serbia, Turkey and Ukraine' in *Inequality, Poverty and Democratic Governance in Developing Societies* (2007) 25 ECPR Joint Sessions of Workshops 22 https://ecpr.eu/Filestore/PaperProposal/7e0a3c16-9d5e-458b-a361-21f4cda72202.pdf accessed 13 November 2015.

and supporting Public Administration Reform (PAR) in an effort to improve the capacities of national authorities and to assist the country's integration into the EU.[136]

c) *The IPA Programme (2007-2013) and IPA II Programmes (2014-2020)*

The Instrument for Pre-Accession Assistance (IPA) programmes have replaced both PHARE and CARDS programmes from 2007 on and are the main instruments for supporting candidate countries on their path to the European Union. IPA projects focus on the rule of law, institution building, approximation to the Community *Acquis*, economic and social development and support to civil society. Projects supporting democratisation and human rights fall under Component I focussing on political and social development. IPA assistance was managed by the EU Delegation in Belgrade until very recently, the responsibility having been taken over only in 2014 by the Department for Contracting and Financing of EU Funded Programmes, a section of the Serbian Ministry for Finance.

Assistance through the IPA programmes is mainly provided through twinning, technical assistance, supplies of equipment and sometimes also through calls for proposals and direct grants to relevant national authorities. Under certain conditions IPA has also provided funding for Serbia's participation in other EU funding schemes.

The Multi-Annual Indicative Planning Document for the period 2011-2013 introduced a new sector-based approach. The focus of assistance for that period was addressed to justice and home affairs, public administration reform, social development, private sector development, transport, environment, climate change and energy, agriculture and rural development. The new approach, not having been implemented so far for the fields of human rights and democratisation, will enable beneficiaries to obtain assistance not (only) for concrete projects but for the implementation of a more general result-orientated strategy for the whole sector. This is aimed at increasing ownership within national administration and sustainability of the assistance provided.

A new strategy paper for the years 2014-2020is providing the framework for the implementation of financial assistance under IPA II in Serbia.[137] It defines the priorities for assistance on Serbia's track to EU accession, translating political priorities into key areas for financial assistance. The start of accession procedures has influenced the strategy insofar as sector-based support will be essentially based on strategies and action plans or specific actions required in the framework of the EU accession negotiations and address specific needs arising from the screening process and further during the accession

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[136] Particip, 'Retrospective evaluation of CARDS programmes in Serbia. Final Evaluation Report' (2009) http://ec.europa.eu/enlargement/pdf/financial_assistance/cards/evaluation-reports/04-fr_cards_serbia.pdf accessed 14 January 2016.

[137] European Commission, 'Instrument for Pre-Accession Assistance (IPA II), Indicative Strategy Paper for Serbia (2014-2020)' [2014] http://ec.europa.eu/enlargement/pdf/key_documents/2014/20140919-csp-serbia.pdf accessed 11 December 2015.

negotiations. The new sector-based approach is to be applied, if four pre-conditions are met: a stable macro-economic framework; a credible programme and relevant to improve public financial management; transparency and oversight of budget; and credible and relevant sector strategies consistent with the EU accession strategy. Once these conditions are in place, sector budget support can be provided in those sectors where there is a good strategic basis for implementation of reforms.

Financial assistance under IPA II as part of its objectives pursues the support for political reforms and also the more general aim of strengthening the ability of beneficiaries to fulfil the obligations necessary for EU membership. Policy areas that achieve specific attention in the IPA II regulation include *inter alia* reforms in preparation for EU membership and related institution and capacity-building, socio-economic and regional development, employment, social policies, education, promotion of gender equality, and human resources development. The strategy makes clear that certain fundamental criteria have to be fulfilled in order to proceed with the enlargement process. The rule of law is mentioned as the core aspect, including particularly a reform of the judiciary and anti-corruption policy, independence of key institutions, freedom of expression, anti-discrimination policy and the protection of minorities. The strategy paper also stresses the need to 'develop a solid track record of reform implementation, thereby ensuring that reforms are deeply rooted and irreversible'.[138] This would require a full and timely implementation of the relevant strategies and the action plans in the area of rule of law and fundamental rights. Strengthening democratic institutions and making democratic processes more inclusive, *inter alia* by ways of strengthening the role of civil society, are further issues mentioned as important.

As an instrument of pre-accession assistance, IPA support according to the strategy paper may also be mobilised 'in response to unforeseen priority needs relevant to accession negotiations' even if these needs do not fall under the general priority areas. Ad hoc and short-term technical assistance provided through TAIEX, the Technical Assistance and Information Exchange instrument of the European Commission, and Twinning are mentioned as potential instruments in this regard. The strategy also refers to the Europe 2020 strategy as a point of reference, but does not explain, what this might concretely mean.

The strategy formulates indicators for success, like improvements in relation to judicial independence, impartiality and efficiency, correct enforcement of judicial rulings, improvements in access to justice, specifically for vulnerable groups and consistent implementation of anti-discrimination policies and measurements. It also provides an overview of which types of support are planned to be provided in which areas and includes a short analysis of risks. The latter mentions for example potential delays in the implementation of the key strategies and elaboration of the relevant action plans, the requirement of sufficient political will of the political class and of the administration and the organisational and administrative capacities. In order to mitigate these risks the strategy paper foresees specific capacity-building measures targeted at inter-agency cooperation in order to improve coordination and information sharing.

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[138] Ibid, 6.

d)   The European Instrument for Democracy and Human Rights (EIDHR)

Managed by the Instrument for Democracy and Human Rights (EIDHR) the EU annually launches global calls for proposals specifically targeted at civil society organisations in order to strengthen their capacities in becoming 'effective forces for political reform and defence of human rights'.[139] The current EIDHR was adopted by the European Parliament and the Council in March 2014 (Regulation No. 235/2014) for the period 2014-2020 by replacing and building upon the EIDHR (2007-2013) and the European Initiative for Democracy and Human Rights (2000-2006).

As its main objectives, the EIDHR regulation defines the support to human rights and human rights defenders, the protection of human dignity, which also includes non-discrimination and the protection of vulnerable groups, support to democracy and institution building. The 2015 Call refers to the EU Action Plan for Human Rights and Democracy 2016-2020 as a main point of reference for its objectives.[140] Country-based support schemes provide for funding of projects that follow objectives defined for the concrete national context.

In contrast to the Instruments for Pre-Accession Assistance (IPA), EIDHR is programmed independently from the government and other public authorities and is managed exclusively by the European Commission or the EU Delegation in the recipient country.

2.   Participation in EU Programmes and Agencies

Enlargement countries are entitled to participate in EU programmes and agencies in order to enhance their cooperation with Member States and to familiarise countries with EU policies and working methods. Serbia for example has been entitled to participate at least partly in a number of EU programmes, like Progress, Daphne, the Fundamental Rights and Citizenship Programme, these three now followed by the Equality and Citizenship Programme 2014-2020 or the 7th Framework Programme for research and technological development.[141]

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[139] http://www.eidhr.eu/supporting-dandhrs
[140] http://eeas.europa.eu/delegations/albania/documents/press_releases/guidelines_final_version_en.pdf
[141] http://ec.europa.eu/justice/grants1/programmes-2014-2020/rec/index_en.htm

3.   Joint programmes of the European Union and other international and national donors

The European Union is also joining financial and expert forces with other international and national donors in Albania.

Several projects are implemented in close cooperation with the Council of Europe. A joint project has aimed at analysing the status of human rights and minority protection in South Eastern Europe. The report on the situation in Serbia reveals that while the legislative framework in place with the aim to protect national minorities and guarantee their rights is quite strong, a strategic realisation of its principles and structures is lacking.[142] Discrepancies are also identified in relation to the implementation of minority rights in different regions of the country. Awareness about international protection of national minorities as well as of national legislation in this regard is low according to research findings and calls for activities that would enhance awareness about minority rights and strengthen capacities of bodies in charge of their protection.

Another joint project aimed at promoting inclusive education and was implemented in seven South Eastern European countries including Serbia.[143] The three-year project consisted of mapping the existing quality of inclusive education in all target countries, the creation of tools to foster inclusive education, projects conducted in pilot schools and the implementation of a baseline study summarising the experience made and formulating further recommendations.

A project targeting Serbian municipalities and their role in enhancing the stability and the socio-economic development in South and South Western Serbia, the European Partnership with Municipalities Programme (Euprogres) is funded and managed by the EU in cooperation with the Swiss Agency for Cooperation and Development and the United Nations Office for Project Services (UNOPS).[144] The programme provides for funding in a variety of different fields ranging from upgrading infrastructures to the establishment of student cooperation.[145] There is however no information available about the impact of these programs.

4.   Monitoring of Human Rights and Democratisation

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[142] Igor Bandovic, 'Promoting Human Rights and Minority Protection in South East Europe, National Report on Serbia' (2015)   2015   College   of   Europe   2015   http://pjp-eu.coe.int/documents/3511068/0/Awareness+Assessment+report+%28revised+and+final%29/99d8a80c-5d72-49d6-b804-61188cb10439 accessed 13 November 2015.

[143] Regional Support for Inclusive Education in South East Europe http://pjp-eu.coe.int/en/web/inclusive-education/objectives?inheritRedirect=true

[144] http://www.europeanprogres.org/lang/en/

[145] For an overview of projects last updated December 2015 see http://www.europeanprogres.org/dokumenti/47_675894_european-progres-list-of-projects-december-2015.pdf

In order to monitor the status of reform and of progress towards fulfilling the criteria for accession, the EU has established a review mechanism, which feeds into annual reports (progress reports) of the European Commission. Furthermore, the EU Delegation in Belgrade seeks to monitor the situation of human rights in general, including the rights of persons belonging to minorities, through various means such as field missions, as well as through regular dialogue with relevant stakeholders such as Civil Society Organisations and International Organisations.

Progress reports have become one of the most important tools for driving reform. They serve as the main source of information for EU institutions and Member States as well as for the national government of the country of pre-accession or accession. This is also valid for Serbia. However, due to the hesitance to explicitly point at negative developments or stagnation especially in relation to the political criteria for accession, the potential of the reports has not been made use of as it might have been. Nevertheless, the reports are used by administration as well as civil society to execute pressure on the government to speed up reform processes and the Serbian government is also reacting to progress report recommendations by establishing working groups and drafting action plans. Moreover the last two reports signal a certain change of approach clearly addressing fields, where no progress was made.

Progress reports generally deal with any 'progress made by Serbia' in preparing for EU membership. They are published each October and cover the period from the previous October to September of that year. Reports follow the same structure every year, based on the Copenhagen criteria for EU membership. The first part describes relations between Serbia and the EU. The second part 'analyses the situation in Serbia in terms of political criteria for membership'. The third part of the Progress Report analyses the situation in relation to the economic criteria, and the last part reviews Serbia's capacity to take on the obligations of membership structured according to 35 policy fields (chapters). Before 2012, the fourth part of the reports had been structured according to reform priorities defined in the Stabilization and Association Agreement (SAA) and the European partnership document.[146]

In 2011, the EC Analytical Report to the Commission opinion on application for membership,[147] instead of measuring progress, presented a detailed analytical description of the situation in all policy fields covered. When referring to the legal basis for submitting its opinion (Article 49 TEU), the report in its introduction makes clear that the 'values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities'[148] are a key parameter for its analysis. In preparing the analysis, the European Commission has applied a rather participatory approach. Public administration in Serbia was involved by way of a questionnaire and additional follow-up questions. The answers to these were supplemented by consultations with the EU delegation in Serbia, reports of expert missions and Member States' embassies in Serbia, reports of the

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[146] The Progress Reports for Serbia can be found on the Website of DG Enlargement http://ec.europa.eu/enlargement/countries/detailed-country-information/serbia/index_en.htm

[147] European Commission, 'Analytical Report accompanying the Commission Opinion on Serbia's application for membership of the European Union' (Communication from the Commission to the European Parliament and the Council) http://ec.europa.eu/enlargement/pdf/key_documents/2011/package/sr_analytical_rapport_2011_en.pdf accessed 15 January 2016.

[148] Ibid, 3.

European Parliament as well as assessments by international organisations and local NGOs. The report however does not explicitly refer to the concrete sources of information and neither does it indicate what has been taken on board out of these reports and what has not. Expert missions to Serbia served as another pool for information.

The report in principle stated that the constitutional set-up of the country, as well as election procedures and the distribution of powers, were all in line with international standards. It criticises aspects like the monitoring capacities of the Parliament, the transparency of decision-making within the government and especially its capacity for strategic policy planning. Consultation of relevant stakeholders like civil society organisations in drafting legislation, ex-ante impact assessment and practical implementation of laws were other points of criticism. The report also provides an assessment of the effectiveness of the work of public administration, the independency and functioning of the judiciary, the state of affairs in relation to corruption and the legislative framework for socially vulnerable groups and persons with disabilities, the protection of minorities, in relation to children's rights, women's rights and gender equality, non-discrimination, labour rights and property rights. It reveals that principles are generally more or less in line with the international human rights regime, but lack implementation in practice. Monitoring of implementation and application of the relevant laws is addressed as a task for the European Commission as a consequence.

According to the methodological explanation given in the introduction of all the Commission staff working documents accompanying the Progress Reports 'progress is measured on the basis of decisions taken, legislation adopted and measures implemented,' an approach that 'ensures equal treatment across all reports and enables objective assessment'.[149] According to Weber/Bassuener Commission staff working on the reports are given written guidelines, which are not made publicly available. The Commission moreover also involves experts from public administration in Member State countries in their assessment of progress in specific policy areas.[150] Peer review missions are organised making use of the TAIEX instrument in order to obtain the view of peer experts for the Commission's assessment. Peer based assessment missions have been organised for issues like the rule of law, human rights, minorities, refugees, IDPs, border control, migration and asylum and on the National Strategy for preventing and combating human trafficking.

The Commission, based on the reports' findings draws concrete conclusions regarding Serbia in its annual communication on enlargement. This so-called enlargement strategy in addition to the country profiles also contains a regional assessment, seeking to identify areas where reform is lagging behind and that have to be defined as priorities for future enlargement strategies.

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[149] See, for example, European Commission, 'Commission Staff Working Document, Serbia, Progress Report'[2014] 3 http://ec.europa.eu/enlargement/pdf/key_documents/2014/20140108-serbia-progress-report_en.pdf
[150] Bodo Weber and Kurt Bassuener, 'Analyzing the EC Serbia Progress Reports – Useful tool or tactical whitewash?' (2015)   9   DPC   Policy   Note http://www.democratizationpolicy.org/uimages/DPC%20Policy%20Note_Analyzing%20the%20EC%20Serbia%20Progress%20Reports_.pdf accessed 13 November 2015.

A certain change in approach can be identified starting from the 2014 Progress Report, which for the first time entailed concrete policy recommendations. This change from providing a picture of the situation at national level to a more prescriptive approach could ideally stimulate further and deeper reform. At least various stakeholders interested in transformation like civil society organisations, but also public officials within public administration can make use of these recommendations in order to support their arguments for change.

Having conducted their analysis of European Commission progress reports in Serbia Weber/Bassuener however come to the conclusion that even if the reports are transformed to being more critical and transparent,[151] there is no guarantee that they 'will serve as a useful tool in helping to secure Serbia's EU integration'.[152] They make very clear that a transformation to a more democratic system is mostly dependant on political will and on strategic capacities, both on the side of the European Union and on the side of the Serbian government. The EU's focus on the three aspects of the status of the Kosovo, Serbia's cooperation with the ICTY and the dissolution of the federal union with Montenegro has been diminishing a wider perspective on challenges in relation to democratic structures and their functioning in practice according to Bandovic/Vujacic.[153]

5.   Support to Civil Society Organisations

Civil society organisations are recognised as a main driver for change when it comes to democratisation and also as an important provider of services when it comes to the protection of human rights and support to people and groups of people considered as more vulnerable than others. Support to civil society organisations is provided via different channels of EU funding.

The main instrument of funding within the strategic remit of the EU itself is the European Instrument for Democracy and Human Rights (EIDHR). But projects funded via IPA Programmes can also target civil society organisations and aim at improving their capacities and/or their roles within the institutional set-up of human rights protection in Serbia.

An evaluation of grant contracts implemented and financed by IPA and EIDHRfor the field of support to civil society organisations identifies a comparably high grade of relevance, efficiency and effectiveness for

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[151] Bodo Weber and Kurt Bassuener, 'Analyzing the EC Serbia Progress Reports – Useful tool or tactical whitewash?' (2015)   9   DPC   Policy   Note http://www.democratizationpolicy.org/uimages/DPC%20Policy%20Note_Analyzing%20the%20EC%20Serbia%20Progress%20Reports_.pdf accessed 13 November 2015.
[152] Ibid, 21.
[153] Igor Bandovic and Marko Vujacic, 'The European Question in Serbia's Party Politics' in Corina Stratulat (ed.) *EU integration and party politics in the Balkans* (2014) 77 European Policy Centre Issue Paper 47-67 http://www.epc.eu/documents/uploads/pub_4716_eu_integration_and_party_politics_in_the_balkans.pdf accessed 4 December 2015.

projects implemented within EIDHR.[154] Sustainability and impact was still hard to measure at the time of the evaluation and according to evaluation findings would depend very much on the transferability of results to public administration and the perception within public administration more generally. For the area of human rights, the impact is seen as relatively high due to the acknowledgement of NGOs as partners and experts in their specific fields. Evaluation of the IPA Civil Society Funding scheme is slightly less positive, seeing effectiveness to be ensured only in the long run and sustainability very much dependant on the institutional structures each project would face.

The objective of the EIDHR Country-Based Support Scheme 2011 and 2012, which was relevant for those projects evaluated, was to strengthen the role of civil society in promoting human rights and democratic reform, in supporting the peaceful conciliation of group interests and consolidating political participation and representation. The projects awarded covered various issues in the area of democracy and human rights in many cases directly linked to Negotiation Chapter 23 (Judiciary and Fundamental Rights) and 24 (Justice, Freedom and Security). Children and youth, women and persons with disabilities were the groups addressed by the majority of projects.

The evaluation also sought to obtain the perspective of Civil Society Organisations, which were positive overall. The EIDHR grant scheme was considered as very relevant in terms of strengthening CSO capacities and providing for resources to carry out activities. Being organised in an independent way without involvement of public administration at national level was identified as important in strengthening the independence and autonomy of those organisations that perform a monitoring role over the implementation of EU acquis and propose concrete measurements for improvements, acting as 'watchdogs'. This was not necessarily reflected in the projects that had been awarded and that had been conducted in the evaluation period as most of those were rather service oriented than targeted at the identification of problematic areas and the development of recommendations in this regard. Nevertheless, projects according to the evaluation findings had been in line with the overall aim of empowering civil society to become an effective force of dialogue and reform.

6.   Funding of institution building and change

Main sources of funding for institution building and change are the several generations of the IPA Programme. Serbia has been a recipient of IPA funding aimed at assisting reforms with a view to EU membership since 2007. Programming of IPA funds is organised within Multi-Annual Indicative Planning documents (MIPDs) within the more general framework defined by the Stabilisation and Association

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[154] Paul Georis/ Tanja Hafner Ademi and Zehra Kacapor-Dzihic, 'Evaluation of Grant Contracts Implemented and Financed   by   IPA   and   EIDHR'   (2014) http://www.evropa.gov.rs/Documents/Home/DACU/12/193/Evaluation%20of%20IPA%20and%20EIDHR%20grants ,%20and%20Floods%20IPA%202012%20-%20Report%20I,%20II,%20revised%20annexes.pdf accessed 26 February 2016.

Agreement. Key element of IPA funds is to strengthen national ownership with a view to gradually moving towards de-centralised administration, a status that was achieved for Serbia in the course of 2014.

An evaluation of the IPA programmes on the Western Balkans for the fields of the Rule of Law, Judicial Reform and Fights against Corruption and Organised Crime conducted in 2013 provides an overview on programming, implementation and impact of IPA projects relevant for these areas for the period from 2007-2011 in Serbia.[155] It reveals a clear focus of IPA programmes for the years 2007-2011 on the Copenhagen criteria, in concrete on the separation of powers between Judiciary, Parliament and Government, a consolidation of the Rule of Law and strengthening the Fight against Corruption and Organised Crime. For the period of 2011-2013 a more sector-based approach is identified, Justice and Home Affairs only remaining as one of seven sectors but with a significant rise in allocations from EUR 7 million to EUR 75 million. This was mostly due to the fact that national reform programmes for the field of the judiciary, the correctional system, anti-corruption, etc. were ready for implementation. According to the evaluation in the period assessed, the MIPDs did not indicate any reasons or criteria for resource allocation nor desired or expected outcomes. Moreover, for the first few years there were also no national action plans in place functioning as a general framework for operation. Recommendations for future programming therefore include a more comprehensive approach in linking projects to strategies. The evaluation takes a more detailed look at the field of Judicial Reform summarising the main deficiencies identified in the EC progress reports from 2008-2013 and analysing the (potential) role of assistance provided for projects addressing Judicial reform in solving them.

The main findings and conclusions are that projects have contributed to a successful reform of legal structures with a more independent judiciary, professionalization, separation of different areas of justice like misdemeanour, commercial or war crimes and that legal reform has led to the existence of a framework for a modern judiciary in line with European standards. However, concerns are raised in regard to the efficient and effective functioning of the judiciary, the ability to address back-logs and the provision of a fair and transparent processing of cases – performance consequently not considered as being in accordance with European standards. Similar findings have been made for the fields of the fight against corruption and the fight against organised crime. Political developments are identified as a potential threat to positive effects of individual projects, whilst a lack of political support from national authorities is considered as a challenge for sustainable results. Overall findings of the evaluation also include the realisation that public administration in many cases is not ready for projects designed for driving for change. On the other hand, the importance of local ownerships is also addressed in order to enhance the level of commitment as well as the ability to implement what has been designed.

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[155] Berenschot and Imagos, 'The European Union's IPA Programme for the Western Balkans, Thematic Evaluation of Rule of Law, Judicial Reform and Fight against Corruption and Organised Crime in the Western Balkans – Lot 3' (2013) http://ec.europa.eu/enlargement/pdf/financial_assistance/phare/evaluation/2013_final_main_report_lot_3.pdf accessed 9 December 2015.

In its strategy paper of IPA II funding for Serbia for the period 2014-2020,[156] the European Commission refers to the problems identified in progress reports and to other sources like Eurostat in order to provide a picture of the current state of affairs and challenges that are to be met by Serbia. The strategy was developed in close cooperation with SEIO, the Serbian European Integration Office, and in consultation with representatives of line ministries, civil society organisations and other donors and international organisations. It marks a shift in approach insofar as the funding scheme is moving to a sector approach and a multi-annual perspective in planning EU assistance. The paper notes that sector working groups are in place and functioning but well-defined national sector strategies are still lacking as is a clear link between these and the national budgetary process. With IPA II, management structures have also been changed, transferring management powers to national authorities provided that they have the necessary structures and in exchange for tangible results. This new approach is welcomed by representatives of civil society as it has the potential of leading to a more strategic approach.[157] However, it is not yet in place for human rights and democratisation.

The two main pillars identified for EU financial assistance are: Democracy and Rule of Law, and Competitiveness and Growth. The funding period moreover is characterised by the start of EU accession negotiations, shifting the focus of support to the implementation of strategies, action plans or specific actions required in the framework of negotiations. Democracy and governance, rule of law and fundamental rights are acknowledged as key areas for action with needs for support identified in a public administration reform, the creation of an accountable, independent and efficient judicial system as well as the protection of minorities, including Roma, as well as other groups that are considered as vulnerable to discrimination, in particular on grounds of sexual orientation. The strategy defines objectives, results, envisaged actions and indicators. It also refers to risks like potential delays in the implementation of key strategies and action plans and the requirement of 'sufficient political will of the political class and of administration in order to achieve the desired results'.[158] Indicators are a bit weak because for most areas, specifically those of relevance for issues of democratisation and human rights, they are simply defined as 'progress made towards meeting accession criteria'[159] and the measuring of such progress is left to the monitoring of the European Commission in drafting its progress reports.

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[156] European Commission, 'Instrument for Pre-Accession Assistance (IPA II), Indicative Strategy Paper for Serbia (2014-2020)' [2014] http://ec.europa.eu/enlargement/pdf/key_documents/2014/20140919-csp-serbia.pdf accessed 11 December 2015.
[157] Interview with representatives of the European Policy Centre, 9 February 2016, Belgrade.
[158] European Commission, 'Instrument for Pre-Accession Assistance (IPA II), Indicative Strategy Paper for Serbia (2014-2020)' [2014] 22 http://ec.europa.eu/enlargement/pdf/key_documents/2014/20140919-csp-serbia.pdf accessed 11 December 2015.
[159] Ibid.

C.   EU instruments for Human Rights and democracy support in Albania

In Albania, accession procedures also provide for the policy framework for EU action in the field of democracy support and human rights. The Stabilisation and Association Agreement from 2009 sets the legal framework for EU strategies and action.[160] The EU Delegation in Albania presents an overview of its activities in relation to promoting fundamental rights and supporting their advocates on its website.[161] It describes as its three main missions:

- Monitoring of the human rights situation
- Maintenance of a permanent dialogue with human rights defenders, and the
- Provision of support to civil society organisations

This, according to the delegation's self-presentation, includes more specifically the collection, verification and sharing of information to identify human rights violations in cooperation with civil society organisations dealing with human rights. This also includes an active dialogue with Albanian authorities on human rights protection as well as cooperation with other relevant international organisations, in particular the UN, OSCE, and the Council of Europe, in promoting international norms and standards (Monitoring). Dialogue with human rights defenders includes consultation and involvement of such institutions, including national bodies for the promotion and protection of human rights, like the People's Advocate and the Commissioner for the Protection against discrimination. Assistance in this regard is meant to provide support in accessing EU financial assistance, promote cooperation among human rights defenders and politically support relevant activities and initiatives organised by human rights defenders.

The EU has also elaborated local strategies for the implementation of the EU Guidelines on Human Rights Defenders[162] and for the implementation of the EU Guidelines on violence against women and girls and for combating all forms of discrimination against them.[163]In the framework of these commitments, various instruments are applied in order to *inter alia* strengthen the country's capacity to consolidate the democratic functioning of its institutions and to foster the protection of human rights and improve the

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[160] Stabilisation and Association Agreement between the European Communities and their Member States, on the one side, and the Republic of Albania on the other [2009] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:107:0166:0502:EN:PDF accessed 14 January 2016.

[161] http://eeas.europa.eu/delegations/albania/eu_albania/human_rights/index_en.htm accessed 26 February 2016.

[162] Local strategy for the implementation of the EU Guidelines on Human Rights Defenders, Republic of Albania, adopted by EU Heads of Mission to Albania on 7 April 2010 http://eeas.europa.eu/delegations/albania/documents/eu_albania/local_strategy_hrd_sq.pdf accessed 26 February 2016.

[163] Local strategy for the implementation of the EU Guidelines on violence against women and girls and combating all forms of discrimination against them, adopted by EU Heads of Mission to Albania on 3 June 2010 http://eeas.europa.eu/delegations/albania/documents/eu_albania/local_strategy_women_en.pdf accessed 26 February 2016.

situation of groups identified as more vulnerable than others. Albania is profiting from the same range of EU programmes as Serbia. The country has benefitted from EU financial assistance since 1991. In the period between 1999 and 2010 the EU committed over EUR 565.7 million to Albania.

1.   EU Assistance in Albania

a)   *The PHARE Programme (1991-2002)*

In the framework of the PHARE programme the EU initially provided basic humanitarian aid and subsequently support to the development of infrastructures.

b)   *The CARDS Programme (2002-2006) Community Assistance for Reconstruction, Development and Stabilisation*

From 1999 to 2006, Albania benefitted from EU CARDS assistance worth EUR 259.6 million. The CARDS programmes in Albania sought to support democratic stabilisation, good governance and the judiciary, economic and social development, environment, and the participation of Albania in Community Programmes. An ad-hoc evaluation of the CARDS Programmes in Albaniafound that the programme has been quite successful in bringing Albania closer to the Community *Acquis* but that success has been rather limited when it comes to structural reforms.[164] This according to evaluation findings was mostly due to poor design of the projects as well as to lack of capacity on the part of beneficiaries. These challenges were also considered to have negatively influenced long-term impact and sustainability of implemented activities.

c)   *The IPA I (2007-2013) and IPA II Programmes (2014-2020)*

Since 2007, CARDS has been replaced by the Instrument of Pre-Accession (IPA) programmes. In 2007-2010, the IPA programmes focussed on key political criteria areas such as judicial reform, police and penitentiary infrastructures, civil service and public administration reform, parliament, fundamental rights, as well as civil society.

In its strategic paper on EU assistance to Albania for the 2014-2020 period,[165] the European Commission set out the priorities for IPA II programmes for the time characterised by the granting of candidate status

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[164] COWI, 'Ad Hoc Evaluation of the CARDS Programmes, Country: Albania' (2008) http://ec.europa.eu/enlargement/pdf/financial_assistance/phare/evaluation/ad_hoc_albania_cards_final_report_171208_en.pdf accessed 11 December 2015.

[165] European Commission, 'Instrument for Pre-Accession Assistance (IPA II), Indicative Strategy Paper for Albania (2014-2020)' [2014] http://ec.europa.eu/enlargement/pdf/key_documents/2014/20140919-csp-albania.pdf accessed 11 December 2015.

and beyond. According to the Commission, the Strategy Paper was developed in close cooperation and partnership with the Albanian government, and based upon consultations with relevant institutions such as the judiciary, local governments, civil society, international financial institutions, international organisations and other donors. A self-assessment by the Albanian authorities constituted a core part of consultation procedures, which were supported by a strategic dialogue with the European Parliament. Progress reports and the EU enlargement strategies fed into the picture and built the basis for the identification of priorities. Following the national elections in June 2013, additional consultations took place with the newly elected government.

The strategy positively notes the process of developing a National Strategy for Development and Integration (NSDI) for the period 2014-2020,[166] which is meant to provide the strategic framework for all sector and cross-sector strategies, as well as the set-up of inter-ministerial and sector working groups. The paper, as points of reference for the design and implementation of assistance, refers to the EU enlargement strategy for Albania and to Europe 2020. Governance and the rule of law, along with competitiveness and growth, are identified as the main priorities for action in the period covered. Strengthening democratic institutions, specifically the role of the Parliament, support to civil society and public administration reform are considered as key factors along the path towards a society and system adequate for becoming an EU member.

The paper lists the objectives assistance should aim at in order to be granted funding. Envisaged results include consensus building by democratic institutions according to a clear legal framework and with involvement of civil society, a de-politicised civil service system and predictability and enforcement of laws and court decisions. Envisaged indicators include the European Commission's progress reports as the main source of information and statistical data, for example provided by Eurostat. Twinning, technical assistance, supply of equipment and targeted calls for proposals as well as direct grants to specific national authorities have been planned to provide concrete assistance. Furthermore, also explicitly mentioned is the possibility of providing IPA II co-funding for the participation of Albania in other EU funding schemes.

The strategy also includes a short risk analysis, which refers to two main issues, namely the macroeconomic situation and the politicisation of civil society and media as a threat to mitigate their potential role for strengthening the culture of democracy. For the field of rule of law and fundamental rights the limited capacities of public authorities to implement reform are mentioned as another risk that would have to be coped with.

d)   Instrument for Democracy and Human Rights (EIDHR)

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[166] Republic of Albania, Council of Ministers, 'National Strategy for Development and Integration 2014-2020' (Draft) (2013) http://shtetiweb.org/wp-content/uploads/2014/06/NSDI_2014-2020_version_JUne-2013.pdf accessed 26 February 2016.

Managed by their Instrument for Democracy and Human Rights (EIDHR) the EU launches open and restricted calls for proposals specifically targeted at civil society organisations in order to strengthen their capacities in becoming 'effective forces for political reform and defence of human rights'. The current EIDHR was adopted by the European Parliament and the Council in March 2014 (Regulation No. 235/2014) for the period 2014-2020 by replacing and building upon the EIDHR (2007-2013) and the European Initiative for Democracy and Human Rights (2000-2006).

The EIDHR regulation, as its main objectives, defines the support to human rights and human rights defenders, the protection of human dignity, which also includes non-discrimination and the protection of vulnerable groups, support to democracy and institution building. The 2015 Call refers to the EU Action Plan for Human Rights and Democracy 2016-2020 as a main point of reference for its objectives.[167] Country based support schemes provide for funding of projects that follow objectives defined for the concrete national context.

In contrast to the Instruments for Pre-Accession Assistance (IPA), EIDHR is programmed independently from the government and other public authorities and is managed exclusively by the European Commission or the EU Delegation in the recipient country.

2.   Joint programmes of the European Union and other donors with a focus on democratisation and human rights

Albania also profits from programmes and joint initiatives more generally designed for the region of the Western Balkans, like SIGMA (Support for Improvement in Governance and Management).[168] SIGMA is a joint OECD and EU programme in place for the past 25 years with the objectives of building the capacities of the public administration, enhancing horizontal governance and improving the design and the implementation of public administration reform in order to finally support socio-economic development.

The European Union is also co-funding projects carried out by the Council of Europe, which fit into the general strategy and – also – aim at fostering human rights and democratisation. A joint project has aimed at analysing the status of human rights and minority protection in South Eastern Europe. The report on Albania reveals a low level of awareness about minority rights within Albania's minority population.[169] At least some little knowledge about national legislation is identified for around 47 per cent of those questioned, while 56 per cent did not know about any international mechanisms protecting minority rights.

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[167] http://eeas.europa.eu/delegations/albania/documents/press_releases/guidelines_final_version_en.pdf
[168] http://www.sigmaweb.org/
[169] Erke Caro, Promoting Human Rights and Minority Protection in South East Europe. National Report Albania (2015) 2015   College   of   Europe   July   2015   http://pjp-eu.coe.int/documents/3511068/0/Awareness+Assessment+report+%28revised+and+final%29/99d8a80c-5d72-49d6-b804-61188cb10439 accessed 13 November 2015.

Another joint project was aimed at fighting corruption in Albania. The PACA project[170] aimed at contributing to democracy and the rule of law through the prevention and control of corruption. The project's specific objectives were to enhance the implementation of anti-corruption policies and strategies and to contribute to the prevention of corruption in the education sector.

3.   Monitoring Human Rights and Democratisation

The democratic functioning of Albania's institutions as well as human rights are key criteria for accession to the European Union as mentioned above. The Commission therefore also monitors progress in fulfilling these criteria in the course of its general monitoring of the country's improvements in relation to the economic and political conditions defined by the so-called Copenhagen criteria and required for accession.

Starting Point for the Commission's monitoring on Albania is the Commission's Opinion on Albania's application for membership of the European Union from 2010[171] accompanied by an analytical report.[172] The analytical report aims at describing the relationship between Albania and the EU, which *inter alia* also includes an analysis of the situation in respect of the political conditions established by the European Council (democracy, rule of law, human rights, and protection of minorities). Furthermore, it also addresses the question of the capacity of the country to adopt the obligations of membership, i.e. the total body of EU legislation as expressed in the Treaty, the secondary legislation, as well as the policies of the Union (*acquis* of the European Union). In order to obtain the relevant information, the Commission has used a variety of sources:

- answers given by the Albanian authorities to a detailed questionnaire and additional follow-up questions,
- expert missions,
- consultations with the EU Delegation in Albania,
- reporting by the Member States' Embassies in Tirana,
- assessments by international organisations (including the Council of Europe, OECD, OSCE, IMF, World Bank),
- as well as local and international non- governmental organisations.

The Commission organised a number of expert missions in Albania concentrated mainly in the fields covered by the political criteria. This methodology according to the analytical report had allowed for a *solid assessment of administrative capacities of Albanian institutions, of the way legislation is*

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[170] http://www.coe.int/t/dghl/cooperation/economiccrime/corruption/Projects/Albania/PACA_en.asp
[171] European Commission, 'Commission Opinion on Albania's application for membership of the European Union' (Communication from the Commission to the European Parliament and the Council) http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/al_opinion_2010_en.pdf 11 December 2015.
[172]Ibid.

implemented and helped to better identify remaining challenges and priorities for future action. The Commission has analysed both the present situation and the medium-term prospects.

The analytical report describes Albania's political system and its institutions operating within and provides for a first analysis of their democratic functioning. It describes the formal structures like the constitution and the constitutional court as solid in principle but also points at deficiencies in practise like the fact that rulings of the constitutional court were not obeyed. Further criticism is made in relation to elections and to the quality of legislation characterised by a huge workload and a low level of involvement of interest groups. The parliament also lacked oversight over the executive and was characterised by difficult and often unconstructive political dialogue. At the time of the analytical report, work in parliament generally was rather stuck as government and opposition were blocking each other and consequently hindering political reform.

Law making of the government in principle has to be made in line with the main planning tool, the annual Analytical Legislative Programme (ALP). Before approval, any programme is checked against the main priorities in the National Strategy for Development and Integration and the Stabilisation and Association Agreement. However, at the time of the analytical report this was not done in a systematic manner. Inter-ministerial consultation as well as consultation with civil society organisations was also foreseen but either not carried out or limited in its effects as representatives of other ministries lacked the actual mandate to negotiate agreements on behalf of their ministries. Another weakness addressed concerned the poor attention given to the implementation of the laws. This is made even more difficult by unclear distributions of tasks between the central government and the local governments.

Lack of independence of the judiciary, lack of transparency and efficiency and poor enforcement of judgements as well as the insufficient putting into practice of recommendations of the People's advocate were other areas of concern. The report also identifies various groups within Albania as inclined to being more vulnerable than others, namely women, LGBTI people, children, Roma and people with disabilities and notes progress in all those areas, but also room for further action. Again, the legal framework is acknowledged as broadly in line with international obligations as well as with EU standards, but implementation remains insufficient in a number of areas. Awareness and sensitivity to human rights' standards on the part of the administration, the judiciary and law enforcement authorities need to be reinforced according to the Commission in their Opinion on Albania in 2010.

What is interesting to note, when reading the reports, is that there is no reference to why specific issues are addressed or taken on board for analysis and others are not. Whilst this might be evident for the three powers of the state, legislation, execution and the judiciary, this is not so clear, when specific areas of human rights protection are addressed. The report also does not name any specific sources but only in the very beginning mentions, where it draws its knowledge from.

This approach was kept for the subsequent monitoring circles that have fed into the progress reports published on a yearly basis. The analysis contained in the progress reports is structured according to the list of 33 *acquis* chapters. In each sector, the Commission's assessment covers the progress achieved during the reporting period, and summarises the country's overall level of preparedness.

In order to obtain a picture of the progress achieved not only from the perspective of state authorities, international organisations and civil society organisations operating in the country, the Commission is also organising so-called peer review missions via the technical assistance instrument of TAIEX.[173] Several peer review missions have been undertaken for Albania, namely on chapter 23, on Human rights, on the rule of law, on rights of minorities, on the role of law and detention and ill-treatment of prisoners and on fighting trafficking in human beings. Experts, who are invited to share their view on these issues, are either working for the respective peer institutions in EU Member States or they are experts for the specific field. Analysis provided in the course of these expert missions feeds into the progress reports on the relevant period, but is not available to the public nor is it evident in the progress reports, where the Commission draws from information obtained by those peers or experts.

4.   Support to Civil Society Organisations

Strategic support to Civil Society Organisations is managed through EIDHR as the EU's core instrument to strengthen the role of civil society in its external policies. Civil society organisations in Albania however are also entitled to apply for a range of EU funding programmes mainly targeted at organisations operating in EU Member States but also open for countries on the track to accession.

The project EMPoWER for example was carried out following a Call for proposals within the Daphne Programme.[174] Daphne is dedicated to the fight against violence and provides grants for preventive measures against all forms of violence and for support to victims and groups at-risk (children, young people and women). Overall objective of EMPoWER was to raise the awareness in women about their co-responsibility in taking the role of victim of abuse and passing it to the daughter. The project was carried out in Albania, Austria, Bulgaria, Italy, Portugal and Romania and tested the methodology of psycho-drama as a tool to identify and modify the victim condition.

A joint project of NGOs from Albania, Poland, Germany, the United Kingdom, Serbia and Macedonia**,** Active European Citizenship for Democracy and Participation: Bridging EU and Western Balkans, was conducted with funding provided by the Europe for Citizens Programme that aims at enhancing civic participation at EU level.[175] The project aimed at fostering a common and better understanding of the terms citizenships and European citizenships and promoting citizen participation in democratic life.[176]

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[173]   For   the   concrete   missions   in   the   field   of   justice   and   human   rights,   see http://ec.europa.eu/enlargement/taiex/dyn/taiex-events/library/index_en.jsp?EventTypes=38&LibMonths=&LibCountries=51&Keywords=&Speakers=&submit=Submit

[174] http://empower-daphne.psy.unipd.it/ accessed 4 December 2015.

[175] http://eacea.ec.europa.eu/europe-for-citizens_en accessed 4 December 2015.

[176] http://www.beyondbarriers.org/?q=node/306 accessed 4 December 2015.

5.   Funding of institution building and change

Support to improving the work of state institutions or the building of an institutional infrastructure, if needed, is provided by the so-called technical assistance projects. They provide for the main part of EU financial assistance to enlargement, with the Instrument for Pre-accession Assistance (IPA), at the core.

Twinning projects are one example of projects managed through the IPA instrument. They are based on the idea that experts from EU Member States, ideally working in the same field and for partnering institutions are sent to the beneficiary country and its institutions in order to provide their expertise and assist beneficiary institutions in making a change. Projects usually answer needs identified in previous progress reports and are designed in a way beneficiary institutions deem helpful to them. The TAIEX instrument provides for rather short-term assistance by ways of organising conferences or workshops tailored to the specific needs of a beneficiary institution.

IPA projects in Albania include the Police Assistance Mission of the European Community to Albania (**PAMECA**) and the European Assistance Mission to the Albanian Justice System (**EURALIUS**), missions in the police and judiciary sector**.**

PAMECA aims at consolidating the law enforcement capacities in Albania.[177] The project is based on the classical Twinning approach assisting Albanian law enforcement agencies through expertise drawn from EU Member States in bringing their performance closer to EU standards. PAMECA already started in 2002 in the framework of PHARE, was then continued in the framework of CARDS and is now implemented in a fourth project circle in the framework of IPA with a total funding of 17 million EUR.

EURALIUS aims at consolidating the justice system in Albania.[178] It started in 2005 as an *external European Assistance Mission,* when a particular need for a fundamental reform of the justice system was determined since the country was experiencing difficult progress from the previous strict communist regime to democracy. Initially, the main objective of the project was to facilitate, through the building of the required capacities within the Ministry of Justice and the Judiciary, the development of a more independent, impartial, efficient, professional, transparent and modern justice system in Albania, therefore contributing to the restoring of people's confidence in their institutions. The project has now reached a fourth project cycle, EURALIUS IV, which is designed as an *EU technical assistance project,* which supports and assists key Albanian justice institutions to bring their performance closer to EU standards. The overall objective of the EURALIUS IV project 'is to strengthen the independence, transparency, efficiency, accountability and public trust in the Albanian justice system in line with the EU *acquis* and best practices'.

The Twinning Project 'Strengthening the Assembly of Albania'[179] aimed at strengthening the capacities of the parliamentary administration and Members of Parliament, for more efficient approximation of

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[177] http://pameca.org.al/
[178] http://www.euralius.eu/en/
[179] http://www.agora-parl.org/resources/atlas/pss/strengthening-assembly-albania

legislation, improved oversight functions and communication as well as better management of parliamentary budget and human resources. The overall aim was to have the Parliament regulatory and oversight functions improved in order to strengthen the legislative process contributing to the efficient fulfilment of the SAA obligations during the pre-accession process.[180]

The European Commission has conducted an evaluation of the IPA I programme, which was published in 2013. In their report on Albania,[181] the evaluators come to the conclusion that in principle IPA projects had been very effective. The only part that could not be considered as effective were the training conducted, simply because the number of participants reached was very low. Further general findings included the conclusions that a long project preparation period leads to delays and diminished effectiveness and efficiency and that the capacity of beneficiary institutions in absorbing all planned activities has to be taken into account. The evaluation however did not include any project that would be of relevance for democratisation and human rights.

The evaluation of the IPA programmes on the Western Balkans for the fields of the Rule of Law, Judicial Reform and Fights against Corruption and Organised Crime also conducted in 2013,[182] provides an overview of the projects carried out in the period from 2007-2011 of relevance for those fields. In terms of programming the report points at the lack of clear prioritisation of objectives and measurable impact indicators. Longer term or follow-up projects are identified as important when aiming at driving real change, this aspect leading to a favourable approach in relation to Twinning projects. Programming in order to be successful according to study findings should be done in a participatory way in order to guarantee ownership and consequently sustainability. The need to take into account capacities from the side of beneficiaries and the absorbing impact on those by such projects is addressed. In taking a close look at Judicial Reform, the report finds that support provided over the years from both CARDS and IPA had at an initial stage supported the judiciary from moving from an emergency situation into a consolidation phase, a large amount of support in this phase being provided for infrastructure. Subsequently assistance is considered to have also contributed to improvements in the legislative and institutional framework. The projects, including training, the introduction of computerised case management systems, support to the School of Magistrates, etc., according to the evaluation findings, had led to a significant shift in areas like infrastructure, legal and institutional framework and a major move forward with the adoption of a Judicial Reform Strategy. Improvements are also found in terms of efficiency, independence, impartiality and transparency with room for more improvements still.

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[180] IPA National Programme 2010 for Albania, Project fiche no 4, 'Strengthening the Assembly of Albania' http://ec.europa.eu/enlargement/pdf/albania/ipa/2010/pf4_parliament_en.pdf
[181] Mart Nugteren, Sabina Ymeri and Neredja Hoxha, 'IPA - Interim Evaluation and Meta- Evaluation of IPA Assistance, Country Report Albania' (2013) Ecorys June 2013 http://ec.europa.eu/enlargement/pdf/financial_assistance/phare/evaluation/2013/23914_rep_albania.pdf accessed 11 December 2015.
[182] Berenschot and Imagos, 'The European Union's IPA Programme For Western Balkans, Thematic Evaluation of Rule of Law, Judicial Reform and Fight against Corruption and Organised Crime in the Western Balkans – Lot 3' (2013) http://ec.europa.eu/enlargement/pdf/financial_assistance/phare/evaluation/2013_final_main_report_lot_3.pdf accessed 09 December 2015.

Sustainability is addressed as a point of concern followed by recommendations for long term projects and the implementation of measuring schemes. An interesting point is made in relation to the ownership of programming referring to potential conflicts of interest between the Ministry of Justice (in charge of coordination of programming) and the Judiciary. The report formulates the proposal to enable the Judiciary to, at times, separately proceed with programming. The need to measure impact and sustainability is also identified for the field of the fight against organised crime, where effectiveness of assistance is also addressed as a weak point. The fight against corruption appears to be the most difficult area with the lowest level of effectiveness and calling for a more comprehensive approach in assistance requiring the involvement of NGOs and the media. Generally speaking, the evaluation addressed the high turnover of staff in the line ministries hampering sustainability of project activities. Programming of IPA projects is moreover considered as complex, lengthy and requiring significant capacities by stakeholders.

D.   Assessment of the impact of the EU's instruments

EU intervention in Serbia and Albania has been and remains to be very intense. due to geographical proximity and the strong interest to establish and keep peace and stability in the Balkan region. Specific impact in the fields of protecting and promoting human rights and democratisation is difficult to measure as points of reference are not really clear. It would be necessary to in a first step decide on, which impact the EU should seek to achieve in relation to democracy and human rights, which kind of impact has been reached already, which kind of impact is missing and how this could be improved.

Thus far, the approach of the EU towards Serbia has differed from the attitude towards other countries because Serbia and especially its capital Belgrade had been the centre of the Former Republic of Yugoslavia and remains the most important player in the region economically as well as politically. On the other hand this specific role also characterises the rather self-confident attitude of Serbians towards the EU. Albania, having been secluded from the rest of world for a very long time, provides more challenges in relation to the transition process towards a democratic system. Transition in both countries has been characterised by the establishment of political parties, their struggles for power and their dominance over political and structural developments.

1.   Main instruments used

a)   *Monitoring of progress and the accession perspective*

The monitoring of progress in relation to the accession criteria, which have a very clear focus on improvements in the field of democratisation and human rights protection and promotion is a very strong instrument the EU has in its hands. This is mostly due to the fact that the conditionality of progress and the accession perspective is communicated and perceived as a strong one.

Progress reports base their fields for analysis on the European Strategy for Enlargement and on the concrete challenges identified for each national context. The latter can be extracted from the Stabilisation and Association Agreements between Albania and Serbia and the Member States of the European Union and from the base-line analysis conducted by the European Commission for formulating their opinion on the countries' applications. Monitoring progress has a strong focus on democratisation and human rights.

Some critical points however are impeding factual effectiveness of monitoring procedures. First of all, conditionality is not always that strong and very much dependent on the credibility of the accession perspective and the credibility of the conditionality for speeding up procedures and on slowing them down in case of non-fulfilment. Secondly, progress reports with some exceptions remain rather vague in their assessment.

The reports lack clear reference points against which standard progress could be measured. Democracy and human rights are both rather broad concepts that would call for breaking them down to clear standards. This is even more important as these standards are evolving, specifically for the field of human rights by the incorporation of new conventions, like for example the Charter of Fundamental Rights of the European Union and relevant case law of the European Court of Human Rights (ECtHR) and the Court of Justice of the European Union (CJEU). The concept of democracy is also defined in the reports. An establishment of clear standards would be needed in order to measure progress in the field of democratisation as well. These might be in place for the division of legislative, executive and the judiciary powers, but not for questions of how the participation of the general public could be ensured. Such standards could and should be further developed at the level of the EU and also mainstreamed throughout accession procedures. A more concrete elaboration of what those standards would mean for the national context could also be left to a common process between national stakeholders and such from the EU in order to create ownership of and willingness to reform.

Progress reports build the basis for negotiations for accession but they are also the main source of input for the drawing up of national strategies and action plans. Progress reports very much focus on aspects that were identified as relevant for membership to the European Union and rather neglect others. Most of these fields are clearly addressed because serious problems had been identified at one stage of accession procedures or even before and for the whole region, like for example the functioning of an independent judiciary, composition and capacities of public administration or the situation and protection of groups identified as vulnerable (women, children, persons with disabilities, LGBTI persons and Roma). Concentrating on these areas however also brings with it the risk of neglecting others. A more open approach in assessing the situation would limit this risk and might bring in other perspectives for action as well.

On the positive side, the reports show and increasing commitment to take into account the specific characteristics and needs of each country. Whereas older reports relied on the screening of relevant legislation in the country and its compatibility with the EU *acquis*, the focus has clearly shifted towards a more analytical interest in the implementation of principles and standards. Involvement of peer experts from EU Member States and consultation with different stakeholders from the national level strengthen this approach and have contributed to also making progress reports more relevant for factual change.

b)   *Financial assistance*

Financial assistance is mostly managed through the instruments for pre-accession assistance, the IPA programmes and their predecessors PHARE and CARDS. Initially financial assistance very much focussed on humanitarian aid and on support to building infrastructure rather than on transition and reform. And even then for the countries of the Western Balkans security and stabilisation have dominated the agenda very prominently and still do. IPA programmes are now very much oriented towards the priorities identified within the enlargement strategy of the European Union and more specifically by the progress reports for the country. Democratisation and human rights have been part of the agenda all the time but have only come to the surface with the quite recent shift of attention towards the rule of law.

Project activities are broadly envisaged in the programming strategies determined by the EU, but left to beneficiary institutions in the receiving countries for the concrete determination of their needs. Generally speaking, the relevance of projects appears quite high as they have to fit into the general strategy for the country as well as into the strategy of the programme. In the final design of project activities moreover it is the beneficiaries at national level who have their hands on it and ideally can tailor activities according to their needs. The implementation of projects is also managed to an increasing extent by national authorities.

More recent strategies like the strategy papers for IPA II do include a quite comprehensive analysis of where action is needed, they include indicators that should serve as a tool to measure success and also refer to potential risks for EU assistance. Priorities defined however due to the start of accession procedures are more and more focussed on coming closer to fulfilling the accession criteria, which might bring about the risk of losing some aspects that might also be very relevant in terms of democratisation and human rights. Success is still measured based on the analysis made by the Commission, when providing its opinion on Serbia's and Albania's applications for membership. Moreover, the indicators are very vague, talking about 'improvements' or 'implementation,' which are difficult to measure.

Time between the programming and the implementation of projects can take years, which brings the risk of planned activities being out-dated by the time they are implemented. Programmes like IPA can therefore not be applied in order to react immediately to problems addressed in the Progress Reports. On the other hand, it is rather the long-term projects that are considered as those of high impact. The presence of an international expert for the life-time of the project cycle was identified as a valuable promoter of trust by the beneficiaries and also for enhancing a climate of understanding and willingness for reform within the national system. The new sector-based approach could even enhance effectiveness, if there is a clear and coherent strategy and a political will for its implementation.

What all evaluations of different instruments applied have shown is that public administration willing and capable of managing projects is key for success. Lack of capacities and resources on the side of beneficiaries are the main hurdles for effective implementation of activities and subsequently also for sustainable impact of entire projects. Issues that have been addressed in this regard are the high turnover

of staff on the one hand and the limited will for change on the other combined with the high grade of infiltration of public administration by party politics, especially in Albania.

c)   *Participation of relevant stakeholders like NGOs*

NGOs are consulted in drafting progress reports. There is no clear indication however in the published reports, which arguments have been brought forward and by whom and there is also no transparency in relation to which of their points having been taken on board or not.

Programming of IPA projects as well as their coordination takes place without any involvement of civil society. Several projects include NGOs as target groups for their trainings activities or even refer to their expertise, but a participatory approach already in the design of the projects would enhance their relevance for groups represented and also enhance their practical relevance and the impact of project activities.

Other sources of funding like the EIDHR and other programmes that entitle Serbia to participate enable civil society organisations to apply for EIDHR funding explicitly aiming at strengthening their capacities in becoming effective forces for political reform and defence of human rights. Funding provided for NGOs, not only but also by the EU, has contributed to the development of a vivid landscape of NGOs active in various fields of support for democratisation and human rights. The setting-up of such NGOs has already been important in order to support the building of a civil society as such. NGO representatives have become, and more and more are also recognised as, experts on their specific issues and consulted as such. Most of the projects funded through EU instruments due to the Calls they reply to however are rather service oriented than aimed at structural change. Given the fact that many other donors have left the Western Balkans in the course of the last few years, EU funding that would enable civil society to also work more strategically could be of more impact in the long run.

d)   *Involvement of the general public*

In order to enhance the effectiveness and practical relevance of EU instruments, public support is a key factor of success. In order to guarantee this support, several aspects have to be mentioned: Firstly, the positive attitude towards EU integration cannot be taken for granted. If there are not enough signs for a change that would bring significant change to living conditions of people, support will be on a decline. The carrot of accession is not sufficient in this regard, even more so when the perspective is a very long term one as it is now. The general public has to understand the importance of democratisation and human rights protection for their individual lives as well as for the situation of society as a whole. Raising awareness within the general public as well as for the relevant target group(s) on the actual need to promote progress in this regard should be included in each and any project.

In order to lead to a path, which is more strategic and adequate to changing institutional approaches, the general public and stakeholders at national level have to understand the relevance of change in a specific policy field. They have to agree on the need to make this change and they have to dedicate enough energy, resources and attention to doing it. This would also mean shifting to an approach that would be much more tailored to the concrete needs and the concrete situation of a country, involving a diversity of stakeholders not only from government and civil society but also from public administration at the level of the nation state and at local level. This would also mean accepting the development of processes and solutions, that are specific to the country and that ideally are also driven by the country rather than by the EU.

2.   The protection of vulnerable groups

The European Union's approach towards human rights is characterised by a clear focus on groups identified as more vulnerable than others. For all countries of the Western Balkans, including Albania and Serbia, certain groups are definitely more affected by human rights violations and specifically by structural patterns that affect their rights. Still, the automatism to focus on some groups and on some aspects that have been identified as problematic by other international players like the Council of Europe or UN organisations should be questioned on a regular basis. Of course violence against women, limited access to education for Roma children or the attitude towards members of the LBGTI community need to be addressed and monitored closely. However, this should not lead to neglecting other issues that might be more country specific or that are not addressed by international organisations due to a lack of responsibility. A mainstreaming approach applying the principles of non-discrimination and human rights more generally would enable the EU as other international actors to obtain a more comprehensive picture and could build the basis for more strategic planning of instruments.

Factual change for those groups identified as vulnerable is still quite limited. There are huge improvements in terms of legislation and legislation can also be a key driver in raising awareness. Quite a number of projects have been implemented in order to combat violence against women and children, in order to provide more support for members of the Roma minority and other groups that are more likely to suffer from social deprivation. Other projects have aimed at raising awareness about the prohibition of discrimination and many projects have addressed the functioning of public administration to implement legislative principles as well as the functioning of an independent judiciary. Still, in practise access to justice remains a big hurdle for those affected by human rights violations and the general attitude within societies has not yet changed to a great extent. The understanding of rights as a tool to make a change that can and should also be applied in practice – a culture of rights – has still to be absorbed by the general public. This however is a big challenge to meet and is a phenomenon not limited to countries of the Western Balkans but is a point of concern in EU Member States as well.

3.   Relevance of instruments for the improvement of HR situation and democratisation

It is very difficult to measure the relevance of instruments applied for the improvement of the situation in relation to Human Rights and for the transition to more democratic states. There is no way to determine exactly, which could have been the role of EU instruments without knowing how the situation would look like without any such instruments having been applied. But even if we change the perspective and limit our exercise to measuring the impact of instruments, this remains a difficult task.

There is no comprehensive information available about all the instruments applied in any one country. Evaluation of instruments is generally limited and if it is done, it is rather focussed on the instrument and its concrete objectives that on the country and the priorities defined for it.

The progress reports are identified as important tools for driving change. The functioning of the accession perspective and the significant role played by the progress report for speeding up or simply letting start such accession procedures makes them a very mighty instrument. However, several authors criticise the reports. On the one hand they are considered as too vague and ambiguous not identifying concrete weaknesses and/or proposing concrete solutions.[183] On the other hand, the underlying political agenda is identified as influencing the focus and the accurateness of progress reports as well.[184]

The focus of EU monitoring on some issues does have a huge impact on the decisions of national governments, where to act – and where not to act. As the example of the Pride Parade in Serbia, referred to by Mikuš,[185] has shown, politicians in Serbia are very much led by pressure imposed by the EU. This can lead to changes, but it leads to punctual changes rather than to structural ones.

What can be said is that formal implementation of the values and standard as defined by EU *acquis* has been quite successful. Having set a framework for action and for rights protection has clearly improved the situation for those affected by human rights violations – formally. The question remains whether this has already changed the situation in practice. In this regard there is still room for action.

The focus of programing strategies has already shifted towards practical implementation and is on the right track to foster change. Opting for a participatory approach in the development of concrete action

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[183] See for example Berenschot and Imagos, 'The European Union's IPA Programme for the Western Balkans, Thematic Evaluation of Rule of Law, Judicial Reform and Fight against Corruption and Organised Crime in the Western Balkans – Lot 3' (2013) 131 http://ec.europa.eu/enlargement/pdf/financial_assistance/phare/evaluation/2013_final_main_report_lot_3.pdf accessed 9 December 2015.

[184] See for example Bodo Weber and Kurt Bassuener, 'Analyzing the EC Serbia Progress Reports – Useful tool or tactical whitewash?' (2015) 9 DPC Policy Note http://www.democratizationpolicy.org/uimages/DPC%20Policy%20Note_Analyzing%20the%20EC%20Serbia%20Progress%20Reports_.pdf accessed 13 November 2015.

[185] Marek Mikuš, 'State Pride:' Politics of LGBT Rights (2011) 11 Academia.edu *https://www.academia.edu/966279/_State_Pride_Politics_of_LGBT_Rights_and_Democratisation_in_European_S erbia_* accessed 4 December 2015.

will be a key factor of success. Projects should not rely that much on 'recipes' and good practice examples from other countries but focus on joint forces in developing the best practices for the specific national context in order to be really relevant, effective and sustainable. Ownership of those in charge of policy implementation is crucial for success.

The participation of enlargement countries in EU programmes and agencies is a very practical tool in bringing not only legislation but practice in line with the Community *Acquis*. It enables practitioners and institutions that are in place to protect against human rights violations to learn from their peers and also bring perspectives from accession countries into the discussion within Member States. It is a way to acknowledge expertise and yet provide a forum for further developing it on a needs-based level and can bring concrete positive effects for those in need.

E.   Conclusions and recommendations

EU intervention in Serbia and Albania is very intense due the geographical vicinity of the countries, a shared history and the high interest in a region of stability and peace at the Southern boarders. The conditionality of an accession perspective is characterising the way EU instruments are chosen, implemented and monitored as well. Still, what is missing is a coherent and strategic approach setting the frame for EU action that aims at strengthening democratisation and human rights in practise. Instruments, even if developed and set in place in the framework of action plans, tend to be applied rather focussed on specific problems than within a general strategy carried by an overall vision of democratic societies based on the protection and respect for human rights values. These are the broad concepts referred to as a framework for action, but then get lost in implementation. What follows is a set of recommendations that might help to improve the impact of EU instruments applied in the countries of research in relation of democratisation and human rights – all of which and first of all requiring a change of mind-set at the side of EU actors as well as at the side of beneficiary countries.

- **Clarify the framework for action**

EU strategies and progress reports as well as national action plans all refer to human rights, the rule of law and democracy as key points of reference when defining strategic goals. It remains a bit unclear however, what concrete standards are meant when referring to these rather broad concepts. The reform processes would benefit from a reflexion upon standards for democratisation and human rights protection, from a clarification about what the standards are and also leave room for a participatory approach for the interpretation of what these standards mean for the local context. This would enhance the practical relevance of the standards and would diminish the risk of losing ties to standards in reacting on concrete problems. A process of elaborating such standards in collaboration with local actors would more over enhance ownership and a common understanding of what are the overall aims of activities undertaken, and hence improve effectiveness.

- **Assist the establishment of favourable structures**

In principle, the structural framework for human rights protection is in place as it is for a democratic state. The problems lie within the set-up of the institutions (the Parliament, the ministries, the judiciary, the Ombudsman, etc.) in concrete and mostly within their factual roles, capacities and competencies. This is especially valid for public administration at state level and even more so at local level. There is still a need for raising awareness about the need for reform within public administration and for strengthening the role of the Parliament, the Ombudsman and the bodies in charge of fighting discrimination.

- **Bring principle into practice**

Legislation that would guarantee democratic decision-making as well as human rights protection is in place in both countries, as are the structures in place to implement that legislation. Severe deficiencies are still identified in the implementation of the written principles and in relation to the effectiveness of established institutions. In order to bring principles into practice, the need exists to strengthen local ownership for transformation processes, create an atmosphere supportive of reform and to strengthen the political will for change. The identification and promotion of champions within public administration could transform the image of reform into a positive one.

- **Support the development of a democratic culture**

Political parties in both countries use the accession perspective and EU intervention as tools for their political agenda. For the general public, who has not yet experienced the benefits of a democratic functioning of institutions, the advantages of a successful transformation are not easy to grasp. The EU, when designing and implementing instruments will have to put clear focus not only on the building of competent institutions but also on working with representatives of the general public and on how democratic societies in Albania and Serbia could look like and function in practice.

- **Create a culture of rights**

EU intervention appears to have been quite successful in bringing forward legislative reform. Legislation and institutional structures for the protection of human rights have been established in a way that is formally in line with international standards and accession criteria. Lack of knowledge about those rights, lack of trust in the institutions in place, lack of factual capacities among these institutions and lack of a general understanding among the population that rights can also be enforced, significantly impede practical relevance of the standards in place. Creating and fostering a culture of rights within the general population will have to become the core focus of EU policies in the near future in order to ensure the sustainability of its actions.

- **Stick to the principles**

The EU and its Member States are, understandably, interested in the establishment and preservation of a region of peace and stability. These interests have characterised the strategic approach towards the Western Balkan from the very beginning of EU intervention and they have not lost their relevance. Even is peace and stability is a prerequisite for the functioning of a democratic state and a basic human rights structure, this focus has also led to a certain inattentiveness to deficiencies in this regard. The EU and its

decision makers, as well as Member State representatives, should stick to their commitment to democratic institutions and their functioning and human rights 'fundamentals' and the indivisibility of political, economic and institutional priorities in contracting on the accession and in concrete action in Serbia and Albania.

- **Be open to new perspectives – focus on vision rather than problem-solving**

Monitoring of progress and programming of instruments has been predominantly led by some specific fields for action identified either by the EU or by other international actors involved in the accession procedures or beyond – and very much reflecting the perspective of these actors. All of these fields, like for example violence against women or the socio-economic situation of members of the Roma minority, remain problematic and hence should be addressed adequately, but a problem centred approach can impede strategic thinking. The EU should therefore opt for a more strategic and comprehensive approach led by visions rather than problems. To do this, openness to new perspectives is necessary.

IV. Ukraine[186]

A. Introduction

Ukraine remains the EU's largest neighbouring country beside Russia and therefore deserves analysis in any study focusing on the EU neighbourhood. Moreover, Ukraine is of great geopolitical importance for the Eurasia and therefore remains in the EU and Russia spheres of interest.[187] Since 1990s relations between Ukraine and the EU came quite a long way, but recent events of the Revolution of Dignity in 2014 (wave of manifestations also known as Euromaidan) confirmed European aspirations of Ukrainian society. However the EU tried to strengthen Ukraine's democracy since 1990s, massive support of Ukrainian society, political elites as well as EU's financial support after 2014 creates a window of opportunity to finally establish mature democracy there. Taking a critical look at the history of the EU policies towards Ukraine can help avoid mistakes in implementation of new instruments.

The EU policy towards Ukraine based on reactive, rather than constructive approach. External actions of the EU were emerging mostly in reaction for the political events behind its Eastern border and were lacking a common long-term goal. While Ukraine defined a membership in the EU as a priority under Strategy on Ukraine's Integration with the European Union adopted yet in 1998, there was neither appreciation, nor counterproposal from the EU. The EU continuously avoided any clear declaration on Ukraine's membership what resulted in an increasing disappointment amongst the Ukrainian elites. The disappointment is all the greater since the pro-European movement of Orange Revolution in 2004 could be a pivotal moment for bringing Ukraine closer to Europe. Nevertheless, due to many internal and external obstacles the initial enthusiasm for Europeanization brought little progress in democratization and the Ukrainian politicians' will for modernizing reforms remained mostly rhetorical while the EU lacking a clear-cut goal, [188] remained passive and focused on providing security to its Eastern border. [189]

Reactive approach was adopted by the EU from the very beginning. In the first years after the collapse of the USSR in 1991, the factor driving EU-Ukraine relations was the issue of denuclearization. Other issues were marginal in the EU external actions while Ukraine was yet to define its long-term foreign policy goals and was balancing between the West and the East (so called *multi-vectored foreign policy*)[190]. Precondition

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[186] The research carried out at Adam Mickiewicz University was co-financed from funds for international co-financed projects for the years 2014-2017 issued by the Polish Ministry of Science and Higher Education, Agreement No. 3156/7.PR/2014/2.

[187] Paul Kubicek, 'The European Union and Ukraine. Real partners or relationship of convenience?' in Paul Kubicek (eds.) *The European Union & Democratization: Reluctant States* (Routledge, 2003).

[188] Nelli Babayan, 'The return of the empire? Russia's counteraction to transatlantic democracy promotion in its near abroad' (2015) 22(3) Democratization 449: 'The stagnation of democracy in post-Soviet countries has been the result of a set of factors, such as low resonance of democracy, high adaptation costs to democracy, protracted conflicts, weak institutions, or illiberal elites. Yet, through economic sanctions, military threats, and even through such formal institutions as the Eurasian Union, Russia has contributed to the stagnation of democratization in its near abroad.'

[189] Paul Kubicek, 'The European Union and democratization in Ukraine' (2005) 38 Communist and Post-Communist Studies 269-292.

[190] Elena Gnedina, 'Multi-Vector Foreign Policies in Europe: Balancing, Bandwagoning or Bargaining?' (2015) 67(7) Europe-Asia Studies 1007-1029.

for further cooperation with the West was ratification of non-proliferation treaty which occurred in 1994. The EU agreed to sign Partnership and Cooperation Agreement (PCA) earlier same year, however it entered into force only in 1998 and didn't reflect changes which came out during the time gap. While the PCA focused mainly on economic assistance, the emerged prospect of the EU's enlargement induced the EU to prioritize cooperation in the field of security. Nevertheless, human rights protection and strengthening democracy remained rather low on the agenda.

Democracy principles and rule of law were more strongly emphasized under the European Neighboring Policy (ENP) adopted in 2005, however the EU continued to prioritize borders security and didn't propose prospects of Ukraine's membership. The democratic movement of the Orange Revolution in 2004 was expected to boost democratization process itself, but as some authors noted the progress was achieved mostly in the field of formal (i.e. institutions and legal frameworks) rather than substantive democracy[191] and the overall effect remained disappointing. Moreover, the initial top-down approach in democracy promotion accompanied with relatively weak conditionality made the relevant EU policies appeared to be rather ineffectiveand forced to revise EU external actions targeting Ukraine.[192] Launching Eastern Partnership (EaP) in 2009 was expected to create an Eastern dimension in the EU foreign policies with shifting towards partnership and civil society building.[193]

Yet, with election of Viktor Yanukovych for the president in 2010 the democracy started to deteriorate. Ukraine's unwillingness for further institutional reforms was counterbalanced by the EU with increased support for democratic development and civil society in 2011-2013. Moreover, the proposal of visa liberalisation for Ukrainian citizens and adopting clear Action Plan on Visa Liberalisation (VLAP) in 2010 was a significant step towards the expectations of the Ukrainian society. Lastly, the general revision of the EU external actions and adoption a new approach based on the Article 21 of the Treaty on European Union resulted in underscoring democratic values.

Under the presidency of Victor Yanukovych, the EU's 'carrot' for pushing on reforms in Ukraine was signing enhanced cooperation agreement and establishing The Deep and Comprehensive Free Trade Area (DCFTA). However, as Stefan Füle stated in 2013, there were three preconditions for such: resigning from selective justice (and releasing Yulia Tymoshenko), eliminating shortcomings of recent parliamentary elections and advancing Association Agenda reforms.[194] However Ukraine didn't meet some of them (i.e. Tymoshenko's release), the EU was still ready to sign the Association Agreement (AA) in November 2013 being concerned about Ukraine's flown towards Russian sphere of influence. Russia's economic and political pressure finally prevailed over the EU's future rewards and only massive protests during so called Revolution of Dignity in 2014, brought Ukraine's back on the tracks towards Europe.

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[191] Tom Casier, 'The EU's two-track approach to democracy promotion: the case of Ukraine' (2011) 18 Democratization 956–77.

[192] Andrea Gawrich, Inna Melnykovska, Rainer Schweickert, 'Neighbourhood Europeanization through ENP: The Case of Ukraine' (2010) 48 Journal of Common Market Studies 1229.

[193] Elena A. Korosteleva, 'Evaluating the role of partnership in the European Neighbourhood Policy: the Eastern neighbourhood' (2013) 2 Eastern Journal of European Studies.

[194] Stefan Füle, 'Remarks by Stefan Füle, Commissioner for Enlargement and Neighbourhood Policy, to the press after the meeting with members of the Ukrainian Government' (2013).

The Council of the EU responded to increasing tensions between protesters and authorities by adopting Council Conclusions on 10 February 2014.[195] The deteriorating situation in Ukraine resulted in an extraordinary session of the Foreign Affairs Council on 20 February, during which targeted sanctions against 'those responsible for human rights violations, violence and use of excessive force' were introduced[196]. On 20 March 2014 the European Council strongly condemned the annexation of Crimea by the Russian Federation and strengthened its sanctions on the following day.[197]

The EU has progressively introduced targeted restrictive measures against legal persons, entities, bodies from Ukraine and Russia (prolonged until 15 March 2016) as well as prohibited certain economic activities, especially in the region of Crimea, since March 2014 (the sanctions are currently prolonged until 23 June 2016).[198] Nevertheless, based on previous cases, some authors question the effectiveness of economic sanctions.[199]

The temporary all-party solution to the Donbas conflict is provided by the Package of Measures for the Implementation of the Minsk Agreements (so called Minsk II agreement) signed on 11 February 2015.[200] It embraces not only a ceasefire, but also a constitutional reform with key element of which will be decentralization. The last one requires consistent will of the ruling political elites and remains the main obstacle in the path of reform. Although EU is not directly a party to the Minsk II agreement, Germany and France, acting within the framework of the EU policy towards the conflict in Ukraine, are its signatories. Under these circumstances, the EU focuses on implementation of the Minsk II agreement, including the area of constitutional reform in Ukraine. In December 2015 the EU announced more than €100 million support for the set of measures supporting decentralization and re-enforcement of local governance.[201]

The EU also continuously applies economic sanctions against Russia in the context of the conflict in Ukraine. Presently extended until 31 July 2016, they have been linked with the implementation of the Minsk agreements.

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[195] Council of the European Union, 'Council conclusions on Ukraine' [2014].

[196] Council of the European Union, Press Release [2014] 6767/14.

[197] European Council, Conclusions of the European Council [2014].

[198] Consolidated list of persons, groups and entities subject to EU financial sanctions is available on the EEAS website <http://eeas.europa.eu/cfsp/sanctions/consol-list/index_en.htm > accessed 26 February 2016.

[199] Viljar Veebel, Raul Markus, 'At the Dawn of a New Era of Sanctions: Russian-Ukrainian Crisis and Sanctions' (2016) 1 Orbis 128-139.

[200] Minsk agreements consist of a protocol (signed in September 2014) and a package of measures (signed on February 2015; also known as Minsk II) agreed by the leaders of Ukraine, Russian Federation, France and Germany. Documents are main instruments attempting to resolve conflict in Donbass region.

[201] European Commission, 'EU announces more than €100 million for Ukraine to support decentralisation reform and re-enforcement of local governance' Press Release [2015].

B.   The EU's instrument for Human Rights and democracy support in Ukraine

1.   Reference policy documents

In the early 1990s, the EU focused mostly on nuclear safety which was considered a condition for further integration with the EU.[202] The denuclearisation of Ukraine opened the possibility for signing the Partnership and Cooperation Agreement (PCA) in 1994 in which 'respect for the democratic principles and human rights' was considered an essential element of cooperation.[203] Nevertheless, the EU's engagement in the field of democratisation remained rather low with the priority areas comprising nuclear safety (during 1990s),[204] cross-border cooperation, security and economic transition. In the Common Strategy on Ukraine, the EU notes the importance of the democratic principles, but considers them in close relation to the economic benefits stating that '[t]he Union considers that the rule of law is a prerequisite for the development of a functioning market economy which offers opportunities and benefits to all the citizens of Ukraine'.[205] Prospect of the EU enlargement in the 2000s boosted cross-border cooperation, which advanced to the greatest degree in countries of the European Neighbourhood Policy (ENP).[206]

Under the ENP the EU and Ukraine adopted the EU-Ukraine Action Plan in 2005. One of the priority actions included in the Action Plan was 'strengthening the stability and effectiveness of institutions guaranteeing democracy and the rule of law'.[207] Although the Action Plan was evaluated positively in 2008,[208] the overall effect remained limited. The criticism leveraged against the EU's policies in promoting democracy concerned poor coordination, lack of differentiation in approach and too little bottom-up engagement.[209] Moreover, the ENP was criticized for too EU-centric approach and prioritizing mainly concerns of the EU.[210] Launching the Eastern Partnership (EaP) in 2009 was expected to create an Eastern dimension under the ENP and thereby adjust the framework to the regional specificity, however it did not create much added

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[202] Rosa Balfour, *Human rights and democracy in EU foreign policy: the cases of Ukraine and Egypt* (Routledge, 2012).

[203] Partnership and Cooperation Agreement between the European Communities and their Member States, and Ukraine [1998] OJ L/49, Art. 2.

[204] Rosa Balfour, *Human rights and democracy in EU foreign policy: the cases of Ukraine and Egypt* (Routledge, 2012), Annex, Box 3: PCA Meetings with Ukraine.

[205] European Council, 'Common Strategy on Ukraine' [1999] 1999/877/CFSP.

[206] Andrea Gawrich, Inna Melnykovska, Rainer Schweickert, 'Neighbourhood Europeanization through ENP: The Case of Ukraine' (2010) 48 Journal of Common Market Studies 1225.

[207] EU-Ukraine Action Plan of 2005. Available: http://www.enpi-info.eu/library/content/eu-ukraine-action-plan-0> accessed 26 February 2016.

[208]   Joint   evaluation   report   EU-Ukraine   Action   Plan   (2008), <http://www.eeas.europa.eu/ukraine/docs/ukraine_eu_joint_evaluation_2008_en.pdf> accessed 26 February 2016.

[209] Andrea Gawrich, Inna Melnykovska, Rainer Schweickert, 'Neighbourhood Europeanization through ENP: The Case of Ukraine' (2010) 48 Journal of Common Market Studies 1209–1235.

[210] Tom Casier, 'The European Neighborhood Policy: Assessing the EU's Policy toward the Region' in Federiga Bindi (eds.) *The foreign policy of the European Union. Assesing Europe's Role in the World* (The Brookings Institution, 2010) 99-115.

value in the case of Ukraine. For the period 2014-2017 the multilateral track of the EaP involves four main thematic platforms:[211]

- democracy, good governance and stability,
- economic integration and convergence with EU policies,
- energy security,
- contacts between people.

Ukrainian democracy began to deteriorate after the election of Viktor Yanukovych in 2010.[212] As a reaction to the conviction of former Prime Minister Yulia Tymoshenko the EU initially postponed the signing of the Association Agreement with Ukraine (AA).[213] At the same time, in response to the Arab Spring,[214] the EU revised the ENP and proposed a new approach including 'providing greater support in building deep democracy' as well as cooperation based on 'more-for-more' approach.[215] Nevertheless, economic and political pressure from Russia resulted in Ukraine's rejection of the AA in 2013.[216]

Yanukovych's refusal sparked mass protests which ultimately led to a change in power and the rise of pro-European politicians. The signing of the AA in 2014 gave a new perspective for Ukraine's further integration with the EU. Unlike the previous instruments of association, the AA is the first document which applies a strict conditionality approach.[217] The main principles of the AA are: 'respect for democratic principles, human rights and fundamental freedoms and respect for the principle of the rule of law' (Article 1) while the economic principles only 'underpin' the relationship (Article 2). During the last meeting of the Association Council in December 2015 the EU welcomed 'the progress made in relation to the respect of human rights and fundamental freedoms'.[218] Noting the strong political commitment of the Ukrainian authorities, the EU indicated several priority areas in need of reform amongst which are some deemed crucial for strengthening democracy (i.e. constitutional reform, fight against corruption, justice system, public administration, electoral legislation and decentralisation).[219]

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[211] Commission of the European Communities, 'Eastern Partneship' (Communication from the Commission to the European Parliament and the Council) COM (2008) 823.

[212] Freedom House, 'Ukrainian Democracy Declines as Tymoshenko Plight Drags On' (2013), <https://freedomhouse.org/blog/ukrainian-democracy-declines-tymoshenko-plight-drags > accessed 26 February 2016.

[213] Laure Delcour, Kataryna Wolczuk, 'Spoiler or facilitator of democratization?: Russia's role in Georgia and Ukraine' (2015) 22(3) Democratization 459-478.

[214] See the cases on Tunisia and Egypt in this report (section V).

[215] European Commission and High Representative of the EU for Foreign Affairs and Security Policy, 'A new response to a changing Neighbourhood' (Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions) COM (2011) 303.

[216] Laure Delcour, Kataryna Wolczuk, 'Spoiler or facilitator of democratization?: Russia's role in Georgia and Ukraine' (2015) 22(3) Democratization 459-478.

[217] Guillaume Van der Loo, Peter Van Elsuwege, Roman Petrov, 'The EU-Ukraine Association Agreement: Assessment of an Innovative Legal Instrument' (2014) 9 European University Institute Working Paper LAW.

[218] Council of the European Union, 'Joint Press Release following the Association Council meeting between the European Union and Ukraine' [2015] 897/15.

[219] Ibid.

2.   EU cooperation with the Council of Europe

Since 1995, Ukraine has participated in the EU-CoE Joint Programmes, which are aimed at reinforcing the protection of democracy, human rights and rule of law in CoE Member States.[220] Various joint programs of the EU and the Council of Europe (CoE) were implemented with many of them focusing on protection of human rights, strengthening the rule of law and local democracy (i.e. Ukraine IV), improving justice system (i.e. Ukraine V: Strengthening Democratic Stability in Ukraine) and other issues[221]. The most intensive cooperation between the EU and CoE is in the field of judiciary, which started with launching joint program 'Ukraine V: Strengthening Democratic Stability in Ukraine' yet in 2003. Between 2008 and 2011 the EU and CoE implemented program 'Transparency, independence and efficiency of the judicial system and increased access to justice for all citizens in Ukraine' with total budget of €6 million which is one of the highest funded of all joint programs by now.

Undoubtedly, ineffective and selective justice became one of the primary obstacle in EU-Ukraine relations since 2010 and it became of great importance for the EU to conduct judicial reform. Stefan Füle, the EU Commisionner for Enlargement and European Neighbourhood, stated in 2012 that 'the European Union no longer wants explanations from Ukraine', demanded to reject selective justice and urged to the reform of judiciary emphasizing that '[t]his is not about personalities or political allegiances, but about a systemic problem.'[222] Therefore, after signing the AA a judicial reform was recognized as one of the priority and many actions in cooperation with CoE have been undertaken.

The current CoE Action Plan on Ukraine 2015-2017 underscored that projects launched under the current AP will be coordinated with the EU delegation. Under adopted AP five priorities were indicated:[223]

- Constitutional Reform and Functioning of Democratic Institutions,
- Reform of Judiciary,
- Democratic Governance,
- Economic Crime,
- Human Rights.

Projects in the aforementioned AP are to be co-ordinated with the EU delegation In Kiev. Ukrainian government with support of the EU project 'Support to Justice Sector Reforms in Ukraine' designed Ukraine Judiciary Development Strategy 2015-2020. It has been approved by the Council of Judges of Ukraine in December 2014. In June 2015 the EU and the CoE adopted a joint project 'Strengthening the Implementation of European Human Rights Standards in Ukraine' which aims are: support in implementation of the police reform, enhancing the Ombudsperson's Office and promoting

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[220] For more information on the EU-CoE Joint Programmes and their relevance to democratisation in Ukraine, see FP7-FRAME Deliverable D5.2 'EU Engagement with the Council of Europe and OSCE', forthcoming.
[221] See full list: Joint Programmes - Logframes and Activities, <http://www.jp.coe.int/CEAD/JP/Default.asp?TransID=55> accessed 26 March 2016.
[222] Stefan Füle, 'Speech at the meeting of the EU-Ukraine Parliamentary Cooperation Committee' [2012].
[223] Committee of Ministers of the Council of Europe, 'Action Plan for Ukraine 2015–2017' [2015] GR-DEM(2015)2E.

implementation of the European Convention on Human Rights. Moreover, in 2015 the EU and the CoE have launched joint Programmatic Co-operation Framework for the countries of Eastern Partnership with total budget of €33.8 million for period 2015-2017. Its main aim is supporting national reforms and bringing legislation closer to the European standards. However, as described above, the institutional reforms didn't bring desired democratization effect until 2014, current political climate in Ukraine can foster reform. Therefore, concept of joint programs can contribute to the democratization of Ukraine. Lastly, the EU approach of 'borrowing' standards of formal democracy from the CoE (including the opinions of the Venice Commission)[224] in its own external actions can create a synergy effect and enhance joint programs. [225]

3. Dialogues

Since the adoption of the AA in 2014 the EU and Ukraine has held two Human Rights Dialogue meetings. Discussions covered a wide range of issues which can be grouped into two categories. The first one concerns the deteriorating human rights situation in Crimea and eastern Ukraine. The second one covers such topics as reform of the electoral framework, freedom of media, freedom of peaceful assembly, non-discrimination policies, the rights of child and gender equality together with women's rights. The next Human Rights Dialogue meeting will take place in summer 2016.

Enabling the dialogue in the field of rule of law, good governance and human rights was one of the aims of the EU Action Plan on Justice and Home Affairs in Ukraine, adopted in 2001, which was further revised as an EU-Ukraine Action Plan on Freedom, Security and Justice in 2007. Nevertheless, the dialogue was mostly held in the fields of migration, border management, combating organized crime and drug trafficking as well as judicial and police cooperation.[226]

4. Monitoring instruments

Article 461 of the AA established Association Council which shall supervise and monitor implementation of the AA and periodically review functioning of the agreement. The body is entitled to meet in all necessary configuration at ministerial level at regular intervals. The latest evaluation of Ukraine's reform in December 2015, made by the Association Council, has shown that the country made a 'significant

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[224] Tom Casier, 'The EU's two-track approach to democracy promotion: the case of Ukraine' (2011) 18 Democratization 956–77.

[225] Venice Commission, 'Adopted opinions for Ukraine' <http://www.venice.coe.int/webforms/documents/?country=47&year=all> accessed 26 February 2016.

[226] John Occhipinti, 'Justice and Home Affairs: Immigration and Policing' in Michael E. Smith, Katja Weber, Michael Baun (eds.) *Governing Europe's Neighbourhood: Partners or* Periphery? (Manchester University Press, 2007) 114-133.

progress', especially in the fields of fighting against corruption, police reform and constitutional reform which are essential for boosting democratization.[227]

In 2014, by decision of the President of the European Commission, the Support Group for Ukraine in Brussels was established. Its work is based on the European Agenda for Reform signed by the EU and Ukraine in 2014 and consists of full-time officials travelling to Ukraine if necessary as well as seconded national experts, special advisers and others. The body is expected to assist in the implementation of the AA and to ensure that support provided by the European Commission is concentrated on the issues listed on the Association Agenda.

5. Election support (Election Observatory Missions)

The EU deployed its own Election Observatory Mission to Ukraine in 1994 and in the following years, following a gentleman's agreement between the EU and the OSCE, the EOM was integrated into the OSCE electoral observation missions.[228] The OSCE has observed 12 elections since 1998.[229] Moreover, the EU deployed its European Parliament delegation to observe regional and local elections in 2010.[230]

Since the Orange Revolution, the EU has linked respecting electoral standards with further integration or economic benefits. After the presidential elections in 2004, the EU expressed its dissatisfaction with violations of democratic procedures[231] and linked further integration with the repetition of elections. In 2007 the EU linked negotiations over new enhanced agreement and establishing a free-trade area with conducting parliamentary elections in accordance with democratic principles.[232]

6. Building civil society

Although civil society in Ukraine is the most developed amongst the EaP countries, its impact remains low. In the sociological survey conducted by think tank Razumkov Centre in 2010, civil society was found to be the least influential political factor in the country among the main internal (domestic institutions and

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[227] Council of the European Union, 'Joint Press Release following the Association Council meeting between the European Union and Ukraine' [2015] 897/15.

[228] EU Election Observatory Mission to Ukraine in 1994 <http://eeas.europa.eu/eueom/missions/1994/ukraine/index_en.htm> accessed 26 February 2016.

[229] OSCE, 'Elections in Ukraine' <http://www.osce.org/odihr/elections/ukraine> accessed 26 February 2016.

[230] Pawel Kowal, Jan Kozlowski, 'European Parliament EU - Ukraine PCC Members' delegation to Ukraine observing local and regional elections of 31 October 2010' [2010].

[231] European Parliament resolution of 28 October 2004 on the forthcoming presidential elections in Ukraine [2004] P6_TA (2004)0046.

[232] Euractiv, 'EU presses Ukraine on upcoming elections' (2007) <http://www.euractiv.com/en/enlargement/eu-presses-ukraine-upcoming-elections/article-166781> accessed 26 February 2016.

business) and external (the EU and Russia) factors.[233] Regarding the EU's engagement in Ukraine, some authors criticised deficits in bottom-up approach in promoting democracy.[234] Increasing the role of the civil society was included in the EU's Action Plan on Human Rights and Democracy 2012-2014 (point I.2) and 2015-2019 (point I.b) as well as in increased funding for civil society in the EaP.[235]

Developing civil society was supported in 2000s by several EU financial instruments, such as TACIS, EIDHR and TEMPUS. In 2014, under the AA, a new instrument within the EU's association practice has been launched – the EU-Ukraine Civil Society Platform which is composed of representatives of NGOs, employers' associations and trade unions from Ukraine and members of the European Economic and Social Committee (EESC). Under the AA the Civil Society Platform was granted the competence to make recommendations to the Association Council. Amongst 15 thematic working groups of the Civil Society Platform, one is dedicated to 'Democratic reforms, rule of law' and another one to 'Human rights, gender equality and non-discrimination'. Moreover, in 2014 the DG DEVCO launched the Civil Society Support Programme, aimed at enhancing the role of civil society in promoting and monitoring democratic reforms and inclusive of socio-economic development in Ukraine. with a total budget of €10 million.

7.   Financial instruments

The first financial instrument for Ukraine was the TACIS Democracy Programme. One of its main aims was supporting democratic societies in the countries of Eastern Europe, South Caucasus and Central Asia.[236] Although Ukraine was one of the priority countries for the EU policy,[237] the overall impact after five years of implementation has been described as 'limited, sometimes severely'.[238] Moreover, significant emphasis has been put on nuclear safety.[239] TACIS was redesigned in 2000 with an increased focus on promoting democracy and rule of law, however financial support for Ukraine remained on the same level and grew significantly only in 2004-2006.[240]

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[233] Andriy Bychenko, 'Dissatisfaction with Ukraine's authorities is gradually growing and will eventually explode', (2010) Razumkov Centre <http://www.razumkov.org.ua/eng/article.php?news_id=824> accessed 26 February 2016.
[234] Andrea Gawrich, Inna Melnykovska, Rainer Schweickert, 'Neighbourhood Europeanization through ENP: The Case of Ukraine' (2010) 48 Journal of Common Market Studies 1212.
[235] The EU's overall support for building civil society in EaP countries increased from the €30 million in the period 2007-2010 to €68 million in 2011-2013 and €148 million in 2014-2017 (forecasted amount is approximate). See more in <http://ec.europa.eu/enlargement/neighbourhood/pdf/riga/20150518_civil_society_leaflet.pdf> accessed 26 February 2016.
[236] Alexander Franz, *The European Commission's Tacis Programme 1991–2006. A Success Story* (OSCE, 2008).
[237] Aide à la Décision Economique, 'Ukraine - Evaluation of EC Country Programme - Final Report. Volume I: Main Report' (1998) 20.
[238] Ibid, 2.
[239] Paul Kubicek, 'The European Union and democratization in Ukraine' (2005) 38 Communist and Post-Communist Studies 269-292.
[240] International Business Publications, 'Strategic Information and Basic Laws' in *Ukraine Energy Policy, Laws and Regulations Handbook* (International Business Publications, 2015, vol. 1).

In 2007 TACIS was replaced by the European Neighbourhood and Partnership Instrument (ENPI), which is the key financial mechanism of the ENP. Under the National Indicative Programme (NIP) for Ukraine 2007-2010, only 7% of the overall amount of €522 million was committed to the support for democratic development and good governance. This is rather low, particularly in comparison to the next most-funded countries: Georgia – 37% and Moldova – 26%.[241] Under the NIP for Ukraine 2011-2013, from the total sum of €483 million 20% was committed to good governance and the rule of law (in Georgia 22% and Moldova 39.6%).[242] Moreover, the democracy and good governance priority under the ENPI focused mostly on supporting public administration and the fight against corruption.[243]

Between 2007 and 2013 under the European Instrument for Democracy and Human Rights (EIDHR), which is the EU's main financial instrument for promoting democracy and human rights protection, 38 grant projects from Ukraine have been supported amounting to €8 million. Ukraine was defined as a priority country under the EIDHR for the years 2013-2017 with a minimum budget of €4,5 million.[244]

In response to the Euromaidan protests in March 2014, the European Commission declared support amounting to at least €11 billion over the coming years, however most of it has been dedicated to economic reform and financial stabilisation. Only in 2014 the EU disbursed more than €1.6 billion in loans and grants, notably through Macro-Financial Assistance (MFA) programmes.[245] On 8 January 2015, the Commision proposed another MFA programme of up to 1.8 billion.[246]

In 2014, the EU launched special measures containing two actions aimed at strengthening democracy:[247]

- State Building Contract – focusing on the fight against corruption, public administration reform, as well as constitutional and electoral law reform (budget: €355 million)
- Civil Society Support Programme, whose aim is to enhance civil society's role in promoting democratic reforms in Ukraine' (budget €10 million).

Under the ENI (the financial instrument which has replaced the ENPI) in the period 2014-2020, assistance for Ukraine could reach up to €1 billion, but final allocation depends on Ukraine's commitment to reform. Moreover, under the umbrella programme based on the 'more-for-more approach' in exchange for

[241] European Commission, 'European Neighbourhood and Partnership Instrument 2007-2013. Overview of Activities and Results' [2014] 45-49 <http://enpi-info.eu/medportal/publications//726/European-Neighbourhood-Instrument-2007-2013-%E2%80%93-Overview-of-Activities-and-Results> accessed 26 February 2016.
[242] Ibid.
[243] Natalia Shapovalova, 'Ukraine: A New Partnership' in Richard Young's (ed.) *The European Union and Democracy Promotion. A Critical Global Assessment* (The Johns Hopkins University Press, 2010) 59-77.
[244] European Commission, 'Information Note EIDHR and Ukraine' [2014] <http://www.europarl.europa.eu/meetdocs/2009_2014/documents/droi/dv/83_eidhr_/83_eidhr_en.pdf> accessed 26 February 2016.
[245] Specific programmes and amount of money are listed on the website of the European Commission (Economic and Financial Affairs): http://ec.europa.eu/economy_finance/international/neighbourhood_policy/ukraine_en.htm
[246] European Commission, 'EU-Ukraine: Commission proposes further €1.8 billion in macro-financial assistance' (Press Release) [2015]; European Commission, 'EU Commission disburses €600 million assistance to Ukraine' (Press Release) [2015].
[247] European Commission, 'Commission Implementing Decision on a Special measure 2014 in favour of Ukraine to be financed from the general budget of the European Union' C(2014) 2907 final.

progress in democratisation, Ukraine may receive up to €40-50 million per year between 2015-2020. For the strengthening of the rule of law, the EU Advisory Mission for Civilian Security Reform Ukraine (EUAM Ukraine) has been established with a total budget of €13.1 million.

C.   Conclusions

Necessity of Ukraine's democratization was expressed under all of the EU-Ukraine frameworks, nevertheless the EU was driven with their own interest focusing mostly on nuclear safety (in 1990s) and keeping stability and security behind its Eastern border (in 2000s).[248] Launching the ENP Only deteriorating democracy under the presidency of Victor Yanukovych and threat of Ukraine's reorientation towards Moscow mobilized European elites to take more decisive steps, such as clear and strict preconditions for signing enhanced cooperation (the AA and DCFTA). However, the firm conditionality exercised by the EU was mitigated in November 2013 with readiness to sign the AA even though Ukraine didn't meet all preconditions (such as releasing Yulia Tymoshenko).

Political tension accompanying Ukraine's rejection of the AA reflects country's geopolitical significance for foreign policy of Russia under the leadership of Vladimir Putin.[249] Consolidation of post-Soviet space and restoring Russia's international position became a priority since 2000s and Ukraine was seen as a geopolitically crucial country in the region (due do geographic proximity, common history as well as Russia's economic and security interest).[250] Ukraine's reorientation towards West was interpreted as a threat for Russia's security as well as economic interest. Therefore, the agreement between the EU and Ukraine led to Russian counteraction, what materialized in Donbass in 2014.

The main pressure tool used by the Russian Federation was energy supplies. Threats of increase of gas prices appeared to be effective earlier in the case of Armenia[251] and did so in case of Ukraine. Moreover, undertaking trade balance, Russian Federation was an important partner for Ukraine and prospect of losing it could be a blow to Ukraine's economy. It can be also argued that Victor Yanukovych was more willing to enhance partnership with Russia, as the transparent EU market and need for modernization could affect ruling elites.[252]

However, the failure of signing the AA in 2013 and further manifestations were the result of geopolitical choice, the events could have been otherwise, if main obstacles in EU-Ukraine relations would have been resolved earlier. Undoubtedly the most discouraging for Ukraine was no consensus over its membership

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[248] Laure Delcour, Kataryna Wolczuk, 'Spoiler or facilitator of democratization?: Russia's role in Georgia and Ukraine' (2015) 22(3) Democratization 459-478.

[249] Stephan Keukeleire and Tom Delreux, *The Foreign Policy of the European Union* (Palgrave Macmillan, 2014) 282.

[250] Nelli Babayan, 'The return of the empire? Russia's counteraction to transatlantic democracy promotion in its near abroad' (2015) 22(3) Democratization 445-446.

[251] Ibid, 448.

[252] Laure Delcour, Kataryna Wolczuk, 'Spoiler or facilitator of democratization?: Russia's role in Georgia and Ukraine' (2015) 22(3) Democratization 465.

in the EU – in the 1990s and 2000s Ukrainian officials hoped to join to the European project, but the EU was avoiding any declaration depriving itself from 'the carrot of membership' which was found to be the most effective EU's foreign policy tool towards neighboring countries.[253] Some authors have noticed an occasional successful application of 'the carrot of economic rewards' in the field of strengthening democracy starting from the Orange Revolution. In 2004 as a precondition for granting Ukraine the status of market economy the EU made conducting presidential elections in accordance with democratic standards. In 2006 and 2007 transparent and fair elections were linked with the EU's assistance to Ukraine in its WTO accession.[254]

It can be argued, that applying strict conditionality based on common democratic values could have strengthen substantive democracy. However, until 2010 the EU didn't significantly revised its external actions towards Ukraine focusing rather on institutional and procedural reforms. As many reports and studies shown there were little changes and Ukraine frequently implemented inadequate internal policies.[255] However the EU, lacking a long-term goal of partnership, remained passive as long as Ukraine's democracy didn't significantly erode.

Deteriorating democracy in Ukraine in 2010-2013 brought skeptical voices from the EU's high officials over enhanced agreement (including Jose Manuel Barroso and Catherine Ashton).[256] Nevertheless, the EU expressed its readiness for signing the AA after establishing clear preconditions for it. Although Ukraine didn't meet all of them, the EU pushed on signing the agreement and expected to bring Ukraine closer to the EU rather than Russia. Some authors noted the role of the economic interest of the EU (enhanced cooperation under the DCFTA),[257] however others claimed that mutual economic cooperation is used as a tool for implementing rule of law, good governance and promoting democracy.[258]

The commitment to democratic principles expressed in Article 1 of the AA along with applying strict conditionality approach, bottom-up approach and 'more-for-more' umbrella programme could have significantly boosted democratization, however two factors – namely lack of cooperation amongst Ukraine's political elites and Russian influence – are still real threats to the effectiveness of the EU's

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[253] Elena A. Korosteleva, 'Evaluating the role of partnership in the European Neighbourhood Policy: the Eastern neighbourhood' (2013) 2 Eastern Journal of European Studies 12. Commission of the European Communities, 'Wider Europe – Neighbourhood: A New Framework for Relations with our Eastern and Southern Neighbours' (Communication from the Commission to the Council and the European Parliament) COM(2003) 104 final.

[254] Andrea Gawrich, Inna Melnykovska, Rainer Schweickert, 'Neighbourhood Europeanization through ENP: The Case of Ukraine' (2010) 48 Journal of Common Market Studies 1222.

[255] Volodymyr Sidenko, 'Ukraine's Regional Integration Policies: the EU versus the Eurasian Community' in Ludvig Zsuzsa (ed.) *Eurasian challenges. Partnerships with Russia and other issues of the post-Soviet area* (East European Studies Research Centre for Economic and Regional Studies of the Hungarian Academy of Sciences, 2013) 11-29.

[256] 'Let me be very clear, signing and ratifying the Association Agreement and the DCFTA will not be possible unless Ukraine urgently addresses this stark deterioration of democracy and the Rule of Law'. See: Razumkov Centre, 'EU leaders: The key to moving forward in our relationship with Ukraine is in Kyiv, not Brussels' (2012) <http://www.razumkov.org.ua/eng/article.php?news_id=997> accessed 26 February 2016.

[257] Paul Kubicek, 'The European Union and democratization in Ukraine' (2005) 38 Communist and Post-Communist Studies 275.

[258] Andrea Gawrich, Inna Melnykovska, Rainer Schweickert, 'Neighbourhood Europeanization through ENP: The Case of Ukraine' (2010) 48 Journal of Common Market Studies 1222.

assistance. The EU should consequently review Ukraine's process of democratization and formulate further conditions decisively and clearly. Since 2014 the most promising EU-Ukraine cooperation is in the field of judiciary, which is also boosted by the CoE-Ukraine cooperation. The EU should explore the possible added value of co-operation with other organisations in supporting democratisation in Ukraine, with the CoE, the OSCE/ODIHR and the UN, all possible partners for bringing about significant improvement on the ground. The existing advances in multilateral co-operation explored elsewhere in the FRAME project should be maintained in order to maximise synergy and mutual benefit while minimising overlap and redundancy.

V.   Tunisia and Egypt

A.   Introduction

Due to the geographical proximity and the interests of EU Member States, the countries in the South of the Mediterranean have been one of the main focus areas of EU external policies. In those policies, the promotion of democracy and human rights has been accorded a central role since the creation of the Euro-Mediterranean Partnership (1995), the Euro-Mediterranean Union (2008) and the new European Neighbourhood Policy (ENP) (2005). In fact, the Barcelona declaration of 1995 marked the first time that the promotion of rule of law and democracy was mentioned in relation with the Mediterranean neighbourhood.[259] One year later, in 1996, the European Initiative for Democracy and Human Rights (EInDHR) budget was expanded to include the MEDA Democracy Programme, a line devoted to human rights and democracy promotion in the EU's Southern Neighbourhood. The creation of the MEDA Democracy Programme, according to Federica Bicchi, marks the ''date of birth' of democracy assistance in the Mediterranean'.[260] However, in the first years of the Euro-Mediterranean Partnership and until the first decade of the 2000s, the main focus of EU actions was the promotion of market liberalization measures in order to advance towards the integration of the neighbouring countries in the EU internal market.[261]

Tunisia was the first country in the Mediterranean neighbourhood to sign an Association Agreement (AA) under the Euro-Mediterranean Partnership in 1995. In the case of Egypt, the AA was adopted and came into force in June 2004.

Although actions oriented towards democratization and human rights were one of the stated priorities of the EU's policies towards the Mediterranean, especially starting in the early decades of the 21st century, one of the main criticisms of the EU's policies concerned the prioritization of the interest of the EU and its member States in the fields of liberalization of markets and security, over democracy and human rights.[262] Some authors have considered this orientation as a product of the liberal conception of democracy of the EU that led to a preference for measures of economic liberalization and prioritized political and civil rights

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[259] Federica Bicchi, 'Democracy Assistance in the Mediterranean: An Overview' (2009) 14(1) Mediterranean Politics 61, 64.

[260] Ibid, 64. In 2001 it was decided to abandon the geographical division of the EInDHR.

[261] Vicky Reinaert, 'Democracy Through the Invisible Hand? Egypt and Tunisia' in Anne Wetzel and Jan Orbie (eds.), *The Substance of EU Democracy Promotion. Concepts and Cases* (Palgrave Macmillan 2015) 149.

[262] In this study we present a conflicting relation between human rights and security in the policies of the EU towards Tunisia and Egypt. We are conscious that this classical conception of security, that has a reference object the elites of the States, has been challenged by critical studies on security and international relations. An approach to security that places the humanity and the respect of people rights in the center of its policies would not only supplement but constitutes a fundamental requisite to the fulfilment of human rights. However, in this study we contend that 'classical' security interests continue to be privileged over human rights in the relation pf the EU with countries like Tunisia and Egypt. On the critical conception of security and its relation to human rights, see: Tim Dunne and Nicholas J. Wheeler, 'We the Peoples': Contending Discourses of Security in Human Rights Theory and Practice (2004) 18 International Relations 9.

over economic and social rights. Another issue of concern is the separation between discourses and priorities identified in the main policy documents and the practical implementation of those.[263] Even before the emergence of the new wave of protest movements in Tunisia in December 2010, those issues were at the core of the criticism about the EU's policies towards the region.

The Arab uprisings that started in Tunisia in December 2014, and expanded across the Middle East during 2011, confirmed those criticisms and underlined the need for a comprehensive and deep review of EU policies towards the region.

In addition to several statements, the first EU policy response to the uprisings was *the Partnership for Democracy and Shared Prosperity* communication on March 2011. This was followed by the publication, two months after, of the *EU's New Response to a Changing Neighbourhood*, a revision not only of the EU's policies towards the South-Mediterranean neighbourhood but of all the ENP. Those two documents were presented as an innovative framework for the future policies of the EU towards its neighbours and as a response for past criticism and the demands emerging from the Arab uprisings.[264]

Furthermore, the EU responded to the Arab revolts with a rise of funding through the European Instrument for Democracy and Human Rights (EIDHR) and other instruments and the deployment of assistance programmes for the transitions, essentially, training and support for civil society, political parties and technical and financial assistance for the electoral processes. In addition, support programmes were launched to address the situation in the borders (especially between Libya and Tunisia) and the situation of refugees.

However, for some authors, changes in EU policies after the uprisings remain cosmetic and maintain the same conceptual approach to democracy and human rights that was criticized in previous policies[265].

What follows are the conclusions from the revision of policies and instruments deployed by the EU in Tunisia and Egypt and a review of the most recent literature on the EU democratization and human rights policies towards both countries. The methodology followed in the conduction of the impact assessment comprises interviews and literature review on impact assessments of EU policies in both countries and human rights' and CSO reports. In order to avoid the problematic of the attribution mentioned in the introduction of the report, this chapter will focus on projects from which we have information about results and direct impacts.

The first part of the chapter (sections one and two) provides a critical review of the main policy documents that frame the EU's action in the field of democracy promotion and human rights towards Tunisia and

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[263] Federica Bicchi, 'Dilemmas of implementation: EU democracy assistance in the Mediterranean' (2010) 17 Democratization 976.

[264] Andrea Teti, 'Democracy Without Social Justice: Marginalization of Social and Economic Rights in EU Democracy Assistance Policy after the Arab uprisings' (2015) 24 Middle East Critique 9, 16.

[265] Andrea Teti, 'The EU's First Response to the 'Arab Spring': A Critical Discourse Analysis of the *Partnership for Democracy and Shared Prosperity*' (2012) 17 Mediterranean Politics, 266; Andrea Teti, 'Democracy Without Social Justice: Marginalization of Social and Economic Rights in EU Democracy Assistance Policy after the Arab uprisings' (2015) 24 Middle East Critique.

Egypt, as well as the fundamental financial instruments, programmes and projects. Section three will be dedicated to gathering the main conclusions from the analysis of the previous sections and the comparison between both countries. The reach of the report has been limited by the difference of available information about the commitment of funds and projects financed between Tunisia and Egypt.

B.   EU instruments for human rights and democracy support in Tunisia

Most analysis about EU democracy and human rights policies towards Tunisia began with the Euro-Mediterranean Partnership and the adoption of the Association Agreement in 1995. However, the relations between Tunisia and the EU go back to some decades before when the European Communities began to sign agreements with third countries and Tunisia signed association agreements with the EEC in 1959, 1965 and 1967.[266] It was also one of the first countries to enter in an Association Agreement in 1995 and to adopt an Action Plan under the ENP in 2005.

The relations of the EU and Tunisia during Ben Ali's regime have been described as one of 'mixed signals' regarding democracy and human rights promotion.[267] While it is true that the Association Agreement of 1995 included a human rights clause and the Action Plan of 2005 included the promotion of human rights and democratisation as one of the priorities of action, and while a subcommittee on human rights, democratisation and governance was established in 2007, the EU has never applied the human rights clauses and human rights concerns were not seen as an obstacle to pursue the development of relations between the EU and Tunisia.[268] As an example, in 2010, amid growing criticism for the repression against civil society organizations in Tunisia, the EU continued with the negotiation on an advanced status agreement.[269] Moreover, authors like Corinna Mullen point to the fact that the EU has ignored the situation of the Tunisian opposition, especially when repression has been directed against Islamist organizations and parties. Finally, it is a common position between analysts that the EU has prioritized its economic and security interest (and that of its member States) in Tunisia, and in the entire Southern neighbourhood, over the promotion of democracy or human rights.[270]

The uprisings that ended decades of Ben Ali's rule in Tunisia brought new attention to those criticisms. The first responses of EU Member States like France which supported Ben Ali and promised anti-riot

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[266] Raoudha Ben Othman, 'European Union Democracy Promotion in Tunisia', *Routledge Handbook of the Arab Spring* (Routledge, 2014) 599.

[267] Daniela Huber, *Mixed Signals Still?: The EU's Democracy and Human Rights Policy Since the Outbreak of the Arab Spring* (Istituto affari internazionali, 2012).

[268] Ibid.

[269] Ibid, 4.

[270] As an example, see Sihem Bensedrine and Omar Mestiri, *L'Europe and ses despotes. Quand le soutien au « modèle tunisien » dans le monde arabe fait le jeu du terrorisme islamiste* (La Découverte, 2004).

assistance days before his ouster, were followed by repeated calls for a deep review of the fundaments of the EU's relations with its Southern neighbourhood.

In the case of Tunisia, the revision took the form of an increase in financial assistance and the deployment of several projects in support of the democratic transition and civil society organizations.

1.   Reference policy documents

The EU's policies towards Tunisia in the field of democracy and human rights are enshrined in the main reference policy documents (AA, ENP Action Plans) and the programming documents of instruments like the European Neighbourhood Instrument (ENI) or the EIDHR.

According to the AA of 1995, relations between the EU and Tunisia 'shall be based on respect for human rights and democratic principles which guide their domestic and international policies and constitute an essential element of the Agreement'. The first Action Plan between the EU and Tunisia in the framework of the ENP was adopted in 2005 and included the promotion of human rights and democratization as a priority area of action.

After the ouster of Ben Ali, the EU initiated a process of revision of its external policy towards Tunisia. In this context, in 2012, the EU-Tunisia Association Council accorded to enhance the association through a privileged association agreement. The priorities, instruments and agenda regarding the relations of the EU with Tunisia are spelled out in the new Action Plan under the ENP adopted for the period 2013 to 2017.

The new Action Plan contains numerous references to the Tunisian popular uprisings and the commitments of the EU to support the democratic transition in Tunisia. This new framework of relations identifies new priorities for action:

1.   Rule of law and democracy
2.   Cooperation in the field of migration, mobility and security
3.   Economic and social integration
4.   Sustainable development[271]

These priorities are developed in concrete actions that frame the human rights and democratization policies of the EU in the context of the ENP. The actions in those specific areas are the following:

- Approximation of Tunisian legislative framework with those of the EU/Council of Europe in those areas
- Strengthen institutions guaranteeing democracy and the rule of law
- Consolidate the independence and efficiency of the judiciary and improve prison conditions

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[271] Relations Tunisie - Union Européenne: Un partenariat privilégie. Plan d'Action 2013-2017 (hereinafter referred to as The Action Plan 2013-2017) 8.

- Dialogue and cooperation on human rights and fundamental freedom related issues
- Implementation of international conventions on human rights and cooperation with United Nations special procedures and mechanisms
- Respect for the freedom of association, freedom of expression and freedom of assembly in
- accordance with the UN International Covenant on Civil and Political Rights
- Promotion and protection of the rights of women and children
- Abolition of the death penalty and the fight against torture and all forms of discrimination.
- Promote universal adherence to the Rome Statute of the International Criminal Court.[272]

The human rights dialogues, programs of exchange, cooperation, assistance and training are the main tools provided to develop the Action Plan in the field of human rights and democratization. Furthermore, the Action Plan includes the protection of refugees and asylum seekers as one of the main focus areas of action. Economic and social rights issues were not conceived as part of the actions regarding human rights and democracy but focus was placed on cooperation in employment, social policy and social security.[273]

2.   Financial assistance

a)   ENPI/ENI

In the period 2011-2013 Tunisia benefited from €445 million in development assistance through the ENPI. As a response to the popular uprisings, the EU almost doubled the initially allocated amount to Tunisia for the same period.[274] This amount included funds under the SPRING (Support for Partnership, Reforms and Inclusive Growth) programme. This programme was created as a response to the uprisings in the Arab countries. It is oriented to the Southern Neighbourhood to provide assistance to third countries showing commitment and progress in reforms (more for more principle). Tunisia was the first beneficiary for funding under the SPRING programme in 2011 (€20 million). In 2012 Tunisia received €80 million and €55 million in 2013.[275]

The main share of the funds was committed to Budget Support Programmes to stabilize the economy and support democratic transition (€278 million) and the rest to projects benefiting Tunisian citizens in marginalized areas.[276] As part of the review of the EU policies in Tunisia, sectors of intervention for the period 2011-2013 were adapted to the particular conditions of the Tunisian transition and were focused

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[272] Ibid, 11-15.
[273] Ibid, 31.
[274] 'Tunisia Financial Assistance Fiche' (February 2016) 1.
[275] Commission, 'Tunisia' (European Neighbourhood Policy and Enlargement Negotiations, 2016) <http://ec.europa.eu/enlargement/neighbourhood/countries/tunisia/index_en.htm> accessed 25 February 2016.
[276] 'Tunisia Financial Assistance Fiche' (2016) 1.

on good governance and democracy, economic reform and recovery and support to social sector and the environment.[277]

With the revision of the ENP, the ENPI was replaced by the new European Neighbourhood instrument (ENI) that aims to reflect the lessons learned in all the years of EU cooperation through the ENPI. The ENP was conceived as a more flexible instrument that rewards best practices by third countries based in the new ENP's principle of 'more for more'.[278]

The priorities of the bilateral assistance between the EU and Tunisia in the framework of the ENI are spelled out in the Programming Document of the ENI (2014-2010) and the Single Support Framework (SSF) (2014-2015).[279] The SSF for the years 2014-2015 is focused on three sectors of intervention:

- Socio-Economic reforms for inclusive growth, competitiveness and integration
- Strengthening fundamental elements of democracy
- Sustainable regional and local development

In addition to this, assistance will also be provided in terms of institutional support for the implementation of the Action Plan and for civil society and local authorities.

The ENI's approximate bilateral allocation for the period 2014-2010 could range between € 725 mill. and € 886 mill. For the period 2014, the indicative allocation for bilateral support ranges between € 202 mill. and € 246 mill.[280] The indicative allocation distribution between sectors shows the prioritization of programmes related to socioeconomic reforms (40%) and regional development (30%) over democracy (15%) and support for civil society and local authorities programmes (15%).

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[277] Ibid.

[278] EU Neighbourhood Info Centre, 'The European Neighbourhood Instrument (ENI)' (EU Neighbourhood Info Centre) <http://www.enpi-info.eu/ENI> accessed 22 February 2016.

[279] EEAS and Commission DG DEVCO, 'Programmation de l'Instrument Européen de Voisinage (IEV) (2014-2017) Cadre Unique d'Appui pour l'appui de l'UE à la Tunisie (2014-2015)'.

[280] Ibid, 10.
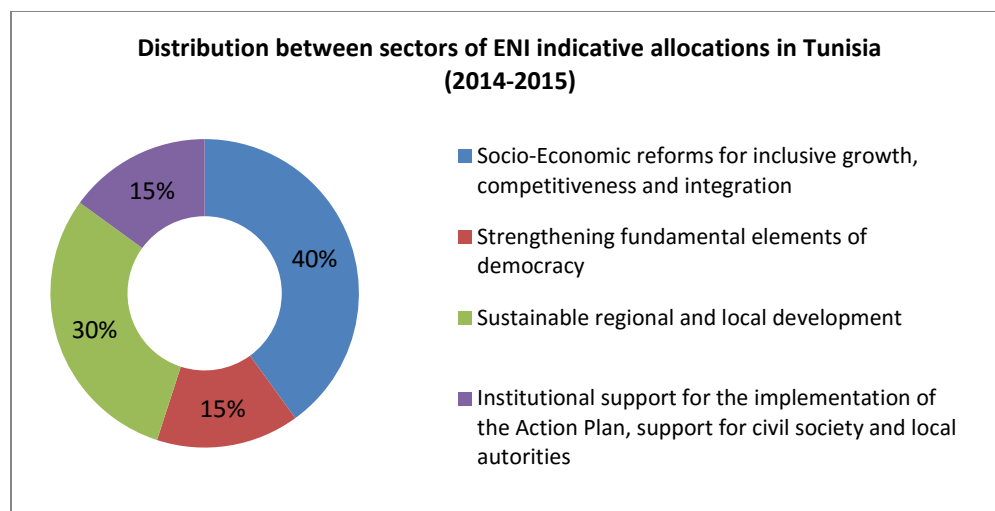
Figure 1: **Distribution between sectors of ENI indicative allocations in Tunisia (2014-2015). Source: Prepared by the author base on, EEAS and Commission DG DEVCO, 'Programmation de l'Instrument Européen de Voisinage (IEV) (2014-2017) Cadre Unique d'Appui pour l'appui de l'UE à la Tunisie (2014-2015)'**

The specific objectives of the ENI for 2014-2015 in terms of strengthening fundamental elements of democracy are the following:[281]

- Support for the democratization process and the consolidation of a pluralistic democracy, particularly, support to the electoral process, the National Constitutional Assembly and the future Parliament, strengthening media independence and press freedom, strengthening civil society's capacities to effectively engage in policy-making, observation of national elections and training for voters including strengthening the role of women in the political process and promotion of cultural pluralism.
- Support for the formulation and implementation of the reform of the judicial system that will assure the independence and impartiality of justice and will reinforce the fight against impunity and the respect for physical and moral integrity.
- Support for the formulation and implementation of security sector reform to respond to security needs and the expectations of the population, and assure a democratic and efficient control over the security forces.
- Consolidate the role of women in society and contribute to the elaboration and implementation of a gender policy to promote equality between sexes.

For each of the specific objectives, the SSF details several expected results, indicators and forms of verification [see Annex 1].

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[281] Ibid, 22-24.

In 2014, the EU allocated €169 million under the ENI. €50 million of the initial allocation were provided by the so-called 'umbrella funds', that replaced the SPRING funds, and are also based on the more for more incentive mechanism.[282] Four programs were adopted in 2014:

-   State-Building Contract in support of the economic recovery, elaboration and implementation of a number of sector reforms, key factors in addressing the main socio-economic challenges (€100 million);
-   programme in support of the reform of the judiciary (€15 million), of the media (€10 million), to support gender equality (€7 million) and in support of border management (€3 million);
-   programme in support of the improvement of living conditions in disadvantaged urban districts (€28 million);
-   programme focusing on cross-cutting issues such as support to civil society and capacity building (€6 million).[283]

In 2015, according to the Annual Action Programme (I and II), the EU committed a maximum allocation of €186.8 mill. (€71.8 mill. under the umbrella funds).[284]

Finally six programmes were adopted:

-   support to economic recovery (€70 mill.)
-   support to the security sector reform (€23 mill.)
-   support for the cultural sector (€6 mill.)
-   support for decentralisation and integrated development of regions (€43 mill)
-   support to the Association Agreement and the integration process (€12.8 mill)[285]

It is noteworthy that there were no specific programs devoted to human rights and democratization priorities envisaged in the Annual Action Programme 2015. However, the programme in support to the security sector reform includes as a specific objective the reform and modernization of the domestic security forces according to the international human rights norms[286] and the programme in support of the culture sector included as one of its objectives the support for freedom of expression and creation, especially for young generations.[287] Apart from that, the planning document of some of the programmes included in the Annual Action Programme considered human rights, democratization and gender equality as transversal issues. For example, the programming document of the programme IRADA (Initiative for support to regional sustainable development) included as measures of mainstreaming democracy and human rights the implementation of dialogue platforms between public and private actors, good

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[282] 'Tunisia Financial Assistance Fiche' (February 2016) 1.
[283] 'Tunisia Financial Assistance Fiche' (February 2016) 1-2.
[284] Actual disbursements in February 2016 amounted to approximately €144 million. See, 'Tunisia Financial Assistance Fiche' (February 2016) 2.
[285] 'Tunisia Financial Assistance Fiche' (February 2016) 2.
[286] European Commission, 'Décision d'exécution de la Commission du 30.7.2015 relative au programme d'action annuel 2015 en faveur de la Tunisie partie I à financer sur le budget général de l'Union européenne' C(2015) 5527 final, ANNEX, 60.
[287]Ibid, 15.

governance of professional training system, the improvement of the governance of business, and privileging projects that promote the employment of women and freedom of expression.[288]

In the period 2014-2015, €64 mill. of the total amount of €355.8 mill. of bilateral cooperation were deployed in programmes related to the promotion of fundamental elements of democracy (see **Error! eference source not found.**). In addition, Tunisia also received assistance to respond to the refugee crisis on the border with Libya through the Regional Protection Programmes.[289]

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[288] Commission, 'Décision d'exécution de la Commission du 30.7.2015 relative au programme d'action annuel 2015 en faveur de la Tunisie partie I à financer sur le budget général de l'Union européenne' C(2015) 5527 final, ANNEX I, 15.
[289] Council Annual Report 2011, 101.

Table 1: EU-Tunisia Bilateral Cooperation 2014-2015 (in € million) (Tunisia Financial Assistance Fiche, February 2016).

	2014	2015	Total
Socio-economic reform for inclusive growth			
Programme to support the economic recovery IV (PAR IV: budget support)	100		100
Programme to support the economic recovery V (PAR V: budget support)		70	70
Programme to support the Association agreement and the transition	6	12.8	18.8
Programme to support the private sector and vocational training (IRADA)		32	32
Fundamental elements of democracy			
Justice Reform II (PARJ II)	15		15
Equal opportunities for men and women	7		7
Migration (border management and international protection)	3		3
Media reform	10		10
Security sector reform		23	23
Support to the cultural sector		6	6
Regional and local development			
Rehabilitation of low income neighbourhoods II	28		28
Regional development (CAP2D – budget support)		43	43
Total	**169**	**186.8**	**355.8**

b) EIDHR

In Tunisia, no calls for proposals for EIDHR projects were launched until 2011. Only two projects were financed under the EIDHR and took the form of confidential projects. For that reason, details on the existence and content of the projects were not disclosed until the ouster of Ben Ali and the beginning of the transition in Tunisia. As Leila Mouhib indicates, for the EU's delegation in Tunisia, before 2011,

'nothing was possible' in terms of implementation of EIDHR projects.[290] According to this author, the delegation decision was based on the context of authoritarianism under Ben Ali's rule and in order to protect the good economic and political relations that they had.[291]

Despite the decision of the delegation, the Commission decided to launch three projects that were managed directly by Brussels: one regional EIDHR project that took place in 2000 and was focused on gender equality, citizenship and women's rights; a project on censorship launched under Objective 1 in 2009 that was submitted to 'confidentiality measures'; and an Objective 1 project launched in 2010 that focused on social rights and citizenship. [292]

As a response to the Arab uprisings, the delegation launched the first call for proposals in March 2011. Subsequent calls were also launched in 2012, 2013, and 2015. The priorities of the calls covered several topics such as election monitoring, minorities' rights, women rights and migrants and refugee. Although there is no exhaustive list with all the EIDHR projects managed by the delegation in Tunisia, the EC Financial Transparency system provides us with information about the EIDHR projects managed directly by the Commission. In 2011, projects funded under the EIDHR were related to civil society support, particularly organizations working on human rights and democratization and to electoral assistance. In 2012 and 2014 funds were deployed in projects working in the field of democratic transition, support for bloggers and journalists, support for civil society organizations and rights of women and the fight against sexual violence.[293]

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[290] Leila Mouhib, 'EU Democracy Promotion in Tunisia and Morocco: Between Contextual Changes and Structural Continuity' (2014) 19(3) Mediterranean Politics 351, 359.
[291] Ibid, 359 and 363.
[292] Ibid, 366-367.
[293] EC Financial Transparency System, http://ec.europa.eu/budget/fts/index_en.htm.

Table 2: Priorities in EIDHR calls for proposals in Tunisia

	Priorities
2011	Citizen watchdog network Domestic observation of elections Support for political parties in the electoral process Support for freedom of expression and promotion of democratic values
2012	Promotion of diversity, tolerance, citizenship. Inclusion of vulnerable groups (LGTBI, ethnic minorities, persons with functional diversities, women, single mothers, children, youth, etc.) Support for the constitutional reform process through the representation of minorities' interests
2013	Support for a fair and transparent electoral process Education in rights and democratic values Women's rights
2014	There was no call in 2014.
2015	Strengthening rule of law components (executive, legislative and judicial) Fight against torture Protection of rights of migrants, refugees, and human trafficking victims Support for EU-Tunisia relations in the field of democracy and rule of law

3.   EU action in the field of democracy and human rights in Tunisia

Through the above-mentioned financial instruments, the EU has deployed a number of projects in the period 2011-2015 covering different issues related to human rights and democratization. An analysis of those projects shows that the main focuses of attention of the policies of the EU towards Tunisia in this field are the following:

- Human rights dialogues
- Support for the democratic transition and elections
- Justice and security sector reform
- Support for civil society organizations
- Freedom of expression and media freedom
- Fight against torture
- Economic and social rights
- Vulnerable groups

a)   Human rights dialogues

The human rights dialogues between Tunisia and the EU, as well as the dialogues in the framework of international institutions constitute one of the main instruments for the human rights and democratization policies according to the 2013-2017 Action Plan. In 2007, the EU-Tunisia Association Council accorded to establish a Subcommittee on Human Rights and Democracy serving as the principal mechanism for monitoring the implementation of human rights and democracy measures under the Action Plan.[294]

It is remarkable that from 2009 to 2014, only two sessions of the established human rights dialogues were held (in 2009 and 2010).[295] In those sessions the dialogue focused on the situation of human rights defenders, the right to a fair trial, the conditions of detention, freedom of expression and media, and freedom of association.[296]Dialogues under the Subcommittee on Human Rights and Democracy were resumed in May 2015.[297]

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[294] Council of the European Union, 'EU-Tunisia Association Council Decision 2007/754/EC of 9 November 2007 setting up a Subcommittee on Human Rights and Democracy' [2007] OJ L 305/24.
[295] Annual Report 2009, 123. Annual Report 2010, 104.
[296] Ibid.
[297] Delegation of the EU in Tunisia, 'Rapport 2015. Coopération de l'Union européenne en Tunisie' (2016) 12.

b)   Support for the democratic transition and elections

In February 2011, the EU adopted restrictive measures against individuals responsible for misappropriation of State funds and froze assets of Ben Ali and other persons under inquiry.[298] Main actions in support of the transition in Tunisia are implemented through different financial instruments and are oriented towards assistance to domestic institutions, political parties and civil society organizations.

After 2011, the EU has continued its assistance to domestic institutions. One project financed by the EU between 2012 and 2016 provided assistance to the ANC in the form of training, exchanges, organization of seminars and the publication of the text of the Constitution in three languages.[299] This project continues and provides support to the Assembly of the People's Representatives (ARP) with the organization of conferences and study missions. One example of direct impact of this project is the provision to all the members of the ARP of a portable computer. This measure responds, according to the UE Delegation in Tunisia, to the lack of adequate means to for fulfilling their tasks.[300] Between 2012 and 2014 another project on transparency of the constitutional and electoral process was implemented by the ATIDE. This project has as a result the preparation of a draft of the new electoral law for the legislative elections and the organization of public seminars on issues such as the role of civil society, women and media in the electoral process.[301]

Regarding assistance for political parties, the EU has financed projects aiming at fostering a dialogue between political parties and other actors in order to reduce socio-political tensions.[302]

The EU has supported the participation of CSO in the transition by means of projects oriented towards youth participation in the process of the adoption of the Constitution[303].

Finally, the EU has deployed a number of projects to support CSO in the marginalised regions of Tunisia. Such projects have a special emphasis in the promotion of equality between men and women, and the inclusion of young people and vulnerable groups. [304]

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[298] Council Regulation 101/2011 of 4 February 2011 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Tunisia [2011] OJ L 31/1.

[299] EU Delegation in Tunisia, 'Rapport 2014', 78.
[300] EU Delegation in Tunisia, 'Rapport 2015', 91.
[301] EU Delegation in Tunisia, 'Rapport 2014', 79.
[302] Ibid, 81.
[303] Ibid, 80.
[304] 'Renforcer les capacités et la création d'organisations de la société civile tunisienne dans 6 régions défavorisées de la Tunisie' (Jamaity) <http://jamaity.org/project/renforcer-les-capacites-et-la-creation-dorganisations-de-la-societe-civile-tunisienne-dans-6-regions-defavorisees-de-la-tunisie/> accessed 4 March 2016; 'Périphérie active : support à la société civile' (Jamaity) < http://jamaity.org/project/peripherie-active-support-a-la-societe-civile/> accessed on 4 March 2016; 'Participation des citoyennes et citoyens au processus démocratique dans le nord ouest' (Jamaity) <http://jamaity.org/project/participation-des-citoyennes-et-citoyens-au-processus-democratique-dans-

Regarding support for elections, the EU has deployed Election Observatory Missions (EOM) to all the elections since the transition. The first EU EOM was established in 2011 (from September to November 2011) to observe the Constituent Assembly elections on 23 October 2011.[305] EOM was also deployed in the period September 2014 to January 2015 on the occasion of the legislative and presidential elections.[306] Experts from the EU mission, and other Tunisian and international observers noticed that both elections were credible and transparent.[307] However, the final report of the EOM for the National Constituent Assembly of 2011, identified problems of transparency as regards the collection of results and the reporting process.[308] At the same time, Tunisian observers have also pointed to obstacles for the observation and the opacity environment during the collecting process. This led one of the local observation organizations, ATIDE, to differ from the opinion of other domestic observers which considered that the process had been developed generally in a climate of transparency.[309]

The inclusion of vulnerable group concerns in the EOM is focused on the participation of women in the election as is reflected in the reports of the two EOMs deployed in Tunisia. The final report of the EOM for the National Constituent Assembly includes a section devoted to the human rights situation and the participation of women in the electoral process. It is focussed on the legal framework (legal provisions that discriminate against women) number of women registered (46%), the observance of principles of equality and the alternation between men and women (established by the electoral decree law), the number of women candidates (5,000, only 7% of the list had a woman in the head of lists), the number of chairs occupied by women (59 of 217), and the amount of time awarded to women in the media coverage of the electoral campaign (12% for women compared to 88% awarded to men).[310] The report of the EOM for the legislative and presidential elections of 2014 also includes a section dedicated to people with functional diversity.[311] In the legislative elections 47.4% of the candidates were women (4527 out of 9549 candidates), and 11.2% of the lists were led by a woman and 68 were elected to the Assembly (31.3%). In the presidential elections, there was only one woman out of 27 candidates.[312] Regarding the participation of people with functional diversity, the report focuses on elements such as the access and the adaptation of polling places.[313]

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le-nord-ouest/> accessed 4 March 2016; 'Périphérie Active: Soutien à la société civile de Sidi Bouzid' (Jamaity) <http://jamaity.org/project/soutien-a-la-societe-civile-de-sidi-bouzid/> accessed 4 March 2016.

[305]'Election Observatory Mission to Tunisia in 2011' (European Union External Action) <http://eeas.europa.eu/eueom/missions/2011/tunisia/index_en.htm> accessed 4 March 2016.

[306] 'EU Election Observatory Mission to Tunisia in 2014' (European Union External Action) <http://eeas.europa.eu/eueom/missions/2014/tunisia/index_en.htm> accessed 4 March 2016.

[307] Commission and HR of the EU for Foreign Affairs and Security Policy, 'Mise en oeuvre de la politique européenne de voisinage en Tunisie. Progrès réalisés en 2014 et actions à mettre en oeuvre' (Joint Staff Working Document) SWD(2015) 73 final, 5.

[308] Mission d'Observation électorale de l'Union européenne en Tunisie, 'Rapport Final – Élection de l'Assemblée Nationale Constituante 2011', 38-39.

[309] Ibid, 32.

[310] Ibid, 30-31.

[311] Mission d'observation électorale de l'Union Européenne, Tunisie 2014, 'Rapport final sur les élections législatives et présidentielles'.

[312] Ibid, 23-24.

[313] Ibid, 24-25.

In addition to this, the EU has also provided assistance that complements the election observatory missions in the support to electoral processes through other instruments such as the EIDHR and other external policies instruments. The main focus of the electoral assistance to Tunisia has been deployed in assistance to the Independent High Authority for Elections (ISIE), domestic monitoring of elections, support for CSO participation in the electoral process, information and awareness activities, assistance for media covering of the elections and the launching of a 'media electoral monitoring unit' in 2014.[314]

Apart from the impact of the training programmes, raising awareness activities or logistical support that present more problems to attribute the impact, some of those programs have resulted in the creation and establishment of bodies and networks with a clear effect in the electoral process. As an example, the project 'Assistance électorale à la Tunisie' (Electoral assistance to Tunisia), implemented during 2014, gave support to the ISIE providing juridical analyses, training and logistical support, and had also as a result the creation of a monitoring unit within the Independent High Authority of Audiovisual Communication (HAICA) with the mission of guarantee the pluralism in audiovisual information.[315] Another of the main impact has been the support to the Association Tunisienne pour l'Eveil Démocratique in the creation of the domestic monitoring network Mourakiboun that has become one of the main domestic players in the field of election observation.[316] Moreover, a project supporting domestic monitoring of election resulted in the establishment of a permanent observatory of elections that began its work in the legislative and presidential elections of 2014[317]. In addition to the creation of bodies or institutions, other direct impacts of EU projects are observables in the project 'Vox in Box'. This project, that was initiated in 2014 and will finish in 2016, has as objective the support of the participation of citizens in elections. One of the direct results was the inscription of approximately 31,000 citizens in the electoral lists before the elections of 2014.[318] The project continues with a view to the next municipal elections[319] that have been recently postponed to March 2017.

c)   *Justice and SSR*

Justice and security sector reforms are included as a priority in the policy documents for the periods since 2011 to the present. In the field of the justice sector reforms, PARJ programmes have been focused on assistance for justice sector reform (elaboration of a strategy, formulation of pilot projects and training), support to civil society initiatives in the fields of justice and penal system reform, rehabilitation and informatics equipment of tribunals, improvement of justice for minors and technical assistance for the

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[314] Commission, 'EU Aid Explorer' < https://euaidexplorer.ec.europa.eu/MainHomePageAction.do> accessed 5 March 2016; Commission and HR of the EU for Foreign Affairs and Security Policy, 'Mise en œuvre de la politique européenne de voisinage en Tunisie. Progrès réalisés en 2014 et actions à mettre en œuvre' (Joint Staff Working Document) SWD(2015) 73 final, 8.

[315] Delegation of the EU in Tunisia, 'Rapport 2014. Coopération de l'Union européenne en Tunisie' (2015) 84

[316] Delegation of the EU in Tunisia, 'Rapport sur la coopération - Union Européenne – Tunisie 2012', 183.

[317] Delegation of the EU in Tunisia, 'Rapport 2014', 79.

[318] Ibid, 80.

[319] Delegation of the EU in Tunisia, 'Rapport 2015', 91.

Institut Supérieur de la profession d'avocat.[320] In 2015 new projects were launched in relation to the political developments in the country. One example is the project in support for the process of transitional justice in the field of judicial treatment of files and protection of victims and witness.[321]

To the bilateral assistance must be added three regional programmes in the field of justice. These projects have addressed issues such as the independence and efficiency of the judicial system, the fight against corruption, the protection of human rights and the promotion of democratic values; the creation of a euro-Mediterranean space of cooperation in the field of justice; asset recovery and the fight against terrorism in compliance with human rights.[322]

Projects in the field of justice reform aims to develop judicial structures and knowledge building. Several of the projects are based on training, study missions, debates, seminars, etc. Thereby, the impact of those projects present special difficulties.

Regarding programs in the field of security sector reforms, programmes complementary to PARJ were implemented in relation with the efficacy of the judicial police, the scientific police, custody centres and border management.[323] In November 2015, Tunisia and the EU signed a programme of support to the reform and modernization of security sector.[324] Other regional programs present an explicit human rights component. For example, a four year project initiated in 2014 is intended to provide support to implement investigations and prosecutions in accordance with the rule of law and human rights.[325]

d)   Support to CSO

Support to CSO is a transversal issue in the EU's action towards Tunisia. It is mainly implemented through the EIDHR and the Programme in Support of Civil Society. However, apart from that, and as we have previously mentioned, projects in support of civil society participation in the transition, electoral, processes and justice and security sector reforms have also been implemented.

The Programme in Support of Civil Society (2012-2016) has as its objective the development of capacities and competences for CSO and the improvement of the legal and institutional environment for the work of CSO.[326] One of the main impacts of that project has been the creation of networks of CSO and other infrastructures aiming at reinforcing and facilitating the work of CSO. As an example, according to the EU Delegation in Tunisia, 26 CSO's networks has been created and 13 Human Rights Clubs have been established in universities.[327] The EU has also financed the creation of an associative platform of CSO

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[320] Delegation of the EU in Tunisia, 'Rapport 2014', 84.
[321] Delegation of the EU in Tunisia, 'Rapport 2015', 100-101.
[322] Delegation of the EU in Tunisia, 'Rapport 2014', 85.
[323] Ibid.
[324] Delegation of the EU in Tunisia, 'Rapport 2015', 107.
[325] Ibid, 108.
[326] Delegation of the EU in Tunisia, 'Rapport 2014', 87.
[327] Delegation of the EU in Tunisia, 'Rapport 2015', 114.

aiming at strengthening the visibility and communication between organizations.[328] The platform has been established [329] and is designed to continue operating in an autonomous way by 2016. In 2015 other projects aiming at reinforcing the participation of CSO in the local governance were initiated.[330] One last project has been financed to establish a dialogue between CSO in Tunisia, Tunisian authorities and the European Union (tripartite dialogue). According to Lilia Rebaï, Director of the network EuroMed Rights in Tunisia, it is soon to measure the impact of those policies.[331]

e)   *Fight against torture*

The EU has financed one project during the years 2012 and 2016 with the double objective of improving the access to justice for victims of torture and ill-treatments and promoting the adoption of a law establishing a National Mechanism for the Prevention of torture.[332] In this regard, with the adoption in 2013 of the law, Tunisia was the first country in the Arab world to establish such a mechanism.[333] Apart from the organization of training and rising awareness activities, the project had a direct impact reflected in 60 complaints and the provision of social, medical and psychological assistance to 106 beneficiaries.[334]

f)   *Economic and social rights*

Two projects have been financed in the field of economic and social rights. A first project 'Droits sociaux et de citoyenneté' was implemented between 2011 and 2014 by the Instituto per il Mediterraneo (iMED-Italie) and had as its objective the promotion of the dialogue between public institutions, on the one side, and trade unions and associations, on the other. The project has developed local groups that have analysed political and socioeconomic challenges of local governance from a development approach and the subject of decentralisation.[335] A second project 'La défense des droits économiques et sociaux des groupes vulnérables des régions de Monastir et du Bassin minier de Gafsa' was implemented during 2013 and 2015. The project was focused on three axes: to raise awareness about economic and social rights between workers in the textile sector and the non-graduate unemployed of the Monastir mining area and

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[328] Ibid, 88.

[329] ' Jamaity, La plateforme de la société civile tunisienne' www.jamaity.org accessed 5 March 2016.

[330] Delegation of the EU in Tunisia, 'Rapport 2015', 116.

[331] Ibid, 125.

[332] EU Delegation in Tunisia, 'Rapport 2014', 90.

[333] 'Tunisie : l'adoption d'un mécanisme pour la prévention de la torture donne l'espoir d'un avenir sans torture' (Amnesty International, 14 October 2013) < http://www.amnesty.fr/Nos-campagnes/Stop-Torture/Actualites/Tunisie-adoption-un-mecanisme-pour-la-prevention-de-la-torture-9705> accessed on 3 March 2016.

[334] Delegation of the EU in Tunisia, 'Rapport 2015', 123.

[335] Delegation of the EU in Tunisia, 'Rapport 2014', 90.

pursue negotiations with public and private authorities. One of the main impacts of the project was the provision of legal assistance to 321 workers of the textile factories in Monastir.[336]

g)   *Freedom of expression and media freedom*

The EU considers the freedom of expression and media freedom as fundamental elements for the transition to democracy. Projects in this field have two different objectives, on the one hand the promotion of media freedom and freedom of expression, and on the other hand, training for young people (particularly in marginalized areas) and CSO in citizen journalism and media to promote its participation and its professionalization in the media sector.[337] One of those projects has resulted in the creation of three media centres in Sidi Bouzid, Regueb and Menzel Bouzayyene.[338] Another project, 'Tunisie Bondy Blog' has established a centre for training journalist in the city of Gafsa.[339]

h)   *Vulnerable groups*

EU action towards Tunisia has included actions in support of vulnerable groups such as women, youth, minors, refugees and migrants, and people with functional diversities.

Youth and minors issues have been addressed in other projects such as justice system reform, freedom of expression and media freedom, and support to the transition and CSO.

Equality between men and women also appears as a transversal issue of other EU projects such as the projects in support of CSO and electoral processes. In addition to this, the EU has financed bilateral and regional projects directed towards raising awareness on the rights of women and equality between men and women, fighting against gender based violence and promoting equality in the labour market and

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[336] Ibid, 91.

[337] 'RADIO 3R : Soutien à l'information, l'insertion et la valorisation des jeunes de Sidi Bouzid' (Jamaity) <http://jamaity.org/project/radio-3r-soutien-a-linformation-linsertion-et-la-valorisation-des-jeunes-de-sidi-bouzid/> accessed 3 March 2016; 'Tunisie Bondy Blog' (Jamaity) < http://jamaity.org/project/tunisie-bondy-blog/> accessed 3 March 2016; Med Net: Société Civile et Développement des médias (Jamaity) <http://jamaity.org/project/med-net-societe-civile-et-developpement-des-medias/> accessed 3 March 2016; 'Forum de Hammamet pour la déontologie et la liberté de la presse maghrébine' (Jamaity) <http://jamaity.org/project/forum-de-hammamet-pour-la-deontologie-et-la-liberte-de-la-presse-maghrebine/> accessed 3 March 2016; 'Le Tunisie Bondy Blog : Une école de journalisme par les citoyens' (Jamaity) < http://jamaity.org/project/le-tunisie-bondy-blog-une-ecole-de-journalisme-par-les-citoyens/> accessed 3 March 2016; Défense de la liberté de l'information en Tunisie (Jamaity) <http://jamaity.org/project/defense-de-la-liberte-de-linformation-en-tunisie/> accessed 3 March 2016; 'Renforcer la place des jeunes dans le débat démocratique en Tunisie à travers les médias' (Jamaity) <http://jamaity.org/project/renforcer-la-place-des-jeunes-dans-le-debat-democratique-en-tunisie-a-travers-les-medias/> accessed 3 March 2016.

[338] Delegation of the EU in Tunisia, 'Rapport 2015', 138.

[339] Ibid.

promotion of equality in marginalized areas.[340] Moreover, in April 2015, the EU and Tunisia approved the first bilateral programme completely dedicated to equality between men and women.[341] Regarding the impact of EU programmes in the field of rights of women, apart from the organization of trainings and raise awareness campaigns, the project 'Karama-Dignité' has assisted to the creation of five centres that provide different services as juridical assistance or counselling services with professionals (psychologists, social workers, lawyers).[342]

Regarding the protection of migrants and refugees, apart from a project oriented to develop the capacity of organizations working in the defence of the rights of migrants, refugees and non-accompanied minors and to promote a public debate on migration issues in Tunisia, the EU has financed bilateral and regional projects that have as their objective the prevention of irregular migration or the management of migration.[343] In the field of the protection of migrants and refugees, the project 'La maison tunisienne du droit et des migrations' has resulted in the creation of a permanent structure of organizations that work in this field.[344] From 2014 (the date of the end of the EU project) to 2016 they have assisted 430 people.[345] The EU will continue supporting the project through the program 'ADEM pour l'accompagnement et la défense des migrants' that will be extended from 2016 to 2018. This can be considered an example of a project initiated with the assistance of the EU that has been sustainable during the years. However, those positive impacts need to be analysed together with the general policies of the EU on migration. In this regard, the Mobility Partnership signed on 3 March 2014 between the EU and Tunisia has prompted criticism by national and international NGOs working in the defence of rights of migrants. In a joint press release signed by 24 Tunisian and international organizations, it was stated that the mobility partnership was focused on the control of migratory flows and the readmission agreement of irregular migrants that could be detrimental to the rights of migrants, refugees and asylum seekers. The signatory organizations also expressed their concern about the EU's policies of border control that impede legal access of its territory: 'The EU's reluctance to open channels for legal migration is not only ineffective, it is also criminal'.[346]

Finally, the EU has financed three projects aimed at promoting the economic and social participation of people with functional diversities.[347]

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[340] Delegation of the EU in Tunisia, 'Rapport 2014', 94-98.

[341] Delegation of the EU in Tunisia, 'Rapport 2015', 127.

[342] Ibid, 129.

[343] Delegation of the EU in Tunisia, 'Rapport 2014', 108-110, and 'Rapport 2015', 150-153.

[344] Ibid, 109.

[345] Delegation of the EU in Tunisia, 'Rapport 2015', 155.

[346] 'Joint press reléase. Tunisia-EU Mobility Partnership: a Forced March towards the Externalization of Borders' (Migreurop, observatoire des frontières, 17 March 2014) <http://www.migreurop.org/article2492.html?lang=fr> accessed 3 February 2016.

[347] 'Participation sociale et économique des personnes souffrant de handicap mental' (Jamaity) <http://jamaity.org/project/participation-sociale-et-economique-des-personnes-souffrant-de-handicap-mental/> accessed on 4 March 2016; 'Vie autonome et participation sociale des personnes handicapées' (Jamaity) <http://jamaity.org/project/vie-autonome-et-participation-sociale-des-personnes-handicapees/> accessed 4 March 2016; 'Pour une meilleure participation sociale et économique des personnes souffrant de handicap mental'

4.   Conclusions

Human rights and democratization appear as a priority in all the relevant policy documents that frame EU relations with Tunisia, from the AA of 1995, to the new Action Plan for 2013-2017, adopted after the EU-Tunisia Association Council agreed to enhance the association through a privilege association agreement in 2012.

It is important to note that although economic and social rights demands were at the centre of the revolts, issues of economic and social rights were not conceived as part of the actions regarding human rights and democracy but in the field of cooperation in employment, social policy and social security.

The review of EU policies towards Tunisia had a double effect: on the one side, the EU doubled the initially allocated amount of financial assistance to Tunisia, on the other side, the EU went back to positive conditional measures with the 'more for more' principle. The programming documents of the ENPI and ENI also included as a priority the promotion of democracy and human rights. However, the indicative allocation distribution of funds for the period 2014-2020 clearly reflects that the main priority in EU-Tunisia relations is socioeconomic reforms and development. It was also the case with the funds committed in the period 2014-2015. Moreover, among the specific objectives on the promotion of fundamental components of democracy for 2014-2015 there was no mention of economic and social rights. This represents a pattern of continuity with the historical relations between the EU and Tunisia and one of the main causes of criticism.

One of the main changes between the pre- and post- Ben Ali EU-Tunisia relations was the launching of proposals for EIDHR projects. The priorities of the subsequent calls for proposals were consistent with the context in Tunisia.

The analysis of the programmes and projects developed shows a focus on the following issues: support for the electoral process, justice and security sector reform, support for civil society organizations, freedom of expression and media freedom and vulnerable groups. Although there were also projects on the fight against torture and economic and social rights, the selection of projects indicates the predominance of components of a liberal democracy (elections, freedom of expression, justice reform, etc.). Issues of discrimination against vulnerable groups have been mainstreamed in the rest of the sectors as is reflected in the inclusion of analysis of participation in the electoral process based on gender and functional diversity

Finally, regarding vulnerable groups, while there are some projects devoted to the protection of migrants, refugees and asylum seekers, local and international civil society organizations have pointed to migration policies of the EU as the cause of the violation of rights of those groups.

Assistance in favour of democracy, the launch of EIDHR calls for proposals, the inclusion of some projects on economic and social rights and the mainstreaming of gender and other discrimination issues can be

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<http://jamaity.org/project/pour-une-meilleure-participation-sociale-et-economique-des-personnes-souffrant-de-handicap-mental/> accessed 4 March 2016.

considered as important developments from previous approaches to the country. Although the assessment of the impact of activities such as trainings, raise awareness campaigns or general support to local institutions presents challenges in terms of attribution, some direct impacts have been signalled in the review of the programmes and projects. We can divide the impacts in three categories. On one side, the creation of networks and platforms to develop monitoring activities or activities in defence of human rights; the provision of infrastructure and resources; and the provision of services (legal, medical or psychological assistance) to affected population. However, the maintenance of the same model of development in the policies of economic reform, its prioritization over democracy and human rights concerns, and the prioritization of security interest reflected in policies as migration management that could lead to, and directly cause, violations of human rights, represents a continuity of previous patterns that were and are still criticized.

In a context of continuous waves of protests over the same motives that led to the 2010 uprisings (lack of employment, socioeconomic exclusion and marginalization, repression of social protests, etc.) the strengthening of the relations between the EU and Tunisia can work again as a 'mixed signal' and limit the effect of EU policies to support democracy and human rights. Moreover, the continuity with the same approach in economic and security policies, as reflected in the negotiations of the deep free trade agreement and the Mobility Partnerships, brings serious doubts about the willingness and the reach of the review of the EU policy towards Tunisia.

C.   EU instruments for human rights and democracy support in Egypt

1.   Introduction

Due to its economic importance and its geostrategic position, Egypt has been one of the most important partners both in its bilateral relation with the EU, as well as with some of the EU Member States. Egypt constitutes the largest market in the Arab world and has energy resources such as oil and gas. Even more important than its economic relevance is its geostrategic position which has made Egypt a key player for the defence of the interest of some Member States in the field of migration and security[348]. From the EU Member States, United Kingdom, France and Italy have historically maintained special relations with Egypt.[349]Those bilateral relations, therefore, have had important implications for the general EU policy towards Egypt including the promotion of human rights and democracy.

Another relevant factor that conditions EU policies towards Egypt is the influence of the US, traditionally the main external actor in the country. According to Daniella Huber, the fact that the US is the main aid

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[348] Rosa Balfour, *Human rights and democracy in EU foreign policy: the cases of Ukraine and Egypt* (Routledge, 2013) 91.
[349] Ibid, 95.

provider and ally of Egypt, has made the latter less interested in EU assistance than countries such as Tunisia, with a relative economic dependence on the EU.[350]

Thus, it is not surprising that the negotiations of an Action Plan that developed and strengthened the Association Agreement between the EU and Egypt adopted in 2001 and which came into force in 2004, were delayed principally due to the reticence of Egypt to accept the inclusion of human rights matters.[351] Moreover, in the period prior to the Egyptian revolution of 2011, and despite the fact that the EU had expressed its concerns about violations of human rights and the lack of progress in the democratization process, this did not prevent the EU from reinforcing the position of Egypt as a key player in its relation with the South Mediterranean countries.[352] In the words of Huber, '[f]or former President Mubarak, this signalled that lack of progress in democratic reform did not impinge on the priority which Egypt enjoyed in relations with the EU'.[353]

Although there were relevant innovations in the role of the EU in Egypt in the first moments after the ouster of Mubarak, the interest in maintaining good relations with Egypt, the policies of the EU Member States towards the country and the developments since the takeover of the army in July 2013 points to the repetition of old dynamics. According to one interviewee in the first moments of the Egyptian transition, the EU went beyond its traditionally conservative role to adopt a political and diplomat role and actively engaged in the transition. However, since the crackdown on human rights and fundamental freedoms and the persecution of human rights activists, Islamist groups, journalists, and every kind of opposition, the EU has limited its action in the field of democracy and human rights. In August 2013, the EU responded to the killing of hundreds of protesters and the widespread violence adopting a suspension on arms exports to Egypt.

2.   Reference policy documents

Relations between the European Union and Egypt are governed by an Association Agreement which came into force on 1 June 2004. Article 2 of the Association Agreement introduces a clause whereby relations between the EU and Egypt 'shall be based on respect of democratic principles and fundamental human rights as set out in the Universal Declaration on Human Rights'.[354]

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[350] Daniela Huber, 'Mixed Signals Still?: The EU's Democracy and Human Rights Policy Since the Outbreak of the Arab Spring' (Istituto Affari Internazionali 2012) 5.
[351] Rosa Balfour, *Human rights and democracy in EU foreign policy: the cases of Ukraine and Egypt* (Routledge, 2013) 99-100.
[352] Daniela Huber, 'Mixed Signals Still?: The EU's Democracy and Human Rights Policy Since the Outbreak of the Arab Spring' (Istituto Affari Internazionali 2012) 55.
[353] Ibid.
[354] Euro-Mediterranean Agreement establishing an association between the European Communities and their member States, on the one side, and the Arab Republic of Egypt, on the other, Art. 2.

The promotion of democracy and the rule of law and the respect for human rights are also a priority for action in the 2007 Egypt Action Plan. This action plan was extended until March 2015. However, at the moment of writing, negotiations for the adoption of a new Action Plan were still pending.[355]

Under the Action Plan of 2007, specific actions oriented to respond to the EU priorities related to democracy and human rights are designed in the following fields:

- To enhance the effectiveness of institutions entrusted with strengthening democracy and the rule of law
- To consolidate the independent and effective administration of justice and improve prison conditions
- Human rights and fundamental freedoms
- Rights of women and children
- Freedom of association and of expression and pluralism of the media
- Fight against discrimination, intolerance, racism and xenophobia
- Fundamental social rights and core labour standards[356]

The Action Plan also provides for tools to implement those actions as a dialogue on human rights and democracy and different thematic dialogues such as the dialogue on the death penalty or the dialogue on economic and social rights. Electoral assistance and training, the establishment of a regular dialogue in the context of the Subcommittee on Human Rights and Democracy, support to the independence of the justice system, support for national human rights institutions, and other cooperation and capacity building programs are also tools of the EU human rights policy towards Egypt. Issues of migration and asylum are addressed in the fields of border and migratory flow management.[357]

3.   Financial Assistance

a)   ENPI/ENI

For the period 2007-2013, the initial allocation of EU funds under the ENPI amounted to €1 billion. During this period, the priority sectors of intervention were political reform and good governance; competitiveness and productivity of the economy; and socio-economic sustainability of the development process.[358]

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[355] Joint Staff Document SWD (2015) 65 final Implementation of the European Neighbourhood Policy in Egypt. Progress in 2014 and recommendations for actions.

[356] EU/EGYPT Action Plan, 5-8.

[357] Ibid, 28.

[358] European Commission, 'Egypt' (European Neighbourhood Policy and Enlargement Negotiations, 16 February 2015) <http://ec.europa.eu/enlargement/neighbourhood/countries/egypt/index_en.htm> accessed 26 February 2016.

As part of the review of the ENP, the sectors of intervention of EU's cooperation with Egypt were reviewed and redirected to income generating in rural areas, employment and community development programmes.[359] Although there is no available information about the final allocations of funds in the period 2011-2013, the internet site of the ENP provides some information about the changes in priorities following the seizure of power by the Army in July 2013. According to that site, 'EU assistance to Egypt has been reviewed and focus has been put on assistance in the socio-economic sector in order to benefit the most vulnerable groups of the population and on support to civil society'.[360]

Since 2014, the ENI has become the main instrument of cooperation between the EU and Egypt. The priority sectors of intervention and initial allocations for the period 2014-2015 were indicated in the programming document of the ENI for 2014-2020 and the SSF for EU support to Egypt for the years 2014-2015.[361] The SSF states that its main aim is to 'support a democratic transition and enhance stability, peace and prosperity in Egypt'.[362] In order to fulfil this objective and considering the context of Egypt, the SSF identified three sectors of intervention:

1. Poverty alleviation, local socio-economic development and social protection.
2. Governance, transparency and business environment.
3. Quality of life and environment.

Of this assistance, an amount of up to 10% was allocated to horizontal interventions in the field of capacity development and civil society strengthening.[363]The indicative allocation for the period 2014-2015 ranges between €210 mill. and €257 mill. and the distribution between sectors is the following: Poverty alleviation, local socio-economic development and social protection (40%); governance, transparency and business environment (20%); quality of life and environment (40%).[364] It is noteworthy that although the first sector of intervention includes measures that could result in the improvement of the level of enjoyment of economic and social rights such as education; there is no specific sector of intervention for democracy and human rights.

In 2014, the EU committed €115 mill. under the ENI in the following programs:

- Egypt's Natural Gas Connection Programme (€68 mill.).
- Kafr El Sheikh Waste Water Management Programme (€17 mill.).
- Expanding Access to Education and Protection for Children at Risk (€30 mill.).[365]

There is no information about the funds committed in 2015, however, the approximate timetable for the commitment of funds included in the SSF indicates that funds in 2015 would be allocated in programmes

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[359] Ibid.

[360] Ibid.

[361] EEAS and DG-DEVCO EUROPE-AID, 'Programming of the European Neighbourhood Instrument (ENI) – 2014-2020. Single Support Framework for EU support to Egypt' (SSF for Egypt, hereinafter).

[362] Ibid, 3.

[363] Ibid, 7.

[364] Ibid, 10.

[365] European Commission, 'Egypt' (European Neighbourhood Policy and Enlargement Negotiations, 8 April 2015) <http://ec.europa.eu/enlargement/neighbourhood/countries/egypt/index_en.htm> accessed 26 February 2016.

addressing local development, enhancing social protection, business environment support, governance and transparency and complementary support for capacity development and to civil society (see Table).[366] That change in the orientation of policies might respond to a preference of focus on economic issues that could have been considered as less problematic in a context of continuous violations of human rights.

Table 3: Table Indicative timetable for the commitment of funds

	Indicative Allocation	2014	2015
SECTOR OF INTERVENTION I – Poverty Alleviation, Local Socio-Economic Development and Social Protection	40%		
Support to access to education		X	
Local Development			X
Enhancing Social Protection			X
SECTOR OF INTERVENTION II – Governance, Transparency and Business Environment	20%		
Child protection		X	
Business Environment support			X
Governance and Transparency			X
Complementary support for capacity development and to civil society (mainstreamed in the 3 sectors)			X
SECTOR OF INTERVENTION III – Quality of Life and Environment	40%		
Kafr El Sheikh Waste Water expansion		X	
Household Natural Gas Connection project		X	
Total Commitments	**100%**		

Finally, Egypt has also received assistance under regional programs. As a response to the situation in the Libyan border, Egypt received financial assistance through the Regional Protection Program in North Africa.[367]

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[366] EEAS and DG-DEVCO EUROPE-AID, 'SSR for Egypt', 24.
[367] Ibid.

b)   *EIDHR*

In contrast to the low profile of the participation of the EU's Delegation to Tunisia, the EU's Delegation in Egypt was one of the most active in the South-Mediterranean neighbourhood in its involvement with the European Initiative for Democracy and Human Rights (EInDHR), predecessor of the EIDHR. In the period of time between 2005 and 2007, the calls for proposals launched by the delegation reflected the priorities defined by Brussels in the EInDHR programming documents, although no projects addressing politically sensitive human right issues, such as the fight against torture, were finally financed.[368] Apart from that, Federica Bicchi explains the way in which the selection of partners reflected the political position of the Delegation:

> In Egypt, the delegation instead opened the call to all 'civil companies', meaning organizations with the status of company but with a not-for-profit declared objective, which is the way most NGOs in Egypt circumvent the legislative requirement for an administrative authorization by the Ministry of Social Affairs. This choice was thus politically salient, signalling the position of the EU to civil society.[369]

Under the EIDHR, the EC financed several projects in support of the transition in Egypt in 2011 particularly projects oriented towards monitoring elections, the participation of women in electoral processes, women's rights, and support for the January 25th uprising activists.[370] In 2014, funds under the EIDHR were deployed in projects working in the fields of youth and women with disabilities, female participation in the electoral process, torture, socio-economic rights, training to NGOs, and programs for poor people with eye problems.[371]

According to some of the interviewees, the EU Delegation in Egypt always reports to the government the projects that it intends to fund under the EIDHR, which is seen by Egyptian NGOs as something that can put them in danger and it is the main reason that they do not participate in EIDHR calls for proposals or they give up the process the moment the EU Delegation informs them that they will report to the government. It also voids one of the most repeated advantages of the EIDHR, i.e., its independence of action which allows managing and implementing projects directly with NGOs without any consent of the host government being needed. Moreover, according to interviewees, there are no relations between the delegation and Islamist organizations in the field of human rights, both for the lack of interest of those organizations and the refusal of the government. At this regard, one interviewee pointed to the adequacy of the creation of the EDD, an instrument that allows more flexibility. The EDD continues providing support

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[368] Federica Bicchi. 'Dilemmas of implementation: EU democracy assistance in the Mediterranean' (2010) 17(5) Democratization 976, 986-988.
[369] Ibid, 985.
[370] 'EC Financial Transparency System' < http://ec.europa.eu/budget/fts/index_en.htm> accessed 26 February 2016.
[371] Ibid.

to organizations in the fields of documenting human rights violations, freedom of expression, capacity building and women rights.[372]

It is important to mention that repression against the opposition and NGOs has been increasing since the military takeover. In this context, according to one of the sources consulted, in spite of the above mentioned obstacles, the impact of EU assistance under the EIDHR and the EDD has been critical for the survival of some organizations.

4.   EU action in the field of democracy and human rights in Egypt

Through the above mentioned financial instruments, the EU deployed a number of projects in the period 2011-2015 covering different issues related to human rights and democratization. An analysis of those projects shows that the main focuses of attention of the policies of the EU towards Egypt in this field are the following:

-    Human rights dialogue
-    Support for the electoral process
-    Support to the transition
-    Justice sector reform
-    Support for civil society organizations
-    Freedom of expression and media freedom
-    Fight against torture
-    Economic and social rights
-    Vulnerable groups
-    Measures in response to the crackdown on human rights

a)   Dialogues

As has been previously mentioned, human rights issues were the main factor that led to the delay in the negotiations of the Action Plan between the EU and Egypt. According to Rosa Balfour, one of the main concerns was the establishment of a sub-committee on human rights as was agreed with other countries such as Tunisia and Morocco[373]. Finally, the Action Plan included a formula – that had been already used by Israel - that broadened the competences of the subcommittee and diluted the relevance of human

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[372] EED, 'Annual Report 2015. Supporting democracy in the European Neighbourhood and beyond' (2016) 30.
[373] Rosa Balfour, *Human rights and democracy in EU foreign policy: the cases of Ukraine and Egypt* (Routledge, 2013) 99.

rights: Sub-Committee on Political Matters: Human Rights and Democracy – International Regional Issues, and it held its first session in 2008, one year later than was scheduled.[374]

Despite the relevance provided to human rights dialogues in the documents that frame EU policies towards Egypt, until November 2015 no sessions of dialogues were held during the years after the Arab uprisings. According to one source consulted, in this session all human rights issues were addressed and before and after the meeting the Delegation organised rounds of consultations with civil society organizations.

b)   Electoral support

In the context of the transition, the Egyptian government rejected the EU's offers of electoral support through EOM for the parliamentary and presidential elections of 2011-2012[375]. However, in 2014, at the invitation by the Egyptian government and the Presidential Election Committee, the EU deployed an EOM in Egypt on the occasion of the Presidential elections of 26/27 May.**[376]** However, due to administrative requirements for the release of long-term observers' equipment, their arrival in their areas of responsibility was delayed and the EOM was not in a position to deliver its long term observation mandate in full.[377] The main elements of concern that can be drawn from the EOM's report is the widespread lack of respect of fundamental freedoms and human rights such as the freedom of association, assembly and expression and the repression of opposition.[378]

As we have seen in the case of the EOMs sent to Tunisia in 2011 and 2012, the final report of the EOM in Egypt devoted one entire section to the analysis of the effects of discrimination on the grounds of gender, belonging to a minority group and functional diversity. The analysis of the participation of women is focussed on barriers to female participation and the legal framework that do not include effective legal requirements for parties to promote female participation.[379] A similar situation occurs in the analysis of ethnic and religious minority groups' participation in the elections. While in the report it is stated that the new constitution recognizes freedom of religion and belief and addresses development and cultural issues of ethnic groups, it stresses that there are no provisions promoting and regulating the electoral participation of ethnic groups and religious minorities different from the Christians, and, in the case of the representation of Christians, are abstract and unclear[380]

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[374] Ibid.

[375] Daniela Huber, 'Mixed Signals Still?: The EU's Democracy and Human Rights Policy Since the Outbreak of the Arab Spring' (Istituto Affari Internazionali 2012) 5.

[376] 'EU election observation mission to Egypt in 2014' (*European Union External Action*) <http://eeas.europa.eu/eueom/missions/2014/egypt/index_en.htm> accessed 26 February 2016.

[377] European Union Election Observation Mission Arab Republic of Egypt, 'Final Report Presidential Election, 26/27 May 2014', 4.

[378] Ibid.

[379] Ibid, 29.

[380] Ibid, 30.

In addition to this, and in response to the uprisings and the beginning of the transitional process in Egypt, the EU provided technical assistance to the Egyptian High Electoral Commission, supported programs of education and training for domestic observers through civil society organizations and the EIDHR.**381** An example of such projects is the 'Monitoring for Change' and 'Pathways to Democracy: Investing in Women to Improve the Electoral Process'.382

c)   *Support to the transition*

As has been previously mentioned, the EU adopted an active role subsequent to the ouster of Mubarak. There were several visits of the VP/HC Catherine Ashton and Bernardino Leon, and the EU voiced its concerns about the situation of human rights in the country.383

Although after the seizure of power by the army in 2013 the dialogue on political issues and human rights stopped, as was reflected in the decision to focus the EU assistance on socioeconomic issues,384 the EU implemented a number of projects in support of domestic human rights institutions. In this regard, between 2010 and 2014 two projects were financed under the ENPI to support the NCHR Ombudsman Office in promoting women's rights, enhancing a culture of human rights, and increasing its efficiency and competency.385

Between 2011 and 2014 the EU also financed a project on fighting corruption and contributing to asset recovery.386

d)   *Justice sector reform*

From 2014, the EU has financed a project supporting the modernization of the administration of Justice in Egypt with specific focus on juvenile justice.387 In this regard, the EU has financed projects providing assistance to prisoners, one project on legal, educational and medical assistance for prisoners and another on integrative protection of juvenile detainees in Alexandria.388 Finally, from 2011 to 2014 the EU

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381 Council Annual Report 2011, 24.
382 European Commission, 'EU Aid Explorer'.
383 Daniela Huber, 'Mixed Signals Still?: The EU's Democracy and Human Rights Policy Since the Outbreak of the Arab Spring' (Istituto Affari Internazionali 2012) 6.
384 Commission, 'Egypt' (*European Neighbourhood Policy and Enlargement Negotiations,* 8 April 2015) <http://ec.europa.eu/enlargement/neighbourhood/countries/egypt/index_en.htm> accessed on 26 February 2016.
385 European Commission, 'EU Aid Explorer' < https://euaidexplorer.ec.europa.eu/> accessed on 26 February 2016.
386 Ibid.
387 Ibid.
388 Ibid.

implemented a project aimed at improving the knowledge of legal professionals on Public Law and fundamental freedoms.[389]

e)   *Support for civil society organizations*

In addition to the projects financed under the EIDHR and the EED, the EU has deployed projects aimed at improving civil society participation in local communities (promotion of good governance) in the field of agriculture and development.[390]

f)   *Freedom of expression and media freedom*

From 2013 to 2015 the EU implemented a project supporting media freedom, 'Towards a free democratic media'.[391]

g)   *Fight against torture*

From 2013 to 2015 the EU financed a project to support a campaign for the prevention of torture.[392]

h)   *Economic and social rights*

In contrast with other fields such as torture, democracy promotion or freedom of expression, the EU has financed several projects aimed at promoting economic and social rights. The project called 'Legislative and judicial obstacles to economic and social rights' was implemented by the the Arab Center for the Independence of the Judiciary and the Legal Profession and had as its objectives the definition of the legislative amendments required for an effective enjoyment of economic, social and cultural rights; raise awareness and provide legal assistance in cases involving violations of economic and social rights.[393] Other projects are focused on specific situations such as the projects 'Towards the light for the poor people with eye problems in Egypt' and 'Promoting the human rights of domestic workers in Egypt'.[394]

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[389] Ibid.
[390] Ibid.
[391] Ibid.
[392] Ibid.
[393] Europe Aid, 'Delivering on the Arab Spring. Highlights of the semester July-December 2011', 23.
[394] European Commission, 'EU Aid Explorer'.

i)   *Vulnerable groups*

The EU action towards vulnerable groups in Egypt is focused on women's rights, migrants and refugees and religious minorities.

Regarding projects aimed at promoting women's and girls' rights in Egypt we find assistance to legal clinics for women's and children's rights, the promotion of the participation of women in socioeconomic and political life in Egypt, abandonment of FGM, support for marginalized women and legal protection of oppressed women.[395]

The EU has also financed projects on the enforcement of Egypt child law, providing alternatives to irregular migration to unaccompanied children and empowering street children, rising awareness about their rights as citizens.[396]

Regarding projects aimed at the protection of migrants and refugees, the situation is similar to the one in Tunisia. While there are some projects to prevent trafficking of human beings and unaccompanied children, [397] one of the sources consulted pointed to the fact that the EU is not cooperative on the issue and, although there are huge grants to assist refugees on the borders, they have not seen the impact on the ground.

Finally, the EU has financed some projects aimed at challenging discrimination against religious minorities and fostering intercultural dialogue.[398]

j)   *Measures in response to the crackdown on human rights*

On 21 August 2013, as a reaction to the military seize of power in 2013 and the subsequent widespread of violence EU Foreign Affairs Council declared a partial arms embargo to Egypt: 'Member States also agreed to suspend export licenses to Egypt of any equipment which might be used for internal repression and to reassess export licences of equipment covered by Common Position 2008/944/CFSP and review their security assistance with Egypt'.[399] The fact that the EU has not issued a decision or a regulation makes the suspension not legally binding. Moreover, the Council conclusions do not clarify the definition of the equipment object of the suspension.[400]

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[395] Ibid.
[396] Ibid.
[397] Ibid.
[398] Ibid.
[399] Council of the European Union, 'Council conclusions on Egypt' (21 August 2013).
[400] Stockholm International Peace Research Institute, 'EU arms embargo on Egypt' (9 March 2016) http://www.sipri.org/databases/embargoes/eu_arms_embargoes/egypt> accessed 25 of May 2016.

While the impact of a military embargo on Egypt could have exerted some pressure in the authorities, the fact that several Member States (Bulgaria, Cyprus, Czech Republic, France, Germany, Hungary, Italy, Poland, Romania, Slovakia, Spain and the United Kingdom) have continued exporting arms and surveillance technology to the country have a negative impact .[401] That signals that even when the EU has agree to implement pressure measures, the ambiguity and the fact that the measure is no legally binding, as well as the policies of Member States, the continuity of 'business as usual', could prevent any effective pressure on Egyptian authorities in a moment of continuous human rights violations.

5.   Conclusions

In spite of the geostrategic and economic importance of Egypt for the EU and some of its Member States, Egypt did not sign an AA with the EU until 2001. Moreover, concerns about human rights delayed the adoption of an Action Plan. As in the case of Tunisia, the lack of process in democratization and respect for human rights did not prevent the EU, nor its Member States, from reinforcing its relations with Egypt. This sent the message that, although present in all the policy documents governing EU-Egypt relations, issues on human rights and democratization will not impede benefiting from relations with the EU.

Apart from its special bilateral relations with countries such as the United Kingdom, France or Italy, which place their interests above EU policies, Egypt's special relations with the US and the recent flow of assistance from the Gulf countries could diminish the EU's scope of influence in the country.

The promotion of democracy and human rights is also included in the main policy documents such as the AA and the Action Plan. Although the Action Plan was due to be renewed in 2013, negotiations for the adoption of a new Action Plan were still pending.

Although the programming document for the ENPI for the period 2007-2013 included political reform and good governance as a priority, according to what is stated in the ENP site devoted to Egypt, the response of the EU to the change of context with the seizure of power by the army in 2013 has been to focus on assistance in the socio-economic sector to benefit the most vulnerable groups and there are no specific programmes for democracy and human rights.

Regarding support for civil society organizations through the EIDHR and the EED, in spite of the fact that reporting EIDHR projects to the government limits the capacity of action through this instrument, the assistance to CSOs under the EIDHR and the EED has been critical for the survival of some organizations. Support for vulnerable groups has been one of the main focus points of EIDHR calls for proposals

The main sectors of intervention of the EU in Egypt have been the support for the electoral process, support for the office of the Ombudsman, support to civil society organizations, economic and social rights

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[401] Amnesty International, 'EU: Halt arms transfers to Egypt to stop fuelling killings and torture' <https://www.amnesty.org/en/latest/news/2016/05/eu-halt-arms-transfers-to-egypt-to-stop-fuelling-killings-and-torture/> accessed 25 May 2016.

(support to marginalized groups) and women's rights. It represents a pattern of continuity with the pre-uprising period in which the EU provided assistance to less politically relevant human rights issues such as assistance to marginalized communities.

With the available information, and the difficulties that the current situation in Egypt pose, the main impacts of EU action in the field of human rights and democracy can be classified in two dimensions: protection for human rights defenders and the responses of the EU to the escalation of repression and human rights violations. In the first case, as has been stated above, assistance to CSOs through the EIDHR, and specially, through the EED, has been critical for the survival of some of those organizations. However, in the second case, the lack of an effective application of the arms embargo to Egypt not only has contributed to diminish the impact of the measure, but also means that Member States continue to support Egyptian authorities and provides them with equipment and materials which might be used for internal repression.

In this regard, and whereas EU assistance has been critical for the survival of some CSOs, according to one interviewee the general policies of the EU towards Egypt, particularly the lack of effective responses to widespread human rights violation, can have a negative effect on the situation of human rights in the country. One of the main problems in this regard are the different positions of the Member States on the promotion of human rights and democratization in Egypt. As has been previously mentioned the position of countries such as the United Kingdom, France or Italy, which have close and historical relations with Egypt and put their interests above human rights concerns, limits the possibilities of the EU. Finally, as was the case with Tunisia, the lack of sanctions, the continuous development of relations between the EU and Egypt, and, moreover, the acceptance of the focus on socioeconomic issues again shows a lack of a firm stand in the defence of human rights and democratization in Egypt.

D.   Analysis

After the uprising that resulted in the ouster of Zine El Abidine Ben Ali in Tunisia and Hosni Mubarak in Egypt, the EU developed a two-fold response. In the first place, the EU responded to the Arab revolts with a rise of funding through IEDHR and other instruments and the deployment of programs of assistance in the transitions, essentially, training and support for civil society, political parties and technical and financial assistance for the electoral processes. In addition, support programs were launched to address the situation on the borders (especially between Libya and Tunisia), the situation of refugees and of vulnerable groups. On the other hand, the EU adopted a review of the ENP and started negotiations to renew the action plans that frame its policies towards both countries. This qualitative shift is reflected in the Action Plan 2013-2017 for Tunisia. The text contains numerous mentions to the uprisings and the transition, and includes specific commitments in the field of human rights and democratization.

However, for some authors, changes of EU policies after the uprisings remain cosmetic and maintain the same conceptual approach to democracy and human rights promotion that was criticized in previous

policies.[402] In fact, according to Federicha Bicchi, not only has the EU not improved its policies towards third countries in its Mediterranean neighbourhood, but it is offering even 'less of the same'.[403]

Projects financed by the EU in the field of democracy and human rights have had some positive direct effects in the field of supporting CSOs, creation of networks and infrastructures, and the provision of services to population affected by human rights violations. Although some projects have maintained through the years, future evaluations will be necessary to assess the sustainability of those project. In addition to that the impact of those contributions can be considered sectorial or focused on particular cases. Thereby, after having reviewed the main policy documents, instruments and projects deployed by the EU towards Tunisia and Egypt from 2011 to 2015, and after a first assessment of the direct impacts and results of some of the programmes, the following section will analyse the extent of the impact of the EU policies in the field of human rights and democratization according to the following dimensions: coherence with EU human rights priorities and policies, relations with civil society organizations and the substance of EU democracy and human rights promotion.

One of the main areas of concern in the assessment of the EU's human rights and democracy assistance towards the Mediterranean has been the issue of coherence understood at different levels: implementation and gaps between EU discourse and practice, differences between the discourses and practices of the EU and those of the Member States, and a lack of coherence between different EU policies regarding the protection of human rights. These issues came under scrutiny even before the Arab uprisings and continue to be an area of concern in the assessment of the EU democracy policy towards the Mediterranean.[404] As mentioned previously, those incoherencies constitute mixed signals to the authorities and represent the subordination of human rights and democracy issues to economic and security interests.

The assessment of the EU's performance in the field of democracy and human rights in Tunisia and Egypt reflects some patterns of change and continuity with the pre-uprising period. In the case of Tunisia, the promotion of democracy and human rights has been, and continues to be, one of the priorities of EU intervention in the country since the beginning of the transition. Although the involvement of the EU still lags far behind EU policies in the fields of economic reform or trade, this has been reflected in the implementation of several assistance projects to the transition in the form of electoral support and election observatory missions, technical assistance and exchanges with domestic institutions and the launch of the first calls for proposals for EIDHR projects.

In the case of Egypt, however, the events following the seizure of power by the army and the crackdown on human rights and fundamental freedoms, have led the EU to change its priorities and prioritize

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[402] Federica Bicchi. 'The Politics of Foreign Aid and the European Neighbourhood Policy Post-Arab Spring: 'More for More' or Less of the Same?' (2014) 19(3) Mediterranean Politics 318; Andrea Teti. 'Democracy Without Social Justice: Marginalization of Social and Economic Rights in EU Democracy Assistance Policy after the Arab Uprisings' (2015) 24(1) Middle East Critique 9.

[403] Ibid.

[404] Federica Bicchi Federica Bicchi. 'Dilemmas of implementation: EU democracy assistance in the Mediterranean' (2010) 17(5) Democratization 976.

socioeconomic sectors of intervention over democracy and human rights. Despite this situation, according to sources consulted, instruments that provide assistance to CSO have had a very positive impact, becoming critical to the survival of some CSO. However, the decision of the EU Delegation in Egypt to report the projects funded under the EIDHR to the Egyptian government, and its limited selection of partners, restrict the EU's potential to contribute to endogenous democratic change in this regard. According to Federica Bicchi, the authoritarian context of the South Mediterranean partners attributes greater importance to the relations between the EU and local organizations to the extent that 'simply by selecting an NGO the EU might help to promote democracy'.[405] By selecting only organizations that agree to report to the government in a context of growing repression against local NGOs, the EU limits its potential to support local organizations that works for endogenous change.

On the other hand, the continuous development of relations between the EU or Member States with Egypt, despite the worsening situation of human rights and democracy, and the passive role of the EU in this context have negative implications for the situation of human rights, as has been pointed out by sources consulted. This has hindered the image of the EU among CSO in the country. While since August 2013, there is an apparent freezing of relations between the EU and Egypt, the fact that several Member States have flouted the arms embargo of the EU could indicate the continuation of 'business as usual'.

One of the main causes identified for the gap between EU discourse and practice was the adaptation to the external conditions of the country.[406] The revision of projects and programmes deployed by the EU reflects different patterns in Tunisia and Egypt. While the EU was actively involved in both countries at the beginning of the transitions, the changing context in Egypt and the worsening situation of human rights and fundamental freedoms have made the EU limit its main sectors of intervention in Egypt to the socioeconomic sphere. This is also reflected in the different level of involvement of the EU in issues such as democracy promotion, collaboration with domestic human rights institutions or electoral assistance. Dynamics such as the stagnation of negotiations of a new Action Plan for Egypt and the prioritization of economic and social programmes show how, in the context of the crisis, the widespread repression in Egypt has limited the EU action in the field of human rights and democratization.

However, the decision to focus on the economic level of the relations, amid a worsening situation for human rights and civil society organizations is another example of 'mixed signals' that could limit the credibility of the EU demands for progress in the democratization process and respect of human rights. The same situation could occur in Tunisia where the lack of achievement of the demands of social justice and employment has ignited new uprisings especially in marginalized regions.[407]

Another example of the mixed signals sent by the EU to both countries is that while both Association Agreements include the 'article 2' clause on human rights and democracy that would allow for the

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[405] Ibid, 62.
[406] Ibid.
[407] Henda Chennaoui, 'Cartographie de la contestation: le mouvement social continue' (*Nawaat*, 25 January 2016) <http://nawaat.org/portail/2016/01/25/cartographie-de-la-contestation-le-mouvement-social-continue/> accessed 24 May 2016.

suspension of the agreement in case of breach,[408] the EU has never invoked this even in contexts of high repression and widespread human rights violations.

In this regard, and according to sources consulted in Egypt, a second obstacle for a coherent and effective EU policy of promotion of democracy and human rights is the fact that there is not a single voice between the EU and its Member States when addressing human rights concerns with Egypt. According to Huber, due to its economic importance and its geostrategic position, Egypt has been one of the most important partners both in its bilateral relations with the EU and with some of the member states. The special bilateral relations that this geostrategic situation has created between Egypt and some Member States have deeply influenced the bilateral relations between the EU and Egypt. According to sources consulted this has had a negative effect when Member States have got their way in their bilateral relations with Egypt. As has been mentioned, Member States are nowadays providing Egyptian authorities with equipment and technology that can be used against NGOs, and this has weakened the ability of the EU to address human rights concerns.

A third obstacle relates to the fact that although the EU has declared a new holistic approach to democracy and human rights promotion that includes social justice and economic and social concerns, authors have pointed to the maintenance of a conception of democracy limited to civil and political rights in which economic and social rights are re-articulated 'from matters of rights to matters of trade and aid'[409], and the prioritization of measures oriented towards the liberalization of markets[410]. As we have seen in the review of programmes and projects, such criticism is particularly relevant in the cases of Tunisia and Egypt. It is important to remember that in both countries the demands of social and economic rights were a central part in the conception of the democracy of the protests movements that from decades ago have been opposing oppressive regimes.[411]

In this regard, although the EU has financed some projects on economic and social rights, these carry little weight compared to development, trade and economic reform policies. Moreover, and although we can see a new trend towards addressing development and regional inequality issues, the main approach is related to good governance and development, and not to economic and social rights standards and obligations.

As we have seen from the review of projects deployed in Tunisia and Egypt, the main share of EU financial assistance goes to economic reform projects and the relative relevance of democracy promotion and human rights programmes diminishes compared to programmes oriented towards the implementation of economic reform, trade and development. Hence it is necessary to analyse the impact on human rights and democratization of those other policies to carry out a real assessment of the impact of EU democracy

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[408] Federica Bicchi, 'Democracy Assistance in the Mediterranean: An Overview', vol 14 (Routledge, 2009) 61, 64.

[409] Andrea Teti, 'Democracy Without Social Justice: Marginalization of Social and Economic Rights in EU Democracy Assistance Policy after the Arab uprisings' (2015) 24 Middle East Critique 10.

[410] Vicky Reinaert, 'Democracy Through the Invisible Hand? Egypt and Tunisia' in Anne Wetzel and Jan Orbie (eds.), *The Substance of EU Democracy Promotion. Concepts and Cases* (Palgrave Macmillan 2015).

[411] Andrea Teti, 'Democracy Without Social Justice: Marginalization of Social and Economic Rights in EU Democracy Assistance Policy after the Arab uprisings' (2015) 24 Middle East Critique 10.

and human rights policies. Although this analysis outside the scope of this report, the criticism levelled by local CSO regarding EU policies in the field of migration reflects the fact that while the EU provides assistance to organizations working in defence of migrants, refugees and asylum seekers, the general migration and border controls of the EU are seeing by CSO as one of the causes of the violation of rights of migrants, refugees and asylum seeker. In this regard, and while democracy and human rights promotion instruments have included projects in support of economic and social rights in Tunisia, negotiations started on a complete and deep free trade agreement between the EU and Tunisia have prompted concerns between the civil society community. 27 Tunisian and international civil society organizations launched a declaration that points to the fact that the agreement does not represent a change in the development approach of the EU towards Tunisia and does not answer the demands of the Tunisian population for employment and social justice.[412] Those two examples, together with the mixed signals sent by Member States, brings us to the question of whether the solution is to create new instruments and projects that protect the rights of migrants and economic and social rights, or to change the policies that are acting as an obstacle to the enjoyment of those rights. As mentioned above, this question goes beyond the objectives of this report. However, it is a question we must ask if we do not want to make the same considerations over and over again.

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[412] 'Déclaration de la société civile á l'occasion du vote au Parlement européen sur l'ouverture des négociations d'un Accord de Libre-Echange entre la Tunisie et l'UE le 15 février 2016' (*FTDES*) <http://ftdes.net/2016/02/declaration-sur-laleca/> accessed 23 March 2016.

VI.   Bolivia and Peru

A.   BOLIVIA

1.   Introduction

Cooperation between the European Union (EU) and Bolivia occurs both at the bilateral and the multilateral level. In the latter case via joint work with the Andean Community, across five strategic objectives: (i) strengthening of democracy and the rule of law; (ii) the fight against the production of drugs and the drug trade; (iii) development of a foreseeable and transparent environment for economic and business investment; (iv) creation of a regional area for integration; and (v) protection of the environment and the fight against the effects of climate change.[413] These bring together the main areas of interest for the EU, which coincide with the domestic agenda of the Bolivian state itself.

The relationship between the EU and Bolivia and pursuit of the above-mentioned strategic objectives is assured via multiple efforts both at a political level and via financial support. For instance, in 2013 the European Commissioner for International Cooperation and Development provided an overview of EU cooperation in Bolivia and coordinated the 2014-2020 agenda regarding this issue with the Bolivian Government.[414] Likewise, under the framework of the 2nd EU-CELAC Summit (the Community of Latin American and Caribbean States and European Union Summit) held in June 2015, the Bolivian President met the European Commissioner to sign three cooperation agreements: support for the National Strategy in the Fight against Drug Trafficking and Reduction in Surplus Coca Cultivation, Sectorial Reforms in support of the National River Basins Plan, and Extension of the Water and Sanitation Plan in suburban areas.[415]

Attention should be drawn to the fact that both cooperation processes (political and economic) form part of a series of instruments by means of which a coordinated and consistent line of work is being designed. Thus, we find the Multiannual Indicative Programme for Bolivia 2014-2016 (MIP) that gathers together the strategic objectives for cooperation and focuses on three areas of key intervention: reforms in the justice system, the war on drugs and the comprehensive handling of water resources. For each key objective, the MIP sets out secondary objectives, working strategies and amounts of financial cooperation. It should also be pointed out that this instrument is aligned with the guidelines put forward by the EU

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[413] European Commission, 'Multiannual Indicative Programme 2014 – 2016 Bolivia' (2014) <https://ec.europa.eu/europeaid/multi-annual-indicative-programme-mip-2014-2016-bolivia_en> accessed 10 December 2015.

[414] EU delegation in Bolivia, 'Technical and Financial Cooperation' <http://eeas.europa.eu/delegations/bolivia/eu_bolivia/tech_financial_cooperation/index_es.htm> accessed 10 December 2015.

[415] European Union, 'EU-CELAC Summit 2015 Brussels' (Press Release) <http://www.eeas.europa.eu/delegations/bolivia/documents/eu_bolivia/20150622_nota_de_prensa_evo_en_la_ue_es.pdf> accessed 10 December 2015.

Strategic Framework and Action Plan on Human Rights and Democracy[416] and the Agenda for Change.[417] The second framework document is the Coordinated Response for Bolivia (REC),[418] adopted on November 17th by representatives from Bolivia, the EU and its Member States. This document contains an analysis of the current situation in the Latin American country with regard to the objectives set out in agreement with the MIP, as well as an overview of existing cooperation between Bolivia and Member States. Coherence between the objectives put forward by the MIP and the REC for cooperation between the EU and Bolivia enables the coordinated work existing among the diverse collaborative mechanisms available to the EU in the Latin American country to be recognised.

Finally, on 20th July 2015, the EU adopted the Action Plan for Human Rights and Democracy (2015-2019) that both shows and renews the commitment on the part of the EU to supporting both areas in domestic and foreign policy. This plan gathers together the advances made in the Strategic Framework on Human Rights and Democracy, the 2012-2014 Action Plan and the different instruments available to the EU in these areas, which have also been used in cooperation between the EU and Bolivia under the framework of institutional support for human rights and the democratisation process in Latin America. The purpose of this work is to analyse the recent functioning of the aforementioned instruments, analyse the results in the specific case of Bolivia and propose a series of recommendations for continuing to promote cooperation between both sectors in areas of human rights and democracy.

2. EU instruments in support of human rights and democracy in Bolivia

a) *Programmes and projects underway in areas of human rights and democracy*

According to its Political Constitution enacted on 7th February 2009, Bolivia is a 'Unitary Social State of Plurinational Communitarian Law, free, independent, sovereign, democratic, intercultural, decentralised and with autonomies. Bolivia is founded on plurality and political, economic, judicial, cultural and linguistic pluralism within the country's integration process.'[419] The democratisation process that concluded with the adoption of the new Constitution includes an effort in the future to decentralise the country and promote social services, citizens' participation and accountability.[420] The main strategic objective of the REC is to promote and lend support to this democratic process in order to achieve political stability and ensure the existence of transparent state institutions via accountability, and to promote social services for citizens.[421]

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[416] European Commission, 'Increasing the impact of EU Development Policy: an Agenda for Change' (Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions) COM(2011) 637 final.
[417] Council of the European Union, 'Council Conclusion on Human Rights and Democracy' [2012].
[418] http://eeas.europa.eu/delegations/bolivia/documents/eu_bolivia/20150622_ecrcompleto_es.pdf accessed 15 November 2015.
[419] Political Constitution of the Plurinational State of Bolivia, sec. 1.
[420] European Union, 'Coordinated European Response for Bolivia' [2014] 1.
[421] Ibid, 2.

However, in accordance with the situation report prepared for the REC, a suitable regulatory framework exists in Bolivia for protecting the human rights of its citizens.[422] In this respect, Bolivia has ratified the main human rights treaties – both universal and regional – and is equipped with internal regulations that implement international regulations.[423] Furthermore, the 'Bolivia worthy of living well 2009-2013'[424] National Plan of Action on Human Rights was adopted together with the 'Bolivia worthy, sovereign, productive and democratic for living well 2006-2013'[425] National Development Plan. These plans set out indicators to be complied with in terms of respect for and guarantee of human rights in the country. Finally, the 2925 Patriotic Agendawas passed which sets out three pillars for the development of Bolivia,[426] among which are the eradication of poverty and the promotion of rights to health, work and education.

However, despite the existence of a favourable formal situation, there are problems of implementation of these regulations and instruments for international cooperation. In this respect, Human Rights Watch issued its country report in January 2015, in which it referred to the existence of serious problems regarding access to justice, the impartiality and transparency of processes, the hostile environment faced by defenders of human rights and freedom of expression, and child labour as a result of a regulation which permits such work from the age of ten.[427] Along the same lines, the Bolivian Ombudsman´s Office referred that the main issue related to human rights and democracy in that year was the weakening of state institutions such as the crisis of the judicial system.[428]

An obvious result of this is the direct impact on the way in which the European Union works in the country. Taking into account this regulatory and situational context, the EU has been working on the democratisation process on matters such as '(a) an extremely fragmented and conflicting civil society; (b) persistent exclusion, poverty and equality that affect most of the population; and (c) major institutional weakness and consequent lack of instruments for dealing with the crisis.'[429] Regarding point (a), the fact should be added that many of the social organisations are closely linked to the current Government.[430]

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[422] Ibid, 4.
[423] To find out which human rights treaties have been ratified by Bolivia, see <http://www.defensoria.gob.bo/sp/ddhh.derechos.asp> accessed 15 November 2015.
[424] http://www.ine.gob.bo/indicadoresddhh/archivos/Plan%20Nacional%20de%20Acci%C3%B3n%20en%20Derechos%20Humanos.pdf accessed 15 November 2015.
[425] http://www.ine.gob.bo/indicadoresddhh/archivos/Plan%20Nacional%20de%20Desarrollo.pdf accessed 15 November 2015.
[426] http://faolex.fao.org/docs/pdf/bol141864.pdf 15 November 2015.
[427] Human Rights Watch, 'World Report 2015' (2016) 104 – 109 <https://www.hrw.org/sites/default/files/wr2015_web.pdf> accessed 15 November 2015.
[428] Ombudsman's Office of Bolivia, 'Submission of the 2015 report on the situation regarding human rights in Bolivia , <http://www.defensoria.gob.bo/draft/10-12-15%20COMUNICADO%20DE%20PRENSA%20INFORME%20DEFENSORIAL%20SITUACION%20DDHH%202015.pdf> accessed 10 December 2015.
[429] European Commission, 'Assessment of EU-Bolivia 2007-2013: Final Report' [2014] 6. https://ec.europa.eu/europeaid/sites/devco/files/evaluacion-cooperacion-ue-bolivia-texto-principal-201412_es.pdf accessed 10 November 2015.
[430] Interview with officials from the European Union Delegation in Bolivia.

This support has been forthcoming in terms of strategic objectives, each of which has taken into consideration the promotion of national plans and their implementation. In this respect, EU cooperation has in recent years been aligned with the objectives set out in the National Development Plan 2007-2013, which also coincide with the priorities established in new instruments such as the MIP and REC.

However, the first area in which EU support is in evidence is that of the strengthening of democracy and the rule of law – a framework area in which the REC has decided to prioritise reforms to the justice system. To this end, Bolivia was selected as the pilot country for implementation of the *EU Agenda for Action on Democracy Support*, which included a roadmap of key actors and projects as well as a subsequent assessment of the democratic profile of the Bolivian State by the EU Delegation located there.[431] One of the results of implementing the agenda was the increase in groups considered vulnerable with regard to national policy, especially among the indigenous peoples and native communities.[432] The presence of indigenous peoples and native communities is especially important for the European Union and is reflected in the existence of the intercultural approach. The Delegation is also committed to strengthening the gender-based approach and applies this directly to its projects and policies.

As for strengthening the justice system, the EU has favoured coordinated work between Bolivian and European officials to reform the Bolivian Judiciary and the training of its members. Thus, on 10th March 2014, the Memorandum of Understanding was signed by the European Group of Justice and the United Nations to set up a permanent sectorial platform in which international donors and representatives of Bolivian institutions could take part, such as the Supreme Court, Plurinational Constitutional Court and National Magistracy Council.[433] Furthermore, in this aspect, the contribution made by the EU has also sought to foster communication between civil society and the State, as well as trying to resolve conflicts through dialogue and the promotion of alternative processes other than the judicial route. To this end, the project 'Strengthening and increase in Independence of the judicial system in Bolivia'[434] was funded in accord to EU Agenda for Action on Democracy Support, in which the Plurinational Constitutional Court, Judiciary and the Ombudsman's office of Bolivia also took part. Objectives included: improving the capacity of institutions making up the justice system to apply international standards governing human rights and to pursue processes both transparently and independently; creating areas for dialogue in matters tending to involve major tensions and disputes between civil society and the State; and contributing towards the implementation of the right to prior consultation for indigenous Bolivian communities, including a gender-based approach in terms of the participation of members of the latter:

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[431] Ostheimer A, 'The Value-based approach of EU Development Assistance' (2014) 3 KAS International Reports N° 3, note 4, http://www.kas.de/wf/doc/kas_37137-544-2-30.pdf accessed 12 November 2015.

[432] European Commission and High Representative of the European Union for Foreign Affairs and Security Policy, 'Implementation of the agenda for action on democracy support in the EU's external relations' [2012] (Joint report to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions) JOIN/2012/028 final, point 3.

[433] MIP, 4.

[434] <http://ec.europa.eu/dgs/fpi/what-we-do/aid-transparency/docs/EU_BO.xml> accessed 10 December 2015.

The second issue, which is the focal point of European cooperation in Bolivia, concerns the war on drugs. In this case, the regulatory framework includes the National Strategy in the Fight against Drug Trafficking and Reassessment of Coca Leaf Cultivation 2007-2010, the Strategy in the Fight against Drug Trafficking and Reduction in Surplus Coca Cultivation 2011-2015 and the National Strategy for Integral Development with Coca 2011-2015 (ENDIC). At a national level, the aim is to seek coexistence between two different policies: the first is linked to eradicating the production of and illegal trade in drugs, and the second seeks to reassess the coca leaf as Bolivian historical-cultural heritage related to ancestral practices.

The EU has collaborated on adoption by the Bolivian State of a comprehensive anti-drugs strategy including a strengthening of institutions, reduction in demand and promotion of alternative crops.[435] The first component, which is linked to EU support for democracy, human rights and the institutions working on these issues, involves strengthening those state agencies that have both direct and indirect relations with the area of illegal narcotics. Thus, support for the Special Force against Drug Trafficking, the National Migrations Bureau, Customs and the Financial Investigation Unit has been included in the MIP.[436] Collaborative work is also included in the field of new technologies and information systems, and in this respect state systems have been encouraged to use result-based management systems and to monitor and assess via virtual platforms. This is the case for instance with the Ministry of Rural Development and Land of Bolivia that is working with the SISEGAR system, and the National Alternative Development Fund that also operates with SIPTA (information system) and VISUAL (financial information system).

Finally, the third area in which collaboration with the EU can be found with a view to improving the democratic system and respect for human rights in Bolivia is linked to the protection of vulnerable groups. In this case, of the documents reviewed, several mentions have been made of indigenous communities and their rights and hence – as has been stated above – Bolivia was selected as the pilot country for the European democratic agenda in favour of participation by native communities in the national justice system. In addition, projects have also been funded to promote the right to consultation from a gender-based approach such as that titled 'Support for the process involving legislative development and implementation of the right to consultation and participation of indigenous peoples in Bolivia', by means of which training processes and dissemination of this issue at the level of civil society and academic institutions have been pursued. This area is particularly important given that a process already existed in Bolivia for strengthening indigenous organisations, but that this did not always take into account the especially vulnerable situation facing women belonging to this group.

b)   EU election observation missions

Another of the instruments used by the EU to foster democracy in third countries are the election observation missions, the purpose of which is to strengthen the democratic process and ensure there are

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[435] MIP, 5.
[436] Ibid.

transparent elections and free participation on the part of citizens. In the case of Bolivia, two missions have been established – the first in 2006 and the second in 2009.

The first election observation mission was set up at the request of the Bolivian Government for the Constituent Assembly elections in order to formulate on the one hand the Constitution, which was finally enacted in 2009 and, on the other, the Referendum on Regional Autonomy which would subsequently pave the way for the decentralisation process that is now underway. Both events took place on 2nd July 2006. The final report published by the EU also referred to the participation of women and indigenous peoples, in addition to traditional factors such as candidates, the election campaign and dissemination, and voting. This is in line with the issues prioritised by the *EU Agenda for Action on Democracy Support in Bolivia.*

However, as far as women's participation in the electoral process is concerned, the report highlights the difficulty they face in exercising their political rights both in terms of the voting itself and the inclusion of female candidates on the lists of the different political parties. Both issues are linked to poverty and lack of regular education experienced by women in Bolivia. These shortcomings have a real impact on the chance for women to participate in this country, although according to observations made, the democratic process ended up with 34% of women being elected to the Constituent Assembly, which represents the highest proportion in all electoral processes in Latin America.[437]

The second vulnerable group whose participation was able to be monitored by the election observation mission was that of indigenous peoples. In this case, the mission's final report states that indigenous participation in the electoral process was extremely high, even when it proves difficult to quantify owing to the superposition of social types of classification and the history of discrimination and racism that has a negative influence on a person belonging to some ethnic group or indigenous community's perception of themselves. Having said this, as is well-known, in recent years political processes have tended to entail a major demand for indigenous identity and a corresponding increase in the political representation of this group. Nonetheless and despite positive numerical data regarding the make-up of the Constituent Assembly owing to the diversity of ethnic groups, the mission points out that the problem with participation by this vulnerable group has yet to be fully resolved. Indeed, difficulty was experienced in the lack off electoral material in the native language, a priori there was a preconception that considered that member of this vulnerable group tend to be illiterate which prove to be wrong.[438]
In this sense, despite there being favourable discourse regarding the full inclusion of indigenous peoples, the existence of shortcomings such as lack of formal education have a negative impact on the group in question.

The second electoral process in which an EU election observation process took part was the election of President and congress members in December 2009. Once again, the final report here enabled the

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[437] EU Election Observation Mission Bolivia, 'Final Report on the Constituent Assembly Election and the Referendum on Regional Autonomy' (2006) 25.
[438] Ibid, 27.

participation of vulnerable groups such as women and indigenous peoples to be analysed. These missions thus enable there to be continuous monitoring of the situation regarding the enjoyment and exercising of political reports in different countries around the world, with advances, setbacks and obstacles that persist being verified in each report despite the recommendations made subsequently by each election observation mission. Such as is the case that the report on the 2009 elections in Bolivia provides similar data to that gathered in 2006, once again highlighting the difficulty facing women in gaining access to lists of candidates and catching the attention of the media during the electoral campaign itself.[439] Something very similar occurred in the case of the indigenous peoples, where the final report once again stresses the need to supply electoral material and information about candidates in the native language.[440] Finally, with regard to the latest referendum held in Bolivia in 2016, the Delegation commented that it was unable to take part in observation because the invitation was given with very little advance warning.[441]

3.   Assessment of EU instruments in support of human rights and democracy in Bolivia

An initial approach to projects funded by the European Union offers an auspicious outlook. From the standpoint of officials from the EU Delegation in Bolivia, the projects have been quite positive,[442] and budgetary assistance has had auspicious results. On the other hand, one Bolivian state official revealed that the implementation of European Union projects had exceeded 90%.[443] Furthermore, they mentioned that the project contained a technical assistance component that helped state officials to best implement the project, and this has been replicated by other public bodies.

Nonetheless, officials from the Delegation themselves accept that not all projects offering budgetary support[444] have been successful, although there would seem to be no specific reason for differences other than the capacity of human resources.[445] This is particularly important given that it may be deduced that the entire state apparatus is in favour of project implementation with the European Union.

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[439] European Union Election Observation Mission, 'Final report on general elections and autonomous referenda', (2009) 30.

[440] Ibid, 31.

[441] Interview with officials from the EU Delegation in Bolivia.

[442] Interview with officials from the EU Delegation in Bolivia.

[443] Interview with Jesús Sanez, official from the Ministry of Rural Development and Land of Bolivia.

[444] The bilateral cooperation is given mainly through sector budget support (APS). APS are programs that are based on extensive dialogue and coordination with an identified to directly support the sectoral policy of the country through direct and consumables to the General Treasury of the Nation donations, sector based on the achievement of annual targets and agreed indicators. Thus, EU funds reinforce Bolivia budget funds own and are handled according to the national system of public finances, reducing transaction costs and increase the effectiveness of our cooperation, <http://www.eeas.europa.eu/delegations/bolivia/documents/eu_bolivia/20150723_aps_es.pdf> accessed 23 May 2015.

[445] Interview with officials from the EU Delegation in Bolivia.

It is possible to specifically analyse some of the projects. For instance, the National Alternative Development Fund has suitably met the objectives that were originally set out. Both the Delegation[446] and state officials[447] acknowledge the positive impact of this project.[448] Thus, for instance the Bolivian official recognised that the project contained a gender indicator that sought to broaden women's participation. The same official stated that the quality of life of the project's beneficiaries had increased accordingly. This same official pointed out that although there was no intercultural approach, this was in practice taken into account, as among the beneficiaries it was possible to find social actors such as indigenous Quechua, Aymara, Afro in Las Yungas de La Paz families and some ethnic groups to the north of La Paz.[449] This situation is particularly important, and although state officials had applied the perspective empirically, the project lacked this outlook.

Another project that it was a good practice is the support for young female congress members in Parliament.[450] In this case, the prevailing perspective was once again that of gender. This, as has already been stated, may be linked to the effective empowerment already enjoyed by indigenous populations owing to the work carried out by the Government.

In terms of its relations with civil society organisations, the Delegation has pointed out that work has been difficult with social movements. This is mainly due to the lack of legal status attached to their organisations, as well as their political commitment. The first of these aspects is a major formal problem because the European Union requires all its counterparts to have such legal status so as to be able to work together with them, while the second has a dual effect regarding the provision of international funds. Firstly, it is difficult to fund civil society institutions with strong links to the Government, and additionally, the fact that they already receive state funding and enjoy major political power makes them fairly ineligible for EU support.

Moreover, the situation regarding other civil society institutions is far from optimal - the Bolivian State has adopted legislation that enables Executive Power to dissolve any organisations deemed a threat to security and public order. Such legislation has already been applied to dissolve and expel one organisation from civil society, as condemned by The Annual Report for 2016 in its most recent annual report.[451] In this respect, the political situation is at present unfavourable towards activity by traditional organisations from civil society (NGOs) – the Delegation corroborated information showing that these organisations face different bureaucratic barriers to their registration and funding. This occurs mainly with organisations that

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[446] Interview with officials from the EU Delegation in Bolivia.

[447] Interview with Jesús Sanez, official from the Ministry of Rural Development and Land of Bolivia.

[448] The EU has complemented its support to alternative development programs in the areas of coca production, with the development of a strategy that focuses on reducing supply and drug trafficking, reducing demand, and programs comprehensive development to reduce excess production of Coca, <https://www.hrw.org/sites/default/files/wr2015_web.pdf> accessed 23 May 2015.

[449] Interview with Jesús Sanez, official from the Ministry of Rural Development and Land of Bolivia.

[450] Interview with officials from the EU Delegation in Bolivia.

[451] Human Rights Watch, 'World Report 2015' (2016) 106 – 107, <https://www.hrw.org/sites/default/files/wr2015_web.pdf> accessed 15 November 2015.

work on issues which are considered to be controversial or sensitive, such as areas focusing on democracy, human rights and the environment.

As regards monitoring mechanisms and postulation, the Bolivian official pointed out that they had no criticism to level against these processes.[452] The same official noted a difference with United States Agency for International Development (USAID), insofar as projects funded by the latter tend to entail political intromission, which does not occur with projects funded by the European Union. Additionally, he mentioned that EU funding did not permit major changes, but just medium-sized ones. This should be seen in terms of its real scope, as the purpose of EU projects is to give rise to changes while acknowledging that a country's development cannot be based on the funding of such bodies. In the sense, this official's declarations should perhaps be taken with a pinch of salt insofar as EU funds are perceived to be unlimited – possibly a common misconception among Bolivian state officials.

In terms of the training of state officials, attention should also be drawn to EU work undertaken to provide new technologies that have enabled better work to be carried out, mainly via projects involving the environment and the war on drugs. According to officials from the EU Delegation,[453] there is a European Union project based on a UN project that sought to generate satellite images to locate coca-growing areas, and as for the environment, the aim is to learn more about animal and plant diversity existing in protected areas also via satellite images. Thus, the Delegation recognises and stresses the importance of new technologies in implementing political policies.

When assessing EU projects it can be acknowledged that there has been adaptation to the special situation of that country. Thus, cooperation tends to be with the State as civil society organisations are not strong enough and find themselves within a regulatory context that does not much favour their activities.

As regards protecting vulnerable groups, it is important to take into account the specific Bolivian political process. Although there are major social shortcomings that prevent indigenous peoples from being able to effectively enjoy their rights and participate politically on an equal footing with others, it is necessary to recognise advances made by the Bolivian State in implementing policies that have effectively combated racism and empowered this group of the population. In this sense, the major efforts made by the European Union have been geared towards promoting the gender-based approach. This has quite a positive effect both on the project's beneficiaries and on state officials in charge of implementing the projects. There has been no corroboration regarding the existence of a specialist approach regarding other groups such as disabled persons.

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[452] Allan Heldbjerg is the Political Counselor of the Delegation of the European Union in Bolivia. In that sense, it is responsible for projects and programs related to Human Rights and Democracy developed by the cooperation of the European Union in Bolivia.
[453] Interview with officials from the EU Delegation in Bolivia.

B.   PERU

1.   Introduction

Peru and the EU maintain financial and technical relations via both trade agreements (Free Trade Agreement) and political agreements (Rome Declaration and Political Dialogue and Cooperation Agreement) pursued since the early 1990s. Peru, as a member of the Andean Community of Nations (CAN) alongside Bolivia, Colombia and Ecuador, has strengthened and institutionalised these relations in issues such as the prevention of conflict, good governance and the fight against organised crime, in addition to macroeconomic and financial issues, human rights, the environment, climate change and the war on drugs.[454] Below, we provide a table that summarises the main documents governing relations between the EU and Peru.

Table 4: Summary of the main documents governing relations EU-Peru

Documents	Year
Cooperation Framework Agreement	1993
Rome Declaration	1996
Political Dialogue and Cooperation Agreement between the European Union and its member states and the Andean Community and its member states	2003
Memorandum of Understanding between Peru and the European Commission	2009
Free Trade Agreement between Peru, Colombia and the European Union	2010 (in force since 2013)

Source: website of the EU Delegation in Peru

Put together by IDEHPUCP

In addition to this regulatory framework, the current cooperation strategy in force between the EU and Peru is the Country Strategy Document 2007-2013. As pointed out in this document, the National Agreement[455] has been an exceptional instrument to be taken into account in defining bilateral

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[454] EU Delegation in Peru, ´Relations between the European Union and Peru´, http://eeas.europa.eu/delegations/peru/eu_peru/political_relations/index_es.htm accessed 2 December 2015.

[455] We should also recall that the National Agreement is a strategic planning document that provides a set of State policies drawn up and approved as part of a process involving citizens' participation that enables democratic governability and sustainable development to be consolidated. This document started to be drafted within a context of transition to democracy following the fall of the Fujimori Government (dictatory government between 1990-2000). In this sense, it proved necessary to legitimise social and political actors, whereby fifteen working meetings were arranged in what was referred to as the Governability Forum between March and July 2002. Finally, in July of that year, this document was signed by the President of the Republic – at the time Alejandro Toledo – together with the President of the Council of Ministers and representatives of national political organisations and organisations from civil society.

cooperation between the EU and Peru,[456] to a greater extent owing to the fact that it focuses on medium and long-term planning and to its participative approach in considering civil society as playing an essential role in strengthening democracy and respect for human rights.

Twenty-nine long-term State policies were initially approved during this process (up to 2021, the bicentennial year of Peru's Independence), as agreed via thematic forums (equity and social justice, competitiveness, institutionality and public ethics) and decentralised forums in different Departments throughout the country.[457] Following signing of the National Agreement, the Governability Forum became known as the National Agreement Forum and increased the number of State policies from 29 to 31. These policies are grouped together into 4 areas: *Democracy and Rule of Law, Equity and Social Justice, Competitiveness of the Country, and Efficient, Transparent and Decentralised State.*[458] However, this document also gathers together the approaches drawn up in the Millennium Development Goals up to 2015 in Peru and the recommendations put forward by the Truth and Reconciliation Commission, also in Peru.

However, beyond these cooperation agreements and documents which are produced at a regional level between the EU and Peru (Latin America or the Andean Community of Nations), there is also thematic cooperation that can be broken down into the following instruments and programmes: (1) *Civil Society Organisations and Local Authorities Programme (CSO-LA).* (2) *Global Public Goods and Challenges Programme (GPGC)*, (3) *European Instrument for Democracy and Human Rights (EIDHR) and* (4) *Instrument contributing to Stability and Peace (IcSP)*.[459] Below we provide a summary of these instruments and programmes.[460]

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[456] European Commission, 'Peru. Country Strategy Document 2007-2013' (European Commission, 2007) 1.

[457] Three thematic forums to the issues addressed in State policies of the National Agreement were established on the basis, which held their sessions weekly for three and a half months: (1) Social Equity and Social Justice: he was installed on March 20, 2002 and ran until 12 June of the same year. (2) Competitiveness: was installed on March 22, 2002 and ran until 11 June of the same year. (3) Institutions and Public Ethics: were installed on March 26, 2002 and ran until 13 June of the same year. The matrices and texts presented by the Government to the State Policies were discussed in Thematic Forums, where members submitted comments and proposals. The matrices contained goals, policies, indicators, tentative goals, government measures, and regulatory proposals, http://acuerdonacional.pe/politicas-de-estado-del-acuerdo-nacional/antecedentes/instancias-de-trabajo/ accessed 23 May 2016.

[458] National Agreement, ´National Agreement State Policies´, Reviewed 1st December 2015, http://acuerdonacional.pe/politicas-de-estado-del-acuerdo-nacional/antecedentes/instancias-de-trabajo/ accessed 18 November 2015.

[459] EU Delegation In Peru, ´European Union thematic cooperation in Peru´, http://eeas.europa.eu/delegations/peru/eu_peru/tech_financial_cooperation/thematic_prog/index_es.htm#Intro accessed 15 November 2015.

[460] EU Delegation In Peru, ´European Union thematic cooperation in Peru´ http://eeas.europa.eu/delegations/peru/eu_peru/tech_financial_cooperation/thematic_prog/index_es.htm#Intro accessed 22 November 2015.

Table 5: Summary of the EU's main instruments and programmes in Peru

Programmes and instruments	General Description
Civil Society Organisations and Local Authorities Programme	Seeks support for actions pursued by civil society organisations and local authorities in order to take part in the drawing up of State policies for the purpose of enhancing their contributions to governance and development processes at a country level, reinforcing regional and global networks and associations and developing or supporting initiatives that foster citizenship. Since 2008, this programme has funded over forty projects in Peru in areas covering the environment and climate change, economic and social development, sustainable trade, prevention of conflict, social surveillance and others.
Global Public Goods and Challenges Programme	Seeks to promote a strategic approach to cooperation for development and help to deal with worldwide or multi-regional problems with integrating and sustainable results. Attention is focused on the protection and sustainable use of natural resources, climate change, social protection, economic growth, energy, quality of health and education, migration and food safety. For instance, the Thematic Programme for the Environment and Sustainable Management of Natural Resources, including water and energy, has funded six projects in Peru with an EU contribution of around 10 million Euros; the Food Safety Programme has funded five projects with an EU contribution of around 10 million Euros; that of Migration and Asylum has funded a project to the sum of 750 thousand Euros and that of Investing in People sixteen projects with a contribution of approximately 14.5 million Euros.
European Instrument for Democracy and Human Rights	On the one hand seeks to enhance the implementation of compliance with human rights and basic freedoms and, on the other, to support, develop and consolidate democracy in third countries. This is done via initiatives that consider civil society to be the key actor. It contains a multi-year plan up to 2020 that focuses on five main areas: (1) human rights and defenders of human rights in situations of risk; (2) protection of human dignity, protection and promotion of children's and women's rights, the fight against discrimination and impunity, promotion of economic,

	social and cultural rights, and promotion of respect for international humanitarian laws; (3) democracy; (4) election observation; and (5) key actors and processes, including international and regional human rights mechanisms and instruments. Since 2008, around twenty projects have been implemented in Peru, working on issues such as the human rights of indigenous peoples and women, discrimination, post-conflict issues, access to justice and reconciliation and the consolidation of democracy.
Instrument contributing to Stability and Peace	Attention is focused on issues involving the prevention of conflict, and crisis and management and consolidation of peace, which is why it lends support to mediation processes, the fostering of a climate of trust, provisional administrative bodies, strengthening of the rule of law, transitional justice and the role of natural resources in conflictive situations. Peru has benefited from two actions funded by a total amount of around 5 million Euros.

Source: website of the EU Delegation in Peru

Put together by IDEHPUCP

The issue of human rights can be found across all these instruments and programmes. However, one needs to analyse the EIDHR in depth, as within it are concentrated technical and financial cooperation initiatives in issues related to democracy and human rights in Peru. The following section provides details of several institutions and human rights and democracy plans being developed in Peru.

2.   EU instruments in support of human rights and democracy in Peru

In the Country Strategy Document 2007-2013, which remains in force, it is stated that 'Peru is currently the most stable country in the Andean region, although nonetheless its democracy is fragile and incipient and coexists alongside a major problem of inequality and lack of social cohesion'.[461] In view of this context, mention is made of the fact that 'the greatest challenges facing Peru as a country are that of guaranteeing its democratic stability and its reinforcement of institutions, reducing poverty and improving social cohesion by creating a favourable environment for better wealth distribution'.[462] Bearing this in mind, the strategy takes a National Indicative Programme (NIP) into account by prioritising areas of strategic cooperation as follows: (1) Modernisation of the State, strengthening good governance and social inclusion, and (2) Integrated social development in specific regions by strengthening social cohesion.

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[461] European Commission, 'Peru, Country Strategic Document 2007-2013' (European Commission, 2007) 18.
[462] Ibid.

In terms of modernisation of the State, strengthening good governance and social cohesion, the objective has been to 'provide support for modernisation of the State via support for a State administrative reform policy in the broadest sense of the word'.[463] As for the integrated social development in specific regions by strengthening social cohesion, the aim is to 'provide support for reducing poverty and abject poverty and improving social cohesion in the areas selected and for the setting in motion of the decentralisation process'.[464] Such a cooperation strategy takes into consideration action programmes regarding each of the prioritised themes, as can be seen in the following table.[465]

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[463] European Commission, 'Peru. Country Strategic Document 2007-2013' (European Commission, 2007) 25.
[464] European Commission, 'Peru. Country Strategic Document 2007-2013' (European Commission, 2007) 27.
[465] Ibid.

Table 6: Action programmes regarding prioritised themes in Peru

Theme	Programmes
Modernisation of the State	Public bodies will receive logistics support and/or technical assistance in order to improve how they work. Support will be provided in defining policies with the participation of the Peruvian International Cooperation Agency, the Ministry of Economy and Finance and beneficiary sectors. Support will also be provided for the National Agreement Bureau in its efforts to ensure monitoring and the development of consensus reached, in particular with regard to the decentralisation process.
Social inclusion: support for different bodies in charge of granting the National Identity Document to Peruvian citizens	Support will be provided for different institutions responsible for dealing with the problem and care will be taken to ensure that they work in a coordinated manner via the provision of technical assistance. Furthermore, an extensive social inclusion programme will be developed to endorse their main aspects, in particular those regarding education and health policies, the aim of which is to establish coherent and coordinated action in order to integrate these aspects into campaigns that will inform citizens about their benefits.
Integrated social development in specific regions by strengthening social cohesion	Support will be provided for implementation of the decentralisation process from above via training of local actors and by strengthening their interlocution with the State. Further support will be provided for the integrated development of the regions selected, and for integration of the guidelines set out in the Andean regional schedule, in particular regarding social cohesion strategies and reinforcement of regional integration.

Source: website of the EU Delegation in Peru

Put together by IDEHPUCP

Within this framework, the EU has funded a range of technical cooperation projects over the past decade, setting aside an initial amount of 132 million Euros, of which 65% was assigned between the years 2007 and 2010 and 35% between 2011 and 2013. However, the *Multiannual Indicative Programme 2014-2020 (MIP)* was approved in 2014, the aim of which is to 'consolidate the achievements made in cooperation already underway so as to face the challenges of development still pending in the poorest regions of the country by promoting inclusive development at both a regional and local level, and fostering sustainable

trade'.[466] In this sense, two areas of cooperation have been prioritised in particular: (1) Promoting inclusive development at a regional and local level and (2) Fostering sustainable trade and investment. This is why the following projects have been developed:[467]

Table 7: Projects funded by the EU in Peru under the MIP 2014

Projects	General description
Strengthening of agricultural innovation in favour of the poor to ensure food safety in the Andean region (2010-2015)	The project involves Ecuador, Bolivia, Colombia and Peru in activities that focus on the development of technical innovation capacities such as crop management, seed systems, adaptation to climate change, post-harvest and access to the market in prioritised areas of the southern Andean region.
Opportunities for and challenges facing participation in the benefits of developing REDD + mechanisms in developing countries (2012-2016)	The project involves Brazil, Cameroon, Indonesia, Peru, Tanzania and Vietnam. This action seeks to produce guidelines and information that is relevant to policies in developing countries and REDD + in areas such as reduction of emissions as a result of deforestation and forest degradation, as well as helping them to draw up their REDD + policies to ensure effectiveness, efficiency and equity.
Promotion of mental health among women in Peru: a requirement for equity and human development (2011-2014).	The main aim of this project is to improve programmes that promote healthy lifestyles for the prevention and care of depression and other mental disorders in women who have been victims of violence.
Optimisation of low-cost bamboo housing for adaptation to climate change in the coastal regions of Ecuador and Peru (2011-2015).	The aim is to increase resilience to extreme climatic events via activities that generate income and the construction of housing in rural and suburban low-income communities in Ecuador and Peru.

Source: website of the EU Delegation in Peru
Put together by IDEHPUCP

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[466] European Commission, ´International cooperation and development. Building partnerships for change in developing countries´, Reviewed 1st December 2015 https://ec.europa.eu/europeaid/countries/peru_en accessed 10 December 2015.
[467] European Commission, 'Multiannual Indicative Programme 2014-2020, Peru' (European Commission, 2014) 2.

3.   Programmes and projects underway in areas of human rights and democracy

From the documents highlighted, we found that, for instance, although a National Human Rights Plan exists in Peru -drawn up under the coordination of the Ministry of Justice and Human Rights- it did not received any support from the EU. Despite this, the EU is financially involved in programmes supporting access Justice and Law and in drawing up the National Plan for Prevention and Treatment of Adolescents in conflict with Criminal Law 2013-2018.[468]

As for other services, for instance in the Mid-term Review and National Indicative Programme 2011-2013, it is stated that advances have been made in modernising the Peruvian State. However, the implementation of policies at a decentralized level still needs to be reinforced in the country, in particular in the case of environmental protection. Thus, reference is made for instance to the case of the National Environmental Policy administered by the Ministry of the Environment. In this case, mention is made of the fact that the Multi-party Trade Agreement negotiated with the EU affords new challenges for sectors responsible for regulation and the institutional capacities for democratic governance.[469]

Eventhough, social inclusion has been a major issue in the last governments, Peru still faces a major challenge reducing poverty and inequality in terms of economic wealth distribution. Thus, for instance, we find that the EU has provided funding of over 60 million Euros for the implementation of the Articulated Nutrition Programme (PAN) as a social policy pursued by the Peruvian State to reduce chronic malnutrition in children below five years of age. As a result, a reduction of 10.4 percentage points in the level of chronic malnutrition in children was achieved between 2007 (28.5%) and 2012 (18.1%). This programme focused on the Departments of Ayacucho, Apurímac and Huancavelica and was put into practice between the years 2009 and 2014.[470]

Another example of technical cooperation linked to the issue of social inclusion and human rights was the Food Safety Support Programme pursued between 1997 and 2008, in which actions were implemented to improve food safety and fight poverty in poor areas. This programme enabled expectant mothers and children below the age of five to receive health care, the Mental Health Plan and Integrated Health Insurance to be strengthened, the infrastructure for gaining access to health and education services to be

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[468]   Ministry of Justice and Human Rights, ´Projects´, Reviewed on 4th December 2015 http://www.minjus.gob.pe/ogcp-proyectos/ accessed 10 December 2015.
[469] European Commission, 'Mid-term Review and National Indicative Programme 2011-2013, Peru' (European Commission, 2011) 2.
[470]   EU Delegation in Peru, ´Practical cases´, Reviewed on 4th December 2015, http://ec.europa.eu/europeaid/documents/case-studies/peru_rural-development_europan_es.pdf   accessed 11 December 2015.

improved, and hospitals in Departments such as Huancavelica, Junín, Apurímac and Ayacucho to be remodelled.[471]

Attention can also be drawn to two projects that refer in particular to the fight against the ill treatment of people and the practice of torture. In the first case, the Mirada Ciudadana project was administered in which the putting into practice of effective State policies in the fight against ill treatment of people at work was fostered, with actors from civil society proposing mechanisms for citizens' participation in monitoring compliance with obligations attached to public bodies.[472] In the second case, a project was administered jointly with civil society institutions from Ecuador, Peru and Guatemala with a view to reducing these practices via awareness-raising and education. With this aim in mind, educational materials were devised about the prevention of torture and existing national and international regulations, and round tables were organised to foster dialogue and negotiation between among State security bodies.[473]

Furthermore, mention is made of the fact that poverty would seem to be still linked to growing coca, drug trafficking and areas in which periods of extreme violence are still being witnessed; support for the development of alternative products in areas identified with coca leaf production needs to continue being strengthened.[474]

In this respect, attention should be drawn for instance to the Alternative Development Programme in Satipo (DAS Fund), implemented with EU funding via the National Commission for Development and Life without Drugs (DEVIDA) within the framework of the National Strategy for the Fight against Drugs. This programme is being set in motion between the years 2011 and 2017 with a budget of over 10 million Euros, with the aim of: (1) Improving lawful production by strengthening the capacities of producers and their organisations; (2) Providing support for legal sanitation processes in areas inhabited by *colonos* (tenant farmers) and indigenous communities; (3) Strengthening the sustainable handling of natural resources; (4) Strengthening the capacities of civil society and local governments within the decentralisation and alternative development framework; and (5) Improving the management capacity of the national authority in charge of implementing the National Strategy for the Fight against Drugs.[475]

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[471] Delegation in Peru, ´Practical cases´, Reviewed on 4th December 2015, http://ec.europa.eu/europeaid/documents/case-studies/peru_food-security_educativo_es.pdf accessed 11 December 2015.

[472] EU Delegation in Peru, ´Practical cases´, Reviewed on 4th December 2015, http://ec.europa.eu/europeaid/documents/case-studies/peru_human-rights_chs_es.pdf accessed 11 December 2015.

[473] EU Delegation in Peru, ´Practical cases´, Reviewed on 4th December 2015, http://ec.europa.eu/europeaid/documents/case-studies/latin-america_torture-prevention_en.pdf accessed 11 December 2015.

[474] European Commission, '2011-2013 Mid-term Review and National Indicative Programme, Peru' (European Commission, 2011) 6.

[475] Alternative Development Programme in Satipo, ´Our institution´, Reviewed on 5th December 2015 http://das.gob.pe/nuestra-institucion/ accessed 11 December 2015.

In addition to these documents that provide national cooperation frameworks, by analysing the EU Thematic Cooperation Programmes it can be seen that the EIDHR is the most relevant one in terms of funding provided to Peru. 19 projects were set in motion in the year 2009 with funding of over 12 million Euros.

Among these, attention should be drawn for instance to the Political Culture and Cultural Diversity project: empowering citizens in Quechua-speaking centres of population in Peru and Bolivia, funded by a budget of nearly one and a half million Euros, which worked on strengthening democracy, interculturality, political participation and gender equality. Other projects that can be highlighted include: the strengthening of expert assessment processes by the Public Ministry in Ecuador and Peru, funded by nearly a million Euros, which worked on preventing torture and other violations of human rights; building bridges between parties or political movements and organisations defending human rights in the Department of Junín, which received funding of nearly 100 million Euros and permitted the gestation and approval of the Junín Human Rights Plan under the coordination of the Regional Government, in collaboration with civil society and regional political bodies.[476]

4.   EU election observation missions

Regarding election observation, it has been noted that the most recent EU election observation mission in Peru was put in place for the second round of Presidential elections in July 2011, in response to an invitation from the Ministry for Foreign Affairs and National Jury of Elections.[477] For this, the Chief Observer was José Ignacio Salafranca, a Spanish member of the European Parliament who was accompanied by 7 experts and 48 observers from 26 EU member states. These met with government and election officials and representatives from political organizations and civil society in general.[478] Three recommendations were put forward as a result of these actions which were aimed at the legal framework of Peruvian electoral processes, the electoral administration and the media.

5.   Assessment of EU instruments in support of human rights and democracy in Peru

The EU has developed its cooperation programmes by placing Peruvian civil society at the core. In this sense, the document titled 'EU country roadmaps for engagement with civil society 2014-2017' informs us about the different strengths and limitations of this actor as viewed by the EU Delegation in Peru. Mention is made of the fact that although a favourable environment for developing civil society as a

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[476] European Commission, 'EU thematic cooperation in Peru' (European Commission, 2010) 32-37.
[477] Prior to this mission, the most recent had been organized in the year 2001, during general elections in April.
[478] European Union, 'Final report issued by the Election Observation Mission in Peru' (European Union, 2011).

recipient of cooperation exists, there are also areas in which this can be deemed urgent, such as in cases referring rights of indigenous peoples or peoples immersed in socio-environmental conflicts.[479]

Apart from the problems referred in the official diagnosis provided by the EU Delegation in Peru, the officials interviewed pointed out that the outlook is promising for cooperation.[480] For this reason it is important to continue prioritising projects in which both grassroots organizations and local or regional government officials are linked in order to obtain better results.

EU cooperation in Peru also refers that the State itself has certain problems, for example, the Peruvian Agency for International Cooperation (APCI) has been operating with certain limitations. Many non-governmental organisations have not been able to became formal; and those who has been recognized faces an increasement of a accountability processes. Moreover, APCI has not made greater efforts to strength the dialogue with EU cooperation strategies.[481]

Officials also point out that programmes receiving budgetary support deriving from bilateral assitance are being properly executed, although 'management problems persist within the Peruvian State itself that limit any greater impact as a result of cooperation'.[482] Although such cooperation may be very efficient in the case of some sectors such as the Ministry of Economy and Finance (MEF), in the case of regional or local governments they may be equipped with suitable capacities.[483] In this respect, the results may also be limited depending on the public bodies with whom there is cooperation.

The same officials also state that the impact can be measured 'in the use of cooperation that not only provides funding for setting actions in motion but also for improving the use of State funds and budgetary management.'[484] According to them, that is why projects that produce the best results for the State are the ones that 'strengthen their human resources or create specific teams for the State to put these projects into practice,'[485] although they also refer to problems that may be linked to political will, such as in cases of cooperation with State bodies that maintain internal control roles like the Ombudsman's Office.[486]

However, local counterparts have pointed to positive results such as the prioritisation of vulnerable groups on the part of the EU. One example of this is the support received for the project 'Political Culture and cultural Diversity: Citizens' Empowerment in Quechua-speaking Centres of Population in Peru and Bolivia', implemented by the non-governmental organisations Manuela Ramos (Peru) and Ciudadanía (Bolivia). According to the coordinator of this project in Peru, 'this work not only enabled work to be carried out directly with women from peasant communities in both countries, but also enabled both

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[479] EU Delegation in Peru, `EU country roadmaps for engagement with civil society 2014-2017` (2014), 2-3.
[480] Interview with officials from the EU Delegation in Peru.
[481] Ibid, 24-25.
[482] Interview with officials from the EU Delegation in Peru.
[483] Interview with officials from the EU Delegation in Peru.
[484] Interview with officials from the EU Delegation in Peru.
[485] Interview with officials from the EU Delegation in Peru.
[486] Interview with officials from the EU Delegation in Peru.

gender-based and intercultural approaches to become intertwined'.[487] Likewise, it is stated that the 'EU has succeeded in promoting the association of non-governmental organisations in both countries insofar as they evidence similar social, political and economic needs, above all with regard to these vulnerable groups'.[488]

Similarly in another case such as the 'Mirada Ciudadana' project, it is noted that the focus tends to be on areas such as the ill treatment of persons, illegal trafficking of migrants and missing persons. As stated by the director of the non-governmental organisation that set this project in motion, CHS Alternativo, 'this has enabled greater awareness to be raised about the problems via the monitoring processes to which authorities and civil society were invited'.[489] They also state that 'civil society was able to be empowered in order to strengthen these processes which are geared to ensuring articulation, transparency and influence over governments'. This experience would appear to have been a success insofar as it enabled the problems facing these vulnerable groups to be made visible in society, the media and among State officials.

The fact that attention is focused on vulnerable groups is important since, as pointed out by officials from the EU delegation, it shows that cooperation strategies in the country have been pursued in a climate of dialogue and consultation with civil society organisations, i.e. 'they are the ones that refer to the key problems in the country to which priority should be given.'[490] They state that this also enables 'organisations to be strengthened in areas that need to be tackled.'[491] This can also for instance be reflected in projects that take reforms in key sectors such as the political system into consideration, and EU officials mention that this process enables 'EU values and strategic lines to be promoted in the region.'[492] Additionally, this would manifest itself for instance in the fact that 'the gender-based approach would need to be taken into account in everything done by the Delegation'[493] or that 'the intercultural approach may not have been worked on to the same extent but has been concentrated within the State,'[494] and also that 'the human rights-based approach has involved training state officials.'[495]

Regarding the use of new information technologies, it has been pointed out that emphasis is placed on making the results visible via the involvement of the media. As the coordinator of the 'Political Culture and Cultural Diversity project: empowering citizens in Quechua-speaking centres of population in Peru and Bolivia' says, this work has been undertaken taking cultural factors and the context of peasant and indigenous communities into consideration, as it is the local radio stations in rural areas in both countries that enable the results to be made visible and for them to have greater influence over the public. Mention is made of the fact that not only are these technologies used to disseminate information about projects,

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[487] Interview with Lisbeth Guillén, Manuela Ramos project coordinator.
[488] Interview with Lisbeth Guillén, Manuela Ramos project coordinator.
[489] Interview with Ricardo Valdés, CHS Alternativo director.
[490] Interview with officials from the EU Delegation in Peru.
[491] Interview with officials from the EU Delegation in Peru.
[492] Interview with officials from the EU Delegation in Peru.
[493] Interview with officials from the EU Delegation in Peru.
[494] Interview with officials from the EU Delegation in Peru.
[495] Interview with officials from the EU Delegation in Peru.

but also to strengthen the capacities of the target group, as 'radio serials were made with the women themselves and their communicational skills managed to improve via an intercultural approach'.[496]

Despite these positive aspects of EU cooperation, local counterparts also mention the fact that some problems persist in EU monitoring and assessment processes in Peru. According to the director of CHS Alternativo, there was no suitable monitoring while the project was being implemented, added to a change in officials that meant the transfer of information left something to be desired. In this sense, the fact is pointed out that 'the project was not appropriately appraised' and that 'very subjective assessment criteria were maintained'.[497]

In another case, the Manuela Ramos project coordinator thinks that the procedures set in motion by the EU 'are now a little more complex as virtual platforms are being used'[498] and that 'it depends a lot on the official in charge of monitoring the project.'[499] Having said that, it is important to state that 'informative meetings were held to help set the project in motion.'[500]

Other problems mentioned refer to the budgetary compensation requested by the EU in order to postulate on projects bearing in mind that 'some non-governmental organisations do not have their own resources with which to subsidise actions that require such amounts'[501] and that 'this situation is worse in a context within which cooperation is withdrawn as a result of the country being in the middle income bracket.'[502] It is also even stated that this situation would affect grassroots organisations far more, despite the fact that new strategies have been implemented such as 'cascade funds that enable smaller organisations to be strengthened that wouldn't be able to access these funds by themselves.'[503]

It is important to point out that in view of the change in Peru's status to becoming a middle income country, officials say that 'the State needs to strengthen its cooperation strategies' as although 'what has already been worked on is going to be strengthened, new areas of cooperation are not going to be integrated.'[504] However, in the case of cooperation for civil society, 'this is being maintained by mechanisms such as the human rights and democracy instrument and thematic programmes,'[505] apart from the fact that civil society organisations 'are being strengthened and are even looking at funds from companies or the State despite the fact that such relations can be difficult to maintain.'[506] Nonetheless, there are areas in which it can prove to be difficult to obtain funding, such as the case of human rights.

Finally, regarding political dialogue, the 'Roadmaps' document states that the bilateral consultation mechanism has worked in such as way as to ensure that annual meetings have been held with top officials

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[496] Interview with Lisbeth Guillén, Manuela Ramos project coordinator.
[497] Interview with Ricardo Valdés, CHS Alternativo director.
[498] Interview with Lisbeth Guillén, Manuela Ramos project coordinator.
[499] Interview with Lisbeth Guillén, Manuela Ramos project coordinator
[500] Interview with Lisbeth Guillén, Manuela Ramos project coordinator.
[501] Interview with Lisbeth Guillén, Manuela Ramos project coordinator.
[502] Interview with Lisbeth Guillén, Manuela Ramos project coordinator.
[503] Interview with Lisbeth Guillén, Manuela Ramos project coordinator.
[504] Interview with officials from the EU Delegation in Peru.
[505] Interview with officials from the EU Delegation in Peru.
[506] Interview with officials from the EU Delegation in Peru.

since 2011, in which immediately relevant issues are highlighted as well as strategic ones such as the war on drugs, climate change and management of social conflict.[507] In the specific case of human rights, this document points out that official visits have been made in the course of which diplomats from EU member state embassies and the EU Delegation in Peru have met with representatives of organisations that are working in areas of human rights or are defenders of human rights within the country. This has enabled the area to be included in political dialogue between the EU and the Peruvian Government.[508]

Additionally, officials from the EU Delegation in Peru have mentioned that specific mechanisms exist by the cooperation in specific areas of the political system.[509] In this sense, a project is currently being set in motion within the framework of the 2016 General Elections, in the course of which 'the aim has been to gather together the recommendations from previous election observations about electoral reform.'[510] Moreover, this project 'is working on the effective participation of vulnerable groups in the electoral process such as women, disabled people and the Afro-Peruvian population.'[511]

It is also stated that, beyond support via projects, this year's election observation 'is the largest that has been undertaken in previous processes,'[512] which is important bearing in mind that this is an electoral process that has been questioned by different sectors of Peruvian society, in particular regarding the application of some procedures that have resulted in the exclusion of candidates in a period very close to the electoral process.

C.   Conclusions

First, a positive aspect of EU external policy is that one of its focuses areas has been the fostering and promoting of democracy and human rights. This is evidenced in the global policy instruments adopted by the EU itself, such as in the *Plan on Human Rights and Democracy* and *EU Agenda for Action on Democracy Support and the European Instrument for Democracy and Human Rights (EIDHR)*. Furthermore, this prioritisation of areas is also reflected in the cooperation pursued by the EU in third countries, among them Peru and Bolivia. Thus, it has been possible throughout the study to ascertain that documents have been drawn up jointly by the EU and the respective Government in order to foster democratisation processes and a respect for human rights. This is the reason why both countries have country strategy instruments at their disposal in which the EU publicises the need to cooperate in such areas. This prioritisation of democracy and human rights – both in global instruments and those especially aimed at cooperation with a specific country – shows consistency and coherence in EU work.

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[507] EU Delegation in Peru, 'EU country roadmap for engagement with civil society 2014-2017' (2014) 12.
[508] Ibid, 13.
[509] Interview with officials from the EU Delegation in Peru.
[510] Interview with officials from the EU Delegation in Peru.
[511] Interview with officials from the EU Delegation in Peru.
[512] Interview with officials from the EU Delegation in Peru.

Secondly, from an analysis of the support provided by the EU in national plans that focus on democracy and human rights or are geared towards those institutions that work on this, it can be gathered that there is a suitable process in place for defining themes, dialogue with national authorities of third countries and granting funds. In this sense, the cooperation instruments adopted in recent years by the EU and Peru and Bolivia show evidence of an alignment between EU priority areas and those established at a domestic level through development plans and political agendas pursued by the two Latin American countries at hand. This agreement between on the one hand EU foreign policy and, on the other, Peru and Bolivia's domestic policy, enables a greater positive impact on cooperation processes and greater sustainability after cooperation ends to be assured.

This is considered a positive aspect insofar as it has enabled – for instance, in the case of Peru – projects to be focused on support for vulnerable groups or civil society organisations to participate in the defining of EU cooperation strategies. Likewise, in the case of Bolivia, it would seem to have adapted to a scenario in which a growing State that is willing to pursue inclusion policies joins forces with a fairly inactive civil society with budgetary and regulatory limitations. This has also enabled gender-based or intercultural approaches to be incorporated in the cooperation provided – something that is extremely relevant in social, political and cultural situations such as those of Peru and Bolivia. Despite this, it is also true to say greater inclusion of vulnerable groups has been suggested, as would be the case with disabled persons, the Afro-Peruvian population and the LGBTI community.

Thirdly, it should also be pointed out that limitations remain in implementing cooperation instruments insofar as these actions also reflect weaknesses in the capacity of the State in each country. In the case of Peru, bureaucratic problems facing non-governmental organisations in postulating before the State and validating the funds obtained from cooperation restrict the results hoped for by the EU.

Likewise, another limitation evidenced in the information analysed is that of direct application by grassroots organisations of EU cooperation funds. In the case of Peru, it has been stated that part of the problem lies in budgetary compensation required by the EU for postulation. In the case of Bolivia, mention has been made of the problems attached to formalising grassroots organisations as beneficiaries of international cooperation. This may provide different results insofar as Peru has been accorded middle income status, unlike Bolivia, which will benefit from sustained cooperation over the coming years. Thus, greater challenges might arise in strengthening Peruvian State cooperation strategies, above all in terms of bilateral cooperation.

Fourthly, as regards political dialogue, it has been found that areas of bilateral cooperation remain strengthened in the case of Peru, as well as evidencing better results in observation of electoral processes. However, in the case of Bolivia, mention has been made of the fact that such observations have not been made in the most recent electoral processes, as they failed to comply with procedures established by the EU. Despite this situation, it should also be stated that projects exist in both countries in which work is being carried out on improvements in the area of electoral processes (Peru) and the production of legislation (Bolivia).

Finally, regarding the visibility of EU support to third countries, it should be mentioned that no national literature has been found that analyses the cooperation processes or that develops the promotion of democracy by the EU in Peru and Bolivia. In most cases, literature originates either from the EU agencies themselves, which issue reports or descriptive notes about the work carried out, or from assessment reports conducted by impartial third parties at the EU's request. In this sense, consolidation of academic studies and research on the cooperation work carried out by the EU in Latin America is recommended, preferably in collaboration with national institutes and institutions.

VII.   China

A.   EU Democracy Promotion in China

1.   EU support for democracy in China

The European Initiative for Democracy and Human Rights (EIDHR) is one of the European Commission's thematic programmes. It has funded projects for promoting and defending human rights and fundamental freedoms as well as supporting processes of democratization.[513] Many initiatives target the promotion of democracy in China by promoting the rule of law and good governance. Among these initiatives, the EU-China Legal and Judicial Cooperation Programme (hereafter referred to as LJC) and the EU-China Village Governance Training Programme (hereinafter referred to as VGT) have become the largest foreign cooperation initiatives in China in the fields of social development and governance. Both of these programmes will be detailed in the next sections.[514] These projects are aimed at promoting the rule of law through the support of legal reforms and village governance. In the sectors involved, most foreign observers believed they are related to democracy in China as well.[515]

a)   The EU-China Legal and Judicial Cooperation Programme(LJC)

The LJC is as of now, the largest EU-China cooperation programme in the legal field. It is the result of an agreement signed between European Commission and China's Ministry of Technology and Commerce (now Ministry of Commerce – MOFCOM). The programme has received more than 3.5 million euros financed by the EU and was implemented in 2000 for a duration of 5 years. The LJC Programme aimed to provide assistance to key officials, professionals and academics who have high potential to improve the legal and judicial condition in China's districts through their future actions.

The LJC also aimed to promote the rule of law in China by working within the following areas:(i) training professionals who work in the Chinese legal system to improve their understanding of rule of law, including lawyers, judges and prosecutors; (ii) helping to cultivate qualified personnel within the legal department;(iii) promoting public awareness of China's legal system and legal rights;(iv) encouraging contacts and networking between the EU and China in the legal field;(v) introducing the EU state members' legal system to China.

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[513] European Commission, 'The European Commission's European Initiative for Democracy and Human Rights – Compendium' (2000).
[514] Giuseppe Balducci, 'The EU's promotion of human rights in China: a consistent and coordinated constructive engagement?' 2010 University of Warwick.
[515] Suzanne Ogden, *Inklings of Democracy in China* (Harvard University Press, 2002).

b)   *EU-China Village Governance Training Programme (VGT)*

The VGT was one of the Chinese government's largest foreign cooperation projects in the field of social construction and management. The project aimed to promote village governance and democracy in China. The direct expenditure of this project was 14,725 million euros, of which 10.667 million is paid by EU, 4,057 million by China. The cooperation period of this programme was five years (May, 2001 to May, 2006).

The project mainly worked in three areas, as follows[516]: (i) construction of institutes. This part was aimed at capacity building of the Ministry of Civil Affairs Training Center as well as some provincial training centers. Seven pilot provinces were identified and selected through open calls: Yunnan, Heilongjiang, Gansu, Shandong, Liaoning, Henan, Jiangxi. Provincial trainers were educated in approaches, methodologies and contents; (ii) Human resources development, consisting of designing, developing and using the training textbooks, training one group of qualified teachers on village governance, improving management standards of officials and democracy at village level; (iii) Applied research, i.e., to support research on village governance through grants.

2.   **Evaluation of the EU's Democratization Policy in China**

a)   *Effects and Impacts of the LJC*

According to directions from the EU project director Stephen Forbes, a total of 75 Chinese lawyers were sent to the relevant European countries to study European law courses over five years. The LJC Management Office sent a total of 78 judges and prosecutors to visit Europe for legal training. 71 Chinese legal professionals were funded to visit Europe. 22 legal projects were also financed through LJC. Overall, more than 2.1 million people participated in various activities supported by the project; more than 300 Chinese lawyers, judges, prosecutors and other legal professionals participated in a variety of training held in Europe. Not only did they get a new perspective of the legal system, but also spread the fruits of this knowledge after returning home.

Most of the project's implementers, external reviewers and the Chinese authorities positively evaluated the impact of the LJC. According to information provided by Stephen Forbes, the LJC Management Office commissioned a consulting company to conduct an extensive questionnaire for participants and more than 95% had a very positive opinion. They believe that this project promoted judicial reform in China and had a significant importance to this regard. [517] Zhang Fusen, former minister at the Ministry of Justice of

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[516] See the introduction about the project at: http://mgy.mca.gov.cn/article/hzjl/200712/20071200005250.shtml accessed 27 April 2016.

[517] Chen Xueyan, 'Building communication platform for European and Chinese legal professionals- Interview with Stephen Forbes, the EU director of the EU-China Legal and Judicial Cooperation Programme' (2004) 11 World Market Journal 26-28.

the People's Republic of China, believes that the cooperation projects provide a good channel for the EU-China legal and judicial fields to learn from one another. They played an active role in promoting and strengthening the comprehensive and healthy development of the China-EU relationship. In the process of development and improvement of the legal system, China not only needed to study the situation based on Chinese characteristics, but it also needed to focus on and draw on the useful experience of other countries. Dr. An Gaosheng, head of Delegation of the European Commission to China contends that by introducing their legal system to Chinese professionals through the LJC, the EU can adopt methods such as criticism or discussion to promote judicial developments in China. Yu Lei, the former judge of the trial supervision tribunal of the PRC Supreme People's Court (one of the participants in the project), said that knowledge acquired in Europe through this project has begun to have an impact on the job at a domestic level.

This project played an important role in promoting judicial reform in China.[518] In 2012, the State Council Information Office of the PRC published a white paper, *Judicial Reform in China[519].* According to this white paper, in 2004, China launched large-scale judicial reforms based on overall planning, deployment and implementation. Since 2008, China has initiated a new round of judicial reform, and entered a stage of deeper study in key areas, together with overall advancement. The white paper describes the development and improvement of judicial reform in China from the following aspects: maintaining social fairness and justice; strengthening human rights protection; enhancing judicial capabilities and judicial power serving the people.

The programme has become an important driving force for the promotion of rule of law. With the implementation of the project, the public and especially public officials, have acquired a better understanding of the rule of law. The Chinese authorities continue to strengthen the building of rule-of-law in China. The dichotomy between rule of law and rule by law dominated the Chinese debate in the 1990s and many people believed that the rule of law was not suitable for China then.[520] However, in recent years, the Chinese authorities have often discussed the rule of law in public. In 2008, the State Council Information Office of the PRC published a white paper named The Construction of Rule of law in China.[521] According to the white paper, in 2007, the 17th CPC National Congress expressly called for comprehensive implementation of the national fundamental principle according to law and speeding up of the building of a socialist country under the rule of law. Meanwhile, the congress also pointed out the need to make arrangements for strengthening the rule of law all-round. The Fourth Plenary Session of the 18th Central Committee of the CPC approved the Resolution of the CPC Central Committee on certain major issues concerning comprehensively advancing the law-based governance of China, drawing up a clear blueprint

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[518] Chen Xueyan, 'Building communication platform for European and Chinese legal professionals- Interview with Stephen Forbes, the EU director of the EU-China Legal and Judicial Cooperation Programme' (2004) 11 World Market Journal 26-28.

[519] See the whole contents of the white paper at: http://www.scio.gov.cn/zfbps/ndhf/2012/Document/1226622/1226622.htm accessed 28 April 2016.

[520] See Randall Peerenboom, 'China's Long March Towards the Rule of Law' (Cambridge University Press, 2006). Also see Journal of Contemporary China, 12(2003) 34.

[521] See the Construction of Rule of Law in China, available ta: http://www.scio.gov.cn/zfbps/ndhf/2008/Document/307866/307866.htm, accessed April 25, 2016.

for building a socialist, law-based country with Chinese characteristics. The fundamental purposes of the blueprint are protecting civic rights, defending human dignity and putting basic human rights into practice.[522]

b)   *Effects and Impacts of the VGT*

Over 14,000 experts in the field of village affairs management were trained through the VGT; 11 books were published after being reviewed and revised by officials from the Chinese Ministry of Civil Affairs (hereinafter referred to as MOCA); 100 trainers at central and local level were trained in teaching and developing textbooks. Four study tours were also provided to Europe and one to India and Korea.[523]

Li Xueju, the former minister of the MOCA spoke highly of the project; he noted that it was effectively implemented. The project had fruitful deliverables and achieved the desired aims. It played a significant role in promoting village governance and popularizing the Organic Law of the Villagers Committees of the PRC. In the opinion of Dr. Jürgen Ritter, the European official in charge of the programme, the project was one of the best performing EC initiatives worldwide in terms of results and output.[524]

The impact of the programme is not only localized in the few pilot provinces but it has also extended to national level. In October 2010, the Standing Committee of the National People's Congress adopted the revised Organic Law of the Villagers Committees of the PRC, which improved the village governance and democratic management in China. In the newly revised Organic Law of the Villagers Committees of the PRC, the contents have been further fleshed out, procedures more standardized, organizational structures improved and rights protection has been further strengthened. Based on the experiences in pilot provinces and best practice learning from EU countries, the newly revised Organic Law of the Villagers Committees of the PRC expanded electoral rules for villagers committees, extended the scope of the electorate, improved the administration maintained and the supervision exercised by democratic means, and it also established a financial supervision system. In China, as of 2010, 31 provinces (autonomous regions and municipalities) issued regulations on village committee election; eight provinces formulated open village affairs regulations; about 85 percent of the villages established village meetings or villager's representative conferences and more than 90% of villages established a village affairs supervision body.[525]

Women's participation in the development of grassroots democracy has been promoted. In 2013, female representation in village committees was 22.7 percent, an increase of 7 percentage points from 2000. The ratio of women as village committee heads and representatives also increased significantly, making women an important force in primary-level rural governance. The Organic Law of the Village Committees

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[522] The State Council Information Office of PRC, Progress in China's Human Rights in 2014, June 2015.
[523] Giuseppe Balducci, 'The EU's promotion of human rights in China: a consistent and coordinated constructive engagement?' (University of Warwick, 2010).
[524] Ibid.
[525] The State Council Information Office of PRC, 'Evaluation Report on National Human Rights Action Plan of China (2009-2010)' (2011), http://www.humanrights.cn/html/2014/3_0605/28.html accessed 22 April 2016.

of the People' s Republic of China rules that 'female villager representatives should make up more than one third of the village committee'. The Election Procedure of Village Committees issued in 2013 specifies that 'village committee candidate lists should include a certain number of women; if not, those women who get the most votes should be candidates'. This shows that a number of measures has been adopted to improve the representation of women in village committees.[526]

B.   EU Promotion of Human Rights in China

As well as the EU-China Human Rights Dialogue, legal seminars and cooperation projects are two significant approaches for the EU to support the development of human rights in China.

The major players in legal seminars and cooperation projects are the Chinese government (with the MFA in the lead, joined by representatives from line ministries and commissions) and the EU (which is represented by various agents, including the Council of the European Union and the Council Secretariat, the rotating EU presidency and the European Commission, including both its regional desk covering Asia and the human rights unit) as well as academics and NGO representatives in both regions.[527]

1.   The EU's support of human rights through legal seminars

The legal seminar was started in 1998, and has taken place bi-annually since then, funded by the European Commission and the member states of the EU. There have been many significant issues discussed in the bilateral legal seminars between EU and China, such as adoption of the death penalty, the use of torture to coerce statements, the transparency of domestic mainstream media, the establishment of a national human rights institution, the strengthening of guarantees to socially vulnerable groups, etc. All of these topics are high priorities. Because of the EU's human rights evaluation on China, the Chinese government takes these into consideration during its policy-making process, actively developing research into human rights theories and propaganda.

Legal seminars have provided opportunities for the European and Chinese academics and representatives from NGOs to explore and discuss human rights issues at expert level; they have also fully exposed Chinese civilian society to EU practices and encouraged Chinese government to fulfil its undertakings with regard to international human rights obligations.

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[526] The State Council Information Office of PRC, 'Gender Equality and Women's Development in China' (2015).
[527] Katrin Kinzelbach and Hatla Thelle, 'Taking Human Rights to China: An Assessment of the EU's Approach' (2011) 205 China Quarterly.

The Chinese delegates at the seminars were mainly chosen from the Ministry of Foreign Affairs, the Supreme People 's Court, the Supreme People's Protectorate, the National People's Congress and the public security and judicial departments. All of these departments have significant roles in the policy-making process. The latest decade has shown a positive trend, as noted by academics and expert participants.

a)   The 'Freedom of Expression' Legal Seminar

The legal seminar on the subject of 'freedom of expression' was mainly focused on discussing the issues like the freedom of obtaining information and restrictions on the freedom of expression. Professor Gerd Oberleitner, from the University of Graz, Austria, compared the general protection standards and practices respectively taken by Europe, Africa and the United States in his speech.[528] He stated that the value of freedom of expression lies in the function of promotion, to the fulfilment of both the individual and democratic society. Chinese scholars discussed the professional rights of journalists at the meeting.

Under the influence of the EU's human rights approach, the Chinese government has attached great importance to the protection of the rights of freedom of expression in recent years, and there is evidence to prove it. In 2007, the State Council issued the Regulation of the People's Republic of China on the Disclosure of Government Information. The implementation of the regulation provides legal protection for citizens, legal persons and other organizations to acquire the government information and improve the transparency of government work as well. The Regulation on the Administration of Publication was amended in March 2011, which expanded the scope of protection to the publishing industry. The regulation provides for state support for excellent publishing firms, which would promote cultural innovation, foster agricultural services or promptly reflect domestic and foreign new scientific achievements. The rewards system in the publishing industry has also been provided in the regulation. The Film Industry Promotion Law of the People's Republic of China (Draft) was passed in a State Council executive meeting in September 2015, presided over by Premier Li Keqiang, aimed at promoting the development of the film industry and fully protecting the fulfilment of the right to freedom of expression. Deputy Secretary General of the fourth meeting of the second session of the National People's Congress, Fu Ying, stated that the film censorship system must be open and transparent.[529]

Apart from that, according to the National Human Rights Action Plan (2012-2015) issued by the Chinese government, the central government promises to protect, in accordance with Chinese law, citizens' freedom of speech and the right of expression by opening a variety of channels. Sound mechanism on the people's interests expression will be put in place and the workers' right to expression will come under the protection of the state.

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[528] Chen Lidan, 'China and European Union scholars discuss the law and practice of freedom of expression' (2005) 4 Chinese Journal of Journalism Communication.

[529] The people's Political Consultative Conference website: http://www.rmzxb.com.cn/c/2016-03-04/720114.shtml accessed 20April 2016.

Meanwhile, the popularity of the interview program, full development of the press industry, various Internet platforms such as micro-blog, WeChat, and Quora demonstrate the fact that the Chinese government continues to take the protection of freedom of expression seriously.

b)   The 'Death Penalty' Legal Seminar

The death penalty has always been a concern in the legal seminars. The viewpoint of the EU is that the death penalty is unacceptable because of its inhumane nature and that it should not be applied to any person. China, after several years of cooperation and understanding the human rights value of western countries, has made strict restriction regulations to the application of the death penalty in recent years. Chinese legislation has gradually reduced death penalty charges. Amendment (VIII) to the Criminal Law of the People's Republic of China cancelled 13 death penalties for non-violent crimes. Amendment (IX) to Criminal Law reduced 9 death penalty charges and the number of death penalty charges dropped to 46. Ruan Qilin, a professor from China's University of political science, said that 46 death penalty charges were still retained and non-violent crimes were included, which is obviously not reasonable.[530]

Early in 2007, the Supreme People's Court released Provisions on several issues concerning the review of death penalty cases, regulating the death penalty review procedure. The People's Republic of China's Criminal Procedure Law was amended in 2012. The principle of respect for and protection of human rights has become the guiding rule in the criminal litigation activities and the relevant provisions of the procedure for judicial review of death sentences has been further refined. The spirit of cautious punishment in the law enforcement has been carried out .The case for the death penalty in the country is reduced in a line of years.

c)   Additional positive effects

The Chinese government also actively takes the EU's suggestions into consideration, carrying out human rights education, and popularizing and disseminating the knowledge with regards to human rights law. The central state has selected a number of academic institutions as human rights education and training bases. Besides, it is also actively considering the construction of national human rights institutions, Chinese Academy of Social Sciences, China's University of Political Science and Law and other national human rights institutions have been appointed to make in-depth research on the effect and feasibility of the establishment of national human rights institutions.

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[530] English--People's Daily Online website: http://society.people.com.cn/n/2014/1028/c136657-25919130.html accessed 20 April 2016.

2.   The EU's Support of Human Rights through Cooperation Programs

Besides the issues discussed above, topics such as judicial justice, torture, and the establishment of the national human rights institutions also tend to be in discussed at expert levels. Discussions and exchanges at expert seminars is inseparable from the set-up of a number of China-EU cooperation projects aimed at promoting human rights cause in China. These specific cooperation projects received fruitful outcomes.

a)   The CESL program on China & EU School of Law

In November 28, 2007, when Chinese Premier Wen Jiabao attended the fourth China EU business summit, he delivered an important speech and voiced his expectations of the upcoming launch of the CESL program——China EU School of Law. Chinese Premier Wen Jiabao, on behalf of the government, announced the set-up of the CESL project. The China-EU School of Law, started in 2008, set in China's University of Political Science and Law. It mainly focused on cultivating professional talents on the subject both in Chinese law and European law talent. China & EU law school establishment celebrations held at the Changping campus of the China University of Political Science and Law in 2008, the Political Bureau of the CPC Central Committee, Vice Premier Li Keqiang and European Commission President Barroso attended the celebration and made speeches. To support the program, a large number of excellent scholars from Europe continued to come to China to give lectures on European law to Chinese students. The China EU School has become an important platform for the China-EU legal exchange.[531]

b)   CHINA-EU Access to Justice Program

This project was founded in 2012, and there was a legal seminar aimed at providing legal aid for China, held in Beijing, as a follow-up action. The project was signed and set up by the Ministry of Commerce of China and the EU delegation to China in 2012 and implemented in 2013. The EU legal aid cooperation project aimed at strengthening and optimizing the policy dialogue between the Chinese government and EU countries in the field of legal aid for the core purpose of supporting Chinese vulnerable groups to obtain legal aid with equity. The project is mainly carried out in Shanxi, Inner Mongolia, Henan. Taking Henan Province as an example, the Henan provincial government always put providing legal aid to disadvantaged groups high on its agenda so as to protect and improve people's livelihood in general.

The Henan Province Government listed legal aid work into 'the annual ten key livelihood projects' for a several years, and allocated 18 million RMB as special funds for legal aid work. Generally speaking, lawyers and experts who are able to provide legal aid remained low in most less developed areas and rural areas in Henan province, where people's awareness to seek and secure legal aid is not clear and high. Considering the actual situation of Henan Province, the local government set the legal aid agencies in

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[531] See the China-EU school of law website: http://www.cesl.edu.cn/ accessed 20 April 2016.

Jiyuan, Zhongmu, Xiangcheng, Xinxian, Qingfeng and Kaifeng as pilot units of the china-EU access to justice program, launching an implementation project named'1+10+100'. As a result of the project, at least one legal aid center and ten legal aid workstations have been set in relevant counties or towns, and 100 special legal aid liaisons have been arranged.[532]Dai Letong, the penal team leader of the project, said that during the visit (to Henan Province), he saw many useful attempts at legal aid work in Henan, and the public were able to enjoy many convenient legal services.[533]

c)   *Mental Health Conditions Improvement Program*

'Strengthening the role and capacity of Chinese non-state actors towards rightful inclusion in the society of people with mental health conditions'; this is a program mainly funded by the EU, benefiting people with mental health conditions in the areas of northeast China, such as Changchun and Harbin. Community Mental Health Services opened in these cities and hundreds of health operators, users and family were trained to provide assistance for target people. Besides, an international network and a website were created in order to exchange and share the experience of NGOs working on mental health issues in China.

d)   *EU-China Environmental Governance Program*

EU-China Environmental Governance Program is an action executed by the Ministry of Commerce in China (MOFCOM) and implemented by the Chinese Ministry for Environment Protection (MEP), which aims to promote sustainable local development for the benefit of the people through public participation and accountability in China. Since its implementation in 2010, the program has supported China's environmental governance by introducing European experience in 19 provinces in China. At local level, the 15 partnership projects achieved various outcomes, including capacity building and policy recommendations.[534]

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[532] See Central People's Government of the People's Republic of China website: http://www.gov.cn/xinwen/2016-04/03/content_5060968.htm accessed 20 April 2016.
[533] See the Dahe News website: http://newpaper.dahe.cn/hnrb/html/2014-09/08/content_1142963.htm?div=-1, accessed 20 April 2016.
[534] See the European Commission Website https://ec.europa.eu/europeaid/case-studies/eu-china-environmental-governance-programme_en accessed 20 April 2016.

C.   Human Rights Dialogue

1.   EU-China Human Rights Dialogue

a)   *Introduction*

In a narrow sense, we primarily research the official EU-China Human Rights Dialogue. According to the European External Affairs Service (EEAS), the EU-China Human Rights Dialogue is a confidential intergovernmental dialogue that takes place on a bi-annual basis, an ad hoc mechanism that serves both as a channel through which the EU can express its concern about related human rights issues in China and a forum where China can give its response[535]. As an active way to improve the human rights situation in China, this mechanism is in tune with the EU's consistent commitment to the global promotion of human rights, which is also central to EU-China relations as well. From the EU's perspective, it is considered one of the most significant approaches in the framework of political dialogue between the EU and China.

b)   *Themes of the EU-China Human Rights Dialogue*

So far, there have been 34 rounds of the dialogue. Firstly, it can be seen that the human rights issues raised each year are generally compliant with major social events or international trends. Therefore, they partly rely on global and national overall development. Secondly, the sources of information are far from satisfactory. More precisely, regarding the most recent dialogues between 2010-2015, the available documents are mainly press statements from the official website of the Chinese Foreign Ministry and other related ministries, news or videos from official media websites, such as Xinhuanet, ChinaNews, CNR, CRI, CCTV, and so on. Details about the Human Rights Dialogue in the period 1995-2005 were rarely collected and sorted, either in the official documents or news, so we will mostly rely on the work of independent researcher *The EU's Human Rights Dialogue with China, Quiet diplomacy and its Limits*, which gives a relatively clear collection, and supplement the information with news excerpts of China Society for Human Rights Studies, etc. This leads to the various ways in which we will show these themes.

c)   *Conclusion*

After such a rough review of the ABC of the EU-China Human Rights Dialogue, we may conclude that the routine of introduction and discussion is an increasingly evident feature of this mechanism. According to the researcher Katrin Kinzelbach, however, during the discussion, the Chinese official representatives'

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[535] See Human Rights Dialogue from Delegation of the European Union to China official website http://eeas.europa.eu/delegations/china/eu_china/political_relations/humain_rights_dialogue/index_en.htm accessed 15 November 2015.

statements were merely formalistic, and many specific issues were not discussed effectively. Generally, the main themes of the human rights dialogue over the years focus on several areas and the range of topics is limited. However, in the long run, they are in tune with the national interests and regional or international situation. In general, the EU always focuses on the problems related to civil and political rights, some politically sensitive areas such as Xinjiang and Tibet, and individual cases related to these two kinds of themes.

2.   An Observation of China's Reaction

Until now, China and the EU have organized 34 Human Rights Dialogues, each of which focusing on different human rights issues. China has taken some action to deal with human rights issues that have been pointed out in the dialogues, for example, revising Criminal Procedure Law and promoting Anti-Corruption Actions. This is an introduction to the influence of the dialogue on China, mostly on a macro level according to observation of available sources.

a)   *Corresponding attitudes*

In the short run, the influence of the Human Rights Dialogues is mainly exerted through the media. In the past, 'this was a purely closed-door dialogue, with very little information released; nowadays, the mechanism has more media exposure than before, and this has boosted the awareness of human rights among Chinese citizens. However, due to the characteristics of the media and the secrecy of the dialogue, even now no immediate difference can be made to the general public through the media.

In the long run, the dialogues influence both government and the general public. As for officialdom, obviously, due to whether pressure comes from outside or from some form of inner awakening, or even something else, attitudes towards human rights are changing. Human rights are now being seen as a matter to look into, and no longer as a mere political tool. This point is reflected in official documents. For example, one public document related to the Human Rights Dialogue which is published by the Chinese government, is *The Joint Declaration of the 9th China-EU Summit*. In the ninth point of the document, both sides stress dedication to the protection and promotion of human rights and attach great importance to China-EU Human Rights Dialogue. They also emphasize the importance of taking concrete steps in the field of human rights, stating that they will try their utmost to generate more meaningful, positive tangible benefits. They also reaffirm stronger cooperation and exchanges in this field on the basis of mutual respect and equality. Both sides confirm that they will cooperate with the UN human rights protection mechanisms, respect the international standards regulating the relevant international human rights instruments, including minority rights. When it comes to global efforts to combat war crime and crimes against humanity, both sides are aware of the importance of the ICC, and each is dedicated to supporting

the work of the UNHRC. According to resolution 251, adopted by the General Assembly at its 60th session, both sides will strengthen exchanges and coordination in this field.[536]

The difference exists in the general opinions towards human rights because of factors such as education background, age and living area. As a result, the way and how fast opinions are held by different groups are changing and in the long run, this will affect the implementation of related conventions. For the most part, the way the general public's opinions are influenced by the human rights dialogue is accomplished mainly through the efforts of the government. In other words, the mechanism influences the government more directly, while its effect on the general public is more indirect. In the Academic field, because the human rights education system was only established in China a few years ago, several human rights scholars mainly focus on the theoretical knowledge of human rights. Only a few Chinese scholars have made any study of the EU-China human rights dialogue.

Generally, 'it is possible that China's attitude towards this mechanism has undergone a shift from a passive one to a more positive one. For example, after several years of developments and cooperation with the western countries in the field of politics and diplomacy, China has gradually learned experiences from said western countries to promote human rights; China has established a strict system for reviewing the death penalty, as well as now phasing out its One Child Policy, to protect the right to life. Of course, this positive attitude does not always mean that China has taken every idea on board; out of these changes, we have to be clear that some will just annoy the Chinese government, while some will be embraced. The Chinese government thinks some of the issues raised are just unreasonable interference in disguise, especially issues concerning civil and political rights and some individual political cases, for instance, human rights conditions in the areas of Tibet and Xinjiang Province. China is afraid that the EU would use human rights protection as an excuse to interfere with its national unity, which is a significant element of national sovereignty. However, some human rights issues, such as environmental protection have been accepted by both China and the EU, and it has been easier to reach a cooperative consensus on both sides.

b)   Follow-up actions

Secondly we should consider China's actions. This aspect should be discussed on the basis of the first one. Usually, the factors that contribute to one single action are difficult to tell. Moreover, 'it is complicated to find out whether a specific action is conducted as a response to the issues or to the suggestions brought up in the dialogue, or if it has been simply guided by other theories that already exist or which come from other research and seminars.

China did do something, for example: the signature of the ICCPR and ICESCR, and the ratification of the ICESCR. What's more, given the increasingly evident interactive feature of this mechanism, China is gradually addressing the shared issues that are similar in the EU. For example, China has indeed

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[536] See the official website of the Central People's Government of the People's Republic of China http://www.gov.cn/jrzg/2006-09/10/content_383483.htm accessed 2 December 2015.

introduced the provision of respect and protection for human rights into its constitution, promoted judicial reform and signed the two covenants. Also, China gradually promoted human rights education, including setting up human rights courses and establishing human rights research institutions in universities. As for criminal judicial reform, China's making efforts as well. For instance, the amendment of criminal procedure law may be a result of this. Additionally, 'China is more and more likely to act within its own theory, such as the rule of law, and building of a harmonious socialist society.

Of course, there are some aspects where China does not follow the ideas in the dialogue. For example, ICCPR ratification is always the main focus of discussion (the EU showed its welcome to China's commitment to ratify the ICCPR as soon as possible in the Joint Declaration of the 9th China-EU Summit), while China does not react immediately. China's position is, according to its statement in some official situations, to positive make preparations by implementing other international conventions, sending experts, and attending consultations. Nothing can be determined about whether 'China is really making preparations or not; however, it does help China to engage more in the group of international human rights. Another thing we cannot say for sure regards the individual cases that are brought up by the EU. Usually this kind of information is unavailable in Chinese mainstream media. Nonetheless, through some NGO websites and Katrin Kinzelbach's research, we can glean information that, at least sometimes, 'China is unwilling to handle these cases in such a situation. Usually, China considers these raised cases or related suggestions as political interference in its internal affairs.

c)   *Scholars' reactions*

Thirdly, we take a look at 'what is prevailing in academic circles. In Chinese academic circles, there are few researchers that solely focus on the dialogue, and no academic papers dealing with it. In general, the viewpoints of Chinese researchers do not seem to be polarized, but due to the whole cultural and political contexts which are undergoing drastic change, and to their multiple roles while they are being involved in the dialogue or other social activities, there has been some subtle shift in opinions.

Here we just take one expert as an example. Renowned Chinese researcher Liu Hainian, who was invited to participate in some human rights dialogue sessions by the Foreign Ministry of China, holds the view that human rights dialogue at inter-governmental level plays a dual role, where China can both fight against and communicate with the West[537]. Here comes the huge gap between the Chinese and EU viewpoints on this mechanism. China's opinion remains that the mechanism is born of a political goal to overturn the present CPC authorities. China usually perceives it as an interference in its internal affairs, a tool to demonize its international reputation. However, at the same time, Liu also admitted that by reflecting on the history of the mechanism the Chinese government can sum up experience which will bring further improvements to the human rights protection system and better performance in foreign

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[537] Liu Hainian, *A sixty-year history of new China's development in human rights protection* (China Social Science Press, 2012) 347.

exchange and fights on human rights issues.[538] This positive (and of course, selective) approach indicates that Liu also confirms that the dialogue will be of help in shaping a more effective system to protect human rights.

Moreover, he also interprets shift in attitude of some western scholars and politicians towards China as a rational decision to take the peaceful route instead of direct confrontations on human rights issues.[539] [540] There are some political interactions between the EU and China; in the interactive process, China and the EU had reached an agreement aimed at setting up a bilateral, regular, official, and specific human rights dialogue mechanism; this includes the existing EU-China Human Rights Dialogue. When evaluating the effects of this mechanism, Liu considers it a practical way to unfold problems, to give full reasoning to issues and to enhance mutual understanding.[541] He points out that, of course, at first, this mechanism has contributed to opening up Chinese scholars' eyes in theoretical circles. Given the whole cultural and political context, before the Third Plenary Session of the 11th Central Committee of the Communist Party of China, human rights issues had long been a forbidden zone. Nowadays, this mechanism not only benefits related research in China, but it also improves the Chinese legislative and judiciary system.[542]

From a researcher's perspective, Liu also acknowledges that such a mechanism is an essential part of the human rights cause in China. Also, he regards this mechanism as a way to solve common problems faced both by China and the EU. However, he fiercely criticizes the disrespect for China from some attendees from the EU. In his eyes, some of them are merely defending their national interests or even harming China's interests with groundless charges, despite basic human rights principles and the purpose of the dialogue mechanism.

3.   Remarks

According to the available information and collected materials, our comments are listed below.

Firstly, it is clear that the motivation for establishing a human rights dialogue is not purely for human rights. Rather, the dialogue is considered to be an essential part of the political and strategic relations between the EU and China. In addition, the mechanism itself is an approach in the EU-China policy. When human rights meet politics, things appear to be more complicated. For instance, during the discussion, now and then, certain areas of human rights protection may be ignored deliberately, and replaced by those more in tune with political aims. Although we cannot deny the political nature of human rights, 'it

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[538] Liu Hainian, *A sixty-year history of new China's development in human rights protection* (China Social Science Press, 2012) 347.

[539] Liu Hainian, *A sixty-year history of new China's development in human rights protection* (China Social Science Press 2012) 350.

[540] Ibid.

[541] Liu Hainian, *A sixty-year history of new China's development in human rights protection* (China Social Science Press 2012) 352.

[542] Liu Hainian, *A sixty-year history of new China's development in human rights protection* (China Social Science Press 2012) 353.

is still reasonable to take their protection seriously. It cannot and 'will not function solely as an individual human rights mechanism, which results in limitations to its influence. 'It is advisable to have a more regular agenda agreed by both sides without interference from political factors.

Secondly, as we have observed, the dialogue itself has a limited range of influence. As it is an intergovernmental mechanism with limited public access and very little media exposure, the general public is hardly going to realize the significance of the dialogue; in other words, the extent to which the general public will be influenced depends on the Chinese government. Of course, 'this will not be a problem but simply a feature, if the mechanism is examined in a broader cultural, social and political context. However, it does lead to shortcomings. For instance, the lack of influence at certain levels or in certain areas may arouse greater divergences between different groups of people. Also, even when the government decides to fulfil its promise regarding human rights protection or other related activities, it takes knowledge and time to make this known to the public.

Thirdly, we should look at the irreversible trend in this dialogue mechanism. That is, with the development of China, the Chinese government has treated the dialogue with a more rational and neutral attitude. China is no longer a pure listener and defender in this mechanism; it is becoming more active in discussion and more critical towards the EU's recommendations. China has increasingly put forward its new theory of the harmonious socialist society as the basic theory of its statements. 'This is a result of the positive influence of the dialogue, which pushes China to take more active approach to promoting human rights.

Fourthly, 'it is high time the EU got used to the interactive feature of this mechanism. Nowadays, this dialogue can serve as a way to discuss and solve common human rights issues, which is in line with the characteristics of the dialogue itself. Accordingly, perhaps China could benefit from the dialogue on the basis of equal discussion, which is also a positive influence on the issue of human rights.

Finally, respect for cultural differences. Culture is something that nourishes a country's soul, including its notions and perception of human rights. The EU gets the EU's way and in the future, perhaps China will completely have its own way too. Sometimes this hinders the success of the dialogue. This calls for both sides to reflect on their positions and approach in this mechanism. China will perhaps develop its own way, even now 'it is learning the Western one. The EU can perhaps take this into account when posing questions and making suggestions. China also should be with regard to the differences in the dialogue.

D.   Conclusion

This report aims to provide a brief introduction on the influence of the EU's approach to promoting human rights and democracy in China. The EU-China Human Rights Dialogue is one of the main means for the EU to influence China. Although the dialogue is always labelled as a rather vaguely defined and politically oriented mechanism, it has actually enhanced the human rights awareness of Chinese citizens that could be proved by social media have reported the contents of the dialogue each round. In fact, the Chinese government has a positive attitude towards the dialogue on the condition that the EU would not use the dialogue as a way to interfere with Chinese domestic affairs. After several years of communication and human rights cooperation between China and the EU, the condition of human rights in China has been improved dramatically, although it is hard to distinguish whether this improvement is directly influenced by the dialogue, it is actually one of the main elements for China to understand the significance of human rights promotion more deeply.

Besides the human rights dialogue, there are also some legal seminars and cooperation programs between the EU and China, which have directly improved human rights condition in China, such as the improvement of the judicial system, the protection of rights of expression and the promotion of the awareness of human rights, etc.

The EU also initiated several actions which aim at improving the democratic construction of China. Many EU initiatives target promotion of democracy in China by promoting the rule of law and good governance, for instance, some projects aimed to promote the rule of law through the support of legal reforms and village governance. The programs which related to the construction of rule of law is not directly related to democracy; however, it is an approach to promote the independence of judges, which is a main element of democratic construction.

VII.   General Conclusions

In recent decades, the EU has projected itself as a normative power, considering human rights and democratic principles as essential pillars of EU's identity at both internal and external level.

With the adoption of the Treaty of Maastricht in 1992, the EU started to pay particular attention to human rights and democratization issues in its relations with third countries. Since then, the EU has significantly upgraded its human rights and democratization policies *vis-à-vis* third countries, and has placed human rights and democracy 'at the heart of EU external action'.

The Lisbon Treaty represents the culmination of a process in which the EU has tried to legally ground human rights and democracy as core goals of its foreign policy. Both the Preamble, Articles 1 and 2, and, particularly, Article 21.1 establish that the EU's action on the international scene shall be guided by principles such as democracy, the rule of law, and the universality and indivisibility of human rights and fundamental freedoms.

The Lisbon Treaty also made a significant change in the institutional architecture to deal with its foreign policy, namely the creation of the European External Action Service (EEAS). It has generated great expectations, but it is still in a process of institutional consolidation.

The EU's relevant bodies always have to take into consideration the domestic foreign policies of member states, particularly with regard to such sensitive issues like human rights and democracy promotion. We have to recognize that when key strategic interests of relevant member states are at stake, the margin of manoeuvre for the EU tends to be more limited. However, the political backing of member states is an essential ingredient of sound and effective EU action in the field of human rights and democracy. The cases of Egypt, Tunisia and Ukraine are clear manifestations of this point, since relevant EU member states have their own interests and have conditioned the capacity of the EU to act with one single voice. Most of the relevant people interviewed for this report emphasized that this is one of main structural obstacles for the effectiveness of EU policies in the field of human rights and democracy.

The creation of EU Delegations in third countries is a very important step forward for a *localized* foreign policy of the EU, since they are closer to the realities and to the societies of those countries where the EU wants to advance human rights and democratization. But in particular we welcome the creation of *Human Rights Focal Points* and *Liaison Officers for Human Rights Defenders* in the EU Delegations. These positions are of utmost importance to develop tailor-made and more effective human rights and democratization local strategies. This is the aim of the recently launched Country Strategy Papers and Human Rights Strategy Papers.

Another far-reaching institutional development was the creation of the EU Special Representative for Human Rights on 2012 to enhance the visibility, coherence and effectiveness of the EU's human rights and democratization policies.

In spite of these significant legal and institutional developments, there are serious concerns about the capacity of the EU to have a significant impact on the democratization processes taking place in different regions of the world. The EU suffers from a *delivery gap* between the rhetorical proclamation of normative commitments at headquarters and their impact on the ground.

There is broad consensus at both political and academic level that the enlargement of the EU to incorporate Central and Eastern European countries has been a rather successful democratization policy. The Copenhagen Criteria established in 1993 have proven to be a useful tool to impose human rights and democratization conditions to those countries seeking to join the EU. Although the context is now very different, and the prospect of accession is not immediate, the case study on Serbia and Albania shows that the EU has more leverage to influence the democratization processes of these countries if they want to be considered as serious candidates for EU membership. This marks a significant difference with Ukraine, where the EU has not made a clear signal on the future Ukraine's membership. As a consequence, the EU is in a weaker position to push for a consistent human rights and democracy commitment on the part of Ukrainian authorities. Additionally, this can also explain the increasing disillusion of Ukrainian civil society with what they perceive as lack of support from the EU. One of the main conclusions we can draw from these cases is that the 'carrot' of accession to the EU is still a clear incentive for third countries to advance a solid human rights and democracy promotion agenda.

This report is aimed at exploring the effectiveness of EU policies in the field of human rights and democracy promotion. In order to do so, we identified first some of the inherent methodological difficulties associated with the attempt to measure the effectiveness and impact of human rights and democratization policies and programmes. While the field of development cooperation has a long tradition of well-established methodologies to conduct evaluations and impact assessments, that is not the case in the area of human rights and democratization support. The main methodological constraints are the problem of attribution; the multidimensional and multi-level character of democratization processes; and the so-called *counterfactual*, given that one cannot know what would have happened in a given process of democratization without the external support. As it was stressed by the members of the research team that conducted the case study on Peru and Bolivia, the impact evaluation of human rights and democratization policies is an under-researched area. There is a need for more systematic impact evaluation and more scholarly work on it, preferably in collaboration with local researchers and institutions.

The capacity of the EU to have a significant impact globally is also conditioned by an ever-changing international context. The current international system is characterized by a progressive decline of Western power, with an increasing economic and political relevance of emerging countries such as Brazil, Russia, India, China, South Africa (the so-called BRICS), the Gulf States or Turkey. In this new scenario, the EU and the US cannot take the lead any more in issues that have to do with the promotion of a value-based international system. The problem is that some of these emerging countries have a rather different approach to human rights and democracy, thus questioning the legitimacy of the EU to promote its human rights and democracy agenda internationally. The case-studies on Ukraine and on Egypt and Tunisia illustrate this significant challenge, since Russia and Saudi Arabia, respectively, are reacting to the

democracy promotion efforts of the EU in those countries. This counter-revolutionary role played by some states points to one of the greatest contradictions of the foreign policies of both the EU and the US. Once again, the West has prioritized security, stability and economic interests over democracy and human rights. Indeed, Saudi Arabia is one of the closest allies of the West in the region, in spite of its manifestly poor record on human rights and democracy. This is a manifestation of one of the main deficits of the EU's human rights and democracy promotion policies: the *credibility gap*, the use of double standards when European strategic interests are at stake in third countries. This lack of credibility strongly undermines the EU's legitimacy to pursue a human rights and democracy agenda.

China also has a rather different view on human rights and democracy, insisting quite firmly on the principle of non-interference on its domestic affairs. This is actually a major obstacle for the effectiveness of EU's programmes in this country. As the case study clearly highlights, some projects have enhanced the human rights awareness of certain categories of people such as academics or judges, but the overall impact of these projects is rather limited and always conditioned by the restrictive position of the government on core dimensions of civil and political rights. A similar restrictive position is currently defended by the Egyptian government. Against the background of increasing concerns about the deterioration of civil and political rights in Egypt under Al-Sisi (widespread use of torture, disappearances, repression against journalists, limitations to the operation of local and international human rights NGOs, etc.), the government is not opened to discuss about it with the EU and EU member states, and the EU has difficulties to fund projects dealing with these sensitive issues in the country.

The relations with CSOs also mark a difference between the different case studies. While in most of the cases the EU is relatively free to work with CSOs, in countries such as China, Egypt or Bolivia the capacity of the EU to select CSOs to work with is much more limited. Those CSOs dealing with sensitive issues such as freedom of expression, torture or LGTBI rights have a much more limited space, and find more obstacles to seek foreign support. In the context of a growing backlash against human rights and democracy promotion activities, the EU finds itself in a difficult position when trying to support the initiatives of these CSOs that work on sensitive issues. The EU ends up either not financing the projects of these organizations or funding projects on less controversial issues such as rights of the child or women's rights, as the case of Egypt suggests.

Another challenge to the human rights and democracy promotion strategy of the EU is its underlying economic agenda. Most of the time the human rights and democracy support package is accompanied by the promotion of a liberal market economy. This is precisely the model that is under strong criticism after the Arab Spring. The cases of Egypt and Tunisia show that the root causes of the revolts have much to do with the deep inequalities and exclusions brought about by the liberalization policies imposed by Western countries and by the Bretton Woods institutions. A coherent and consistent human rights and democracy promotion strategy needs a different economic agenda, an agenda that seriously takes into account that the enjoyment of socio-economic rights and human development are an integral part of any substantive democratic project. Unfortunately, the actions of the EU in relation to Egypt and Tunisia demonstrate once again that the promotion of socio-economic rights is not a core dimension of the EU human rights and democracy policies; socio-economic rights are conceived as part of the cooperation in areas such as

development, employment and social security, rather than as an integral component of the human rights and democracy promotion strategy.

The EU cannot pretend simply to export its model of human rights and democracy, since it generates strong reactions and contestations. The EU needs to be more modest in its approach, paying attention to the local context, to the local actors, and the local ways of framing concepts such as human dignity, democracy, participation, inclusion... *National* and *local ownership* are key components of any meaningful strategy of promoting human rights and democracy. This is precisely one of the reasons that help explain the relative success of the EU human rights and democratization policies in Peru and Bolivia. The definition of the priorities by the EU was open to participation by public authorities and civil society, therefore promoting an *alignment* between the EU priority areas and the priorities established at domestic level and at the level of the Andean Community of Nations. This coordination enables a greater positive impact of EU policies and programmes and greater sustainability once the support by the EU comes to an end. The relevance of local ownership for the effectiveness of the EU human rights and democratization policies has also been underlined by the case study on Serbia and Albania.

Lack of consistency is one of the main long-standing criticisms of the EU's actions in the field of human rights and democracy. The objectives of the EU are not always compatible in practice, leading to inherent problems of inconsistency. We must recognize that it is always difficult for the EU to reconcile values and interests, as the cases of China or Egypt clearly manifest.

As we can see, the EU has both the ambition and the potential to become a global human rights actor, but the changing international context and the challenges that this report has identified are significant obstacles that are yet to be overcome.

Bibliography

A.   European Union legislation and policy

1.   EU legislation

Council Regulation 101/2011 of 4 February 2011 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Tunisia [2011] OJ L 31/1.

2.   European Council

European Council, 'Common Strategy on Ukraine' [1999] 1999/877/CFSP.

European Council, Council Decision of 30 January 2006 on the principles, priorities and conditions contained in the European Partnership with Serbia and Montenegro including Kosovo as defined by the United Nations Security Council Resolution 1244 of 10 June 1999 and repealing Decision 2004/520/EC, http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32006D0056&from=EN.

European Council, 'Conclusions of the European Council 20/21 March 2014' [2014].

European Council, 'Action Plan on Human Rights and Democracy (2015-2019) Keeping Human Rights at the Heart of the Agenda' [2015] http://data.consilium.europa.eu/doc/document/ST-10897-2015-INIT/en/pdf.

3.   Council of the EU

Council of the European Union, 'Council Decision 2008/210/EC of 18 February 2008 on the principles, priorities and conditions contained in the European Partnership with Albania and repealing Decision 2006/54/EC' [2008] http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32008D0210&from=EN.

Council of the European Union, 'Ensuring Protection-Updated European Union Guidelines on Human Rights Defenders' [2008].

Council of the European Union, 'EU Strategic Framework and Action Plan on Human Rights and Democracy' [2012] 11855/12.

Council of the European Union, 'Council conclusions on Ukraine' [2014].

Council of the European Union, 'EU Annual Report on Human Rights and Democracy in the World in 2014' [2015] 10152/15.

Council of the European Union, 'Council Conclusion on Human Rights and Democracy. Bolivia' [2015] http://eeas.europa.eu/delegations/bolivia/documents/eu_bolivia/20150622_ecrcompleto_es.pdf.

Council of the European Union, 'Council Conclusions on the Action Plan on Human Rights and Democracy (2015-2019)' [2015] 10897/15.

Council of Europe/European Union, 'Promoting Human Rights and Minority Protection in South East Europe, Cross Country Report Evaluation'.

Council of Europe/European Union, 'Promoting Human Rights and Minority Protection in South East Europe, Awareness Assessment Report' [2015] 2015.

4.   European Commission

European Commission, 'The European Union's role in promoting human rights and democratization in third countries' (Communication from the Commission to the Council and the European Parliament) COM(2001) 0252 final.

Commission of the European Communities, 'Wider Europe – Neighbourhood: A New Framework for Relations with our Eastern and Southern Neighbours' (Communication from the Commission to the Council and the European Parliament) COM(2003) 104 final.

European Commission, 'Commission Opinion on Albania's application for membership of the European Union' (Communication from the Commission to The European Parliament and the Council) [2010].

European Commission, 'Enlargement Strategy and Main Challenges 2010-2011' (Communication from the Commission to the European Parliament and the Council) [2010] http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/strategy_paper_2010_en.pdf.

European Commission, 'Analytical Report accompanying the Commission Opinion on Albania's application for membership of the European Union' (Communication from the Commission to the European Parliament and the Council) [2010] http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/al_rapport_2010_en.pdf.

European Commission, 'Mid-term Review and National Indicative Programme 2011-2013. Peru' [2011].

European Commission, 'Analytical Report accompanying the Commission Opinion on Serbia's application for membership of the European Union' (Communication from the Commission to the European Parliament and the Council) [2011] http://ec.europa.eu/enlargement/pdf/key_documents/2011/package/sr_analytical_rapport_2011_en.pdf.

European Commission, 'The roots of democracy and sustainable development: Europe's engagement with Civil Society in external relations' COM(2012) 492 final.

European Commission, 'Screening Report for Serbia, Chapter 23 – Judiciary and fundamental rights' [2013] http://ec.europa.eu/enlargement/pdf/key_documents/2014/140729-screening-report-chapter-23-serbia.pdf.

European Commission, 'Empowering Local Authorities in partner countries for enhanced governance and more effective development outcomes' COM(2013) 280 final.

European Commission, 'Enlargement Strategy and Main Challenges 2013-2014' (Communication from the Commission to the European Parliament and the Council) [2013] http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/strategy_paper_2013_en.pdf.

European Commission, 'Instrument for Pre-Accession Assistance (IPA II), Indicative Strategy Paper for Albania (2014-2020)' [2014] http://ec.europa.eu/enlargement/pdf/key_documents/2014/20140919-csp-albania.pdf.

European Commission, 'Instrument for Pre-Accession Assistance (IPA II), Indicative Strategy Paper for Serbia (2014-2020)' [2014] http://ec.europa.eu/enlargement/pdf/key_documents/2014/20140919-csp-serbia.pdf.

European Commission, 'Multiannual Indicative Programme 2014 – 2020. Peru' [2014].

European Commission, 'Assessment of EU-Bolivia Cooperation 2007-2013. Final Report' [2014] https://ec.europa.eu/europeaid/sites/devco/files/evaluacion-cooperacion-ue-bolivia-texto-principal-201412_es.pdf.

European Commission, 'European Neighbourhood and Partnership Instrument 2007-2013. Overview of Activities and Results' [2014] <http://enpi-info.eu/medportal/publications//726/European-Neighbourhood-Instrument-2007-2013-%E2%80%93-Overview-of-Activities-and-Results> accessed 26 February 2016.

European Commission, 'Commission Implementing Decision on a Special measure 2014 in favour of Ukraine to be financed from the general budget of the European Union' [2014] C(2014) 2907 final.

European Commission, 'Study on Parliamentary Cooperation, Overview of Parliamentary Capacity Building in EU Candidate Countries and Potential Candidates' [2015] http://ec.europa.eu/enlargement/pdf/enlargement_process/2015-02-17-capacity-building-report.pdf.

European Commission, 'EU Enlargement Strategy' (Communication from The Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions) [2015] http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_strategy_paper_en.pdf.

Commission 'Egypt' (European Neighbourhood Policy and Enlargement Negotiations) [2015] <http://ec.europa.eu/enlargement/neighbourhood/countries/egypt/index_en.htm>   accessed   26 February 2016.

European Commission, 'Décision d'exécution de la Commission du 30.7.2015 relative au programme d'action annuel 2015 en faveur de la Tunisie partie I à financer sur le budget général de l'Union européenne' C(2015) 5527 final, ANNEX 3.

European Commission, 'Décision d'exécution de la Commission du 30.7.2015 relative au programme d'action annuel 2015 en faveur de la Tunisie partie I à financer sur le budget général de l'Union européenne' C(2015) 5527 final, ANNEX I.

European Commission, 'Tunisia' (European Neighbourhood Policy and Enlargement Negotiations*)* [2016] <http://ec.europa.eu/enlargement/neighbourhood/countries/tunisia/index_en.htm>   accessed   25 February 2016.

European Commission, ´International cooperation and development. Building partnerships for change in developing countries' https://ec.europa.eu/europeaid/countries/peru_en.

European Commission, 'Multiannual Indicative Programme 2014 – 2016 Bolivia' https://ec.europa.eu/europeaid/multi-annual-indicative-programme-mip-2014-2016-bolivia_en>.

5.   European Parliament

European Parliament, 'Human Rights Mainstreaming in the EU's External Relations' [2009] EXPO/B/DROI/2008/66.

European Parliament Committee on Foreign Affairs, 'On Saudi Arabia, Its Relations with the EU and its Role on the Middle East and North Africa' [2014].

6.   European External Action Service

European Union, 'Press release on EU-CELAC Summit 2015 Brussels' <http://www.eeas.europa.eu/delegations/bolivia/documents/eu_bolivia/20150622_nota_de_prensa_e vo_en_la_ue_es.pdf>.

7.   Joint Communications

Joint report to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 'Implementation of the agenda for action on democracy support in the EU's external relations' (JOIN/2012/028 final).

EEAS and DG-DEVCO EUROPE-AID, 'Programming of the European Neighbourhood Instrument (ENI) – 2014-2020. Single Support Framework for EU support to Egypt'.

Commission and HR of the EU for Foreign Affairs and Security Policy, 'Mise en oeuvre de la politique européenne de voisinage en Tunisie. Progrès réalisés en 2014 et actions à mettre en oeuvre' (Joint Staff Working Document) SWD(2015) 73 final.

EEAS and Commission DG DEVCO, 'Programmation de l'Instrument Européen de Voisinage (IEV) (2014-2017) Cadre Unique d'Appui pour l'appui de l'UE à la Tunisie (2014-2015)'.

Joint Communication by the High Representative of the Union for Foreign Affairs and Security Policy and the European Commission, 'A New Response to a Changing Neighbourhood. A Review of European Neighbourhood Policy' COM(2011) 303.

European Commission and High Representative of the European Union for Foreign Affairs and Security Policy, Joint Communication to the European Parliament and the Council, Human Rights and Democracy at the Heart of EU External Action - Towards a More Effective Approach', COM(2011) 886 final.

8.   EU Delegations

EU Delegation in Tunisia, 'Rapport 2014. Coopération de l'Union européenne en Tunisie' (2015).

EU Delegation in Bolivia, 'Technical and Financial Cooperation' <http://eeas.europa.eu/delegations/bolivia/eu_bolivia/tech_financial_cooperation/index_es.htm>.

EU Delegation in Peru, ´Practical cases´ <http://ec.europa.eu/europeaid/documents/case-studies/peru_rural-development_europan_es.pdf>.

EU Delegation in Peru, ´European Union thematic cooperation in Peru´ <http://eeas.europa.eu/delegations/peru/eu_peru/tech_financial_cooperation/thematic_prog/index_es.htm#Intro>.

EU Delegation in Peru, ´Relations between the European Union and Peru´ <http://eeas.europa.eu/delegations/peru/eu_peru/political_relations/index_es.htm>.

EU Delegation in Peru, ´ EU country roadmaps for engagement with civil society 2014-2017´ (2014).

Local strategy for the implementation of the EU Guidelines on Human Rights Defenders, Republic of Albania, adopted by EU Heads of Mission to Albania on 7 April 2010 <http://eeas.europa.eu/delegations/albania/documents/eu_albania/local_strategy_hrd_sq.pdf>.

Local strategy for the implementation of the EU Guidelines on violence against women and girls and combating all forms of discrimination against them, adopted by EU Heads of Mission to Albania on 3 June 2010 <http://eeas.europa.eu/delegations/albania/documents/eu_albania/local_strategy_women_en.pdf>

9.   Election Observation Mission Reports

EU election observation mission to Egypt in 2014 <http://eeas.europa.eu/eueom/missions/2014/egypt/index_en.htm>.

European Union Election Observation Mission Arab Republic of Egypt, 'Final Report Presidential Election, 26/27 May 2014'.

EU Election Observatory Mission to Tunisia in 2011 <http://eeas.europa.eu/eueom/missions/2011/tunisia/index_en.htm>.

EU Election Observatory Mission to Tunisia in 2014 <http://eeas.europa.eu/eueom/missions/2014/tunisia/index_en.htm>.

Mission d'Observation électorale de l'Union européenne en Tunisie, 'Rapport Final – Élection de l'Assemblée Nationale Constituante 2011'.

Mission d'observation électorale de l'Union Européenne, Tunisie 2014, 'Rapport final sur les élections législatives et présidentielles'.

EU Election Observatory Mission to Ukraine in 1994 <http://eeas.europa.eu/eueom/missions/1994/ukraine/index_en.htm>.

European Union, 'Final Report of the European Union Election Observation Mission Peru' (2011).

European Union Election Observation Mission, 'Final Report on General Elections and Autonomous Referenda' (2009).

Election Observation Mission Bolivia, 'Final Report on the Constituent Assembly Election and the Referendum on Regional Autonomy' (2006).

10.   Association Agreements and Action Plans

'EU/EGYPT Action Plan' <http://eeas.europa.eu/egypt/index_en.htm>.

'Stabilisation and Association Agreement between the European Communities and their Member States of the one Part, and the Republic of Serbia, of the other Part' <http://ec.europa.eu/enlargement/pdf/serbia/key_document/saa_en.pdf>.

'National Priorities for International Assistance in the Republic of Serbia 2014-17' <http://www.evropa.gov.rs/Documents/Home/DACU/12/74/NAD%202014-2017%20with%20projections%20until%202020%20(english).pdf>.

'Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Albania, of the other part' (2009) <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:107:0166:0502:EN:PDF>.

European Union, 'Coordinated Response for Bolivia'.

'EU-Ukraine Action Plan of 2005' <http://www.enpi-info.eu/library/content/eu-ukraine-action-plan-0>.

'Relations Tunisie - Union Européenne: Un partenariat privilégie. Plan d'Action 2013-2017.'

'EU-Tunisia Association Council Decision 2007/754/EC of 9 November 2007 setting up a Subcommittee on Human Rights and Democracy' [2007] OJ L 305/24.

B.   Domestic legal and policy instruments

1.   Peru

Alternative Development Programme in Satipo, 'Our institution' <http://das.gob.pe/nuestra-institucion/>.

Ministry of Justice and Human Rights, 'Projects' <http://www.minjus.gob.pe/ogcp-proyectos/>.

National Agreement, 'National Agreement State Policies' <http://acuerdonacional.pe/politicas-de-estado-del-acuerdo-nacional/antecedentes/instancias-de-trabajo/>.

2. Bolivia

Political Constitution of the Plurinational State of Bolivia.

Ombudsman's Office of Bolivia, 'Submission of the report on the situation regarding human rights in Bolivia 2015' <http://www.defensoria.gob.bo/draft/10-12-15%20COMUNICADO%20DE%20PRENSA%20INFORME%20DEFENSORIAL%20SITUACION%20DDHH%202015.pdf>.

C. Council of Europe

Committee of Ministers of the Council of Europe, 'Action Plan for Ukraine 2015–2017' [2015] GR-DEM(2015)2E.

B. Literature

1. Books

Alston P (ed.), *The EU and Human Rights* (Oxford University Press, 1999).

Balfour R, 'Human rights and democracy in EU foreign policy: the cases of Ukraine and Egypt' (London School of Economics and Political Science, PhD Thesis, 2008).

Balfour R, *Human rights and democracy in EU foreign policy: the cases of Ukraine and Egypt* (Routledge 2013).

Brautigam D, *The Dragon's gift. The Real Story of China in Africa* (Oxford University Press, 2009).

Carothers T, *Aiding Democracy Abroad: The Learning Curve* (Carnegie Endowment for International Peace, 1999).

Carothers T and Saskia Brechenmacher, *Closing Space. Democracy and Human Rights Support Under Fire* (Carnegie Endowment for International Peace, 2013).

Easterly W, *The White Man's Burden: Why the West's Efforts to Aid the Rest Have Done So Much Ill and So Little Good* (Penguin Press, 2006).

De Feyter K *et al* (eds.), *The Local Relevance of Human Rights* (Cambridge University Press, 2011).

De Lucas J, *Mediterráneo: El Naufragio de Europa* (Tirant lo Blanch, 2015).

Gómez Isa F and Koen de Feyter (eds.), *International Human Rights Law in a Global Context* (Deusto University Press, 2009).

Greenfield D and Rosa Balfour, *Arab Awakening: Are the US and the EU Missing the Challenge?* (Atlantic Council, 2012).

Keck M E and Kathryn Sikkink, *Activists Beyond Borders. Advocacy Networks in International Politics* (Cornell University Press, 1998).

Keukeleire S and Tom Delreux, *The Foreign Policy of the European Union* (Palgrave Macmillan, 2014).

Landman T and Marco Larizza, *EU Policy Discourse: Democracy, Governance and Human Rights* (International IDEA, 2010).

Nelson P and Ellen Dorsey, *New Rights Advocacy: Changing Strategies of Development and Human Rights NGOs* (Washington D.C.: Georgetown University Press, 2008).

Piccone T, *Five Rising Democracies and the Fate of the International Liberal Order* (Brookings Institution Press, 2015).

Shiu-hing Lo S, *Competing Chinese Political Visions: Hong Kong versus Beijing on Democracy* (Praeger, 2010).

Sjöstedt G, *The External Role of the European Community* (Saxon House, 1977).

Smith K E, *European Union Foreign Policy in a Changing World* (Polity Press, 2008).

Van der Loo G, *The EU-Ukraine Association Agreement and Deep and Comprehensive Free Trade Area. A New Legal Instrument for EU Integration without Membership*' (Brill Nijhoff, 2016).

Vaughan-Whitehead D (ed.), *The European Social Model in Crisis. Is Europe Losing its Soul?* (Edward Elgar Publishing-ILO, 2015).

Whitfield L (ed.), *The Politics of Aid. African Strategies for dealing with Donors* (Oxford University Press, 2009).

Youngs R, *The European Union and the Promotion of Democracy. Europe's Mediterranean and Asian Policies* (Oxford University Press, 2001).

Youngs R, *The European Union and the Promotion of Democracy. Europe's Mediterranean and Asian Policies* (Oxford University Press, 2001).

Youngs R, *Europe's Decline and Fall. The Struggle against Global Irrelevance* (Profile Books, 2010).

Youngs R, *The Puzzle of Non-Western Democracy* (Carnegie Endowment for International Peace, 2015).

2.   Book chapters

Bandovic A and Vujacic M, *The European Question in Serbia's Party Politics.* In: Stratulat C (ed.), *EU integration and party politics in the Balkans***,** European Policy Centre Issue Paper N.77, September 2014, 47-67.

Barbé E, 'La UE como promotora de los derechos humanos en Naciones Unidas', in Esther Barbé (dir.), *La Unión Europea en las relaciones internacionales* (Tecnos, 2014).

Barbullushi O, *Albanian Political Parties, Inter-Party Relations and the EU.* In: Stratulat C (ed.), *EU integration and party politics in the Balkans***,** European Policy Centre Issue Paper N.77, September 2014, 83-94.

Ben Othman R, 'European Union Democracy Promotion in Tunisia'*, Routledge Handbook of the Arab Spring* (Routledge 2014).

Blockmans S and Marja-Liisa Laatsit, 'The European External Action Service: Enhancing Coherence in EU External Action?, in Paul James Cardwell (ed.), *EU External Relations Law and Policy in the Post-Lisbon Era* (Asser Press, 2012) 135-159.

Burnell P, 'Methods and experiences of evaluating democracy support: a moving frontier', in Peter Burnell (ed.), *Evaluating Democracy Support. Methods and Experiences* (International IDEA, 2007).

Gómez Isa F, 'The Reversibility of economic, social and cultural rights in crisis context', in Eider Muniategi and Lina Klemkaite (coords.), *Local Initiatives to the Global Financial Crisis* (Deusto University Press, 2012) 33-42.

Gómez Isa F and María Nagore Casas, 'EU Member States under the Universal Periodic Review of the Human Rights Council: Achievements and Challenges', in Wolfgang Benedek *et al.* (eds.), *European Yearbook on Human Rights 2015* (Intersentia-Verlag, 2015) 261-278.

Hummer W, 'The Common Foreign and Security Policy of the EU and the Human Rights Issue', in Sven Gareis, Gunther Hauser and Franz Kernic (eds.), *The European Union- A Global Actor?* (Barbara Buldrich Publishers, 2013).

Kochenov D, 'Law Perspective: Praise Undeserved? The EU as a Democracy Promoter: A Sceptical Account', in Anne Wetzel and Jan Orbie (eds.), *The Substance of EU Democracy Promotion. Concepts and Cases* (Palgrave Macmillan, 2015).

Morillas P, 'Institutionalization or Intergovernmental Decision-Taking in Foreign Policy: The Implementation of the Lisbon Treaty', in Paul James Cardwell (ed.), *EU External Relations Law and Policy in the Post-Lisbon Era* (Asser Press, 2012) 119-134.

Occhipinti J, '*Justice and Home Affairs: Immigration and Policing*', in Michael E. Smith, Katja Weber, Michael Baun (eds.), 'Governing Europe's Neighbourhood: Partners or Periphery?' (Manchester University Press, 2007), 114-133.

Reinaert V, 'Democracy Through the Invisible Hand? Egypt and Tunisia' in Anne Wetzel and Jan Orbie (eds.), *The Substance of EU Democracy Promotion. Concepts and Cases* (Palgrave Macmillan 2015).

Sidenko V, 'Ukraine's Regional Integration Policies: the EU versus the Eurasian Community', in: Ludvig Zsuzsa (eds.), 'Eurasian challenges. Partnerships with Russia and other issues of the post-Soviet area', (East European Studies Research Centre for Economic and Regional Studies of the Hungarian Academy of Sciences, 2013), 11-29.

Shapovalova N, 'Ukraine: A New Partnership', in: Richard Young's (eds.) 'The European Union and Democracy Promotion. A Critical Global Assessment' (The Johns Hopkins University Press, 2010), 59-77.

Wetzel A, 'The Substance of EU Democracy Promotion: Introduction and Conceptual Framework', in Anne Wetzel and Jan Orbie (eds.), *The Substance of EU Democracy Promotion. Concepts and Cases* (Palgrave Macmillan, 2015) 1-23.

3.   Journal articles

Babayan N, 'The return of the empire? Russia's counteraction to transatlantic democracy promotion in its near abroad' (2015) 22 Democratization.

Bennett K, 'European Union Guidelines on Human Rights Defenders: a review of policy and practice towards effective implementation' (2015) 19 The International Journal of Human Rights.

Bicchi F, 'Democracy Assistance in the Mediterranean: An Overview' (2009) 14(1) Mediterranean Politics.

Bicchi F, 'Dilemmas of implementation: EU democracy assistance in the Mediterranean' (2010) 17 Democratization.

Bicchi F, 'Dilemmas of implementation: EU democracy assistance in the Mediterranean' (2010) 17 Democratization.

Bicchi F, 'The Politics of Foreign Aid and the European Neighbourhood Policy Post-Arab Spring: 'More for More' or Less of the Same?' (2014) 19(3) Mediterranean Politics.

Bossuyt J, 'Providing effective support to *deep democracy*: How can it realistically be done?' (2014) 4 (3) International Development Policy.

Carothers T, 'The Backlash Against Democracy Promotion' (2006) 85 Foreign Affairs 55.

Chen D and Kinzelbach K, 'Democracy promotion and China: blocker or bystander?' (2015) 22 Democratization.

Cierco T, 'Human Rights promotion in Serbia: a difficult task for the European Union' 54(1) Revista Brasileira de Política Internacional' 142.

Dahinden H, 'Democracy Promotion at a Local Level: Experiences, Perspectives and Policy of Swiss International Cooperation' (2013) 4 (3) International Development Policy.

Delcour L and Wolczuk K, 'Spoiler or facilitator of democratization?: Russia's role in Georgia and Ukraine' (2015) 22(3) Democratization 459.

Desmond A, 'The Triangle that could Square the Circle? The UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the EU and the Universal Periodic Review' (2015) 17 European Journal of Migration and Law 39.

Crawford G, 'Evaluating European Union Promotion of Human Rights, Democracy and Good Governance: Towards a Participatory Approach' (2002) 14 Journal of International Development 911.

Durac V, 'The impact of external actors on the distribution of power in the Middle East: the case of Egypt' (2009) 14 The Journal of North African Studies 75.

Fukuyama F, 'The End of History?' (1989) The National Interest.

Gershman C and Allen M, 'The Assault on Democracy Assistance' (2006) 17 Journal of Democracy.

Gawrich A, Melnykovska I, Schweickert R, 'Neighbourhood Europeanization through ENP: The Case of Ukraine' (2010) 48 Journal of Common Market Studies.

Gnedina E, 'Multi-Vector Foreign Policies in Europe: Balancing, Bandwagoning or Bargaining?' (2015) 67(7) Europe-Asia Studies 1007.

Hackenesch C, 'Not as bad as it seems: EU and US democracy promotion faces China in Africa' (2015) 22 Democratization.

Hazan O, 'Undermining the transatlantic democracy agenda? The Arab Spring and Saudi Arabia's counteracting democracy strategy' (2015) 22 Democratization.

Hill C, 'The capability-expectations gap, or conceptualizing Europe's international role' (1993) 31 (3) Journal of Common Market Studies 305.

Hok-Wui Wong S, 'Authoritarian Co-optation in the Age of Globalization: Evidence from Hong Kong' (2012) 42 Journal of Contemporary Asia 182.

Huber D, 'US and EU Human Rights and Democracy Promotion since the Arab Spring. Rethinking its Content, Targets and Instruments' (2013) 48 The International Spectator.

Korosteleva EA, 'Evaluating the role of partnership in the European Neighbourhood Policy: The Eastern neighbourhood' (2013) 2 Eastern Journal of European Studies.

Krickovic A, 'Imperial Nostalgia or Prudent Geopolitics? Russia's Efforts to Reintegrate the Post-Soviet Space in Geopolitical Perspective' (2014) 30 Post-Soviet Affairs 503.

Kubicek P, 'The European Union and democratization in Ukraine' (2005) 38 Communist and Post-Communist Studies 269.

Manners I, 'Normative Power Europe: A Contradiction in Terms?' (2002) 40 Journal of Common Market Studies 235.

Manning R, 'Will 'Emerging Donors' Change the Face of International Co-Operation?' (2006) 24 Development Policy Review 371.

Mühlenhoff H, 'Funding Democracy, Funding Social Services? The European Instrument for Democracy and Human Rights in the Context of Competing Narratives in Turkey' (2014) 16 (1) Journal of Balkan and Near Eastern Studies 113.

Nathan AJ, 'China's Challenge to Democracy' (2015) 26 Journal of Democracy 156.

Pace M and Cavatorta F, 'The Arab Uprisings in Theoretical Perspective- An Introduction' (2012) 17 Mediterranean Politics.

Pérez de las Heras B, 'EU and US External Policies on Human Rights and Democracy Promotion: Assessing Political Conditionality in Transatlantic Partnership' (2015) 15 (2) Romanian Journal of European Affairs.

Risse T and Babayan N, 'Democracy promotion and the challenge of illiberal regional powers: introduction to the special issue' (2015) 22 Democratization 385.

Sedelmeier U, 'Europeanisation in new member and candidate states' (2011) 6(1) Living Reviews in European Governance.

Teti A, 'The EU's First Response to the 'Arab Spring': A Critical Discourse Analysis of the *Partnership for Democracy and Shared Prosperity*' (2012) 17 Mediterranean Politics.

Teti A, 'Democracy Without Social Justice: Marginalization of Social and Economic Rights in EU Democracy Assistance Policy after the Arab uprisings' (2015) 24 Middle East Critique.

Veebel V and Markus R, 'At the Dawn of a New Era of Sanctions: Russian-Ukrainian Crisis and Sanctions'(2016) 1 Orbis 128.

Virgili T, 'The Arab Spring and the EU's Democracy Promotion in Egypt: A Missed Appointment?' (2014) 6 Perspectives on Federalism 42.

Völkel JC, 'More for More, Less for Less-More or Less: A Critique of the EU's Arab Spring Response à la Cinderella' (2014) 19 European Foreign Affairs Review 263.

Wetzel A and Orbie J, 'The EU's Promotion of External Democracy: In Search of the Plot' (2012) CEPS Policy Brief.

Williams J, 'The Failure of the EU's Human Rights Policy' (2013) E-International Relations.

4.   Policy and other reports

Aide à la Décision Economique, 'Ukraine - Evaluation of EC Country Programme - Final Report. Volume I: Main Report' (Belgium, 1998).

Amnesty International 'Tunisie : l'adoption d'un mécanisme pour la prévention de la torture donne l'espoir d'un avenir sans torture' (Amnesty International, 2013) <http://www.amnesty.fr/Nos-campagnes/Stop-Torture/Actualites/Tunisie-adoption-un-mecanisme-pour-la-prevention-de-la-torture-9705>.

Alexander F, 'The European Commission's Tacis Programme 1991–2006. A Success Story' (OSCE, 2008).

Allamani J, The EU as a Democracy Promoter: Can the EU Use Albania's Ambitions for Membership to Strengthen Democracy in the Balkans? 2012 Claremont-UC Undergraduate Research Conference on the European Union.

Bandovic I, 'Promoting Human Rights and Minority Protection in South East Europe, National Report on Serbia' (College of Europe, 2015).

Baracani E, 'The European Union's Democracy Promotion in Romania, Serbia, Turkey and Ukraine' (2007) (ECPR Joint Sessions of Workshops, Workshop No. 25: 'Inequality, Poverty and Democratic Governance in Developing Societies'.

Berenschot and Imagos, 'The European Union's IPA Program For Western Balkans, Thematic Evaluation of Rule of Law, Judicial Reform and Fight against Corruption and Organised Crime in the Western Balkans – Lot 3'(2013).

Bossuyt J et al, 'Final Report. Thematic Evaluation of the EC Support to Good Governance '(European Commission,   2006) http://ec.europa.eu/europeaid/how/evaluation/evaluation_reports/reports/2006/884_vol3_en.pdf.

Burnell P, 'Does International Democracy Promotion Work?' (2007) 17 Discussion Paper, German Development Institute.

Burnell P, 'Is There a New Autocracy Promotion?' (2010) 96 FRIDE Working Paper.

Bychenko A, 'Dissatisfaction with Ukraine's authorities is gradually growing and will eventually explode', Razumkov Centre, 4 November 2010 http://www.razumkov.org.ua/eng/article.php?news_id=824.

Cabral L and Weinstock J, 'Brazil: an emerging aid player. Lessons on emerging donors, and South-South and trilateral cooperation' (2010) 64 Briefing Paper, Overseas Development Institute.

Caro E, 'Promoting Human Rights and Minority Protection in South East Europe. National Report Albania'(College of Europe, 2015).

Chandy L, 'New in Town: A Look at the Role of Emerging Donors in an Evolving Aid System' (The Brookings Institution, 2012) http://www.brookings.edu/research/articles/2012/04/emerging-donors-chandy.

Civil Rights Defenders, Human Rights in Albania, http://www.civilrightsdefenders.org/country-reports/human-rights-in-albania/.

Crnjanski D, Theunisz D, Wilke M, KačApor-Džihić Z, Shano J, 'Thematic Evaluation of EU's Support to Civil Society in the Western Balkans (namely Albania, Bosnia And Herzegovina, Croatia, Former Yugoslav Republic Of Macedonia, Kosovo under UNSCR 1244, Montenegro and Serbia) and Turkey' (IBF International Consulting, 2012).

COWI, 'Interim Evaluation of Cross-Border Programmes between Candidate/Potential Candidate Country (Intra-Western Balkan Borders) under the Cross-Border Cooperation Component of IPA, Report 1' (Governance Structures, 2010).

Dennison S and Dworkin A, 'Towards an EU Human Rights Strategy for a Post-Western World' (ECFR, 2010).

Ecorys, 'IPA - Interim Evaluation and Meta- Evaluation of IPA Assistance, Country Report Serbia, August 2013'
http://ec.europa.eu/enlargement/pdf/financial_assistance/phare/evaluation/2013/23914_rep_serbia.pdf.

Elbasani A, 'The Stabilisation and Association Process in the Balkans: Overloaded Agenda and Weak Incentives? (European University Institute Working Paper, 2008).

Fagan A and Indraneel S, 'Promoting Democracy in the Western Balkans after the Global Financial Crisis' (LSEE - Research on South Eastern Europe, 2012).

Frazer H and Marlier E, '2011 Assessment of Social Inclusion Policy Developments in the EU' (European Commission, 2012).

Georis P, Hafner Ademi T, Kacapor-Dzihic Z, 'Evaluation of Grant Contracts Implemented and Financed by IPA and EIDHR' (2014).

HTSPE Limited, 'The European Union's IPA Program For Western Balkans and Turkey, Mapping of Sector Strategies, Final Report, February 2014'
http://ec.europa.eu/enlargement/pdf/financial_assistance/phare/evaluation/2014/20140714-mapping-of-sector-strategies-final-report.pdf

Human Rights Watch, 'World Report 2015' (2016) https://www.hrw.org/sites/default/files/wr2015_web.pdf>

ISA Consult-European Institute-GJW Europe, 'Final Report. Evaluation of the PHARE and TACIS Democracy Programme, 1992-1997' (ISA Consult-European Institute-GJW Europe, 1997).

Lusiani N and Saiz I, 'Safeguarding human rights in times of economic crisis (Council of Europe, 2013).
Maxima Consulting, Evaluation of effectiveness and efficiency of development assistance to the Republic of Serbia per sector'
http://www.evropa.gov.rs/Documents/Home/DACU/5/194/Final%20Evaluation%20Report.pdf

Mihr A, 'Human Rights Benchmarks for EU's External Policy' (2011) EXPO/B/DROI/2011/15.

Nugteren M, Ymeri S, Hoxha N, 'IPA - Interim Evaluation and Meta- Evaluation of IPA Assistance, Country Report Albania' (Ecorys, 2013) http://ec.europa.eu/enlargement/pdf/financial_assistance/phare/evaluation/2013/23914_rep_albania.pdf

Ostheimer A, 'The Value-based approach of EU Development Assistance' (2014) 3 KAS International Reports http://www.kas.de/wf/doc/kas_37137-544-2-30.pdf

Particip, Retrospective evaluation of CARDS programmes in Serbia. Final Evaluation Report (2009) http://ec.europa.eu/enlargement/pdf/financial_assistance/cards/evaluation-reports/04-fr_cards_serbia.pdf

Salomon ME, 'Of Austerity, Human Rights and International Institutions' (2015) 2 LSE Law (Society and Economy Working Papers).

Schmitter PC and Brouwer I, 'Conceptualizing, Researching and Evaluating democracy Promotion and Protection' (1999) 9 EUI Working Paper.

Sigillò E, 'Challenges to Normative power Europe in the Mediterranean. Impact on Arab civil societies and the role of Islamic donors' (2015) Working Paper, ECPR General Conference.

Simoni A, Vasseur T, Spinola C, 'Thematic Evaluation of EU's Support to Refugees in Bosnia and Herzegovina, Kosovo, Montenegro and Serbia' (2014) http://ec.europa.eu/enlargement/pdf/financial_assistance/phare/evaluation/2014/20140403-eu-support-to-refugees.pdf

Simmons P, 'The Impact of EU Democracy Promotion: the View from Brussels' (Jean Monnet Centre of Excellence Research Student Workshop, King's College London, 2011).

Van der Loo G, Van Elsuwege P, Petrov R, 'The EU-Ukraine Association Agreement: Assessment of an Innovative Legal Instrument' (2014) 9 European University Institute Working Paper LAW.

Walker C, 'Authoritarian Regimes are Changing How the World Defines Democracy' (2014) The Washington Quarterly https://www.washingtonpost.com/opinions/christopher-walker-authoritarian-regimes-are-changing-how-the-world-defines-democracy/2014/06/12/d1328e3a-f0ee-11e3-bf76-447a5df6411f_story.html.

Weber B and Bassuener K, 'Analyzing the EC Serbia Progress Reports – Useful tool or tactical whitewash?' (2015) DPC Policy Note: New Series # 09.

Wessels W and Bopp F, 'The Institutional Architecture of CFSP after the Lisbon Treaty- Constitutional breakthrough or challenges ahead?' (2008) 10 CEPS Research Paper.

Zielonka J, 'The United States, the European Union and the Consolidation of Democracy in Eastern Europe' (2006) Paper presented at the SAIS Conference 'Defending the Gains? Transatlantic Responses When Democracy is Under Threat'.