

BRIEF CONSIDERATIONS ON HUMAN RIGHTS ISSUES IN THE EUROPEAN UNION

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Abstract: *The European Union considers human rights as universal and indivisible. Therefore, it promotes and defends them actively both internally and in relations with third countries. Meanwhile, the EU does not seek to undermine the authority of national governments in this area. To promote human rights worldwide, the EU focuses on four areas: strengthening democracy, good governance and the rule of law (supporting political pluralism, press freedom and the proper functioning of the judiciary system);abolishment of death penalty in the countries where this still applies; the fight against torture through preventive measures (training and forming of the police force) and the fight against discrimination and racism by guaranteeing the civil and political rights of the individuals. The EU policy on Human Rights focuses on civil, political, economical, social and cultural rights while also seeking to promote the rights of women and children as well as those of minorities and displaced persons. The EU's priorities include efforts to stop human trafficking, especially women and children trafficking.*

Key Words: *human dignity, values, fundamental rights, international and European legislation.*

The European policy on Human Rights focuses on civil, political, economical, social and cultural¹ rights. It also seeks to promote the rights of women and children as well as those of minorities and displaced persons. One of the main priorities of the EU is to stop both women and children trafficking. Therefore, a series of cross-border programs for combating human trafficking have been developed, in cooperation with the candidate States as well as the neighbouring countries in south-eastern Europe. Although the general situation regarding Human Rights has reached a certain level of stability, efforts must not stop here. The European Union is fighting against racism, xenophobia² (footnote) and other forms of discrimination based on religion, sex, age, disabilities or sexual orientation while paying particular attention to the rights of immigrants and asylum seekers.

The EU has managed to transform the Human Rights issue into a forefront in its relations with other countries and regions. All trade and cooperation agreements with third parties contain a clause providing that Human Rights are an essential element in the relation between the parties. Currently over 120 such agreements already exist. The most

¹ A Fuerea, „Introduction in international law and Human Rights issues”, Publishing House Era, Bucharest, 2000

² Through the european program for employment and social security (PROGRESS), the EU finances a series of activities directed towards the fight against racism and xenophobia within the European borders. Almost a quarter of the 743 million euro budget allocated to the PROGRESS program for 2007-2013 is dedicated to the fight against discrimination. The Fundamental Rights Agency has been creates (FRA).

comprehensive agreement is the Cotonou Agreement- the trade and assistance pact between the EU and a number of 78 developing countries in Africa, Caribbean and the Pacific (ACP Group). Provided any of the ACP countries violate Human Rights, the EU may suspend trade concessions and may limit or reduce the assistance programs. The EU believes that reduction of poverty, the main objective of its development poverty, can be obtained only within a democratic structure. The same measures apply to the other Partner countries.

For the past years the EU has been eagerly discussing the Human Rights issue with countries like Russia, China and Iran. It has also imposed a series of sanctions for Human Rights abuse in Burma (Myanmar) and Zimbabwe.

At a European level, the concept of Human Rights develops in strong interdependence with that of European citizenship.

The European citizenship was defined by the *EU Treaty* signed in Maastricht 1992 and it represents a major conceptual innovation of the document previously mentioned. The European citizenship aims at strengthening the image and identity of the European Union as well as deepening the citizens' involvement in the process of European integration³. Therefore, the concept of European citizenship includes rights, obligations and participation in the European political life for all European citizens.

Article 17 of the *Treaty establishing the European Community* (ex Article 8) stipulates that any citizen having the nationality of a Member States under the laws in force in that State is a citizen of the European Union. The European citizenship complements national citizenship (it overlaps, without substituting national citizenship), allowing European citizens to exercise some rights in the State of residence (and not only in the country of origin as it happened before). Two conclusions can emerge out of these statements: in order to benefit from the advantages of the European citizenship it is necessary for a person to have the citizenship of one of the Member States; the European citizenship will complement the national citizenship by adding a series of rights to the citizen's patrimony.

An appendix of the Maastricht Treaty underlines that “the *issue of whether a person possesses the citizenship of a Member State will be determined solely by reference to the national legislation of the Member State; therefore, it is the duty of each Member State to indicate which person is or is not one of its citizens.*”

The European Citizenship is based on common principles of the Member States as stated in the Treaty of Amsterdam: the principle of freedom, democracy, respect for Human Rights and fundamental Freedoms and the rule of law. The Treaty of Amsterdam, which entered into force on May 1st 1999, develops a series of specific rights the European citizen can benefit of- civic rights and free movement rights. It also strengthens the protection of fundamental rights, condemns all forms of discrimination and recognizes the right to information and consumer protection. Regarding the right to information, the Treaty states that any individual or legal person having its headquarters in a Member State has the right to access the documents of the European Parliament and the European Council within the grounds of public and private interest. Informing the citizen is considered to be a priority of the European institutions⁴.

Fundamental rights and democratic values are respected in all Member States as legal documents regarding these issues have been signed, among them: The European

³ E. Vâlcu, *Introduction in Community Law*, University of Pitesti Publishing House, 2010, p. 14

⁴In 1998 the European Commission has launched an informing service program „Europe direct” aiming to inform the citizens on the rights and privileges the European Citizenship can offer.

Convention on Human Rights (1950), Universal Declaration of Human Rights (1948), European Social Charter (1962) or the Community Charter on Fundamental Social Rights of Workers (1996).

The European Union and its Member States are therefore obliged to respect these values, the national tribunals and the European Court of Justice having the role to assure that these values are being respected.

Provided a Member State flagrantly and systematically violates the fundamental rights and democratic values, the EU may impose political and economical sanctions as one of the

The EU's commitment conditions for joining the EU is the respect of fundamental rights.

was officially reaffirmed in December 2000 when the Charter of Fundamental Rights of the European Union has been proclaimed. This document is divided into six chapters: Dignity, Freedoms, Equality, Solidarity, Citizens' Rights and Justice (a VIIth Chapter of General provisions also exists)- comprising a total of 54 articles which define the core values of the European Union as well as the civil, political, economical and social rights of the European citizen. The first chapters of the Charter are devoted to human dignity, life, integrity, freedom of speech and freedom of conscience⁵.

The chapter on "Solidarity" contains social and economical rights such as: the right to strike, the right of employees to information and consultancy, the right to have both private and professional life, the right to social protection and social services within the EU, health protection.

The EU Charter of Fundamental Rights also promotes gender equality and introduces rights such as data protection, banning human cloning and the practice of eugenics, the right to a protected environment, children and elderly rights or the right to a high-quality administration.

The European citizenship offers rights to the citizens of Member States and strengthens the protection of their interests. The Treaty of Maastricht establishes five categories of supranational rights additionally to the national citizenship:

- The right to free movement, right to stay and settle down within the borders of the EU, right to work and study in other EU countries. The European legislation also sets numerous conditions for exercising these rights. For stay of more than three months a residence certificate is required. Entering the territory of another Member State may only be prohibited for reasons of public health and security and the prohibition measure must be justified (Article 18 of the EC Treaty, former Article, 8A);
- The right to vote and run for the European Parliament elections and local elections in the state of residence under the same conditions as the citizens of that state (Article 19 of the EC Treaty, former Article 8B);
- Consular protection on the territory of a third state (not an EU Member State) in case the origin country of the citizen has no consular or diplomatic representatives in that state (Article 20 of the EC Treaty, former Article 8C);
- The right to petition the European Parliament (Article 21 of the EC Treaty, former Article 8D);
- The right to contact the European Ombudsman for the review of cases of maladministration conducted by the European bodies and institutions (Article 21 of the EC Treaty, former Article 8D)⁶.

⁵ E. Vâlcu, *International Community Law*, Publishing House Sitech, Craiova, 2009, p.136

⁶ E. Vâlcu, *Introduction in Community Law*, University of Pitesti Publishing House, 2010, p.14-20

In today's context, the EU needs to update, reaffirm and modernize its values (freedom, democracy, equality, rule of law and human rights including the rights of minorities). These are common values of all Member States in a society characterized by pluralism, non-discrimination, tolerance, justice, solidarity and gender equality. Defending family values, especially in order to meet the challenges posed by demographic trends and declining birth rates is one of the pillars of our political activity together with the protection of the right to education.

Economical rights are not second rank rights therefore they must be strongly reaffirmed. The European Union considers the right to education, research, the freedom to conduct business activities and the freedom of competition as individual rights and fundamental elements of a healthy and prosperous economy. Nothing could justify the infringement of those rights; on the contrary, in the current context their respect must be stoutly assured.

The European Union must protect human dignity in order to provide decent living conditions for all citizens, to combat discrimination and violence, to preserve marriage values, to support family as primary socialisation and personal development frame and to promote gender equality.

Nowadays, when intolerance manifestations are becoming more numerous, the European Union must fight for freedom of conscience and belief all around the world by guaranteeing freedom of speech as well as the respect of personal freedom, by protecting freedom of conscience, religion and belief all over the world through a continuous fight against all forms of religious intolerance. The EU must assure that national minorities may maintain and develop their culture and essential elements of their identity (religion, language, traditions and cultural heritage) and that the common interest of all Europeans is respected.

Therefore, the European Union must assure the respect of economic freedoms within its borders:

- Strengthening the four freedoms of the internal market(free movement of goods, services, persons and capital) by developing legislation which will enable each citizens to have equal access to them;
- Guaranteeing freedom of learning, education, research as they represent essential conditions for the freedom of conscience as well as vital economical factors for academic development.
- The EU must guarantee free access on its territory and equal treatment of legal immigrants while also fighting against illegal immigration and human trafficking;
- The EU must contribute to guaranteeing the right to extra work in order to supplement ones` resources, especially in the case of youngsters, pensioners and women;
- The EU must contribute to strengthening the rights and safety of depositors and shareholders.
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In 2010 the EU is focused on a policy based on greater solidarity between Member States, especially when it comes to the cohesion policy and upholding the values of the European social model. Thus, in order to meet the future challenges of the society such as demographic change, immigration, globalization, environment and climate change and in light of the new objective of territorial cohesion of the EU, the social and cohesion policies are to be revised in 2013.

The most profound social injustice lies in the high level of unemployment. The EU proposes greater solidarity when it comes to labour as well as its promotion as fundamental value of the social European model by asking:

- Improvement of citizens' access to all necessary means in order to be able to cope with change so they can acquire new skills that correspond to the new jobs. The emphasis is on citizen protection and workforce support through lifelong learning;
- A more flexible working structure which would facilitate work and family reconciliation as well as integration of elders in the labour market;
- Free movement of workers is essential for true completion of the internal market which would make the European economy more dynamic and therefore efforts in this direction must be undertaken;
- Promotion of the universal concept of "decent work" which includes four objectives: creating jobs, guaranteeing labour rights, gradual extension of social protection, promotion of dialogue between workers and employees as well as conflict resolution by negotiation.

BIBLIOGRAFIE

Thomas Buergenthal, Renate Weber, *„International Law and Human Rights”*, Publishing House All, Bucharest, 1996.

Victor Duculescu , *„Legal Protection of Human Rights – internal and international methods”*, Publishing House Lumina Lex, Bucharest, 1998

Augustin Fuerea, *„Introduction in International Law and Human Rights issues”*, Publishing House Era, Bucharest, 2000.

Elise Vâlcu, *Introduction in Community Law, Course for low- attendance students*, University of Pitesti Publishing House, 2010.

Elise Vâlcu, *Institutional Community Law*, Publishing House Sitech, Craiova, 2009.