



Council of the
European Union

Brussels, 22 February 2021
(OR. en)

6279/21

COHOM 29
CFSP/PESC 136
COPS 58
COASI 21
COEST 42
COAFR 49
COLAC 17
MAMA 20
MOG 14

OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council
On: 22 February 2021
To: Delegations

Subject: Revised EU Guidelines on Human Rights Dialogues with Partner/Third Countries

Delegations will find attached the Revised EU Guidelines on Human Rights Dialogues with Partner/Third Countries, approved by the Council at its 3785th meeting held on 22 February 2021.

REVISED EU GUIDELINES ON HUMAN RIGHTS DIALOGUES WITH PARTNER/THIRD COUNTRIES

1. Introduction

Human rights are not only one of the founding values of the European Union, but they are also among the key objectives of its external action. Human Rights Dialogues are one of the main means of implementation of EU external human rights policy in line with the new Action Plan on Human Rights and Democracy (2020-24). In order to put human rights at the core of its action, the Union has developed a broad range of legal and policy instruments, including Guidelines on Human Rights Dialogues.

The EU Guidelines on Human Rights Dialogues with third countries were adopted in December 2001 (reviewed last in January 2009).

At a time when human rights are under attack globally, it is more important than ever to pursue human rights dialogues and, at the same time, to reinvigorate these dialogues in order to maximise their impact.

Time has come to renew these Guidelines with a view to make human rights dialogues a more effective tool of engagement, thus, enhancing their **political relevance**. This is a shared priority with Member States, including by the EUSR for Human Rights who has chaired a number of dialogues with key partners and explored the possibility of new engagement through dialogue.

2. The Current Situation

Over the years, the EU has established human rights dialogues with an **increasing number of countries**. The EEAS, on behalf of the High Representative, conducts the CFSP human rights dialogues/consultations as well as the agreement-based sub Committees. The EEAS has improved and harmonised the format and running of the dialogues. The involvement of EU Delegations and Commission services in the dialogues has been essential. Equally, continued ownership of the Member States is crucial.

There are currently approximately 60 human rights dialogues and consultations with partner countries, and regional groupings. New dialogues have recently been established or are in the pipeline. Some dialogues (e.g. Russia and Israel) are currently frozen.

Different types of dialogues exist. There are dialogues based on regional or bilateral treaties and agreements as well as informal and formal dialogues (i.e. dialogues with agreed ToRs). Some dialogues are held locally by the EU Delegations for instance the dialogues with Chile and Argentina. Moreover, there are specific sub-committees or groups dealing with human rights, including Morocco, Tunisia, Lebanon, Jordan, Egypt and Iraq, in the context of various cooperation or association agreements with partner countries. In addition, political dialogues, which cover most notably human rights issues, with the ACP countries have specific modalities as laid down in Article 8 of the Cotonou Agreement and corresponding article of the new Partnership Agreement that will succeed the Cotonou Agreement. Furthermore, there are consultations with likeminded countries or in the context of a special relationship such as the United States, Canada, Japan and the candidate countries. There are many commonalities between these various types of dialogues. However, this does not imply “one size fits all” arrangements. For example, consultations with likeminded countries follow a different pattern as the focus is mainly on issues of mutual interest and cooperation in the multilateral fora.

In addition to dialogues at EU level, a number of Member States also maintain dialogues with various third countries at national level.

3. The Objectives of Human Rights Dialogues

Human rights dialogues are **embedded in the overall political relationship** with the countries. While each country/region is different and the issues will be specific to that country/region, the dialogue is a key vehicle for the implementation of the EU Action Plan on Human Rights and Democracy and should therefore, reflect its priorities and approach. Dialogues should therefore be linked with the Human Rights and Democracy Country Strategies.

Dialogues should not be a self-standing "box" in which to confine bilateral discussions on human rights. Nor it should be an exclusive platform for addressing human rights, ruling out other forms of EU bilateral human rights engagement. The dialogue should be seen as a key element in sustained EU engagement in human rights and strive to enhance or add value to the work being carried out on the ground as well as in multilateral fora. Human Rights dialogues are one part of the overall engagement on human rights with the country.

At the same time, human rights dialogues need to be **used effectively in conjunction and synergy with other instruments** (political dialogues, public diplomacy, demarches, cooperation programs and projects, support to civil society, election monitoring) to promote the EU's human rights priorities and objectives. The mutually supportive leverage between human rights dialogues and other policy objectives has been particularly evident in the case of the GSP+ scheme, the latter acting as a catalyst for renewed interest by the partner country in holding meaningful and structured human rights discussions with the EU and the former offering a strong platform for discussing GSP+ related objectives.

EU engagement on human rights aims at **concrete cooperation and deliverables**. It is therefore vital that such dialogues are result-oriented and "stay-alive" in between sessions. Objectives can differ between dialogues. In difficult cases, a first important objective is to place EU concerns of the human rights situation on record in a complex bilateral relationship. However, EU engagement on human rights aims to enhance cooperation and pursue strategic goals as set out in the new EU Action Plan on Human Rights and Democracy and not only to have an exchange of different views.

Therefore, a **minimum platform** is required for mutual engagement. The willingness of a third country to improve its human rights situation and engage with openness and transparency with the EU on a broad spectrum of human rights issues remains a key criterion. Exchanging on human rights should continue wherever possible, in spite of the deterioration of the human rights situation of a partner country.

One key objective is to **maximize the links between the EU bilateral, regional and multilateral engagement**. In an increasingly challenging context, the EU has championed cross-regional cooperation in multilateral human rights fora. Therefore, strengthening the link between human rights dialogues and EU multilateral action remains a priority. In concrete terms, this means for example improving the links between input from UN human rights processes and the dialogues. In some cases, human rights dialogues help in identifying the specific needs of the country and how the EU can best assist and support progress.

Moreover, human rights dialogues can also identify at an early stage problems likely to lead to a conflict and, thus, actively support conflict prevention.

Dialogues are genuine **peer-to-peer exchanges** aimed at engaging with partner/third countries as well as sharing best practices. The EU side has to remain responsive to requests from partner countries to include EU internal issues, a trend that has developed with various intensity in a number of dialogues. The promotion of EU **internal-external coherence** on human rights is essential.

The dialogue should be a real exchange of views between the EU and the third country or regional organization, whose scope and leverage are adapted to the human right record of the country. While the dialogues are an external instrument, the human rights situation within the EU is of interest, as is the exchange of good practices and it is important to communicate EU internal experience on the issues concerned, particularly challenges and lessons learned. The engagement of Commission services and specialized EU agencies has proved crucial in a number of dialogues to explain EU challenges and policies.

4. Establishing a Human Rights Dialogue

New dialogues have recently been established or are in the pipeline.

The establishment of a new dialogue starts with an **assessment** carried out by the EEAS. Clear added value should be demonstrated. Among the guiding criteria are: the extent to which the government is willing to improve the situation and the level of commitments shown by the government with respect to international human rights conventions and its readiness to cooperate with UN mechanisms, its attitude towards civil society and the overall EU relationship with a partner country. The assessment will be based, inter alia, on the following sources: reports by EU Delegations, Heads of Mission, reports by the UN and other international or regional organisations, reports by non-governmental organisations. Subsequently, the EEAS will present its assessment to the relevant geographic Council working party, which has a global view of the EU's relation with the third country involved, in close cooperation with the working party on human rights (COHOM). On that occasion, the Council will discuss whether to initiate a human rights dialogue and will take a position on other aspects such as the **scope of the dialogue as set out in detailed Terms of Reference (ToR) mutually agreed with the partner country.**

The Council approves Terms of Reference for new dialogues on human rights.

Exploratory talks may be held before a human rights dialogue with the country concerned is launched. These talks provide an opportunity to explain the principles underlying the EU's action, as well as the Union's aims in proposing a human rights dialogue. In a number of occasions, informal discussions on human rights have been a stepping-stone to build confidence over time and ultimately move to a more formal human rights dialogue (i.e. with agreed ToR). It is clear that the informal character of these human rights discussions is meant to be a temporary situation, and that ultimately it is foreseen to move to human rights dialogues according to established rules as set out in Terms of Reference. Efforts should be made to ensure that informal dialogues evolve into formal dialogues within a reasonable period of time.

The establishment and existence of a human rights dialogue with a partner country does not prevent the EU from addressing the human rights situation of that country in UN human rights fora.

5. Engagement with Civil Society

Consultations with civil society actors (including NGOs, human rights defenders) are an essential element of the dialogues. Civil society actors can provide a clear picture of the domestic human rights situation and possible individual cases as well as technical expertise on specific topics. Such consultations should be held well in advance of the dialogue to feed into the agenda and a debriefing session should be a standard practice. A preparatory VTC linking up local civil society actors, when the dialogue takes place in Brussels, could also be envisaged and has proved to be a good option.

The involvement of civil society also contributes to better implementation in between dialogues.

Civil society seminars for which EU funding is available organised back-to-back with human rights dialogues are a powerful tool to engage with and involve civil society from the partner country/organisation into the process of discussing human rights with the partner country authorities or regional organisation. Concrete recommendations stemming from the civil society seminars would be discussed with the co-chairs of the dialogue and their delegations in the margins/ during a dedicated session of the human rights dialogues.

A debriefing for civil society should be organised after the dialogues.

When governments obstruct civil society engagement in the dialogues, the issue of reprisals should be raised directly with the government in the context of the dialogue.

6. Modalities

Overall flexibility and pragmatism must remain the key words in the context of the modalities for human rights dialogues. **Annual sessions** should remain standard practice. The focus should be on investing energy and resources into follow-up activities between two sessions of the dialogue.

Alternating locations, (Brussels/third country) remains the principle. When physical meetings are not possible, the dialogues can be held by VTC. Dialogues should ensure sufficient time to discuss all issues.

The EEAS will inform the Member States on the elaboration of the draft **agenda** through the relevant geographic Council working party and seek their views as appropriate. COHOM will be associated to the work of geographic Council working parties.

Agendas for dialogues should be defined in a mutually agreed manner with a partner country. It is important that agendas are balanced reflecting the priorities of both sides. On substance, the focus of the agenda is on the overall human rights developments of both sides, selected topics – chosen with each partner on a case-by-case basis - for an in-depth discussion and multilateral engagement. The priorities set out in the Action Plan on Human Rights and Democracy will guide those discussions. Ratification and adherence to international human rights and fundamental labour rights instruments and cooperation with the UN (i.e. HRC, UNGA, UPR, and UN Special Procedures) should remain a standard feature of the dialogues. Good governance and rule of law related issues may also be addressed. Where relevant, questions of international humanitarian law may be raised. Individual cases should be raised during (e.g. to illustrate an agenda item) and/or in the margin (handing over of a list) of the dialogue.

In line with the Action Plan on Human Rights and Democracy, gender mainstreaming will be applied to ensure that dialogues are gender responsive.

In line with the Lisbon Treaty and the role of the High Representative for Foreign Affairs and Security Policy (Art. 27(2) TEU), the EEAS leads the dialogue. The EEAS will be represented at the appropriate level. Chairing by the EUSR for Human Rights sends a strong message of EU political engagement and impetus. It should be matched on the other side by a similar level of engagement.

The active participation of the EU Delegation at a senior level in the country concerned is an essential element, including when the dialogue takes place in Brussels. Commission services are invited to participate. Engagement with specialized EU agencies and in particular the Fundamental Rights Agency (FRA) has proved crucial in a number of dialogues to explain EU challenges and policies and is very much encouraged.

Based on the longstanding practice, Member States representatives are invited to participate as observers.

The third country delegation to the human rights dialogue should generally be expected to include, besides the MFA, the line ministries and administrations concerned by the agenda (typically, Ministries of justice, interior, labour and social affairs). In addition, line ministries will be responsible for follow up and will have most to gain from an exchange on best practices. The presence of the country's National Human Rights Institution is also encouraged.

When the dialogue takes place in the partner country, the practice of **site visits** (e.g. to detention facilities, refugee camps, etc.) related to agenda points of the dialogue should be made a standard practice, as well as visits to EU supported projects and meetings with human rights related institutions/bodies. Similarly, when the dialogues takes place in Brussels local visits are also held.

7. Outcome and Follow up

Where possible a joint press release is developed with the identification of areas of cooperation and follow up stemming from the human rights dialogue. When the partner country does not agree on issuing a joint press release or it proves difficult to agree on the text, an EU press release may be issued as a way of informing the public.

Oral debriefing sessions with Member States' Embassies locally, as well as in geographic working parties of the Council are required as appropriate. A written report is circulated to the relevant geographic Council working party and COHOM as appropriate. Throughout the year, COHOM will receive regular and timely updates about dialogues, including about new trends and key outcomes. Furthermore, progress achieved by the dialogues will be assessed as needed by the relevant geographic Council working party in cooperation with COHOM. Member States will also regularly exchange information about bilateral human rights dialogues as appropriate with a view to ensure consistency between bilateral human rights dialogues and EU human rights dialogues.

Building trust and confidence, and engaging with third countries on human rights issues they perceive as particularly delicate and sensitive is in itself an important outcome. However, with some countries, in addition to a joint communique on the dialogue, an **operational roadmap** for follow up could be suggested to that third country in order to assist the work of the respective Delegation in the months following the dialogues. It is important that dialogues “stay-alive” in between sessions. Monitoring progress between dialogues is therefore important. Consideration should also be given to a mid-term bilateral visit from the EUSR, or a virtual consultation with his counterparts from the dialogue, in order to maintain focus and momentum between dialogues.

Cooperation resulting from the human rights dialogue can take various forms, for example: technical assistance/exchange of experience with Member States, project/programme financing on themes discussed in the dialogue, cooperation in multilateral fora, joint declaration on thematic issues, events/conferences/workshops and further bilateral consultations as follow up. Dialogues do not always produce immediate, measurable and visible outcomes. This fuels criticisms about their usefulness, in particular from civil society. Hence, the need to proactively identify operational results and set up follow-up mechanisms.