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DOCTORAL DEGREE PROGRAM OF LAW AND POLITICAL SCIENCES

# HUMAN RIGHTS IN THE FOREIGN POLICY OF THE EUROPEAN UNION

– P H D T H E S I S A B S T R A C T –

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## I.

### **Short summary of the aim of the research project, and the issues analysed in the paper**

The European Union is an international organisation built upon and operating according to certain principles, expressing its commitment to freedom, democracy, respect of human rights and fundamental freedoms and the rule of law. The EU intends to enforce these principles not only in respect of its member states and within its borders but concerning its foreign connections with states it has relations to. Considering that the EU has become a global player during its development and it is an influencing and determining actor of international relations both economically and politically, the principles it represents are significant. The economic impact, political power and geographical size of the European Union predetermines it to be the vanguard of promoting human rights, peace and safety however, the question is whether it has the potential to enforce such values.

The actions of the EU on the international level is built on those principles that have driven its establishment, development and enlargement and are directed to further the enforcement of these in the rest of the world as well. But the question arises whether it has sufficient background to be the legitimate protector of human rights? Does it have the sufficient structural background to defend human rights?

In order to be a global protector and promoter of human rights, democracy and fundamental freedoms, the European Union must have a sound basis, it must create a complex and reliable rights protection system, which is able to enforce fundamental rights in any case. However, examination of the integration shows that the human rights protection system of the European Union was formed quite late and significant deficiencies can be discovered that can fundamentally discredit the goals. This leads to the question whether the European Union has sufficient protection system and vocation to provide potential protection.

The European Union has become a global player, further progress may be achieved both in economic and in political terms by that it has been endowed with legal personality. Although, we need to understand, that to achieve for the European Union to move forward in the political scene as well, it has to make up for numerous failures but the question arises whether it can succeed in this without the effective collaboration of the member states. The paper seeks to answer whether the European Union is able to enforce its aims as an independent entity on the international stage.

The provisions of the Lisbon Treaty declare the European values, such as democracy, human rights, not only as a goal to pursue but also as an expected behaviour, and the promotion of such values is a priority not only in the territory of the EU but a primary trend in the field of common foreign policy as well.

The purpose of the dissertation is to examine specific segments of the EU's foreign policy, to present with regard to the given area how the European Union intends to comply with its commitments, whether it is able to fully meet the requirements of promoting human rights in every area concerned. The question is whether it can be stated that the European Union performs the tasks it has undertaken, and if not, in which way could it improve.

## **II.**

### **Short summary of examinations, analyses conducted, research methods**

The main topic of the paper is the emergence of human rights and their role in the European Union's foreign policy in the following aspects:

- how and in which way did they appear during the integration, what kind of institutional developments followed them and what kind of status has been achieved by entry into force of the Lisbon Treaty, moreover how the individual organizations of the European Union contribute to the advancement of human rights;
- special attention is given to present the role of the protection of fundamental rights within the European Union, the open unresolved issues are investigated in detail as well as the opportunities of Union citizens in terms of fundamental rights protection.
- how and in which way it appears during specific foreign policy activities of the EU, in foreign relations, in the field of Common Foreign and Security Policy, among others in the field of trade and development policy and specific crisis management processes; and
- whether the European Union complies with the requirements set by itself and facilitates the advancement of human rights in every area during its activities.

The paper endeavours along the analytical methodology to give a comprehensive picture of the initial steps of the European Union's foreign policy and of the current system developed by the Lisbon Treaty, the central element of which are human rights, democracy and the protection of fundamental rights.

Besides the analytical methodology, an assessment-analysis feature is also used in each chapter of the paper and regarding the whole paper as well. The complexity and the diverse nature of the topic examined in the paper require that the current and possible future development of the given issues is analysed, after the examination thereof, along the problems and obstacles raised.

The respective - primary and secondary - EU legislation form the backbone of the paper and set the direction of the research. Besides the Hungarian literature, especially English and the German academic studies were used in processing the topic, providing a multi-faceted international approach.

## **2.1 The premise, the emergence of common foreign policy and human rights in the history of integration**

At the early stage of development of the integration, the founding treaties and other sources of law of the European Union did not regulate in sufficient detail either the human rights or the common foreign policy of the EU. The milestone of development of common foreign policy of the EU is the common foreign and security policy established by the Maastricht Treaty that as the second pillar of the EU formed a basis of today's foreign policy of the Union. At the same time, the human rights policy of the EU also started to play a stronger role in the Community's actions and even though the initial dominance of the Court of Justice with regard to the topic can be observed, recently the acceptance of the Charter of Fundamental Rights gave another boost to have a more civilian approach in the European Union.

The new organisational, institutional<sup>1</sup> and decision-making reforms in the Common Foreign and Security Policy forming the basis of the European Union's foreign policy brought to life by the Lisbon Treaty, as well as the declaration of the legal personality of the EU created new opportunities in its foreign policy.

Apparently, the European Union made progress in the field of protection of fundamental rights with the entry into force of the Lisbon Treaty, focusing on human rights, raising the Charter of Fundamental Rights to the level of treaties and with declaration of joining the European Convention on Human Rights. However, taking a closer look at this field shows a more nuanced picture, as the EU has still not joined the ECHR. In the dissertation, clear opinion is given that

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<sup>1</sup> The High Representative of the Union for Foreign Affairs and Security Policy, the apparatus built around the High Representative and the European External Action Service shall be mentioned here.

as long as this does not happen and the European Union fails to create its own system of protection of fundamental rights with sufficient arrangement that provides for broad opportunity for Union citizens to enforce their rights, one cannot talk about full protection of fundamental rights on EU level and according to the present status the appropriate solution is still to be worked out.

## **2.2. Basics of foreign policy of the European Union**

The Maastricht Treaty introduced the pillar structure of the European Union, the second pillar of which was the Common Foreign and Security Policy; and that newly created common policy has established the basis of today's foreign policy of the EU although, the Lisbon Treaty abolished the pillar system, this area is still separated.

The reforms introduced and laid down conditions, institutions and decision-making frameworks of more efficient and more uniform international political involvement of the common foreign and security policy of the European Union, however, it can still be observed that the policy is strongly dependent on the will and performance of the member states in the given area, for that reason sufficient efficiency cannot be reached. Establishment of the office of High Representative of the Union for Foreign Affairs and Security Policy is a progressive change, strengthening of his role may establish the future possibility that the common foreign and security policy could be concentrated in one hand and the EU could really take common and efficient international actions.

## **2.3. Compliance with human rights during the foreign policy actions of the European Union**

The fact that the European Union had been vested with legal personality created an opportunity for the EU to become a more significant player in politics on the international stage. The European Union is one of the global economic powers today, however, its political influence is still marginal compared to that. The EU as a global player is in contact with third countries, groups of countries and international organisations in many areas. The paper points out how and in which form the EU maintains foreign relations and in what way it is trying to enforce the goals defining its external activities.

Despite the fact that the EU is one of the global leaders, and by obtaining legal personality it could have the possibility to be an influencing factor in the decisive international organisations - UN, NATO - its appropriate common representation is still not resolved. Representation of

the consistent position of the EU is still realised only by the presence of the member states and along jointly accepted guidelines, which of course cannot be suitable for quick reaction, moreover the EU is still reliant on member state participation, which due to certain individual and self-serving reasons may impair the common interest of the Union.

The EU maintains relations with third countries through organised frameworks, primarily via its developed neighbourhood policy. However, the Lisbon Treaty provides for the possibility to conclude various trade agreements with third countries on the one hand by relying on the tools of common trade policy specified by Article 207 of the TFEU<sup>2</sup>, and to conclude other international agreements based on Article 218 in other areas defined in the treaty. Furthermore, it allows for the EU to create special, closer co-operations of preferential nature - beyond trade relations - with some third countries, for example to conclude association agreements.<sup>3</sup>

The neighbourhood policy is the intersection of the common trade policy and the development policy. Essential prerequisite of the agreements concluded with third countries - either in the field of neighbourhood policy, the common trade policy or specially the development policy - is that third countries undertake as obligation to facilitate democracy and enforce the rule of law, human rights and the principles of international law.

The crisis management mechanisms and humanitarian aid interventions, which are often closely linked, belong to the important external activities of the European Union. However, the paper points out that although the EU seeks global leadership role, there are areas where the EU is unable to react appropriately without military power and a quicker and more flexible decision-making mechanism. The premise of the EU's foreign policy is that conflicts should be settled primarily in the diplomatic field, the first point of which is to create communication and to conduct negotiations to achieve appropriate state. If this solution does not achieve the desired effect, the EU reaches for further options in its crisis management mechanism that still precedes the need of military intervention. However, it is apparent from the above described that in case

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<sup>2</sup> The common trade policy is based on unified principles; this applies particularly to modification of customs tariffs, the conclusion of customs tariffs and trade agreements related to the trade of goods and services, as well as to the trade aspects of intellectual property rights, furthermore to foreign direct investments, to the unification of liberalisation measures, to the export policy and to such trade policy protective measures like those to be taken in case of dumping or subvention. The common trade policy shall be exercised within the frameworks defined by the principles of the EU's external activities and goals.

<sup>3</sup> Article 217 of TFEU: "*The Union may conclude with one or more third countries or international organisations agreements establishing an association involving reciprocal rights and obligations, common action and special procedure.*"

the political, civil skills of crisis management fail, the military capabilities of the EU do not always help in solving the crisis.

The paper shows through two examples that the EU is not always able to appropriately meet the problems encountered. The paper presents the EU's action in the Balkan wars, what kind of difficulties and failures it had to face during its activity and how it tries to act in accordance with its principles to this day. The other topic - which is probably the most current part of the thesis - is the EU's relationship to the problem caused by the Syrian crisis, affecting whole Europe and waiting for a solution. The paper clearly points out that repeatedly voiced fact that the slow and cumbersome decision-making procedure of the EU fails in case of foreign policy issues to be solved suddenly and does not provide appropriate assistance in this field and with that, the often-mentioned human rights are also compromised.

### **III.**

#### **Short summary of the scientific results - theses**

In the course of examining the human rights aspects of foreign policy of the European Union, the following theses have been set up.

1. Initially the EU developed its international relationships via association and trade agreements and its development policy, later the Maastricht Treaty expanded this system by bringing the Common Foreign and Security Policy to life. The Lisbon Treaty declared the external activities of the European Union a central issue and defined the overall political direction to promote human rights and democracy, with which it can perform the multifaceted foreign policy activities along a consistent value and principle system.
2. Despite the progressive provisions of the Lisbon Treaty - such as the creation of the position of High Representative of the Union for Foreign Affairs and Security Policy and establishment of the External Action Service assisting him, declaration of legal personality of the European Union - it is still too early to talk about consistent foreign representation carried out by one body. It can be stated that as long as the competences and powers of the High Representative are not extended, it hinders the efficient performance of foreign policy.



3. The European Union develops its international relationships by respecting and promoting democracy, the rule of law, human rights and fundamental freedoms. However, its system for protection of fundamental rights is not sufficient. As the human rights gain the foreground they set the trends for the policies of the European Union, however its own internal fundamental rights system is highly controversial in terms of fundamental rights protection, because full-scale fundamental rights protection is not ensured to the citizens of the EU, which creates a task to be solved urgently. Raising the Charter of Fundamental Rights to treaty level and declaration of accession to the ECHR still do not provide citizens of the European Union with full capacity to enforce their fundamental rights before the EU. However, without such appropriate basis it is difficult to make an effort to develop all international activities in accordance with the above-mentioned principles, provided that they are not fully protected even within the own borders of the Union.
4. By the declaration of its legal personality the European Union can appear on the international stage as an independent entity, and this allows it to represent itself in international organisations independently from its member states. However, the paper points out that even if the legal basis is available, the European Union cannot be a decisive player in international organisations, and this affects first of all the achievement of its goals since it does not get decision-making right in any institution of the UN. The European Union is still a subordinate to its member states in international organisations and this inextricable task may lead to conflicts between member state and joint Union interests, by which Union interest is definitely impaired, and so is its appreciation. However, these two postponed, unresolved problems undermine the goals of the European Union set to facilitate human rights protection.
5. The paper points out in each chapter that even though the international engagement and foreign policy activities of the European Union operate along consistent principles, it must overcome many problems. Decision-making of the European Union is slow, it is uncertain and becomes inconsistent without coherent representation. In order to achieve the goals set, tougher action, consistency and concentrated mechanisms are necessary because as long as the European Union treats its own principles and rules flexibly, it will not be able to enforce human rights in the course of its foreign policy.

6. The dissertation points out clearly, a fact that shouldn't be neglected, and that is that the European Union as the main defender of human rights places its economic interests in front of the human rights it so keenly expects and requires. An adequate example would be the behaviour voiced and expected from its partners in foreign policy, even though the internal fundamental rights protection of the Union – and thus the protection of human rights – is not fully fledged within its borders. But prime results are the relations with Turkey and China as well, where certain economic interests replace human rights and make the Union more forgiving towards actions violating certain human rights. Through the examples it can be established, that the European Union handles human rights flexibly, according to its interests.

#### IV.

##### Own publications

Kásler, András: The Human Rights Aspect of the Common Commercial Policy in the History of the Integration of the European Union (*Under publishing*)

Kásler, András: Az Európai Unió emberi jogi politikájának alapjai – in: JURA Magazin, 22. évfolyam, 1. szám, 2016, Dialóg Campus Kiadó, Budapest-Pécs

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Kásler, András: „A közös kül- és biztonságpolitikán alapuló katonai szerepvállalás rövid áttekintése” in: 2009-es Emlékkönyv Apáthy István tiszteletére;

Kásler, András: „Világűrjog: A szuverenitás hangoztatásától a szoros együttműködésig” in: 2011-es Ünnepi kötet Gál Gyula Tiszteletére;

Kásler, András: „Az Európai Unió jogi személyiségének kérdése a Lisszaboni szerződés tükrében” in: a 2011-es Ünnepi kötet Gál Gyula Tiszteletére;