






Procedure file

Basic information		
INI - Own-initiative procedure	2005/2057(INI)	Procedure completed
The Human Rights and Democracy Clause in European Union agreements		
Subject 6.10.08 Fundamental freedoms, human rights, democracy in general		

Key players			
European Parliament	Committee responsible		Rapporteur
	 Foreign Affairs		Appointed
	Committee for opinion		Rapporteur for opinion
	 Development		Appointed
			24/05/2005
			PPE-DE FERNÁNDEZ MARTÍN Fernando
	 International Trade		30/08/2005
			PSE FORD Glyn

Key events			
12/05/2005	Committee referral announced in Parliament		
23/11/2005	Vote in committee		Summary
23/01/2006	Committee report tabled for plenary	A6-0004/2006	
14/02/2006	Results of vote in Parliament		
14/02/2006	Debate in Parliament		
14/02/2006	Decision by Parliament	T6-0056/2006	Summary
14/02/2006	End of procedure in Parliament		

Technical information	
Procedure reference	2005/2057(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Initiative
Legal basis	Rules of Procedure EP 54
Stage reached in procedure	Procedure completed

Documentation gateway

Committee opinion	INTA	PE362.600	23/09/2005	EP	
Committee opinion	DEVE	PE360.052	27/09/2005	EP	
Amendments tabled in committee		PE364.802	03/11/2005	EP	
Committee report tabled for plenary, single reading		A6-0004/2006	23/01/2006	EP	
Text adopted by Parliament, single reading		T6-0056/2006	14/02/2006	EP	Summary
Commission response to text adopted in plenary		SP(2006)1012	09/03/2006	EC	
Commission response to text adopted in plenary		SP(2006)1347/4	04/07/2006	EC	

The Human Rights and Democracy Clause in European Union agreements

The committee adopted the own-initiative report by Vittorio AGNOLETTI (GUE/NGL, IT) on the human rights and democracy clause in EU agreements. It pointed out that the clause had now been introduced into more than 50 of the EU's international agreements. Ten years after it was first drafted, it was now time to evaluate how it had been implemented and how it could be improved.

The report noted that many sectoral agreements, such as those on textiles, agriculture and fisheries, as well as agreements with developed countries, still lacked the clause. The committee warned that Parliament was "no longer prepared to give its assent to new international agreements that do not contain a human rights and democracy clause". It pointed out that, on many occasions, the EU had not been able to respond adequately to serious and persistent violations of human rights and democratic principles. The committee concluded that the EU must draw up new procedures and new criteria for applying the human rights and democracy clause, which must apply without discrimination between States or between their levels of development.

The report also called for the establishment of human rights subcommittees under EU-third country agreements, to be responsible for reviewing compliance with the clause, monitoring its application and implementation, and proposing actions to address democracy and human rights problems.

MEPs claimed that one of the factors which had compromised the application of the clause was its vague language, which did not spell out detailed procedures for 'positive' and 'negative' interventions under EU/third country cooperation - unlike the democracy clauses in the Cotonou Agreements with the ACP States which had been very effective. In order to ensure a more coherent, effective and transparent approach to European human rights policy, a revision of the current wording was indispensable. The revised text should take into account the following principles: reciprocity, with regard both to the territory of the EU and that of the other countries involved; gender equality and women's rights; no discrimination on the basis of sexual orientation or disability; temporary suspension of a cooperation agreement as well as a "warning mechanism" in response to a breach of the clause; and consultations between all parties.

Lastly, the committee wanted Parliament to be involved to a much greater extent in drawing up the negotiating mandate for EU/third country agreements, and insisted on the need for it to be a joint decision-maker with the Commission and the Council when it comes to initiating consultations, suspending an agreement or suspending any negative measures already imposed on a country.

The Human Rights and Democracy Clause in European Union agreements

The European Parliament adopted a resolution based on the own-initiative report drafted by Vittorio AGNOLETTI (GUE/NGL, IT) on the human rights and democracy clause in EU agreements. It welcomed the European Community's general practice of incorporating human rights and democracy clauses ? the so-called 'essential elements' and 'non-execution' clauses ? into its international agreements since 1992. The clause has now been introduced into more than 50 agreements and applies to more than 120 countries. However, many sectoral agreements, such as those on textiles, agriculture and fisheries, as well as agreements with developed countries, still lack the clause. Parliament stated that it was no longer prepared to give its assent to new international agreements that do not contain a human rights and democracy clause.

One of the factors that has compromised the application of the clause, MEPs said, was the generic nature of its wording: this does not spell out detailed procedures for 'positive' and 'negative' interventions under EU/third country cooperation, leaving the Council and Member States' national imperatives to hold sway over the more general requirements of human rights. Nonetheless, Parliament applauded the experiment conducted to date with the human rights and democracy clause in Articles 9 and 96 of the Cotonou Agreement, which has even led to the temporary suspension of economic and trade cooperation with some ACP States on the grounds of serious human rights violations, thus

enhancing the European Union's determination and credibility. Parliament advocated the development of this experiment and its inclusion as a standard feature in EU/third country agreements. It also advocated the drafting of a new "model clause" to correct the current wording. The text should take certain principles into account:

the promotion of democracy, human rights, including minority rights, the rule of law and good governance;

- the European Union must pay special attention to implementing policies for gender equality and women's rights, whilst satisfying itself that the third-country authorities uphold the fundamental rights not to be arbitrarily arrested, tortured or executed and that their citizens have access to an impartial court of law as a priority;

- opposition to any discrimination based on sexual orientation or concerning the rights of disabled people;

- observance of sectoral rights that cooperation should promote, in particular those of the ILO,

- a procedure for consultation between the parties, detailing the political and legal mechanisms to be used in the event of a request for bilateral cooperation to be suspended on the grounds of repeated and/or systematic human rights violations in breach of international law; suspension is obviously an extreme measure in EU/third country relations, and therefore a clear system of sanctions should be developed so as to offer an alternative course of action, but the accepted, essential positive approach on human rights should not exclude the possibility of a temporary suspension of cooperation having to be invoked on the grounds of a breach of the human rights and democracy clause;

- a mechanism to allow for the temporary suspension of a cooperation agreement as well as a "warning mechanism" in response to a breach of the human rights and democracy clause;

- the clause should be based on reciprocity and thus should constitute a legal basis which enables the parties to discuss and act together, with regard both to the territory of the European Union and that of the third country.

Parliament went on to make a series of recommendations on the need to ensure an effective mechanism for monitoring respect for human rights and democratic principles by the partners. In particular, it recommended an enhanced role for the heads of the Commission's external delegations in third countries. There should be "country-by-country multiannual strategy documents" to be drawn up under the responsibility of delegation heads, and for the Country Strategy Papers to pay greater attention to the human rights situation, identify the priorities and spell out the means and instruments deployed by the EU.

Furthermore, Parliament pointed out that the Association Councils generally govern EU/third country relations, and called for the general establishment of sub-committees on human rights under association agreements, with a mandate to: review compliance with the human rights and democracy clause, propose specific positive actions to improve democracy and human rights and monitor the direct and indirect impact of the implementation of the Agreement on the full enjoyment of fundamental rights in the States parties. The European Parliament should be associated with the Association Councils and with the subcommittees on human rights, and its interparliamentary delegations ought to have an enhanced role in this connection.

Finally, with particular regard to the countries covered by the European Neighbourhood Policy, the clause should specify that the signatories of such agreements should grant each other ? on a mutual basis ? the right to observe their legislative and presidential elections. Parliament called on the Council and the Commission to further encourage the countries concerned to admit international observers at the time of their elections, in the interests of transparency.