



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 19 November 2009

14310/09

**COHOM 218
DEVGEN 272**

NOTE

From : General Secretariat
To: Delegations

Subject : Working paper on Democracy support in EU external relations - towards a more coherent European approach (30 June 2009)

The attached paper is the Presidency's 'rolling report' of the discussions among COHOM and CODEV experts on the issue of Democracy support in EU external relations. It has been revised on several occasions to take on board comments made by member state experts and reflects the state-of-discussions at the end of the Czech Presidency. The aim of the paper is to feed into the Council conclusions on Democracy Building in EU External Relations planned for adoption in November 2009.

1. Introduction

1.1. Democracy is both a universal value and a means to an end

1. Though democratic systems may vary in forms and shape, democracy has evolved into a universal value. The 1948 Universal Declaration of Human Rights first recognised the right of everyone “to take part in the government of his country, directly or through freely chosen representatives”.¹ The UN Summit Outcome document of 2005 stated²

“We reaffirm that democracy is a universal value based on the freely expressed will of people to determine their own political, economic, social and cultural system and their full participation in all aspects of their lives. We also reaffirm that while democracies share common features, there is no single model of democracy, that it does not belong to any country or region, and reaffirm the necessity of due respect for sovereignty and the right of self-determination. We stress that democracy, development and respect for all human rights and fundamental freedoms are interdependent and mutually reinforcing.”

2. Democracy also has instrumental value. Increasingly evidence shows that democratic principles and values are intrinsic to sustained poverty alleviation and economic development; a prerequisite for government accountability and transparency, including civilian control of security; required to sustain an independent judiciary, free media and a framework for protecting human rights; a tool to fight corruption and impunity; and the most basic form of crisis management and conflict prevention. On the other hand, the legitimacy of democracies and public support may be questioned when they fail to deliver for the people, especially on social and economic issues.
3. The UN Secretary-General has repeatedly stated³ that none of the Millennium Development Goals will be achieved without human rights, democratic governance and democracy, which he has described as a "universal right".

¹ Article 21

² Para. 135

³ Secretary-General annual reports.

1.2. Democracy as a cornerstone of the European Union

4. For the EU and its Member States, democracy is both a core value and an essential aspect of internal and external policies. No country can become a member of the EU unless it is a democracy.⁴ Membership of the EU helps consolidating democracy in Member States and the prospect of membership is helping to consolidate democracy in countries that aspire to join the EU.
5. Democracy has underpinned the political, social, cultural and economic development of the European Union. From its collective experience, the European Union is convinced that it is the best form of government to enable all citizens to realise their full potential as human beings, living in community with others.
6. “To develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms” is a common objective of most strands of the EU’s external policies⁵, including the Common Foreign and Security Policy (CFSP) and Development Cooperation Policy. As these principles are universal we believe that the EU has both an interest and a responsibility to work with third countries to support their aspiration.

2. Why do we need a more coherent EU approach to democracy?

2.1. Why do we need a more coherent EU approach to democracy support?

7. Support for democracy is a long-term commitment of the EU and its Members States broadly integrated into EU internal and external policies. However “mainstreaming” in the sense of achieving more coherence and a more systematic consideration of the democracy objective across EU policy areas still has a long way to go.
8. Until now, the EU has not set out in a single document its vision of democracy support. There has been insufficient effort to co-ordinate the numerous European instruments to support democracy and to coordinate in the international fora or funds that deal with promotion of democracy. Policies have been led in parallel, sometimes with a lack of coherence, consistency and thus efficiency. This has in turn limited the capacity of the EU to co-operate with others, and has undermined the impact and visibility of its action.

⁴ Article 6(1) of the Treaty on the European Union (TEU) reads: “*The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States*”. Article 49 TEU further reads: “*Any European State which respects the principles set out in Article 6(1) may apply to become a member of the Union*”.

⁵ Article 11(1) TEU, Articles 177(2) and 181a(1) TEC

9. The purpose of such approach is to bring greater coherence and consistency to the EU approach in support of democracy and to look at how to use the EU tools and instruments more effectively as part of a coherent policy framework. It is not about renegotiating existing norms or agreed language as to what constitutes democracy. Nor is it to set out new EU policy or invent new instruments or to increase conditionality in development assistance. A more coherent approach to democracy support will bring more conceptual clarity and transparency, allowing both partner countries and EU citizens to better understand what the EU stands for when we talk about democracy and the principles and values that sustain it.
10. The framework elaborated in this paper will be complemented by a joint Commission/GSC paper that reviews all the current EU instruments and indicates how they could be better used in support of democracy. Member States will be encouraged to align their own policies and practices in support of democracy to reinforce it.
11. This framework – like democracy itself – should be a dynamic process that takes into account experience so that it remains relevant, up-to-date and effective.

2.2. Why the EU supports democracy

12. The role of democracy in best assuring human rights and sustaining development and security applies in every country in the world. The 2000 UNGA resolution adopting the Millennium Declaration stated that democratic and participatory governance based on the will of the people best assured the right of men and women to "live their lives and raise their children in dignity, free from hunger and from the fear of violence, oppression or injustice."⁶
13. Democracy is a vital factor in strengthening the impact and sustainability of development cooperation. Progress on the democratisation is fundamental for poverty reduction, sustainable development, and the achievement of the Millennium Development Goals. Democratic processes allow for constructive state-society relations and are key to ensuring that the state is responsive to the needs and expectations of the population and that there are adequate accountability mechanisms guaranteeing government transparency and combating corruption. As a result, EU development policy aims to enhance development, foster human rights and support democracy in partnership with all countries receiving Community development assistance.

⁶ GA Resolution 55/2 of 18 September 2000

14. Democracy and security are mutually reinforcing. There will be no stable and consolidated democracy without security. At the same time, democracy is vital for security, e.g. in providing essential conflict prevention and resolution mechanisms. Democracy improves the peaceful settlement of conflicting interests and contributes to deter latent hostilities over the division of power, possibly leading to ethnic tensions, nationalist and religious sentiments or even armed conflicts. In offering people the prospect of greater control over their own lives, democracy is a more attractive alternative for ensuring security than military or other authoritarian regimes that inevitably diminish human rights protection as well as individual freedom.
15. The EU is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law. These have been – and will continue to be - the key to peace and development inside the EU, and each enlargement of the EU has demonstrated the value of these principles in consolidating a democratic European space where war, tyranny and gross human rights violations are consigned to history.
16. Key to the EU’s enlargement process is the Copenhagen political criteria of “stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities”. As the Copenhagen criteria were given a basis in the Treaty on European Union, a formal Treaty mandate⁷ was established for the first time in the TEU and the TEC for the CFSP and Community policy in the sphere of development cooperation. These principles have since been further articulated in Commission communications, European Parliament resolutions and Council conclusions over several years.⁸

2.3. How will the EU support democracy?

17. The objective of developing and consolidating democracy and the rule of law, and respect for human rights and fundamental freedoms is now a feature of all forms of co-operation with third countries.

⁷ Article 11(1) TEU; Articles 177(2), 181a(1) TEC

⁸ Council Conclusions of 18/19.05.2009 (doc 9908/09) on Support to Democratic Governance – Towards an enhanced EU framework.

18. These objectives are echoed in the Stabilisation and Association process⁹ and in the European Neighbourhood Policy¹⁰. The Cotonou Agreement and the EU policy on governance and development¹¹ include the protection and promotion of human rights and democracy as priority issues to be integrated in country strategies, dialogues and all relevant external assistance instruments. They are acknowledged in the European Consensus on Development¹² as a common value for the EU vision of development. The EU Consensus committed the Community to mainstream democracy in all of its activities.¹³ This is echoed in recent EU regional strategies for Africa¹⁴, Latin America¹⁵, Caribbean¹⁶ and the Pacific¹⁷, and previous regional strategies for Asia.¹⁸ Strengthening democracy is one of the commitments made in establishing the Union for the Mediterranean¹⁹ and the Eastern Partnership.²⁰ As the EU has developed its crisis management capacity, the human rights and democracy dimensions of conflict prevention, peace building and post conflict reconstruction have also evolved.
19. The following section lists a series of principles underlying EU support to democracy building.

⁹ Zagreb summit in November 2000

http://europa.eu.int/comm/enlargement/intro/sap/summit_zagreb.htm

¹⁰ Strategy Paper COM(2004) 373 final of 12.5.2004, Council conclusions of 14.7.2004

¹¹ Commission Communication COM(2003)615 final of 20 October 2003, Council conclusions of 17.11.2003; Commission Communication on Governance in the European Consensus on Development - Towards a harmonised approach within the European Union - COM (2006) 421 final of 30.08.2006 - and Council Conclusions of 16.10.2006 (doc. 14024/06); Commission Staff Working Paper - Supporting democratic governance through the governance initiative: a review and the way forward (doc. 5504/09) and Council Conclusions of 18/19.05.2009 (doc 9908/09) on Support to Democratic Governance – Towards an enhanced EU framework.

¹² Joint Statement by the Council and the representatives of the governments of the Member States meeting within the Council, the European Parliament and the Commission ‘The European Consensus on Development’

¹³ Section 3.3, paras 101-104

¹⁴ “The EU and Africa: towards a strategic partnership” adopted by the European Council, 15-16 December 2005 and “The Africa-EU Strategic Partnership agreed at the Africa-EU Summit, 8-9 December 2007.

¹⁵ Commission Communication to the European Parliament and the Council “A stronger partnership between the EU and Latin America” COM(2005) 636 final of 8.12.2005

¹⁶ COM (2006) 86 final of 2.3.2006

¹⁷ COM (2006) 248 final of 29.5.2006

¹⁸ COM(2001) 469 final of 4.9.2001, COM(2003) 399/4 of 9.7.2003, COM(2004) 430 final of 16.6.2004

¹⁹ Joint Declaration of the Paris Summit for the Mediterranean July 2008

²⁰ Joint Declaration of the Prague Eastern Partnership Summit, 7 May 2009.

- Democracy cannot be exported, nor imported and even less imposed from the outside. Yet, democracy and democratic culture can be supported. Democratic processes have to be locally driven and each country has to find its own path to democracy. Empirical studies show that each democratisation process is different with causes and dynamics specific to the State concerned.
- There is no one-size-fits-all approach to democracy building and EU support needs to be tailored to take into account the individual characteristics of each country and its stage of democratic development. An in-depth political-economy analysis, taking account of local priorities and ensuring local ownership and the demand-driven character of the process, is an important starting point. In this, the central issue is not to classify situations as “good” or “bad”. Instead, it is important to focus the discussion on methods and approaches to support democratic processes.
- The EU is concerned with ensuring that development support is undertaken consistently with democratic principles and democratic governance values, and wishes to promote and strengthen democracy by supporting the democratic process.
- In the age of globalization, there is a need to cooperate in real, equal partnerships to face today’s political, economic and social challenges. In democracy building, mutual benefits and effective motivation are incredibly important. This includes inter alia a partnership approach, i.e. two-way exchanges for peer learning as well as respect for ownership, dialogue between partners and a focus on incentives for governance and democratic reforms as important principles of the EU support to democracy building.
- Democratic processes are by definition profound and long-term processes within a society. Hence, their support will require a sustained effort over many years. In some cases, strengthening specific aspects, such as electoral systems, independent arbitration or parliamentary procedures, over the short or medium term may be crucial.
- The EU needs to support democratic institutions by involving them as much as possible in the production and implementation of agreements between the EU and the country concerned.

3. What is our understanding of Democracy?

3.1. No single model of democracy

20. The EU consists of 27 Member States, each with their own form of democracy, shaped by history, culture and circumstance (although all, to varying degrees, are parliamentary democracies). All are equally valid, and their individual characteristics enrich democracy in Europe. The EU itself represents a form of supranational democracy that is unique in the world. The same is true for democracies in other parts of the world. Hence there is no single model of and no blueprint for democracy, but this does not mean that there are no shared principles for what constitutes democracy.

3.2. Many forms, but common principles and key elements

21. Following are common principles of democracy (not in any order of priority) that can be derived from various internationally agreed documents, including regional democracy charters. They include the UN Universal Declaration of Human Rights (UDHR), the UN International Covenant of Civil and Political Rights (ICCPR), the European Convention on Human Rights (ECHR), the Inter-American Democratic Charter (IADC); the African (Banjul) Charter on Human and Peoples' Rights (ACHPR) and the African Charter on Democracy, Elections and Governance (ACDEG).
22. The paper identifies common principles and key elements of democracy and will allow the EU to focus its support on specific areas to assist third countries to follow their own specific path to democracy.

Human rights

23. Human rights and democracy are inextricably connected. Only in a democracy can individuals fully realise their human rights; only when human rights are respected can democracy flourish. Democracy implies inter alia the respect of the main UN human rights conventions, in particular the international covenant on civil and political rights, the international convention on the elimination of all forms of racial discrimination, the international covenant on economic, social and cultural rights, the convention on the elimination of all forms of discrimination against women, the convention against torture and other cruel, inhuman or degrading treatment or punishment and the convention on the rights of the child. So work on human rights protection and promotion directly helps to promote democracy.

Rule of law

24. The rule of law prevails, so that no one is above the law and all are equal before the law.²¹ This involves among others that public institutions exercise their powers through transparent and accountable elected and public officials,²² and that there is an independent and impartial judiciary that provides redress for official actions, which affect individuals adversely. This includes courts, ombudsman's offices and disciplinary tribunals, which ensure a fair resolution of disputes, whether between individuals or individuals and the State.²³

Equality and non-discrimination

25. Concepts of equality and non-discrimination are fundamental to human rights and democracy. Everyone is entitled to the enjoyment of civil, cultural, economic, political and social human rights without any discrimination as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.²⁴ The EU is committed to ending discrimination both internally and externally. Two of the greatest challenges to building democracy are ensuring the participation of women and of persons belonging to minorities in democratic life in equality with other citizens. In many countries, there are historical, social, cultural and religious barriers to equality and to the participation of women in public life, especially government. But none of these justify denial of the right of women to participate fully in the life of their countries.
26. Persons belonging to minorities need the equal protection of human rights, and that the democratic system enables them to participate fully in society, for example through systems of voting or decentralised government. A fair and impartial system for resolving disputes is also a necessary part of ensuring equality and non-discrimination. In this context democracy goes beyond acceptance of the concept of majority rule and should be directly concerned with the rights of minorities and the social justice for all.

²¹ Art. 7 UDHR; Art. 26 ICCPR; Art. 4 ACDEG; Art.3 IADC

²² Art. 15(3) ACDEG; Art. 4 IADC

²³ Art. 10 UDHR; Art. 2(5) ACDEG; Art. 4 IADC

²⁴ Art. 2 UDHR; Art. 2(1) ICCPR; Art. 8 ACDEG; Art. 9 IADC

Democratic governance

27. Governance is of a multidimensional nature, encompassing aspects such as, but not limited to, the protection of human rights and fundamental freedoms, access to justice, transparent management of public finances, as well as the role of parliaments, local authorities and civil society organizations in decision-making processes. The promotion of democracy is closely interlinked with the promotion of democratic governance, measures are interconnected, their impacts are inter-dependent and reinforce themselves mutually. Matters like corruption, abuse of power, poor administration, and lack of accountability, human rights violations and misuse of law, may also occur in democracies. But where democratic principles prevail, such matters are more likely to be uncovered, less likely to be tolerated by citizens and are more likely to lead to positive political change, than in other forms of government. Recognising the unique context of individual countries, experience has shown that democracy represents the most conducive environment for democratic governance to be sustained. At the same time, democratic governance is an essential conducive element for a democracy to succeed.

Free and fair elections

28. Free and fair elections with secret ballots are organized periodically.²⁵ All citizens have the right to vote freely in elections, according to their judgement and conscience without interference, to run for public office²⁶, and to participate in decisions about their development.²⁷

Freedom of opinion, expression and information

29. Everyone has the right to freedom of opinion and expression on political, social, and economic matters, defined broadly, without the risk of state punishment²⁸, and people have the right to the widest possible access to information about the activities of national and local authorities²⁹ and to seek out diverse sources of information, such as the media, and such sources enjoy legal protection from improper interference.³⁰

Freedom of association

30. Everyone has the right to form independent associations and organisations, including independent political parties and interest groups.³¹

²⁵ Art. 21(3) UDHR; Art. 25 ICCPR; Art. 2(3) & (4) ACDEG; Art. 3 IADC

²⁶ Art. 25 ICCPR; Art. 3(7) & 4(2) ACDEG; Art. 3 IADC

²⁷ Art. 21(1) UDHR; Art. 3(7) ACDEG; Art. 6 (IADC)

²⁸ Art. 19 UDHR; Art.19 ICCPR; Art.10 ECHR; Art. 6 ACDEG; Art.4 IADC

²⁹ UNGA Resolution 55/96 on Promoting and Consolidating Democracy, para 1 (f) (iv).

³⁰ Art. 19 UDHR; Art.19 ICCPR; Art.2(10) ACDEG; Art.4 IADC

³¹ Art. 20 UDHR; Art. 22 ICCPR; Art.11 ECHR; Art. 3(ii) ACDEG; Art. 5 IADC

Devolved democracy and the principle of subsidiarity

31. Within the European Union, democracy is embedded through many layers – international, national, regional and local. The objective is to devolve power to democratic organs at the most appropriate level to ensure that people exercise control over their own lives and that public policies are carried out efficiently. Such devolution requires real power and resources to be made available to the different bodies.

Democracy and elected representatives

32. Elected representatives, whether they support or oppose the government, need the authority and resources to debate and approve legislation and national budgets, to hold government to account for the conduct of public administration and the use of public funds, and to examine the operation of laws and regulations. Elected representatives also have effective control over State armed and security forces.³²

Democracy and political parties

33. Democracy requires a pluralistic environment that has a range of political views and interests. This is most commonly organised through political parties whose operation is free from interference by government and executive officials. The registration and regulation of political parties ensures consistency in structure, but regulations on membership, financing, organisation and minimum thresholds for election should be reasonable, applied equally to all parties, be subject to the possibility of legal challenge, and in accordance with international law. Supporting parliaments as public fora for negotiating peacefully competitive concepts of political and social order and national legislative decision-making bodies therefore is key to experience inclusive democracy.

Democracy and the media

34. An independent and diverse media is essential for ensuring that a wide range of opinion and viewpoints are expressed and communicated to the public. In most democracies, politicians and political parties rely on mass media to get their message across and so enable the public to make informed choices. Media are also a major means for ensuring transparency and accountability in public life, without which democracy cannot function. The media necessarily enjoys considerable power and this entails responsibility to ensure that coverage, particularly of elections, is fair, balanced and impartial. Any restrictions on the media should be provided by law and in accordance with international human rights norms, in particular Article 19 ICCPR. The media must be able to challenge the imposition of any such restrictions through impartial legal proceedings.

³² Art. 14(1) ACDEG; Art. 4 IADC

Democracy and civil society

35. Civil society organisations and non-state actors are vital building blocks of a well functioning democracy. The role of civil society organisations in modern democracies is closely linked to the right to freedom of association. Belonging to an association is another way for individuals to participate actively in society, in addition to involvement in political parties or through elections. Civil society organisations are the principal structures of society outside of government and the public administration and are key to establishing a democratic culture deeply rooted in society.³³ Civil society will only be able to fully live up to the watchdog and democratic functions attributed to it, if it is empowered and has the capacity to understand political processes and represent social interests. At the same time, state actors must have the capacities to manage and institutionalise civil society's participation in political processes. In addition, spaces of interaction are necessary where state and civil society actors meet, discuss and – in the best case – cooperate with each other.

Democracy and education

36. Education is essential in extending the democratic values in a society through generations and thus ensuring the sustainability of democracy. It is also the basis and the catalyst of democratic reforms in a country. Educational institutions are often among the first targets of anti-democratic repressions and the support for such institutions is a priority for the EU. Governments should ensure, through education and other means, awareness and respect for democratic values, and develop institutional and educational capabilities to enhance social cohesion, and to prevent and resolve conflicts peacefully, including through mediation and to eliminate the use of violence in addressing societal tensions and disagreements.³⁴

³³ The term 'civil society organisation' refers to a range of organisations which include: the labour-market players (i.e. trade unions and employers federations); organisations representing social and other economic players (such as consumer organisations); NGOs (non-governmental organisations), which bring people together in a common cause, such as environmental organisations, human rights organisations, charitable organisations, educational and training organisations, etc.; community-based organisations, i.e. organisations set up within society at grassroots level which pursue member-oriented objectives, e.g. youth organisations, family associations and all organisations through which citizens participate in local and municipal life; and religious communities.

³⁴ UNGA 55/96, Para 1 (e) (ii), (h) and (i).

Democracy and the right to property

37. The right to own and use private property, subject to reasonable and necessary legal restrictions in the wider public interest, is a feature of all democratic societies. Apart from its economic impact, this right enables individuals to support civil society, political parties and pluralistic media, as well as to obtain access to legal and other redress when they consider that their human rights, or democratic principles, have been violated. Where the State exercises overwhelming control over property (used in its widest sense), it exercises corresponding control over individuals and legal personalities. This undermines, and frequently excludes, the operation of democratic principles.
