

## FROM VISION TO ACTION: OPERATIONALIZING THE EU RIGHTS BASED APPROACH TOOLBOX ENCOMPASSING ALL HUMAN RIGHTS IN EU DEVELOPMENT

CONCORD position paper

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### Introduction

On 25 June 2011 the EU Foreign Affairs Council adopted the first EU Strategic Framework on Human Rights and Democracy, which was accompanied by a comprehensive time bound action plan containing 96 areas for action to be jointly taken forward by the EU and its Member States.

The EU Strategic Framework recognizes the need to further strengthen and integrate human rights into development; in particular, it highlights the crucial importance of building human rights benchmarks into EU development programmes as well as arrangements at HQ and field level. The specific reference in the action plan to the design of a EU toolbox on Human Rights Based Approaches to development could play a key role in ensuring policy coherence through the incorporation of human rights standards at programmatic level as well as, at the policy level, supporting the further integration of human rights in the global development agendas, namely the post-2015 development framework and the post-2015 DRR framework.

CONCORD welcomes the adoption of the toolbox, launched on 30 April 2014, and the related Council conclusions, as one step further to ensuring Human Rights Based Approaches to development and EU external policy making. Particularly welcome is the call from the Council to apply human rights standards in a coherent manner throughout all EU development policies, including the private sector. Indeed the respect and protection of human rights should cut horizontally across all EU external policies for an effective and coherent impact on EU development work.

Also welcome is the prominence given in the document to principles of accountability and participation, non-discrimination and equal access in development, the latter being particularly relevant for marginalized and vulnerable groups for whom we seek the EU's support in bilateral as well as global frameworks, such as post-2015 agenda. As highlighted in the toolbox itself, while HRBA does not change the structure of EU development, which pragmatically combines the three pillars of human development – notably governance, sustainable and inclusive growth – it does change the analytical lens with which to design these various pillars, starting with participatory planning and policy development. We see the adoption of the toolkit as an important signal that the EU sees human rights is both a means, and an end of development processes at the operational level.

Nevertheless, the toolbox falls short of providing practical illustration and guidance on key issues. The following recommendations seek to provide the EU, including Member States, with elements for a constructive dialogue and joint future action.

## Recommendations

1. Although the toolbox highlights the indivisibility and equal weight of human rights across the spectrums of economic, social, cultural, civil and political rights, the analysis is constantly framed as integrating rights understood as limited to democracy and human rights. Development, in its nature, is aimed at securing basic economic and social rights, at least as much as political and civil rights. Economic and social rights are definitional and integral to development, as well as a key framing for how certain rights holders access civil and political rights. Whilst the document is right to stress accountability, participation and non-discrimination these fundamental rights and freedoms should be seen as indivisible from – and no more important than – the right to healthcare or education. Not only do political and civil rights facilitate development, framed as socio-economic right fulfilment, but socio-economic right fulfilment is itself a facilitator of enjoying civil and political rights.
  - We call on the EU and its Member States to further strengthen the commitment towards the respect, promotion and fulfilment of economic, social and cultural rights, by raising issues pertaining to this matter in multilateral for a, bilateral dialogues with EU partner countries and through UN Special Procedures. Operational for the HRBA to development interventions on the ground is crucial to ensuring policy coherence between EU development policy and policies in the field of trade, investment and migration and should not be seen in isolation from other EU policy interventions or projectised. In line with the recommendations of the EU 2013 NGO forum, mechanisms for accountability for rights violations as a result of EU policy or the intervention of the private sector should form part of the toolkit.
2. The toolbox does not adequately elaborate on the differences between harming, benefiting and wrongdoing. The toolbox goes as far as to identify two principles: do not harm and maximize benefit. Building on the latter, it should be clearer whether maximising positive impact is a duty incumbent only on States as duty bearers. Second, the idea of *do no harm* could and should be replaced by *do no wrong*. In fact, States have at least some obligations to take positive measures and a more general obligation to promote human rights. Indeed, governments have the primary duty to respect, protect and fulfil the rights of individuals against violations, including irresponsible corporate behaviour. This goes inter alia through the oversight and regulation of private actors, especially business and private financial actors. It is hence regrettable to note the lack of clarity on duties in respect of human rights and how duty bearers can be held accountable, as well as the role of Member States in guaranteeing and monitoring the respect and protection of all rights.
  - We strongly recommend the development of SMART indicators, which contain clear human rights benchmarks, to cut across all EU external policies, including trade and investments, business and the private sector.
3. Although the toolbox outlines the relationship between rights holders and duty bearers, it is not well illustrated whether and in how far EU member states are duty bearers in respect of rights internationally.

- We encourage a constructive and multistakeholder dialogue on this matter to support and guide in the implementation and monitoring of the toolbox in a transparent and accountable manner.  
Furthermore, for a coherent approach to EU development policies, the synchronisation between the Member States' action plans on rights-based approaches and the EU's commitment is advisable. We hence call on the EU Member States, the European Commission and the European External Action Service to identify existing opportunities, such as the presentation of the EU annual Report on Human Rights in the World in the European Parliament's plenaries or CODEV meetings, to foster a constructive dialogue between different stakeholders, including civil society. This would allow for greater transparency on the role of duty bearers towards the respect of international human rights and humanitarian standards.
4. The checklist, included at the end of the document is a first step to provide delegations with a practicable tool to apply HRBA to the EU's programme work. However, its impact could be maximized if each step of the project cycle could be accompanied by model documents which could guide the delegations for an effective implementation of programmes.
- We stress therefore the need to develop practical training packages, both at HQ and field level, including EU Member States' embassies, and in collaboration with civil society, in a view to build and strengthen an inclusive project cycle management. Furthermore, the equal participation of a diverse pool of civil society organisations in the planning, design and implementation of programmes will enable human rights for effective development. This would further allow integrating development and human rights into EU country strategies in a view to maximize the impact of EU development work in non EU countries.
5. Finally, we applaud the adoption of the toolbox as an instrument to support a rights-based post-2015 agenda, and other ongoing international negotiations; we further welcome the great emphasis on key principles, such as non-discrimination and equality, and the prominent role given to civil society; while we recognize the efforts the EU and its Member States are deploying to champion a rights-based approach to development. Nevertheless, the lack of practical and action-oriented steps on one hand, and the uncertainty regarding the duties of duty bearers on the other hand, potentially weakens the impact of this operational tool in what should be its aim to transform development approaches from "business as usual".
- We therefore call the EU and its Member States to hammer out, in a joint endeavour with civil society, a concrete implementation plan for the toolkit, which allows for further and frequent consultation of stakeholders within the review period leading up to the 2016 assessment, so providing opportunity for feedback and flexible adjustment of the toolkit checklist, to ensure its effective and practical use by EU delegations.