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Debating Europe: Internal and External Dynamics of European
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Perspectives on the EU's Role in the Eastern Neighbourhood:
Security, Democracy, and the Rule of Law

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How the EU Promotes Democracy and the Rule of Law Beyond Its Borders

PROJECT

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Summary

Our work will be dedicated to the mechanisms and strategy of democracy and the rule of law promotion exercised by the EU inside and beyond its borders. The subject of our research is the EU's values, principles, and ways of implementation. The purpose is to investigate the mechanisms of promoting these values beyond the EU's borders. The principles of the rule of law and democracy will be examined through its implementation in the EU's framework. We will then get a closer look at how these principles are promoted in the countries outside the EU, including the Jean-Monnet Dialogue for Peace and Democracy, which has been developed for situations of high tension in specific countries. We will also cover the political guidance and supervision of the Democracy Support and Election Coordination Group (DEG). In conclusion, we will disclose the problems and difficulties that the EU faced throughout the promotion of its values.

How the EU promotes democracy and the rule of law beyond its borders

Under Article 3(5) Treaty on European Union¹ (further referred to as TEU) explicitly states the firm goal for the Union to uphold and promote its values listed in Article 2 TEU, which include respect for the rule of law, human dignity, freedom, democracy, equality, and human rights in its relations with the wider world.

Since the issue of our research is primarily about promoting democracy, we first need to figure out what the term “democracy” means. Thus, democracy is a form of government that enables people to participate in elections and political control, anticipates abuse of power by the head of state, provides the separation of powers between governmental entities, and secures the protection of basic rights and civil liberties. Democracy can be also treated as a fundamental value of the European Union, which includes such principles as popular sovereignty, an electoral system, public participation, separation of powers, human rights, and a rule of law².

As one of the fundamental principles of democracy, the rule of law is being promoted not only within the EU but also beyond the EU's borders. Indeed, the importance of this principle cannot be overestimated since it encourages both public authorities and individuals to act in accordance with the law and within the rules defining their powers. Furthermore, this principle protects people, including minority groups, from the elected representatives imposing laws that violate human rights and non-discrimination. Except for respect for human rights and non-discrimination, the rule of law

¹ European Union, Treaty on European Union (Consolidated Version), Treaty of Maastricht, 7 February 1992, Official Journal of the European Communities C 325/5; 24 December 2002, available at: <https://www.refworld.org/docid/3ae6b39218.html> [accessed 25 May 2023]

² Longley, R. (2021). What Is Democracy? Definition and Examples. ThoughtCo. [cited 2023-05-25]. Available from Internet: <https://www.thoughtco.com/democracy-definition-and-examples-5084624>

ensures four other elements, which were adopted by the European Commission for Democracy through Law, also known as the Venice Commission³. These include:

- Legality, including a transparent, accountable and democratic process for enacting law
- Legal certainty, which states that the law must be clear, publicly available, so that the people could independently find out their rights and obligations, without any further interpretations.
- Prohibition of arbitrariness (the exercise of power must be limited).
- Access to justice before independent and impartial courts, including judicial review of administrative acts

To exercise the firm goal of promoting the rule of law and democracy the EU uses both legally binding instruments and soft power tools. In order to increase the effect on all possible situations the EU implements these mechanisms in combination. Among these tools there are participation in interactive dialogues, public debates and briefings, events in support of human rights and democracy, advocacy for ratification and implementation of fundamental treaties, dialogues with third countries and regions, 13 EU human rights guidelines⁴, cooperation with multilateral human rights institutions and United Nations (UN) human rights treaty bodies.

All these democracy-support activities beyond the EU are coordinated by the special group called the Democracy Support and Election Coordination Group (DEG). The group was created by the European Parliament and at the moment consists of 16 Members including two Co-Chairs, 11 Members and three Ex-officio Members without voting rights. The last ones are the Chair of the Subcommittee on Human Rights (DROI), Vice-President responsible for the Sakharov Prize (the Prize given to individuals, groups and organisations for contribution to development in the field of human rights⁵) and Vice-President responsible for Human Rights and Democracy. The work of the Group is guided by the Comprehensive Democracy Support Approach (CDSA). This approach provides a modern view of election observation and attaches more importance to pre-election dialogue and the follow-up to election observation. The aim of such activities is firstly to prevent election-related conflicts and violence. According to this approach the DEG's main areas of work are the following: monitoring and following up elections, promoting democracy in non-EU countries,

³ EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW (VENICE COMMISSION). REPORT ON THE RULE OF LAW. Adopted by the Venice Commission at its 86th plenary session (Venice, 25-26 March 2011). Available from Internet: CDL-AD_2011_003rev-e (coe.int)

⁴ Council of Europe: European Court of Human Rights, Guide on Article 13 of the European Convention on Human Rights - Right to an Effective Remedy, 31 December 2020, available at: <https://www.refworld.org/docid/6048e2962.html> [accessed 25 May 2023]

⁵ Home | Sakharov Prize | European Parliament. (n.d.). Available from Internet: L015442 - BROCH - A5 - Global democracy support - EN - EXPO.indd (europa.eu))

human rights actions, ensuring mediation, facilitation and dialogue as well as supporting the parliaments in the priority countries/regions, which were selected in line with the CDSA to enhance democracy support activities. In the course of 2023, the priority countries/regions include Ukraine, Moldova, Georgia, Tunisia, Western Balkans (as a priority region), and the Pan-African Parliament (as a priority regional parliament). Moreover, the DEG still continues to implement activities in support of relevant Belarussian democratic forces, as an ad-hoc priority.

According to “EU ACTION PLAN ON HUMAN RIGHTS AND DEMOCRACY 2020 – 2024”⁶ the main aims that EU upholding in 4 recent years in the field of multilateral cooperation are to create a more flexible and stronger network of partners in promoting human rights and democracy, reach out to new partners, prioritise coalition building with regional and cross-regional groups on selected human rights resolutions, and strengthen links with like-minded countries, to engage at an early stage with all members of the UN Human Rights Council on country and thematic resolutions, particularly with those that hold a different view than the EU on specific resolutions, to enhance strategic cooperation with the Office of the High Commissioner for Human Rights, both at central level and with field offices, mainstreaming human rights throughout the UN system.

However, the Democracy Support and Election Group is not the only tool the EU Parliament has developed to help non-EU countries strengthen their institutions and uphold their democratic values. In October 2022, such an instrument as Jean Monnet Dialogues was also launched by the European Parliament. Thus, the Jean-Monnet Dialogue named after one of the founders of the EU is a mediation and dialogue process, which was developed specifically for the countries with situations of high tension. This tool is important for the reason that it’s not just a series of conferences dedicated to one issue but a long-term process that includes preparatory consultations on specific issues and the progressive implementation of the obligations identified at the meetings⁷. Since the Jean-Monnet Dialogue is the methodology aimed at achieving specific goals in certain situations it has nine rules that need to be strictly observed.

The nine rules are the following: Jean Monnet Dialogues | Mediation & dialogue | Global democracy support | European Parliament (europa.eu)

- Mediation principles will apply if needed.
- Every political party engages on equal terms.
- Zero is not an option.

⁶ EU action plan on human rights and democracy 2020 – 2024

Foreword by Josep Borrell Fontelles, high representative of the European Union for foreign affairs and security policy, available at: https://www.eeas.europa.eu/sites/default/files/eu_action_plan_on_human_rights_and_democracy_en_2.pdf

⁷ Jean Monnet Dialogues Summaries, available at: <https://www.europarl.europa.eu/globaldemocracysupport/en/mediation-and-dialogue/jean-monnet-dialogues>

- Nothing is ruled in or ruled out in advance.
- Nothing is agreed until everything is agreed.
- No media communication until there is a concrete outcome.
- Pre-existing proposals, motions or draft laws should not be submitted.
- If there is a political agreement on a topic, a drafting methodology will apply.
- Any agreed common draft can then be submitted jointly by the parties.

As a result of implementing this tool, the European Parliament has already started Jean Monnet dialogue with the Ukrainian Parliament, Verkhovna Rada of Ukraine. The process was started in 2015 and isn't finished for now. The main course with respect to Ukraine is aimed at the struggle against corruption and wider institutional reforming. Since the beginning of this process seven Jean Monnet Dialogues have already been held with appropriate conclusions and agreements between the European Parliament and Verkhovna Rada.

In 2018 one more Jean Monnet Dialogue with North Macedonia, the Sobranie was established. The main significance of this dialogue lies primarily in promoting the values of the European Parliament and supporting the country's membership process including EU accession. The last, 3rd Jean Monnet Dialogue with North Macedonia was held in 2020 and reached an agreement to overhaul the parliamentary Rules of Procedure and on a continuity of the Sobranie's engagement.

Such a process was also launched in Serbia, in 2019. The main issue considered in the dialogue with the Serbian National Assembly, Narodna Skupština was a worsening political climate within the Skupština, which was posing a risk of escalating instability and the opposition's refusal to participate in the 2020 Parliamentary Elections. Taking into account specific conditions, political environment and needs of the Serbian Skupština the European Parliament created a new form of Jean Monnet Dialogues which is called an Inter-Party Dialogue to improve the parliamentary culture of dialogue. The process aimed at the improvement of the political situation in Serbia included two phases. The first was established in the Autumn 2019 in order to improve political dialogue inside the Skupština and conditions for holding parliamentary elections. The second one was started after the 2020 elections and includes reforms of the Rules of Procedure, the electoral framework and implementation of EU-related reforms.

Except the work of Democracy Support and Election Group we can't but mention the contribution to the promotion of democracy made by Civil Society Organizations (CSOs). These organisations as well as DEG are working on the maintenance of the rule of law and perform such functions as gathering evidence of violations to people's fundamental rights, sounding the alarm when the rule of law is breached or under threat and, naturally, raising public awareness on human rights. The

examples of such organisations can be Amnesty International, which is responsible for justice, freedom, and human rights worldwide or Human Rights Watch – an international organization that internationally investigates and reports on human rights abuses. However, the work of CSOs has been facing some difficulties including limited resources, abusive prosecutions and lawsuits without a sincere legal basis, government hostility and repression⁸. These issues became even more relevant in the context of the COVID-19 pandemic. Thus, according to European Union Agency for Fundamental Rights, 57 % of national and local organisations said the situation had ‘deteriorated’ or ‘greatly deteriorated’ compared to previous years (before the COVID-19 pandemic)⁹, which led to a number of complaints from the side of Civil Society Organizations. Nevertheless, the EU responds to existing problems and takes action to improve the position of CSOs. An example of this would be European Economic and Social Committee’s opinion on financing of CSOs by the EU in 2017, where the decision of the EESC was to call on the budget authorities to increase funding for CSOs, as well as advised European institutions to take steps to establish genuine European civil society dialogue on the basis of a commitment agreement with civil society¹⁰. Moreover, there was the conference in November, 2021 organised by the Diversity Europe Group of the European Economic and Social Committee (EESC) in partnership with Civil Society Europe that had successfully provided civil dialogue at the national and EU level, and a presentation of the first results of an EESC study¹¹.

In the “EU Global Strategy”¹² issued in 2016 as a global strategy to promote their citizens’ interests in the world, the EU states: “Our interests and values go hand in hand. We are interested in promoting our values in the world. At the same time, our fundamental values are embedded in our interests. Peace and security, prosperity, democracy, and a rules-based global order are the vital interests underpinning our external action”. Proclaiming such values, the concept guiding the EU's external action is a ‘principled pragmatism.’ In the “EU Global Strategy,” they set up this principle by stating: “We will be guided by clear principles. These stem as much from a realistic assessment of the current strategic environment as from an idealistic aspiration to advance a better world.” From that, we can establish that “Principled pragmatism” is a new concept of foreign policy. It signals that the EU must

⁸ European Liberties Platform. (2022, February 15). Civil Society in 2022: Under Pressure. Liberties.eu. [cited 2023-05-25]. Available from Internet: <https://www.liberties.eu/en/stories/liberties-rule-of-law-report-2022-civic-space/43973>

⁹ Donáth, A. J. (n.d.). REPORT on the shrinking space for civil society in Europe [A9-0032/2022] European Parliament by European Union. Available from Internet: European Parliament. https://www.europarl.europa.eu/doceo/document/A-9-2022-0032_EN.html#_section1

¹⁰ Own-initiative opinion SOC/563 by European Economic and Social Committee’s, Financing of CSOs by the EU, [2017] EESC-2017-01953-00-01-ac-tra. Available from Internet: Financing of CSOs by the EU (own-initiative opinion) | European Economic and Social Committee (europa.eu)

¹¹ Diversity Europe Group conference on the state of associations, organised in partnership with Civil Society Europe. [05.11.2021] Brussels, Belgium. Available from Internet: Civil Society Organisations: Key Actors for the Future of Europe | European Economic and Social Committee (europa.eu)

¹² A Global Strategy for the European Union’s Foreign and Security Policy, June 2016, p. 13-14, see https://www.eeas.europa.eu/sites/default/files/eugs_review_web_0.pdf (last consulted 24.05.2023).

adapt to a “rapidly changing environment” and insert a dose of political realism in its foreign policy while continuing to uphold its principles. Thus, the EU is taking into account the rapidly changing world and external challenges. Therefore, it is important to note that, while observing the goal of promoting democracy and the rule of law, we constantly stumbled upon the words “the Union shall uphold and promote its values and interests”¹³ in relation to its external policy. There is nothing bad about promoting values that lay in the basis of the Union, but it should be taken into account that respecting rich cultural and linguistic diversity and ensuring that the countries’ cultural heritage is safeguarded and enhanced should also be the Union’s mission of external policy. Despite today's worldwide situation, the European Union should promote peace, stability, unity, and democratic principles for the sake of the entire world.

¹³ European Union, Treaty on European Union (Consolidated Version), Treaty of Maastricht, 7 February 1992, Official Journal of the European Communities C 325/5; 24 December 2002, available at: <https://www.refworld.org/docid/3ae6b39218.html> [accessed 25 May 2023]

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