

Defenders of human rights defenders

The International Foundation for the Protection of Human Rights Defenders

Handbook for Human Rights Defenders on the External Relations of the European Union

*How does it work?
What can be expected?*

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I. EU Instruments on Human Rights and Democracy: an Overview

Since the Treaty of Rome establishing the European Communities in 1957, the European integration has been founded upon and defined by universal principles of liberty and democracy, respect for the rule of law, human rights and fundamental freedoms. However, it was more than three decades after the Treaty of Rome that the European Union (EU) took a considerable step in integrating human rights and democratic principles into its external policies with the entry into force of the Treaty on European Union (TEU) in November 1993.

The Treaty sets the development and consolidation of “*democracy and the rule of law, and respect for human rights and fundamental freedoms*” as an objective of the EU’s Common Foreign and Security Policy (CFSP). It also stipulates that the Community policy in the sphere of development cooperation must contribute to developing and consolidating democracy and the rule of law, and the respect of human rights and fundamental freedoms.

The Treaty of Nice (2000) stipulates that the objectives of developing and consolidating democracy and the rule of law and of respecting human rights and fundamental freedoms are pursued also in the field of economic, financial and technical cooperation with third countries (Art. 181 bis). As a result, **the pursuit of human rights has become a transversal objective of all of the EU’s external activities** (development policy, economic, financial technical cooperation...).

HUMAN RIGHTS GUIDELINES

The EU has developed guidelines on specific human rights themes that “*serve as a framework for protecting and promoting human rights in third countries*”¹.

The EU has adopted the following guidelines:

- Death penalty (1998):
http://ec.europa.eu/comm/external_relations/human_rights/adp/index.htm
- Human rights dialogues (2001):
http://ec.europa.eu/comm/external_relations/human_rights/doc/ghd12_01.htm
- Torture or other cruel, inhuman or degrading treatment or punishment (2001):
http://ec.europa.eu/comm/external_relations/human_rights/torture/guideline_en.htm
- Children and armed conflict (2003):
http://ec.europa.eu/comm/external_relations/human_rights/child/index.htm
- **Human rights defenders (2004):**
<http://ue.eu.int/uedocs/cmsUpload/GuidelinesDefenders.pdf>
- Promotion of International Humanitarian Law (2005):
http://eur-lex.europa.eu/LexUriServ/site/en/oj/2005/c_327/c_32720051223en00040007.pdf

These guidelines are not-binding commitments that apply to all EU institutions and Member States, including EU missions in third countries (Member States' embassies and European Commission delegations). For each of these Guidelines, you can find practical actions that the EU Institutions and EU missions should carry out to promote and defend specific human rights in third countries.

¹ EU Guidelines on HR, Council of the European Union, Secretariat General, May 2005, p. 3.

The existence of these guidelines does not mean that the EU will not take action in favour of other human rights, i.e. all civil, political, economic, social and cultural rights.

EXAMPLES OF ACTION

The EU has a large range of tools at its disposal to promote the respect of human rights in third countries.

1. *Dialogues and consultations with third countries on human rights issues:*

The main EU instruments to promote human rights abroad are the regular dialogues that the EU establishes on a regular basis with almost all countries. The EU commits itself to include the issue of human rights, democracy and the rule of law in all meetings and discussions with third countries and at all levels (see EU guidelines on human rights dialogues). During these dialogues/meetings, the EU representatives can ask the authorities to prohibit certain practices, adhere to international norms and procedures, establish domestic legal guarantees, protect/release a HRD, etc.

The EU has established **different types of dialogues**, within which human rights can be discussed:

- *Political dialogues*: The EU engages in political dialogues of varying degrees of formality with all countries with which it has relations. Those political dialogues deal systematically with the issue of human rights (e.g. Article 8 of the Cotonou Agreement with the African, Caribbean and Pacific countries (ACP), political dialogue of the Barcelona Process, political dialogue with the Asian countries in the context of ASEAN and ASEM,...).
- *Human Rights dialogues*: The EU has established specific human rights dialogues with China, Russia and Iran, and is considering establishing a similar one with Uzbekistan.
- *Ad-hoc dialogues* extending to CFSP-related topics such as that of human rights (e.g. with Cuba, Sudan)

2. *Demarches and public statements:*

The “Troika” or the Presidency of the EU can make a HR related démarche (usually confidential) or a public statement, calling upon the authorities of a country to respect human rights. The European parliament can also make a public declaration condemning a state's practises, asking for the release of a HRD,... (although demarches from the presidency or troika are usually perceived to carry more weight)

3. *Sanctions:*

Since 1995, all association agreements as well as partnership and cooperation agreements with third countries contain a **human rights clause**, which stipulates that human rights are an essential element in the relations between the parties. In the event that those principles are breached, the EU may take certain measures, ranging from a refusal to grant visas to senior government members to the freezing of assets held in EU countries. The human rights clause also offers the ultimate possibility of suspending the agreement. However, the principal rationale for the clause is to form a positive basis for advancing human

rights in third countries through dialogue and persuasion. In other words, the preference is to use positive action rather than penalties.

4. Multilateral cooperation:

EU can act at the multilateral level in international and regional human rights fora to encourage the respect of human rights in third countries (the United Nations, the Council of Europe, the Organisation for Security and Co-operation in Europe)

5. Conflict prevention and crisis management operations:

These operations are carried out by the European Union within the framework of the European Security and Defence Policy (ESDP). The EU can decide to launch a military operation, a police mission, a security sector reform mission... These operations are aimed at promoting the respect and protection of human rights (e.g. EUPOL mission in DRC ensures that DRC's police acts in respect of human rights).

6. EU Special Representatives

The EU can appoint a EU Special Representative for a specific country or region.

7. EU Personal Representative on Human Rights

Michael Matthiessen was appointed on 16 January 2005 as Personal Representative of the SG/HR on Human Rights in the area of CFSP.

8. EU election observation missions:

These missions aim to provide independent, comprehensive assessments of the conduct of elections in transition and post-conflict countries

FUNDING

The EU policy towards human rights is financially supported by a specific thematic budget line that allows the European Commission to support human rights initiatives in third countries: **the European Instrument for Democracy and Human Rights² (EIDHR)**. EIDHR allows the European Comm to fund NGOs without the approval of the Government of the third country.

Next to this specific thematic budget line, the European Community's external assistance is composed of **five financial instruments** (from 2007) that can also support human rights projects in third countries:

- **Instrument for Pre-Accession Assistance (IPA):** IPA replaces PHARE, ISPA, SAPARD, CARDS and Turkey pre-accession instrument, and finances projects in candidate and potential candidate countries (Albania, Former Yugoslav Republic of Macedonia, Bosnia-Herzegovina, Croatia, Serbia, Montenegro and Turkey);
- **European Neighbourhood and Partnership Instrument (ENPI)** replaces MEDA and TACIS, and finances projects in Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldova, Morocco, the Palestinian Authority, Syria, Tunisia and Ukraine;
- **Development Cooperation and Economic Co-operation Instrument** replaces the European Development Fund (EDF): For African, Carabian and Pacific countries.

² For more information and calls for proposal see:
http://ec.europa.eu/europeaid/projects/eidhr/index_en.htm

- **Instrument for Stability**
- **Humanitarian Aid and Macro Financial Assistance**

II. The EU Institutions and the protection of human rights defenders

COUNCIL OF THE EU

What can be expected from the Council re the protection of HRDs?

- The 'Troika' ³ or the Presidency of the EU can make a confidential/public **demarche** asking to respect human rights, protect a human rights defender.
- The 'Troika' or the Presidency of the EU can make a **declaration** asking to respect human rights, protect a human rights defender.
- **Member States embassies are requested to implement the Guidelines on HRDs** (the embassy of the Member State holding the Presidency is of particular importance.
 - Member States embassies are supposed to develop and maintain **contacts with HRDs**, giving them **visible recognition** (inviting them or visiting them), **observing trials** or **visiting HRDs in prison, accompany HRDs at risk**, contact local authorities, organise conferences...
 - Member States embassies must **monitor and report** periodically on the situation of HRDs, both as regards the institutional framework within which they operate, and the threats and attacks against individual defenders. They are supposed to report, collectively and along with the European Commission Delegation, on the situation of HRDs in their annual human rights 'fact sheet'.
 - Member States embassies can make **recommendations** to the Council working group on human rights (COHOM) **for possible EU actions**, including condemnation of threats and attacks against HRDs, as well as demarches and public statements when HRDs are at immediate or serious risk.
- When EU officials (Troika, EU Presidency) are **visiting third countries**, they organise, where appropriate, meetings with HRDs and raise individual cases with government authorities.
- The Council raises the situation of HRDs in **political dialogues with third countries**, including individual cases.
- The Council can decide to take **sanctions** (see 'human rights clause' in agreements).
- The Council adopts an **EU annual report on human rights**.

How to approach the Council?

³ Composed of the Member state holding the Presidency, the Member state that will hold the Presidency in the following six months, the Commissioner responsible for external relations and the High Representative for the CFSP

The easiest and more direct way is to contact the **Member States embassies** in your country. The embassy of the Member State holding the presidency is of particular interest.

EUROPEAN COMMISSION

What can be expected from the European Commission re the protection of HRDs?

- **EC Delegations are requested to implement the Guidelines on HRDs:**
 - The EC Delegation is supposed maintain **contacts** with HRDs, giving them **visible recognition** (inviting them or visiting them), **observing trials** or **visiting HRDs in prison, accompany HRDs at risk**, contact local authorities, organise conferences...
 - The EC Delegation must **monitor and report** periodically on the situation of HRDs, both as regards the institutional framework within which they operate, and the threats and attacks against individual defenders. They are supposed to report, along with the Member States embassies, on the situation of HRDs in their annual human rights 'fact sheet'.
 - The EC Delegation can make **recommendations** to the Council working group on human rights (COHOM) **for possible EU actions**, including condemnation of threats and attacks against HRDs, as well as demarches and public statements when HRDs are at immediate or serious risk.
- The European Commission raises the human rights issue during **political dialogues, bilateral/multilateral meetings and visits...**
- **Practical support to HRDs** through social and economic development programmes of the EU: financial support to capacity-building and public awareness campaigns led by HRDs, assistance in the establishment of international networks of HRDs, and support to HRDs for accessing financial resources from abroad.
- Funding human rights projects through the **EIDHR**

How to approach the European Commission?

Contact the EC's Delegation in your country. For contact details, see http://ec.europa.eu/comm/external_relations/repdel/index_rep_en.cfm

EUROPEAN PARLIAMENT

What can be expected from the EP re HR?

- Members of the European Parliament (MEPs) organise **human rights debates** on specific cases/countries in the Sub-committee on human rights and, less usual, in other committees (Development, External relations...).
- The European Parliament can adopt non-binding **resolutions** on general (thematic or geographical) or specific cases (e.g. call for the release of a HRD). The European Parliament can also adopt urgent resolutions.
- The European Parliament can make **oral or written questions** to the European Commission or the Council on what they do or plan to do regarding human rights violations in a specific country.
- The European Parliament can put its **veto to the adoption or renewing of association agreements** with third countries, in order to oblige the parties to consider human rights violations.
- MEPs can raise the issue of human rights and visit HRDs during **interparliamentary delegation visits**.
- The European Parliament can decide to send **missions on the ground**.
- **The Sakharov Award** honours a HRD or an NGO annually.
- MEPs can also **take action individually**.
- The European Parliament adopts **reports**, e.g. Annual report on human rights in the World, specific country reports.
- The European Parliament can send **observers** for elections.

How to approach the European Parliament?

There is no representation of the European Parliament in third countries. However, the European Parliament's interparliamentary delegations meet twice a year with the parliamentarians of third countries.

Moreover, the European Parliament can decide to send a MEP mission to third countries.

III. The functioning of the European Union: background information

THE THREE 'PILLARS' OF THE EUROPEAN UNION

The Treaty of Maastricht, which came into effect in 1993, set up the European Union comprising three 'pillars'.

1 st PILLAR	2 nd PILLAR	3 RD PILLAR
The Community dimension , comprising the arrangements set out in the European Community (1957), European Coal and Steel Community (1951) and the European Atomic Energy Community Treaties, i.e. Union citizenship, Community policies, Economic and Monetary Union, etc.	The Common Foreign and Security Policy , which comes under Title V of the EU Treaty Human rights in third countries come under this pillar.	Police and judicial cooperation in criminal matters , which comes under Title VI of the EU Treaty.

The difference between the three pillars basically reflects the provisions applicable to them. The three pillars function on the basis of different decision-making procedures in which the three main institutions - known as the '**Institutional Triangle**' - play a specific role: the Community procedure for the first pillar, and the intergovernmental procedure for the two others.

As regards the **Common Foreign and Security Policy** and in particular human rights in third countries, this means that:

- the **Council of the European Union**, which represents the Member States, is the main decision-taking body;
- the **European Commission**, which represents the common interest of the EU, has influence;
- the **European Parliament**, which represents the population of the EU, is the less powerful Institution, as it is only consulted by the Council before the latter takes its decision.

The Commission and the Member States can submit proposals to the Council. The Council will then take the decision at unanimity.

THE COUNCIL OF THE EUROPEAN UNION

- **Competences:** The Council passes laws, usually legislating jointly with the European Parliament; defines and implements the EU's common foreign and security policy, based on guidelines set by the European Council; concludes, on behalf of the Community and the Union, international agreements between the EU and one or more states or international organisations. Along with the European Parliament, the Council constitutes the budgetary authority that adopts the Community's budget.

According to the Treaties, the Council has to take its decisions either by a simple majority vote, a '[qualified majority](#)' vote or unanimously, depending on the subject to be decided. Most decisions are taken by majority vote, although sensitive

issues like foreign and security policy (CFSP) require unanimity. In most other cases, qualified majority voting is used. The number of votes allocated to each EU country roughly reflects the size of its population. The acts of the Council can take the form of regulations, directives, decisions, common actions or common positions, recommendations or opinions. The Council can also adopt conclusions, declarations or resolutions.

- **Configurations:** Composed of the Ministers of the 27 Member States, the Council meets in nine different 'configurations' depending on the subjects being examined. Human rights situations in third countries are generally discussed in the **General Affairs and External Relations Council (GAERC)**, where once a month the Ministers for Foreign Affairs of the 27 Member States meet.
- The **Presidency** of the Council is held for six months by each Member State on a rotational basis. The Presidency of the Council plays an essential role in organising the work of the Institution, particularly in promoting legislative and political decisions. It is responsible for organising and chairing all meetings and for brokering compromises.

2007-2018 Presidencies	1st Semester	2nd Semester
2007	Germany	Portugal
2008	Slovenia	France
2009	Czech Republic	Sweden
2010	Spain	Belgium
2011	Hungary	Poland
2012	Denmark	Cyprus
2013	Ireland	Lithuania
2014	Greece	Italy
2015	Latvia	Luxembourg
2016	Netherlands	Slovakia
2017	Malta	UK
2018	Estonia	

- Related to the Presidency is the **troika** composed of the Member State holding the Presidency, the Member state that will hold the Presidency in the following six months, the Commissioner responsible for external relations and the High Representative for the CFSP. When it meets at Head of State or Government level, it becomes the **European Council** whose role is to provide the EU with political impetus on key issues.
- **Committees and Working groups:** All the work of the Council is prepared or co-ordinated by the **Permanent Representatives Committee (COREPER)**, made up of the permanent representatives of the Member States working in Brussels and of their assistants. The work of this Committee is itself prepared by some 250 committees and working groups consisting of experts from the Member States. Certain committees have a specific role of in providing co-ordination and expertise in a given area, such as the **Political and Security Committee (PSC)** with the task of monitoring the international situation in the areas of foreign policy and common security and providing, under the responsibility of the Council,

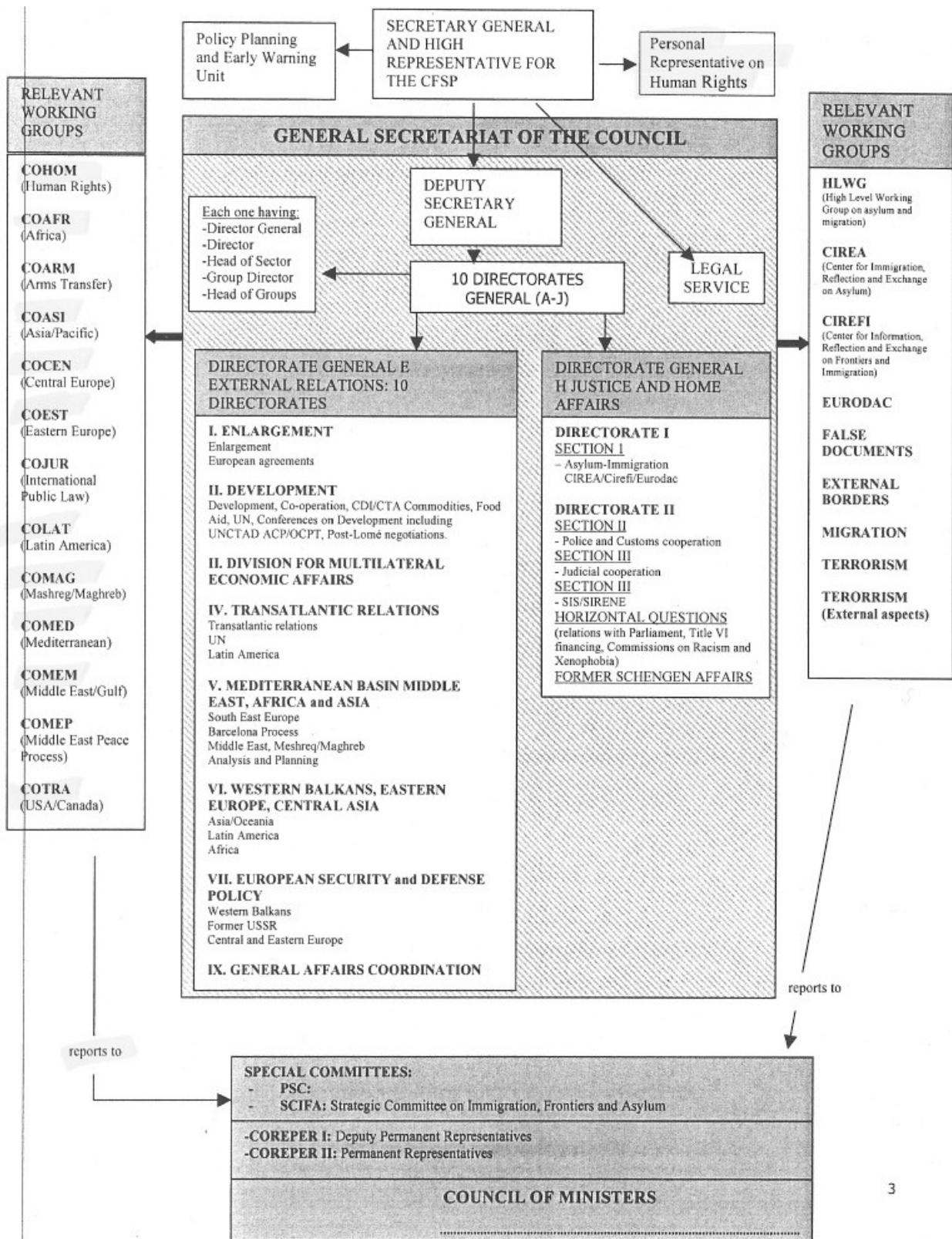
political control and strategic direction in crisis management operations. Regarding the working groups, of particular interest is the **Human rights working group (COHOM)** which has under its purview all human rights aspects of the external relations of the EU, and the **geographical working groups** (eg. COMAG, COMEM, COASI, COLAT...)

- The Council is assisted by a **General Secretariat**. The Secretary General (SG) of the Council is Javier Solana. In 1999 he became also the High Representative (HR) of the EU for CFSP (sort of Foreign Minister of the EU). In 2005, Mr Solana appointed **Michael Matthiessen** to the post of the **Personal Representative of the SG/HR on Human Rights** in the area of CFSP, as a contribution to the coherence and continuity of the EU Human Rights Policy. Solana has also appointed various **Special Representatives for different geographical regions**

See

http://www.consilium.europa.eu/cms3_fo/showPage.asp?id=263&lang=EN&mode=g

The Council of the European Union

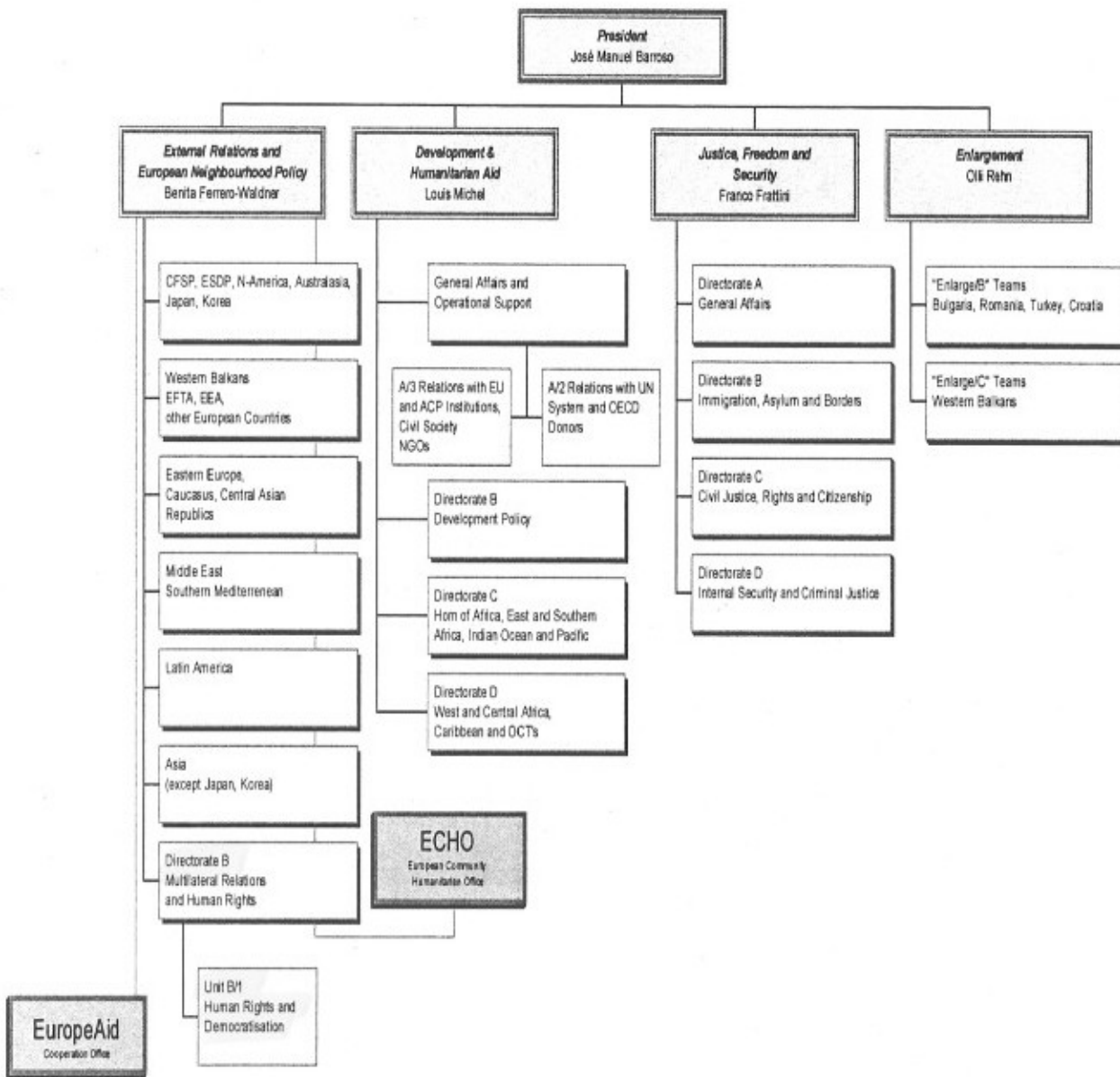


Source: Amnesty International EU Office

THE EUROPEAN COMMISSION

- **Competences:** The European Commission (EC) is the institution representing the general interest of the Community. It has **three major functions**:
 - Right to make proposals. The EC shares this competence with the Member States for CFSP matters.
 - Implementation of Council's decision and management of the EU budget.
 - Guardian of the Treaties: the EC ensures that the regulations and directives adopted by the Council and Parliament are being implemented in the Member States. The EC can act against rule-breakers, bringing them to the Court of Justice if necessary.
- **A collegial body and a 'machinery':** The term EC refers to the collegial body - chaired by José Manuel Barroso - composed of 27 Commissioners (assisted by a cabinet) appointed for a five-year term, as well as to the Brussels-based machinery under their control, composed of civil servants. There is one Commissioner per Member State.
- **Directorates General (DGs):** The EC is divided in different **DGs** dealing with the various policy areas. DGs can be compared to ministries. Regarding external relations of the EU, **DG External relations and Neighbourhood policy (DG RELEX** - Commissioner Ferrero-Waldner) is of particular interest. DG RELEX covers all countries, except the African, Caribbean and Pacific countries (ACP), which are only covered by the DG Development (DG DEV - Commissioner Louis Michel). The DG RELEX Human Rights Unit has a global responsibility, i.e. including monitoring human rights in the ACP countries.
- **Delegations in third countries:** The EC has also delegations in third countries representing it on the ground. The delegation of the EC in a country together with the EU Member States embassies form together the EU mission in a country.
- **Funding:** The EC assistance programme is managed by **Europaid** (EIDHR and the geographic financial instruments...), while humanitarian relief is managed by **ECHO**.

The European Commission



Source: Amnesty International EU Office

THE EUROPEAN PARLIAMENT

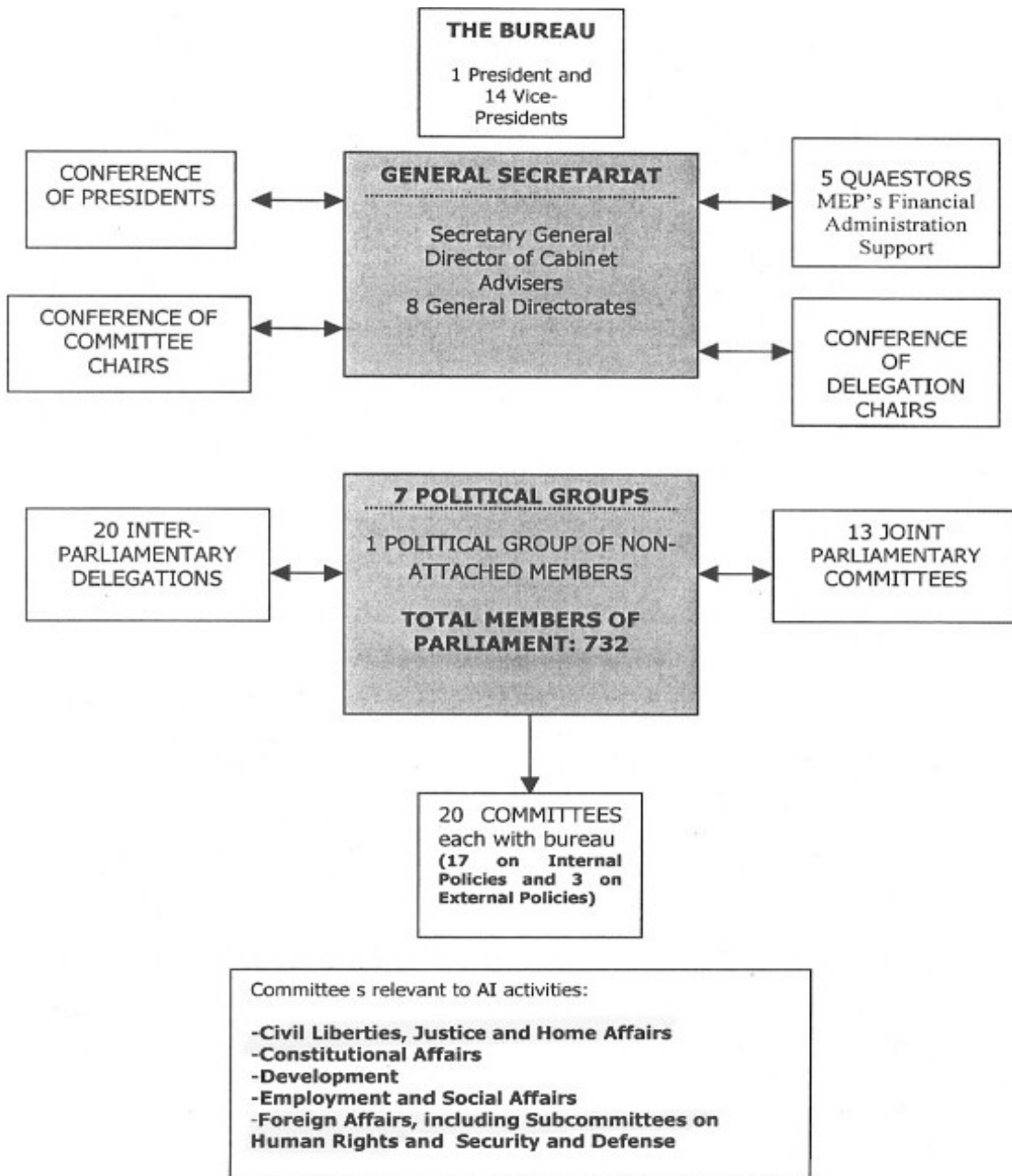
➤ **Competences:**

- The European Parliament (EP) shares the **legislative power** with the Council for community matters. But as regards the external relations (second pillar), the EP's role is only consultative. Due to its restrictive legislative powers, the EP plays quite a different role as compared with that of national parliaments.
- European Parliament must give its **assent to international agreements** negotiated by the Commission and to any proposed enlargement of the European Union.
- It also shares, with the Council, equal responsibility for adopting the **EU budget**. The EP has made full use of its budgetary powers to influence the EU policy-making.
- It exercises political supervision over the EU activities (**democratic control**). It has the power to dismiss the Commission by adopting a motion of censure. It also supervises the day-to-day management of EU policies by putting oral and written questions to the Commission and the Council. Finally, the Presidency of the EU reports to the Parliament on the decisions taken by the Council.

The EP is thus quite a weak Institution. However, in its 'moral' role, the EP has been the most open Institution to NGO lobbying for human rights and the most outspoken on this issue.

- **An elected body:** The EP - chaired by Hans-Gert Poettering - is the elected body that represents the EU's citizens. The EP is composed of **785 members** (MEPs) elected through a proportional representation electoral system every five years. The EP is based in Brussels, although the plenary sessions every month take place in Strasbourg (France).
- **Political groupings:** The EP is organised into eight political groups, which are based on political ideology rather than nationality.
- **Committees, Delegations and Parliamentary Assemblies:** The work of the EP is organised in a system of committees (20), which do the preparatory work for plenary sessions. In the Committee on Foreign Affairs there is a **Sub-committee on Human rights**. The MEPs are also divided in 32 **Inter-parliamentary Delegations** with third countries or regions (meeting twice a year). The EP's delegations maintain relations and exchange information with parliaments in non-EU countries. Through its delegations, the EP helps represent the EU externally. There exists also **three joint Parliamentary Assemblies**: ACP-EU Joint Parliamentary Assembly, Euro-Mediterranean Parliamentary Assembly and the Euro-Latin American Parliamentary Assembly.
- The **General Secretariat** of the EP is based in Luxembourg and Brussels.

The European Parliament



Source: Amnesty International EU Office

IV. Interesting links

- **German Presidency:** <http://www.eu2007.de/en/>
- **EU Glossary:** it contains 233 terms relating to European integration and the institutions and activities of the EU:
http://europa.eu/scadplus/glossary/index_en.htm
- For **Eurojargon** please refer to http://europa.eu/abc/eurojargon/index_en.htm
- **European Union Law (Eur-Lex):** <http://eur-lex.europa.eu/en/index.htm>
- **EU Institutions: homepages**
 - Europa homepage: www.europa.eu.int
 - Council of the European Union: <http://ue.eu.int>
 - European Commission: www.europa.eu.int/comm/index.htm
 - European Parliament: www.europarl.eu.int
 - European Parliament sub-committee on human rights:
http://www.europarl.europa.eu/committees/droi_home_en.htm
- **EC Delegations** in third countries:
http://europa.eu.int/comm/external_relations/repdel/index.htm
- **Websites of EU Delegations:**
http://europa.eu.int/comm/external_relations/delegations/intro/web.htm
- **Human Rights NGOs – HRD webpages:**
 - Front Line: www.frontlinedefenders.org
 - Amnesty International: <http://web.amnesty.org/pages/hrd-index-eng>
 - Amnesty International EU Office: <http://www.amnesty-eu.org/>
 - FIDH: http://www.fidh.org/rubrique.php?id_rubrique=180
 - World Organization against Torture (OMCT): <http://www.omct.org/>
 - Human Rights Watch: <http://hrw.org/doc/?t=defenders>
 - Peace Brigades International: <http://www.peacebrigades.org/>
 - Protectionline: <http://www.protectionline.org>
 - Reporters without borders: <http://www.rsf.org/>
 - Human Rights First: <http://www.humanrightsfirst.org>
 - International Service for Human Rights:
<http://www.ishr.ch/about%20ISHR/HRDO/HRDO%20Secretariat/hrdo.htm>
- **UN Special Representative of the Secretary General on Human Rights Defenders:** <http://www.ohchr.org/english/issues/defenders/index.htm>

V. Front Line's EU Office... in brief

Front Line believes that the European Union and its Member States hold the power to make a difference by urging third countries to recognise the legitimacy of the activities of human rights defenders and their right to carry out their activities without fear of reprisals.

That is why Front Line opened an office in Brussels in July 2006. Front Line calls on the EU to proactively develop contacts with, and support human rights defenders, centrally and at EU mission level.

Concretely, the Front Line's EU office, *inter alia*:

- Sends **urgent appeals** re HRDs at risk to the three main institutions of the EU, urging them to take concrete action;
- **Invites HRDs in Brussels** to meet representatives of the three main EU institutions, in order to make their voices heard at EU level, and also to meet other Brussels-based NGOs;
- Encourages the **implementation of the EU Guidelines on HRDs**, especially at EU mission level (European Commission's delegations and Member States' embassies in third countries);
- Advocates for a **facilitated European visa procedure** for HRDs at risk

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