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The future European Instrument for Democracy and Human Rights in the context of the new EU Multiannual Financial Framework 2014-2020

HRDN's position - October 2011

«The Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of 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.»

Article 21 Treaty of the European Union

The Human Rights and Democracy Network (HRDN) gathers human rights and democracy organisations concerned with the future of the EIDHR within the new EU Multiannual Financial Framework (MFF) and therefore would like to assert some important issues from the point of view of civil society organisations.

Benefits of a specific human rights and democracy instrument

Mainstreaming human rights and democracy throughout the EU's external actions funding is clearly essential. However, the EU's support for democracy and human rights must be reinforced by a specific and effective instrument in order to ensure:

- Specific actions prioritising human rights and democracy issues in line with the EU's commitments;
- adapted and flexible tools able to prevent and react to difficult situations where human rights are most at risk;
- independence from political and commercial negotiations with third countries that may result in conflicting policies.

Therefore, the future EIDHR should maintain and enhance its particularities linked to the specificities of human rights and democracy projects, which are a *condicio sine qua non* for its effectiveness. Among them, HRDN would like to highlight the following:

- ability to operate without the partner government's consent;
- remain accessible to organisations that are not legally registered or are not recognised by partner governments' authorities, while taking the necessary measures to guarantee that they are not exposed to repression by their government on the basis of the transfer of EU/EIDHR funds;
- flexibility with regards to types of support provided (acknowledging the importance of practical support, prevention, promotion and advocacy actions in their own right and that it is not always appropriate to insist that implementers provide direct

financial support) and the range of funding mechanisms available (framework agreement, re-granting, direct grants, small grants), in order to allow the instrument to be adaptable, reactive (to urgency and high risk situations) and effective both for short term and long term actions. Moreover the EC should adopt a more strategic, less ad-hoc approach, building in flexibility for extension of funding, or other follow up to successful projects;

- flexibility and simplification of application and reporting procedures.

Need to maintain the budget increase as per the EU MFF proposal

Existing EC figures indicate that in order to fund all the good quality projects received, a budget three times the current one would be needed. Reports from NGOs, international organisations - including UN human rights bodies -, EU institutions such as the European Parliament,¹ among many others, foresee great challenges ahead and a deterioration of the human rights situation in some parts of the world. HRDN therefore welcomes the current proposal, which increases the budget by 20%, but emphasises that this still falls short of recognised funding needs.

Increasingly, resources will have to be used in complementarity with other instruments that are human rights and democracy sensitive.

Objectives of the future instrument for human rights and democracy assistance

In the European Commission's proposal for the next EU multiannual financial framework (MFF), which consists of two Communications (COM (2011) 500 final Part I and II) and a Commission Staff Working Document (SEC(2011) 868 final) there are a number of references indicating the future shape of an instrument to support democracy and human rights. Part II of the Communication, under "Promotion of human rights worldwide" provides that: *"A reinforced European Instrument for Democracy and Human Rights (EIDHR) will focus on two activities. First, there will be strengthened support for the development of thriving civil societies and to their specific role as actors for change and in support of human rights and democracy. This will include a reinforced capacity for the EU to react promptly to human rights emergencies as well as stronger support to international and regional human rights observations and mechanisms. Second, support will be given to electoral observation missions and improvement in electoral processes."*²

With regards to the above-mentioned objectives HRDN would like to stress the following:

- HRDN fully agrees with the importance of strengthening civil society's capacities, but considers that it is fundamental that the future instrument remains as broad as possible with regard to its objectives and thematics addressed. It should not exclude important elements (such as support to peacebuilding and conflict prevention). It is crucial, for the sake of flexibility and effectiveness, that the instrument builds on an enabling regulation and that specific objectives are defined in its future Strategy Papers. Such Strategy Papers should be the expression of a long-term, sustainable and coherent policy and should be drafted in genuine consultation with local and international stakeholders.
- With regards to the second objective, "support to electoral observation missions and improvement in electoral processes," HRDN would like to highlight that the future instrument should acknowledge that democracy assistance must be considered as an entire process which goes far beyond elections and includes civil society organizations.³ Election observation missions, as part of the democratic transformation process, must respond to a country-based long term strategy which includes pre and

1 European Parliament resolution of 16 December 2010 on the Annual Report on Human Rights in the World 2009 and the European Union's policy on the matter (2010/2202(INI))
European Parliament resolution of 7 July 2011 on EU external policies in favour of democratisation (2011/2032(INI))

2 COM (2011) 500 final Part II, p. 44

3 The full and adequate implementation of the electoral observation programme cycle should be just but one part of a more integrated democracy assistance package under the EIDHR. See: EC Methodological Guide on Electoral Assistance.

post (follow up) actions where civil society organizations (international and local) have the possibility to provide their expertise and contributions. Such strategies should also include effective support measures for all the relevant domestic political and social stakeholders in the transformation process.

Democracy assistance in the new EIDHR

When defining the scope of the support provided via the EIDHR, Article 2.1 of current Regulation (EC) No 1889/2006⁴ mentions among the fields of action: “a) promotion and enhancement of participatory and representative democracy, including parliamentary democracy, and the processes of democratisation, mainly through civil society organisations,” and provides an extensive, but non-exhaustive list of activities.

As highlighted in the EIDHR Democracy Report entitled “Delivering on Democracy – Highlights of the Semester January – June 2011” between 2007 and 2010, more than 700 projects were funded (amounting to approximately EUR 307 million) covering different actions such as: “*democracy building (EUR 36 million), election related projects (EUR 2.9 million), freedom of expression and association (EUR 39.3 million), education to pro-democracy and civil society building (EUR 37.9 million), operations in difficult situations and countries where human rights and democracy cannot be distinguished (EUR 62.9 million) and EU Election Observation Missions (EOMs) (EUR 128 million).*”⁵ According to this data, between 2007-2010, 42% of the amount allocated to democracy promotion through the EIDHR was used to fund 37 EOMs (5% of the total number of projects).

HRDN, while acknowledging the interest of EOMs and the need for them to be independent and cost-efficient, stresses the importance of enhancing the role of civil society organisations in achieving sustainable democratic change. Reinforcing the capacity of civil society to promote democratic structures, the respect of participation rights, democratic accountability, fight against corruption, protection of all persons taking part in political campaigns, particularly women, etc. can result in improving dramatically the democratic processes in a country, including elections, and while respecting the ownership principle, can have more sustainable and lasting effects than an isolated action.

With regard to the beneficiaries of EIDHR funding, HRDN welcomes the fact the European Commission works with a wide range of partners, including international parliamentary associations, grass-roots organisations, political foundations, trade unions, watch-dog organisations and the media, as long as those actors pursue a clear mission and implement relevant programs to promote the implementation of international human rights standards. In this respect, the future EIDHR should continue excluding direct and indirect funding to political parties.

Recognition of the role and added value of CSOs working on human rights and democracy

Genuine consultation and dialogue with local and international CSOs working on human rights and democracy issues must be systematic, regular, inclusive and with a clear focus on “most vulnerable” groups. Consultation should reflect the indivisible and interdependent nature of human rights and its results must be taken into account in policy design. This is particularly important at local level, in the context of devolution and in order to ensure the relevance of projects.

EU funding for human rights and democracy assistance must increasingly reach and be available to local CSOs, including grassroots organisations. In order to do so:

- EU Delegations' must have the responsibility and means to contribute to the capacity building and access to funding of local CSOs and to maintain an ongoing dialogue with them. In this regard, we welcome the provision included in the EIDHR Strategy Paper 2011-2013 which foresees a 10% of the

4 Regulation (EC) No 1889/2006 of the European Parliament and of the Council of 20 December 2006 establishing a financing instrument for the promotion of democracy and human rights worldwide

5 Delivering on Democracy – Highlights of the Semester January – June 2011, p. 8

annual country allocation available for Delegations managing country-based support schemes for supporting measures accompanying the implementation of such schemes. This type of provisions should commonly apply and be used by Delegations;

- The future EIDHR should continue encouraging partnerships and cooperation between CSOs (local and international, regional networks, umbrella organisations), while ensuring this doesn't constitute a disproportionate burden for beneficiaries.

Need for a differentiated approach to impact assessment of human rights and democracy projects

Human rights work and democracy assistance activities are often highly resource intensive and require investment in a wide range of activities for long periods of time in order to have an impact. There is an important risk to miss the wider picture by implementing traditional approaches and methodologies tailored for the relief and development sectors to impact assessment of human rights and democracy projects. It should be noted that human rights and democracy initiatives are potentially wider reaching but less visible than other types of initiatives which bring about quick, visible, but limited results. Elements such as timeframes for results, quality versus quantity, or incremental change are important in impact assessment of human rights and democracy projects.

Human rights and democracy organisations are committed to impact assessment, not only as a key principle and mechanism for learning but also as part of their accountability commitments and to ensure future funding.

In line with the specificities of human rights and democracy projects, particularly when it comes to evaluating its impact, it is essential that the European Commission consolidates a differentiated approach that incorporates adapted indicators and benchmarks as well as flexible tools that also take into consideration the qualitative and long term aspect of outcomes. Such differentiated approach should be developed on the basis of existing studies, its own experience and in consultation with beneficiaries.

Policy coherence and the future EIDHR

In order to ensure that EU's support for human rights and democracy will have a long-term positive impact:

- In fulfilment of the commitments contained in Article 21 of the Treaty of the European Union, the human rights and democracy component must be systematically and effectively mainstreamed throughout all funding instruments (in accordance with the human rights based approach to development principles)⁶ as well as in EU policy;
- the EU's support must respond and be linked to a coherent and sustainable human rights and democracy policy. In this regard, the EU's financial support must be backed by political actions, and *vice versa*;⁷

6 In this regard, according to the basic principles of human rights-based approaches to development (HRBAs), development policies and practices should:

- Be explicitly based on the international human rights law framework,
- Seek to empower all those in the development relationship,
- Promote the right of beneficiaries to active, free and meaningful participation,
- Address all grounds of discrimination and prioritize vulnerable groups,
- Subject those involved in development processes to human rights accountability, clearly defining right-holders and duty-bearers (e.g., referring to governments, CSOs themselves, etc.)

7 During the Amman seminar on the Implementation of Democracy and Human Rights instruments, mainly the EIDHR, which took place in the context of the Structure Dialogue, in Amman, Jordan in June 2010, among the main concerns expressed by civil society participants from the European Neighbourhood were:

- Insufficient political visibility/presence of the EU
- Incoherence between EU human rights political commitments and their implementation/follow-up.

To learn more about additional conclusions of the seminar and recommendations, visit:

- the new instrument must be guided by a solid overall long-term strategy. All objectives, projects and activities funded under the future instrument must be coherent and consistent with this long-term strategy;
- following the review of the European Neighborhood Policy (ENP) and the willingness to create both a Civil Society Facility (CSF) and a European Endowment for Democracy (EED), the EU must ensure that those instruments are coordinated with the new EIDHR to ensure maximum impact and complementarity, avoiding i.a. double funding, while creating synergies with multiplier effect potential.

Recommendations

- The future EIDHR should maintain and enhance its particularities linked to the specificities of human rights and democracy projects, such as its ability to operate without the partner government's consent, remain accessible to organisations that are not legally registered or are not recognised by partner government's authorities, and a flexible approach (see first section);
- Maintain the proposed 20% increase in the budget for the future instrument for democracy and human rights;
- As has been done in the past, set a ceiling for the amount of EIDHR funding that can be spent on EOMs. Considering the increase in the budget, HRDN proposes that a ceiling of 20% be established, in order to allow funding to be available for other forms of democracy support;
- Channel democracy assistance increasingly through civil society. EOMs, which are highly budget consuming, should only be organised when having a demonstrated added value and responding to a clear long term strategy;
- The future EIDHR should continue excluding direct and indirect funding to political parties. Nonetheless, innovative ways of working with political parties, which acknowledge their crucial role in the consolidation of democracy should continue to be explored;
- The future EIDHR should recognize indirect taxes among the eligible costs of the project. HDRN believes that the non-eligibility of taxes has heavy financial and administrative consequences on civil society organisations who try to implement their actions in the most efficient way. In most cases, CSOs are not eligible to receive tax exemption in countries where they operate and are neither in a position to use their co-financing from other institutional or individual donors to cover exclusively taxes;
- EU Delegations' must have the responsibility and means to contribute to the capacity building and access to funding of local CSOs and to maintain an ongoing dialogue with them;
- EU Delegations must prioritise implementation of the EU Guidelines on human rights, especially in the context of the implementation of the new Human Rights Country Strategies. These country strategies must integrate the EU Guidelines, include mechanisms for its effective implementation and for the evaluation of the outcomes;
- Continue encouraging partnerships and cooperation between CSOs (local and international, regional networks, umbrella organisations), but ensuring this doesn't constitute a disproportionate burden for

https://webgate.ec.europa.eu/fpfis/mwikis/aidco/images/a/a8/Amman_seminar_report_final.pdf

Also see Council conclusions on Democracy Support in the EU's External Relations 2974th External Relations Council meeting, Brussels, 17 November 2009.

beneficiaries;

- The European Commission should develop a differentiated approach to human rights funding mechanism and impact assessments in cooperation with relevant actors, and adapted to the specificities of human rights and democracy projects and with adequate indicators;
- The future EU development policy (including the Communication on modernising European development policy) must incorporate democracy assistance and a human rights-based approach;
- Complementarity with other existing EU instruments (in particular Instrument for Stability and geographic instruments) and with the proposed new instruments (such as civil society facility -ENP communication- and European Endowment for Democracy) should be further explored and reinforced;
- In order to ensure that the EU can maximise its impact for human rights and democracy, HRDN urges the European Commission to ensure that the EIDHR strategy links as closely as possible to the new EU Human Rights Policy (forthcoming from Baroness Ashton's cabinet⁸), reflects all existing human rights and democracy policies and builds on the EU's tools and instruments under CFSP, as well as the Commission's own instruments.

8 On 16 June 2010, the EU's High Representative for Foreign Affairs and Security Policy and Vice President of the European Commission, Catherine Ashton, announced before the European Parliament her intention to launch a consultation process to inform a new EU human rights strategy.