Council conclusions on the establishment of a Human Rights Dialogue with South Africa

3199th FOREIGN AFFAIRS Council meeting
Brussels, 19 November 2012

The Council adopted the following conclusions:


The Council recognizes the importance of strengthening the existing relationship between the European Union and South Africa, in view of enhancing cooperation and dialogue, and welcomes the common will to consolidate, deepen and diversify their relations in the area of human rights.

The Council endorses the establishment of a human rights dialogue with South Africa along the mutually agreed modalities, which are annexed to these conclusions."
Modalities of the Human Rights Dialogue between the EU and South Africa

1. Objectives
   a. To establish a formal EU-SA Structured Dialogue Forum (SDF) on human rights with the view to enhancing practical cooperation between the Parties on the issues pertaining to the international human rights and humanitarian law as advanced through the multilateral fora such as the South African Development Community (SADC), African Union (AU), European Union (EU) and the United Nations Human Rights System (UN). The rationale underpinning this SDF includes, among others, the following:
      (i) Promotion, protection and fulfilment of human rights, democratic principles, rule of law, accountable governance and accountable electoral processes;
      (ii) Pursuit of common approaches in multilateral fora, in particular around the promotion of the mandate of the United Nations Human Rights Council (UNHRC) to enhance cooperation and constructive dialogue including joint strategies; and
      (iii) Develop practical trilateral partnerships with third countries aimed at deepening democracy, democratic governance, rule of law, good governance, accountable electoral processes and the practical enjoyment of human rights and fundamental freedoms.

   b. To discuss and exchange views on the role that governments, institutions and civil society - in South Africa and in the EU - play in the protection and promotion of human rights on the international stage and domestically.

   c. To exchange information and best practices in order to support the ongoing efforts aimed at respect for, promotion, protection and fulfilment of human rights at the country level and to raise concerns on individual cases related to human rights issues, and consolidate good governance and the rule of law in South Africa and in the EU.

2. Format
   a. In principle, the proposed SDF is an intergovernmental process and should not compromise the mandate and independence of national human rights institutions as provided for in the Paris Principles. However, it may be desirable for parties to periodically interact, on the margins of the meetings of the SDF, with national institutions on matters of mutual interest.

   b. The dialogue will be held on an annual basis through face to face meetings, alternating between European Union and South Africa at Senior Officials level. The EU will be represented by the European External Action Service (EEAS) and South Africa by the Department of International Relations and Cooperation (DIRCO). Both delegations will include other institutions and agencies as necessary. EU Member States representatives can be invited as observers to the dialogue.
c. Each meeting of the SDF shall last not more than two full days and for purposes of cost-effectiveness, be scheduled back-to-back with the other major EU-SA meetings (e.g. Joint Cooperation Council). It may be complemented by ad-hoc consultations on the margins of international events (e.g. in Geneva or New York).

d. Apart from a formal human rights dialogue, site visits could be organized to share best practices and/or challenges associated with the respect for, promotion, protection, and fulfilment of Human Rights in relation with the agenda points of the dialogue. When the dialogue is held in Europe, the EU Member States may offer to host such visits in their national facilities.

e. The SDF discussions are confidential and proper official records will be kept by the host, while an outline of the SDF agenda and/or mutually agreed conclusions and media statements may be issued or otherwise placed on the official websites.

f. Civil society's input to the dialogue can be provided for example through joint civil society (involving European and South African civil society) seminars preceding and/or following the dialogue. The TDCA Facility, the European Instrument for Democracy and Human Rights or other financial instruments may be used in this respect.

g. The SDF will formally report to the Joint Cooperation Council and other relevant higher levels.

3. Agenda and Scope

a. The dialogue will cover relevant human rights, democracy and rule of law issues. The dialogue will cover both domestic human rights developments, including, if relevant, individual cases, as well as cooperation in international and regional human rights fora. An exchange of information on individual cases of concern could take place either during the dialogue or in writing. Each dialogue session will focus on a limited number of themes mutually agreed, to allow for the thorough preparation and substantive discussions. These may include, but are not limited to the following issues and with the flexibility to include new issues which may arise in the cause of time:

1. International framework for the protection of human rights;
2. EU and South African frameworks for the protection of human rights;
3. Civil and political rights;
4. Progressive realisation of the economic, social and cultural rights, including:
   (a) Right to development,
   (b) Human Rights approach to the attainment of the MDGs, and
   (c) Responsibilities of Trans-National Corporations (TNCs) and Other Business Enterprises with respect to Human Rights
5. Women and Gender Equality  
6. Children's rights  
7. Rights of Persons with Disabilities  
8. Non-discrimination;  
9. Strengthening rule of law and the respect for democratic principles;  
10. The role of civil society and human rights defenders, as consistent with the UN Declaration; and  
11. Individual cases of concern.

b. Each dialogue may recommend possible thematic topics for joint seminars and other areas of cooperation.

**Benchmarks for EU-South Africa human rights cooperation**

1) Fighting racism, racial discrimination, xenophobia and related intolerance;  
2) Cooperation regarding the ICC;  
3) Promoting non-discrimination based on sexual orientation and gender identity;  
4) Supporting freedom of press/ access to information;  
5) Working towards prevention of gender based violence;  
6) Enhancing protection and promotion of the rights of children  
7) Working on country resolutions;  
8) Progressive realisation of the economic, social and cultural rights (right to Development; human rights approach to the attainment of the MDGs and responsibilities of TNCs and Other Business Enterprises with respect to Human Rights);  
9) Cooperation on human rights aspects of international regulatory framework on the regulation, monitoring and oversight of the activities of PMSCs, including reflection on the mandate of the open intergovernmental working group, and  
10) Implementation of paragraph 5 of the VDPA.