



IMPLEMENTATION OF 2015 EUROPEAN NEIGHBOURHOOD POLICY REVIEW

Three years on, human rights at risk of marginalisation

On 18 November 2015, the revised European Neighbourhood Policy (ENP) was published. EuroMed Rights expressed its concern on that occasion that the Joint Communication on the [review of the European Neighbourhood Policy](#) looked like a step back on previous policies, such as the 2011 review, while the ENP should meet the challenge of putting respect for human rights, international humanitarian law, and the promotion of democratic reforms at its heart.

The purpose of this paper is to assess the implementation of the ENP from a human rights perspective three years later: has the ENP fostered human rights promotion and protection? Is there a common approach by the EU in this regard throughout the South Mediterranean region? What are the main conclusions that can be drawn from three years of implementation? This paper tries to answer those questions on the basis of intelligence gathered and available information – some of which can be seen in the annex entitled “*An overview of EU relations with Southern Mediterranean countries under the ENP.*”

2015, a turning point?

Since its inception in 2004, the ENP has been largely inspired by EU’s enlargement policy with a view to extending European norms, regulations and values beyond its borders including values such as democracy, rule of law and respect for human rights. The ENP is built on Association Agreements signed with most South Mediterranean countries after the 1995 Barcelona Declaration and the launch of the Euro-Mediterranean Partnership. The Southern Neighbourhood is made up of ten countries: Morocco, Algeria, Tunisia, Libya, Egypt, Israel, Palestine, Syria, Jordan and Lebanon. However, without the prospects of EU accession and small financial means compared to accession instruments, the ENP has become a policy instrument that begs the question whether it provides real incentives for implementing “common shared interests” or it is more there to promote the only interest of the EU in securing a stable neighbourhood.

In 2011 the EU reviewed the ENP to respond to the Arab uprisings, addressing its shortcomings in terms of human rights and democracy promotion; the EU developed its ‘more for more’ incentive policy based on the so-called ‘deep democracy’ principle. The idea was to fine-tune the ENP to make it a more adequate instrument to respond to peoples’ democratic aspirations, increasing support for countries that made the most progress in that direction. As the “Arab Spring” turned short of expectations, the 2015 ENP put again the emphasis on stability/security, economic development and migration management, downscaling the human rights-based approach instilled in 2011. Government ownership, differentiation and flexibility have been central since the 2015 ENP was adopted, with an overarching objective of promoting ‘stabilisation’, a broad concept defined by the EU based on various criteria, such as socio-political changes, economic development, resilience capacity, and conflict prevention.

Partnership Priorities: where are human rights?

In EU's post-2015 relations with **Algeria, Egypt, Jordan, Lebanon, and Tunisia** with whom Partnership Priorities (PPs) have been agreed¹, there is ample room for improvement to align these with EU's own commitments to promote and protect human rights in external actions:

1. The EU should ensure a human rights-based approach under each priority, and with all partner countries without exception. However, there is a **lack of reference to the Association Agreements and their human rights clause**. As the Council decisions publicising the PPs state that the general framework for cooperation is set by the Association Agreements (AA), the EU should have ensured that the content of the PPs refer to Article 2 of these AA, and thus that human rights constitute an essential part of the PPs as well. Even though, in most PPs, a priority heading clearly refers to human rights, this does not systematically materialise in identifiable steps towards that priority and can lead to confining the discussions relating to human rights to low-level subcommittee meetings held in the context of the AA.
2. None of the PPs refer to the [EU Action Plan on Human Rights and Democracy](#). The 2015 ENP Communication reads: "The EU will continue to work with partner governments, civil society and citizens on human rights and democracy related issues, including electoral processes, as laid down in the Treaty on European Union and the EU's Action Plan on Human Rights and Democracy." Restating this commitment in specific PPs would have sent a positive sign towards human rights promotion in bilateral relations.
3. The EU should recall, in each bilateral framework, its engagement to include civil society organisations (CSOs) in a transparent and well-informed manner. However, the reviewed ENP is vague on the level of involvement of civil society in the context of the PPs. Indeed, no references are either made to the [EU Guidelines on Human Rights Dialogues with third countries](#) or the [2012 European Commission Communication on engagement with civil society](#). The EU does not therefore take a clear stand to hold proper civil society consultations ahead and after dialogues.

Hence, **consultation with civil society** has been uneven and difficult to trace since the consultations on the PPs were, in some instances, simply added as an item on the agenda of more general consultation meetings. In the case of Tunisia, civil society would not have been formally consulted on the content of the PPs if CSOs had not demanded a meeting in Tunis in April 2018. CSOs are usually consulted ahead of the bilateral meetings in Brussels, however it is not always the case as far as consultations on the ground are concerned. The aim of the meeting or the agenda items are not always clear in the invitations CSOs receive.

4. In all **Partnership Priorities**, EU policies defined by the revised ENP under the heading "proposed joint priorities for cooperation" are clearly put forward: economic development for stabilisation; a security dimension; migration/mobility issues; and some considerations relating to good governance, democracy, rule of law and human rights. However, the **prominence of human rights priorities** differs significantly from one set of PPs to another:
 - **Algeria:** human dimension is mixed with migration and mobility, while promotion of fundamental rights seems to focus mostly on the implementation of the 2016 Constitution provisions. 'Human rights' is only referred to in the following sentence: "readmit, with due regard for their human rights, those whose residential status is irregular under the procedures in force";

¹ The discussions on future PPs with Israel, Palestine and Morocco are expected to take off in early 2019. Information on EU's relations with Libya and Syria can be found in the Annex. Note that the PPs focus only on a few priorities, it is a much lighter document compared to the ENP Action Plan they replace. For Tunisia, they are called 'Strategic Priorities'.

- **Egypt:** human rights are hardly identifiable since the PPs prioritise a stable economy, partnership in foreign policy, and stability. The reference to civil, political, social and cultural rights as “the cornerstone of a democratic modern state” appears as a symbolic statement;
 - **Jordan:** rule of law and human rights is one of the priorities, with a regular dialogue foreseen to discuss freedom of expression and freedom of association;
 - **Lebanon:** the governance and rule of law priority deals mainly with institutional building, the independence of the judiciary, and promotion of human rights;
 - **Tunisia:** unsurprisingly, it is in the PPs with Tunisia that democracy, good governance and human rights are the most detailed, with references to e.g. state-independent bodies, support to decentralisation, reinforcement of civil society, respect for human rights in the field of security. Yet, the human rights dimension is not mainstreamed, it is only mentioned – outside the dedicated heading - under the fight against terrorism.
5. Also, **gender equality commitments**², considering the PPs through the provisions of the [EU Gender Action Plan](#) (GAP), are unevenly dealt with and the implementation of the three main GAP areas of work³ in EU external actions are not consistently guaranteed:
- **Algeria:** the PPs only refer to “enhancing the role of women in society” with no other reference to women, gender or even equality in the rest of the document;
 - **Egypt:** fighting discrimination against women and promoting gender equality is presented as a key objective “in line with the Egyptian's government's priorities,” which is contradicted by the EU’s critical implementation report (see Annex);
 - **Jordan:** gender equality, women’s rights and women’s empowerment in political and public life are referred to as a cross-cutting issue, under employment and democratic governance, as well as the annexed Compact dealing with women refugees from Syria;
 - **Lebanon:** gender equality, including through improved participation of women in political and decision-making fora, is mentioned as a cross-cutting issue, under sustainable growth, and in the attached Compact, however with less occurrences compared to the Jordan PPs;
 - **Tunisia:** protection and promotion of women, fighting violence against women, and gender equality are only mentioned under the democracy, good governance and human rights.

What financial support to civil society?

The EU has openly promoted the concept of ‘co-ownership’ by partner countries, i.e. to be understood as governmental agreement with the PPs. The related Single Support Frameworks (SSF), i.e. the financial envelopes accompanying the PP implementation, reveal the EU’s obvious intention, in most cases, to preserve and prioritise good diplomatic relations over human rights considerations:

- **Algeria:** human rights per se are not included as a priority, only a reference to the European Instrument for Democracy and Human Rights can be found. Support to civil society is presented as a mainstreamed approach, although the funds in that field are mainly allocated through government-controlled agencies;
- **Egypt:** the EU engages in a critical analysis about the lack of implementation of the 2014 Constitution provisions on human rights related matters. Support to capacity development, institution building and measures in favour of civil society amounts to 10% of the total allocation, although the document refers

² Among all rights holders, including women, the youth is clearly prioritised in all the PPs as a cross-cutting target group as well as under various priorities, e.g. job opportunities, economic empowerment. Prevention of youth radicalisation can be found in the Jordan PPs, while a strategy for youth is praised in the Tunisia PPs although it is just a public statement with no detailed objectives.

³ Ensuring girls' and women's physical and psychological integrity, Promoting the social and economic rights / empowerment of girls and women, Strengthening girls' and women's voice and participation. The fourth being “Shifting the Institutional Culture to more effectively deliver on EU commitments”

to “more specifically targeted support to civil society (local authorities, democracy and human rights) to be provided under other EU financial instruments”;

- **Jordan:** strengthening the rule of law by upholding democratic principles, in particular the principles of separation of powers, right to a fair trial and access to justice, including for migrants and refugees, is a key priority of EU financial support, amounting to 20% of the total budget;
- **Lebanon:** references to human rights and gender equality are found under the heading “Promoting the rule of law, enhancing security and countering terrorism,” making this section unclear as to its purpose;
- **Tunisia:** the indicative allocation is the highest in the region, with a focus on promoting good governance and the rule of law, with reference to thematic tripartite meetings between civil society, the EU and the Tunisian government, and measures in favour of civil society, including financial support for a new bilateral programme based on lessons learnt from the past Civil Society Support Programme (PASC).

The EU definition of civil society is broad, making the type of organisations it supports unclear. The case of the SSF for Algeria is emblematic in that regard: a funding envelope is earmarked to support civil society organisations, but it is difficult to measure to what extent genuinely independent organisations are supported. On the contrary, the fact that the EU refers to government-controlled agencies through which dialogue with civil society is to be organised raises concern about EU’s willingness to addressing core human rights and democracy issues at all. While calling on the EU to improve inclusion of, and support to civil society organisations, EuroMed Rights underlines that vague commitments are not sufficient to guarantee coherent implementation. In any case, it is crucial that the EU, in presenting outputs and outcomes of SSF implementation with the five countries, is transparent about where the money lands.

What implementation assessment?

Since the publication of the ENP Communication on 18 November 2015, only [one ‘regional’ report](#) on the ENP implementation has been released, on 18 May 2017. The 2015 Communication reads: “In addition to the country-specific reporting, regular reports will track developments in the neighbourhood. These reports will contain the elements required under the Regulation on the European Neighbourhood Instrument, including information on fundamental freedoms, the rule of law, gender equality and human rights issues.” The lack of ‘regularity’ of these regional reports may lead to potentially watering down EU reporting on human rights. Fortunately, the **country-specific reports** on the state of relations with the five countries seem to include some human rights language and facts, as it is obviously the case for **Egypt, Jordan of Lebanon**. These reports are written by the EU only, contrary to the Partnership Priorities. However, since they are timed to provide the basis for political exchanges and not published as an annual package as it was the case before, they have lost visibility which is exemplified by the fact that it is difficult to find them online, meaning that only well-informed experts are likely to have access to them.

Finally, it is hard to see how the implementation reports assess whether the objective of ‘stabilisation’ has been met. The reports are descriptive about the national contexts, EU programmes, joint meetings but do provide neither outcome analysis nor human rights impact assessments. Moreover, the Member States’ policies - although they play a central role in the region - are totally absent from the reports despite the fact that the 2015 ENP Review foresaw their “deeper involvement” in “re-energising work with our neighbours.”

Conclusions and recommendations

EuroMed Rights’ assessment suggests that the **ENP-South focus on ‘mutual ownership’ and greater differentiation** between partner countries had as an effect to marginalise human rights in the Partnership Priorities and the Single Support Frameworks. Some PP/SSF provisions even bear the risk of doing harm to human rights, for instance when it comes to programmes relating to migration management and

security/fighting terrorism. The 2011-born incentive approach of increasing financial support to partners engaging reforms in the fields of good governance, democracy, the rule of law and human rights ('more for more') is to be commended.

When its leverage is limited, the EU should explore more effective ways to promote fundamental human rights values, e.g. by implementing fully-fledged, visible engagement with independent civil society, and by sending signals that respect for human rights will be rewarded politically and financially, while lack of respect will increase the 'price' to pay for continuing the existing partnership. The case of Egypt is a benchmark of this; the EU has renewed its commitments towards the Egyptian government while the latter has conducted an unprecedented crackdown on civil society and human rights defenders. Will the EU change course to avoid the ENP from failing in the field of human rights and governance?

EuroMed Rights' recommendations on ENP implementation

1. Develop the incentive-based approach further to support Southern Mediterranean countries that are willing to do reforms by defining, at policy, programme and project levels in bilateral relations, concrete goals and benchmarks for increased support;
2. Make independent civil society organisations, including unregistered human rights groups, key consultative partners regarding the implementation of the ENP, which means a genuine participation process all along the implementation of the Partnership Priorities and the Single Support Frameworks;
3. In this regard, as it is already the case in some countries, systematically consult local civil society, including human rights organisations, ahead of every thematic subcommittee, and debrief them afterwards in accordance with the EU Guidelines on Human Rights Dialogues with third countries; also consult ahead of negotiating rounds of agreements between the EU and its partners by giving civil society access to relevant documents, e.g. texts under negotiation, within a reasonable time;
4. Implement the Single Support Frameworks to ensure that human rights remain a central element of EU funding priorities towards the partner countries, and that support to independent civil society organisations and human rights defenders is clearly earmarked and secured in the ENP;
5. Strengthen the gender equality and women's rights approach in the ENP implementation, in line with the provisions of the EU Gender Action Plan;
6. Systematically and publicly include the human rights dimension in all exchanges; recall that bilateral relations are based on shared values for human rights as enshrined in the Association Agreements, the respect of which are fundamental to the deepening of relations. This means, inter alia, that human rights dialogues should be held regularly, and that a dedicated item in this regard should be systematically added to the political dialogue agenda;
7. Maintain that country-specific reports remain EU-drafted documents, and ensure that human rights are consistently addressed under each topic, in accordance with the EU commitment to a human rights-based approach;
8. Involve the Member States in a human rights-based approach in the ENP implementation beyond their mere participation in the European Neighbourhood Instrument Committee, in accordance with the 2015 ENP Communication, which foresaw their greater involvement.

See also our 15-page Annex "An overview of EU relations with Southern Mediterranean countries under the ENP", with tables providing detailed information on the Partnership Priorities, Single Support Frameworks, and country-specific and regional reports.