

Pamphlet No. 14

**THE EUROPEAN UNION:
HUMAN RIGHTS AND THE
FIGHT AGAINST DISCRIMINATION**

Summary: The European Union (EU) is committed to promoting human rights, democratization and development. The fight against racism and discrimination lies at the heart of that commitment. The European Union (which includes both the European Community and its 15 Member States) provides some 50 per cent of the total international Official Development Assistance. Some of the main instruments available to the European Community (EC) in promoting respect for human rights are the cooperation and partnership agreements with third countries, covering different regions. Practical information is given on the support being provided under EU and EC policies and funding programmes for promoting and protecting the rights of minorities, such as those of the Roma/Sinti, as well as the rights of indigenous peoples.

The European Union

The European Union (EU) believes that the promotion and protection of human rights around the world is a legitimate concern of the international community. The European Union is bound by its Treaty to promote human rights, democratization and development. The universality, interrelation and indivisibility of human rights, including civil, political, economic, social and cultural rights, as reaffirmed by the 1993 World Conference on Human Rights in Vienna, is the central principle guiding its actions.

The European Union's policy is based on internationally agreed frameworks and standards, reflecting the belief that human rights and democracy are not "Western" values but universal values to which all UN members subscribe. The EU is working towards the universal ratification and implementation of all major international human rights instruments. The European Commission, the executive body of the European Union, participates actively in international human rights fora, such as the UN Commission on Human Rights, the preparation of the World Conference against Racism and the Special Session of the UN General Assembly on Children.

The main instruments available to the European Community to promote respect for human rights are cooperation and partnership agreements with third countries. The new development policy of the European Community is firmly grounded in the principle of sustainable, equitable and participatory human and social development. The promotion of human rights, democracy, the rule of law and good governance are an integral part of the new policy.

The European Union, which includes the European Community and its 15 Member States, provides some 50 per cent of the total international Official Development Assistance. It is

also the largest donor of humanitarian aid, providing 58 per cent of total emergency aid for the Organization for Economic Cooperation and Development's Development Assistance Committee (DAC) in 1999. Cooperation and partnership agreements with third countries offer opportunities to conduct regular political dialogues and to provide financial support to human rights related policies and activities. The European Community's cooperative funding programme includes: the European Development Fund (EDF) for African, Caribbean and Pacific (ACP) countries; the ALA funds for Asian and Latin American countries; Tacis for the Russian Federation, the Newly Independent States and Mongolia; Phare for countries of Central and Eastern Europe (candidate countries to the EU); CARDS for the western Balkans; and MEDA, for Mediterranean countries. It also includes other thematic budget lines, such as the European Initiative for Democracy and Human Rights (EIDHR) and funds to co-finance projects with development NGOs, for combating HIV, promoting gender equality, and providing humanitarian aid, which is managed by the European Community Humanitarian Aid Office (ECHO). Other European Community policies, such as those on trade or immigration, can also have an effect on human rights and democratization.

Civil Society in the EU's Development Cooperation Policy

The participatory approach adopted in the new ACP-EC (African, Caribbean, Pacific - European Community) partnership is one of the main innovations of the Cotonou Agreement recently signed by the European Community and its Member States and by 77 States belonging to the ACP group. It marks a change in culture in EC development cooperation and in the ACP-EU relationship. The new approach involves encouraging a genuine dialogue both on development policies and on ACP-EU cooperation strategies. The implementation and success of this new approach will depend on the way in which each group works within this framework. The Agreement is based on the notion that public entities need not be the sole creators of development policy. Civil society and the private sector can and should organize themselves to take part in the debate and formulate their proposals.

Participation is a fundamental principle of the Cotonou Agreement. The Agreement states that: "...apart from central government as the main partner, the partnership shall be open to different kinds of other actors in order to encourage the integration of all sections of society, including the private sector and civil society organisations, into the mainstream of political, economic and social life." The involvement of non-State actors is to be developed in four main areas: information and consultation, access to financial resources, implementation, and capacity-building.

However, the Cotonou Agreement does not specify precise **modalities** for this new participatory approach. Civil society and economic and social actors are not organized in the same manner in all countries, therefore each situation should be appraised as to which modality would work best. Also, there are still few examples of effective participatory approaches, in the design and implementation of international cooperation, on which to base a general set of modalities. As such, work is continuing in the European Commission and the ACP Secretariat to involve civil society and other actors in the programming of Community assistance, particularly through discussions on Country Strategies for Development. Consultations with civil society and other actors are occurring in this context.

ACP-EC cooperation is now based on a system of rolling programming. Resource allocations are regularly adapted on the basis of an assessment of country needs and of policy

performance. Representatives of economic and social organizations and of civil society will be consulted in this process. Within the indicators on policy performance, account will be taken of the openness and quality of this dialogue.

The involvement of non-State actors in cooperation will build on **existing structures and experiences**. The idea is not to create artificial new mechanisms for economic and social dialogue, but rather to encourage a more systematic use of existing mechanisms. At the global level, existing structures must be used, including the ACP-EU Follow-up Committee, which was set up in 1997 within the Economic and Social Committee of the European Union, the ACP Business Forum, the Chambers of Commerce and Industry of the ACP States, the ACP Civil Society Forum and the Local Government Forum.

Capacity building is a major issue in many countries. Under the new cooperation framework, resources will be available to finance capacity-building programmes for civil society and economic and social actors. Such programmes should aim to strengthen communication networks at the national and regional level, develop the specific competencies of representative organizations in their field of activity, support mechanisms for economic and social dialogue, and promote dialogue between the private sector, civil society and governments within and among ACP countries.

European Community policy also has a **regional focus**, manifested in partnerships with similar organizations in the European Union, such as economic and social committees. Trade unions and non-governmental organizations can also play a positive role.

The policy dialogue that is taking place between individual governments and the European Commission **at the sectoral level** is crucial. When designing programmes, whether in the field of health or education, priority attention will be paid to the needs of the poorest persons in society.

Protecting and Promoting the Rights of Indigenous Peoples

The EU's policies towards indigenous peoples should be seen in the framework of the new ACP-EC partnership described above.

The development of European Union policy on Indigenous Peoples is relatively recent. Indigenous peoples were involved in the development of a European Commission Working Document 11 May 1998 on support for Indigenous peoples in the framework of the European Community's development cooperation. This Document was rapidly followed by the adoption of a Council Resolution. The **Council Resolution on Indigenous Peoples within the Framework of the Development Cooperation of the Community and Members States** of 30 November 1998 provides the main guidelines for support to indigenous peoples.

The Council of the European Union (which is the European Community's legislative body and exercises that power in co-decision with the European Parliament) has called for concern for indigenous peoples to be integrated into all levels of development cooperation, including policy dialogue with partner countries. The Resolution calls for "...the full participation of indigenous peoples in the democratic processes of their country" within an approach that "asserts they should participate fully and freely in the development process" recognizing "their own diverse concepts of development", and "the right to choose their own development paths", including "the right to object to projects, in particular in their traditional areas". The Resolution states that "Indigenous cultures constitute a heritage of diverse knowledge and

ideas, which is a potential resource to the entire planet". It thereby acknowledges the importance that indigenous peoples attach to their own "self-development", that is, the shaping of their own social, economic and cultural development and their own cultural identities.

The rights of indigenous peoples were included as a thematic priority in proposals launched under the European Initiative for Democracy and Human Rights (EIDHR) and in the EU funding programme to support NGOs and Cooperation with International Organizations (see below). The rights of indigenous peoples have also been identified as a thematic funding priority for the EIDHR in the recent Commission Communication on the EU's Role in Promoting Human Rights and Democratization in Third Countries (COM, 2001, 252 final of 8 May 2001).

Funding Possibilities for Indigenous Peoples under the EU Budget

- The budget line for **Actions in Favour of Tropical Forests (B7-6201)** has been an important instrument for supporting indigenous peoples. A wide range of projects have been financed, including demarcation of indigenous territories, community-based conservation and management of resources, capacity-building, workshops, studies and seminars.
- The budget line for **financial and technical cooperation with Latin America (B7-310)** finances a number of projects at national and regional levels that aim to empower and support indigenous peoples and strengthen their structures and organizations.
- The budget line on **global environment (B7-8110)** can finance, *inter alia*, projects promoting indigenous peoples' rights to their territories, their traditional practices of forest management and the inclusion of these issues within National Development Plans.
- The **European Initiative for Democracy and Human Rights (Chapter B7-70)** includes specific references to indigenous peoples and finances projects aimed at training and capacity-building (see below).
- The budget line on **Environmental Measures in Developing Countries (B7-6200)** helps integrate environmental considerations within the development process. The budget line finances innovative pilot projects, some of which involve indigenous peoples.
- A number of projects involving indigenous peoples are also financed through the budget line for **co-financing with European NGOs (B7-6000)**.

Examples of Projects Funded Under the European Initiative for Democracy and Human Rights (EIDHR) in 2000 to Promote the Rights of Indigenous Peoples

- **The Saami Council's** interregional project to train indigenous peoples on international human rights standards and policy-making received EUR 668,502. It will offer indigenous representatives an opportunity to learn about international human rights standards and mechanisms, and will include three training programmes, to be organized in indigenous areas.
- **The Institute of Commonwealth Studies** received a grant of EUR 290,792 for a three-year research and advocacy project on indigenous peoples' rights. Under the project, information will be collected, with the peoples concerned, about key issues affecting indigenous peoples in Commonwealth states. These findings will be presented to the Commonwealth Heads of Government Meeting and to the UN World Conference on Racism in 2001.

- The **Rainforest Foundation and International Alliance of Indigenous and Tribal Peoples of the Tropical Forests** was allocated EUR 350,014 for an interregional project concerning indigenous peoples' view of the development and implementation of the EU resolution on indigenous peoples. The project will focus on researching and describing case studies of EC development cooperation and its relationship to indigenous peoples.

- A comparative study on indigenous culture, customs and traditions, organized by the **Saami Council** and funded with an EIDHR contribution of EUR 353,868, highlights the positive contributions indigenous peoples have made and continue to make in protecting culture and customary law.

Protecting and Promoting the Rights of Minorities

The protection of persons belonging to minorities is an inherent part of the EU policy on human rights. Article 6 of the Treaty on European Union refers to the European Convention for the Protection of Human Rights and Fundamental Freedoms. Article 14 of the Treaty states that the rights and freedoms set forth in the Convention, which has been ratified by all EU Member States and candidate countries, should *“be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status”*.

Furthermore, the EU Charter on Fundamental Rights, which was officially proclaimed in December 2000, affirms equality before the law of all people (Article 20), prohibits discrimination on any ground (Article 21), and requests the Union to protect cultural, religious and linguistic diversity. The European Commission's actions in the field of external relations are guided by compliance with the rights and principles contained in this Charter.

Particular attention is paid to minorities within the context of the EU enlargement process. The Copenhagen criteria, designed in 1993 for countries wishing to join the EU, specifically highlight the protection of minorities. They state that *“membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and the respect for and protection of minorities”*. The European Parliament has made clear the EU's commitment to this vulnerable category, particularly with regard to the applicant countries for EU membership. In a resolution adopted in 2000, the Parliament called on the Council and the Commission to *“enhance the ability of these countries to pass and implement laws aimed at countering discrimination against minorities.”*

Candidate countries' records concerning treatment of minorities are assessed in annual reports presented by the European Commission to the European Parliament and to the Council. Based on those reports, the Commission recommends measures the candidate countries can take to improve their records. Particular attention is paid to the situation of **Roma/Sinti** communities, as these populations, which number around 6 million in candidate countries of central and eastern Europe, suffer from widespread prejudice and discrimination.

Combating racism and xenophobia, and discrimination against minorities has been identified as a thematic and funding priority for the European Initiative for Democracy and Human Rights (EIDHR), during the years 2002 to 2004. Most recently, this approach was endorsed in a European Commission's Communication adopted on 8 May 2001, concerning the EU's role in promoting Human Rights and Democratisation in Third Countries.

Finally, the Stability Pact for Europe, signed in Paris on 21 March 1995 and aimed at anchoring peace and democracy in southeast Europe, reaffirms the importance of respect for minorities.

Main Funding Possibilities for Minorities Issues under the EU Budget

- **The Phare programme: budget lines granting assistance to the countries of Central and Eastern Europe (B 7-030).** The Phare programme is designed to facilitate and accelerate preparation for the future accession of these countries to the EU. EU membership requires the respect and protection of minorities, which must be improved in several of the countries of Central and Eastern Europe. Each of the “national” Phare programmes for these countries includes funding for projects aimed at improving local protection of minorities (generally in collaboration with national governments).

- **The Access programme: budget line aimed at strengthening the civil society in candidate countries of Central and Eastern Europe (B 7-500).** Financial support is granted to local NGOs/NPOs in a number of sectors, including the social sector. In this respect, the programme targets the social reintegration and/or the promotion of sustainable health and social support for marginalized groups of the population, such as members of minority groups.

- **The European Initiative for Democracy and Human Rights (Chapter B 7-70)** includes specific references to minorities issues and finances a range of projects and initiatives aimed at increasing the protection of minorities and capacities of state officials, NGOs and minorities communities.

Examples of Projects in Support of Minorities

The Phare Programme for Candidate Countries of Central and Eastern Europe

- The high rate of school non-attendance and drop-out among Roma/Sinti children is a symptom of their community’s social exclusion. Improving the level of participation in education can promise substantial long-term benefits. Some EUR 9.6 million, co-financed by the Hungarian government, were allocated for this purpose under the 1999 programme for Hungary; an estimated EUR 7 million has provisionally been set aside for a similar project under the 2001 Phare programme for Roma/Sinti.

- A minority tolerance programme, co-financed by the Slovak government and totaling EUR 2.3 million, exists to train 450 local Slovak public administration representatives and opinion-makers on minority issues and conflict resolution.

- Under the Phare programme, projects in support of Roma/Sinti communities totaled EUR 10 million in 1999 and EUR 13 million in 2000.

The European Initiative for Democracy and Human Rights

- With a EUR 248,000 grant under the EIDHR 2000 budget, the Council of Europe is assisting the governments of Bosnia and Herzegovina, Croatia and the former Yugoslav Republic of Macedonia in designing and implementing policies aimed at improving the situation of Roma/Sinti in those countries. The project also aims to increase participation of Roma/Sinti themselves in designing those solutions and policies.
- OSCE-ODHIR is developing a project that aims to mainstream and empower Roma/Sinti as full participants in post-crisis management, good governance and the development of a sustainable civil society in southeastern Europe. The project is supported with a EUR 250,000 grant from EIDHR.
- Minorities Rights Group International is implementing a large project aimed at raising awareness of minorities and minority rights by enhancing local capacities to engage in dialogue with governments and bringing local problems to national and international attention. The project involves 11 countries of South, Central, and Eastern Europe and was granted EUR 500,000.

A New Office to Manage EU External Aid

As part of its efforts to reform the management of external aid, the Commission formally established the **EuropeAid Cooperation Office** on 1 January 2001. The Office's mission is to implement the external aid instruments of the European Commission, which are funded by the European Community budget and the European Development Fund. The Office is responsible for all phases of the project cycle, including identification and appraisal of projects and programmes, preparation of financing decisions, implementation and monitoring, and evaluation of projects and programmes.

The Office is also involved in initiatives to improve programming systems and their content, establish policy evaluation programmes and develop mechanisms for communicating evaluation results. However, the Office does not deal with pre-accession aid programmes, such as Phare, Ispa and Sapard, humanitarian activities, macro-financial assistance, the Common Foreign and Security Policy (CFSP) or the Rapid Reaction Facility.

The Fight Against Discrimination within the EU: A New Impetus

A package of new anti-discrimination measures was adopted by the EU in 2000. These directives implement the new Article 13 of the Amsterdam Treaty, which entered into force in 1999. Under Article 13, the Community acquired the power to take legislative action to combat racial discrimination. This legislation is applicable within the EU only, but forms part of the *acquis* that candidate countries of Central and Eastern Europe will have to integrate into their own laws.

The package of measures adopted includes a directive on equal treatment irrespective of racial or ethnic origin. This directive sets out a binding framework for prohibiting racial discrimination throughout the EU. Moreover, it states that the Community is a strong defender of women's human rights, recognizing that discrimination on the grounds of ethnic

origin may affect women and men differently. The directive must be implemented in the national laws of EU Member States by 19 July 2003.

The directive defines the concepts of direct and indirect discrimination and outlaws discrimination in the fields of employment, social protection, including health and social security, social advantages, education and access to the supply of goods and services, including housing. It gives persons who believe themselves to be victims of discrimination access to an administrative or judicial procedure so they can assert their rights and foresees mechanisms for applying appropriate sanctions against those who discriminate. In order to strengthen the position of victims, the directive shifts the burden of proof on to respondents and empowers victims to seek the help of associations.

The text also outlaws racial harassment in the fields covered by the directive and prohibits retaliation against persons who have made use of rights flowing from the directive. In addition, the directive requires that all EU Member States set up a body that may act independently to promote the principle of equal treatment irrespective of racial or ethnic origin. A separate directive provides similar protection against discrimination in the labour market on grounds of religion and belief, disability, age and sexual orientation. This directive must be translated into national law by 2 December 2003.

An Action Programme to combat discrimination runs from 2001 to 2006. With a budget of approximately EUR 100 million, it supports projects aimed at preventing and combating discrimination on a number of grounds, including racial or ethnic origin and religion and belief.

For further information and contacts, see the following web sites:

http://europa.eu.int/comm/external_relations

<http://europa.eu.int/comm/europeaid>

<http://europa.eu.int/comm/development>

<http://europa.eu.int/comm/enlargement>

http://europa.eu.int/comm/employment_social