Open Society European Policy Institute

A PART OF OPEN SOCIETY FOUNDATIONS

2014 and Beyond: Priorities for the EU

The Open Society European Policy Institute (OSEPI) is the EU policy arm of OSF, based in Brussels. We work to influence and inform decision-making on EU law, policy and funding to ensure that open society values lie at the heart of what the European Union does, both inside and outside its borders.

OSEPI brings into EU policy debates evidence, analysis and recommendations drawn from the work of OSF in more than 100 countries. The Foundations' priorities include the promotion of human rights, justice and accountability, pursued through a wide range of policy areas from education and health to criminal justice and transparency.

2014 and Beyond: Priorities for the EU presents policy areas that require an effective EU response and where OSF has expertise and experience in the field as a donor and advocate of human rights and universal values. This document offers succinct one-page summaries of these priority areas, recommendations for work in the next parliamentary term, and analysis and resources.

Table of Contents

September, 2014

Edited by Dr. Israel Butler,
Senior Policy Analyst, Open Society European Policy Institute.

A fundamental rights strategy for the EU

The EU has progressively given fundamental rights greater prominence in its law and policies. However, the Union lacks an overarching and coherent framework under which it respects, protects and promotes fundamental rights. The institutions should commit jointly to a fundamental rights strategy, which would bring tangible benefits to the lives of its citizens and increase the visibility of rights protected by EU law. A strategy would increase public support for the EU, improve the Union's credibility on human rights with third countries, and prepare the EU for accession to the European Convention on Human Rights.

Respect

The EU has taken measures to ensure that it respects fundamental rights when elaborating policy and legislation, such as the Commission's strategy on the implementation of the Charter of Fundamental Rights. However, policies and legislation continue to emerge from the Union that conflict with fundamental rights standards. The Commission could take further measures to improve compliance with the Charter across its Directorates-General, such as more targeted training and boosting capacity inside its Legal Service. In the European Parliament, the LIBE committee should systematically screen amendments to Commission proposals. In the Council, the member-states could mandate working parties to consult with the FREMP working party on the compatibility of their amendments with the Charter.

Protect

The Commission has adopted a framework on the rule of law to deal with member-states experiencing a 'systemic threat to the rule of law'. Although the framework does not go far enough to address threats to the rule of law, democracy and fundamental rights in the member-states, it is an important first step. The Commission should ensure that the framework is put into effect whenever the EU's values are under threat. The European Parliament should offer its full support to the framework and establish a practice of monitoring particular member-states, following its report on the situation in Hungary in 2013. The Council should be encouraged to endorse the framework and supplement it with a regular cycle of peer review of all member-states.

Promote

The Union has created standards binding on the member-states in areas of EU competence that relate to fundamental rights, such as non-discrimination and data protection. The EU could go further by mainstreaming fundamental rights into all areas of competence. For example, competition law rules could take into account citizens' rights of freedom of expression and democratic participation, and not merely their rights as consumers, when defining and regulating the media market. To use its powers to greater effect to implement fundamental rights standards, the Commission could perform an audit of EU competences. This would identify how the powers of each Directorate-General can be directed towards improving the enjoyment of fundamental rights. The EU has taken a similar approach to the rights of persons with disabilities.

Participation and transparency

Creation and implementation of a successful strategy requires expertise on substantive fundamental rights issues, which is not widespread in the EU institutions. However, this knowledge is available in the Fundamental Rights Agency, the Council of Europe and United Nations human rights mechanisms, and civil society organisations. The EU institutions should create channels for regular and structured dialogue between the Union and these bodies. Greater transparency of decision-making in the Council and Commission will allow these organisations to make timely and pertinent contributions.

For more information on our work on **fundamental rights, justice and home affairs**, contact:

Dr. Israel Butler, israel.butler@opensocietyfoundations.org
Open Society European Policy Institute,
Rue du Trône 130, B-1050 Brussels, Belgium
Tel: +32 2 505 46 46

Further resources on this issue:

- Butler, I., 'A fundamental rights strategy for the European Union,' (2014), available from: http://www.opensocietyfoundations.org/briefing-papers/fundamental-rights-strategy-european-union;
- Butler, I., 'How to monitor the rule of law, democracy and fundamental rights in the EU,' (2013), available from: http://www.opensocietyfoundations.org/briefing-papers/how-monitor-rule-law-democracy-and-fundamental-rights-eu.

The Open Society Foundations have been funding civil society organisations that promote and protect fundamental rights, democracy and the rule of law in EU member-states since 1984. Initially, OSF focused on central and eastern European countries and supported the process of reform that led to EU membership. Currently, OSF supports organisations throughout the Union working on a variety of projects to protect and strengthen the judiciary, access to justice and democratic participation, as well as building the capacity of independent civil society to hold governments accountable under their fundamental rights obligations.

Strengthening defence rights in the EU

The European Union has made significant progress over the past four years towards strengthening defence rights across the 28 member-states. In 2009, the Council set out a road-map of measures to be adopted on the rights of suspects. Three directives have been adopted, but to achieve the transformation envisioned in 2009, the institutions need to take several steps:

- Complete the Stockholm road-map and adopt comprehensive directives on outstanding issues;
- Take steps to ensure effective implementation of the adopted directives; and
- Take action to address gaps, notably on the use of pretrial detention.

Analysis

In 2002 the European Arrest Warrant put in place a fast-track system to transfer suspects between member-states ahead of their trial. Whilst intended to improve the delivery of justice, significant flaws have been documented that expose the lack of complementary measures to protect the rights of suspects. Research shows that protection of defence rights varies significantly across member-states, ranging from the information provided to suspects on arrest, to the use of pretrial detention and the point at which access to a lawyer is guaranteed. In addition, nearly all member-states lack an effective system to ensure access to legal aid, which means that suspects with insufficient financial means are deprived of their right to a lawyer. The lack of adequate standards undermines the rights of all suspects and affects mutual trust in cross-border cases.

Complete the Stockholm road-map

The Stockholm Programme set out a clear and ambitious plan to strengthen defence rights but critical issues remain unresolved. The Commission published three proposals in 2013 on Access to Provisional Legal Aid, the Rights of Child Suspects and the Presumption of Innocence. Negotiations on these measures should be prioritised by the Parliament and Council. Of particular note is the directive on legal aid which was initially intended to be considered as part of the directive on access to a lawyer. The current proposal on provisional legal aid is insufficient to ensure effective access to legal aid in both its scope and application. The directive should, for example, include provisions on the independence and quality of legal aid similar to those in the directive on interpretation and translation. The directive should also require member-states to set up an EU-wide system for the provision of legal aid, the mechanics of which will vary from state to state.

Effective implementation

Because this is a new area for EU-wide legislation, the Union should offer member-states effective support. We urge a comprehensive approach including support to help member-states embed the new directives in domestic law, pilot programmes, training and improved data collection. The Commission has an important role to monitor implementation and take swift action in the case of infringements. The Union should also promote and support the varied roles of civil society including independent monitoring and reporting. It would also be useful for the Commission to continue its past practice of facilitating a framework for follow up which promotes exchange between policy-makers and practitioners.

Address key gaps

One in four detainees across the EU is in pretrial detention and prisons are, in many countries, overcrowded. In response to the Commission's 2011 Green Paper on Detention, governments and civil society recognised the problems caused by the overuse of pretrial detention and many called for legislative action, which was echoed by the European Parliament. A number of components are essential to bring about improvements to the system, including reiteration of the principle of detention as a last resort; the use of alternatives to pretrial detention; requirements that detention orders are substantiated by written, reasoned decisions; and implementation of a system of regular review. The EU and its member-states should adopt minimum standards on the use of pretrial detention as a matter of urgency.

For more information on our work on **defence rights**, contact:

Kersty McCourt kersty.mccourt@opensocietyfoundations.org
Open Society Justice Initiative

Zaza Namoradze zaza.namoradze@opensocietyfoundations.org
Open Society Justice Initiative

Open Society European Policy Institute,
Rue du Trône 130, B-1050 Brussels, Belgium
Tel: +32 2 505 46 46

Further resources on this issue:

- Open Society Justice Initiative, 'Arrest rights toolkit', (2013), available from: http://www.opensocietyfoundations.org/briefing-papers/legal-tools-european-standards-criminal-defense-rights;
- Open Society Justice Initiative, 'Improving pretrial justice: The roles of lawyers and paralegals', (2012), available from: http://www.opensocietyfoundations.org/reports/improving-pretrial-justice-roles-lawyers-and-paralegals;
- Cape, E. and Namoradze, Z., 'Effective criminal defence in Eastern Europe', (2012), available from: http://www.opensocietyfoundations.org/reports/effective-criminal-defence-eastern-europe;
- Cape, E., Namoradze, Z., Smith, R. and Spronken, T., 'Effective criminal defence in Europe', Intersentia, (2010). Executive summary available from: http://www.opensocietyfoundations.org/reports/effective-criminal-defence-europe;
- Justicia European Rights Network, various resources on victims' rights and defence rights including handbooks, research and advocacy materials, available at: http://www.eujusticia.net/;
- Open Society Justice Initiative, various resources on pretrial justice available at: http://www.opensocietyfoundations.org/projects/global-campaign-pretrial-justice.

The Open Society Justice Initiative uses litigation, advocacy, research and technical assistance to promote human rights and build legal capacity for open societies. The Justice Initiative has worked for over ten years to advocate improved defence rights across the European Union, through multi-country research projects, policy analysis and targeted advocacy. OSF supports organisations working on defence rights and was instrumental in the creation of the Justicia European Rights Network, which brings together 17 organisations working on rights and justice in the EU.

Media pluralism

The EU is founded on the values of democracy and human rights. The institutions have recognised that democratic participation and freedom of expression rely on a free and plural media. A plural media sector includes a wide range of sources and voices in news and information services, accessible by citizens regardless of wealth or status. Because of its influence over public opinion, a free and plural media is also essential to protect other values, particularly tolerance towards minority groups. When a small number of individuals or companies own significant portions of media outlets, journalists, and subsequently the public and political leaders, become vulnerable to their influence. Likewise, where the state has excessive influence over or investment in media outlets, the public can be misinformed and debate can be silenced, with journalists under increased pressure to toe the government line. The European Parliament and the Commission's High-Level Group on Media Freedom and Pluralism have acknowledged that these problems affect several member-states. The EU should take three steps to safeguard media pluralism.

Independence of regulators

Audiovisual regulatory bodies perform important roles that support a healthy media market, such as issuing licenses to broadcasters and establishing technical standards. These bodies must be free from political or commercial influence. Although all member-states have endorsed Council of Europe rules guaranteeing regulatory independence, many countries have not implemented these standards. The existence of varying – and often non-transparent – practices on the composition and powers of regulatory bodies across the EU constitutes a barrier to free movement of services because it increases costs and uncertainty for media companies wishing to compete in other countries. The Union should revise the Audiovisual Media Services Directive to include a requirement for independent regulators.

State advertising

Revenue from advertising in general has fallen considerably in recent years, particularly for print and broadcasting outlets, as businesses move to purchasing online advertising. This makes media outlets vulnerable to economic pressure. In many countries, public funds are used to buy advertising space. Some governments and their business allies allocate advertising contracts to government-friendly media companies to reward loyalty, while excluding outlets that carry critical opinions. Companies wishing to remain competitive are obliged to self-censor or adopt a government-friendly editorial line. The Commission should take action against governments that use discriminatory advertising practices, as these constitute state aid and distort free competition.

Transparency of media ownership

In most member-states, it is impossible to identify the ultimate or beneficial owners of media outlets based on the information collected or published by authorities or media outlets. Transparency of ownership benefits citizens, media regulators and media companies. Citizens will be made aware of the interests and influences behind the news. Media regulators need this information to determine whether market concentration is in line with competition rules or whether mergers are in the public interest. Companies trying to enter the media market rely on this information to formulate business plans adapted to the real shape of the market. The EU should impose mandatory reporting requirements on media companies and their owners to disclose the entire ownership chain to a national media authority. Disclosure would allow the identification of beneficial and ultimate owners, back to natural persons. The information should be available to the public in an accessible format, free of charge and be published in a regularly updated and centralised database. The Union should revise the Audiovisual Media Services Directive to include these requirements.

For more information on our work on **fundamental rights, justice and home affairs**, contact:

Dr. Israel Butler, israel.butler@opensocietyfoundations.org
Open Society European Policy Institute,
Rue du Trône 130, B-1050 Brussels, Belgium
Tel: +32 2 505 46 46

Further resources on this issue:

- Access Info Europe, 'Ten recommendations for transparency of media ownership', (2013), available from: http://www.access-info.org/documents/Access_Docs/TMO_Recommendations_05_November_2013.pdf;
- Open Society Foundations, 'Response by the Open Society Media Program to the European Commission. Green Paper on preparing for a fully converged audiovisual world' (2013), available from: http://ec.europa.eu/information_society/newsroom/cf/dae/document.cfm?doc_id=3249;
- World Association of Newspapers (WAN-IFRA), 'Capturing them softly: Soft censorship and state capture in Hungarian media', (2013), available from: http://cima.ned.org/publications/capturing-them-softly-soft-censorship-and-state-capture-hungarian-media;
- OSF, 'Mapping digital media in the European Union: A report for the High-Level Group on Media Freedom and Pluralism', (2012), available from: http://www.opensocietyfoundations.org/sites/default/files/Mapping_Digital_Media_EU_20121217_0.pdf;
- Open Society Justice Initiative, 'The growing threat of soft censorship', (2005), available from: http://www.opensocietyfoundations.org/sites/default/files/threat_20051205.pdf.

The Open Society Program on Independent Journalism (PIJ) helps to promote an enabling and free environment for independent media and high quality journalism by supporting applied research and advocacy efforts aimed at policy reform. The PIJ works with governments, associations of journalists and broadcasters, academia and regulatory bodies worldwide. The PIJ has supported work on media pluralism in Europe for more than 20 years.

Ensuring equality in the EU

Non-discrimination has been a core EU value since the Union's creation. Initially, the EU prohibited discrimination only on the grounds of gender and nationality of another EU member-state. Now EU law includes racial or ethnic background, religious belief, sexual orientation, age and disability, as protected grounds. Despite this progress, the right to equality is still not enjoyed equally by every group. The Union and its member-states need to complete the framework of equality policies and legal guarantees, enforce the rules and collect more data on inequalities.

Non-discrimination for all

Not all groups at risk of discrimination benefit from the same rights in Europe. An individual who is discriminated against because of his/her religion or belief, sexual orientation, age or disability is protected by EU law only in the sphere of employment. Someone discriminated against because of his/her gender, or racial or ethnic origin is also protected when accessing goods and services. The member-states should adopt the Commission's proposal for a 'Horizontal Directive', which would ensure all grounds are protected equally. Members of the European Parliament could encourage their colleagues in national legislatures to press their governments. The EU should also widen protection from discrimination on the ground of nationality to include third country nationals, based on a broad interpretation of Article 18 of the Treaty on the Functioning of the European Union. EU law prevents governments from, for example, making it harder for EU citizens from other countries to get a job. But member-states are free to discriminate against individuals from outside the EU because of their nationality, except in limited circumstances, such as long term residents. The EU should reverse this rule, and prohibit discrimination on the basis of nationality also for third-country nationals, except where this is necessary for specific policies such as visas, legal migration, or exercise of powers given by public law to safeguard the general interest of the state.

Enforcing equality

Although the Commission routinely opens infringement proceedings against countries that breach internal market rules, it rarely does so in the field of equality. However, discrimination by public institutions is common in many member-states. The most blatant cases relate to Roma and include expulsions, fingerprinting and school or spatial segregation in Italy and the Czech Republic. Discriminatory profiling by police forces is also a problem in several member-states. The Parliament should remind the Commission of its duty to enforce non-discrimination law. MEPs should also urge the Commission to include policing within its interpretation of the services covered by the Racial Equality Directive. Finally, the Commission should verify, not merely that member-states establish equality bodies under the equality directives, but also that these are effective. That is, that these bodies are independent, properly resourced, and given strong powers, such as the ability to review potentially discriminatory measures at the national level.

Equality data

Policy-makers cannot promote equality and actively fight discrimination without reliable data about the socio-economic position of minority groups, such as their standing in the employment market, educational achievement, health status and housing situation. This data allows authorities to adapt their inclusion policies to the nature and scale of real life problems. Many governments state that they do not collect disaggregated data because this would breach data protection rules. At the same time, they cite the lack of data as justification for not doing more to promote equality. However, disaggregated data can be collected with full respect for fundamental rights and data protection rules if three conditions are fulfilled: individuals must explicitly consent to provide sensitive information, and be granted the right to choose how to define oneself in terms of racial or ethnic background, sexual orientation or in light of a disability; the data should then be anonymised. The European Parliament should encourage member-states to collect disaggregated data and provide funding for a pilot project that could act as a model.

For more information on our work on **equality, migration** and **Italy** please contact:

Dr. Costanza Hermanin, costanza.hermanin@opensocietyfoundations.org
Open Society European Policy Institute
Rue du Trône 130, B-1050 Brussels, Belgium
Tel: +32 2 505 46 46

Further resources on this issue:

- Hermanin, C. and Atanasova, A., 'Making big data work for equality', (2013), available from: http://www.opensocietyfoundations.org/voices/making-big-data-work-equality-0;
- Hermanin, C. and De Kroon E., 'The Race Equality Directive: A shadow report', (2013), available from: http://www.opensocietyfoundations.org/reports/race-equality-directive-shadow-report;
- Naydenova, V., 'A flood lays bare inequality in Bulgaria', (2014), available from: http://www.opensocietyfoundations.org/voices/flood-lays-bare-inequality-bulgaria;
- Amnesty International, European Roma Rights Centre and Open Society Justice Initiative, 'Czech Republic's discriminatory treatment of Roma breaches EU race directive', (2013), available from: http://www.amnesty.org/en/news-and-updates/report/czech-republic-s-discriminatory-treatment-roma-breaches-eu-race-directive-20;
- Easat-Daas, A. and Ounissi, S., 'European Muslim youth and the rise of the far-right anti-Muslim narrative', (2013), available from: http://www.scribd.com/doc/190654709/European-Muslim-Youth-and-the-Rise-of-the-Far-right-Anti-Muslim-Narrative;
- European Network Against Racism, 'Shadow reports on racism in Europe', (2013), available from: http://www.enar-eu.org/Shadow-Reports-on-racism-in-Europe-203;
- Open Society Foundations, 'Roma in Italy: A continued emergency', (2012), available from: http://www.opensocietyfoundations.org/litigation/ec-v-italy;
- Graines de France, 'Altérité, racisme et xénophobie dans les campagnes présidentielles et législatives de 2012', (2012), available from: http://www.grainesdefrance.fr/fr_agenda_3_3_Alterite,-racisme-et-xenophobie-dans-les-campagnes-presidentielles-et-legislatives-de-2012-%28Telecharger-le-Rapport%29;
- At Home in Europe 'Muslims in European cities', (2009), available from: http://www.opensocietyfoundations.org/reports/muslims-europe-report-11-eu-cities.

The Open Society Foundations carry out advocacy and strategic litigation to fight discrimination and promote equality in the European Union. OSF supports organisations pursuing similar objectives across the EU, particularly in Bulgaria, Cyprus, the Czech Republic, France, Germany, Greece, Hungary, Italy, the Netherlands, Romania, Spain, Sweden and the United Kingdom. OSF's goal is that EU and national policies are fair and comply with the principles of inclusion and non-discrimination. We fund research, monitoring, reporting, advocacy and strategic litigation on issues such as segregation of Roma, discrimination against Muslim and other minorities, LGBTI rights, hate speech, de-institutionalisation of persons with disabilities, and ethnic profiling.

The EU framework for Roma integration

The EU Framework for National Roma Integration Strategies sets priorities for member-states on four thematic areas: education, employment, healthcare and housing. If the framework is to produce tangible progress towards integration, the EU and its member-states need to take further steps. The implementation of the strategies is monitored and financially supported by the Commission. But the European Parliament has an important role in holding the Commission to account through questions, hearings and its own reporting on progress made at national level.

Ensure EU funding reaches Roma

Most governments have failed to invest sufficient financial resources in Roma integration, for two reasons. First, some governments are reluctant to spend funds on Roma. Second, authorities often encounter difficulty absorbing and managing EU funds. There is a serious risk that funds available for Roma inclusion (at least EUR 16 billion from 2014-2020) will remain unused. The Commission should ensure that member-states include Roma integration among the operational programmes it agrees with governments and that governments comply with ex ante conditionalities on Roma.

Include Roma in decision-making

The Commission consults Romani civil society haphazardly and sometimes only after policies have been designed. This results in policies that are not adapted to community needs. The Commission should ensure that independent, grassroots Roma-led organisations are included in all EU consultations on the framework and are routinely consulted as part of policy-making on Roma. The Commission should urge member-states to follow the same practice and include information on consultations in their annual progress reports. Governments could use existing networks such as the NGO Focal Points supported through the Decade of Roma Inclusion. EU and national authorities should also explore opportunities for the secondment of experts from Roma civil society into departments that develop and implement policy on Roma integration.

Improve monitoring

Many national strategies lack concrete targets, timelines and budgets. In addition, national progress reports submitted are not made public. Benchmarking, and increased transparency and accountability, would assist national authorities in two ways. First, it would help governments stay on track to implement their national strategies. Second, it would help governments systematically evaluate their policies so that these can be corrected where they are failing, or scaled up where they are successful. The Commission and the European Parliament have taken steps to improve accountability by adopting a pilot project to support civil society organisations to produce shadow reports. The EU institutions should continue this support. The Commission should also urge governments to introduce benchmarking in their progress reports and make these public.

Combat prejudice and discrimination against Roma

Prejudice among political leaders and the public is a major obstacle to Roma integration. Authorities are unlikely to devise and implement integration policies, which are unpopular with voters. The EU institutions should urge member-states to incorporate measures to combat Roma prejudice and discrimination across the four areas of the framework and explain progress in their annual reports – including data on racially motivated speech and crime. The Commission could finance such measures at national level using cohesion policy funds. The Commission could also support the newly established European Roma Institute to provide expertise on how to present a positive image of the Roma and combat stereotypes.

For more information on our work on **Roma and social inclusion**, contact:

Violeta Naydenova, violeta.naydenova@opensocietyfoundations.org
Open Society European Policy Institute,
Rue du Trône 130, B-1050 Brussels, Belgium
Tel: +32 2 505 46 46

Further resources on this issue:

- Open Society Foundations, 'Toolkit: Programming the structural funds for Roma inclusion in 2014-2020', (2014), available from: http://www.opensocietyfoundations.org/sites/default/files/programming-structural-funds-roma-inclusion-20140422.pdf;
- Decade of Roma Inclusion 20015-2015, 'Civil society monitoring on the implementation of the National Roma Integration Strategies and Decade Action Plans in 2012', (2012), available from: http://romadecade.org/cms/upload/file/9270_file26_civil-society-monitoring_summary-report.pdf.

Roma are a transnational minority estimated at between 10 to 12 million European citizens. For more than twenty years, the Open Society Foundations have supported Roma communities and Roma-led civil society organisations. OSF also supports individual Roma with grants, fellowships and training. OSF's goals include: empowering Roma, including women and youth, to participate in society and become active citizens; promoting equality and integration; and combating racial prejudice and discrimination.

Roma education, employment and health

The EU Framework for National Roma Integration Strategies sets priorities for member-states on four areas, including education, employment and healthcare. Most governments have not invested sufficient financial resources to promote equality for Roma in these areas. Implementation of national strategies is monitored and financially supported by the Commission, and the European Parliament has an important role in holding governments to account through questions, hearings and its own reporting on progress made at national level. To achieve their goals, the EU and its member-states must ensure that Roma equality policies and funding are implemented effectively.

Ensure equal access to good quality education

The EU and national governments have committed to close the education gap between Roma and non-Roma. However, Roma children continue to receive lower quality education. Several countries send Roma to special needs schools or segregate them into separate classes in mainstream schools. Roma children have higher dropout and early school leaving rates than the majority population. The Commission could ask governments to explain what they have done to address each of these problems in their annual progress reports, and encourage national authorities to increase enrolment and attendance rates of Roma in mainstream early childhood development services. The Directorate-General for Education and Culture should earmark funding to improve access for Roma to good quality education. This could include scaling up existing promising practices that improve access to tertiary and early childhood education. For example, the Scholarship Programme of the Roma Education Fund provides scholarships, mentoring and tutoring, and the Access and Equity Program of the International Step by Step Association, provides high quality educational services for Roma children and their families.

Tackle Roma unemployment

Roma experience much higher rates of unemployment – three times higher in some member-states – than the majority population. EU governments' own progress reports show that access to the job market for Roma has not improved. This is partly due to discrimination and partly to barriers in the mainstream education system that prevent Roma from obtaining formal qualifications. The Commission could take several steps to boost the employment rate. Roma entrepreneurs are more likely to hire Roma employees. The Commission should urge member-states to earmark funding to support micro-credit schemes to support entrepreneurship in Roma communities. The Commission could also encourage member-states to develop incentives for employers to employ Roma and offer employment services adapted to Roma. The Commission and member-states should report on what steps they have taken to tackle Roma unemployment at EU and national level. The Commission should also urge member-states to collect data disaggregated by ethnicity, with the assistance of the EU Agency for Fundamental Rights, the UNDP and the World Bank, on the socio-economic situation of Roma and the degree to which they experience discrimination.

Improve access to health services for Roma

Most annual reports show no progress on improving access to health care for Roma. In some countries, such as Bulgaria and Romania, basic social security coverage does not yet cover Roma children. Many member-states have also failed to allocate funding for Roma health, or create mechanisms to monitor and evaluate progress. Because governments do not collect data disaggregated by ethnicity, it is difficult to compare the position of Roma with the national average. The Commission should ensure that member-states collect data on Roma health and allocate sufficient financial resources to improving access to services. The Commission and member-states could also scale up promising practices and fund such initiatives adequately. For example, the Roma Health Mediators programme has trained Roma to liaise between their community and health services which has improved access to health care.

For more information on our work on **Roma and social inclusion**, contact:

Violeta Naydenova, violeta.naydenova@opensocietyfoundations.org
Open Society European Policy Institute,
Rue du Trône 130, B-1050 Brussels, Belgium
Tel: +32 2 505 46 46

Further resources on this issue:

- Decade of Roma Inclusion 2005-2015, 'Civil society monitoring on the implementation of the National Roma Integration Strategies and Decade Action Plans in 2012', (2012), available from: http://romadecade.org/cms/upload/file/9270_file26_civil-society-monitoring_summary-report.pdf;
- Schaaf, M., 'Roma health mediators, successes and challenges', Open Society Public Health Program, (2011), available from: http://www.opensocietyfoundations.org/sites/default/files/roma-health-mediators-20111022.pdf.

Roma are a transnational minority estimated at between 10 to 12 million European citizens. For more than twenty years, the Open Society Foundations have supported Roma communities and Roma-led civil society organisations. OSF also supports individual Roma with grants, fellowships and training. OSF's goals include: empowering Roma, including women and youth, to participate in society and become active citizens; promoting equality and integration; and combating racial prejudice and discrimination.

Misuse of EU funds on long-stay residential institutions for persons with disabilities

Some Central and Eastern European member-states have invested EU structural funds in long-stay residential institutions. An estimated 1.2 million people with disabilities are held in long-stay institutions across Europe. These people are not detained because they have committed a crime or because they are a danger to themselves or others. They are institutionalised because authorities have not provided services in their local communities that would allow them to live according to their own choices and with the support they need. The use of structural funds falls within EU competence, as confirmed by the Council Decision approving the EU's accession to the UN Convention on the Rights of Persons with Disabilities (CRPD). As such, funds must be used consistently with the EU's fundamental rights obligations.

Institutions violate fundamental rights

An institution is any place in which people who have been labelled as having a disability are isolated, segregated and/or compelled to live together. An institution is also any place in which people do not have, or are not allowed to exercise, control over their lives and day-to-day decisions. An institution is not defined by its size. Institutionalisation violates a range of fundamental rights standards, guaranteed by the Charter of Fundamental Rights and the CRPD. Living conditions in many institutions in Central and Eastern Europe are appalling, including lack of heating, malnutrition, inadequate clothing, unhygienic sanitation, physical and sexual abuse, lack of privacy, and little to no rehabilitative or therapeutic activities. Even without these conditions, institutionalisation denies people their fundamental right to live in the community as equal citizens and contradicts EU policies on social inclusion. Many institutions are located in isolated areas, giving residents little to no contact with the outside world. The regime in institutions takes no account of individual needs or preferences. By forcing people with disabilities to live in institutions, authorities are preventing them from developing and maintaining relationships with their family, friends and community. Article 19 of the CRPD guarantees persons with disabilities the right to choose their place of residence, where and with whom they live. It also prohibits them from being forced into a particular living arrangement and gives them the right to services to support living and inclusion in the community. This right is also recognised by Article 26 of the Charter.

Support the transition from institutional care to community living

Though many Central and Eastern European member-states have policies on social inclusion and deinstitutionalisation, only the EU's newest member, Croatia, has made a serious commitment to large-scale transition away from institutionalising people with disabilities to investing in support services that would allow all people to live in their local communities. It will take time for some member-states to complete this transition. However, to ensure that authorities make progress, the Commission should:

- Prohibit the use of EU funds to renovate existing or build new institutions.
- Verify that national governments have adequate strategies in place for the transition from institutional care, as required by the ex ante conditionalities applicable to structural funds.
- Ensure that civil society organisations representing persons with disabilities are properly consulted on the design and implementation of projects involving EU funding.
- Ensure that strategies are properly implemented and that member-states report on their use of funding.
- Ensure that data on how structural funds are spent at national level are publicly available to improve accountability.

The European Parliament, European Ombudsman and Court of Auditors should assist the Commission in holding governments to their obligations under EU law.

For more information on our work on **fundamental rights, justice and home affairs**, contact:

Dr. Israel Butler, israel.butler@opensocietyfoundations.org
Open Society European Policy Institute,
Rue du Trône 130, B-1050 Brussels, Belgium
Tel: +32 2 505 46 46

Further resources on this issue:

- European Coalition for Community Living, 'Briefing on structural funds investment for people with disabilities', (2013), available from: http://community-living.info/wp-content/uploads/2014/02/Structural-Fund-Briefing-final-WEB.pdf;
- Klein, J., 'Community not confinement', (2013), available from: http://www.opensocietyfoundations.org/voices/community-not-confinement;
- Open Society Foundations, 'Petition to the European Parliament', (2012), available from: http://www.opensocietyfoundations.org/sites/default/files/petition-eu-parliament-20121018.pdf;
- Parker, C. and Clements, L., 'The European Union and the right to community living: Structural funds and the European Union's obligations under the Convention on the Rights of Persons with Disabilities', Open Society Mental Health Initiative, (2012), available from: http://www.opensocietyfoundations.org/sites/default/files/europe-community-living-20120507.pdf;
- European Coalition for Community Living, 'A wasted opportunity? Wasted time, wasted money, wasted lives', (2010), available from: http://www.opensocietyfoundations.org/sites/default/files/wasted-opportunity-20100325.pdf.

The Open Society Public Health Program's Mental Health Initiative (MHI) aims to ensure that people with mental disabilities (psychosocial and/or intellectual disabilities) are able to live as equal citizens in the community and to participate in society with full respect for their human rights. MHI focuses on ending the unjustified and inappropriate institutionalisation of people with mental disabilities by advocating the closure of institutions and the concurrent development of community-based alternatives. In implementing these focus areas, the initiative has supported the development of a sustainable range of community-based services and support, liberating many in Central and Eastern Europe and the former Soviet Union from institutions over the course of 17 years. MHI has partnered with the Accountability and Monitoring in Health Initiative of the Open Society Public Health Program to support civil society organisations in some Central and Eastern European countries to monitor the use of European Structural Funds to advance the social inclusion of people with disabilities.

A new approach to migration and asylum

Political and economic instability around the world, plus demographic trends and skills shortages in Europe, require the EU to change its approach to migration and asylum. Increasing numbers of migrants are dying on the journey to Europe, which they make to seek international protection or work in the informal labour market. The Union should take action to protect the dignity of irregular migrants and asylum seekers.

Treating irregular migrants humanely

Governments have tried to contain irregular migration and deter economic migrants by making irregular migration a criminal offence and systematically detaining individuals who are due to be removed. Although these practices breach fundamental rights standards and are ineffective as deterrents, they are widely used in Europe. The Union should ensure that governments comply with fundamental rights standards relating to detention when implementing EU migration law. Member-states should use alternatives to detention for individuals awaiting expulsion and allow undocumented migrants, especially children, access to basic services (shelter, education and emergency healthcare). The Union should require member-states to guarantee the legal status of those who cannot be returned to their countries of origin to prevent them from becoming destitute.

Enhancing protection for asylum-seekers

The EU Charter of Fundamental Rights guarantees the right to asylum. However, recent reforms of the Common European Asylum System do not put this right into practice. It has become extremely difficult for individuals to seek protection in the EU without risking their lives. The Union should ensure safe channels to access protection, such as protected entry. Member-states should make provision for international resettlement from countries of origin and transit in crisis situations.

Where asylum-seekers do reach the EU, their basic needs, such as adequate shelter, often go unmet. This is because member-states on the EU's Mediterranean borders are unable to deal with large and sudden influxes of people. The strain on these countries could be reduced if member-states reached consensus on burden-sharing. However, member-states in the north of the EU are reluctant to agree to this because of the economic costs and the negative public perception of migrants. The Union should ensure that the existing legislative framework is properly implemented in all member-states. This would improve living conditions and integration standards for asylum-seekers. It would also mean that member-states apply similar standards and processes in determining asylum claims. And it would facilitate mutual recognition of asylum claims between countries, which would make burden-sharing easier to put into practice.

A comprehensive approach

Irregular migration is driven in part by demand for low-skilled workers and flourishing informal job markets. As well as taking measures against traffickers, facilitators and employers who exploit irregular migrants, the EU should adapt its migration policy to the labour needs of its member-states. The Union could also take emerging demographic trends into account. Based on these factors, the EU could widen legal channels for migration and take a coordinating role in managing economic migration. The Union should also work with national authorities to reduce xenophobic sentiments among the public that prevent a more balanced approach towards migration. For example, abandoning policies of detention and criminalisation would help to dispel the negative image of irregular migrants as a health and security risk. The Union could also ensure that its foreign, development and humanitarian policies address the environmental, political and security crises that force people to flee their home countries.

For more information on our work on **equality, migration**, and **Italy** please contact:

Dr. Costanza Hermanin, costanza.hermanin@opensocietyfoundations.org
Open Society European Policy Institute
Rue du Trône 130, B-1050 Brussels, Belgium
Tel: +32 2 505 46 46

Further resources on this issue:

- Hermanin, C., 'Migrant detention and human rights in the EU', (2014), available from: http://www.opensocietyfoundations.org/voices/migrant-detention-and-human-rights-eu;
- Garlick, M., 'Strengthening refugee protection and meeting challenges: The European Union's next steps on asylum', (2014), available from: http://www.migrationpolicy.org/research/strengthening-refugee-protection-and-meeting-challenges-european-unions-next-steps-asylum;
- Butler, I., 'No good reason for a Schengen entry/exit system', (2013), available from: http://www.opensocietyfoundations.org/voices/no-good-reason-schengen-entryexit-system;
- Hermanin, C., 'Bringing migrant detention into line with human rights standards', (2013), available from: http://www.opensocietyfoundations.org/sites/default/files/return%20directive%20position%20paper%20140428.pdf;
- Majcher, I., '"Crimmigration" in the European Union through the lens of immigration detention', Global Detention Project working paper no.6, (2013), available from: http://www.globaldetentionproject.org/de/publications/working-papers/crimmigration.html;
- International Detention Coalition, 'There are alternatives: A handbook for preventing unnecessary migrant detention', (2011), available from: http://idcoalition.org/publications/there-are-alternatives-2/.

The Open Society Foundations support organisations working to protect migrants and asylum-seekers in Bulgaria, France, Greece, Italy, Latvia, Poland and Spain. OSF's goal is that EU and national migration and asylum policies should be fair and comply with human right standards. We fund activities including research, monitoring, reporting, advocacy and strategic litigation, on issues such as labour exploitation, interception at sea, statelessness, access to justice, determination procedures for asylum-seekers, integration of refugees, conditions of detention and expulsion procedures, access to basic services for undocumented migrants, hate speech, and the political rights of migrants.

Transparency and accountability

The European Parliament election results have demonstrated that the EU's institutions need to get much better at showing that they work for citizens. This cannot happen unless the EU becomes more transparent and accountable. Institutions that are transparent give citizens information about how decisions that affect their lives are made. Transparency allows citizens to take part in making those decisions and to hold their representatives accountable for their actions in government. This is crucial to connecting the EU with its citizens. The accountability of the EU's institutions is also central to its credibility when it promotes these principles in the rest of the world.

Existing rules and practices

The EU has rules in place to guarantee transparency and accountability. Regulation 1049/2001 gives citizens a right to request documents from the institutions and article 11 of the Treaty on European Union commits the EU's institutions to involve citizens and maintain regular dialogue with civil society. In practice, however, the institutions use a broad interpretation of the exceptions to the right to access documents. Furthermore, the institutions often fail to make information about legislation and policy under negotiation readily available. Commission proposals are usually based on internal consultation, or consultation with selected groups that are not advertised and are closed to the public. Where consultations are open to the public, they are generally limited to soliciting written responses to a fixed questionnaire, which limits the opportunity for citizens to have a dialogue. In contrast to the other institutions, information about negotiations in the European Parliament is readily available. However, it is not possible to establish the identity of lobbyists meeting with MEPs to influence their decisions, and the parliament's code of conduct does not impose on MEPs rigorous reporting requirements of possible conflicts of interest. Furthermore, in addition to negotiations inside each institution, most legislation is also negotiated jointly between the three institutions in the trialogue, which takes place behind closed doors. There were 1,549 trialogue meetings in the last legislative term.

Impact on foreign policy

Taken as a whole, standards and practices of transparency in the EU institutions are lower than the requirements the Union presses other countries to adopt. This situation makes it easy for other governments to reject the Union's recommendations for reform. The EU's current standards of transparency will also make it difficult for the Union to promote its revised money laundering directive and new directives on transparency and accountability. These rules place an obligation on European companies to publish the identity of their real owners as well as details of what payments oil, gas and forestry companies make to foreign governments. The legislation contributes to the Union's foreign policy goal of promoting good governance because it prevents corruption and allows citizens of other countries to hold their own governments to account for how they use revenue received from European companies. Unless the EU adopts higher standards for its own institutions, other countries may be reluctant to cooperate with initiatives of the Union and its member-states to improve governance and reduce corruption.

The Open Government Partnership

To improve its performance on transparency and accountability, the Union could work closely with the Open Government Partnership (OGP), with a view to becoming a member. Sixty four states currently participate in this global initiative, including 20 EU member-states. The OGP provides a framework through which the EU could progressively implement the same globally accepted standards of open and accountable government that the Union requires of other countries. With technical assistance from the OGP, the EU would create an action plan jointly with civil society, and implementation would be monitored by the Union itself and independent experts. This would improve the Union's relations with its own citizens, improve its credibility with other countries, promote inter-institutional cooperation and collaboration with civil society.

For more information on our work on **transparency and accountability**, contact:

Neil Campbell, neil.campbell@opensocietyfoundations.org
Open Society European Policy Institute,
Rue du Trône 130, B-1050 Brussels, Belgium
Tel: +32 2 505 46 46

Further resources on this issue:

- Campbell, N. and Butler, I., 'Opening the books on corruption in the EU', (2014), available from: http://www.opensocietyfoundations.org/voices/opening-books-corruption-eu;
- Butler, I., 'A fundamental rights strategy for the European Union', (2014), available from: http://www.opensocietyfoundations.org/briefing-papers/fundamental-rights-strategy-european-union;
- Campbell, N., 'EU Transparency legislation paves the way for a global standard', (2013), available from: http://www.opensocietyfoundations.org/voices/eu-transparency-legislation-paves-way-global-standard;
- 'Open Institutions: The European Union and the Open Government Partnership', civil society statement, (2014), available from: http://gong.hr/media/uploads/ogp_eu_cso_statement_july_2014.pdf.

The Open Society Foundations work to build vibrant and tolerant societies whose governments are accountable and open to the participation of all people. We seek to strengthen the rule of law; respect for human rights, minorities, and a diversity of opinions; democratically elected governments; and a civil society that helps keep government power in check. We have funded civil society organisations that promote and protect human rights, democracy and the rule of law for three decades. Initially focused on societies in transition, OSF now supports organisations over a hundred countries around the world.

Human rights and civil society in EU external relations

The EU's Strategic Framework and Action Plan commit the Union to promote human rights in all areas of the EU's foreign relations 'without exception'. This human rights package also recognises that the Union cannot promote these values unless an independent and vibrant civil society is in place in its partner countries. The package makes an unprecedented commitment to mainstream human rights into the EU's external relations. However, its implementation needs improvement.

Consistent

The Union has pledged to speak out when authorities undermine the universality of human rights standards, compromise the independence of NGOs, or restrict the ability of civil society to work freely and in safety. However, in practice the EU often prefers 'quiet diplomacy' over visible support. This is because member-states and the EU's institutions do not wish to endanger other interests. Public measures may jeopardise good trade relations, the EU's ability to access high level officials, or the Union's position as an impartial mediator. However, when the Union takes a public stand on some issues but not others, it appears selective and inconsistent on its values. This damages the EU's credibility and reduces its leverage and influence. The new leaders of the institutions should commit jointly and publicly to implement the human rights package and make human rights promotion a priority among foreign policy goals. The Parliament's sub-committee on human rights (DROI) should be upgraded to a full committee to reflect the importance of rights in external action and the increasing role of the Parliament.

Coherent

Although the EEAS has taken the lead in developing the human rights package, it can only be implemented through collaboration with other bodies. The High Representative has the mandate to ensure all relevant Commission DGs integrate human rights promotion into their policies. DG Trade, in particular, should hold European industry, trade and business to international human rights standards and ensure that rights criteria under the General System of Preferences are met. To ensure that human rights are mainstreamed into EU external action, civil society organisations should be included in political dialogues, high-level visits and negotiations across policy areas such as trade and energy. Meetings with civil society and rights defenders should be part of all high-level EU and member-state visits to third countries. To guarantee overall coherence, the Union should develop a single EU foreign policy strategy with human rights and civil society at its core. Currently, external action is based on guidelines and multiple or outdated strategies, leading to a fragmented approach to rights protection. Proper implementation of the human rights package also requires the collaboration of member-states. EU governments often prioritise bilateral relations and commercial deals that undermine the Union's rights package. Ministers should support, rather than undermine, the EU policies they have agreed on, and the High Representative they have appointed. Governments could convene an annual public Foreign Affairs Council meeting dedicated to human rights to improve coherence.

Effective

EU delegations bear significant responsibility for implementing the human rights package because they represent the Union in daily relations with foreign governments. Heads of delegation should play a prominent and vocal role in defending civil society and human rights because of their influence over authorities. The EU's annual human rights report has the potential to help the EEAS improve implementation of the package. However, this document is currently an activity report. It should include an assessment of the human rights situation in different countries to identify whether the EU is achieving its goals and whether it needs to change its approach. Delegations of MEPs are often not suitably prepared for their visits, and can by instrumentalised by the receiving state or undermined by individual members who are motivated by personal or party interests. MEPs should receive appropriate support and assistance, and be required to act impartially and objectively as representatives of the Union.

For more information on our work on **human rights and civil society in EU external policy**, contact:

Open Society European Policy Institute, osepi@opensocietyfoundations.org
Rue du Trône 130, B-1050 Brussels, Belgium
Tel: +32 2 505 46 46

EU external policy analysts:
- Marta Martinelli: Africa
- Martin Konečný: Central Asia, Middle East and North Africa, South Asia
- Iskra Kirova: Eastern Europe, South Caucasus and Russia
- Neil Campbell: Enlargement and East Asia
- Kersty McCourt: Justice and Rule of Law

Further resources on this issue:

- Martinelli, M., 'The Joint Africa-EU Strategy must support civil society', (2014), available from: http://www.opensocietyfoundations.org/voices/joint-africa-eu-strategy-must-support-civil-society;
- Campbell, N., 'The politics of peace', (2013), available from: http://www.opensocietyfoundations.org/voices/politics-peace
- Martinelli, M. and Oftadeh, S., 'Angola: A test case for European Union diplomacy', (2013), available from: http://www.opensocietyfoundations.org/voices/angola-test-case-european-union-diplomacy;

- OSEPI is co-founder of the Human Rights and Democracy Network, a grouping of NGOs operating at the EU level on human rights, democracy and peacebuilding. See, in particular:

    - Job advertisement for the next EU High Representative for Foreign Affairs and Security Policy, (2014).
    - Statement on the second anniversary of the adoption of the EU Strategic Framework and Action Plan on Human Rights and Democracy, (2014).
    - Non-paper on the EU's human rights package, (2012).
    - Statement on how to improve the partnership between CSOs and the EEAS, (2012).

    All available from: http://www.hrdn.eu/.

The Open Society Foundations work to build vibrant and tolerant societies whose governments are accountable and open to the participation of all people. We seek to strengthen the rule of law; respect for human rights, minorities, and a diversity of opinions; democratically elected governments; and a civil society that helps keep government power in check. We have funded civil society organisations that promote and protect human rights, democracy and the rule of law for three decades. Initially focused on countries in transition, OSF now supports organisations throughout the world. Human rights and civil society lie at the heart of our work to protect and promote open societies.

Enlargement policy

Enlargement is one of the Union's most powerful policies for bringing stability, fundamental rights and the rule of law to prospective European citizens. However, these benefits could be lost if the EU puts enlargement on hold. The EU's economic crisis has made member-states question their commitments to extend membership to the Western Balkans and Turkey. To maintain political support for enlargement, EU governments must explain its advantages to their own citizens.

Reforms to promote democracy and human rights require time to take root. Because of this, the Commission should maintain its policy of front-loading chapters 23 and 24 (on fundamental rights, justice, freedom and security). To increase momentum in the accession process, the Commission should extend this pragmatic approach and open negotiation chapters according to where greatest progress can be made. This could include, for instance, opening particular chapters out of the normal sequence where developments in a particular policy area could have a positive knock-on effect on other reforms, or selecting a common chapter for several countries at the same time to stimulate progress by creating competition between governments.

Turkey

Only one negotiating chapter (on regional policy) has been opened since 2010. The government's increasingly authoritarian tendencies have fed the view that Turkey is not suitable for membership. However, EU accession negotiations are an ideal vehicle for reforms, as can be seen from the progress made in Turkey during EU negotiations from 2000 to 2005. The Union should open chapters 23 and 24 to ensure progress on fundamental rights. The Union should also open chapter 15, on energy, and 31, on foreign policy, so that Turkey can develop its industry and partner with the Union to improve regional stability in the Middle East and Mediterranean.

The Western Balkans

Montenegro and Serbia have started negotiations for membership. Macedonia has candidate status, but has not started negotiations. Albania received candidate status in June. Neither Kosovo nor Bosnia and Herzegovina has yet applied for membership. The countries still outside negotiations risk being absorbed in internal ethnic, religious or political struggles rather than focusing on reforming governance and boosting economic growth: Macedonia because of the name issue, Bosnia and Herzegovina because of constitutional problems, and Kosovo because its independence is still not recognised by five EU member-states. If the Union brings all of these countries into the accession process, the negotiations would focus national political energy on democratic reforms and economic growth.

Roma

Enlargement countries in the Western Balkans have invested insufficient financial resources in Roma inclusion, and national inclusion strategies lack concrete targets, timelines and allocated budgets. Many Roma remain in camps for those displaced by the Kosovo conflict and still have no identity papers. To meet these challenges, the EU should include enlargement countries in a process analogous to the EU Framework for National Roma Integration Strategies, include these governments in meetings of the National Roma Contact Points, and support national strategies with pre-accession funds. The Decade of Roma Inclusion offers a fully operational framework and should be extended to include all enlargement countries. Participating countries should submit national implementation plans to the Commission and report annually on progress towards integration, including on measures to address the legal position of stateless Roma.

Civil society

The Commission's practice of directly consulting NGOs from enlargement countries in Brussels had several advantages. Allowing NGOs to participate directly in EU policy-making has helped to foster independent, critical and competent civil society organisations, made governments aware of the importance that the Union places on NGOs, and ensured that civil society concerns were registered at a political level. The Commission should reverse its decision to conduct future consultations at EU delegation level and re-instate consultations in Brussels.

For more information on our work on work on the EU's **enlargement** policies, contact:

Neil Campbell, neil.campbell@opensocietyfoundations.org
Open Society European Policy Institute,
Rue du Trône 130, B-1050 Brussels, Belgium
Tel: +32 2 505 46 46

For more information on our work on work on **Roma and social inclusion**, contact:

Violeta Naydenova, violeta.naydenova@opensocietyfoundations.org
Open Society European Policy Institute
Rue du Trône 130, B-1050 Brussels, Belgium
Tel: +32 2 505 46 46

Further resources on this issue:

- The Independent Commission on Turkey, 'Turkey in Europe: The imperative for change', (2014), available from: http://www.independentcommissionturkey.org/;
- Open Society Foundations, 'The Roma and open society', (2013), available from: http://www.opensocietyfoundations.org/explainers/roma-and-open-society;
- Decade of Roma Inclusion 20015-2015, 'Civil society monitoring on the implementation of the National Roma Integration Strategies and Decade Action Plans in 2012', (2012), available from: http://romadecade.org/cms/upload/file/9270_file26_civil-society-monitoring_summary-report.pdf;
- Grabbe, H. and Knaus, G., 'Beyond wait-and-see: The way forward for EU Balkan policy', (2010), available on: http://www.opensocietyfoundations.org/publications/beyond-wait-and-see-way-forward-eu-balkan-policy.

The Open Society Foundations have worked in the Balkans for over 20 years. OSF witnessed the eruption of war in the 1990s and worked to overcome the destruction and suffering that followed. Foundations in Albania, Bosnia and Herzegovina, Kosovo, Macedonia and Serbia work on a range of issues aimed at securing open societies including justice and the rule of law, minority rights, education, health, transparency and anti-corruption. Protection and support for the region's Roma communities have been integral to the work of the Foundations. They have supported Roma and pro-Roma civil society organizations to promote active citizenship and community mobilisation campaigns. The Open Society Foundation–Turkey has worked since 2001 to create a more open society marked by increasing democratisation and responsiveness to human rights. The foundation prioritises issues such as political reform, gender equality, education, regional disparities, civil society and the rights of disadvantaged groups including Roma. In Brussels, the Open Society European Policy Institute assists the Balkan and Turkey Foundations and their grantees with their work towards EU accession, while helping to ensure that EU funds are used effectively in the region.

EU-Africa relations

The Joint Africa-EU Strategy of 2007 marked a change in EU-Africa relations. The agreement insisted on equality between both sides, a people-centred approach and the need to 'treat Africa as one'. The EU must do more to implement these principles if it is to maintain a positive influence and reach its foreign policy, security and development goals.

Combat poverty and corruption

National economies in Africa are growing rapidly. However, the benefits of this growth are distributed unevenly, leaving huge poverty gaps. The hardship experienced by those living in poverty is exacerbated by food insecurity. Many countries continue to experience difficulties with governance that prevent the state from developing and implementing policies that would improve the standard of living. In particular, corruption diverts resources away from public services that are vital to development and poverty reduction, and undermines the goals of EU development policy. Many of these resources are siphoned out of Africa through illicit financial flows and end up in European banks and tax havens. The Union can help to ensure that funds are properly spent by helping African partners set up better tax systems and fight corruption, and by curbing illicit capital transfers to Europe. The EU can also support local initiatives such as national anti-corruption commissions and independent budget oversight mechanisms.

Protect human rights while promoting peace and security

States in the regions of the Horn, the Sahel and Central Africa have significant difficulties combating terrorist groups and rebel movements. This is because many governments lack the financial, technical and human resources needed to exercise administrative control over parts of their territory and address threats to security. This situation prompts western powers to intervene to resolve security crises, protect their commercial interests and combat potential terrorist threats. The EU invests heavily in diplomatic missions to promote peace and stability. Its member-states contribute personnel to engage in crisis management and armed forces to intervene militarily. Both parties promote reforms to the legal system geared towards the creation and maintenance of law and order. However, these initiatives can be counter-productive. Governments in these regions are using repressive measures not just to combat terrorism, but to silence legitimate political debate, limit human rights and attack human rights defenders. This in turn fuels public discontent and contributes to the very instability that the EU wishes to combat. Alongside counter-terrorism policies, the Union and its member-states must ensure continued support for human rights, and require parliamentary and civil society oversight of the security sector. This could be done, for example, through national human rights commissions.

Regain the EU's credibility on human rights and democracy

Many countries in Africa have become increasingly confident on the international stage and are making partnerships with newly powerful states such as China, India and Brazil. The Union and its member-states will find it more difficult in future to compete for influence on the continent. Although Europe still has much to offer, the EU and its member-states suffer from a lack of credibility. The Arab uprisings revealed a double standard in the Union's foreign policy. African leaders question why they should tolerate public pressure from the EU to comply with standards of democracy and human rights, when its member-states were supporting authoritarian and repressive regimes in North Africa. Nevertheless, democracy and human rights promotion remains a priority for the EU's foreign policy. This means that the EU has the potential to benefit the peoples of the continent in a way that Africa's newer partners, whose agendas do not include the same focus on promoting these values, do not. However, if the EU is to have a positive influence it will need to regain its credibility. And this requires the Union to promote human rights and democracy consistently over other considerations, and also to rebase EU-Africa relations on a more equal partnership.

For more information on our work on **Africa**, **gender** and **political participation**, contact:

Dr. Marta Martinelli, marta.martinelli@opensocietyfoundations.org
Open Society European Policy Institute,
Rue du Trône 130, B-1050 Brussels, Belgium
Tel: +32 2 505 46 46

Further resources on this issue:

- Martinelli, M., 'Africa-EU civil society forum: towards a people centred JAES and engaged civil society', (2013), available from: http://backoffice.plataformaongd.pt/documentacao/site/Repositorio/Documentos/Noticias/Opening%20Session%20-%20Marta%20Martinelli.pdf;
- Martinelli, M., 'A continental strategy at risk', (2014), available from: http://www.osisa.org/pt-br/blog/910;
- Martinelli, M., 'The IVth Africa-EU Summit: much ado about nothing?', in 'The global game has changed: What Role for EU-Africa Relations?', EARN Report, (2014), available from: http://ecdpm.org/publications/global-game-role-europe-africa-relations/;
- Martinelli, M., 'Struggling to make a difference: international intervention in the Horn of Africa', IAI Research Paper no.12, (2014), available from: http://www.iai.it/content.asp?langid=2&contentid=1090.

The Open Society Foundations work in Africa to promote better governance, equitable economic growth as well as the implementation of human rights that can be enforced through strong judiciaries. The Africa Regional Office and four foundations manage programs in 25 countries with an annual expenditure in excess of $90 million. OSF regularly engages with electoral processes in Africa with a view to ensuring their integrity.

Democracy in Sub-Saharan Africa

National governments on the African continent have made several pledges to democratic governance. However, the way that elections in Ethiopia, Uganda, Nigeria, Kenya, Rwanda, Burundi, Angola, DRC and Zimbabwe have been conducted undermines, rather than deepens, democratic consolidation. Citizens are effectively prevented from making democratic choices because ruling elites block changes in leadership through electoral fraud or reforms that make it easier for existing governments to remain in power.

The EU supports democracy in Africa by monitoring elections, providing technical assistance and supporting civil society and independent media. However, the Union could go much further to support the democratic process. The analysis of country situations by EU observer missions often lacks the insight available to national commentators. EU missions should work more closely with local observers to increase the quality and pertinence of their recommendations on reforms. The Union should ensure that development aid programming is used to implement these reforms.

Nigeria and the Democratic Republic of Congo are geographical priorities in Sub-Saharan Africa for the Open Society Foundations.

Nigeria

Corruption scandals, ethnic and religious intolerance and unprecedented challenges to the authority of the state by Islamic extremist terrorists risk entrenching the divide between the country's Islamic north and Christian south. Internal instability will, in turn, affect the security and prosperity of the region, because Nigeria is the continent's largest economy, and has played an important role in stabilising other countries in crisis through military intervention. Free and fair elections in 2015 would help to restore stability. However, the Independent National Electoral Commission (INEC) lacks the capacity and resources to organise credible and safe elections. Further, voter registers have still not been consolidated into a single list, so many voters risk being excluded. Loss of voters' trust in INEC may lead the public to dispute the election results and to violence. The EU could strengthen citizens' participation by supporting the creation of a citizen-led Elections Situation Room (ESR). ESRs have been used to good effect in Malawi, Senegal and Mali. The ESR would receive early warnings from local observers about potential vote-rigging or violence affecting voting, which it would relay to the appropriate state services to address. The ESR would also carry out parallel vote-counting.

Democratic Republic of Congo

In 2011, the government adopted controversial amendments to the constitution that favoured the president and his parliamentary majority in elections. The electoral process was grossly mismanaged and poorly planned. Local and international observers suspected the national electoral commission (CENI) of bias. As a result, President Kabila's victory in securing a second term lacked legitimacy. Institutional instability followed, as opposing parties in the parliament refused to work together on basic issues such as the adoption of a budget, and the appointment of ministers and high level officials to state bodies. In advance of legislative and presidential elections due in 2016, the government has taken further steps to entrench its position. This includes interference with press freedom, killing of human rights defenders, removing citizenship from opposition political candidates, and proposals for further constitutional and electoral law reform. Delays to reform of the CENI, which is still seen as biased, the absence of an electoral budget or a transparent voter registry, together with the proposed reforms mean that local and provincial elections due in 2015 might be delayed or cancelled. The 2016 elections are likely to be poorly organised. The EU should press the government to cease its damaging practices and reforms. The Union should also fully implement the recommendations of the 2013 special report by the European Court of Auditors on EU development aid in DRC. This includes channelling electoral support solely through local civil society, rather than mainly international organisations, which would ensure local political participation and empowerment.

For more information on our work on **Africa**, contact:

Dr. Marta Martinelli, marta.martinelli@opensocietyfoundations.org
Open Society European Policy Institute,
Rue du Trône 130, B-1050 Brussels, Belgium
Tel: +32 2 505 46 46

Further resources on this issue:

- Ilo, U.J., 'Making elections count: A guide to setting up a civil society election situation room', Open Society Initiative for West Africa (OSIWA), (2012), available from: http://osiwa.org/IMG/pdf/osiwa-_guide_situation_room_bd.pdf;
- Martinelli, M., 'The EU's role in addressing the DRC crises', (2012) available from: http://www.opensocietyfoundations.org/publications/statement-eu-s-role-addressing-drc-crises;
- Martinelli, M., 'Governance assistance in DRC: options for EU engagement', (2013), available from: http://www.osisa.org/open-policy/hrdb/drc/governance-assistance-drc-options-eu-engagement;
- EU Court of Auditors, 'EU support for governance in the Democratic Republic of the Congo', Special report no. 9, (2013), available from: http://www.eca.europa.eu/Lists/ECADocuments/SR13_09/SR13_09_EN.pdf.

The Open Society Foundations work in Africa to promote better governance, equitable economic growth as well as the implementation of human rights that can be enforced through strong judiciaries. The Africa Regional Office and four foundations manage programs in 25 countries with an annual expenditure in excess of $90 million. OSF regularly engages with electoral processes in Africa with a view to ensuring their integrity.

Middle East and North Africa

Prior to the Arab uprisings of 2011, the EU had often prioritised good relations with the region's authoritarian rulers and underestimated their peoples' aspirations for justice, accountable government and better living standards. In response to the Arab Spring, the EU pledged to put greater emphasis on human rights, democracy and civil society and to tie its assistance to specific reforms. Despite the many setbacks in the region since 2011, the Union should not slide back into its old approach. Support for repressive governments will not guarantee long-term stability.

The Open Society Foundations currently focus their support to the region on civil society in Tunisia, Egypt, Syria, and Israel/Palestine.

Tunisia

Tunisia's relative success shows that the key to building a better future is inclusiveness. The "National Dialogue" process brokered by Tunisian civil society in 2013 defused a political crisis and saved the country from descent into chaos. Tunisia now has the Arab world's most progressive constitution, approved by both secular and Islamist forces. Yet, continued transition towards democracy will remain vulnerable to challenges stemming from the ailing economy, deep inequalities, and the risk of renewed political polarisation. The EU should maximise its economic and political support to help keep Tunisia's transition on track – not least because of the model it provides for other countries in the region.

Egypt

Egypt's ongoing crackdown on dissent puts in question the government's commitment to pursue a transition to democracy. Egypt can hardly overcome its serious economic and social problems without an inclusive political settlement that receives broad legitimacy among different sectors of society. The EU should maintain its engagement with the government, but urge leaders to reconcile Egypt's political divisions and ensure enforcement of fundamental freedoms defined in the country's new constitution. Europe should pay particular attention to protecting the space for independent civil society, which is under increasing pressure.

Syria

After more than three years of fighting and over 150,000 deaths, the conflict shows no signs of coming to an end. The EU and its member-states should step up their diplomatic efforts to help restart peace negotiations that bring together the West, Russia and regional powers, including Iran. The crisis in Iraq further underscores the urgent need for inclusive talks on Syria. The EU and its member-states should also continue to push for full implementation of UN Security Council Resolutions 2165 and 2139 to secure access for humanitarian aid. Member-states should give more Syrian refugees a safe way into Europe, following the example of Germany, which has committed to resettle 20,000 Syrians.

Israel/Palestine

Justice and respect for human rights in Palestine and Israel are not possible as long as Israel continues to occupy Palestine and discriminate against its own citizens of Palestinian origin. The EU should prioritise reviving and deepening the process of Palestinian reconciliation, which is a prerequisite for Palestinian democratic renewal and for lasting peace with Israel. The EU should also support access to the International Criminal Court for Palestine to end impunity and deter repeated rounds of violence such as the latest one in Gaza. The EU should apply its policy of non-recognition of Israel's illegal settlements, implemented in its 2013 funding guidelines, across all areas of EU-Israel bilateral relations.

For more information on our work on **Middle East and North Africa**, contact:

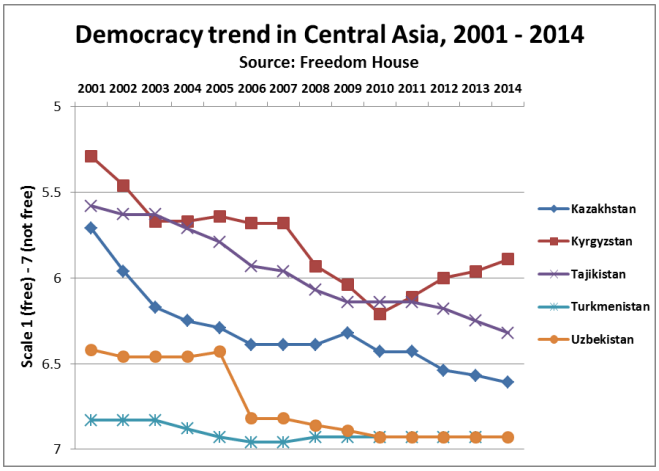
Martin Konečný, martin.konecny@opensocietyfoundations.org
Open Society European Policy Institute,
Rue du Trône 130, B-1050 Brussels, Belgium
Tel: +32 2 505 46 46

Further resources on this issue:

- Harling, P. and Birke, S., 'The Arab world into the unknown', (2014), available from: http://arabist.net/blog/2014/1/14/the-arab-world-into-the-unknown;
- Muasher, M., 'The call of pluralism', Cairo Review of Global Affairs, (2014), http://carnegieendowment.org/2014/05/14/call-of-pluralism/havz;
- Help Syria Refugees campaign website: http://www.helpsyriasrefugees.eu/.

The Open Society Foundations have supported local civil society organisations and activists in the Middle East and North Africa since 2000. With the mass uprisings of 2011, OSF has stepped up its engagement in the region, empowering civil society to capitalise on new opportunities as well as respond to new crises brought by the Arab Spring. Currently, OSF is focusing its support primarily on Tunisia, Egypt, Syria and Israel/Palestine.

Central Asia



More than 20 years after the break-up of the Soviet Union, Central Asia holds the dubious distinction of being one of the least free regions in the world. Authoritarian regimes are sinking even further down international rankings of freedom and democracy – with the partial exception of Kyrgyzstan since constitutional reform in 2010. The countries of the region also rank extremely low in global corruption ratings.

As NATO withdraws from Afghanistan in 2014, governments in the region are highlighting the risk that instability could spill over into Central Asia. However, all significant eruptions of violence in the region in recent years have resulted from internal pressures, such as corruption, repression and impunity. Examples include the massacre in Andijan (Uzbekistan) in 2005, ethnic violence in South Kyrgyzstan in 2010, riots in western Kazakhstan in 2011, and clashes in Tajikistan in 2010 and 2012. Rather than backing the region's current power-holders, the EU should focus on supporting the populations in their long-term aspirations for better living standards, rule of law, justice and civil liberties. The EU can play a leading role in Kazakhstan and Uzbekistan, where it has particular leverage through current negotiations.

Kazakhstan: new EU agreement

The EU and Kazakhstan are currently negotiating an enhanced Partnership and Cooperation Agreement, which is due to be concluded in the autumn of 2014. The EU is in a strong position: despite Russia's and China's proximity, it is Kazakhstan's main trade partner, accounting for over 50% of its exports. High Representative Ashton has stated that 'progress in these negotiations will depend on progress on political reforms in Kazakhstan', a message echoed by the European Parliament in 2012. However, talks have gone ahead despite a steady deterioration of democratic freedoms in Kazakhstan, including intensified persecution of religious groups, closures of independent media outlets, and proposals for new criminal legislation that would restrict the work of civil society. As the richest Central Asian country, with GDP per capita higher than that of EU members Bulgaria and Romania and more than double that of Ukraine, Kazakhstan should be held to a higher standard. The EU should use the remaining negotiations on the new agreement as an incentive to reverse Kazakhstan's slide into deeper authoritarianism.

Uzbekistan: forced labour

Uzbekistan has one of the most repressive governments in the world, holding more prisoners of conscience than the rest of the former USSR combined. One of the most serious human rights violations is the organisation of forced and child labour in the country's cotton industry. As the fourth largest importer of Uzbek cotton, the EU has a responsibility to help convince the Uzbek government to end the practice. The European Parliament sent an effective message in 2011 by blocking an EU-Uzbek textile protocol. Under international pressure, the Uzbek government recently reduced the use of child labour, but only by increasing forced labour among adults. The EU needs to maintain pressure. If the government does not end the forced labour system, the European Commission should suspend Uzbekistan's preferential trade status, which is conditional on its compliance with international labour conventions.

For more information on our work on **Central Asia**, contact:

Martin Konečný, martin.konecny@opensocietyfoundations.org
Open Society European Policy Institute,
Rue du Trône 130, B-1050 Brussels, Belgium
Tel: +32 2 505 46 48

Further resources on this issue:

- EUCAM, 'Evaluation of the EU's human rights policies and engagement in Central Asia' (2014), available from: http://www.europarl.europa.eu/RegData/etudes/etudes/join/2014/433788/EXPO-DROI_ET%282014%29433788_EN.pdf;
- International Crisis Group, 'Kazakhstan: Waiting for change', (2013), available from: http://www.crisisgroup.org/~/media/Files/asia/central-asia/kazakhstan/250-kazakhstan-waiting-for-change.pdf;
- Cotton Campaign website: http://www.cottoncampaign.org/.

The Open Society Foundations have supported local civil society organisations in Central Asia since the mid-1990s. OSF maintains local foundations in Kazakhstan, Kyrgyzstan and Tajikistan, as well as programmes on Turkmenistan and Uzbekistan that are run from abroad. Throughout the region, OSF supports work in education, public health, legal reform, human rights, transparency, media, arts and culture, youth, and the rights of labour migrants. OSF works to improve human rights conditions in the region and increase civil society's ability to hold governments accountable.

Eastern Partnership

The Open Society Foundations have long supported the European integration of the Eastern Partnership (EaP) countries to further their transformation into more open societies. By destabilising Ukraine, annexing Crimea, and bullying Armenia and Moldova to drop their European ambitions, Moscow has unambiguously demonstrated its intention to disrupt this process and establish a new order in the post-Soviet space. The Kremlin's resolve to consolidate its dominance over the region has deep implications for the prospects of democratisation. The EU needs an equally proactive and clear vision for its policy if it is to remain relevant and further the region's democratic transition.

Preserve the European choice

The Association Agreements (AAs) with Georgia, Moldova and Ukraine, contain 80% of the EU's legal acquis and could help to transform these countries into modern democracies and market economies. However, if they do not deliver tangible benefits in the short term, already wavering public support will begin to fail. In the economic sphere, the EU will need to offer technical and financial support to SMEs so that they can meet higher export and domestic market standards. The Union will need to offset any punitive trade measures by Russia, which would harm heavy industry and agriculture most. The EU should help modernise and reorient these sectors towards its markets, including by supporting business-to-business contacts and market placement of goods, as it has done for accession countries. To provide a tangible dividend to citizens, the EU could speed up the liberalisation of travel with Georgia and Ukraine through the Visa Liberalisation Action Plans (VLAP) and improve implementation of existing Visa Facilitation Agreements. To counter Russian propaganda, the EU should support free and vibrant media; national broadcasters functioning as public interest media; broadcast diversification through the digital switchover; and the adoption of EU media regulations.

Deepen differentiation, maintain conditionality

If the EaP is to be a means of fostering transition towards democracy, the EU should maintain conditionality. Even without an AA, the EU still has tools at its disposal – from political legitimacy, to aid and trade – to support reform. Deeper differentiation of EU policy between EaP countries is now needed. The EU should negotiate a new legally binding agreement with Armenia and tie assistance to progress on reforms, particularly on a democratic constitutional order and the fight against corruption. The EU could also use the VLAP to deepen relations and encourage reforms in Armenia. The Union should pursue new openings for engagement with Belarus in exchange for signs of good faith, such as the release of remaining political prisoners. Conversely, the EU should take a harder line with Azerbaijan, where repression of civil society has worsened dramatically and the number of political prisoners is among the highest in the former USSR.

Build a constituency in support of EU integration

Civil society organisations have great potential to help the EU by building public support for integration and ownership of the reform agenda, providing local expertise on where reform is most needed, and monitoring progress. The Union should involve civil society organisations to the greatest extent possible in negotiating reforms and monitoring the implementation of agreements.

Offer a vision

The EU should begin an earnest discussion about extending a European perspective – but not necessarily a promise of membership – to the most advanced reformers. It could start by widening the remit of DG Enlargement to cover the three EaP frontrunners, as well as preserving a dedicated post of Commissioner for the region. A perspective would help to generate the political will and public support needed to overcome the challenges of economic and democratic transition.

For more information on our work on the **Eastern Partnership and Russia**, contact:

Iskra Kirova, iskra.kirova@opensocietyfoundations.org
Open Society European Policy Institute
Rue du Trône 130, B-1050 Brussels, Belgium
Tel: +32 2 505 46 46

Further resources on this issue:

- Pidluska, I., 'Civil society and the future of Ukraine', (2014), available from: http://www.opensocietyfoundations.org/voices/civil-society-and-future-ukraine;
- Natsvlishvili, V., 'Making freedom of information a reality in Georgia', (2014), available from: http://www.opensocietyfoundations.org/voices/making-freedom-information-reality-georgia;
- International Renaissance Foundation, Open Society Foundations and Eastern Partnership Civil Society Forum, 'European integration index 2013 for Eastern Partnership countries', (2013), available from: http://www.eap-index.eu/images/Index_2013.pdf;
- Evgenidze, N., 'Threats posed by the Eurasian Customs Union on the way to European integration: Georgia's perspective', (2013), available from: http://www.osgf.ge/files/2013/publikaciebi%202013/Evrokavshiri_Eng.pdf;
- Stone, C., 'An Armenian spring?', (2013), available from: http://www.opensocietyfoundations.org/voices/armenian-spring;
- Chirila, V., 'How civil society is working to thaw "frozen conflicts" in Eurasia', (2013), available from: http://www.opensocietyfoundations.org/voices/how-civil-society-working-thaw-frozen-conflicts-eurasia;
- Ursu, V. and Hosa, J., 'Hockey politics for Europe's last dictator in Belarus', (2012), available from: http://www.opensocietyfoundations.org/voices/hockey-politics-europe-s-last-dictator-belarus;
- Hale, J., 'EU Relations with Azerbaijan: More for less?', (2012), available from: http://www.opensocietyfoundations.org/briefing-papers/eu-relations-azerbaijan-more-less.

The Open Society Foundations began supporting the transformation of Eastern Europe and the South Caucasus in the late 1980s. We have since grown into one of the largest non-governmental funders for civil society in support of human rights, justice and accountability. OSF's work has contributed to the emergence of democratic governments and more open societies in many countries of the former Soviet Union. Today, OSF has four national foundations in the Eastern Partnership region, based in Armenia, Georgia, Moldova and Ukraine, and we run programs on Azerbaijan and Belarus from abroad. Our foundations and international staff work to promote human rights; combat corruption; strengthen independent, alternative and social media; secure access to justice for marginalised groups; create and maintain platforms for debate and civic engagement; and integrate local actors into the global exchange of ideas. In our work in the region and in Brussels we also monitor the implementation of governments' commitments towards the EU, and the EU's efforts and commitment to promote good governance and rule of law, human rights, accountability and an enabling environment for civil society. We conduct policy analysis and advocacy with national governments and with the EU institutions.

Ukraine

Ukraine's stability and prosperity depend not only on resolving its overwhelming security challenges in the East. The Maidan protests mandated the government to introduce far-reaching reforms to create a state that serves its citizens. The surge in civic activism and the new government's openness to collaboration with civil society offer a rare opportunity for deep and inclusive transformation of the country.

Bring stakeholders together around a comprehensive reform programme

The Ukrainian leadership is struggling to pass legislation in parliament and has yet to launch the tough reforms it promised. To end this stagnation, the government should develop a comprehensive reform strategy. The EU can help by supporting platforms for the government, experts, civil society and business to come together and elaborate a joint plan. The recently established National Reform Council is one such initiative that could develop an inclusive long-term roadmap. To help it fulfil this task and secure buy-in from a maximum number of stakeholders, the EU can offer political, technical and financial support.

Focus on critical reforms

Almost every aspect of government needs reforming. The government should prioritise basic institutional reform, and start off with changes that can be implemented quickly, targeting the judiciary, the constitution, corruption and decentralisation.

- To help establish an independent judiciary free of corruption, the EU can support Ukraine to introduce constitutional and legislative provisions to replace a significant proportion of judges with a newly trained cohort. The Union should urge the government to adopt the law on the General Prosecutor's Office without delay, and ensure that Ukraine's free legal aid centres remain funded and expand to cover civil as well as criminal cases.
- The parliamentary commission in charge of the constitutional reform process has achieved little and has been widely criticised for being closed and politicised. President Poroshenko's own proposal for constitutional amendments has raised similar concerns. The EU should call for constitutional reform to be led by an independent expert body that stimulates public debate on the constitution and is given due time to carry out comprehensive reform.
- Corruption affects all sectors of government. The state could make quick and visible progress by establishing an agency to investigate high-level corruption; aligning illegal enrichment provisions in the criminal code with the UN Convention against Corruption; introducing integrity testing of public officials; reforming asset disclosure and providing access to information on ownership; and reducing the number of public officials, while raising salaries.
- To support devolution of power to the regions, reform should focus on the creation of capable (and larger) self-governing communities, fiscal decentralisation, and reducing the powers of the state administration at the regional and sub-regional level to mostly oversight functions. This should include revisions of the law on the capital city to end double-hatting of the mayor as head of the local state administration. While demands for increasing powers at the local level could be addressed through decentralisation, federalisation would make the country ungovernable.

Ensure justice and accountability

Perpetrators of human rights violations during the Maidan protests, and of crimes committed in Crimea and the eastern and southern regions, must be held to account. Civil society organisations have compiled evidence of human rights abuses and corrupt practices. The EU should press the Ukrainian government to speed up investigations and give full jurisdiction to the International Criminal Court, including by ratifying the Rome Statute. The EU should partner with civil society organisations to enhance the quality of investigations; support redress and rehabilitation for victims and their families; and promote a process of transitional justice that restores citizens' trust in state institutions.

For more information on our work on **Ukraine**, contact:

Iskra Kirova, iskra.kirova@opensocietyfoundations.org
Open Society European Policy Institute
Rue du Trône 130, B-1050 Brussels, Belgium
Tel: +32 2 505 46 46

Further resources on this issue:

- Pidluska, I. and Ursu, V., 'Ukraine elections: A path to legitimacy?', (2014), available from: http://www.opensocietyfoundations.org/voices/ukraine-elections-path-legitimacy;
- Pidluska, I., 'Civil society and the future of Ukraine', (2014), available from: http://www.opensocietyfoundations.org/voices/civil-society-and-future-ukraine;
- Soros, G., 'Keep the spirit of the Maidan alive', (2014), available from: http://www.opensocietyfoundations.org/voices/keep-spirit-maidan-alive;
- Ursu, V., 'Building justice in Ukraine: No time to waste', (2014), available from: http://www.opensocietyfoundations.org/voices/building-justice-ukraine-no-time-waste;
- International Renaissance Foundation, Open Society Foundations and Eastern Partnership Civil Society Forum, 'European integration index 2013 for Eastern Partnership countries', (2013), available from: http://www.eap-index.eu/images/Index_2013.pdf;
- International Renaissance Foundation and Open Society Foundations, 'European integration index 2012 for Eastern Partnership countries', (2012), available from: http://www.eap-index.eu/sites/default/files/EaP%20Index%20%202012.pdf;
- International Renaissance Foundation and Open Society Foundations, 'European integration index 2011 for Eastern Partnership countries', (2011), available from: http://www.eap-index.eu/sites/default/files/EaP%20Index%202011.pdf;
- Ursu, V., 'EU policy towards the Eastern neighbours: A new wave of improvement', (2011), available from: http://www.opensocietyfoundations.org/sites/default/files/eastern-partnership-20110526.pdf.

The Open Society Foundations began supporting the transformation of Eastern Europe and the South Caucasus in the late 1980s. OSF is now one of the largest non-governmental funders of civil society in support of human rights, justice and accountability in the region. OSF's work has contributed to the emergence of democratic governments and more open societies in many countries of the former Soviet Union. OSF has four national foundations in the Eastern Partnership region, based in Armenia, Georgia, Moldova and Ukraine, and runs programs on Azerbaijan and Belarus from abroad. Our foundations work to promote human rights; combat corruption; strengthen independent, alternative, and social media; secure access to justice for marginalised groups; create and maintain platforms for debate and civic engagement; and integrate local actors into the global exchange of ideas. In our work in the region and in Brussels, we monitor the implementation of government commitments, and the EU's efforts and commitment to promote good governance and the rule of law, human rights, accountability and an enabling environment for civil society in the region. We conduct policy analysis and advocacy with national governments and with the EU institutions.

Drones and targeted killings

The United States is increasingly using remotely piloted aircraft for targeted killings outside of recognised armed conflicts, posing a serious challenge to the international rule of law. According to reputable, independent research, US drone strikes have killed more than 2,600 people in Pakistan, Yemen and Somalia, including many civilians. This has led human rights groups to claim that at least some of these attacks violate international law.

Drones present challenges that go beyond questions of legality. By facilitating covert operations that do not put pilots' lives at risk and remain outside public scrutiny, drone technology has drastically lowered the political cost of using armed force. Because they make it easier to kill remotely, drones encourage the use of force in situations where it would previously have been unfeasible.

The EU's response

In February 2014, the European Parliament adopted a resolution condemning unlawful use of armed drones and calling on the EU to develop a common position and an appropriate policy response at both European and global levels. However, the Council and External Action Service have not articulated an EU position on US drone strikes, despite the Union's commitment to promoting compliance with international humanitarian law worldwide. In the absence of a common position, the EU will continue to suffer diplomatic embarrassments such as the divisive vote on a resolution on drones at the UN Human Rights Council in March 2014, when Ireland voted in favour, Germany, Italy and several other states abstained, and France and the UK voted against. However, there are also signs of growing concern and readiness among member-states to take a public stance. The German government, for example, has stated that it "categorically reject[s] extrajudicial killings with armed drones violating international law" and called for their inclusion in international disarmament and arms control regimes.

Need for a European stance

The EU has a vital interest in subjecting the use of armed drones outside of recognised war zones to international law and to policies of transparency and accountability. Drones could destabilise the global security environment, particularly if governments such as China or Russia follow the US precedent. Drone proliferation is still at an early stage, so the EU could help to shape the rules on their use in future.

A clearer European position is also important because more member-states are acquiring their own armed drones. The UK has already deployed drones to strike targets in Afghanistan. Seven other member-states (France, Germany, Greece, Italy, the Netherlands, Poland and Spain) have agreed to develop European drones for both civil and military use. Some EU countries have been accused of providing intelligence to the US that it uses to carry out potentially unlawful drone strikes.

Recommendations

- Member-states and the EU as a whole should develop and articulate positions on the use of armed drones on the basis of international law.
- The EU should press the United States to limit its drone strikes outside of armed conflict, to ensure transparency by disclosing its legal rationale and targeting criteria, and to ensure accountability by investigating and compensating for civilian casualties.
- EU member-states should take measures to avoid providing intelligence to the United States or other countries that could be used to conduct unlawful targeted killings.

For more information on our work on **drones and targeted killings**, contact:

Martin Konečný, martin.konecny@opensocietyfoundations.org
Open Society European Policy Institute,
Rue du Trône 130, B-1050 Brussels, Belgium
Tel: +32 2 505 46 48

Further resources on this issue:

- Dworkin, A., 'Drones and targeted killing: Defining a European position,' (2013), available from: http://www.ecfr.eu/page/-/ECFR84_DRONES_BRIEF.pdf;
- Tayler, L., 'EU should press Obama on drone secrecy,' (2014), available from: http://www.hrw.org/news/2014/03/27/eu-should-press-obama-drone-secrecy;
- Singh, A., Scholes, J., 'Denmark, the CIA, and the killing of Anwar al-Awlaki,' (2014), available from: http://www.opensocietyfoundations.org/voices/denmark-cia-and-killing-anwar-al-awlaki.

The Open Society Foundations strive to limit the use of armed drones, particularly outside internationally recognised armed conflicts, and ensure their compliance with international law. In doing so, OSF draws upon its global network of programmes as well as partner organisations in affected and concerned countries.

Open Society European Policy Institute

Rue du Trône 130, B-1050 Brussels, Belgium
TEL +32 (0)2 505-46-46
osepi@opensocietyfoundations.org
@osfEUpolicy