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Human rights and foreign policy

Report[1]
Committee on Political Affairs and Democracy
Rapporteur: Mr Pietro MARCENARO, Italy, Socialist Group

Summary

In view of some recent trends in the foreign policy of Council of Europe member States, the Committee on Political Affairs and Democracy encourages them to fully integrate the systematic and structural promotion of democracy and human rights into any foreign policy strategy, be it at the national, European or international level. It also suggests ways to reduce inconsistency in the pursuit of a human rights-based foreign policy and to minimise the danger of resorting to military force to protect democracy and human rights.

The committee also welcomes the recent progress which has been made on the implementation of a Council of Europe policy towards neighbouring regions. It deems it essential that the promotion of democracy and human rights occupies an important place in the multilateral and bilateral relations of the Organisation's member States so as to ensure greater coherence with their action inside and outside the Council of Europe area.

Finally, the committee welcomes the recent adoption of a European Union Strategic Framework and Action Plan on Human Rights and Democracy, which represents an opportunity to improve significantly the effectiveness of international efforts to promote and protect human rights worldwide and to ensure greater co-ordination and consistency in the European Union (EU) area. It encourages the European Union, *inter alia,* to make better use of the Council of Europe's expertise in the field of democracy, human rights and the rule of law also in the EU common foreign policy strategy.

1. Reference to committee: Doc. 12325, Reference 3705 of 4 October 2010.

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A. Draft resolution[2]

1. The Parliamentary Assembly acknowledges the role and long-standing experience of the Council of Europe in seeking to promote the highest standards in the fields of human rights, democracy and the rule of law.

2. It notes with satisfaction that, in recent years, the development and consolidation of such standards within and outside the Council of Europe area has become an increasingly important concern for the Organisation, in particular through a Council of Europe policy towards its immediate neighbourhood and the establishment of new forms of partnerships, such as the Assembly's partnership for democracy status.

3. It feels, however, that the Council of Europe member States should be doing more to project these standards in their national foreign policy strategies and, in particular, in their dealings with countries, inside the Council of Europe and beyond, whose governments act in blatant disregard of fundamental democratic and human rights principles.

4. The Assembly believes that the right balance has to be struck between national interests and respect for human rights in member States' foreign policies and notes that, when foreign policy neglects human rights for too long and focuses solely on strategic economic and geopolitical interests, human rights crises may erupt and "humanitarian interventions" become urgent and moral necessities.

5. Foreign affairs ministries of the Council of Europe member States can play a key role in improving the effectiveness of international efforts to promote and protect human rights worldwide, by launching specific initiatives aimed at developing universal human rights standards and ensuring a joint approach in the Council of Europe area, also through its monitoring mechanisms.

6. The Assembly believes that democracy must be nurtured from the inside, by supporting human rights movements and civil society forces. The viewpoint of the media, non-governmental organisations (NGOs) and human rights defenders remains of crucial importance in any foreign policy strategy.

7. The Assembly therefore calls on the Council of Europe member States to:

7.1. work actively and constructively, within the United Nations, framework to develop the ability of the international community as a whole to safeguard and promote human rights;

7.2. contribute to the effective implementation of the judgments of the European Court of Human Rights, by bringing pressure to bear on the governments of States where worrying delays in complying with judgments have arisen, as identified in Resolution 1787 (2011) on the implementation of judgments of the European Court of Human Rights;

7.3. integrate all aspects (civil, political, social, economic and cultural) of human rights activities and concerns into various policy areas, in particular conflict prevention work, security, combating terrorism, migration and asylum issues, trade policy and development co-operation, in order to pursue a consistent and results-oriented human rights policy;

7.4. endeavour to guarantee the respect of human rights in all member States, as a necessary condition to affirm and promote them in the context of dialogue with neighbouring countries;

7.5. adopt national plans for the protection of human rights and frame foreign policy around universal human rights principles applicable to all States so as to preclude any possible criticism about the use of double standards;

7.6. develop national strategies to promote the full ratification of core human rights instruments and, once ratified, to guarantee their implementation;

7.7. establish institutional mechanisms for the consideration and review of all governmental action on issues concerning human rights in the context of foreign policy and the operation of human rights policy abroad, while also ensuring full regard for human rights at national level;

7.8. make consistent and intelligent use of the "conditionality clause" in all bilateral agreements and take human rights violations into account in their political and economic dialogue with other countries;

2. Draft resolution adopted unanimously by the committee on 11 September 2012.

7.9. give prominence to human rights in foreign policy through the definition of common human rights standards and practices with regard to diplomatic action, in particular by:

7.9.1. considering the establishment of a section devoted to human rights on the website of the Ministry of Foreign Affairs to disseminate information and knowledge about human rights, offering all available documentation and material from the United Nations system, the Council of Europe and, where relevant, the European Union;

7.9.2. drawing attention to the human rights situation both internally and externally through public statements or speeches at the national, European and international levels;

7.9.3. ensuring that human rights issues are on the agenda during exchange visits at all levels, especially summits of heads of State and government and other forms of high-level political dialogue with other countries;

7.10. prepare regular reports to submit to parliament on the human rights situation in countries around the world and make use of the input and expertise of non-governmental organisations and consult human rights defenders, including through hearings;

7.11. consider policies related to the fight against poverty, migration, asylum seekers and refugees not only as part of their domestic agenda but also as fundamental elements of foreign policy;

7.12. implement policies based on dialogue and constructive engagement with, and bring political pressure to bear on, governments acting in blatant disregard of fundamental democratic and human rights principles, and keep these policies under regular review.

8. Specifically with regard to diplomatic action**,** the Assembly urges member States to:

8.1. instruct all ambassadors to systematically take account of the human rights situation in their country of appointment, irrespective of its record, thus avoiding any possible criticism of double standards;

8.2. encourage ambassadors, or senior embassy representatives, of member States to meet regularly to exchange information on human rights issues;

8.3. invite their embassies, regardless of the human rights record of the country concerned, to:

8.3.1. involve civil society organisations and human rights defenders operating in the country and hold a regular dialogue between diplomatic officials and human rights defenders;

8.3.2. provide systematic support to victims of serious violations of human rights, including publicly reacting to them, following up cases and granting visas or asylum to victims;

8.3.3. support free and independent media organisations in those countries which restrict or prohibit the free flow of information and news.

9. Also referring to Resolution 1773 (2010) on promoting parliamentary diplomacy, the Assembly invites national parliaments to:

9.1. encourage and support parliamentary diplomacy through the participation of parliamentarians in the activities of international organisations, thus reinvigorating the strength of their action in promoting political pluralism and democratic parliamentary standards around the world;

9.2. set up parliamentary committees or sub-committees on human rights working in conjunction with foreign affairs parliamentary committees;

9.3. encourage the establishment of parliamentary friendship and similar groups among national parliaments, in order to promote the exchange of good practice, in particular in the parliamentary and political field.

10. The Assembly notes the creation of a European Union External Action Service (EEAS), headed by a High Representative of the Union for Foreign Affairs and Security Policy, which maintains diplomatic relations with nearly all the countries in the world via a network of European Union delegations.

11. It further takes note of the recent adoption of a European Union Strategic Framework and Action Plan on Human Rights and Democracy and trusts that this represents an opportunity to improve significantly the effectiveness of international efforts to promote and protect human rights worldwide and to ensure greater co-ordination and consistency in the European Union area.

12. The Assembly, also referring to Resolution 1836 (2011) and Recommendation 1982 (2011) on the impact of the Lisbon Treaty on the Council of Europe, encourages the European Union, in particular through its High Representative for Foreign Affairs and Security Policy, to:

12.1. make fully use of the 2007 Memorandum of Understanding between the European Union and the Council of Europe;

12.2. consult the Secretary General of the Council of Europe, especially as regards respective roles and key competencies, and make better use of the Council of Europe's benchmarking and advisory roles and expertise on democracy, human rights and the rule of law in the European Union common foreign policy strategy;

12.3. promote accession to key Council of Europe conventions and to monitoring mechanisms and bodies in the context of its enlargement, neighbourhood and foreign policies, as appropriate;

12.4. instruct all relevant European Union delegations to monitor the human rights situation in the country concerned and to promote ratification of core international human rights instruments by their host governments;

12.5. include an adequate number of specialists in the field of human rights in the European External Action Service and ensure that the situation of human rights is the subject of regular reports.

B. Draft recommendation[3]

1. The Parliamentary Assembly, referring to its Resolution … (2012) on human rights and foreign policy, believes that the systematic and structural promotion of democracy and human rights should be fully integrated in any foreign policy strategy, be it at the national, European or international level.

2. The Assembly welcomes the recent progress that has been made on the implementation of a Council of Europe policy towards neighbouring regions.

3. The Assembly recommends that the Committee of Ministers urge the Council of Europe member States to strive to ensure consistency between the democratic and human rights principles that they have vowed to respect internally and the conduct of their external relations and foreign policy strategies and, in this context, encourage them to implement the recommendations contained in Resolution … (2012), where they have not already done so.

3. Draft recommendation adopted by the committee on 11 September 2012.

C. Explanatory memorandum by Mr Marcenaro, rapporteur

1. Introduction

1. Following a motion for a resolution tabled on 25 June 2010 by Mr Meikar and others, I was appointed rapporteur on 21 June 2011.

2. The motion underlined the role and long-standing experience of the Council of Europe in promoting the highest standards in the field of human rights, democracy and the rule of law and stressed that, in recent years, the development and consolidation of such standards outside the Council of Europe area has become an increasingly important concern for the Organisation.

3. Council of Europe member States do not always seek to project these values in their dealings with those countries whose governments act in blatant disregard of fundamental democratic and human rights principles. By encouraging investments and business, developing "strategic partnerships", allowing the sale of weapons, closing an eye to foreign asset controls or refraining from criticism, they often provide indirect support to non-democratic governments, thus helping them to remain in power.

4. In this report I wish to engage Council of Europe member States in a reflection as to how to strive to ensure consistency between the democratic and human rights principles that they have vowed to respect internally and the conduct of their relations with countries which violate them.

5. While I acknowledge that there is inevitable tension between human rights and foreign policy considerations, which is due to the process of diplomacy, I stress that the right balance has to be struck between the two.

6. I believe that the Parliamentary Assembly can play a critically important role in suggesting ways to reduce inconsistency in the pursuit of a human rights-based foreign policy, to treat democracy and human rights as a structural matter in foreign policy and to minimise the danger of resorting to military force.

7. It is also of utmost importance to strike a balance between human rights, including social rights and the fight against poverty, in all foreign policy strategies. In some parts of the world, social and economic rights, such as access to water, food and health care, are the overriding consideration. Furthermore, migration policies and the rights of asylum seekers and refugees should be considered not just as an internal issue but as an important element of foreign policy.

8. I shall therefore try to identify a number of practical measures aimed at developing a common and co-ordinated approach among Council of Europe member States, paying special attention to avoiding "double standards" criticism.

9. The European Union Common Foreign and Security Policy (CFSP) and the role of the newly established EU European External Action Service (EEAS) in advancing human rights in foreign policy will also be discussed. I went to Brussels on 4 and 5 September 2012 to have exchanges of views on foreign policy and human rights with relevant European Union actors, including the EEAS, members of the European Parliament and civil society representatives.

10. I am grateful to the French National Consultative Commission on Human Rights (CNCDH), which produced a report in 2008 on "Diplomacy and human rights".[4] Some of the recommendations made in that report remain valid and could be extended to all the Council of Europe member States.

11. From November 2011 until February 2012, the Human Rights Committee of the Italian Senate, which I chair, launched an inquiry into the mechanisms for the protection of human rights at national and international levels. A number of policy makers and experts were heard by this committee and their contributions have also inspired this report.[5] I am also particularly grateful to Ms Laura Mirachian, Ambassador and Permanent Representative of Italy to the United Nations and other international organisations in Geneva, who participated in an exchange of views with the committee on 11 September 2012 in Helsinki.

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4. See opinion adopted by the National Consultative Commission on Human Rights' Plenary Assembly on 7 February 2008 (www.cncdh.fr).

5. All proceedings are available in Italian on the website of the Italian Senate at www.senato.intranet/commissioni/161968/166748/382030/sommariostenografici1.htm.

2. Foreign policy and human rights: a difficult balance between pragmatism and idealism

12. It has been said that 2012 will mark the end of the "9/11 era", which started in September 2001 and will symbolically end with the withdrawal of troops from Iraq and Afghanistan. Three years ago, the financial crisis shifted the world's attention to global markets. According to some commentators, governments, driven by fears of the global economic balance, are refocusing their foreign-policy priorities away from the "global war on terror" towards new political and economic opportunities.[6]

13. This shift represents, in my view, a unique opportunity to reorient the foreign policy strategy of Council of Europe member States towards a better balance between realpolitik practice in international relations and the principles upheld by the United Nations, the Council of Europe and the European Union.

14. Clearly, States are interdependent on each other in the sense that their diplomatic relations are influenced by foreign policy strategies. They interact on a wide range of issues, such as economic transactions, trade agreements, aid programmes and the welfare of their citizens based in other countries, to mention but a few.

15. These relations may become difficult if one State denounces the domestic policies of a particular government on human rights grounds. Governments may therefore decide to disregard the human rights record of other States for strategic reasons, such as protecting direct investments abroad or trade agreements. They may rely on the notion of domestic sovereignty, which prevents any criticism or intervention in other States that do not uphold human rights, democracy and the rule of law within their borders.

16. At the United Nations World Summit in 2005, the heads of State and government unanimously signed up to a new norm called the "responsibility to protect". In short, the idea is that a government is "sovereign" as long as it protects its people. When it is unable to do so, or worse, it is the perpetrator of violence and serious human rights violations against its people, the responsibility to protect them may devolve, under specific conditions, to the international community.

17. The Charter of the United Nations confers on the United Nations Security Council (UNSC) primary responsibility for the maintenance of peace and international security and gives it unique legal authority. However, the UNSC is a political body and its decisions cannot be separated from the foreign policies and national interests of its permanent members. It can only function when the permanent members manage to identify a common interest and decide to act upon it. The risk of a political impasse is great when national interests do not converge, as illustrated by recent Russian and Chinese vetoes of UNSC resolutions on Syria, which I sharply criticised as rapporteur for the Assembly on the situation in Syria.[7]

18. The bottom line is that the use of coercion against a sovereign but authoritarian and repressive State remains controversial, particularly when the geostrategic interests of powerful States do not align with human rights considerations.[8]

19. A UNSC resolution adopted on 17 March 2011 authorised "all necessary means" to protect Libyan civilians from Colonel Gaddafi. A NATO-led war against Libya's regime ended with the death of the dictator at the hands of the rebels. However, as the war dragged on, many believed that the "responsibility to protect" was just a "warrant for war", which resulted in a change of regime which has not brought about peace and stability in the country.

20. Previously, the war in Iraq that followed America's invasion in 2003, portrayed as an "intervention against tyranny", had already harmed the responsibility to protect principle[9] and had shown that an armed intervention, even if its declared aims are benign, can set off a whole chain of terrible consequences.

21. The case of Libya is a perfect example of how human rights had been ignored for a long time and only reappeared in an emergency situation. If we look at the relations between some of the Council of Europe member States and Libya, for instance, we find a number of embarrassing examples, such as British complicity in rendition to Libya under Gaddafi and France and Italy's warm welcoming of the dictator in their capitals.[10]

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6. Eurasia Group, "Top risks in 2012", 3 January 2012.
7. Resolution 1878 (2012).
8. See also United States Institute of Peace, "Making sense of the U.N. impasse on Syria", 10 February 2012.
9. *The Economist*, "Responsibility to protect – The lessons of Libya", 19 May 2011.
10. Human Rights Watch, "Europe's own human rights crisis", 2011.

22. Governments often nurture these kinds of relations and indirectly support non-democratic governments, which are often defined as "strategic partners". Heads of State and government frequently host controversial leaders in their capitals, sell weapons to countries that could be used against their neighbours or their own population, and make other types of arrangements with autocratic regimes. Human rights are too often off the agenda during official visits by non-democratic leaders. It seems that national interests, human rights and foreign policies are issues that can be discussed separately and do not form part of a coherent strategy.

23. Some foreign policy analysts say that it is not desirable, or possible to achieve in practical terms, for a government to pursue a foreign policy which openly acknowledges human rights, as foreign policy is always mainly driven by national interests.

24. As a matter of fact, the Arab revolutions seem to have forced European leaders to rethink their "strategic partnerships" with the Arab world based on the pragmatic idea that stability (which justified cosy relations with autocratic rulers in the region) and reforms in the Arab world were opposing principles.[11] Furthermore, the mass mobilisation of Arab civil society and the fast dissemination of news and ideas have further highlighted the inadequacy of traditional foreign policy tools to follow these events in a timely and effective way. As stressed by Ambassador Mirachian at our meeting in Helsinki, people communicate with each other worldwide, movements are affecting each other, different cultures are interacting and intercultural dialogue has become a factor of everyday life. People in the South and in the North, in the East and in the West, are discovering common aspirations. It is therefore impossible for governments, and even parliaments, to neglect and disregard the will of the people.

25. As stressed above, while I acknowledge that there is inevitable tension between human rights and foreign policy considerations – which is due to the process of diplomacy – I maintain that the right balance has to be struck between the two.

26. As also highlighted by former Italian Minister for Foreign Affairs, Mr Franco Frattini, speaking at a hearing organised by the Human Rights Committee of the Italian Senate on 15 February 2012, one key tool which is at a government's disposal is intelligent use of the so-called conditionality of agreements, both bilateral and European. This means that including human rights and democracy clauses in all agreements should be the basis for initiating and pursuing political dialogue with any foreign government. Over the past decade, this idea has permeated the Council of Europe's relations with its immediate neighbours.

3. Council of Europe standards inside and outside Europe

3.1. Reaffirming the universality of human rights

27. It is clear that the aim of diplomacy and foreign policy is to safeguard the national interest. This may involve national defence, political influence, economic co-operation, cultural outreach and, first and foremost, contributing to peace and international security.

28. Respect for the principles of democracy and human rights must also constitute an essential element of foreign policy in order to achieve the above-mentioned goals. As a matter of fact, all Council of Europe member States have signed and ratified a number of international human rights instruments and committed themselves to the protection of human rights by reforming their legislation. It is our duty as parliamentarians to call on our governments to respect the obligations and commitments undertaken at the United Nations, Council of Europe and European Union levels.

29. However, it must be said that, even within the Council of Europe democracies, there is often a gap between proclamation and effective implementation of human rights and democratic principles. Europe's own human rights crisis, with governments trampling on fundamental rights in response to terrorist attacks, elections marked by fraud or unequal conditions, the rise of extremist and xenophobic movements, attacks on migrants, Roma and other minorities, and hostility towards Muslims, is seriously damaging the credibility of governments' external human rights policy.[12]

30. There was consensus in our committee about the need to call on Council of Europe member States first and foremost to better implement Council of Europe values and standards within their own territory. The Organisation must ensure a level playing field for all its members and avoid the criticism of double standards.

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11. Hans Kundnani, "Democracy and the EU's 'strategic partnerships'", European Council on Foreign Relations, 13 July 2012.
12. See also Human Rights Watch, op.cit., 2011.

31. Behind this engagement lies the conviction that human rights, democracy and the rule of law are universal values. A recurrent threat to the universality of human rights and its international instruments is indeed the non-efficacy of human rights. In an information report adopted on 15 November 2011, the Committee on Political Affairs and Democracy reaffirmed the universal nature of human rights and stressed that "the Council of Europe remains the main driver in Europe of the universality of human rights and should further promote human rights in the context of inter-cultural dialogue within member States as well as with neighbouring countries".[13]

3.2. Partnerships for democracy

32. In recent years, we have witnessed the development and consolidation of Council of Europe standards outside its borders as well, with the emergence of new forms of partnerships. The Council of Europe has just recently initiated a policy of dialogue with the neighbouring regions of the southern Mediterranean, the Middle East and Central Asia, based on respect for universal human rights.

33. Already In 2009, in an Assembly report on the "Establishment of a 'Partner for democracy' status with the Parliamentary Assembly",[14] the rapporteur, Mr Luc van den Brande, noted that, considering the situation and the position of the Committee of Ministers, it was not the "right time to pursue a new and ambitious Council of Europe neighbourhood policy". The report stressed that the activities carried out at the intergovernmental level, in the context of the various existing mechanisms for co-operating with partners that were not members of the Council of Europe, were already making a useful contribution to the promotion of the Organisation's fundamental values beyond its own borders. It also argued that, at the parliamentary level, the potential existed for intensifying co-operation with the parliaments of certain Council of Europe neighbours.

34. With Resolution 1680 (2009), the Assembly established a new status called "partnership for democracy", aimed at developing institutional co-operation with parliaments of non-member States in neighbouring regions wishing to be supported in their democratic transition and to participate in the political debate on common challenges.

35. Interested parliaments can today become "partners for democracy" if they commit to the values upheld by the Council of Europe, such as pluralist democracy, the rule of law and respect for human rights and fundamental freedoms.[15] According to Resolution 1680 (2009), the national parliaments of all the southern Mediterranean and Middle East countries participating in the Union for the Mediterranean/Barcelona Process (including the Palestinian Legislative Council), and of central Asian countries participating in the Organization for Security and Co-operation in Europe (OSCE) (Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan), are eligible to request partner for democracy status with the Assembly.

36. In June 2011, at their request, the Assembly granted the new status to the Parliament of Morocco[16] and, in October 2011, to the Palestinian National Council,[17] both of which met the Assembly's requirements. The Assembly singled out a number of benchmarks which were of key importance and invited the delegations to participate in the Assembly's work. The Assembly therefore encouraged the Organisation to mobilise its expertise with a view to contributing to the full implementation of democratic reforms in these regions. This is expected to contribute to intensifying co-operation and promoting accession to Council of Europe conventions. The Assembly is currently reviewing the state of progress achieved by the new partners in implementing the political commitments undertaken.

37. The Assembly had also previously established working contacts with the parliaments of Algeria and Tunisia, which were intensified with Tunisia in the wake of the 2011 Arab Spring.[18] It has also developed contacts with the political forces in Egypt. On 27 October 2011, the Assembly received an official request for partner for democracy status from the Parliament of the Kyrgyz Republic, and this is currently being examined.

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13. Doc. 12826.
14. Doc. 11913.
15. This involves, *inter alia*, a moratorium on executions and the abolition of the death penalty, the organisation of free and fair elections, and the use of the expertise of the Assembly and the European Commission for Democracy through Law (Venice Commission) in the country's institutional and legislative work.
16. Resolution 1818 (2011) on the request for Partner for Democracy status with the Parliamentary Assembly submitted by the Parliament of Morocco.
17. Resolution 1830 (2011) on the request for Partner for Democracy status with the Parliamentary Assembly submitted by the Palestinian National Council.
18. Resolution 1791 (2011) on the situation in Tunisia.

38. With Resolution 1831 (2011) on co-operation between the Council of Europe and the emerging democracies in the Arab world, adopted on 4 October 2011, the Assembly issued an urgent call to share with the Arab countries the Council of Europe's experience in the field of democracy. It wished to prompt discussions with all parties concerned on the desirability of convening a summit of heads of State and government of the democracies of Europe and the southern Mediterranean to discuss co-operation between the Council of Europe and the emerging democracies in the Arab countries in Europe's neighbourhood.

3.3. Council of Europe policy towards its immediate neighbourhood

39. As far as Council of Europe policy towards its immediate neighbourhood is concerned, at its 121st session in Istanbul on 11 May 2011, the Committee of Ministers endorsed the proposal made by the Secretary General to open up towards countries in North Africa, the Middle East and Central Asia, and engage them in co-operation and assistance programmes aimed at their gradual integration into the European legal space, through accession to relevant Council of Europe conventions and partial agreements.

40. On 16 May 2012, the Secretary General published a report on the concrete and substantial progress which had been made on the implementation of the Council of Europe policy towards neighbouring regions.[19]

41. The objectives of this policy are to facilitate democratic political transition, to help to promote good governance on the basis of the relevant Council of Europe standards and mechanisms, and to reinforce and enlarge the Council of Europe regional action in combating trans-border and global threats. The Arab Spring and the international community's efforts to support democratic transition have further underlined the importance of this initiative.

42. Instruments of co-operation include advice, election observation, parliamentary co-operation, participation in relevant Council of Europe structures and activities, and accession to relevant Council of Europe conventions in the area of good governance and the rule of law; such co-operation will be demand driven. A framework for co-operation has been developed, including "Neighbourhood Co-operation Dialogues" (with the authorities of Morocco, Tunisia, Jordan, Israel, the Palestinian National Authority, Kazakhstan, Kyrgyzstan and Tajikistan) and "Neighbourhood Co-operation Priorities" (which have been agreed so far with Morocco and Tunisia and will be soon finalised with Jordan and Kazakhstan).

43. The European Union has provided substantial funding for this initiative, as well as political and logistical support through its delegations. On 17 January 2012, Secretary General Thorbjørn Jagland and the European Commissioner for Enlargement and European Neighbourhood Policy, Štefan Füle, signed a three-year €4.8 million joint programme to strengthen democratic reform in the southern Mediterranean countries. The joint programme will be rolled out initially in Morocco and Tunisia[20] and will be extended to other countries.

44. Relevant Council of Europe principles and standards will be closely scrutinised. The Secretary General also acknowledged the importance of the Assembly's specific benchmarks and monitoring procedures through the partnership for democracy.

45. The ultimate objectives of this policy would be the possible creation of a formal status for Council of Europe neighbours which, following proposal by the Secretary General, would be called "Co-operating Member" or "Co-operating Partner", and would be based on the partner for democracy status set up by the Assembly at parliamentary level.[21]

46. However, as also stressed by Ambassador Laurent Dominati, Permanent Representative of France to the Council of Europe and Chairperson of the Rapporteur Group on External Relations, during an exchange of views organised by the committee on 28 June 2012, the criteria for granting the proposed status had not yet been fully clarified by the Ministers' Deputies.

47. According to an Amnesty International representative whom I met in Brussels, the increased attention of the Council of Europe towards its neighbouring countries should not undermine its efforts in ensuring greater respect for human rights in its member States, also in view of the zero growth policy that affects the Organisation and the current reform process.

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19. SG/Inf(2012)15 on the implementation of the Council of Europe policy towards neighbouring regions, 16 May 2012.
20. Press release DC006(2012), "Secretary General Jagland and Commissioner Füle sign the Programme for strengthening democratic reform in the Southern Mediterranean", 17 January 2012.
21. SG/Inf(2012)9, "Policy of the Council of Europe towards its neighbouring regions – Proposal for the establishment of a new status for non-member states", 23 April 2012.

48. Council of Europe member States do not have a common foreign policy as such. However, all 47 have agreed that their policy towards its immediate neighbourhood, in particular in response to the recent revolutions in the Arab world, shall be inspired by relevant Council of Europe standards and mechanisms.

49. While it is understandable, and even inevitable, that geopolitical and economic interests strongly affect the conduct of foreign relations, I deem it essential that the promotion of democracy and human rights occupies an important place in their multilateral and bilateral relations so as to ensure greater coherence with governmental action inside and outside the Council of Europe area.

4. The European Union human rights and foreign policy strategy

50. Since 2004, European Union member States have developed a European Neighbourhood Policy (ENP). This policy provides them with a coherent approach ensuring that the whole of the European Union is committed to stronger relations with its 16 closest neighbours, building upon a mutual commitment to the common values of democracy and human rights, rule of law, good governance, market economy principles and sustainable development.

51. The ENP is further enriched by regional and multilateral co-operation initiatives such as the Eastern Partnership (launched in 2009), the Union for the Mediterranean (formerly known as the Barcelona Process, re-launched in Paris in July 2008) and the Black Sea Synergy (launched in 2008).

52. With regard to a common foreign and security policy for the 27 member States of the European Union, the Treaty of Lisbon, which entered into force in December 2009, brought an end to the "pillar system", in which the CFSP was based on a pure intergovernmental method, requiring unanimity among European Union members in the Council of Ministers and limiting the influence of the other institutions.

53. In an effort to ensure greater co-ordination and consistency in the European Union area, the Treaty of Lisbon created a High Representative of the Union for Foreign Affairs and Security Policy, merging the posts of High Representative for the Common Foreign and Security Policy and European Commissioner for External Relations and European Neighbourhood Policy. Baroness Catherine Ashton was the first person to be appointed High Representative in December 2009.

54. The High Representative is in charge of the EEAS, which was also created by the Treaty of Lisbon. This service functions as a common Foreign Office or Diplomatic Corps for the European Union, which maintains diplomatic relations with nearly all the countries in the world via a network of 136 European Union delegations, which have a similar function to those of an embassy.

55. The European Union has also put human rights at the core of its enlargement policy, which is governed by the Copenhagen criteria, including, in particular, stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities.

56. A range of tools to promote human rights and democratisation include human rights guidelines, "*démarches*" and declarations, Council decisions and structured human rights dialogue, and consultations with more than 30 non-European Union countries. Specific guidelines have been issued to enable swift common action to be taken on, *inter alia*, the fight against the death penalty, the fight against torture and other cruel, inhuman or degrading treatment or punishment, support of children in armed conflicts, human rights defenders and the rights of the child, combating violence and all forms of discrimination against women and girls and promoting compliance with international humanitarian law.[22]

57. A "human rights clause" has been systematically included in nearly all European Union agreements with third countries since the mid-1990s. In the event that human rights and democratic principles are breached, the European Union may take certain measures such as imposing targeted restrictive measures, which range from a refusal to give visas to senior members of the regime (as it did recently against Belarus), to freezing assets held in European Union countries and suspending the agreement. However, preference is given to the use of positive action, through dialogue and persuasion in advancing human rights, rather than penalties.

22. See also European Commission, "Furthering human rights and democracy across the globe", 2007.

58. These policies are complemented by activities funded under the European Instrument for Democracy and Human Rights (EIDHR), which strongly focuses on the promotion of democracy and the support of human rights defenders, and by other programmes based on the Development Co-operation Instrument, covering all the European Union external assistance in development, economic, financial, technical and humanitarian co-operation worldwide.[23]

59. Promoting human rights is also one of the explicit goals of the European Union trade policy. However, many developing countries and non-governmental organisations (NGOs) call into doubt the effectiveness and credibility of the European Union's approach to human rights in its trade policy. The main criticism revolves around the almost exclusive orientation of the European Union's own trade policy toward European economic interests.

60. Human rights are also systematically addressed in the political dialogue of the European Union with third countries and detailed consultations take place with the following countries and regions:

– EU-Russia relations (consultations on human rights are held on a regular biannual basis);

– countries in the European Neighbourhood Policy area (the European Union established human rights and democracy sub-committees with a number of countries and includes a chapter on human rights and fundamental freedoms in each ENP country report);

– EU-China human rights dialogue (since 1995, it takes place once every six months and is complemented by human rights legal seminars);

– EU-Africa Strategy (launched in 2007 to strengthen the political partnership and enhance co-operation, including the promotion of democratic governance and human rights);

– EU-African, Caribbean and Pacific (ACP) States (in the context of the Cotonou Agreement);

– EU-Iran dialogue (set up in 2002, following the beginning of the negotiation of a trade and co-operation agreement and interrupted in 2006 with Iran's withdrawal following the European Union's co-sponsoring of the Iran country resolution in the United Nations General Assembly);

– EU-United States of America, Canada, Japan and others (on the basis of broadly converging views and in the form of six-monthly meetings of experts in the run-up to key human rights meetings at the United Nations).

61. However, during my recent visit to Brussels, I was told by several interlocutors in the European Parliament and among civil society representatives that these human rights dialogues are not effective and do not produce any tangible results. Regrettably, the European Parliament is not involved in these dialogues. It is important to recall that as many as 20 countries that are not members of the European Union took on human rights commitments with the Council of Europe through the convention system, which is legally binding. A number of human rights monitoring mechanisms are already in place and have produced concrete and tangible results. They already provide a valuable input to the human rights dialogues through the Council of Europe–European Union regular consultations. Further efforts are needed to ensure the full implementation of these commitments in all Council of Europe member States. The legal infrastructure of the Council of Europe, coupled with the resources and political influence of the European Union, can create a common space for human rights protection across the continent.

62. In its action to promote human rights, the European Union takes account of the key international instruments and encourages other countries to sign, ratify and implement major United Nations treaties or to respect commitments vis-à-vis the Council of Europe and the OSCE. The European Union also plays an active role in multilateral fora, such as the United Nations Human Rights Council and in the Third Committee of the United Nations General Assembly, where it introduces resolutions and makes statements.

63. Since 1983, the European Parliament has produced an annual report on "Human Rights in the World and the European Union's policy on the matter" and the European Commission provides detailed written responses to members of the European Parliament. Moreover, the European Parliament recently criticised the European Union and its member States for at times sidelining human rights and called for a more systematic approach using indices and benchmarks.

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23. Under the European Instrument for Democracy and Human Rights, over €1.1 billion is available between 2007 and 2013 for projects addressing topics such as participatory and representative democracy, the freedoms of association and assembly, opinion and expression, the rule of law, the independence of the judiciary and the peaceful conciliation of group interests.

64. In a joint communication to the European Parliament and the European Union Council on "Human rights and democracy at the heart of European Union external action – towards a more effective approach", the High Representative stated that "[t]he protection and promotion of human rights is a silver thread running through all EU action both at home and abroad".[24] Speaking before the European Parliament on 12 June 2012, she spoke of her determination to place human rights at the core of European Union foreign policy.

65. On 25 June 2012, the European Union Foreign Affairs Council adopted a European Union Strategic Framework and Action Plan on Human Rights and Democracy, covering the period until 31 December 2014. In a column published on the website of the European Council on Foreign Relations on 9 July 2012, Catherine Ashton took the view that "we cannot succeed if we talk only about rights to those who want to hear it and otherwise keep silent; and we cannot forget human rights just because we are talking to governments about commercial relations or energy links. Ethics are indivisible".[25]

66. The plan also includes the appointment of a European Union Special Representative (EUSR) for Human Rights whose job will be to translate this commitment to human rights into foreign policy practice and to "help the European Union to be more visible and to promote human rights across the whole range of European Union's external policies".[26] So far, 116 European Union delegations have appointed a human rights focal point as part of a wider network.

67. On 28 June 2012, the Assembly, reacting to this announcement, decided to hold a current affairs debate on European institutions and human rights in Europe, upon the initiative of Ms Anne Brasseur. During the debate, Ms Brasseur regretted that the European Union press release announcing the decision to appoint an EUSR for human rights made reference to working with the European Parliament, the European Commission and international partners on human rights issues, but made no specific mention of the Council of Europe.

68. She underlined that this action was contrary to the spirit of the 2007 Memorandum of Understanding between the European Union and the Council of Europe, which had made the division of responsibilities very clear. This agreement had built on the foundations of the 2006 report, Council of Europe – European Union: "A sole ambition for the European continent", written by Jean-Claude Juncker.

69. Ms Brasseur stressed the danger of overlap and duplication and believed that having an additional voice on human rights for the 27 European Union member States but not the other 20 members of the Council of Europe risked creating double standards and confusion. At a time of budgetary constraint, she asked whether it was necessary to create new posts. A number of fellow parliamentarians who took part in this debate shared this concern.

70. Although the EU Strategic Framework and Action Plan on Human Rights and Democracy states that the EU "will continue its engagement with the invaluable human rights work of the Council of Europe and the OSCE", it makes no reference to the Council of Europe Commissioner for Human Rights, for instance, who already works for the 47 Council of Europe member States, including all European Union member States.

71. On 25 July 2012, the Council of the European Union appointed Stavros Lambrinidis as EU Special Representative (EUSR) for Human Rights. Mr Lambrinidis took office on 1 September, with an initial mandate running until 30 June 2014. As I also stressed publicly during the June debate, the Secretary General of the Council of Europe should take immediate steps to discuss this matter with the EU High Representative, with a view to establishing co-operation with the EUSR for Human Rights. These contacts should become a regular feature of the inter-institutional dialogue between the European Union and the Council of Europe. Many years of reform have been undertaken to enable the Council of Europe to concentrate on its core business. If satisfactory agreement with the European Union is not reached, this work would be in vain.

72. The European Parliament Committee on Foreign Affairs held a hearing on 3 September 2012 with the newly appointed EUSR Lambrinidis, who underlined in his opening remarks that his main objective was to enhance the effectiveness and implementation of the European Union human rights policy. He mentioned a number of thematic areas he intended to focus on, such as anti-terrorism policies, combating impunity, ensuring free trials, enhancing democracy and protecting human rights defenders and the rights of the child. Questioned about co-operation with the Council of Europe, he stressed that there was no scope for inter-institutional distrust between the Council of Europe and the European Union and stated that he had spoken

24. COM(2011)886, 12 December 2011.
25. http://ecfr.eu/content/entry/commentary_the_eus_rights_of_passage.
26. EU High Representative's "Statement on the Salafranca Report – EUSR on human rights", 12 June 2012.

with Commissioner Muižnieks to arrange a visit to Strasbourg to meet with Council of Europe partners. I also hope that I will be able to meet with Mr Lambrinidis in the coming weeks to discuss the main elements of my report.

73. As a follow-up to the current affairs debate, the Bureau of the Assembly decided to refer a motion for a resolution on European institutions and human rights in Europe to the Committee on Legal Affairs and Human Rights for report. A motion on "The Memorandum of Understanding between the Council of Europe and the European Union – evaluation 5 years after" was also referred to the Committee on Political Affairs and Democracy for report.

74. I will not therefore go into further details regarding the relations between the Council of Europe and the European Union. I will just limit myself to noting that, following the entry into force of the Lisbon Treaty, the reinforced partnership between the Council of Europe and the European Union is meant to lead to a common space for human rights protection across the continent, through the European Union's accession to the European Convention on Human Rights but also to other key Council of Europe conventions and monitoring mechanisms. As a future party to the Convention, the European Union will also be in position to play a greater role in calling on Council of Europe member States to implement the Court's rulings and other Council of Europe bodies' recommendations. I refer here to the excellent work done by my colleague Ms Kerstin Lundgren, who thoroughly analysed this issue in her report on the impact of the Lisbon Treaty on the Council of Europe.

75. In particular, I wish to reiterate the Assembly's call to the European Union to make better use of the Council of Europe's benchmarking and advisory role, and expertise in the context of its enlargement and neighbourhood policies.[27] This should also apply, in my view, to the European Union's foreign policy strategy.

76. The recent creation of the EEAS represents a unique opportunity to improve the quality of foreign policy and to strengthen partnerships between the Council of Europe and the EEAS through the EU delegation network. It could also significantly improve the effectiveness of international efforts to promote and protect human rights worldwide.

77. On 23 March 2012, the EEAS organised a training course entitled "Human Rights, Democracy, Rule of Law. Council of Europe: a key partner" as part of specialised courses on human rights offered to the EEAS staff working in the field of external relations, both in Brussels and in the delegations. This was followed by further meetings which represent good practice and need to be complemented by regular exchanges at the highest political level and also between the relevant services of both organisations so as to benefit from the Council of Europe's expertise on human rights on the one hand and the EU delegations' outreach on the other.

78. Finally, it is of utmost importance to ensure that the foreign affairs ministries of all European Union member States set up units of co-ordination and dialogue with the EEAS, so as to define a common approach both at national and EU levels and to develop human rights operational standards for their embassies and for all EU delegations.

5. Proposals for a human rights strategy in the foreign policy of the Council of Europe member States

79. A slow but steady introduction of rules and institutions of global governance is under way. Caution is necessary to ensure a peaceful redefinition of the relations between States, considering the significant erosion of national sovereignty on a number of key policy areas.

80. Saying that the only model that works for foreign policy is blunt pragmatism contradicts the fact that human rights are part and parcel of international law and are legally binding commitments that governments have made under the United Nations system, as well as in the framework of the Council of Europe and the European Union.

81. However, even the most committed heads of State and foreign affairs ministers have often felt discouraged when their human rights agendas have had to face harsh realities.

82. The most effective approach is prevention. Too often, governments deal with human rights when it is too late and wars and bombings appear to be the only solution. I was personally in favour of military intervention in Libya because I deemed it necessary at that time. However, I take the view that when politics

27. See Resolution 1836 (2011) and Recommendation 1982 (2011) on the impact of the Lisbon Treaty on the Council of Europe.

neglect human rights for too long and focus solely on economic interests in foreign relations, human rights crises unfold and "humanitarian interventions" become a moral necessity, fraught with complexity, but better than nothing. Europe cannot afford another Srebrenica.

83. It is therefore of utmost importance to stop resorting to war in order to protect human rights, and to create, instead, a positive link between respect for human rights, democracy and the rule of law, on the one hand, and peace, on the other.

84. The systematic and structural promotion of human rights should be fully integrated into any foreign policy strategy, be it at the national, European or international level. It is pragmatic to affirm that countries where political conflicts are settled with full respect for human rights and the rule of law will be less likely to settle their differences through violence. As former French Foreign Affairs Minister, Bernard Kouchner, put it, "A better world, where human rights are observed and protected, is a safer world. And what is the bedrock of foreign policy if not the search for security?"[28] Also the United Kingdom Foreign Minister, William Hague, added more recently that "strong institutions and the rule of law are the only lasting guarantee of freedoms, and we all know that these things take a long time to build and must be constantly nurtured".[29]

85. As also highlighted by Ambassador Mirachian, in order to avoid the risk of new conflicts, there is a strong need to strengthen multilateralism so as to ensure a more inclusive approach. This means dismantling the traditional separation among regional groups, which is historically obsolete, and adopting a cross-regional approach embracing different continents and cultures in the name of the universality of human rights, as well as searching for common platforms with a view to taking decisions involving as many countries as possible.

86. This also means giving proper consideration in every foreign policy strategy to economic, social and cultural rights and not merely focusing on political and civil rights. Conflicts originate from a lack of fundamental freedoms and adequate political representation but also from insufficient access to material resources and from lack of cultural, religious and spiritual freedom.

87. Furthermore, migration policies are a topical example of the gap between national policies and compliance with international standards. Millions of people around the world are on the move looking for a better life. This is a major concern for European governments, especially in the present times of economic crisis, and must be duly taken into account in every foreign policy strategy.

88. In a functioning democratic system, governments' action in implementing their human rights commitments when formulating and executing foreign policy can be scrutinised by parliament, for instance via questions, motions or parliamentary inquiries.[30]

89. The external viewpoint of the media, NGOs and human rights defenders is less measurable but remains of crucial importance. We must give voice to and support those movements around the world which protect freedoms and promote democracy. Democracy cannot be exported and must be nurtured from the inside, through human rights and opposition movements and civil society forces, which diplomacy can support but cannot take the place of.

90. The role of parliamentary diplomacy should also not be underestimated. As stressed by my fellow parliamentarian, Mr João Bosca Mota Amaral, in his report on "Promoting parliamentary diplomacy",[31] constant contacts with parliaments abroad not only help members of parliament to share experiences, but also foster understanding between political elites in the countries concerned, and help promote political pluralism, the rule of law and democratic parliamentary standards.

91. Governments themselves rarely assess in a structural and systematic way the extent to which their foreign policy strategy and the way they handle external relations can be effective in preventing or remedying human rights abuses.

92. Foreign affairs ministries can play a key role in launching specific initiatives aimed at developing common human rights standards and ensuring a joint approach in the Council of Europe area. For instance, they could request that their embassies produce periodic reviews and create a specific section of their website

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28. Bernard Kouchner, "Human rights and foreign policy", *Newsweek*, 6 December 2009.
29. William Hague, "Human rights are key to our foreign policy", *The Telegraph*, 31 August 2010.
30. Upon a suggestion from my colleague Lord Anderson, I took note of the report on "Foreign policy and human rights" of the Foreign Affairs Committee of the House of Commons, published in 1998, whose conclusions remain relevant also today. I also took note of several other human rights reports issued by a number of Council of Europe member States, which have inspired these proposals.
31. Resolution 1773 (2010) and Doc. 12428.

on the human rights situation of the country in which they operate. This should apply to embassies in all countries throughout the world, not just those that are at risk of human rights violations. Furthermore, foreign affairs ministries could organise specific sessions devoted to human rights for the ambassadors gathering annually in their capitals.

93. It has to be said that Council of Europe member States have a special duty to ensure that not only themselves but also other Council of Europe member States implement the Organisation's standards, recommendations and in particular Court judgments. Sadly, some Council of Europe member States still continue to refuse to implement the Court's judgments and to address the systemic human rights violations identified by the Court. In Resolution 1787 (2011), based on a report by Mr Christos Pourgourides, the Assembly identified major structural problems in nine member States: Bulgaria, Greece, Italy, the Republic of Moldova, Poland, Romania, the Russian Federation, Turkey and Ukraine. Therefore, it is of capital importance that Council of Europe member States also address this issue through their foreign policy and in their bilateral and multilateral relations.

94. The recommendations contained in the draft resolution intend to provide some food for thought for Council of Europe member States when implementing their human rights objectives and formulating foreign policy strategies, both bilaterally and multilaterally. Those actions involve the active participation of heads of State, ministers, ambassadors, staff at ministries' headquarters and the embassies.

95. As a follow-up to the resolution, which will hopefully be adopted during the October 2012 part-session, I would like to convene a meeting of the chairpersons of the foreign affairs and of the human rights committees of the 47 national parliaments, and of the European Parliament, as well as representatives of the European External Action Service, to discuss ways to implement the foregoing recommendations, in line with the spirit of the Assembly reform.