



# POLICY BRIEF



## FOSTERING HUMAN RIGHTS AMONG EUROPEAN (EXTERNAL AND INTERNAL) POLICIES

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This Policy Brief summarises the first findings from the initial stage of the FRAME project, and presents first recommendations for effective and coherent human rights policies in the EU.

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### INTRODUCTION

**The European Union (EU) has placed the protection and promotion of human rights**, democracy and the rule of law at the heart of all its policies (Art. 2 TEU). However, the EU faces a number of **challenges** in executing this ambition. These challenges include the fragmentation of human rights-related competences; the (in)coherence between its internal, external and overall human rights policies (sometimes leading to questions around the EU's own human rights record while it profiles itself as a global champion of human rights); and the growing contestation of the universality and legitimacy of human rights norms by a number of third countries.

FRAME's main objective is to build a **sound knowledge-base in order to feed into the formulation of comprehensive and coherent EU human rights policies that address these challenges**. To this end, it aims to (i) scrutinise the evolving factors, concepts, institutions and instruments underlying the protection and promotion of human rights at the EU, international and national levels; (ii) appraise the EU's contribution to global human rights governance through its engagement with multiple actors and partners; (iii) evaluate the effectiveness of human rights promotion in the maze of EU institutions, competences and policies; and, on this basis, (iv) develop a set of indicators, tools and policy proposals allowing for a tailor-made integration of human rights into EU internal and external policies.

In the first 18 months, FRAME has sought to problematise the EU's position vis-à-vis human rights protection and promotion along **four main research questions**:

- What **factors** enable or hinder positive EU impacts on human rights protection worldwide?
- Who are the **actors** with whom the EU has to interact in promoting human rights and what are the best strategies to do so?
- How has the EU integrated human rights concerns into selected **policies**, and what has been the overall impact of such policies on human rights?
- What innovative regulatory **tools** can be put in place to arrive at better defined and more effective policies?

### 1. Factors enabling or inhibiting human rights protection by the EU

When trying to implement policies with a positive human rights impact, the EU has to grapple with a number of **factors which can determine its success**. FRAME identifies key factors which influence human rights protection.

The factors addressed by FRAME are of a theoretical, practical and institutional nature.

#### *a) In theory: Conceptualising operational notions of human rights, democracy and rule of law*

**Human rights, democracy and the rule of law are mentioned together as values** which the EU seeks to promote throughout its policies, sometimes being dubbed the EU's 'Holy Trinity.' These notions are, however, inherently dynamic and sometimes contested concepts, so that their operationalisation poses difficulties which start at the very level of their definition.

In its [first report](#), FRAME examines how these **interrelated concepts are operationalised** in EU policies. The report shows that the EU's conceptualisation of human rights is holistic in the sense that it recognises both civil and political rights, economic, social and cultural rights, and – to a limited extent – third generation rights like the right to environmental protection. In addition, the EU adheres to a so-called 'thick' definition of the rule of law, which includes substantive elements (individual rights and democratic governance) as well as procedural elements (rule *by* law). Similarly, the EU's approach to democracy can also be termed 'thick,' as the EU includes both procedural elements (such as free elections) and more substantive elements (cf. the EU's promotion of 'deep democracy' in response to the Arab Spring).

The report next assesses the different **difficulties and challenges** which emerge out of these conceptualisations of human rights, rule of law and democracy. Some of the main difficulties identified relate to (i) the position of vulnerable groups and the necessity of promoting these values in an inclusive manner; (ii) balancing respect for national sovereignty and affirmative policies to promote those values in Member States and abroad (notably how to pursue these three ideals without lapsing into neo-imperialism and hypocrisy); (iii) the coherent promotion of those values in contexts characterised by legal pluralism and informal institutions.

***b) In practice: Understanding the underlying factors that facilitate or hinder human rights protection***

**Historical, political, legal, economic, social, cultural, religious, ethnical and technological factors** all have the potential to **facilitate or hinder human rights protection within or outside the EU**, and indeed FRAME research demonstrates that this has been the case in practice. Moreover, those factors often **interact** to form complex situations of vulnerability for certain groups, requiring a coordinated response so that the human rights of those groups are specially catered for by the authorities. This calls for a context-sensitive yet systematic, holistic and consistent approach to human rights, underlining their indivisibility.

In a [comprehensive report](#) on how the EU has addressed these factors in its policies, FRAME shows that the EU, over time, has often taken a **progressive approach to human rights protection**, and that it has sought to address, often in conjunction with civil society, many of those factors through innovative policy and legal norms (e.g. in the area of discrimination on the grounds of gender, age or racial origin, or in the field of disability). In other domains, it conversely appears that EU policies may have **reinforced certain factors leading to a lack of protection of human rights**. For instance, EU ‘austerity’ policies in response to the 2008 economic crisis are said to have worsened economic factors such as poverty or gaps in social security coverage, leading to a further deterioration in the human rights of economically disadvantaged groups. Moreover, the analysis highlights that considerable gaps between the often progressive human rights policies of the EU and their implementation exist in practice.

***c) Institutional factors: Protecting human rights in collaboration with increasingly diverse actors, institutions and organisations***

The EU is but **one organisation in a wide network of global, regional, national and non-state institutions** that aim to protect and promote human rights. The challenge for the EU is therefore to **find its place** in that network, to build synergies, avoid overlaps and fill gaps to the extent possible. In a [mapping report](#) dedicated to those institutional factors, FRAME appraises how precisely these various institutions are inter-linked.

**At the global level**, the United Nations dominates the stage and acts as the main forum for the development of global human rights norms and action. As indicated below, the EU itself and the EU Member States are deeply engaged in activities at this level.

**At the regional level**, the EU shares the stage with a multitude of regional human rights organisations. It maintains a very fruitful relationship with the Council of Europe, as it will soon adhere to the European Convention of Human Rights, which has been instrumental in shaping the EU’s human rights tradition. The EU, moreover, maintains close relations with other regional organisations, having a more or less broad human rights mandate in Africa, Asia, the Middle East, or the Americas, and at times actively engages with such actors in order to encourage human rights initiatives, such as ASEAN.

**At the national level**, National Human Rights Institutions (NHRIs) have proliferated worldwide as instruments to enhance respect of and compliance with human rights law locally, although the current situation reflects a broad variety of approaches. The EU itself has established its own Fundamental Rights Agency, and is encouraged to engage more systematically with NHRIs.

**At all levels**, it emerges that civil society organisations increasingly play a key role in human rights protection and promotion. In their capacity as ‘watchdogs’, they provide international and national institutions with the necessary input to monitor human rights records on the ground, thereby raising awareness worldwide and steering the human rights agenda.

## 2. The EU as part of a network of human rights actors

Even if the EU were to actually design its policies taking full account of the abovementioned factors, it could **not act in isolation of a myriad of actors** who are relevant to human rights protection. The EU therefore needs to foster **partnerships** with like-minded and other powerful actors; to mount **opposition** to adversaries of human rights; but also address complexities in its **own institutional set up**, as a number of EU institutions and bodies have a competence to act in the field of human rights, at the risk of the overall coherence of its message and policies.

The actors considered are therefore:

- Other international organisations;
- Third countries with a strategic interest for the EU;
- Non-state actors;
- The EU's own institutional set up.

### *a) The EU and other international organisations*

As indicated above, the **global institutional landscape of human rights is very crowded**, and the EU both acts in parallel to other **regional organisations**, and attempts to insert itself into the work of the leading global human rights organisation, the **United Nations**. Questions arise as to what strategies the EU should put in place so as to effectively enhance its human rights agenda amongst these potential partners, and rivals. A forthcoming FRAME report will examine more in depth how the EU is able to make effective use of the UN fora to promote its human rights agenda. Subsequent reports will look at the interactions of the EU with other regional organisations.

The first issue in this respect has to do with the level at which the EU should exercise **leadership at the UN** and the value of trying to position itself as a global human rights leader for the EU.

A second issue concerns the complex process of elaborating the EU human rights **priorities** at the UN, which involves several actors and is articulated in an array of strategic documents. Currently these priorities are thematically focused on civil and political rights and geographically focused on Asia and Africa. Areas of human rights concern such as economic and social rights, or the human rights situation in Western Europe and Latin America, are apparently considered to be of secondary importance by the EU.

Third, an analysis of EU's performance within the UN human rights protection system indicates that an effective mechanism of **coordination and cooperation between the EU bodies and Member States** is vital in a multilateral environment where both the EU as a whole and individual Member States feature as prominent actors. While the Lisbon reforms have brought about significant enhancement of these burden-sharing and coordination mechanisms, FRAME research indicates that there is substantial room for improvement.

Finally, the representation of the EU within the UN system runs through an entire spectrum of **statuses and rights**, from full membership status to no formal status at all. This arrangement means that every UN venue requires a different mechanism of EU representation and often requires reliance on Member States in order to efficiently bring forth the full weight of the EU as a regional bloc.

### *b) The EU and third countries*

In the context of its external relations, the EU has put in place a number of '**partnerships**' based on **geographical proximity** (with its Southern and Eastern Neighbourhood) or on **strategic interests** (e.g. with ACP countries). Human rights have been an important element of those partnerships at least since the early 1990s, but the coupling of human rights with this aspect of the EU's foreign policy has been riddled with difficulties, which a report forthcoming in early 2015 will unpack in detail.

Most prominent among those difficulties has been the **balancing act between the EU's self-declared values and the EU's foreign policy interests**. There is inconsistency between rhetoric and actual performance: the tension between the commitment to human rights values expressed in various policy documents and statements on the one hand, and on the other the role human rights actually play in decision-making. For example, the migration aspect of the European Neighbourhood Policy has been mostly driven by the aspiration to keep migrants away from the EU rather than by concerns for the human rights of migrants.

A second challenge has to do with **inconsistencies between EU policies toward different countries**, which may undermine the credibility and effectiveness of the EU's engagement for human rights promotion abroad. Enforcement of universal rules does not appear to be equally central to the EU's relations with all third countries, but rather depends on their power and importance for the EU. The EU for instance displays different attitudes towards the Eastern European regions than in Russia and Syria, where strategic interests play an important role, or in Ukraine and North Africa, where the EU is often described as a '*status quo* player.'

Finally, FRAME research shows that the EU as an organisation has occasionally **failed to live up, internally, to the aspirations it displays towards third countries**, one notable example being the treatment of migrants and asylum seekers. This may give the impression that human rights are interpreted more or less strictly depending on whether they apply to external or internal policy.

### ***c) The EU and non-state actors***

**Non-state actors are important driving forces or obstacles** to be reckoned with in relation to human rights. A FRAME [report](#) maps the positive and negative impacts, **within and outside the EU, of four selected groupings of non-state actors, namely businesses; civil society organisations; international financial institutions; and human rights defenders**.

The report conducts an analysis of their place in the international legal system, of the policy basis for EU engagement with them, and an assessment of their impact. What emerges is a **complex and nuanced** picture of non-state actors impacts.

Despite various positive impacts, businesses were also found to be responsible for serious human rights violations. FRAME identified key sectors, such as mining and garment production, as areas where rights are severely violated. FRAME research also shows how many transnational corporations have voluntarily accepted a degree of **corporate social responsibility** in line with international initiatives but have often failed to prevent human rights violations. Despite making the implementation of the **UN Guiding Principles on Business and Human Rights** a priority, the EU's internal CSR policy, as well as its promotion of the Business and Human Rights themes abroad, are still largely insufficient to play as a counterforce to those negative impacts.

Concerning **civil society organisations and human rights defenders**, FRAME identified many positive impacts, including their vital role in policy inputs from the grassroots, representing poor and indigenous peoples, monitoring and the dissemination of human rights, and engagement in EU legislative processes, dialogues and consultations. Conversely, the analysis also displayed evidence of bias, lack of transparency, imposing of own agendas and a selective advancement of some human rights at the expense of others. Overall, the EU is shown by the report to be **quite open to CSO participation** in many of its human rights policies, such as human rights dialogues, the process leading to the adoption of the UN Convention on the Rights of Persons with Disabilities, or its development policy. Support for HRDs has been a long established feature of the EU's external human rights policy, which was recently enhanced by the adoption of EU Guidelines on the subject.

#### **d) Putting its own house in order: Appraising the EU's institutional coherence**

The EU does not only engage with human rights actors externally, but is **constrained by a complex institutional architecture** in which several institutions and bodies share the cross-cutting competence for human rights promotion. How, in this context, can the EU ensure that all its policies and institutions converge to promote and protect human rights?

A [report](#) on this question maps the fragmented EU human rights competences. The report notes that while most of the EU institutions have made pronouncements about coherence, great uncertainty remains as to the **real meaning of coherence**, what **concrete problems** of incoherence currently arise, and what **degree of coherence** is actually needed. The report therefore establishes a working definition of coherence and a better delineation of its implications, while being mindful of the space and flexibility to be afforded to all institutions in exercising their human rights-related competences.

With regard to the way institutional coherence as a policy objective is operationalised within the EU, FRAME takes several angles:

- How do **strategic policy documents** align with each other in promoting human rights?
- How do the **respective competences and mandates** of EU institutions and bodies foster or hinder the formulation of coherent policies?

FRAME's findings in these respects are that the basis for incorporating human rights into the external relations of the EU and with respect to the fundamental rights of EU citizens is found in the **aspirational goals** expressed in Treaty provisions and is consistently reiterated in strategy documents which identify concrete actions, such as the **Stockholm Programme** and **Strategic Framework and Action Plan for Human Rights and Democracy**. However, the **mandates of the EU institutions and bodies are not always clear** and are often drafted without proper regard for their place in the larger puzzle of bodies and institutions. For example, the failure to extend the FRA's mandate to police and judicial cooperation in criminal matters seems incoherent given the abolishment of the pillar structure at the inception of the Lisbon Treaty. Second, the inability of the FRA to monitor violations of fundamental rights by Member States and its geographical limitations lend to the overall impression that the EU is not serious about correcting violations.

It may also be the case that cooperation amongst institutions sharing competences in the field of human and fundamental rights does not happen as it should as a result of **'turf battles'**, such as between the Commission and the European External Action Service. However, best practice also occurs, as is demonstrated by a case-study describing exemplary coordination and cooperation in combatting racial discrimination, in an initiative led by the Fundamental Rights Agency.

In order to foster coherence from the bottom up, more **awareness of what occurs in the human rights framework should also be raised among officials in the various institutions**, especially if their portfolio does not concern human and fundamental rights directly. This could be achieved by creating a body with the sole responsibility of coordinating fundamental and human rights responsibilities, activities and processes for policymaking. In this regard, the nomination of a First Vice-President of the Commission in charge of Better Regulation, Inter-Institutional Relations, the Rule of Law and the Charter of Fundamental Rights may be a step in the right direction.

### **3. The EU in action: Putting human rights at the heart of all EU policies**

The above analysis of the way the EU is able to promote respect for human rights in consideration of a number of essential factors and as part of a wide network of actors is complemented by a series of studies which seek to **evaluate the positive or negative impacts of concrete EU policies on human rights**.



The policies which are the focus of these studies are:

- Trade, investment and development;
- The Common Foreign and Security Policy and the Common Security and Defence Policy, with a focus with the EU's action on conflict areas;
- Policies related to the Area of Freedom, Security and Justice (AFSJ);
- Specific human rights and democratisation policies.

These policies were chosen for their **high profile** in both the EU's internal and external agenda, but also for their tendency to **engage human rights as a cross-cutting issue**, either in that they concern human rights directly, or that they necessarily entail positive or negative human rights impacts.

#### *a) Integrating human rights into trade, investment and development policies*

The existing **nexus between trade, development and human rights** is now well documented, and from the 1990s onwards, EU institutions and bodies have sought to ensure that trade and development are a positive force for human rights. As analyzed in detail by a [FRAME report](#), human rights have been introduced into trade policies through unilateral and bilateral instruments, as a matter of legal obligation since the Lisbon Treaty.

**Unilateral trade measures** grant preferential market access to developing countries in exchange for the implementation of human rights standards under its **Generalised System of Preference (GSP)**; and place restrictions on the trade in certain goods. In practice, the EU applies **human rights conditionality** through its GSP, as trade preferences were withdrawn on three occasions in response to human rights violations.

The EU's **bilateral or regional trade agreements** have systematically included human rights clauses since 1995, and have recently also included sustainable development chapters addressing labour rights. However, monitoring and enforcement of such clauses have been found to be **weak and inconsistent**. This might **affect the credibility of the EU** as a global human rights actor. Investment agreements are still in the making since Lisbon made foreign direct investment an exclusive EU policy. However, the little information available regarding the **EU's investment treaties** currently negotiated does not indicate that the EU will adopt a bold stance in linking investment and human rights.

Regarding **development cooperation**, under the impetus of the Agenda for Change and the Strategic Framework, human rights, democracy, the rule of law and good governance have been made a priority of the EU's development policy, as is evident most notably in the 2014-2020 Multiannual Financial Framework and in the EU's advocacy for a new global development agenda post-2015. Several policies and measures further **integrate human rights in EU cooperation with developing countries**. First, the EU has progressively refined its legal and policy frameworks for **conditioning assistance on a country's performance on human rights** and democratic governance through negative and positive conditionality. Consistency and EU-wide coherence in applying conditionality has been problematic however. Second, the EU has **scaled up its support for actors and processes related to human rights**, notably by increasing funding for civil society actors and human rights defenders. Third, the EU develops more coherent policies integrating human rights as a cross-cutting dimension, including on applying a **'rights-based approach'** in all its programmes and projects. Given these efforts, progress has been made at the level of policy formulation, but implementation towards and within partner countries will require close follow-up and scrutiny.

#### *b) Human rights in conflict areas*

An important part of the EU's external policies (CFSP and CSDP) has to do with **conflict zones and situations of grave violence**, which are prone to human rights violations. When stepping into such contexts through the variety of measures at its disposal (diplomatic démarches, sanctions, peacebuilding missions, etc.), the EU of course intends to be a broker of peace and appeasement. However, the **human rights implications of conflict are so complex that the EU's true impact in that regard is very difficult to measure**.

In a [comprehensive report](#), FRAME unveils the various **patterns of human rights violations** related to conflict and violent crisis situations. It provides a sound basis for defining the best course of action for promoting human rights alongside peace in **CFSP and CSDP actions**, and for evaluating their results on those two fronts. The angles of approach of this survey focus on the context, the victims and the perpetrators of human rights violations in conflict.

In terms of the context, the **notion of 'conflict' is taken in the broad sense** of situations of organised collective violence, and thus is not necessarily limited to the legal understanding of the term under international humanitarian law. It is deemed to include complex humanitarian emergencies, whether derived or not from conflict situations, as well as scenarios of socio-political unrest such as periods of political instability associated with abnormal regime change, or social conflicts associated with exploitation of natural resources.

In terms of the **victims**, special attention is paid to **vulnerable groups** such as children or women (as particular victims of sexual violence), it being understood that vulnerability depends, as indicated above, on many factors such as geographical location, economic and social resources, particularities of the person or group in question, or circumstances pre-existing the conflict or crisis. The report however warns against creating stigma, further marginalising groups and reinforcing the 'victim-narrative', by focusing policies and interventions on labelled vulnerable groups, rather than on the various factors that render certain groups vulnerable.

In terms of the **perpetrators**, though warring states are obviously responsible for human rights violations in conflict, the report also provides a specific focus on the **role of non-state actors** in this regard, such as non-state armed groups, and the related category of terrorist groups, private military and security companies, and multinational corporations operating in conflict zones, high risk or low-governance areas. While these groups are diverse in nature, they also share some commonalities. There are often questions as to whether and how international humanitarian law obligations and protections may apply to them, the nature of their human rights obligations, and what types of international crimes for which either groups or individual members may be considered responsible.

### ***c) An Area of Freedom, Security and Justice... and Human Rights?***

Within its own borders, the EU seeks to maintain an **Area of Freedom, Security and Justice (AFSJ)**, in which persons can **circulate with limited obstacles**, while preserving the security of Member States. The AFSJ has undergone a **steady evolution**, peaking with the adoption of the Lisbon Treaty and the abovementioned Stockholm Programme, both having an outspoken emphasis on fundamental rights. With regard to its impact on the protection of fundamental rights, this **evolution is however still imperfect** and incomplete, both from the point of view of its **institutional structures** and from the point of view of the **policies and legal instruments** which govern it.

The [overview of actors and instruments](#) suggest some issues of particular concern for the realisation of fundamental rights in the AFSJ. FRAME singles out **multiple possible sources of incoherence** for the protection of rights of individuals, stemming from competence issues, Member State discretion and differentiation of obligations, lack of mainstreaming of fundamental rights concerns, flaws in accountability mechanisms, technocratisation of AFSJ policies and securitisation of fundamental rights issues. After a detailed analysis, FRAME research reveals a two-fold image: on the one hand, following the Lisbon Treaty, the AFSJ has changed dramatically. The AFSJ has been brought into the **general constitutional scheme of EU decision-making** and has become part of a system of constitutional checks (including fundamental rights). On the other hand, the AFSJ continues to be a policy area that is characterised by **institutional peculiarities and novel forms of governance**. The institutional improvements that the communitarisation of the AFSJ brought with it are counterbalanced by the challenges arising out of these special features.

More particularly, the complexity of the AFSJ's institutional design and the increasing **externalisation or outsourcing of functions** not only challenges the reach of the EU system for the protection of fundamental rights, but also potentially exports flaws of the EU system to concern third country nationals, most notably



migrants. The implication of at least **10 different bodies and agencies in governing the AFSJ** is a source of opportunity as they bring in increased specialisation and expertise, but also a source of challenge, being an expression of experimentalist governance as well as a source of novel governance techniques, and entailing both high coordination costs and risks of incoherence. Therefore, fundamental rights mainstreaming is critically important throughout this intricate institutional and policy context.

Another source of potential concern is the use of instruments and integration mechanisms that grant **Member States considerable freedom of action**, in cases where such States do not respect fundamental rights. At the same time, further integration may not be a political option, or alternatively, would require a differentiation of obligations which could raise new coherence issues. Given the nature of the cooperation within the AFSJ and the multiple sources of potential fundamental rights concern, the rights of individuals in the AFSJ will require constant attention.

#### ***d) The EU as an explicit promoter of human rights and democracy abroad***

The EU not only has indirect impacts on human rights through its various policies, it also seeks to have a **direct impact on human rights** by way of specifically dedicated external human rights and democratisation policies. A [FRAME report](#) seeks to map the different policies that have been adopted to that effect, and to offer some preliminary reflections as to their effectiveness. Having dedicated policies aiming to promote human rights and democracy worldwide is of course a daunting task, and therefore some **prioritisation** is necessary. A number of questions have arisen from FRAME research in relation to the way those priorities are defined and implemented.

At the level of the **definition of priorities**, the EU's stance on identifying themes navigates between **long-established objectives** (such as human rights defenders) and **themes that emerge from current events** at international level (such as freedom of expression online and offline). These thematic priorities do not always seem to be given equal weight; for example, several priority themes have been covered by human rights guidelines while others have not. Another area in which coherence is called into question is the promotion of **economic, social and cultural rights**, which is marginal compared to civil and political rights. Regarding priority groups, the term '**vulnerable groups**' is routinely used in the EU policy documents but there does not seem to be **real reflection on the content of this term**, and the EU pragmatically tends to focus on protecting groups in extremely vulnerable situations. Focus on the long-term empowerment of these vulnerable groups has been deemed insufficient by FRAME, although **increased participation** is an EU-goal for several of these groups. Moreover, policy documents show little awareness of the **underlying dynamics** that create vulnerabilities, e.g. the interactions between marginalised groups and dominant groups. As a preliminary recommendation, FRAME research suggests that EU policy should focus less on individual characteristics and more on the societal arrangements that are at the root of these vulnerabilities.

At the general level of **policy formulation**, FRAME shed light – notably in the high profile Strategic Framework and Action Plan – on some defects which can be detrimental to effective human rights promotion: (i) the **scope** of policies inconsistently refers to internal and external EU policies; (ii) not all themes and groups which have been identified as priorities have been the object of **concrete measures**; (iii) while these policies are supposed to **focus on human rights and democracy**, one invariably notes that the focus is rather on the former than on the latter.

At the level of **policy implementation**, a comparative analysis between the European Instrument for Democracy and Human Rights (EIDHR, i.e. the key financing instrument) – and other policy documents such as the Strategic Framework shows **significant differences between planned activities and the way in which they are funded**: although the EIDHR covers all the priority themes and groups mentioned by the Strategic Framework, their definition is different in certain cases. Moreover, the scope of the EIDHR is broader and includes themes not covered by the Strategic Framework and the Action Plan, which calls into question the coherence of policies as they are defined, implemented and financed.

#### 4. Evidence-based regulation: Looking towards a better designed and more effective human rights system?

In a more recommendatory spirit, FRAME also explores and analyses the issue of **human rights measurement systems**, which are crucial for calibrating policies and evaluating their results.

FRAME research confirms that **indicator-based human rights measurements** are a good way to arrive at improved, evidence-based decision-making. Consequently, a meaningful human rights indicator model must provide relevant, reliable and up-to-date information on the current human rights situations addressed by EU policies. It should include evidence on the commitments, the guarantees for the fulfilment and the actual protection of rights, or on respective trends. Human rights indicators themselves must refer to one or several specific human rights standards and measure the respect, the protection and/or the fulfilment of that standard. In that sense human rights indicators proper differ from ‘human rights-related indicators’, which do measure other elements which are conducive to human rights protection, such as the economic climate or formal rule of law observance.

Several conditions must moreover be met for the inclusion of indicators in human rights policies, which pertain to **methodology**, the recognition that human rights are **indivisible** and **consistency**.

In order to inform an evidence-based decision making, differentiated measurements are required, taking into account the **qualitative and quantitative** aspects of a given human rights situation. The indicator results should therefore provide for detailed evidence instead of aggregated assessments presented in composite scores.

Understanding human rights as a core value of the EU further requires a systematic approach that takes into account all human rights on an equal footing. The recognition that human rights are indivisible, interdependent, and inter-related **precludes a prioritisation of rights** or any ‘pick-and-choose’ approach for human rights measurement tools. However, depending on the specific purpose of an EU policy, a particular focus might be given to selected human rights for individual measurements.

The imperative of consistency and comparability implies that measurements of human rights are **not limited to a particular geographical area**, but are generally applicable to all countries. A human rights measurements system should thus, for instance, be applicable to both the external and internal policies of the EU.

### POLICY IMPLICATIONS AND RECOMMENDATIONS

Eighteen months into its research programme, FRAME has already covered a lot of ground, and has been able to build a very solid knowledge base regarding the factors that enable or hinder the EU’s human rights policy objectives; the network of human rights actors with which the EU should engage; the particular impact of select policies; and the ways in which indicators and other innovative regulatory techniques can be brought into the decision-making process.

At the time of entering the second – more evaluative – phase of the project, the following policy implications and preliminary recommendations can already be formulated based on this ‘mapping exercise.’

#### 1. Improve the overall coherence of EU (human rights) policies

Given the EU’s fragmented competences and institutional build-up, designing and implementing policies which all coherently pursue (even indirectly) the objective of better protected human rights is a major challenge, and is a **red thread through virtually all of the issues discussed above**. Structural action is therefore needed.

Given the fragmented institutional landscape and policy competences in the EU, it is first important, in each relevant field of policy, to **define institutional mandates** in a clear and mutually reinforcing way, all the more when policies have to be carried out by agencies and specialised bodies. In order to oversee the coherent functioning of EU bodies and institutions and the coherent alignment of policies, a **dedicated responsible structure** should be put in place. Continued training and other **awareness-raising activities** on human and fundamental rights should moreover be conducted in all EU institutions.

Finally, a foundational step to take would be to adopt a **practice-oriented definition of coherence** to be consistently kept in mind by EU institutions when developing policy. This could come in the form of a list of actions to take or control points to check to ensure coherence.

## 2. Take account of all factors that promote or hinder human rights realisation

If there is anything to be learned from the analysis of factors that promote or hinder human rights realisation, it is that situations leading to human rights violations or protection are always the result of a very complex set of factors and influences.

Therefore, there is no silver bullet to address single-handedly situations of human rights violations. Rather, EU policies must be designed so as to **take account of complex realities** and be tailored to address all their factors.

In meeting such a daunting challenge, an obvious recommendation is to **rely on the expertise of the rights-bearers** themselves. In that regard, it is notably important that ‘vulnerable’ persons are not addressed as dependent victims, but as agents as well. Accordingly, the goal should not just be *protection*, but also *participation* and *empowerment* of these groups.

Concomitantly, it is recommended that the EU, by means of **suitable models for incorporation**, ensures that civil society is included in a consistent way in the creation and implementation of policy areas.

## 3. Rationalise priorities for promoting human rights externally

An effective human rights promotion strategy is mainly a question of setting the right priorities the right way.

In terms of the use of policy instruments, the EU has a very wide range of tools at its disposal, from the softest (statements and *démarches*) to the hardest (sanctions and conditionality). In order to be credible, the EU needs to use all those tools sensibly. First of all, it has been argued that that the response of the EU to human rights developments in third countries has remained largely reactive, and has often failed to trigger long-lasting change. Second, policy tools such as human rights conditionality in trade and development policies have been found to be used in a weak and erratic way, lending the EU to critiques of pusillanimity and double standards. The potential for **synergetic application of several measures** should be more consistently appraised. Despite the diverse elements at the EU's disposal, from foreign aid to negative instruments, without capitalising on the synergies between these components, the EU will not have the impact it could and seeks to have.

In terms of geographical and group priorities, it is evident that regional realities of human rights protection vary widely, but the EU should strive for the **continuous enhancement of human rights standards in all regions**, with a focus on vulnerable groups such as children and elderly people, ethnic or religious minorities, women, LGBT persons, human rights defenders, migrants or disabled persons.

Finally, the reactive nature of the current EU priorities at the UN might impair attempts at spearheading or supporting new initiatives emerging at UN human rights fora. A re-examination of this stance could rejuvenate the EU's leadership on the global scene.

#### 4. Talk the talk *and* walk the walk: Domestic implementation of human rights norms

The EU is a Union founded on fundamental rights and the rule of law. The EU and its Member States are therefore bound to implement applicable human rights standards for the benefit of its own citizens. However, an exemplary human rights record at home will also help the EU when acting externally in that field.

It is suggested in this regard that the EU should work towards enhancing the domestic implementation of human rights norms by supporting **awareness raising** of fundamental rights in general and human rights instruments such as the Charter of Fundamental Rights in particular and by **providing information and education** to various stakeholders such as lawyers, judiciary, human rights activists, public officers, teachers, journalists and NGOs.

Additionally, the EU should further **define and advocate best practices of implementation of human rights norms** throughout the institutions, and consider the use of the open method of coordination amongst Member States in order to promote the sharing of knowledge and information regarding the implementation of human rights standards.

#### RESEARCH PARAMETERS

FRAME research is informed by a variety of methods and sources. It is solidly anchored in the existing legal and political science literature on Human Rights, Democracy, and the Rule of Law and the EU's deployment of these concepts. It includes the review of EU law as well as policy instruments and available reports from the Fundamental Rights Agency. Document analysis is complemented by interviews with EU policy makers, policy makers from the Member States, policy makers from third countries, and other stakeholders (such as NGOs). Case studies throughout all work packages provide a deeper understanding on specific issues, such as national human rights institutions or digital rights. The input of non-European project partners complements the analysis by offering an 'outside' perspective on the EU's position and activities on human rights.

#### PROJECT IDENTITY

**PROJECT NAME** Fostering Human Rights among European Policies (FRAME)

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**CONSORTIUM**

Full Name of Institution (short name)	City, Country
ÅboAkademi (AAU)	Turku, Finland
Centro Inter-Universitario Europeo per i Diritti Umani e la Democratizzazione (EIUC)	Venice, Italy
China University of Political Science and Law (CUPL)	Beijing, China
Eötvös Loránd Tudományegyetem (ELTE)	Budapest, Hungary
Europäisches Trainings- und Forschungszentrum für Menschenrechte und Demokratie /European Training and Research Centre for Human Rights and Democracy (ETC)	Graz, Austria
Indian Society of International Law (ISIL)	New Delhi, India

Institut for Menneskerettigheder/Danish Centre for International Studies and Human Rights (DIHR)	Copenhagen, Denmark
Leuven Centre for Global Governance Studies (GGS) (coordinator)	Leuven, Belgium
Ludwig Boltzmann Gesellschaft – Institut für Menschenrechte/Ludwig Boltzmann Institute of Human Rights (BIM)	Vienna, Austria
Pontificia Universidad Catolica del Peru (IDEHPUCP)	Lima, Peru
Trustees of Columbia University in the City of New York (ISHR)	New York, United States of America
Universidad de la Iglesia de Deusto (UDEUSTO)	Bilbao, Spain
Universidad de Sevilla (USE)	Sevilla, Spain
Universiteit Utrecht (UU)	Utrecht, Netherlands
University College Dublin, National University of Ireland, Dublin (UCD)	Dublin, Ireland
University of Nottingham (UNOTT)	Nottingham, United Kingdom
University of Pretoria (CHRUP)	Pretoria, South Africa
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#### WEBSITE

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#### FURTHER READING

<http://www.fp7-frame.eu/reports/>