



Amnesty International's speech at the European Parliament LIBE Committee Public Hearing on "The Situation of Fundamental Rights in the European Union: how to strengthen fundamental rights, democracy and the rule of law in the EU", 5 November 2013

Call for a comprehensive EU human rights framework strategy and action plan

Thank you, Mr Chairman, for the opportunity to speak at today's hearing. My name is Nicolas Beger, and I am the director of Amnesty International in Brussels. My words today also represent the views of the Human Rights and Democracy Network (a network of 47 human rights NGOs).

I shall get straight to the point: we have one key expectation of the EU when it comes to fundamental rights. The EU must finally acknowledge the need for, and further articulate **a comprehensive EU human rights framework strategy and action plan, to guide its human rights work at home**. Without this plan, the EU's response to human rights challenges faced by member states will remain *inadequate, insufficient, and piecemeal*.

Today, when human rights organisations (or individuals or groups) challenge the EU institutions to act against human rights abuses in member states, all too often we receive a list of ongoing activities that are only remotely linked to our concerns, and sometimes fail to address them entirely. Further, all too often, we are told to address the Council of Europe, national governments or the courts instead.

But as human rights actors, we dare to challenge this! What we rightly expect from the European Union, a "Union of values", is that all its actors:

1. bear collective responsibility for responding to human rights challenges faced by member states; and
2. establish enforceable mechanisms at EU level to enhance the protection of human rights across the region.

Let me illustrate just a few examples (there are many more) to illustrate of the type of responses we have received from the European Commission and the Council in recent times:

1. New reports from the Fundamental Rights Agency and Amnesty International highlight a worrying trend of homophobic and transphobic hate crimes in the EU. We hear that the EU is reviewing the implementation of its provisions on racist crimes (another form of hate crime); and that the proposal for a horizontal directive covering discrimination on the grounds of sexual orientation (which doesn't cover hate crime) is stuck in the Council. This is not enough. We must hear what action the EU will initiate to combat homophobic and transphobic hate crime in member states.

2. A recent European Parliament resolution (endorsed in Louis Michel's report¹) reminded the other institutions about concrete recommendations made to them last year regarding investigations into alleged torture and enforced disappearances. This was in the context of member states' collaboration with the CIA rendition and secret detention programmes. We receive an inadequate response. We hear two things: that the EU now has a legal instrument for cooperation with the US on extradition; and that it cannot interfere with matters relating to the activities of intelligence services. This is not enough. We must hear what action the EU will initiate to address situations where member states act outside any rule of law framework. And we need to know why the intelligence services' activities can be discussed in Council in relation to violations of the right to privacy (for instance, in the NSA scandal), but not other human rights violations, such as torture.
3. NGOs have jointly written to the Commission asking about the state of play of the promised new initiatives on pre-trial detention, and making concrete calls on why and how they need to materialise. While acknowledging that civil society and member states have identified this as an important issue, the Commission's response falls short of proposing any action beyond fulfilling their monitoring obligations on the implementation of existing detention related instruments. This is not enough. We must hear what action the EU will take to address the specific concerns that have been raised.²
4. The Commission has argued that it is mobilising all of its tools to fight discrimination against Roma. This is not enough. The Commission is refraining from launching infringement proceedings (its most powerful enforcement tool) against member states that systematically violate the human rights of Roma. We must see the Commission initiate action.
5. And finally an example that shows the abysmal lack of putting a broader human rights framework at the centre of discussion: the European Council, 10 days ago, met to find an urgent response to the tragedy of people dying in the Mediterranean when trying to reach safety in Europe. They left with an empty promise to propose concrete solutions "later" in 2014, while reinforcing exactly the kind of EU policies that so often allow for these tragedies in the first place. Not only is this not enough, it is putting people's lives at risk. We must hear what our EU leaders will do to protect the lives and rights of migrants, asylum seekers and refugees coming to Europe.

The EU needs an overarching human rights strategy that takes the whole of article 2 of the Treaty of the European Union as its starting point - that is to say the founding 'values' of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights. Without this, the EU's response to human rights challenges will remain at best defensive and reactive, rather than protective and proactive.

The EU needs an overarching human rights strategy to enable it to:

1. "think human rights" outside the EU box; and

¹ [[Draft report on the situation of fundamental rights in the European Union \(2012\)](#), 2013/2078(INI)] «10. Reiterates its call for a full investigation into collaboration by European States in the 'extraordinary rendition' programme of the United States and the CIA, flights and secret prisons within the territory of the Union, and insists that Member States must perform effective, impartial, in-depth, independent and transparent investigations and that there is no place for impunity; reminds the Member States that the ban on torture is absolute and, therefore, that State secrecy cannot be invoked to limit the obligation on States to investigate serious human rights violations [...]».

² [[The Stockholm programme – An open and secure Europe serving and protecting citizens](#), 2010/C 115/01] «3.2.6. Detention : The European Council considers that efforts should be undertaken to strengthen mutual trust and render more efficient the principle of mutual recognition in the area of detention. Efforts to promote the exchange of best practices should be pursued and implementation of the European Prison Rules, approved by the Council of Europe, should be supported. Issues such as alternatives to imprisonment, pilot projects on detention and best practices in prison management could also be addressed. The Commission is invited to reflect on this issue further within the possibilities offered by the Lisbon Treaty».

2. join “the human rights dots” between EU policies (migration, anti-discrimination, criminal justice, etc.) and its existing tools (the Charter, infringement proceedings, implementation reports, article 7 TEU, etc.).

Otherwise it will remain difficult to:

- a) properly assess human rights violations within the EU; and
- b) identify where there is already room for action at the EU level, or where new initiatives may be needed.

A strategic plan for EU human rights action will not provide immediate solutions to end violations. But it will help the EU institutions to confront the reality of human rights violations in EU member states, devise effective actions to address abuses, and ensure accountability for what EU tools deliver.

In a joint statement to EU leaders, HRDN’s choice of terminology was deliberate: “An EU Strategic Framework on Democracy and Human Rights” and “the EU Human Rights Action Plan”. This ‘human rights package’ adopted by the Foreign Affairs Council in June 2012 should be a source of inspiration when planning and implementing a comprehensive EU human rights framework strategy and action plan internally. It is a powerful pledge by member states, the EEAS, the European Parliament, and the Commission to jointly advance the protection and promotion of human rights, with specific responsibilities attached to each, putting human rights at the heart of EU policy.

Amnesty International and HRDN are encouraged by the debate that started under the Irish Presidency on the need for a new EU mechanism to address the shortcomings of the EU’s response to human rights and rule of law violations in member states. But we caution an approach that seems to contemplate the establishment of a mechanism that will only address exceptional crisis situations involving rule of law in the narrow sense. This mechanism may well be a welcomed missing piece in the EU’s ‘architectural puzzle’, but it cannot operate in a vacuum, detached from the reality of human rights violations on the ground. Without being part of an overall strategic project, it will simply lead to the same old responses.

Let me end with a call to the honorable members of this house. You have in front of you a constructive and forward-looking draft report submitted by Louis Michel. We need you to endorse this report. But endorse it with one key amendment: an explicit call for a comprehensive EU human rights framework strategy and action plan.

Thank you.

Dr Nicolas J. Beger