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COVER NOTE

from: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

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to: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European
Union

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Assessment accompanying the document Regulation of the European
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promotion of democracy and human rights worldwide

Delegations will find attached Commission document SEC(2011) 1479 final.

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COMMISSION STAFF WORKING PAPER
EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT

Accompanying the document

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
establishing a financing instrument for the promotion of democracy and human rights
worldwide

{COM(2011) 844 final}
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1. PROBLEM DEFINITION

Human rights are universal and indivisible. The European Union therefore actively promotes and defends them both within its borders and in its relations with third countries, living up to its commitments under the EU Fundamental Rights Charter and the Universal Declaration of Human Rights and in line with the Treaty mandates under Art. 2 and 21 TEU. They are also integral to effective work on poverty alleviation and conflict prevention and resolution.

The European Instrument for Democracy and Human Rights (EIDHR) is the concrete expression of the EU's commitment to promote and support democracy and human rights worldwide and a key element of the EU's wide-ranging toolbox of policy instruments to this effect. Therefore, maintaining for the period 2014-2020 a self-standing, dedicated democracy and human rights instrument remains essential, as else EU's capacity of promoting and supporting these values worldwide in a concrete and tangible manner would be seriously jeopardized and the EU's international profile negatively affected.

Moreover, the large number of country situations where basic rights and freedoms continue to be violated and repressed, as well as the need and interest to back emerging democracies and trends towards greater respect for human rights, not least in the wake of the Arab Spring, makes it even more important for the EU to maintain a specific capacity of action with improved delivery mechanisms to support democracy and human rights worldwide.

Launched in 2007, and endowed with an annual budget of approximately € 157 million a year, the EIDHR is currently funding more than 1200 projects in over 100 countries. Despite difficult operational contexts and constraints linked to the nature of the instrument and the often complex environments in which it operates, concrete results and success stories exist in numbers, supported by a large number of evaluations and reviews.

While the comparative advantage of the EIDHR as such does not seem controversial at EU level, it is essential to base the future instrument on lessons learnt. This implies, on the one hand, to keep the proven added values and recognised working principles and specificities of the EIDHR. It also implies, on the other hand, to introduce amendments and changes to the delivery mechanisms of the instrument, in order to further improve its reactivity, its flexibility and impact on the ground.

2. ANALYSIS OF SUBSIDIARITY

On the background of its own accomplishments in conflict solution, peace building and prosperity creation, the EU would seem to be in an excellent position to deliver on external action, on behalf of and with its Member States, generally enjoying high credibility in the countries where it works in. With 27 Member States acting with common policies and strategies, the EU has a critical weight to respond to global

challenges. The EU is well placed to take on the role of a global leader on behalf of its citizens, in particular in its support and promotion of democracy and human rights.

3. OBJECTIVES OF EU INITIATIVE

The goal pursued by the EIDHR is to contribute to the development and consolidation of democracy and the rule of law and to promoting respect for fundamental freedoms and all human rights, within the overall framework of the EU's policy on development cooperation and economic, financial and technical cooperation with third countries and consistent with the EU's foreign policy and external action as a whole. This objective is to be maintained. It is deemed important to maintain the EIDHR's added values which lie in its complementarity: Its independence of action allows it to intervene in the most difficult country situations (worldwide) without consent of the host government, creating synergies and complementarity where geographical instruments could not act.

- It allows for unique actions not covered by other instruments, such as in cases of serious human rights violations or urgent protection need, thematic advocacy such as the fight against torture, death penalty or discrimination, election observation, support to the International Criminal Court (ICC), etc.
- While limited in financial scope, its flexible tools have worked very well and are essential (e.g. direct support to human rights defenders, direct small grants, working with informal partners, re-granting).
- A pragmatic combination of targeted projects and calls for proposals, management by both HQ and Delegations, global, regional and local actions, has allowed maintaining a largely comprehensive and coherent implementation involving all actors: civil society (main target) as well as international and regional organisations.

The revised Instrument should also address the following challenges identified in light of lessons learnt and its flexibility should be enhanced:

- Broadly defined objectives and strategies have caused some degree of fragmentation of approaches and lack of legibility of the Instrument, creating risks of duplication, difficulties in measuring its impact and a certain weakening of the complementarity; thus the need for making the Instrument more process oriented
- Limited budget considering the vast geographical and thematic scope with the result that qualitatively acceptable, yet unsatisfied requests represent 2-3 times more than the funding capacity allows to cover, proving a high relevant absorption capacity.
- Necessity to further increase the flexibility of the Instrument to enhance its reactivity in serious and urgent situations of human rights violations or threats,

applying a similar methodology for a limited part of the budget as used under the Instrument for Stability and the Humanitarian Aid and Civil Protection Regulations.

4. POLICY OPTIONS

Discontinuing the EIDHR (option 0) as well as maintaining the EIDHR without any amendment (option 1) were the first options considered.

Option 2 would consist of building a better enabling regulation entailing the following five components:

- Establishing a process oriented tool focusing on four different windows: (i) thematic campaigns and addressing serious violations of rights as well as providing core support to key actors and related civic education, (ii) targeted support to the development of thriving civil societies, (iii) reinforced capacity for the EU to be able to react quickly to human rights urgencies and establishment of a comprehensive EU Human Rights Defender mechanism, (iv) strengthened and better integrated approach to democratic cycles through election observation and other types of support to democratic and electoral processes.
- Maintaining the insertion of EU Election Observation Missions (EOMs).
- Maintaining the exclusion of political parties.
- Further untying.
- Adding new flexibilities for most difficult countries/situations.

5. ASSESSMENT OF IMPACTS

Many stakeholders would view the option 0 (no regulation) as a renouncement by the EU of promoting its own core values and relevant international standards. It would certainly have a very negative impact in terms of the EU's image both at home and on the international scene. While the option 1 (no change) will allow for the existing economies of scale of a self-standing instrument, it will miss those resulting from the proposed rationalisation of the process and its improved rapidity through additional flexibility, which would be rendered possible under option 2 (enabling regulation). Indeed, a faster and more reactive mechanism can make a difference when saving the life of a victim is a question of days or even hours. Option 2 would also allow to better impact on the other policies and reduce transaction costs since the revised EIDHR would benefit from enhanced flexibility.

6. COMPARISON OF OPTIONS

Option 0 (no regulation) will integrate Human Rights activities within other instruments as a positive sign of mainstreaming. Nevertheless, the suppression of a self standing instrument will suppress specific working principles, such as the absence consent of the host country, there for impeding most activities and reduce the delivery to easiest or show case activities. It will lower efficiency of operational delivery and create a strong visibility problem.

Option 1 (no change) maintains the key elements of an EIDHR added value i.e. its working principles. It will allow benefiting from a rolling experience and helping outreach through a cumulative identification over the year. It will avoid cost of reform and focus on day to day improvements. On the other hand, it will not allow addressing the identified drivers of problem in a structural manner.

Option 2 (enabling regulation) will keep the existing added values, but in addition will allow for faster reactivity, in particular in cases of serious human rights violations and cases of urgency. It is nevertheless important that the Instrument remains involved in long term support and in depth activities that have grass root level impact and a lasting effect and does not focus exclusively on day to day crisis management. Increased coordination with Humanitarian Aid and Civil Protection and the Instrument for Stability will have to be set up. This option would thus be chosen knowing that the EIDHR would benefit from an increased budget.

7. MONITORING AND EVALUATION

The EIDHR would be structured around the four axes of work mentioned under paragraph 4. The following indicators would be used:

- i) Number of campaigns launched, including number of advocacies, number of international conventions ratification, number of specific field operations,
- ii) Number of citizens, professionals and students trained,
- iii) Number of key actors supported,
- iv) Number of civil society project conducted, at global and at local level,
- v) Number of Human Rights Defender cases followed,
- vi) Number of project in most difficult countries and situations,
- vii) Number of electoral process and democratic cycles supported, observed, and followed.