



Ankara Üniversitesi Avrupa Toplulukları Araştırma ve Uygulama Merkezi
Araştırma Dizisi No: 20

MYTH OR REALITY: HUMAN RIGHTS PROTECTION IN COMMON FOREIGN AND SECURITY POLICY OF THE EUROPEAN UNION

Tanju BİLGİÇ

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of the European Union

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ABBREVIATIONS

CFSP	Common Foreign and Security Policy
CHR	Commission on Human Rights
COAFR	Working Party on Africa
COASI	Working Party on Asia
CoE	Council of Europe
COHOM	Working Party on Human Rights
COJUR	Working Party on Public International Law
COMMISSION	Commission of European Union
COREPER	Committee of Permanent Representatives
COREU	Correspondance Européenne
COUNCIL	Council of Ministers
CSCE	Conference on Security and Cooperation
EC	European Community
ECHR	European Convention on Human Rights
ECJ	European Court of Justice
ECMM	European Community Monitoring Mission
ECOSOC	Economic and Social Council
EP	European Parliament
EPC	European Political Cooperation
EU	European Union
EUMM	European Union Monitoring Mission
FCO	Foreign and Commonwealth Office
HCNM	High Commissioner on National Minorities
HR	High Representative of the CFSP
ICC	International Criminal Court

ODIHR Human Rights	Office for Democratic Institutions and Human Rights
OECD	Organization of Economic Development
OSCE	Organization of Security and Cooperation in Europe
RPF	Rwandan Patriotic Front
SEA	Single European Act
TEU	Treaty on European Union
UK	United Kingdom
UN	United Nations
UNAMIR	United Nations Assistance Mission in Rwanda
UNGA	United Nations General Assembly
UNMIK	United Nations Mission in Kosovo
USA	United States of America

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INTRODUCTION

Before the Second World War, human rights were not considered a legitimate concern of international relations. How states treated their own nationals in their own territory was largely their own business.¹ The human rights practices of states were rarely discussed and human rights were not even mentioned in the Covenant of the League of Nations.² Human rights as a comprehensive set of rights and freedoms of all individuals became an issue of practical diplomacy only after the Second World War. Post war reflection on the horrors of the holocaust and the shameful lack of an international response led to significant changes in international relations, primarily the creation of the Universal Declaration of Human Rights. Despite the internationalisation of human rights norms just after the Second World War, their implementation and enforcement remained largely national because of the ideological rivalry in the post war period.³ With the disintegration of the Soviet Union and the end of the Cold War, human rights, which were once deemed a minefield in east-west relations during the Cold War, have emerged as an important foreign policy objective.

¹ Although human rights as an international relations subject emerged just after the Second World War as we understand it in today's sense, it played some important role in inter-state relations in cases prior to this point. One may recall Great Britain's anti-slavery diplomacy at the beginning of the nineteenth century, the abolition of the slave trade and ultimately of slavery itself. This was an exceptional triumph for human rights and freedom. The efforts to guarantee minority rights which reached its climax at the Congress of Berlin in 1897 and which gained further interest after the First World War, was also a clear example of human rights involvement in international relations. (See, S.D. Krasner, *Sovereignty, Regimes and Human Rights*, in V. Rittberger and P. Mayer (eds.), *Regime Theory and International Relations*, Oxford, Clarendon Press, 1997, pp.139-167).

² D. P. Forsythe, *Human Rights in the New Europe; Problems and Progress*, Lincoln-London, University of Nebraska Press, 1994, p.8.

³ Some international organizations with human rights implications were created during the Cold War. In 1975, with the Helsinki Final Act, human rights were acknowledged and accepted as a legitimate issue for states to address. The Council of Europe (CoE) was also created during the post war era.

The demise of the Soviet Union and the end of ideological rivalry created not only a positive atmosphere for the integration of human rights objectives in foreign policy making, but also an opportunity for the European Union (EU) to play a much more effective role in international relations. Because of its economic power and its comparative stability, the Eastern European States began to seek membership of the EU. The EU has been appraised as the new super power which would fill the power vacuum in the absence of the Soviet Union. When the crisis began in the former-Yugoslavia, the leaders of the EU made announcements implying that the "time for Europe" had arrived and that the EU itself needed to respond and solve the issue.⁴ The inauguration of the Common Foreign and Security Policy (CFSP)⁵ in 1993 as part of the Treaty on the European Union (TEU)⁶ should be seen in this context. Hill argues that the CFSP emerged at a time when expectations from the EU were outrunning its capacity.⁷ In other words, the CFSP was deemed a panacea to the growing expectations being created with the new world order. In more pragmatic terms, the main target was to shift the EU from an economic power to an expressly political organisation.⁸ With the creation of the CFSP, "development and consolidation of democracy, the rule of law and respect for human rights and fundamental freedoms" have emerged among the objectives of the CFSP and the EU has bound itself to respect and protect human rights in its diplomatic relations with third countries. In the meantime, the TEU has also specified the instruments that may be used to reach the objectives set forth in the scope of the CFSP, namely "defining the principles and general guidelines" and "adopting Common Positions and Joint Actions".⁹ Another instrument,

⁴ Jack Poos of Luxembourg as the President of the Council of EU uttered the most notoriously optimistic interpretation in the first month of the crisis, when he told the world that "this is the hour of Europe" (See, C.Hill, *Closing the Capabilities-Expectations Gap*, in J. Peterson., H. Sjursen (eds.), *A Common Foreign Policy for Europe*, London, Routledge Press, 1998, p.20).

⁵ With the Treaty on European Union, a three pillar structure was created for the EU. In that pillar structure, the CFSP is located in the second pillar, distinct from the economic relations which are located in the first pillar. Therefore, in this thesis, in some cases, the CFSP will be referred to as "second pillar", while the EC is the "first pillar".

⁶ The Treaty on European Union was signed in Maastricht on 11 December 1991 and came into force on 1 November 1993.

⁷ C. Hill, *Closing the Capabilities-Expectations Gap*, in J. Peterson., H. Sjursen (eds.), *A Common Foreign Policy for Europe*, London, Routledge Press, 1998, p.19.

⁸ Council of the European Union, *The Common Foreign and Security Policy*, Luxembourg, Office for Official Publications of the European Communities, 2001, p.8.

⁹ Sanctions can also be used as an instrument of the second pillar. In the Article 228 (a) of the Rome Treaty it is made clear that, according to a Common Position or a Joint Action, the economic relations with a third country can be interrupted by the decision of the Council. Because of their economic character, economic sanctions are not included in this thesis as an instrument of the CFSP.

“Common Strategies”, has also been added to the existing instruments of CFSP with the Amsterdam Treaty¹⁰ in 1997. Apart from the instruments that have been specified in the TEU, the Press Declarations and Démarches are widely used by the CFSP as a foreign policy instrument.

Despite the positive perceptions at its foundation, it soon became evident that the CFSP mechanism was not adequate to respond to the emerging crises, especially those in the former Yugoslavia.¹¹ The credibility of the CFSP was undermined by its very first test in Bosnia and Herzegovina. The failures led the member states to add some changes to the existing CFSP structure in the Amsterdam Treaty in 1997. With the Amsterdam Treaty, a new post of High Representative as the Secretary General of the Council, a Policy Planning and Early Warning Unit and a troika were created and a majority voting system was introduced, but the main bulk of the decision-making system (which is mainly intergovernmental) remained intact. In spite of these new elements, there is still a general belief that the CFSP has not been working well and that it is far from reaching the objectives which has been set forth with the TEU. Actually, the failure of the CFSP to act in the time of crisis is mainly because of its intergovernmental character. Although the national interests of the member states become less distinctive over time, the member states still do not hesitate to insist on their own national interest rather than seeking cooperation with the other member states. Therefore, the perception that the CFSP is a broken international actor, generally disrupted by national interests, is a valid one.¹²

The aim of this thesis is to identify the profile that human rights are given in the activity of the CFSP.¹³ To reach that end, two different approaches are used. First of all, a profile of human rights in all of the CFSP instruments has been pinpointed and the cooperation of the member states in some selected human rights related international organizations are examined. This approach is adopted to clarify the extent of the human rights related

¹⁰ The Amsterdam Treaty was signed on 2 October 1997 and came into force on 1 May 1999.

¹¹ Actually, the founding fathers of the TEU were aware of the fact that the CFSP mechanism that was created with the TEU would not be adequate. Therefore, when the TEU was being negotiated in Maastricht, it was recognised that the provisions for the new CFSP would have to be reviewed at an early date (See, P. Keatinge, *Strengthening the Foreign Policy Process*, in B. Tonra (ed.), *Amsterdam: What the Treaty Means*, Dublin, Institute of European Affairs, 1997, p.97).

¹² E. Barbé, *European Values and National Interests*, in A. Landau, R.G Whitman, (eds.) *Rethinking the European Union*, Basingstoke, Macmillan, 1997, pp.129-147.

¹³ This study deals with only human rights activities of the second pillar; therefore, no attention is given to the human rights activities of the first pillar.

activities of the CFSP and to understand the members' will to cooperate in the human rights field in international organizations. Secondly, the CFSP's response to the Rwandan genocide, where gross human rights violations occurred, is examined. The aim of this approach is to determine whether the member states are willing to act upon the principles they propounded at the time of the TEU in the realm of human rights, including at times when their national interests collide.

In order to examine the profile of human rights in the CFSP, out of all CFSP instruments, human rights related ones are pinpointed.¹⁴ The annual "European Foreign Policy Bulletin"¹⁵ which includes all the texts of the CFSP Declarations and other CFSP instruments is used to locate the human rights related CFSP instruments. Various primary and secondary sources were consulted while writing this thesis. In addition, two interviews were conducted, one with a member of the United Nations and Human Rights Desk of the EU Council General Secretariat and the other with a member of the EU Commission Multilateral Relations and Human Rights Department.

In order to give a much clearer picture of human rights activities in the CFSP, the reasons that compelled the founding fathers of the TEU to include development and consolidation of human rights as an objective of CFSP are discussed in the second chapter. In that chapter, it is argued that the emergence of human rights objectives in the CFSP derived from the external and internal dynamics of the EU.

In the third chapter, brief attention has been given to the emergence of human rights interest in the European Political Cooperation (EPC), the predecessor of CFSP. This approach has been adopted to catch the trend of the emergence of development and consolidation of human rights as an objective in European foreign policy. In addition, the decision-making system and the intergovernmental character of the CFSP have also been briefly cited in this chapter, in order to give a clear picture of the CFSP activities in the field of human rights. However, the main part of this chapter examines the profile of human rights in the existing CFSP instruments, like Common Strategies, Common Positions, Joint Actions, Declarations and Démarches. In order to draw the full picture of the human rights activities of the CFSP, the political dialogue with the third countries, the human rights mandate of the Special Representatives and the European Union Monitoring

¹⁴ The CFSP instruments that have development and consolidation of human rights as their primary and secondary objectives are regarded as human rights related CFSP instruments in this study.

¹⁵ The Academy of European Law, *European Foreign Policy Bulletin*, European Institute of Florence, at: <http://www.iue.it/EFPB/Welcome.html>.

Mission is also discussed. In this chapter, the EU member states' cooperation in some international organizations which deal mainly with the human rights issues has also been examined. The main aim of this approach is to assess the degree to which EU member states coordinate their efforts in the human rights field in international organizations in line with the CFSP instruments. To test this, member states voting behaviours, mainly in the UN Third Committee and in the UN Commission on Human Rights, are checked. To give a much more complete picture of the human rights activities of the EU member states' in the international forums, the EU involvement in the CSCE/OSCE's human rights activities are also referred to.

In the fourth chapter, as a case study, the CFSP's reaction to the Rwandan genocide is examined. In this chapter, the involvement of the different EU member states in the Rwandan issue and the different perceptions of the member states of the conflict have been viewed. In that context, the different national interests of the member states and the intergovernmental character of the CFSP have been shown as the main reason for the CFSP's inactivity in Rwandan crisis. The Rwandan case gives a good example of the fragility of the member states cooperation during one of the worst human rights violations since the Second World War.

In the sixth chapter, the strengths and the weaknesses of the human rights protection of the CFSP is discussed and it is concluded that, the human rights related CFSP activities constitute one of most important elements of all the CFSP activities, as long as there is not any contradiction in the national interests of the member states.

With the development and consolidation of human rights emerge for the first time as a common foreign policy objective of CFSP in the TEU in 1992¹². In the previous chapter, it has been seen how compelling external and internal reasons have pushed the member states of the TEU to embrace development of human rights as a common foreign policy objective in 1992 for the first time.

2.4. External reasons

2.4.1. External reasons: Compelling external reasons for the emergence of human rights as a common foreign policy objective of the

CFSP, one has to cite the stimulating international atmosphere just before the creation of the CFSP. The end of the cold war and related ideological rivalry had marked a change in international relations in the beginning of the 1990s. The transformation of international power at this particular time led the EU to play a much more independent role and led the EU to identify development and consolidation of human rights as a value in its relations with Eastern Europe to foster a genuinely European integration.¹⁸ On the other hand, the disintegration of the Soviet Union and the end of ideological rivalry, guided the conduct of much more effective human rights policies, especially by the only remaining superpower, the US. Just after the collapse of the Berlin Wall, in October 1990, then President, George Bush declared "Calls for democracy and human rights are being reborn everywhere and these calls are an expression of support for the values enshrined in the UN Charter".¹⁹ While historical changes were taking place in the international environment, Brzezinski was labelling human rights as a "genuine historical inevitability of our times"; in return a rebuttal to the communist doctrine of the historical inevitability of the class revolution.²⁰ In sum, the end of ideological rivalry and the end of the cold war did not only create new independent states and a much more suitable atmosphere for the EU to express itself in the international arena but also paved the way for more active practice of human rights diplomacy than ever before. Therefore, when the CFSP was inaugurated, the inclusion of human rights objectives in it was not out of place. On the contrary, it was in line with the trends of international relations.

In addition to the radical changes in the international arena, the change of the definition of concept of security and the emergence of regional crises in the periphery of the EU forced member states to perceive consolidation and development of human rights as an objective in the new foreign policy structure of the EU. It is a reality that the countries that respect the rights of their citizens and which are tolerant to the different ethnic cultures are more likely to live at peace with each other.²¹ In 1992 the UN Security Council endorsed this view, asserting that international peace could be disrupted by

¹⁸ R. Gropas, "Is a Human Rights Foreign Policy Possible? The case of the European Union" in «www.eliamep.gr/OP99.02.PDF», Paper presented at Colombia University, New York, 25-27 March 1999, p.10.

¹⁹ G. Bush, "Address before the 45th Session of the United Nations General Assembly, New York, 1 October 1990, at <http://bushlibrary.tamu.edu/papers/1990/90100100.html>

²⁰ Z. Brzezinski, *The New Dimensions of Human Rights*, New York, Carnegie Press, 1995, p.1.

²¹ Foreign and Commonwealth Office, *Human Rights: Annual report 2000*, The Stationary Office Ltd. London, 2001, p.52.

economic, ecological and social developments not just by military developments.²²

The traditional view of security, which focused on military means of ensuring the territorial integrity of sovereign states had changed and scholars and policy-makers began to recognize that even successful examples of territorial security did not necessarily ensure the security of citizens within a state. These debates led to a re-evaluation of the definition of security from a global perspective. Moving from this argument, Canada, Norway and Japan have included new security concepts called "human security" in their official foreign policies.²³ A good example of the threat to international stability, apart from the classical military threat is famine.²⁴ Sen argues that, one of the remarkable facts in the terrible history of famine is that no substantial famine has ever occurred in a country with a democratic form of government and a relatively free press.²⁵ Today it is widely accepted that the root causes of conflicts often lie in discrimination, denial of human rights and poverty. Where a particular group is denied a political voice or mistreated violently and where poverty leads to economical marginalisation, it is most likely that violence follows and international stability is threatened. It is a truism that the deterioration of international stability in one region means mass flow of refugees towards relatively peaceful regions of the world. Aware of the fact that today's human rights abuses might produce tomorrow's refugee movements, the human rights abuses in the near abroad is more carefully examined by the EU now. In the recent conflict in Kosovo, eight hundred thousand ethnic Albanians were forced out of Kosovo, most of whom ended up in EU countries. Apart from these refugee movements, the conflicts also create some illegal activities in these territories, such as drug and human trafficking, which might bring negative effects to EU member states and citizens.²⁶ Therefore, the changing concept of security, coupled with the human rights violations in the former Yugoslavia, encouraged the founding fathers of the TEU to include the development and consolidation of human rights as an objective in the TEU. Therefore, the insertion of development and consolidation of human rights as an objective in the CFSP was very

²² United Nations, *Note by the President of the Security Council S/23500*, 31 January 1992, at <http://projects.sipri.se/cbw/docs/cbw-unscl23500.html>

²³ G. King, C.J.L. Murray, *Rethinking Human Security*, in «Political Science Quarterly» vol.116, no.4, Winter 2000/2002, pp.585-610.

²⁴ As we can see in the case of Somalia, famine can be a threat to international stability.

²⁵ A. Sen, *Starvation and Political Economy: Famines, Entitlements and Alienation*, Paper Presented in the International Conference on Hunger, New York University, May 1995 p. 25.

²⁶ Foreign and Commonwealth Office, *Human Rights: Annual report 2000*, The Stationary Office Ltd. London, 2001, p.58.

meaningful in that respect. However, it is not adequate to explain the emergence of human rights objectives in the CFSP only with the dynamics of international relations and the emergence of regional conflicts in the periphery of the EU. The compelling internal reasons were also of equal importance.

2.2. Internal reasons

One reason that compelled the creators of the TEU to include development and consolidation of human rights as an objective in the CFSP is the existence of a common self-image of the member states that is constructed upon human rights. Forsythe claims that most decisions on human rights foreign policies are the reflection of national interests, international obligations and some domestic influences. He adds that the self-image of a nation influences the attention given to human rights and leads to human rights policies both at home and in foreign policy.²⁷ Can we talk about a self-image that is common to the fifteen EU member states that forces the creation of the human rights policies in CFSP? It is possible to give a positive answer to that question. Apart from the self-image each member nation has of its own, a common self-image has been simply created by the regional human rights organizations in Europe. These regional organizations are much more effective than others elsewhere in the world. EU member states are subject to the human rights standards and application measures in the Council of Europe (COE) and the Organization of Security and Cooperation in Europe (OSCE).²⁸ Despite the absence of any reference in the original constituent treaties to the protection of fundamental rights, the European Court of Justice (ECJ) began in the late 1960s to affirm that respect for such rights was part of the legal heritage of the Community.²⁹ This approach is verified by Article 6 (2) of the TEU, which confirms that

²⁷ According to Forsythe, a national self-image may be part and parcel of a nation's political culture, the sum total of a people's attitudes toward political values and process. He also adds that this self-image may be fruitfully discussed in terms of the roles that states choose to play in international relations. For example, the US self-image centres on the defence of personal freedom understood as civil and political rights. (See, D.P. Forsythe, *Human Rights and Comparative Foreign Policy*, New York-Tokyo, United Nations University, 2000, p.4).

²⁸ All the member states have accepted the jurisdiction of the European Court of Human Rights and the right to petition of their nationals to the European Court of Human Rights. Besides, the Court has evolved in an impressive way and created a system of protection of civil and political rights in the member states. This certainly helped the creation of a self-image and self-identification constructed on human rights.

²⁹ P. Alston, *An Ever Closer Union In Need of a Human Rights Policy*. The European Union and Human Rights, in P. Alston (ed.), *The EU and Human Rights*, Oxford, Oxford Press, 1999, pp.3-69.

human rights derive from the common constitutional traditions of the member states. The sum total effects of CoE, OSCE and the EU itself indicate that human rights have a much higher profile in Europe than the other regions in the world. Apart from the existence of regional human rights organizations in Europe, the abundance of human rights NGOs in Europe helps the creation of public opinion sensitive to human rights violations, which directly boosts the construction of the common self-image. In addition, the media in Europe covers most of the human rights and humanitarian issues and broadcast the violations online to European households.³⁰ The vigilance of the public, triggered by the active NGOs, is substantially aided by the coverage of attentive media. This of course, creates a *force major* for the politicians who want to satisfy the desires of the voters and make human rights diplomacy inevitable.³¹ Therefore, we can say that the EU member states have a common self-image, which is constructed by the regional human rights organizations and boosted by human rights NGOs and media in Europe. This common self-image was one of the compelling factors for the creators of the TEU and, in the absence of other shared values; they were compelled to insert development and consolidation of human rights as a foreign policy objective in the CFSP.

Another internal reason for the inclusion of the development and consolidation of human rights as an objective in the CFSP was the difficulty in conducting human rights diplomacy alone. The member states wanted to get the benefit of the shield effect while conducting human rights policies against big and influential states. As Vincent explains, human rights are generally deemed to be very dangerous items in Foreign Affairs Ministries. No Minister really asks to include human rights issues in their agenda, because human rights policies are one of the main issues that disrupt existing good relations between states.³² The inclusion of human rights objectives into CFSP gives the member states the opportunity to pursue human rights

³⁰ The 'CNN effect' is widely used to explain the US foreign policy activities, especially the US motivation for intervention abroad. It is also claimed that the failure of media to cover the Rwandan genocide in 1994 led to a weak response by the US government. (See, D.P. Forsythe, *U.S. Foreign Policy and Human Rights: The Price of Principles after the Cold War*, in D.P. Forsythe (ed.) *Human Rights and Comparative Foreign Policy*, New York-Tokyo, United Nations University, 2000. pp. 21-49).

³¹ In Japan, the lack of interest of the human rights NGOs to human rights violations in foreign countries is shown as a reason for the low profile of human rights in the foreign policy of Japan. (Y. Yokota, C. Aoi, *Japan's Foreign Policy Towards Human Rights: Uncertain Changes*, in D. Forsythe (ed.), *Human Rights and Comparative Foreign Policy*, New York-Tokyo, United Nations University Press, 2000, p.115-145).

³² R. J. Vincent, *Human Rights and International Relations*, Cambridge: Published in association with the Royal Institute of International Relations, Cambridge University Press, 1986 p.130.

policies in a much easier way under a united flag. The shield effect protects the member states from any counter measures by the target countries. If the target countries are relatively big and influential like China or Russia, using the EU as a shield to face the counter attacks emerges as a requirement.³³ Another good reason for a united human rights foreign policy under the CFSP ambit was to combine the forces available for one specific goal. Aware of the fact that a coordinated attempt can give much more weight to human rights diplomacy and one country can exert only limited influence in bilateral channels to human rights violating countries, the member states simply chose to combine their efforts in the human rights field within the CFSP.

Apart from the compelling internal reasons deriving from the common self- image of the member states and practical usage of diplomacy, there were some compelling factors that derived from the necessity to ensure the coherence of external relations of the EU. This necessity manifested itself especially in the efforts to ensure the coherence of the external relations both in the first and second pillars. The main manifestation of the EU's economical power in international relations³⁴ is its development aid.³⁵ The Union provides more than half of the development aid given in the world. When this development aid was first initiated, it was widely believed that the development aid that was given in the form of single projects would be enough to stimulate the development of the poorest sectors of the targeted society. However, this did not materialize. It has since been understood that the development aid given to those countries, goes directly to the pockets of the corrupt party bosses or friends of the president rather than the projects. Lack of democracy and good governance³⁶ turned the development aid

³³ This necessity appeared very visibly, during the 1997 session of the UN Commission on Human Rights in Geneva on a proposal to condemn human rights abuses in China. The larger countries of the EU, refrained from tabling and supporting such a proposal, while Denmark did. The result was the deterioration of Danish economic and political relations with China since then. (See, T. King *Human Rights in European Foreign Policy: Success or Failure for Post Modern Diplomacy*, in «European Journal of International Law», vol.10, no.2, p.327).

³⁴ Today, there is no place beyond the material, geographical and political reach of the European Union. The EU has population of 377 million and its GDP is 9.758 billion Euros, 10 percent more than that of the United States and 57 percent more than that of Japan. (See, <http://www1.oecd.org/std/gdp.htm> for the GDP comparisons of the member states).

³⁵ The development aid is deemed as a first pillar instrument.

³⁶ The Council Resolution of 28 November 1991 gives an explanation for good governance. It writes: "Equitable development can only effectively and sustainably be achieved if a number of general principles of government are adhered to: sensible economic and social policies, democratic decision-making, adequate governmental transparency and financial accountability, creation of a market-friendly environment for development,

merely into assistance to the corrupt officials rather than the people. A recent study, which classified 56 aid-receiving countries by the quality of their economic management, shows that those with good institutions (little corruption, strong rule of law, effective bureaucracy) benefited from the aid they got and those with poor institutions did not.³⁷ In other words, the EU discovered that there can be no economical improvement without a certain degree of good governance, no good governance without democracy, and finally no democracy without human rights. In other words, the linkage of human rights with the development aid programs of the EU derived from a sort of necessity. The link between human rights and the Community's development policy, which falls under the scope of the first pillar, was recognized with a Council Resolution in 1991.³⁸ With this Resolution, human rights apparently figured in development aid as well as all other kinds of trade related interactions with third countries.³⁹ Therefore, when the CFSP was in the process of creation, it was not feasible for the founding fathers of the TEU not to mention development and consolidation of human rights in the CFSP context while trying to link it with first pillar external economic instruments, such as development aid. As a result, in order to sustain coherence between both pillars, human rights appeared as an objective in the CFSP.

There is no doubt that, while creating the CFSP, the founding fathers of the TEU had seen the objective of development and consolidation of human rights as an incentive to promote economic integration between the EU and third countries. The widely accepted belief that democratic and liberal values enhance trade volume between the states might have forced the creators of the TEU to include development and consolidation of human rights and democracy as a foreign policy objective.⁴⁰ When we think that trade is the main maxim behind the unification of the member states, it was

measures to combat corruption, as well as respect for the rule of law, human rights and freedom of expression. (See, EU Council, *Resolution of the Council and of the Member States Meeting in the Council on Human Rights, Democracy and Development of 28 November 1991*, at http://europa.eu.int/comm/external_relations/human_rights/doc/cr28_11_91_en.htm)

³⁷ The Economist, *How to Make Aid Work*, «The Economist», 26 June 1999, p.23.

³⁸ (See, EU Council, *Resolution of the Council and of the Member States Meeting in the Council on Human Rights, Democracy and Development of 28 November 1991*, at http://europa.eu.int/comm/external_relations/human_rights/doc/cr28_11_91_en.htm)

³⁹ B.Simma, J.Aschenbrenner, C. Schulte, *Human Rights Consideration in the Development Co-Operation Activities of the EC*, in Philip Alston (ed.), *The EU and Human Rights*, Oxford, Oxford University Press, 1999, p.575

⁴⁰ L. Jones, M. Sean, *Why the United States Should Spread Democracy?*, in «BCSIA Discussion Papers» vol.98-07, Kennedy School of Government, Harvard University, 1998, at: <http://ksgnotes1.harvard.edu/BCSIA>.

very logical for the member states to seek the conditions that might help to improve their trade with the other countries.⁴¹ Indeed, it is true that trade can only improve and individuals can only invest when they believe that their investment in third countries will not be expropriated, all their private property will be protected and contracts will be enforced.⁴² Realization of this environment is much easier in human rights abiding and democratic states. Therefore, in order to create the most convenient atmosphere for its trade relations, development and consolidation of human rights abroad appeared as an objective of the CFSP.

Last but not least, it is necessary to refer to the moral prerogative in the minds of the creators of the CFSP and the tradition of human rights related diplomatic activities of the EPC as compelling internal reasons while inserting development and consolidation of human rights as an objective of the CFSP. Baehr points out, that in some circles in the Netherlands there is a certain feeling of guilt since the loss of the Dutch colonies, which has translated into efforts in the fields of development assistance and the development of human rights. Therefore, it is possible to conceive that some moral responsibility might have also compelled some of the EU member states to help the third world countries mainly by focusing on improvement of human rights.⁴³

In sum, development and consolidation of human rights as an objective in the CFSP derived not only from the convenient international environment or the regional conflicts in the periphery of Europe, but also from the reasons deriving from the internal dynamics of the EU. Therefore, the human rights objectives of the CFSP should not be seen as mere moral values but the objectives that the EU has to protect because of its internal dynamics.

⁴¹ It is argued that the democracies are better economic partners in the long run. (Ibidem, p.5)

⁴² H.J. Steiner, P. Alston, *International Human Rights in Context: Law, politics, morals*, Oxford, Oxford University Press, 2000, p. 1342.

⁴³ P. Baehr, *The Netherlands and Human Rights*, in D. Forsythe (ed.), *Human Rights and Comparative Foreign Policy*, New York-Tokyo, United Nations University Press, 2000, p.52.

HUMAN RIGHTS IN COMMON FOREIGN AND SECURITY POLICY

3.1. A Historical Overview: Human Rights in the European Political Cooperation (1970-1993)

In order to understand the present human rights protection under the CFSP, an acknowledgement of the past is necessary. Therefore in this chapter, a brief history of the emergence of the human rights protection under the European Political Cooperation is given.

Although the Common Foreign and Security Policy was created by the Treaty on European Union in 1993, the predecessor of the Common Foreign and Security Policy, the European Political Cooperation dates back to the early 1970s.⁴⁴ The creation of a common market forced the then six members of the EC to cooperate in foreign policy issues in order to have a much more effective voice in the areas where they had some common interest. Actually, the intergovernmental EPC created foreign policy governance without a government in the beginning of the 1970s.⁴⁵ During the cold war era, EPC remained as a secondary political option for the member states in their foreign policy choices. In spite of its weakness, which mainly derived from its intergovernmental structure, EPC managed to succeed when the common interests of the member states were very salient.⁴⁶

⁴⁴ No basis for the external policy was provided by the 1957 Treaty of Rome establishing the EEC. The foundation of EPC was laid down by the Luxembourg report of 1970. Actually, the emergence of EPC is deemed as a *quid pro quo* between federalists and inter-governmentalists. France withdrew the veto on British accession and the federalists (Netherlands and West Germany) accepted the proposal for creating a mechanism of inter-governmental cooperation. The EPC was further strengthened with the Copenhagen report of 1973 and London report of 1981. (See, M.W.J. Lak, *The Constitutional Foundation: Comparison of EC and EPC: The Two Components of a Common Foreign Policy*, in Rummel, R. (ed.), *Towards Political Union: Planning a Common Foreign and Security Policy in the European Community*, Baden Baden, Nomos, 1992)

⁴⁵ D. Allen, *Who speaks for Europe*, in J. Peterson., H. Sjursen (eds.), *A Common Foreign Policy for Europe*, London, Routledge Press, 1998, p.48.

⁴⁶ The Venice Declaration in which the EC recognised the right the Palestinians to self determination and the response to martial law in Poland in the 1980s are illustrative examples of the early successes of EPC. (See, J.Peterson, H. Sjursen, *A Common Foreign Policy for Europe*, London, Routledge, 1988 p.171)

The first reference to human rights under the scope of EPC was made, when the then member states realized the divergence of social and political conditions in each member state. This led the EC members to look for a common identity and common values which could serve as a basis for political cooperation in the new process. The first initiative to create a European identity came with the “Copenhagen Declaration on the European Identity” on 14-15 December 1973. With this Declaration, member states sought to define their positions and responsibilities in foreign affairs, noting their determination to “defend the principles of representative democracy, of the rule of law, of social justice and of respect for human rights”.⁴⁷ In the following years, the member states practiced what they had initiated and issued several Declarations and Reports. In most of these documents, adherence to the principle of the United Nations Charter and respect for international law and commitment of democracy and human rights were widely used.⁴⁸ On 19 June 1983, the member states declared their allegiance to human rights and the necessity to promote the human rights with the Solemn Declaration on European Union issued by the European Council in Stuttgart.⁴⁹

Three years later, the Foreign Ministers of the member states, meeting in the framework of the Council and the EPC, adopted on 21 July 1986, a Declaration on Human Rights. In this Declaration, they stated that respect for human rights is one of the cornerstones of the European cooperation and an important element of the relations between third countries and the Community. They also asserted that concern for human rights cannot be considered as interference in the domestic affairs of a State and pledged to take action.⁵⁰ The Declaration was followed by a series of annual memoranda to the European Parliament on EPC’s human rights activity. The first memorandum demonstrated that EPC is prepared to respond to human rights abuses by joint *Démarches*.⁵¹ EPC further strengthened its interest in human rights protection in the world by establishing a working group in December 1987.⁵² But it is with the Single European Act (SEA) of 1 July

⁴⁷ T. King, *Human Rights in European Foreign Policy: Success or Failure for Post Modern Diplomacy*, in «European Journal of International Law», vol.10, no.2, p.314.

⁴⁸ Ibidem, p.314.

⁴⁹ Ibidem, p.328.

⁵⁰ A. Pijpers, E. Regelsberger, W. Wessels, *European Policy Cooperation in the 1980s: A Common Foreign Policy for the Western Europe*, London, Published in cooperation with the Trans-Europe- Kluwer Academic Publishers, 1988, p. 363.

⁵¹ T. King, *Human Rights in European Foreign Policy: Success or Failure for Post Modern Diplomacy*, in «European Journal of International Law», vol.10, no.2, p.320.

⁵² M. Zwamborn, *Human Rights Promotion and Protection Through the External Relations of the European Community and the Twelve* in «The Netherlands Quarterly of Human Rights », vol.7, 1989, pp.11-27.

1987, for the first time an explicit reference was made to fundamental rights in the preamble to the execution of the external relations of the Community.⁵³

On 28-29 June 1991, the heads of member states adopted a Declaration on Human Rights in Luxembourg European Council. With this Declaration, the European Council reaffirmed that respecting, promoting and safeguarding human rights is an essential part of international relations and one of the cornerstones of European cooperation, as well as of relations between the Community and its member States and other countries.⁵⁴ Again, just before signing the Maastricht Treaty, on 28 November 1991, the Council adopted a Resolution on Human Rights, Democracy and Development, laying down the guidelines, procedures and priorities for improving the consistency and cohesion of the human rights activities of the member states.⁵⁵

The EPC used Joint Declarations on human rights situations in particular countries, or on more general human rights topics and conducted public or confidential Démarches in order to condemn human rights violations and to give common support or reject proposals in international organizations.⁵⁶ Although within the framework of the EPC the human rights

⁵³ Relevant paragraphs of the preamble are: (...) Determined to work together to promote democracy on the basis of the fundamental rights recognized in the constitutions and laws of the Member States, in the Convention for the Protection of Human Rights and Fundamental Freedoms and the European Social Charter, notably freedom, equality and social justice, (...) aware of the responsibility incumbent upon Europe (...), in particular to display the principles of democracy and compliance with the law and with human rights to which they are attached, (...) (M. Zwamborn, *Human Rights Promotion and Protection Through the External Relations of the European Community and the Twelve* in «The Netherlands Quarterly of Human Rights », vol.7, 1989, pp.11-27.

⁵⁴ Relevant paragraphs of the Declaration are: (...) It welcomes the growing prominence of demands of peoples for freedom and democracy throughout the world, (...). The Community and its member States undertake to pursue their policy of promoting and safeguarding human rights and fundamental freedoms throughout the world. This is the legitimate and permanent duty of the world community and of all States acting individually or collectively. They recall that the different ways of expressing concern about violations of rights, as well as requests designed to secure those rights, cannot be considered as interference in the internal affairs of a State and constitute an important and legitimate part of their dialogue with third countries. For their part, the Community and its member States will continue to take up violations wherever they occur. (See, Conclusion of the Luxembourg European Council, *Declaration on Human Rights*, 28-29 June 1991, at <http://europa.eu.int/comm/>).

⁵⁵ (See, *EU Council, Resolution of the Council and of the Member States Meting in the Council on Human Rights, Democracy and Development of 28 November 1991*, at http://europa.eu.int/comm/external_relations/human_rights/doc/cr28_11_91_en.htm)

⁵⁶ EPC issued 15 Declarations in 1988, 25 in 1989, 60 in 1990, 110 in 1991 and over 60 in 1992. Like the number of Declarations related to human rights, the number of human

policy of the member states was coordinated, joint action was not very visible, with the notable exception of activities in the United Nations system.⁵⁷

3.2. Human Rights in the Common Foreign and Security Policy (1993-2001)

The collapse of communism and end of the ideological rivalry has changed the course of EPC's history and the Common Foreign and Security Policy was created with the Treaty on European Union. Actually, CFSP shaped a foreign policy and an infant defence identity within the EU that has surpassed its EPC predecessor, but yet remains constrained and less capable than its proponents desired.⁵⁸ The CFSP still remains a secondary option in the member states foreign policy choices.⁵⁹ CFSP has also been accused because of its inactivity. The main reason for the ineffectiveness of the CFSP has been shown as the intergovernmental character which depicts itself as its decision-making mechanism.

3.2.1. Structure and decision-making mechanism of the Common Foreign and Security Policy

In order to evaluate the profile of the human rights activities of the CFSP fully, it is necessary to understand the structure and the decision-making system in the CFSP. The decision-making system of the second pillar has considerable differences from the decision-making system of the first pillar. First of all, traditionally, cooperation in the foreign affairs area has always taken place within the intergovernmental system outside the

rights related *Démarches* also rose gradually. There were 50 *Démarches* in 1988, 70 in 1989 about 100 in 1990 and 75 in 1991, over 100 in 1992 and over 70 in 1993 (See, T. King, *Human Rights in European Foreign Policy: Success or Failure for Post Modern Diplomacy*, in «European Journal of International Law», vol.10, no.2, p.317)

⁵⁷ M. Zwamborn, *Human Rights Promotion and Protection Through the External Relations of the European Community and the Twelve* in «The Netherlands Quarterly of Human Rights », vol.7, 1989, p.26.

⁵⁸ G.W. Rees, *Common Foreign and Security Policy and Defence: a Lost Opportunity?*, in P. Lynch, N.Neuwahl, G.W. Rees, *Reforming the European Union, from Maastricht to Amsterdam*, Longman, 2000, p.162.

⁵⁹ The row over who was to be invited to dinner with Tony Blair at Downing Street to discuss the events after September 11 has exposed the problems of building a common European Policy. This manifested how self-obsessed the EU remains even in the midst of a world crisis. It also illustrated how hard it will be to forge a Common Foreign and Security Policy in Europe. (See, *The Economist*, *Guess Who Wasn't Coming to Dinner*, 10 November 2001, p.31).

competence and the institutional framework of the European Economic Community (EEC). This remained the same in the CFSP and the decision-making system stayed intergovernmental.

The main decision-making body in the CFSP is the European Council, which is composed of the heads of state of the member countries. Since the participants of the European Council embody the highest authority in the member states, this gives the EU a centre of authority which neither the Commission nor the Council of Ministers is able to provide.⁶⁰ It is the European Council that decides the Common Strategies to be implemented by the Union in areas where the member states have important interests in common.⁶¹

The Council of Ministers (Council),⁶² which is composed of the member states' foreign ministers, figures as the decision-making body which implements the CFSP on the basis of the general guidelines defined by the European Council. It is the Council that recommends the Common Strategies to the European Council and realizes these Common Strategies by adopting Joint Actions and Common Positions. Thus the Council decides the goals, scope, means, duration and conditions for implementation of such an operational action.⁶³

The member state which holds the Council's presidency has the responsibility for the day to day management of the CFSP. The country holding the presidency also represents the EU internationally and acts as spokesperson for the member states in international conferences and international organizations, makes Declarations on behalf of the CFSP and works out compromises capable of resolving difficulties.⁶⁴

The groundwork for the Council's decision-making with respect to CFSP issues is done within two separate bodies. The Committee of Permanent Representatives of the member states to the EU (COREPER) and the Political Committee. The Political Committee is composed of the political directors of the foreign ministries of the member states. The members of the Political Committee are in many countries the direct chiefs

⁶⁰ The European Council's actual role as the directing body of the Union has been formalized in Article 4 (ex article D) of the TEU.

⁶¹ Article 13 (ex article J.3) of TEU.

⁶² In that study, the term "Council" will always refer to the Council of Ministers of the European Union. European Council will be referred to by its full title.

⁶³ Article 13 (ex article J.3), Article 14 (ex article J.4) and Article 15 (ex article J.5) of TEU.

⁶⁴ The Council is presided over for a period of six months by each Member State in turn, in accordance with a pre-established rota. The Presidency is assisted by the Council Secretariat and since Amsterdam, the Secretary General/High Representative.

of permanent representatives. It is up to the Political Committee to monitor the international situation in the areas covered by the CFSP and makes, in principal, all the policy proposals to the Council. It also oversees the implementation of agreed policies.⁶⁵ COREPER mainly ensures that the opinions and conclusions of the Political Committee are forwarded to the Council.⁶⁶ It is necessary to mention here the COHOM (Working party on human rights).⁶⁷ COHOM is the main working group that is composed of the head of human rights departments of the member states' Foreign Ministries.⁶⁸ COHOM meets every month in Brussels and focuses on the human rights issues and creates policies for the Political Committee via COREPER. The work completed by COHOM is highly vital for the creation of the reactive human rights policies in the CFSP. The head of human rights departments of the member states maintain day to day contact on CFSP issues via the COREU (Correspondance Européenne) telex network.

The European Commission and the European Parliament has minimal interference in policy making in the CFSP ambit. In the early stages of the EPC, the Commission was totally excluded from the decision-making system. But with the TEU, Commission is fully associated with the work carried out in the CFSP field. This relates to the implementation of CFSP decisions and the representation of the EU in international forums.⁶⁹ But it does not have any decision-making power in the CFSP. The European Parliament (EP) is almost negligible in the decision-making process of the CSFP.⁷⁰ There is no mechanism that enables the European Parliament views to be enforced on the Council or the Presidency. The only tool that the EP can use is budgetary powers in terms of the operational expenses of the CFSP. Second pillar activities are also kept out of the European Court of Justice's (ECJ) jurisdiction. Actually, this attitude is in line with the member states' intention to keep CFSP mainly intergovernmental.⁷¹

⁶⁵ Article 25 (ex article J.15).

⁶⁶ B. Soetendorp, *Foreign Policy in the European Union: Theory, History, and Practice*, London, Longman, 1999, p.74.

⁶⁷ COHOM is established exclusively for the second pillar in 1987 but in 1999 COHOM's mandate has been extended to some issues covering the first pillar (Interview with the EU Commission official).

⁶⁸ Human rights issues are not discussed only in COHOM but also in different working groups like COASI (Working Party on Asian Countries) or COAFR (Working Party on African Countries). For example, the subject of establishment International Criminal Court enters into the ambit of COJUR (Working party on Public International Law).

⁶⁹ Articles 27 (ex article J.17) and Article 18 (ex Article J.8) of TEU.

⁷⁰ Article 21 (ex article J.11) of TEU.

⁷¹ According to Article 46 (ex Article L), the articles related to the CFSP have been excluded from the jurisdiction of the European Court of Justice. It is also argued that the absence of supervision for the ECJ over the second pillar is a serious shortcoming of the TEU, especially in conducting an effective human rights foreign policy (M.Fouwels, *The European*

The agenda of the European Council and Council of Ministers is set by the Presidency, but both member states and the Commission may initiate proposals to the Council and place any question related to the CFSP on the Council's agenda.⁷² In general, decision-making on CFSP issues requires a unanimous vote but abstentions by members do not prevent the adoption of decisions.⁷³ At the same time, under certain conditions there is a possibility of taking some decisions on majority voting.⁷⁴

As has been seen, in the decision-making system of CFSP, the supranational institutions like the Parliament and the Commission have little to say. The decision-making system remains intergovernmental and in the case of infringement of national interests, the member states retain the right to block the whole policies. Therefore, while trying to figure out the profile of human rights in the CFSP instruments, we have to keep in mind that the manifestation of human rights policies in the CFSP are the result of a consensus of the will of the all member states. One voice of dissent in the process may block the whole process.

3.2.2. Human rights objectives of the Common Foreign and Security Policy

The first reference to human rights in the TEU is made under the common provisions, in article 6 (ex Article F).⁷⁵ Though it does not explicitly state that it would be applicable to CFSP, one can say that being included among the common provisions indicates that it is applicable to the

Union's Common Foreign and Security Policy and Human Rights, in «Netherlands Quarterly of Human Rights» vol.15/3, 1997, p.295).

⁷² Article 22 (ex article J.12) of TEU.

⁷³ Article 23 (ex article J.13) of TEU.

⁷⁴ Joint Actions, Common Positions or any other decisions that are based on a Common Strategy adopted unanimously by the European Council can be decided by a qualified majority by the Council. Any decision implementing an agreed Joint Action or a Common Position can also be taken by a qualified majority of the member states. But if a member of the Council declares his/her wish, for important and stated reasons of national policy, to oppose the adoption of a decision, a vote does not take place. In that case, the Council may act by a qualified majority and requests that the matter be referred to the European Council for decision by unanimity.

⁷⁵ This article reads as: "The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States. The Union shall respect fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950 and as they result from the constitutional traditions common to the Member States, as general principles of Community law. The Union shall respect the national identities of its Member States. The Union shall provide itself with the means necessary to attain its objectives and carry through its policies."

three pillars including the CFSP.⁷⁶ Apart from the common provisions, Article 11 (ex Article J.1) of the TEU specifies the development and consolidation of democracy and the rule of law and respect for human rights and fundamental freedoms as an objective of the CFSP.⁷⁷ Article 11 (ex Article J.1) does not only specify development and consolidation of democracy and human rights as an objective of CFSP, but also draws the importance of safeguarding common values, which I believe derive mainly from the common self-image of the EU member states, constructed upon development and consolidation of human rights. It also points out the strengthening of international security with the principles of the United Nations Charter as well as the principles of the Helsinki Final Act where one can find explicit references to human rights. In addition, in this article, the member states are urged to refrain from actions which are contrary to the interests of the Union or likely to impair its effectiveness as a cohesive force in international relations to ensure consistency.

3.2.3. Practice of the Common Foreign and Security Policy Instruments in the human rights field

With the objectives of the CFSP, the TEU has also clarified the instruments that can be used to reach these ends. Article 12 (ex Article J.2) named defining the principles and general guidelines for the common foreign and security policy, deciding on Common Strategies, adopting Joint Actions, adopting Common Positions and strengthening systematic cooperation between member states, as the instruments to be used in the conduct of foreign policy. In addition to the instruments named in the TEU,

⁷⁶ M. Nowak, *Human Rights 'Conditionality' in Relation to Entry to, and Full Participation in, the EU*, in P. Alston (ed.), *The EU and Human Rights*, Oxford, Oxford Press, 1999, p. 688.

⁷⁷ The Article 11 (ex article J.1) reads as: "The Union shall define and implement a common foreign and security policy covering all areas of foreign and security policy, the objectives of which shall be:

To safeguard the common values, fundamental interests, independence and integrity of the Union in conformity with the principles of the United Nations Charter; To strengthen the security of the Union in all ways; To preserve peace and strengthen international security, in accordance with the principles of the United Nations Charter, as well as the principles of the Helsinki Final Act and the objectives of the Paris Charter, including those on external borders; To promote international cooperation; To develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms; The Member States shall support the Union's external and security policy actively and unreservedly in a spirit of loyalty and mutual solidarity. The Member States shall work together to enhance and develop their mutual political solidarity. They shall refrain from any action which is contrary to the interests of the Union or likely to impair its effectiveness as a cohesive force in international relations. The Council shall ensure that these principles are complied with."

Declarations and Démarches are used widely within the scope of CFSP to promote and protect human rights.

3.2.3.1 Common Strategies

The scope of the Common Strategies is clarified in article 13 (ex Article J.3) of the TEU. It is up to the European Council to adopt a Common Strategy. The aim of creating Common Strategies is to clarify the objective, the duration and the instruments available to reach a specific CFSP objective.⁷⁸ Actually, the overall aim in creating the Common Strategies is to give coherence to the European Union's external activities. The Common Strategies have to be adopted unanimously, but foreign and security policy decisions taken on the basis of Common Strategies including Joint Actions and Common Positions are to be adopted by qualified majority voting. Since its introduction, only three Common Strategies have been adopted by the European Council. These are: the Common Strategy on Russia,⁷⁹ the Common Strategy on Ukraine⁸⁰ and the Common Strategy on the Mediterranean Region⁸¹. In all three Common Strategies, specific references were made to human rights in different contexts.

In the Common Strategy on Russia, the consolidation of democracy, the rule of law and public institutions, the integration of Russia into a common European economic and social space, cooperation to strengthen stability and security in Europe and reducing the common challenges in the European continent are mentioned as the objectives of the Common Strategy. To reach these ends, the Common Strategy pinpointed the areas of actions where the EU has to focus on. In light of this, the EU pledges to support Russian efforts to meet its international human rights commitments, to give assistance to promote the human rights situation of women, children and minorities and to enhance programmes to promote the abolition of the death penalty.

⁷⁸ The scope and geographical area of the Common Strategies were decided by the post-Maastricht European Council meetings. It was decided that instead of making the entire world potential for Joint Actions, priority will be given in the application of Joint Actions to a limited number of areas and issues where member-states have important interests in common (See, B. Soetendorp, *Foreign Policy in the European Union: Theory, History, and Practice*, London, Longman, 1999, p.81).

⁷⁹ European Foreign Policy Bulletin, *European Council Common Strategy of 4 June 1999 on Russia*, at <http://wwwarc.iue.it/BASIS/efpb/all/rec/SDF>

⁸⁰ European Foreign Policy Bulletin, *European Council Common Strategy of 11 December 1999 on Ukraine*, at <http://wwwarc.iue.it/BASIS/efpb/all/rec/SDF>

⁸¹ European Foreign Policy Bulletin, *European Council Common Strategy of 19 June 2000 on the Mediterranean region*, at <http://wwwarc.iue.it/BASIS/efpb/all/rec/SDF>

The Common Strategy on Ukraine also made reference to human rights. In this document, the consolidation of democracy, the rule of law and public institutions has been laid down as the principal objective of the EU. To that end, the EU pledges to support the Ukraine's efforts to fulfil its international democratic and human rights obligations, to promote good governance and effective and transparent legal system, and to encourage the Ukraine to sign, ratify and implement the relevant international instruments in the field of human rights.

In a way that differs from the other two documents, in the “Common Strategy on the Mediterranean”, human rights are identified not as an instrument to reach specific objectives, but as an objective itself. Article 7 of this document, highlights the EU's objective in the Mediterranean region to promote the core values embraced by the EU and its member states, including human rights, democracy, good governance, transparency and the rule of law. In order to reach that end, the EU pledges to stress the importance of fundamental freedoms and human rights in every forum, including governmental and non governmental actors in the region and to take measures to persuade all Mediterranean partners to abolish the death penalty in accordance with agreed guidelines. In this document, encouraging the partners to adhere to the UN's international conventions on terrorism and supporting them to fight with terrorism on the principle of international law and respect of human rights are also pledged.

As has been seen, all three Common Strategies make references to human rights. The wording of the last Common Strategy has been more elaborate and includes more reference to human rights than the others. The Common Strategies are setting the general framework of EU's relation with specific countries and regions; therefore it tends to cover all the relations with specific country. This diminishes the weight of human rights in Common Strategies. The most important aspect of the Common Strategies is to give a legal base for the Common Positions and Joint Actions.⁸²

3.2.3.2. Joint Actions

The scope of Joint Actions is clarified in article 14(ex Article J.4) of TEU. The Joint Actions address the specific situation where operational activity by the Union is needed. The Joint Actions lay down the objectives, the scope and the means to be made available by the Union and the conditions for their implementation. For this reason, Joint Actions usually

⁸² Interview with an EU Commission official.

heads the usage of CFSP budget.⁸³ It is up to the Council to review the principles and objectives of the Joint Actions, if necessary. As long as the Council has not acted against it, the Joint Action stands valid. The Joint Actions have an important aspect in human rights protection in CFSP, because apart from the declaratory part of the human rights activities of the CFSP, the Joint Actions lay the foundation of the field activities.

In the period between 1994 and 2001, 122 Joint Actions were adopted by the Council. Sixty out of 122 of those Joint Actions are related to human rights.⁸⁴ The Council adopted six human rights related Joint Actions in 1994, three in 1995, nine in 1996, seven in 1997 and nine in 1998. The Council adopted 14 human rights related Joint Actions in 1999, six in 2000 and again six in 2001 (See Chart A).

Half of the Joint Actions that were adopted between 1994 and 2001 are related to human rights. But the scope of the human rights related Joint Actions is not as wide as it seems. For 60 Joint Actions out of 122 does not mean that the EU had acted in 60 different human rights related occasions. In general, most of the Joint Actions are adopted to review the Joint Actions that have been adopted before. In other words, sometimes the Council adopts Joint Actions in the same subject, only to renew the mandate of the previous Joint Actions. Therefore, the areas where the CFSP has acted with the Joint Actions are rather more limited than they first appear. The Council has acted with Joint Actions in 18 different human rights related areas (See Chart B-C). Twenty-nine Joint Actions out of 60 dealt with the appointment or renewing the mandate of the Special Representatives/Special Envoys.⁸⁵ Twenty-one Joint Action out of 60 dealt with the human rights issues in Bosnia and Herzegovina.⁸⁶ The human rights related Joint Actions were used only for three occasions for the African countries.⁸⁷ Twice the Joint Actions are used for the inauguration of the human rights related international conferences.⁸⁸ The number of Joint Actions reached its peak during the Kosovo crises in 1999. In 1999, the Council had adopted 14 Joint Actions, much higher than the previous years. In addition to the activities that have

⁸³ European Council, *EU Annual Report on Human Rights 2000*, Brussels, 1999, p.28.

⁸⁴ The Joint Actions which have development and consolidation of human rights as their primary and secondary objectives are taken as human rights related Joint Actions.

⁸⁵ The Special representatives are dealt separately in the section 3.2.3.7.

⁸⁶ The human rights related Joint Actions to Bosnia and Herzegovina are dealt with the humanitarian aid, implementation of the peace process, supporting the electoral process and the EU administration about Mostar.

⁸⁷ The Council adopted three different Joint Actions for the democratization process in Congo, in Nigeria and in Zaire.

⁸⁸ The EU has adopted two Joint Actions for the inauguration of the Pact on Stability in 1994, and inauguration of the Stability Pact for South Eastern Europe in 1999.

been initiated before, the Council adopted four new Joint Actions in 1999, all related with the political situation in Balkans.⁸⁹

The Joint Actions mainly deal with the human rights violations in the geographical proximity of the European Union. The majority of the Joint Actions, apart from those related to Africa; deal with the human rights issues in Europe. The Council has adopted an approach in line with geographical necessities and gives priority to the human rights activities in the European periphery.

As mentioned above, the Joint Actions usually heads the usage of the budgetary lines. Because of the fact that, the CFSP is a reactive policy, it is impossible to propose a CFSP policy agenda and budget for the coming year.⁹⁰ This poses a problem for allocating sufficient funds to cover CFSP expenses.⁹¹ Trying to react to human rights violations within a fixed budget naturally hinders an active human rights protection under the ambit of CFSP.

3.2.3.3. Common Positions

The scope of Common Positions is clarified by Article 15 (ex Article J.5) of the TEU. The Common Positions define the approach of the Union to a particular matter of a geographical or thematic nature and urge the member states to conform their national policies to the Common Positions. It is up to Council to adopt a Common Position.

In the period between 1994 and 2001, 99 Common Positions were adopted. Out of 99 Common Positions, 58 were related to human rights⁹² (See Chart D-E). No human rights related Common Positions were adopted in 1994. Four human rights related Common Positions were adopted in 1995, four in 1996, two in 1997, ten in 1998, 12 in 1999, 13 in 2000 and finally 13 in 2001. Council adopted common positions related to geographical nature rather than the thematic issues. In contrast to the Joint Actions, the number

⁸⁹ The Council adopted Joint Actions on the inauguration of the Stability Pact for South Eastern Europe, on the appointment of Special Envoy to Stability Pact and Kosovo and on the support to UNMIK mission in 1999.

⁹⁰ According to Article 28 (ex Article j.18) of the TEU, the administrative expenditure and operational expenditure of the CFSP is charged from the European Community budget except for expenditure arising from operations having military or defence implications.

⁹¹ R. Rummel, J. Wiedeman, *Paradoxes of European Foreign Policy: Identifying Institutional Paradoxes of CFSP*, San Dominica/Italy, European University Institute, 1997, p.4.

⁹² The Common Positions which have development and consolidation of human rights as their primary and secondary objectives are taken as human rights related Common Positions. Common Positions related to economical sanctions are excluded from that number.

of the human rights related Common Positions are mainly focused on the human rights violations in Africa. Twenty-seven Common Positions out of a total of 58 are related to the human rights violations in Africa.⁹³ The Council adopted ten human rights related Common Positions for the human rights violations in Asia, 13 Common Position related to ex-Yugoslavia and one on human rights violations in the American continent.⁹⁴ In that period, Council also adopted one Common Position on the establishment of the international criminal court.⁹⁵

As has been seen from the examples above, the human rights related Common Positions mainly deal with human rights in relation to specific countries and the Common Positions related to the human rights violations in Africa constituted the important part of the Common Positions.

Apart from the Common Positions, the Council also adopts Council Decisions for the implementation of the Common Positions and Joint Actions. Though not mentioned in the TEU, the Council Decisions are binding on the member states like Common Positions and Joint Actions.⁹⁶ Between 1994 and 2001, the Council adopted 76 Decisions in which 49 of them are related to human rights (See Chart F).

⁹³ The Council adopted human rights related Common Position on Burundi, Angola, Nigeria, Burma, Sierra Leone, Rwanda, Ethiopia, Liberia and Congo. Apart from these Common Positions, the Council adopted 2 regional Common Positions related with conflict prevention and human rights in Africa.

⁹⁴ The Council adopted human rights related Common Positions on Afghanistan, East Timor and Indonesia. In that period, the Council adopted only one human rights related Common Position on American countries; namely on Cuba.

⁹⁵ The establishment of the International Criminal Court (ICC) is one of the most important human rights related activities of the CFSP. In line with the declarations made by the EU presidencies, the Council adopted a Common Position about the International Criminal Court on 11 June 2001. The relationship with the protection of human rights and establishment of the ICC has been underlined clearly in the fourth article of the Common Position which states: "The Union is convinced that compliance with the rules of international humanitarian law and human rights is necessary for the preservation of peace and consolidation of the rule of law". The second article of the Common Position forces member states to make every effort to further this process by raising the issues of the widest possible ratification acceptance, approval or accession to the Rome Statute and the implementation of the Statute in negotiations or political dialogues with third states, groups of states or relevant regional organizations whenever appropriate. To that end HR Javier Solana made a declaration on 11 April 2002 in which he states that "The EU's Common Foreign and Security Policy is founded on respect for fundamental human rights and we are developing operational capabilities to defend those rights when they are under threat. Together with the International Criminal Court, the European Union will be an important partner in advancing such values". (For the J. Solana's views, See, International Herald Tribune, *International Court Signals a New Era*, 11 April 2002)

⁹⁶ Council of the European Union, *The Common Foreign and Security Policy*, Luxembourg, 2001, p.16

3.2.3.4. Declarations

Although not mentioned as a CFSP instrument in the TEU, the Declarations constitute an important part of the human rights activities of the CFSP. CFSP Declarations are widely used to call governments and other parties to respect human rights or welcome positive developments. The Declarations are generally carried out by the Presidency on behalf of the EU.⁹⁷ The Declarations are published simultaneously in the Presidency's capital and in Brussels. The CFSP Declarations are carried out in three different forms: Press Declarations, Declarations made in the international forums and Joint Declarations.⁹⁸ The Declarations can be viewed as negative measures, because generally they are used to demonstrate the dissatisfaction of the member states in terms of human rights violations in some specific countries. Declarations also offer a practical tool for the Presidency to react quickly to human rights violations. On the other hand, they are too often of no real interests, given the fact that they merely express an opinion, approval, satisfaction, condemnation or a complaint.⁹⁹

Since the inauguration of the CFSP in 1994, 1189 Press Declarations, 648 Declarations in international forums and 74 Joint Declarations were made. Out of 1189 Press Declarations 370 were related to human rights,¹⁰⁰ out of 648 Declarations made in the international forums 311 were related to human rights and out of 74 Joint Declarations, 50 were related to human rights (See Chart A).

There were 28 human rights related Press Declarations in 1994, 37 in 1995, 35 in 1996, 42 in 1997, 54 in 1998, 44 in 1999, 70 in 2000 and 60 in 2001(See Chart A). The human rights related Press Declarations are generally concerned with human rights violations in the third countries rather than the thematic issues. In terms of Press Declarations, the CFSP has shown much more interest in human rights abuses in the African continent than anywhere else in the world. Out of 370 human rights Press Declarations, 151 Press Declarations were dealing with human rights violations in Africa. The second priority for the CFSP was human rights

⁹⁷ Some press Declarations are made as the Declaration of the European Union when the Council of Ministers meets and adopts a Declaration. These Declarations, which are much smaller in number, have been added to the Presidency declarations in this study.

⁹⁸ The responsibility of drafting a Declaration lies with the Presidency of the EU. The Declarations drafted by the Presidency are disseminated by the COREU to member capitals and after getting the verification from all member states, the Presidency makes the Declarations.

⁹⁹ J. Gras, *The European Union and Human Rights Monitoring*, Erik Castrén Institute of International Law and Human Rights Research Reports, Helsinki, 2000, p.121

¹⁰⁰ The Declarations, which include human rights and democracy as a term in their texts, are deemed as human rights related Declarations.

violations in Europe. Out of 370 human rights related Press Declarations, 85 were linked with human rights abuses in Europe. The third priority of the CFSP was human rights violations in Asia and Pacific countries. Out of 370 Press Declarations, 70 were related to human rights abuses in Asia and Pacific countries. The CFSP has shown less interest in human rights abuses in North and South American countries. Forty-eight Press Declarations were made relating to human rights violations in the countries of North and South America between 1994 and 2001 (See Chart G).

Of 648 Press Declarations made in the international forums, 311 dealt with human rights. There were 31 human rights related Declarations in international forums in 1994, 45 in 1995, 20 in 1996, nine in 1997, 54 in 1998, 35 in 1999, 69 in 2000 and 48 in 2001 (See Chart A). The human rights related Declarations in international organizations are mostly carried out in the OSCE and in the UN General Assembly, in UN Third Committee and in Commission on Human Rights. For the first time, the EU has criticised the human rights situation in the EU, in a Declaration made in the 58th Session of the Commission on Human Rights on 2 April 2002 in Geneva.¹⁰¹ Under the CFSP, 74 Joint Declarations were made between 1994 and 2000. Out of 74, 50 of them have mentioned development and consolidation of human rights (See Chart A).

The number of human rights related Declarations diverge according to the presidency terms also (See chart H). The highest number of human rights related Declarations were made during the Austrian Presidency, followed by the Portuguese, Swedish Presidencies. One should consider the intensity of the international incidents related to human rights violations while taking the Declarations into consideration. Therefore the numbers do not give a picture of the member states' interest in human rights related issues.

As can be seen from the figures, 31% of all Press Declarations, 48% of all Declarations made in the international forums and 67% of all Joint Declarations are related to human rights. Overall, 38% of all Declarations made by the CFSP between 1994 and 2001 are related to human rights. Therefore, it is possible to claim that human rights related issues constitute an important bulk of CFSP Declarations and that member states use Declarations to show either their disappointment or the approval regarding human rights related issues. But on the other hand, the sporadic use of the Declarations can affect the credibility of the Declarations. The Declarations do not have a follow up mechanism. The manifestation of a mere disappointment of human rights violation of one specific country and not taking any effective measures can diminish the credibility of the

¹⁰¹ Interview with the EU Commission official.

Declarations. Therefore, the Declarations should be followed by action. In other words, without action it is very hard to talk about an active use of Declarations in human rights protection.

3.2.3.5. Démarches

Démarches are also the part of the foreign policy activities of the CFSP which is not mentioned as a CFSP instrument in the TEU. The representatives of either troika or the presidency in the targeted country usually carry out Démarches. The decision for initiating Démarches is given by the COHOM and the coordination is sustained by the COREU.¹⁰² The human rights related Démarches are generally linked with the death penalty or torture in a specific country. There are also some Démarches to seek support for the EU sponsored resolutions in the human rights related international forums or to change the targeted country's view about these resolutions. The human rights related Démarches are carried out in line with the Guidelines of EU Policy towards Third Countries on the Death Penalty and Guidelines of EU Policy towards Third Countries on Torture and Cruel, Inhuman or Degrading Treatment or Punishment.¹⁰³ The Démarches are carried out either in confidential or in public ways, but most of the Démarches are carried out in a confidential way and mostly no information was given to the public, especially on the Démarches which aims at stopping the torture in order to avoid counter measures. Because of this secrecy, the human rights NGOs generally accuse the EU of not taking necessary measures in death penalty and torture related individual cases.¹⁰⁴ Therefore, it is very hard to know the exact number of human rights related Démarches and to assess the effectiveness of them. One can say that the Démarches are like the invisible part of the iceberg that is never seen or discussed.¹⁰⁵

3.2.3.6. Political Dialogue

Under the ambit of the CFSP, political dialogue is conducted with many countries, starting with the heads of state to the level of experts, but at

¹⁰² Interview with the EU Commission official.

¹⁰³ Guidelines to EU Policy Towards Third Countries on the Death Penalty was adopted by the General Affairs Council in Luxembourg on 29 June 1998 and the Guidelines to EU Policy Towards Third Countries on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was adopted by General Affairs Council in Luxembourg on 09 April 2001.

¹⁰⁴ Interview with the EU Commission official.

¹⁰⁵ A. Clapham, *Where is the EU Human Rights Common Foreign Policy, and How is it Manifested in Multilateral Fora?*, in P. Alston (ed.), *The EU and Human Rights*, Oxford, Oxford Press, 1999, p.628.

present there is only one regular, institutionalised dialogue devoted solely to human rights between the EU and a third country, namely China. This is a highly structured dialogue held at the level of senior human rights officials. This type of dialogue has only been used within the countries with which the European Union had no agreement including human rights clauses. The human rights dialogue with China had been initiated in 1996 and interrupted by China after the EU tabled a critical resolution in the 1996 UN Commission on Human Rights session. In 1997, China decided to resume the human rights dialogue again with the EU and since then several rounds of dialogue have been held. The General Affairs Council reaffirmed the European Union's objectives on EU-China dialogue on 22-23 January 2001.¹⁰⁶

Apart from this exclusively human rights dialogue, there are institutionalised human rights expert meetings under the ambit of political dialogue, namely with the United States, Canada and the associated countries.¹⁰⁷ These meetings take the form of six-monthly meetings of experts to discuss the issues of common interest and the possibilities for cooperation within multilateral human rights bodies. In addition, there are some additional ad hoc dialogues with third countries including human rights related issues. For instance, the EU currently maintains dialogues with Cuba and Sudan at the level of heads of mission, dealing with human rights issues.¹⁰⁸

In order to draw the scope of human rights dialogue and to intensify the process of integrating human rights and democratisation objectives in to all aspects of its external policies, COHOM has established guidelines on human rights dialogue,¹⁰⁹ in line with the Council Conclusions on the European Union's Role in Promoting Human rights and Democratisation in Third Countries, which was adopted in Luxembourg on 25 June 2001.

3.2.3.7. Special Envoys/Special Representatives

The Council has appointed EU Special Envoys/EU Special Representatives on the basis of Article 13 (ex Article J.3) of TEU with a

¹⁰⁶ See, www.europe.eu.int/comm/external_relations/human_rights/news/gac_jan_01.htm

¹⁰⁷ Council of the European Union, *Annual Human Rights Report 2001*, p.40

¹⁰⁸ See, EU Commission Web Site, at http://europa.eu.int/comm/external_relations/human_rights/doc/ghd12_01.htm

¹⁰⁹ The European Union guidelines on Human Rights dialogues were adopted by the Council on 13 December 2001. (See EU Commission Web Site, *European Union Guidelines on Human Rights Dialogue, adopted by the Council of the EU on 13 December 2001*, at http://europa.eu.int/comm/external_relations/human_rights/doc/ghd12_01.htm)

mandate, in relation to particular policy issues.¹¹⁰ The Special Representatives have different kinds of mandates and are mainly appointed to crisis regions to support the High Representative. They function as the eyes and ears of the High Representative in the trouble spots of the world and present the EU with a voice and a face in these regions.¹¹¹ Although none of these mandates explicitly refers to human rights, they all cover fields that are related to human rights. Therefore, the special representatives should be seen as a component of the human rights dimension of the CFSP actions.¹¹² Currently, the EU has six Special Representatives. These are, the EU Special Representative for the Stability Pact for South Eastern Europe,¹¹³ the EU Special Representative for the Middle East Process,¹¹⁴ the EU Special Representative for the African Great Lakes Region,¹¹⁵ the EU Special Representative to Afghanistan,¹¹⁶ the EU Special Representative to Palestine Authority¹¹⁷ and the EU Special Representative to the Former Yugoslav Republic of Macedonia.¹¹⁸ The Special Representatives/Envoys not only contribute to the visibility of the EU in these strategically important regions, but also help the development and consolidation of democracy, human rights and fundamental freedoms.

¹¹⁰ The detailed information about the Special Representatives can be obtained from the CFSP web page: "<http://ue.eu.int/pesc/envoye.asp?lan>."

¹¹¹ B. Soetendorp, *Foreign Policy in the European Union: Theory, History, and Practice*, London, Longman, 1999, p.72.

¹¹² J. Gras, *The European Union and Human Rights Monitoring*, Helsinki, The Erik Castrén Institute of International Law and Human Rights, 2000, p. 105.

¹¹³ The first Working Table of the Stability Pact deals with human rights and democratisation. Stability Pact gives special focus on inter ethnic dialogue and cross border cooperation, refugee matters, media and youth education.

¹¹⁴ The mandate of the Special Representative for the Middle East Process is to engage constructively with the signatories to agreements within the framework of the peace process in order to promote compliance with basic norms of democracy, including respect for human rights and the rule of law.

¹¹⁵ Overall, the job done by the EU Special Representative for the African Great Lake Region is related to human rights but there is not a specific reference to human rights in the mandate of the Special Representative.

¹¹⁶ One of the mandates of the Special Representative to Afghanistan is to ensure the respect for human rights of all Afghan people, regardless of gender, ethnicity or religion and respect of democratic principles, the rule of law, the rights of persons belonging to minorities, the rights of women and children and fundamental freedoms and the principles of international law.

¹¹⁷ One of the mandates of the EU Special Representative to Palestine Authority is to support the Palestinian Authority's capacity to counter terrorism and help to sustain the Middle East Peace Process and to provide relevant security and police services with a comprehensive understanding of the principles of human rights.

¹¹⁸ The mandate of the EU Special Representative to the Former Yugoslav Republic of Macedonia does not include a specific reference to human rights.

3.2.3.8. European Union Monitoring Mission

The European Union Monitoring Mission (EUMM)¹¹⁹ is a unique human rights monitoring organ that performs under the scope of the CFSP. The (EUMM) was established by a Memorandum of Understanding signed at Belgrade on 13 July 1991 following the Brioni Declaration of the EC and its member states.

When the EUMM was first established, its aim was to collect information and analyse political developments in Yugoslavia.¹²⁰ The mandate of the EUMM was renewed on 22 December 2000.¹²¹ The renewed mandate includes the monitoring of political and security developments in the area of responsibility, to give particular attention to border monitoring, inter-ethnic issues and refugee return, to provide early warning to the Council and to confidence building in the region. Although there is no specific reference to human rights in the mandate of the EUMM, the content of the mandate and objectives of the EUMM constitute a very important aspect of human rights monitoring in the former Yugoslavia. The EUMM proved its effectiveness during the course of the conflict by providing unbiased information from the field. The High Representative has been entitled to define the tasks of the EUMM in accordance the policy created by the Council.

3.2.4. Cooperation of the EU Member States in selected human rights related international organizations

Apart from the instruments of the CFSP that is used to develop and consolidate human rights, the member states cooperate and coordinate their efforts in the international human rights forums in line with Article 19 (ex Article J.9)¹²² of TEU. The cooperation in the field of human rights is visible

¹¹⁹ The name of the European Community Monitoring Mission (ECMM) has been changed to European Union Monitoring Mission (EUMM) on 22 December 2000.

¹²⁰ EUMM covers all the ex-Yugoslav republics except Slovenia, and Albania. The EUMM does not implement any programmes. Under the current mandate, the EUMM is responsible only for gathering and reporting information. This aspect also gives credibility to the EUMM as being the neutral observers.

¹²¹ Joint Action of 00/811/CFSP.

¹²² Article 19 (ex Article J.9) clearly states that: Member states shall coordinate their actions in international organizations and at international conferences. They shall uphold the Common Positions in such fora. On the other hand, the article specifically asks the UN Security Council members to coordinate their efforts and keep the other member states fully informed.

in the OSCE and in the UN forums.¹²³ In the UN, the EU member states combine their efforts to develop and consolidate human rights in the work of the Third Committee and in the Commission on Human Rights (CHR). Because of the voting process, the Third Committee and the Commission on Human Rights provides a good basis to see the cooperation and disengagement of the member states and to judge to what extent the CFSP manages to create a viable human rights policy.

3.2.4.1. Cooperation in the framework of CSCE/OSCE¹²⁴

The CSCE/OSCE¹²⁵ has always been perceived by member states as a valuable forum to tackle human rights issues.¹²⁶ Before 1994, CSCE was one of the first international organizations that EPC had shown interest in.¹²⁷ Especially when the United States had shown little interest in the negotiations, the then nine member states emerged as the most coherent and influential actors. The satisfactory definition of human rights during the Helsinki Conference in 1973 and 1975 appeared as one of the main targets for the member states. In the early years of CSCE, some of the human rights initiatives that were laid down by member states were rejected due to the intransigence of the communist countries.¹²⁸ At the 1980 Madrid Summit, the member countries demanded an end to human rights violations, with particular preference to martial law in Poland, but the EPC position was undermined by the Greek government, which indicated that the Soviet Union was not responsible for the situation in Poland. One of the most important achievements of the member states, in the human rights context in the CSCE/OSCE, was the creation of the Human Dimension Mechanism at the

¹²³ The member states cooperate in other human rights related international organizations like Council of Europe. In this thesis only the cooperation in OSCE and in the Third Committee of UN and in the CHR is examined.

¹²⁴ The Conference on Security and Cooperation (CSCE) changed its name into Organization for Security and Cooperation in Europe (OSCE) in 1 January 1995.

¹²⁵ OSCE was set up in 1975 as a forum for diplomatic consultation. The mandate of the OSCE has changed since then. Today, through its numerous field missions and operational activities, as well as through its specialised institutions, OSCE addresses a wide range of security related issues, including arms control, preventive diplomacy, confidence and security building measures, human and minority rights, election monitoring and economic and environmental security.

¹²⁶ Council of the European Union, *EU Annual Report on Human Rights 1999*, Brussels, p. 27.

¹²⁷ D. Napoli, *The European Union's Foreign Policy and Human Rights*, in N. A. Neuwahl, A. Rosas, (eds.), *The European Union and Human Rights*, The Hague-London, Martinus Nijhoff, 1995, p.309.

¹²⁸ At the 1977 Belgrade Conference, the EU proposal to strengthen the human rights aspect of the Final Act was rejected by the eastern bloc.

1986 Vienna meeting.¹²⁹ The EU immediately initiated the active use of the Human Dimension Mechanism in 1989.¹³⁰ Since then, Human Dimension Mechanism became one of the major areas which EU member states actively supported. The EU became one of the vocal supporters of NGOs' involvement to the Human Dimension Meetings. Recently, with the initiative of EU, the Human Dimension Meetings have included gender issues, death penalty, rights of the child and children in the armed conflict, trafficking human beings and prevention of torture and rehabilitation of victims in its agenda.¹³¹ Another success of the CFSP in the context of the OSCE, was to initiate the Pact on Stability in 1994. The Pact on Stability was adopted in 21 March 1995 and then transferred into OSCE infrastructure.¹³²

The current support of the EU to the OSCE's human rights activities emerges particularly as a support to Human Dimension Mechanism and the support to human rights related OSCE institutions like Office for Democratic Institutions (ODIHR), the High Commissioner on National Minorities (HCNM) and Representative on Freedom of Media.¹³³ Apart from that, the EU has supported financially the elections in Bosnia and Herzegovina with OSCE in 1997 and in 1998. In this last action, the EU has financed over 60% of the election observation, including the Joint EU/OSCE Media Centre.¹³⁴ The EU has also co-financed the Joint EC/ODIHR programme in Central Asia and extended its financial support to the UNMIK mission in Kosovo, in which the OSCE plays an active part. There is no doubt that, with the

¹²⁹ At the Vienna meeting, the member states campaigned for a Standing Committee to monitor the application of the human rights provisions of the Helsinki Final Act. This finally led to the establishment of the Human Dimension Mechanism.

¹³⁰ The twelve tried to use this mechanism by intervening the human rights violations in Bulgaria, Czechoslovakia, East Germany, Romania and the Soviet Union in 1989. After being rejected by the eastern bloc countries in the use of this Mechanism, EU exerted economic sanctions. The first economic sanction in that context was used against Romania. (See, T. King, *Human Rights in European Foreign Policy: Success or Failure for Post Modern Diplomacy*, in «European Journal of International Law», vol.10, no.2, pp.319-320)

¹³¹ Council of the European Union, *European Union Annual Reports on Human Rights 2001*, p. 65.

¹³² The idea of the Pact on Stability was initiated mainly by the then French Prime Minister Edouard Balladur. The Balladur initiative in the end evolved into an EU action. The Pact was adopted on the occasion of the Paris conference on 21 March 1995 and the implementation of the Pact on Stability was transferred to the OSCE. The permanent Council of the OSCE adopted a decision on the follow up of the pact on 25 July 1995. (See, T. Ueta, *The Stability Pact: >From Balladur Initiative to the EU Joint Action*, in M. Holland (Edt.), *Common Foreign and Security Policy: The Record and Reforms*, London, Cassel, 1997, pp.92-104.)

¹³³ Council of the European Union, *European Union Annual Reports on Human Rights 2001*, p. 65-68.

¹³⁴ See, EU Commission Web Site, at www.europe.eu.int/comm/external/relations/osce/index.htm

coordination of the CFSP, the member states play an important role in the human rights related OSCE activities.

3.2.4.2 Cooperation in the Third Committee of the UN and in the Commission on Human Rights

Relations between the EU and the United Nations have developed over time into a rich and diverse network of cooperation and interaction.¹³⁵ The EU attaches great importance to human rights protection made under the ambit of the UN, including monitoring bodies laid down by the Treaties, as well as non-conventional mechanisms.¹³⁶ Main human rights cooperation or disengagement of the member states emerges in the Third Committee¹³⁷ of the General Assembly and in the Commission on Human Rights¹³⁸ in Geneva.¹³⁹ In the Third Committee and in the CHR, the EU generally speaks with one voice, initiates and co-sponsors resolutions and makes explanatory declarations regarding the vote cast.¹⁴⁰ Coordination and co-operation among the member states in human rights issues in UN forums can be best understood by checking the number of resolutions in which the member states vote alike or split their votes in the Third Committee and in the CHR. The voting procedure has taken place in two different ways in these UN forums. The proposed resolutions can be adopted most of the cases without a vote or in some cases with a vote. In other words, in the case of a request of one member state of the forum, the proposed resolution is voted. If a resolution is adopted without a vote, this means that there is a general consensus on the context of the resolution among all member states of the

¹³⁵ The EU has pledged to reinforce the EU-UN relations with the Gothenburg Council Conclusions of 15-16 June 2001. (See, EU Commission Web Site, at www.europa.eu.int/comm/external_relations...).

¹³⁶ Council of the European Union, *EU Annual Reports on Human Rights 2000*, p.45.

¹³⁷ The human rights related resolutions are discussed in the Third Committee before making its way to the UN General Assembly plenary. All the UN member states are represented in the Third Committee unlike the CHR where only 53 states are represented.

¹³⁸ The Commission on Human Rights is deemed to be one of the most important international forums where human rights are discussed in the UN ambit. Not all the EU members are the member of the CHR (Belgium, France, Germany, Italy, Portugal, Spain and Italy were the EU member states that were represented in the 57th session of the CHR). The resolutions adopted in the CHR are submitted to the ECOSOC for the ratification.

¹³⁹ The human rights related resolutions voting in the General Assembly are not included in this study, because they are mainly discussed in the Third Committee before coming to UN General Assembly. The member states generally show their cooperation or coordination in the Third Committee and stick to their votes in the UN General Assembly.

¹⁴⁰ The necessity of dealing a great deal number of human rights issues in the UN makes much harder for the member states in achieving consensus compare to OSCE. (See T. King, *Human Rights in European Foreign Policy: Success or Failure for Post Modern Diplomacy*, in «European Journal of International Law», vol.10, no.2, p. 320).

UN forums. According to Article 19 (ex Article J.9) of the TEU, member states have to cooperate their actions in international forums. There is no obligation in this sense unless a common position is adopted but checking the voting behaviour of the member states is a good opportunity to see to what extent they cooperate or conflict on the human rights issues. This also demonstrates the level of conflicting national interests that permeate the human rights policy of the EU member states in international forums.

In 1994, in the Third Committee, out of 70 resolutions, 12 resolutions were adopted with a vote and the member states split their votes four times; resolution on mercenaries,¹⁴¹ resolution on self determination,¹⁴² resolution on freedom of travel and family reunification¹⁴³ and resolution on Kosovo.¹⁴⁴ In 1995, out of 68 resolutions, 12 resolutions were adopted with a vote and this time member states split their votes on three resolutions; resolution on mercenaries,¹⁴⁵ resolution on Kosovo¹⁴⁶ and resolution on Bosnia, Croatia and Serbia.¹⁴⁷ In 1996, out of 62 resolutions, 12 were adopted with a vote and the member states split their votes only on one resolution; resolution on mercenaries.¹⁴⁸ In 1997, out of 68 resolutions, 16 resolutions were adopted with a vote and the member states split their votes twice; resolution on mercenaries¹⁴⁹ and resolution on right to development.¹⁵⁰ In 1998, out of 59 resolutions, seven resolutions were adopted with a vote and the member states split their votes once; resolution on mercenaries.¹⁵¹ In 1999, out of 69 resolutions, 15 were adopted with a vote and the member states split their votes on two resolutions: resolution on mercenaries¹⁵² and resolution on right to development.¹⁵³ In 2000, 12 out of 64 resolutions adopted with a vote and the member states split their votes on one occasion, the resolution on mercenaries.¹⁵⁴ In 2001, out of 73 resolutions, 16 were adopted with a vote and the member states split their votes only once again; resolution on Mercenaries¹⁵⁵ (See Chart I).

¹⁴¹ Res. 49-150

¹⁴² Res. 49-151

¹⁴³ Res. 49-182

¹⁴⁴ Res. 49-182

¹⁴⁵ Res. 50-138

¹⁴⁶ Res. 50-190

¹⁴⁷ Res. 50-193

¹⁴⁸ Res. 51-83

¹⁴⁹ Res. 52-112

¹⁵⁰ Res. 52-136

¹⁵¹ Res. 53-135

¹⁵² Res. 54-151

¹⁵³ Res. 54-175

¹⁵⁴ Res. 55-86

¹⁵⁵ Res. 56-232

The voting behaviour of the member states follows the same pattern in the CHR. In 1994, out of 112 resolutions, 19 resolutions were adopted in which the member states split their votes on four resolutions: resolution on economic adjustment policies,¹⁵⁶ resolution on right to development,¹⁵⁷ resolution on Asia and Pacific¹⁵⁸ and resolution on Bosnia and Herzegovina.¹⁵⁹ In 1995, out of total 93 resolutions, 19 resolutions were adopted with a vote and the member states split their votes on two resolutions: resolution on freedom of travel and family reunification,¹⁶⁰ resolution on the Optional Protocol to the Convention on the Rights of the Child.¹⁶¹ In 1996, out of total 114 resolutions, 12 were adopted with a vote and the member states sustained unanimity for the first and only time in both UN forums. In 1997, out of 78 resolutions, 15 resolutions were adopted with a vote and the member states split their votes on three resolutions: resolution on unilateral coercive measures,¹⁶² resolution on dumping of toxic waste¹⁶³ and resolution on death penalty.¹⁶⁴ In 1998, out of 84 resolutions, 21 were adopted with a vote and the member states split their votes in three resolutions: resolution on mercenaries,¹⁶⁵ resolution on unilateral coercive measures¹⁶⁶ and the resolution on abduction of children from northern Uganda.¹⁶⁷ In 1999, 23 out of 82 resolutions were adopted with a vote and the member states split their votes on three resolutions: resolution on mercenaries,¹⁶⁸ resolution on promotion of the right to democracy¹⁶⁹ and the resolution on impunity of perpetrators of violations of economic, social and cultural rights.¹⁷⁰ In 2000, out of 77 resolutions, 17 were adopted with a vote and the member states split their votes on two resolutions: Resolution on mercenaries¹⁷¹ and resolution on Coercive measures.¹⁷² In 2001, 32 out of 82 resolutions were adopted with a vote and the member states split their

¹⁵⁶ Res.1994-11

¹⁵⁷ Res.1994-21

¹⁵⁸ Res.1994-75

¹⁵⁹ Res.1994-75

¹⁶⁰ Res.1995-62

¹⁶¹ Res.1995-78

¹⁶² Res.1997-7

¹⁶³ Res.1997-9

¹⁶⁴ Res.1997-12

¹⁶⁵ Res.1998-6

¹⁶⁶ Res.1998-11

¹⁶⁷ Res.1998-75

¹⁶⁸ Res.1999-3

¹⁶⁹ Res.1999-55

¹⁷⁰ Res.1999-57

¹⁷¹ Res.2000-3

¹⁷² Res.2000-9

votes on four resolutions: resolution on mercenaries,¹⁷³ resolution on right to development,¹⁷⁴ resolution of coercive measures,¹⁷⁵ and resolution on strengthening foundations for democracy.¹⁷⁶ In 2002, 33 resolutions out of 92 were adopted with a vote and the member states split their votes on a record level on seven resolutions; Resolution on situation of human rights in the occupied Palestinian territory,¹⁷⁷ resolution on question of violations of human rights in occupied Arab territories including Palestine,¹⁷⁸ resolution on deterioration of the situation in the occupied Palestinian territory,¹⁷⁹ resolution on human rights and coercive measures,¹⁸⁰ resolution on the use of mercenaries,¹⁸¹ resolution on strengthening of popular participation, equality, social justice and non-discrimination as essential foundations of democracy¹⁸² and resolution on integrity of judicial systems¹⁸³ (See Chart J).

The number of the resolutions in which the member states split their votes is both related to the total number of resolutions adopted and the number of the voted resolutions in a specific year. Therefore, while evaluating the strength of the EU's coordination under CFSP, it is necessary to measure the percentage of resolutions in which EU member states voted alike. Since 1994, the percentage of the alike votes of the member states in the Third Committee is 94% in 1994, 96% in 1995, 98% in 1996, 97% in 1997, 98% in 1998, 97% in 1999, 98% in 2000 and 98% in 2001. The percentage of the alike votes in the CHR has the same pattern as in the Third Committee. The percentage of resolutions in which the member states voted alike in the CHR is 96% in 1994, 98% in 1995, 100% in 1996, 96% in 1997, 97% in 1998, 96% in 1999, 97% in 2000, 95% in 2001 and 76% in 2002.

As has been shown, the cooperation of the member states in the UN human rights forums is very good. The high percentage of the alike votes is proof of the EU member states commitment to protection of human rights and the strength of the cooperation. But in some cases they split their votes. In the Third Committee, the member states split their votes on the resolution

¹⁷³ Res.2001-3

¹⁷⁴ Res.2001-9

¹⁷⁵ Res.2001-26

¹⁷⁶ Res.2001-36

¹⁷⁷ Res.2002-1

¹⁷⁸ Res.2002-8

¹⁷⁹ Res.2002-103

¹⁸⁰ Res.2002-22

¹⁸¹ Res.2002-5

¹⁸² Res.2002-34

¹⁸³ Res.2002-37

of mercenaries every year.¹⁸⁴ In the EU press releases, it is claimed that the Third Committee is not the right forum to deal with the problem of mercenary activity and the matter should be directed to the Sixth Committee rather than the Third Committee.¹⁸⁵ In the Third Committee, the member states split their votes generally on thematic human rights issues, such as right to development and coercive measures. The split of votes in human rights abuses in the third countries have occurred three times in the Third Committee: once in 1994 about Kosovo and twice in 1995, again about Kosovo and Bosnia, Croatia and Serbia. In all three cases, despite the EU Council's Declarations about human rights violations in the former Yugoslavia, Greece abstained and did not vote in accordance with the approach taken by other EU member states.

The same pattern was followed in the CHR. Mainly, the member states split their votes on thematic human rights issues, like mercenaries, unilateral coercive measures and right to development. The split of votes related to human rights abuses in the third countries, occurred only once in 1994, on resolution about Bosnia and Herzegovina. This time, out of seven EU member states, four voted positively and three abstained on Resolution about Bosnia. The year 2002 constitutes another chapter in the saga of cooperation in the CHR. The member states split their votes in the CHR on seven occasions, much higher than the previous years. The main reason for this is the abundance of the resolutions that are adopted on the human rights violations in the Middle East. The member states split their votes four times on resolutions concerning the Middle East, apart from the thematic human rights resolutions, where generally they split their votes every year, like mercenaries and coercive measures. This is a clear indication of the different perceptions of the member states on the conflict in the Middle East.

In conclusion it can be said that in the human rights related international organizations, the member states generally cooperate with each other according to Article 19 of the TEU. However in some cases, when their national interests collide, they do not refrain from contradicting each other. This fact arose particularly in the 58th Session of the Commission on Human Rights. The high number of split votes is proof of the different perceptions and different national interests of the member states, even in the human rights field.

¹⁸⁴ In the 55th session of the Third Committee in 2000, Austria, Spain, France, Greece, Italy, Ireland and Portugal abstained and Belgium, Germany, Denmark, Finland, Luxemburg, Netherlands, Sweden and United Kingdom voted against, on the resolution on mercenaries. The same voting pattern remained in the 56th session of the Third Committee in 2001, except Italy. This time, Italy voted against the resolution.

¹⁸⁵ European Commission, *The Overview of the 55th session of the UN General Assembly, Third Committee, Human Rights*, New York, 2000.

CASE STUDY: COMMON FOREIGN AND SECURITY POLICY'S REACTION TO THE GENOCIDE IN RWANDA

In this chapter, the CFSP's response to genocide in Rwanda is examined. The Case of Rwanda is chosen mainly for three reasons. First of all, one of the worst human rights violations that the world has ever faced since the Second World War took place in Rwanda, only a few of years ago between April-July 1994. Within three months, more than 800,000¹⁸⁶ Rwandans lost their lives and more than 1.5 million Rwandans became refugees in neighbouring countries. Secondly, Rwanda's history is shaped by the colonization of the EU members, namely Germany and Belgium. Thirdly, the different perceptions of the member states regarding the conflict in Rwanda have led to the failure of adopting a common policy under the CFSP. In other words, the Rwandan case proves how the national interests of the member states can differ and leads to a failure in policy making in the CFSP.

To understand the roots of ethnic cleansing in Rwanda and the CFSP's inactivity during the events, one has to look to European involvement in the history of Rwanda.

Rwanda is one of the smallest and most densely populated countries in Africa.¹⁸⁷ The population of Rwanda is divided into three groups, the Hutu, the Tutsi and the Twa. They share the same Bantu language, live side by side with each other and often inter-marry throughout history.¹⁸⁸ Rwanda entered

¹⁸⁶ The exact figure for the death toll is not known. The "million" figure was pronounced just after the conflict but for reasons which remain obscure, the figure is generally accepted as 800,000.

¹⁸⁷ The total area of Rwanda is 26,338 km² and the population is 8.01 million. Some writers explain the genocide because of the high density of the population.

¹⁸⁸ The tribes of Rwanda show different racial peculiarities. Hutus who make up the majority of the population have a standard Bantu physical aspect, rather resembling the populations of neighbouring Uganda. Tutsi are different, they are extremely tall and thin and often display sharp angular facial features. They are believed to have migrated to Rwanda from the horn of Africa. When the genocide started, the Tutsi were 15% of the whole population.

into the agenda of Europe with the Berlin Conference in 1885 and was put under German protectorate. German dominance lasted until 1916 and Rwanda was mandated by the League of Nations under the supervision of Belgium in the same year. Rwanda was governed by the Belgians until the transition to democracy in 1962. During German dominance, the social system was kept intact, mainly by supporting the Tutsi King whose superiority had been sustained by the subjugation of the Hutu tribes. This attitude remained the same during the first years of Belgian dominance.¹⁸⁹ The intensification of ethnic separation was severed during Belgian rule. In 1933, Belgian rulers organized a census and issued identity cards classifying the Rwandans with their ethnic background.¹⁹⁰ The first serious political challenge to the Tutsi dominance came in 1957, when a group of Hutu published a manifesto demanding their emancipation and majority rule. This was the beginning of the ethnic struggle. The Hutus this time were supported by Belgian priests who mainly believed that Hutus were enslaved by Tutsis.

After the suspicious death of the Tutsi King in 1959, the first municipal election was held in 1960, giving Hutu the majority. In 1961, the monarchy was formally abolished by a referendum and in 1962, the Republic was proclaimed and Gregoire Kayibanda was declared as president. The transition from Belgian rule to republic was accompanied by mass violence, committed mainly by the majority Hutus, and an exodus of the Tutsi to neighbouring countries.¹⁹¹ In 1973, the Kayibanda regime was overthrown by a coup d'état by Juvénal Habyarimana. In 1978, Habyarimana promulgated a new constitution and became the president of Rwanda after an election in which he was the sole candidate. Hutus were favoured in the new government, as in the Kayibanda regime. Habyarimana created one of the strictest political systems in the world. All political parties were banned. In 1988, the RPF (Rwanda Patriotic Front) was formed in Uganda by mainly Tutsi refugees, in opposition to the Habyarimana regime. In 1990, Habyarimana conceded the principle of multi-party elections and

¹⁸⁹ During the German and Belgium dominance, because of the different physical features Tutsis were deemed superior beings than Hutus. The Europeans saw Tutsi as too fine to be "Negroes". On the other hand, it is widely believed that these subjective feelings, with the political and administrative decisions of the colonial authorities favouring one group over the other, created a very dangerous social bomb throughout the peaceful years of European domination. (See G. Prunier, *The Rwanda Crisis, 1959-1994: History of a Genocide*, London, Hurst, 1995, pp.6-9).

¹⁹⁰ This system which continued since 1994 gave a chance to the perpetrators of the genocide to separate the Tutsis from Hutus simply by checking their identity cards. Failure to provide identity cards was a reason to get killed.

¹⁹¹ The Kayibanda regime was accused also of committing genocide against Tutsis, but this has never been proved.

many political parties were formed in the same year. In October 1990, RPF attacked Rwanda and civil war started. The Rwandan government bought weapons for the military campaign from Egypt, South Africa and France. With the mediation of the international community, the Arusha Accords were signed between the Rwandan government and RPF in August 1993. Multi party elections were scheduled to be held within twenty-two months. In October 1993, the UN Security Council passed Resolution 872 and created the UN Assistance Mission for Rwanda (UNAMIR). In December 1993, UNAMIR troops were deployed in Rwanda.

In 6 April 1994, President Habyarimana and President Ntaryamira of Burundi and a number of government officials returning from negotiations in Tanzania were killed when the plane in which they were travelling was shot out of the sky on its approach to the Rwandan capital Kigali. Just after the shooting down of the plane, systematic killing began of opposition politicians, pro-democracy Hutu and Tutsi by the Hutu militia supported by the Hutu dominated army. Ten Belgian UNAMIR troops were killed during clashes with Rwanda military. On 14 April 1994, Belgium announced withdrawal of its troops from the UNAMIR. The western states closed their embassies due to the security situation in Kigali. 800,000, mainly Tutsis and pro-democracy Hutus, were killed in three months of violence in which the killings were carried out mainly in daylight.¹⁹² On 8 June, The Security council adopted resolution 925 and extended the UNAMIR mandate until December 1994. The RPF, which was based in Uganda, began an offensive against the Rwandan army. Because of mainly US intransigence in the UN Security Council, the endeavours of changing the UNAMIR mandate and sending more troops to the country failed. France, which had a strategic interest in the region, decided to send its troops to Rwanda under an operation called *Turquoise*. The first French troops reached the Zaire-Rwandan border on 21 June 1994. The UN Security Council approved the French proposal to dispatch troops to Rwanda under a UN peacekeeping mission on 22 June 1994. On 5 July 1994, French troops established a humanitarian zone in the south-west corner of the country. Because of the RPF advance, this time mainly Hutus afraid of repercussions, fled to neighbouring countries, mainly to Zaire. The 13 ministers of the Hutu dominated interim government that was formed after President Habyarimana's death sought refuge in the French safety zone on 16 July

¹⁹² When the French government told Rwandan military representatives that France could not give them open assistance as long as there were public killings of Tutsi, the national radio immediately broadcast the order: "Please, no more killing on the roads" (See, A.D. Forges, *Testimony of Alison Des Forges, Human Rights Watch before the Subcommittee on International Operations and Human Rights, in Rwanda: Genocide and the Continuing Cycle of Violence*, 5 May 1998, p.9 at <http://www.ess.uwe.ac.uk/Rwanda/Rwanda2.html>).

1994. The war between RPF and government troops ended with the victory of RPF. A new government of national unity was created and the carrying of compulsory identity cards was banned in 19 July. In November 1994, the UN Security Council adopted a resolution on the establishment of an International Criminal Court for the crimes in Rwanda.

The Rwandan genocide was a clear manifestation of the failure of international organizations, especially the UN. On the other hand, the EU has shown virtually no success in stopping the violence. The intensification of the tension in Rwanda coincided with the conflict in Bosnia and Herzegovina. Therefore, most of the EU member states were occupied by the events in former Yugoslavia during the Rwandan crisis. The first CFSP Declaration during the crises was made by the Greek Presidency on 12 April 1994, after most of the killings had been finished between 6 and 10 April 1994.¹⁹³ The only substantial point which was underlined in this Press Declaration was the concern felt by the death of President Habyarimana with his entourage. This Press Declaration was followed by other Press Declarations; all made under the Greek Presidency, on 18 and 25 April and 5 May 1994. In those Press Declarations, the necessity of stopping the violence and implementation of the Arusha accords were underlined. The word genocide was first used in a Press Declaration of 16 May 1994. The EU realized that there was a genocide taking place in Rwanda more than one month after all the events had started.¹⁹⁴ In this Press Declaration, the EU expressed its support for UN humanitarian efforts and again urged the two sides to agree on the need to respect the Arusha accords. Between the 6th of April 1994 and the end of 1995, the EU made 35 Press Declarations regarding Rwanda, 19 of which were made in international forums and two of them made as Joint Declarations.¹⁹⁵ The EU Council was unable to adopt a Common Position until after the main period of genocide had finished in October 1994, which belatedly called for the provision of humanitarian aid, the deployment of human rights observers and UN forces and the

¹⁹³ European Foreign Policy Bulletin, *Statement on Rwanda and Burundi*, 12 April 1994, at wwwarc.iue.it/BASIS/efpb/all/rec/SDF

¹⁹⁴ There was a cautious attitude towards the usage of the term genocide during the Rwandan crises. In a letter that was sent by the Foreign and Commonwealth Office (FCO) to an international inquiry to the British government on 7 July 1995, more than one year after the genocide, the FCO did not accept the usage of the term of genocide. (See, L. Melvern, *A People Betrayed: The Role of the West in Rwanda's Genocide*, London, 2000, p. 230).

¹⁹⁵ See European Foreign Policy Bulletin, *Joint Declaration on New Transatlantic Agenda and Joint Action Plan signed at the occasion of the EU/US Summit in Madrid, held on 3 December 1995, Joint Declaration on the meeting between the European Union and the Organization of African Unity of 7 December 1995, held in Brussels*, at <http://wwwarc.iue.it/BASIS/efpb/all/rec/SDF>

establishment of international war criminal tribunal.¹⁹⁶ This Common Position was followed by a Joint Action¹⁹⁷ of 22 November 1996, adopted by the Council on the basis of Article J.3 of the TEU, and a Special Envoy for the African Great Lakes Region was nominated. The Common Position of 1994 was revised by other Common Positions on 30 March 1998.¹⁹⁸ With this Common Position, the recovery from genocide, promotion of reconciliation, transition to democracy and promotion of human rights and fundamental freedoms have been put as the EU's objective in Rwanda. The Council has revised Common Positions on Rwanda three times, on 12 July 1999, 18 September 2000 and 19 November 2001.¹⁹⁹

As has been shown, the EU's response to the genocide in Rwanda was very weak and slow. The EU realised that there was a genocide going on more than one month later yet it failed to adopt a Common Position to immediately harmonise EU actions towards Rwanda because of the different perceptions of the member states on the crisis. On the other hand, the dichotomy between France and UK over the policy for Rwanda frequently emerged in the Security Council meetings, where they are supposed to coordinate their efforts according to article 19 of the TEU (Ex Article J.9).

The main reason for the CFSP's failure to deal with the Rwandan crisis was the influence of different national interests and different perceptions of the conflict among the member states. The colonial past of Rwanda has been linked with the member states of the European Union, i.e. Germany and Belgium. Apart from that, France also played a very important role during the crisis. Rwanda was deemed by France as a part of the Francophone family, a group of states linked to maintain the promotion and protection of the French language. Rwanda was important to France, not because French was its second language, but because Rwanda was located

¹⁹⁶ European Foreign Policy Bulletin, *Council Decision of 24 October 1994 concerning the Common Position adopted by the Council on the basis of Article J.2 of the Treaty on European Union on the objectives and priorities of the European Union vis-à-vis Rwanda 94/697/CFSP*, at <http://wwwarc.iue.it/BASIS/efpb/all/rec/SDF>

¹⁹⁷ European Foreign Policy Bulletin, *Joint Action of 22 November 1996 adopted by the Council on the basis of Article J.3 of the Treaty on European Union on the Great Lakes Region (96/699/CFSP)*, at <http://wwwarc.iue.it/BASIS/efpb/all/rec/SDF>

¹⁹⁸ European Foreign Policy Bulletin, *Common Position of 30 March 1998 defined by the Council on the basis of Article J.2 of the Treaty on European Union on Rwanda (98/252/CFSP)*, at <http://wwwarc.iue.it/BASIS/efpb/all/rec/SDF>

¹⁹⁹ European Foreign Policy Bulletin, *Common Position of the Council of 12 July 1999 on Rwanda (1999/452/CFSP)*, *Common Position of the Council of 18 September 2000 on Rwanda (2000/558/CFSP)*, *Common Position of the Council of 19 November 2001 on Rwanda (2001/799/CFSP)*, at <http://wwwarc.iue.it/BASIS/efpb/all/rec/SDF>.

on a political fault line between Francophone and Anglophone east Africa.²⁰⁰ Therefore, beginning in the early years of the Habyarimana regime and during the military campaign with the RPF, France actively supported this regime. The RPF activists coming from neighbouring Uganda and campaigning in Rwanda, were perceived as committing a plot by Anglo Saxons to disrupt French speaking countries in the belt of Africa.²⁰¹ During the crises in Rwanda, the Ugandan president Museveni, who helped the RPF, was perceived by the French as an Anglo Saxon who threatened French interest in the region.²⁰² In French intelligence and army circles, there was a general perception that abandoning Habyarimana regime would have been high treason, tantamount to handing Rwanda over to English speaking rebels.²⁰³ In line with this perception, France tried to keep the Habyarimana regime happy by allocating large amounts of financial and military help and tried to protect a French speaking country from an Anglo Saxon plot. The dichotomy of member states perceptions of the Rwandan crises had arisen on many occasions before the full genocide began. After a massacre in the Bugesara district on 9 March 1992, when the OECD Ambassador went to see President Habyarimana to express their concerns for the violence, the French Ambassador refused to join the démarche.²⁰⁴ In 1993, just before the genocide, the spontaneous massacres committed by the Hutu government attracted the attention of the international community. In response to that violence, the Belgian government recalled its ambassador in Kigali for consultation and the Rwandese Ambassador in Brussels was told that Belgium would reconsider its economic and military aid unless steps were

²⁰⁰ G. Prunier, *The Rwanda Crisis, 1959-1994: History of a Genocide*, London, Hurst, 1995, p.103.

²⁰¹ The French perception of the crisis in the Great Lakes region is explained by Gérard Prunier: "Les Anglais burnt Jean d'Arc alive, they stole Canada and India from France in 1763, they exiled Napoleon to a ridiculous little rock in the South Atlantic, and they sank our battle fleet at Mars-el Kebir in 1940.... From all eternity they have tried to spoil things for the French, and unfortunately they have usually succeeded. Nowadays they are greatly weakened and do not represent the threat they once did but they have spawned an evil brood scattered over the four continents, the "Anglo Saxons". (See G. Prunier, *The Rwanda Crisis, 1959-1994: History of a Genocide*, London, Hurst, 1995, p.104) For additional information for the French perception in the Great Lake's region, See A.C. Huliaras, *The 'Anglo-Saxon Conspiracy': French Perceptions of the Great Lakes Crisis*, in «The Journal of Modern African Studies» vol.36, 1998, pp.593-609

²⁰² In addition to the Ugandan President, the former leader of RPF and current president of Rwanda Paul Kagame, is a soldier who has taken some of his education in the US Army Command and General Staff College at Fort Leavenworth, Kansas. (See, L. Melvern, *A People Betrayed: The Role of the West in Rwanda's Genocide*, London, 2000, p.29)

²⁰³ Ibidem, p.30

²⁰⁴ Ibidem, p.46

taken to rectify the situation. The French Ambassador dismissed the massacres as rumours.²⁰⁵ After the full genocide and during the conflict between government forces and RPF, the leader of RPF, Paul Kagame, accused France of prolonging the conflict.²⁰⁶ When the core part of the genocide was over and when RPF forces began winning a stronghold in the conflict, France decided to intervene for humanitarian purposes. The timing of this intervention was perceived as a move to stop the RPF taking over the whole country, not to stop the genocide.²⁰⁷ When all the killings had finished and when it had become apparent that there was an ethnic cleansing of Tutsis, the French President Mitterrand made an announcement saying that there was not only an ethnic cleansing of Tutsis but also an ethnic cleansing of Hutus.²⁰⁸ France showed its discontent with the new regime by not inviting them to the eighteenth Franco-African summit in Biarritz on 8-9 November 1994. On the other hand, France lobbied in all international organizations against the new regime and tried to block aid from the European Union, arguing that money should be paid only when the refugees outside Rwanda returned to their country. The manifestation of the different perceptions of the Rwandan conflict among the EU member states has surfaced recently during an interview with Clare Short, the International Development Secretary of UK. In the interview, Short appeared to accuse the French of being directly involved in the massacres of Tutsis in Rwanda.²⁰⁹ This accusation has created a small diplomatic row between UK and France.

On the other hand, the different perceptions of the conflict led the EU members to contrast with each other in the UN Security Council meetings related to Rwanda. The UK has generally sided with the US, which opposes an increase in the number of UNAMIR troops; a different approach than France, which wants to expand the role of UNAMIR and send more troops to the region. Another manifestation of the disparity of the EU member states in the UN Security Council has emerged over the usage of the term 'genocide' in the Rwandan case. The UK has opposed the usage of genocide

²⁰⁵ Ibidem, p.56

²⁰⁶ Ibidem, p.49

²⁰⁷ The leader of RPF, Paul Kagame's reaction to French intervention was to call the plan treacherous. Kagame was quoted in *Le Figaro* on 25 June 1994: "You have armed and trained the Presidential Guards; you have accepted that the Presidential Guards armed and trained in front of you the Hutu extremists who committed the genocide. (Ibidem, p.212)

²⁰⁸ G. Prunier, *The Rwanda Crisis, 1959-1994: History of a Genocide*, London, Hurst, 1995 p. 339

²⁰⁹ The Guardian, *French caused genocide: Short*, 21 April 2002

in UN documents in the early stages of the conflict claiming that to name the crisis a genocide and not to act on it would be ridiculous.²¹⁰ On the other hand, France was insisting on the insertion of a phrase in UN Security Council documents which implies the existence of a genocide committed by the Tutsis against Hutus.

As has been seen, mainly because of the French perception of the conflict and the UK's indifferent attitude²¹¹ in the UN Security Council to the crisis has led to a failure in creating a sound EU foreign policy under the ambit of the CFSP to the Rwandan crises. The CFSP response has remained muted because of the lack of coordination between the member states and member states differing perceptions of the conflict. Therefore, the member states failed to take necessary action to stop or mitigate the genocide. The Rwandan crisis proved that humanitarian assistance or economic aid is not sufficient to stop the wide-ranging human rights abuses. The EU's generous humanitarian relief effort since April 1994 contrasted sharply with its diplomatic inaction, largely due to the diverse and often opposing positions of the member states and a lack of coherence in its political approach. The EU could have played a much more active role in the conflict and arguably could have prevented the genocide, through a more coherent and concentrated foreign policy. The Rwandan case therefore demonstrates that as long as there are different perceptions and different national interests by the member states, it is very hard to create a sound foreign policy under the CFSP decision-making mechanism which is mainly intergovernmental.

²¹⁰ See L. Melvern, *A People Betrayed: The Role of the West in Rwanda's Genocide*, London, 2000 p.180.

²¹¹ David Hannay, the UK permanent representative at the UN during the Rwanda crises confirms that the British were extremely shortsighted over Rwanda. There was no British embassy there. There were no British interests. Rwanda was a long way down the list of priorities and the telegrams about Rwanda, received from British embassies in Brussels, Washington and Paris were not treated as high grade. (See L. Melvern, *A People Betrayed: The Role of the West in Rwanda's Genocide*, London, 2000 p.231).

CONCLUSION

As we have seen in the previous chapters, development and consolidation of human rights as an objective in the external relations of the EU appeared in the European Political Cooperation, the predecessor of the Common Foreign and Security Policy, in ad hoc cases. Because of the convenient international atmosphere and because of the compelling internal dynamics of the EU, development and consolidation of human rights as a codified objective of the CFSP emerged in the TEU in 1993. With the TEU, an intergovernmental decision-making system is created where the decisions are taken with unanimity.

Since its creation in 1993, CFSP has used Common Strategies, Joint Actions, Common Positions, Declarations and Démarches to reach its objectives set forth in the TEU. Fifty percent of all Joint Actions, 65 % of all Common Positions and nearly 40 % of all Declarations that were adopted between 1993 and 2001 were related to human rights. Furthermore, in that period, development and consolidation of human rights as an objective was inserted into the mandates of Special Representatives/Envoys and other autonomous instruments, like European Union Monitoring Mission and human rights dialogues, were used. In line with the TEU articles, the member states cooperated and coordinated their actions in the human rights related international organizations like OSCE and UN. The cooperation in human rights field is best viewed by examining the voting behaviour of the member states in the human rights related UN forums, like Third Committee and Commission on Human Rights. In these forums, member states generally voted alike, but in a few cases they split their votes. This trend has been derailed in the 58th Session of the Commission of Human Rights where member states split their votes on seven human rights related resolutions, much higher than before, mainly because of the different perceptions of the human rights situation in the Middle East. The split of the votes on the human rights related resolutions in the UN forums and the weak CFSP response to genocide in Rwanda has demonstrated that when the national

interests of the member states collide, it is very hard to adopt common positions and to activate the CFSP mechanism.

The overall review of the human rights activities of the CFSP brings two important facts to light. First, the human rights activities constitute the main part of all the CFSP activities. Second, when the national interests of the member states collide, it is very hard to create a policy in the ambit of the CFSP.

Why do human rights constitute the main bulk of the all CFSP activities? The answer lies in the unique character of the CFSP. CFSP is much different than the classical state diplomacy. It is compartmentalised and the traditional components of a foreign policy is missing. The external economic relations are conducted by the Commission under the first pillar and security issues are left mainly out of the CFSP ambit. Therefore the portion left to the CFSP is mainly other political-diplomatic activities out of economic and security matters. On the other hand, it is a truism to say that, human rights problems constitute one of the rare issues upon which member states generally manage to agree. As a result, in the absence of much wider diplomatic activity human rights components become very salient in the CFSP.

But the intensity of the human rights related activities of the CFSP should not imply that the CFSP creates a credible human rights protection. As we have seen in the previous chapters, due to the intergovernmental character of the CFSP, sometimes it is very hard to form a sound policy. Actually, the question of creating a credible human rights protection in the scope of CFSP goes hand in hand with the question of creating a credible foreign policy. This is no easy task. Because of 15 distinct national interests, it is very hard to sustain the coherence and to create a sustainable policy under the CFSP. The chance of elimination of the national interests in the near future is very slim, because in foreign policy making there are no internal dynamics that will favour the elimination of the national interests of the member states. Although there are many sound reasons favouring of a Common Foreign and Security Policy, the behaviour of even those countries that have been collaborating for decades does not reflect the aforesaid reasons, but rather continues to be motivated by national sentiments.²¹²

On the other hand, despite the difficulties in forming a policy, it is not right to claim that the human rights approach of the CFSP is totally

²¹² E. Barbé, *European Values and National Interests*, in A. Landau, R.G (ed.) Whitman, *Rethinking the European Union*, Basingstoke, Macmillan, 1997, pp.129-147.

disadvantageous and should be dismissed. There are strengths and weaknesses of the human rights protection under the ambit of the CFSP.

Strengths: As we have seen in the previous chapters, conducting human rights diplomacy under the CFSP ambit provides a shield effect to the member states. In the case of facing deterioration of the existing economic and political relations with the targeted country, it is much wiser to conduct the human rights policy under the ambit of the CFSP and get the benefit of the shield protection. This constitutes a significant protection if the targeted country is an important economic partner or a central player in international relations.

Apart from the shield effect, conducting human rights diplomacy under a united flag gives much more power and influence to the policy itself. The combined human rights initiative of 15 EU member states naturally makes much more impact on the targeted country.²¹³ Naturally, the chance of realizing the goals with a combined effort is much higher than individually taken initiatives.

One of the most important strengths of conducting human rights policy under the CFSP, is the option of flexibility that the second pillar provides. First of all, the actions of the second pillar are not subject to the jurisdiction of the European Court of Justice. Therefore, the member states have much wider options in terms of the policy to be conducted. It is up to the member states to choose either public or quiet diplomacy against the human rights violating countries. The choice of the policy to be conducted is very important, because it has been proved in many cases that public diplomacy sometimes might lead to failure of all human rights policy.²¹⁴ Besides, in some cases it has been proven that, using confidential diplomacy

²¹³ Hurd says: A policy which all can support, because all agree with it, carries far more weight than one where underlying dissent might all too easily be exposed. (See, D. Hurd, *Developing the Common Foreign and Security Policy*, in «International Affairs» vol.57:3, 1991, p.384).

²¹⁴ One good example for the failure of the public diplomacy is the collapse of Jackson-Vanik initiative that repudiates the whole immigration agreement between US and USSR. In April 1973, the US President Nixon proposed a comprehensive Trade Act that would have extended Most Favoured Nation (MFN) status to the Soviet Union, as a part of the linkage between trade and Soviet foreign policy restraint. However Senator Henry Jackson and Representative Charles Vanik proposed an amendment which precluded the extension of the MFN status to the Soviet Union as long as the latter continued to restrict Jewish immigration. The 45.000 quota that had been given for the Jews to migrate to US has been cancelled by USSR. The publicity had a negative impact and ended all the migration policy. (See, R. Müllerson, *Human Rights Diplomacy*, London, Routledge Press, 1997, p.106).

is much more effective.²¹⁵ This has further importance especially in the individual cases of the death penalty and torture. In those circumstances, the tools that can be used might easily lead to more human rights violations and put the lives of the victims in danger. Therefore, in these cases it is much better to pursue confidential démarches or quiet diplomacy rather than public condemnation of the targeted country. In those cases, the strength of the policy lies in its flexibility which is provided by the second pillar. Apart from the flexibility in choosing public or quiet diplomacy, another option that the second pillar provides is the flexibility in choosing the forums in which the human rights issues are voiced. The member states have a room to bring the human rights issues in multilateral forums like the Third Committee or Commission on Human Rights or to bring the attention of the targeted country in bilateral ways.

Weaknesses: The weaknesses of the human rights protection in the second pillar stems from two different sources. First of all, there is a difficulty in placing human rights protection in foreign affairs generally. Secondly, there are some difficulties deriving from the institutional weakness of the second pillar itself.

Vincent argues that there is an inescapable tension between human rights and foreign policy because of their different constituencies.²¹⁶ He argues that there is always a difficulty in conducting human rights policies and trying to promote universal values with the instruments that are defined to protect national interests. It is a fact that, the more protection and promotion of human rights permeate into international relations and into daily conduct of foreign policy, the more allegations of hypocrisy rises because of the inconsistent human rights actions of the states.

Apart from this difficulty, there are some weaknesses in the human rights protection of the CFSP, mainly deriving from the intergovernmental character of the CFSP. As we have seen in the previous chapters, the different national interests or different perceptions of the member states might lead to a failure in determining a common policy in the CFSP ambit. The strength of the common policy that is adopted by 15 member states can

²¹⁵ The activities of the High Commissioner on National Minorities of the OSCE are a good example of the success of confidential human rights diplomacy. He rarely condemns and accuses but often recommends governments to adopt different measures, offers good offices and praises governments even for minor progress made in the domain of minority issues. (See, R. Müllerson, *Human Rights Diplomacy*, London, Routledge Press, 1997, p.198).

²¹⁶ R. J. Vincent, *Human Rights and International Relations*, Cambridge: Published in association with the Royal Institute of International Relations, Cambridge University Press, 1986, p. 129.

turn into a failure if one state finds the policy unacceptable. In the case of Rwanda, the different perceptions of the conflict led to a failure in shaping a policy under the second pillar for a long time. In the 58th Session of the Commission on Human Rights, the member states gave different reactions to the human rights abuses in the Middle East and split their votes. This is a good manifestation of the intensity of different perceptions and national interests of the member states in human rights protection. In addition, the policies that are adopted might be different to the policies that the member states really want to pursue. In other words, the CFSP policies might water down the real intention of the member states in human rights protection and force them to adopt policies they do not genuinely want to follow.

Another weakness of the second pillar human rights protection is the time consuming decision-making process. As we have seen in the Rwanda case, it might take too long to adopt a common policy in time of crisis. Although this lengthy process has been shortened by the introduction of the Policy Planning and Early Warning Unit with the Amsterdam Treaty and wide use of the COREU system, when the national interests of the member states collide, the member states might fail to react to the human rights crisis which needs to be addressed immediately.

Another weakness of the human rights protection in the CFSP is the lack of field activities compare to the declaratory side of the human rights protection. The human rights related Declarations are more intense in number in comparison to the Joint Actions and Common Positions. Besides, the field work mainly relates to the human rights issues in the periphery of the EU, not cover all human rights issues. The intention of the CFSP to condemn the human rights abuses all over the world do not fit the intention of the CFSP to act in these cases. The sporadic use of the Declarations to condemn human rights violations and failure to act might diminish the credibility of the Declarations in the long run.

The lack of a human rights related Common Strategy that can mainstream human rights objectives into all aspects of EU's external policies can also be mentioned as a weakness of the human rights protection in the CFSP. The existence of a Human Rights Common Strategy might also pave the way for much more credible human rights diplomacy by ensuring coherence between the pillars. This weakness has been touched upon with the Council Conclusion of 25 June 2001.²¹⁷

²¹⁷ Council of the European Union, *Luxembourg Council Conclusion on the European Union's Role in Promoting Human Rights and Democratisation in Third Countries of 25 June 2001*, at www.europe.eu.int/comm/external_relations/human_rights/doc/gac_conc_06_01.htm

The 25 June 2001 Council Conclusion also points out the lack of appropriate structures in the Council Secretariat to provide a focal point of the human rights dimension in CFSP. A relatively small number of people working in the Council Secretariat on human rights make the mainstreaming of human rights and effective application of human rights protection much weaker.

In conclusion, the human rights components constitute the main part of the all CFSP activities. This is mainly because of the unique character of the CFSP. Besides, it is evident that creating human rights policies under the second pillar is a highly complex and tenuous process. On the other hand, as we have seen above, human rights protection in the CFSP has its own strengths and weaknesses. Therefore, we should not dismiss the human rights protection of the second pillar as a myth. There is certainly a room for further development of the human rights protection under the second pillar.

APPENDIX

(CHART A)

THE NUMBER OF HUMAN RIGHTS RELATED²¹⁸ CFSP INSTRUMENTS BETWEEN 1994/2001*

INSTRUMENT/YEAR	1994	1995	1996	1997	1998	1999	2000	2001	TOTAL
A. Press Declarations	28 (125)	37 (113)	35 (142)	42 (123)	54 (183)	44 (126)	70 (187)	60 (190)	370 (1189)
B. Declarations in the international forums	31 (56)	45 (77)	20 (28)	9 (25)	54 (97)	35 (72)	69 (171)	48 (122)	311 (648)
C. Joint Declarations	8 (8)	6 (7)	10 (22)	- (-)	13 (19)	- (1)	9 (11)	4 (6)	50 (74)
The Total Number of Declarations (A+B+C)	67 (189)	88 (197)	65 (192)	51 (148)	121 (299)	79 (199)	148 (369)	112 (318)	731 (1911)
D. Joint Actions	6 (9)	3 (9)	9 (19)	7 (15)	9 (18)	14 (25)	6 (16)	6 (11)	60 (122)
E. Common Positions	- (1)	4 (9)	4 (9)	2 (6)	10 (17)	12 (19)	13 (18)	13 (20)	58 (99)
F. Common Strategies ²¹⁹						2 (2)	1 (1)	-	3

* All the data that is used in this study is collected from the "European Foreign Policy Bulletin" which is a European University Institute Publication (<http://www.iue.it/EFPB/Welcome.html>)

²¹⁸ The chart includes the CFSP instruments which aim to develop and consolidate human rights as their first and secondary objective.

²¹⁹ The Common Strategies were created as CFSP instrument after the Amsterdam Treaty, therefore there is no Common Strategy before 1998.

(CHART B)

**THE DISTRIBUTION OF THE HUMAN RIGHTS RELATED JOINT
ACTIONS ACCORDING TO THEIR SUBJECTS BETWEEN
1994/2001**

SUBJECT/YEAR	1994	1995	1996	1997	1998	1999	2000	2001	Total
1. J. Actions related to the inauguration of international conferences	1	-	-	-	-	1		-	2
2. J. Actions related to the mandate of EUMM	-	-	-	-	-	-	1	1	2
3. J. Actions related to the appointment of the special representatives	-	-	5	2	4	9	4	5	29
4. J. Actions related to African countries	-	-	1	1	1	-	-	-	3
5. J. Actions related to Bosnia and Herzegovina	5	3	3	4	4	2	-	-	21
6. J. Actions related to the support of UNMIK	-	-	-	-	-	2	1	-	3
Total	6	3	9	7	9	14	6	6	60
Total number of joint actions	9	9	19	15	18	25	16	11	122
The percentage of the human rights related joint actions	66 %	33 %	47 %	46 %	50 %	56 %	38 %	54 %	49 %

(CHART C)
THE DISTRIBUTION OF THE HUMAN RIGHTS RELATED JOINT ACTIONS
ACCORDING TO THEIR SUBJECTS BETWEEN 1994/2001

SUBJECT/YEAR	1994	1995	1996	1997	1998	1999	2000	2001	Total
1.J.A. on support for the conveying humanitarian aid in BH	4	1							5
2. J.A. on inaugural Conference on Stability Pact	1								1
3. J.A. on EU administration of the town of Mostar	1	1	1						3
4. J.A. on implementing structures of the peace plan for BH		1	1	1	3	2			8
5. J.A. on Special Envoy for the African Great Lakes Region			3	1	1	1	2	1	10
6. J. A. on electoral process in BH			1	3	1				5
7. J. A. on Spec. Envoy for Mostar			1						1
8. J. A. on democratic process in Zaire			1						1
9. J. A. on Special Envoy for Middle East			1	1	1	2	1	1	7
10. J. A. on support for the democratic transition process in Congo				1					1
11. J. A. on. nomination of a Special Rep. to FR Y					2	2			4
12. J.A. on support for the democratic process to Nigeria					1				1
13. J.A. on Special Envoy to Kosovo						2			2
14. J.A. on Stability Pact for South-Eastern Europe						1			1
15.J.A. on UNMIK						2	1		3
16. J.A. on Special Rep. for Stability Pact for South Eastern Europe						2	1		3
17.J.A. on EUMM							1	1	2
18. J.A. on Special Representative to FYROM								3	3
TOTAL	6	3	9	7	9	14	6	6	60

(CHART D)

**THE DISTRIBUTION OF THE HUMAN RIGHTS RELATED
COMMON POSITIONS ACCORDING TO THEIR SUBJECTS
BETWEEN 1994/2001**

SUBJECT/YEAR	1994	1995	1996	1997	1998	1999	2000	2001	Total
1. C. Positions related to the African countries	-	4	2	1	4	4	6	6	27
2. C. Positions related to the Ex-Yugoslavia	-	-	-	-	3	3	5	2	13
3. C. Positions related to Asian and Pacific Countries	-		1		1	4	1	3	10
4. C. Positions related to the North and South American Countries	-	-	1	-	-	-	-	-	1
5. C. Positions related to regional and thematic issues	-	-	-	1	2	1	1	2	7
Total (A)	-	4	4	2	10	12	13	13	58
Total number of common positions (B)	1	9	9	6	17	19	18	20	99
The percentage of human rights related common positions (B/A)	-	44 %	44 %	33 %	58 %	63 %	72 %	60 %	64 %

(CHART E)

THE DISTRIBUTION OF THE HUMAN RIGHTS RELATED COMMON POSITIONS
ACCORDING TO THEIR SUBJECTS BETWEEN 1994/2001²²⁰

SUBJECT/YEAR	1994	1995	1996	1997	1998	1999	2000	2001	Total
1. C.P. on Burundi		1							1
2. C.P. on Angola		1					1		2
3. C.P. on Nigeria		2	1		1			1	5
4. C.P. on East Timor			1			1			2
5. C.P. on Burma			1			1	2	2	6
6. C.P. on Cuba			1						1
7. C.P. on Sierra Leone				1	2				3
8. C.P. on Afghanistan					1	2	1	3	7
9. C.P. on Yugoslavia					3	3	5	2	13
10. C.P. on Rwanda					1	1	1	1	4
11. C.P. on Stability Pact					1	1	1		3
12. C.P. on Ethiopia and Eritrea						1	2		3
13. C.P. on Congo						1		1	2
14. C.P. on Conflict Prevention in Africa				1				1	2
15. C.P. on International Criminal Court								1	1
16. C.P. on Human Rights in Africa					1				1
17. C.P. on Indonesia						1			1
18. C.P. on Liberia								1	1
TOTAL		4	4	2	10	12	13	13	58

²²⁰ The Common Positions related to economic sanctions are left outside the human rights related Common Positions.

(CHART F)

**THE DISTRIBUTION OF THE HUMAN RIGHTS RELATED COUNCIL DECISIONS
ACCORDING TO THEIR SUBJECTS BETWEEN 1994/2001²²¹**

SUBJECT/YEAR	1994	1995	1996	1997	1998	1999	2000	2001	Total
1. C.D. on arms embargo on Sudan	1								1
2. C.D. on ex-Yugoslavia	1	1			1	6	8		17
3. C.D. on Rwanda	1								1
4. C.D. on Burundi		1							1
5. C.D. on Mostar		2	1						3
6. C.D. on Great Lakes Region			1						1
7. C.D. on Nigeria			1	3		1			5
8. C.D. on Burma				2	3	1			6
9. C.D. on conflict prevention and resolution in Africa				1					1
10. C.D. on BH					1	2			3
11. C.D. on Congo					1				1
12. C.D. on Kosovo					1				1
13. C.D. on Stability in South-East Europe						2			2
14. C.D. on appointment Spec. Rep. on Stability Pact						1			1
15. C. D. on EUMM								4	4
16. C.D. on Togo								1	1
TOTAL	3	4	3	6	7	13	8	5	49

²²¹ The Common Positions related to economical sanctions are left outside of the human rights related Common Positions.

CHART G

THE THEMATIC INDEX OF THE HUMAN RIGHTS RELATED PRESS DECLARATIONS ²²² BETWEEN 1994-2001

REGION/YEAR	1994	1995	1996	1997	1998	1999	2000	2001	Total
Press Declarations related to the hr. abuses in African countries	17	15	14	15	29	19	24	18	151
Press Declarations related to hr. abuses in European countries	2	10	7	15	10	6	23	12	85
Press Declarations related to the hr. abuses in Asia and Pacific countries	5	7	6	6	9	13	11	13	70
Press Declarations related to hr. abuses in North and South American countries	3	2	6	6	3	4	11	13	48
Other	1	3	2	-	3	2	1	4	16
Total	28	37	35	42	54	44	70	60	370

²²² Excluding the press declarations made in the international forums.

(CHART H)

**THE NUMBER OF THE HUMAN RIGHTS RELATED
DECLARATIONS ACCORDING TO THE PRESIDENCY TERMS** ²²³

State/Instrument	PRESS DECLARATIONS (A)	DECLARATIONS IN THE INTERNATIONAL FORUMS (B)	TOTAL (A+B)
DENMARK (1 July 93-1 January 94)	28	14	42
GREECE (1 January 94- 1 July 94)	22	12	34
SPAIN (1 July 95-1 January 96)	19	28	47
ITALY (1 January 96-1 July 96)	26	13	39
IRELAND (1 July 96- 1 January 97)	18	7	25
The NETHERLANDS (1 January 97-1 July 97)	22	7	29
LUXEMBURG (1 July 1997-1 January 98)	21	4	25
UK (1 January 98-1 July 98)	30	7	37
AUSTRIA (1 July 98-1 January 99)	29	47	76
GERMANY (1 January 99-1 July 99)	23	3	26
FINLAND (1 July 99-1 January 00)	21	32	53
PORTUGAL (1 January 00- 1 July 00)	38	36	74
FRANCE (1 July 00-1 January 01)	31	33	64
SWEDEN (1 July 01-1 January 02)	38	36	74
BELGIUM (1 July 01-1 January 02)	22	17	39

²²³ Since the inauguration of the CFSP, some countries have undertaken the EU presidency once and some twice. Therefore the chart only includes the data of the last term of presidency of the member states.

(CHART I)

**THE VOTING BEHAVIOUR OF THE EU MEMBER
STATES IN THE THIRD COMMITTEE²²⁴**

	1994	1995	1996	1997	1998	1999	2000	2001
1.The number of resolutions adopted without a vote in Third Committee	58	56	50	52	52	54	52	57
2.The number of the resolutions adopted with a vote in Third Committee	12	12	12	16	7	15	12	16
3.The total number of resolutions adopted in the Third Committee (1+2)	70	68	62	68	59	69	64	73
4.The number of the resolutions in which the member states split their votes in Third Committee	4	3	1	2	1	2	1	1
The percentage of the resolutions in which the member states voted alike	94%	96%	98%	97%	98%	97%	98%	98%

²²⁴ The 57th Session of the Third Committee will be held in autumn 2002.

(CHART J)

**THE VOTING BEHAVIOUR OF THE EU MEMBER
STATES IN THE UN COMMISSION ON HUMAN RIGHTS**

	1994	1995	1996	1997	1998	1999	2000	2001	2002
1.The number of resolutions adopted without a vote in CHR	93	74	102	63	63	59	60	50	59
2.The number of the resolutions adopted with a vote in CHR	19	19	12	15	21	23	17	32	33
3.The total number of resolutions adopted in CHR (1+2)	112	93	114	78	84	82	77	82	92
4.The number of the resolutions in which the member states split their votes in CHR	4	2	-	3	3	3	2	4	7
The percentage of the resolutions in which the member states voted alike	96%	98%	100%	96%	97%	96%	97%	95%	76%

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