

# PART TWO:

## EU Human Rights Policies and Instruments at global, regional and bilateral levels

The EU makes numerous commitments and references to human rights within its foreign policy, both at the global and regional levels. To implement these commitments, the EU has developed a number of policy and funding instruments, which are described below. These instruments may be directly beneficial to civil society on the ground, for example in terms of financing, as well as indirectly, by allowing for the application of pressure on governments in line with civil society organisations' (CSO) demands. Ensuring that the EU implements its policies and keeps to its commitments requires close monitoring on the part of civil society and is a crucial part of any advocacy efforts towards EU institutions.

### 1. EU global human rights commitments

#### **The CFSP mission and the Strategic Framework on Human Rights and Democracy**

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The documents establishing the legal basis for the existence of the EU set out the objectives of the EU Common Foreign and Security Policy (CFSP), including the development and consolidation of democracy and the rule of law and respect for 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. As part of the CFSP, through the Common Security and Defence Policy (CSDP), the EU deploys peace keeping, policing and judicial missions worldwide.<sup>32</sup> In line with

CFSP commitments, these missions should contribute to the promotion and protection of human rights.<sup>33</sup>

In 2012, the EU reaffirmed its commitments to human rights in its foreign policy by releasing a [Strategic Framework on Human Rights and Democracy](#), establishing a number of mechanisms and instruments supporting the implementation of its human rights goals, such as the establishment of the Human Rights Action Plan, the Human Rights Country Strategies, and the establishment of the position of EU Special Representative (EUSR) on Human Rights.

## EU Human Rights Action Plan

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The EU sets out the planned actions for the implementation of its human rights commitments in a five-year Action Plan on Human Rights,<sup>34</sup> which lays out specific tasks for various EU institutions and bodies to undertake. In line with the EU's commitment to integrating the promotion of human rights into other external policy areas such as development cooperation, trade and investment, it assigns tasks, not only to the EEAS and EU delegations, but also to relevant European Commission Directorates-General, such as DG NEAR, DG TRADE or DG DEVCO, as well as to the Member States. The progress of meeting the objectives set out in the Action Plan is evaluated annually in a public report on human rights and democracy around the world.<sup>35</sup>

**EU commitments towards third countries in the area of women's rights and gender equality are also contained in the [Strategic Engagement for Gender Equality 2016-2019](#), which commits the European Commission to integrating a gender-mainstreaming perspective into all relevant programmes funded through the European Neighbourhood Instrument (ENI). The Joint Staff Working Document on [Gender Equality and Women's Empowerment: Transforming the Lives of Girls and Women through EU External Relations 2016-2020](#) further commits the EU to developing common EU positions highlighting gender and human rights dimensions at the international, political, and bilateral level; reinforcing coordination between EU and local actors, especially at the political dialogue level; ensuring that consultation with CSOs' working on girls' and women's rights inform country level programmes, regardless of the sector. The [EU Action Plan on Human Rights 2015-2019](#) pledges that the EEAS, European Commission and EU Member States will support women's organisations and human rights defenders in their call for and defence of women's rights, and encourage them to play a stronger role in holding decision-makers to account on gender equality issues.**

## EU Human Rights Guidelines

The EU has at its disposal a number of guidelines that aim to provide a practical toolkit for actions to be taken by EU delegations and Member State embassies on key human rights issues. While the guidelines are not legally binding, they have been agreed to at the ministerial level, representing a strong political commitment for action on human rights for the EU and its Member States.

### The guidelines cover the following EU priority areas:

- » [Human rights dialogue with third countries](#)
- » [Human rights defenders](#)
- » [Violence against women and girls and combating all forms of discrimination against them](#)
- » [The death penalty](#)
- » [Torture and other cruel, inhuman or degrading treatment or punishment](#)
- » [Children and armed conflict](#)
- » [International humanitarian law](#)
- » [Rights of the child](#)
- » [Freedom of religion or belief](#)
- » [Enjoyment of all human rights by LGBTI persons](#)
- » [Freedom of expression online and offline](#)

### The EU Human Rights Guidelines - in particular those on human rights defenders - require EU delegations, the EEAS and EU Member State embassies in third countries to take the following actions to promote the EU's human rights objectives:

- » Monitor, analyse and report on the given priority area to higher structures (such as the Council working groups – COHOM or MAMA, PSC Ambassadors, Member State foreign ministries);
- » Research or investigate individual cases, including by making enquiries with the third country government on an ad hoc basis;
- » Provide recommendations for action to higher structures, for example public condemnation of particular violations;
- » Observe trials to ensure compliance with fair trial standards;
- » Carry out demarches to demand particular action on behalf of the government of the third country;
- » Make public statements to condemn violations at the local level;<sup>36</sup>
- » Raise human rights issues and individual cases in meetings with third country authorities at all levels;
- » Define priorities and mechanisms for funding in line with human rights strategies;
- » Facilitate the provision of European Instrument for Democracy and Human Rights (EIDHR) funding (see box below);
- » Provide small grants to human rights NGOs;
- » Conduct urgent local actions to support human rights defenders who are at immediate or serious risk;
- » Draft local human rights strategies;
- » Maintain contact with human rights defenders, by meeting them at the delegation or embassy, visiting them at their place of work, providing them with publicity (with their consent);
- » Visit human rights defenders in detention;
- » Issue emergency visas and facilitate temporary shelter for human rights defenders at immediate/serious risk;
- » Consult civil society to gather information on the human rights situation in the country, EU action priorities regarding individual cases and ahead of drafting local strategies and reports to higher structures.

**The EU provides funding for human rights in its foreign policy through the European Instrument for Democracy and Human Rights (EIDHR). The EIDHR provides funding directly to civil society, without government approval or intervention and has a budget of €1.3 billion for the period 2014-2020. Funded projects must aim to help civil society promote human rights and democratic reform; consolidate political participation and representation; support actions in areas covered by EU guidelines; support the international and regional framework for the protection of human rights, justice, the rule of law and the promotion of democracy; or improve the reliability and transparency of democratic electoral processes. Grants are allocated through global calls for proposals announced on the DG DEVCO website or through EU delegation-administered Country-Based Support Schemes (CBSS) individual to each country. Each delegation further disposes of an emergency fund for human rights defenders at risk, managed under the EIDHR, providing small grants of up to €10 000 directly to individuals or organisations who are in need of urgent support.**

## EU Human Rights and Democracy Country Strategies

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The human rights and democracy country strategies are papers developed by EU delegations based on an analysis of the human rights situation in the country, with the purpose of identifying priorities for EU action. The drafting phase is led by EU delegations in collaboration with the EEAS, with EU Member States contributing through their local embassies. Local civil society must also be consulted. The final documents are adopted by all of the EU Member States in a joint COHOM and MAMA meeting in Brussels. The strategies are drawn up for a five-year period (rather than a three-year period as was previously the case). A confidential implementation report is drafted annually to monitor progress.

Each country strategy contains priority issues considered to be of prime importance to the human rights situation in the country in question. The priorities are to be taken into account in human rights and political dialogues at all levels, in policy-making as well as programming and implementing financial assistance. While the human rights and democracy country strategies themselves are in principle confidential depending on the situation in the country, EU delegations can share the priorities on their website, or at least verbally with civil society during the consultation or implementation process.

## EU Country Roadmaps for Engagement with Civil Society

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The [Country Roadmaps for Engagement with Civil Society](#) were introduced in early 2014 to improve the consistency of EU cooperation with civil society and to promote better coordination between EU delegations, Member States and other relevant actors. They assess the state of civil society in a given country (i.e. enabling environment, roles and capacity) as well as the EU's current engagement with it (i.e. dialogue, mainstreaming, and coordination). The Roadmaps then define EU priorities and actions for engagement with civil society and provide a framework for tracking progress.

The Roadmaps are drafted jointly by EU delegations and Member State embassies, with input from local civil society. The first generation of the Roadmaps covers the period 2014-2017 and the second is planned for 2018-2020. The Roadmaps are updated annually, but also when major changes take place in this context.

## 2. EU commitments to human rights in its policy towards the Southern Mediterranean

### The Euro-Mediterranean Partnership and Union for the Mediterranean

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In November 1995, adopting the [Barcelona Declaration](#), the then 15 EU Member States and 12 Southern and Eastern Mediterranean countries launched the Euro-Mediterranean Partnership (EMP), also known as the [Barcelona Process](#). The Barcelona Declaration included commitments to act in accordance with the Universal Declaration of Human Rights and to respecting human rights and fundamental freedoms. One of the stated objectives of the process was to achieve a common area of peace and stability underpinned by sustainable development, rule of law, democracy and human rights.

In 2008, the Euro-Mediterranean Partnership evolved into the Union for the Mediterranean (UfM), a multilateral partnership between the EU and Southern and Eastern Mediterranean countries.<sup>37</sup> As of 2010, the UfM has a [secretariat](#), established in Barcelona, and a shared EU-Mediterranean presidency.<sup>38</sup> However, this multilateral partnership has become stagnant due to the conflicts in the region, such as that between Israel and Palestine. The secretariat deals mainly with promoting regional economic and infrastructure projects. The [Parliamentary Assembly](#) of the Union for the Mediterranean, which includes members from the parliaments of EU Member States, the Mediterranean partners and the European Parliament, continues to meet regularly and aims to provide input to the UfM.

**The Euro-Mediterranean Partnership/ UfM has also held three ministerial conferences on strengthening the role of women in society. The first conference was held in Istanbul in November 2006, where foreign ministers of all the participating countries made commitments to working towards ensuring gender equality. At the second ministerial held in Marrakesh in November 2009, the members of the UfM reiterated their commitment to 'promote de jure and de facto equality between women and men' in what is known as the Marrakesh Conclusions. A third ministerial conference took place in Paris in September 2013, with conclusions acknowledging the role women have played in the ongoing changes in the region, and ministers aiming to effectively contribute to increased women's participation in the political, economic, civil and social development of the region. A fourth ministerial conference is planned to take place in the first half of 2017.**

## The European Neighbourhood Policy

The European Neighbourhood Policy (ENP), launched in 2004, is a bilateral mechanism regulating the EU's relationship with two regionally-defined areas: South and East. Inspired by the EU's enlargement policy, thus far a tool for extending European norms, regulations and values outside of the EU borders, the ENP has become the main foreign policy instrument guiding EU external action towards its neighbouring countries. The EU's Southern neighbourhood is made up of ten countries: Morocco, Algeria, Tunisia, Libya, Egypt, Israel, Palestine, Syria, Jordan and Lebanon. The ENP-South is built on Association Agreements signed with most South Mediterranean countries after the start of the Euro-Mediterranean Partnership (see below).

The ENP was launched with the declared aim to strengthen political cooperation and to develop economic integration between the EU and its neighbours, aiming to 'establish an area of prosperity and good neighbourliness, founded on the values of the EU and characterized by close and peaceful relations based on cooperation.'<sup>39</sup>

To further the promotion of its stated objectives, non-binding Action Plans for economic and political transition reforms, with references to the principles of democracy, human rights, rule of law and good governance, were agreed with most partner countries on top of the legally binding Association Agreements (with the exception of Algeria, Libya and Syria). In 2011, the EU reviewed the ENP<sup>40</sup> in order to respond to the uprisings in the MENA countries, with a view to strengthening its democratisation and human rights component. The concept of 'more for more' was introduced, aiming to increase financial support for countries that made the most progress on human rights and democracy issues.

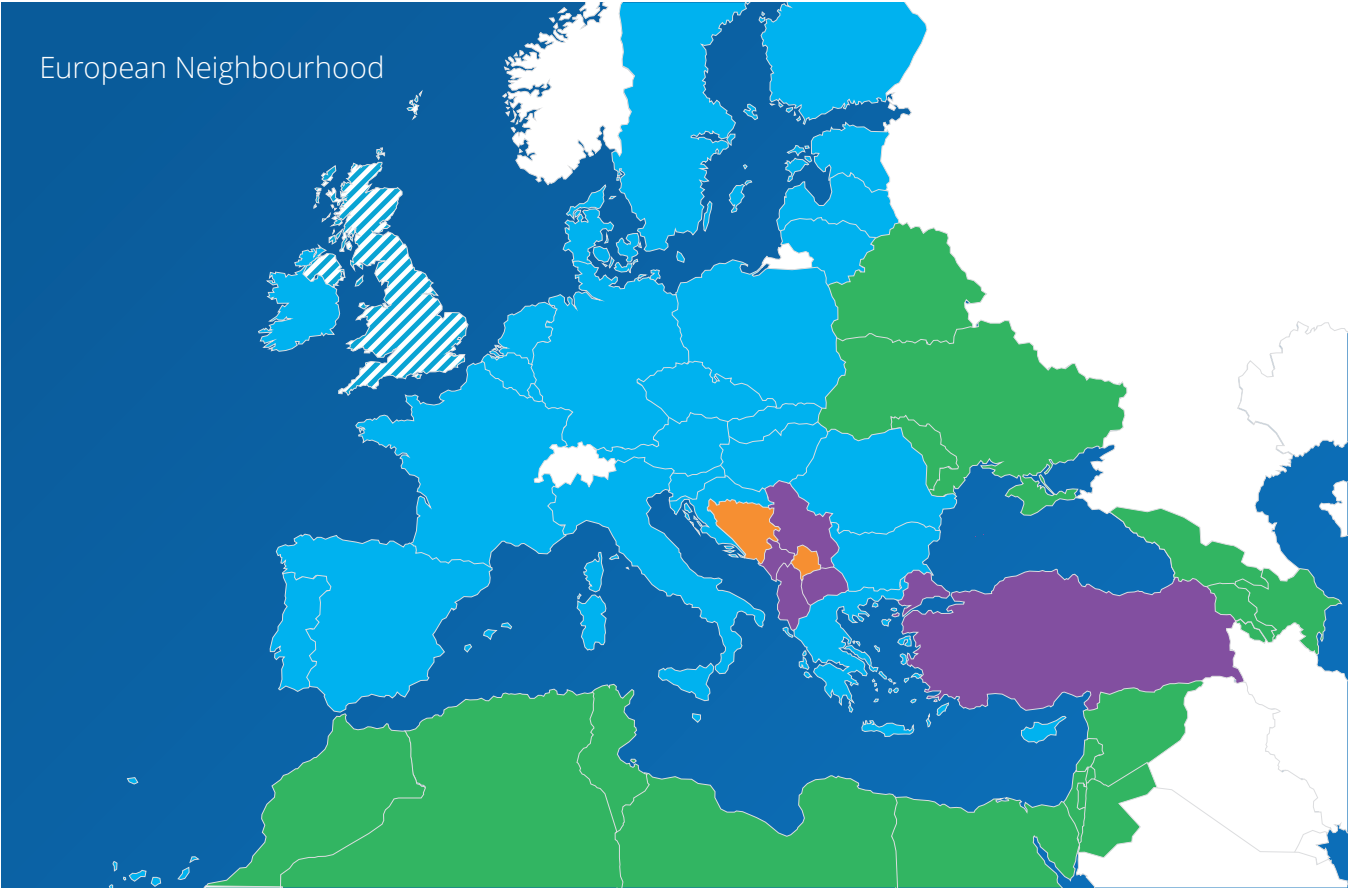
Under the 2011 ENP, objectives on human rights and democracy were written into country Action Plans, and their implementation monitored by joint bilateral structures set up under the Association Agreements, such as sub-committees on human rights or political dialogue. The implementation of the Action Plans

was assessed by the EU in the form of annual progress reports, a process that also included consultation with civil society.

However, the ENP review published in November 2015 stresses stabilisation and security, economic development and migration management, of which human rights is a smaller component than in the 2011 policy. While the EU has committed to engaging in a dialogue on public administration reform, gender equality, security sector reform, protection of human rights and pluralism with all partners as an agenda item in political dialogues, these will be held in 'mutually agreed formats' with national governments rather than through the structured approach introduced in 2011.

**The 2015 review of the ENP focuses squarely on migration and mobility. However, the stress is noticeably greater on 'addressing root causes of irregular migration' and 'cooperation on returns and readmission' than on the respect of migrants' rights included into the 2011 ENP. The importance of the Mobility Partnerships signed with Southern neighbours (Morocco in 2013, Tunisia and Jordan in 2014) as a framework for managing the movement of persons between the EU and individual ENP countries is underlined. On a regional scale, EU policy continues to be determined by the 2011 communication entitled 'A dialogue on migration, mobility and security with the Southern Mediterranean countries', which focuses very much on the main concerns of managing migration and refugee flows as well as tackling the root causes of migration.**

European Neighbourhood





The 2015 ENP also replaces the Action Plans with mutually agreed **Partnership Priorities**, which will identify 'shared interests' and serve as a basis for funding allocation. As of June 2016, the EU has begun negotiations on new Partnership Priorities with Algeria, Egypt, Jordan and Lebanon. The implementation of these will no longer be assessed through public progress reports published annually on a set date. Instead, the EU will develop "a new style of assessment, focusing specifically on meeting goals agreed with partners," timed around high-level meetings with partner countries, such as Association or Cooperation Councils.<sup>41</sup> Along with country-specific reports, regional reports will track developments in the neighbourhood, "including information on fundamental freedoms, the rule of law, gender equality and human rights issues."

**The funding of the ENP is provided through the European Neighbourhood Instrument (ENI), aimed at financing the implementation of projects and providing assistance. This funding is mainly provided to governments to support reforms in the ENP countries. For this purpose, the European Commission allocated a budget of over €15 billion for the period 2014-2020. A Civil Society Facility, under the ENI, was created in 2011 to support civil society organisations to develop their advocacy capacity, their ability to monitor reform and their role in implementing and evaluating EU programmes.**

**In 2012, the European Endowment for Democracy (EED) was launched as an independent foundation to provide support to actors such as political parties, non-registered NGOs or trade unions and other social partners in the EU neighbourhood. The current EED budget is around €14 million per year.**

Euro-Mediterranean Partnership (EMP) Union for the Mediterranean (UFM)	European Neighbourhood Policy (ENP)
A multilateral partnership	A bilateral EU foreign policy
EU and 16 Mediterranean countries	10 Mediterranean and 6 eastern (non-Mediterranean) Neighbouring countries
Launched in 1995: Barcelona Declaration	Launched 2003
Multilateral Ministerial Conferences (gathering all the partners)	ENP bilateral ministerial Meetings (EU/one Mediterranean country)
Bilateral legally-binding Association Agreements and institutions	Bilateral non-binding Partnership Priorities (previously Action Plans)

### 3. EU commitments to human rights in bilateral relations with Southern neighbourhood countries

The EU has signed bilateral Association Agreements with a number of the Southern Mediterranean countries. These agreements are legally binding to both sides. The Association Agreements are mainly economic in nature, aiming to liberalise trade and investment. However, they also commit the EU and its partners to respecting democratic principles and fundamental human rights and establishing an enhanced political dialogue, including on human rights issues.

The agreements further contain a clause allowing for the suspension of signatory countries or the introduction of sanctions in the case of a violation of democratic principles or human rights on the part of the neighbouring country. Despite occasional calls from the European Parliament or civil society, this clause has not been invoked with regard to any of the Southern Mediterranean partners to date.

In order to strengthen the relationship with those of the partners who have expressed a desire to do so, the EU has further started upgrading and reinforcing some of its bilateral relations with its Mediterranean neighbours by granting ENP partner countries advanced status. This entails closer political relations, integration into the EU's single market (increased trade relations, participation in EU programmes and agencies), and increased EU financial support, in principle in return for accelerated political reforms. Currently, only three countries have reached such an agreement with the EU: Morocco, Jordan and Tunisia. The first two have been granted an 'advanced status' by the EU, while the latter established a 'privileged partnership'. The difference between these agreements is essentially their name. Indeed, Tunisia discussed this agreement after the Arab uprisings, which had led the EU to insist that bilateral relations are in fact partnerships.

#### Joint structures between the EU and its partners implementing the Association Agreements

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**Association Council:** Ministerial-level meeting that usually takes place once a year. The EU is represented by the HR/VP or the ENP Commissioner, and the Southern partner by the Minister of Foreign Affairs. The meeting discusses the priorities of the relationship as set out in the Association Agreement and any other bilateral or international issues of mutual interest. Ahead of the Association Council, the EU prepares a declaration mentioning the points it intends to raise.<sup>42</sup> The ministerial meeting is generally followed by a press conference in which the EU issues a public statement<sup>43</sup>, which should include references to human rights issues. Human rights issues can be raised formally and informally by the EU during the meeting.

**Association Committee:** An annual meeting of high-level public servants/senior officials. Prepares the Association Council and discusses mainly technical cooperation.

**Sub-committees:** Technical sub-committees covering various areas of co-operation. These meetings happen once a year at the civil servant level of the EEAS and the relevant ministries of the partner country depending on the focus of the sub-committee. Discussion of human rights issues takes place in specific human rights sub-committee meetings; where there is no such sub-committee, human rights are touched on by the sub-committee on political dialogue. In the case of Israel, there is an informal working group. Other relevant sub-committees cover migration, social affairs and justice and security issues. Human rights should be mainstreamed into the work of other sub-committees.

Sub-committee meetings are organised by the EEAS in co-operation with the partner government. The EEAS organises consultation meetings with NGOs in Brussels and on the ground (through the EU delegation) before sub-committee meetings, in order to receive input on the human rights situation and individual cases, as well as to get recommendations for the agenda. After the sub-committee meetings, the EEAS is expected to systematically debrief NGOs, although this sometimes is only done upon request.

While the sub-committees represent an opportunity for a discussion of human rights issues between the EU and its partners, they tend to be limited in their effectiveness. In most cases, the EU and their Southern partners have agreed that individual cases will either not be raised or will only be raised as illustrations of wider trends. As the agenda and minutes of the meetings are not made public, it is difficult for civil society to know the results of the meetings and the commitments made so as to ensure their proper monitoring and implementation.

## Joint Association Agreement structures

