
ARTICLES

EU'S HUMAN RIGHTS PROTECTION POLICY

by Ewelina Cała-Wacinkiewicz

The overall objective of this paper is to outline the evolution of human rights policy in the European Union¹, with particular emphasis on the delimitation of time resulting from the entry into force of the Treaty of Lisbon² signed on 13 December 2007, which revealed how strongly law is related to politics³. Focusing on that issue is not accidental. This results from the fact that the European Union is an excellent example of an international organization whose priority aim at the moment of its creation was not the protection of human rights treated as an end in itself, and which in the course of its development has made the protection and

¹ The topic is discussed broader in the following publications: Poszanowanie praw człowieka jako ogólna zasada prawa wspólnotowego a Karta Praw Podstawowych [in:] Karta Praw Podstawowych w europejskim i krajowym porządku prawnym, ed. A. Wróbel, Warszawa 2009; Przystąpienie Unii Europejskiej do Europejskiej Konwencji o Ochronie Praw Człowieka i Podstawowych Wolności, http://ec.europa.eu/polska/news/opinie/index_pl.htm (updated: 20.06.2012).

² Journal of Law of 2009, No. 203, pos. 1569.

³ This relationship became apparent even in the context of the delayed ratification of the Treaty by the President of Poland.

promotion of human rights, “a silver thread running through all EU actions”⁴.

The specific objectives (though no less important from the point of view of the essence of human rights protection in the European Union) are: to show the systemic nature of the protection of those rights, the nature which is increasingly becoming part of the European Union, hitherto breaking somewhat the monopoly of the Council of Europe in this field; and to evaluate the European Union policy on the protection of human rights.

I. OVERVIEW OF THE EVOLUTION OF HUMAN RIGHTS PROTECTION IN THE EUROPEAN UNION – THE LEGAL ASPECT

Linking human rights with the European Union may be made without entering into discussion on human rights protection in the European Communities. This position is dictated by at least two reasons. The first is that before the establishment of the European Union, the Communities did not directly address the protection of human rights, which is shown by analysing treaties bringing them to life and the amending treaties. They only feature standard references to other international agreements adopted in this field⁵, or general statements about the role and importance of human rights⁶. The reasons for this state of affairs G. Michałowska sees in the fact that “for a consistent approach in this area political will was

⁴ Joint Communication to the European Parliament and the Council. Human rights and democracy and the heart of EU external action – towards a more effective approach. COM (2011)886 final.

⁵ As an example, one can point out appeals to the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950, or the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights of 16 December 1966.

⁶ As an example see: the Preamble to the Single European Act of 28 February 1986, (EC) OJ L 169, 29.06.1987.

missing”⁷, with which it is impossible to disagree. The second reason is that only with the moment of creation of the European Union there appeared a category of EU citizenship, which constitutes the essence of thought on human rights, and the Treaty on European Union itself adopted at Maastricht on 7 February 1992⁸ began the move away from a purely economic nature of the integration and towards its political trait, allowing, among others, the development of a common EU foreign policy. In the initial phase of the European Union activity, however, it failed to develop a legally binding act that would deal directly with human rights. A change in this respect (too apparent to be desirable because of the legal nature of the act) was associated with the adoption on 7 December 2000 in Nice of the Charter of Fundamental Rights, which was originally regarded as an act of political significance, with only a soft law status. Its non-binding nature was the main weakness of the proposed solution, but the very fact of adoption of the soft law signalled that the European Union blends in with the European system of protection of human rights, whose most energetically acting pillar was (and is) the Council of Europe, i.e. an international organization founded in 1949.

The face of human rights protection in the European Union was only truly changed with the entry into force of the Treaty of Lisbon, and along with it, the Charter of Fundamental Rights, whose legal status was drastically transformed⁹. From an act of a political status, it became a binding international agreement, gaining a normative character. Thus, this change not only covered the legal aspect (by the fact of an international agreement in this regard binding in the EU), but above all – the effective aspect (by being able to demonstrate a real and genuine commitment of the European Union to the protection of human rights). The importance of this event may certainly be highlighted by specific initiatives of the European Union for the protection of human rights, which will be discussed further

⁷ See: G. Michałowska, *Ochrona praw człowieka w Radzie Europy i Unii Europejskiej*, Warszawa 2007, p. 178.

⁸ (EC) OJ C 224, 31.08.1992.

⁹ More on this subject see: A. Wyrozumka, *Znaczenie prawne zmiany statusu Karty Praw Podstawowych Unii Europejskiej w Traktacie Lizbońskim oraz Protokołu Polsko-Brytyjskiego*, „Przegląd Sejmowy” 2008, No. 2, pp. 25–39.

below. They will show whether the Union may be a respectable, in Europe and the world, organization dedicated to protecting human rights, or whether at this stage these are only its aspirations arising from the fact that since the beginning of its existence, (including the beginning of the activity of the European Communities), it has been trying to come “out of the shadow” of the dynamically performing Council of Europe.

II. POLICY OF THE EUROPEAN UNION FOR THE PROTECTION OF HUMAN RIGHTS

The above outlined changes in the protection of human rights in the European Union have a strictly normative dimension. An attempt to assess the effectiveness of EU policy in this area requires passing from the analysis of this dimension to sample activities undertaken to build the European Union *acquis* in the protection of human rights. Adoption of legislation creates a framework (gives the legal basis) for further actions that should be filled in with their content. The changes introduced by the Treaty of Lisbon make the implementation of these actions possible, for instance in the title scope of protection of human rights.

But it should be noted that a detailed analysis of EU policy on the protection of human rights is beyond the scope of this paper. This statement forces the assumption according to which it is appropriate to refer to the European Parliament resolution of 18 April 2012 on the Annual Report on Human Rights in the World and the European Union’s policy on the matter, including implications for the EU’s strategic human rights policy¹⁰ and the EU Strategic Framework on human rights and the external policies of 25 June 2012¹¹. An analysis

¹⁰ (2011/2185 (INI).

¹¹ Council of the European Union 11855/12, EU Strategic Framework and Action Plan on Human Rights and Democracy Luxembourg, 25 June 2012, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/131181.pdf (updated: 30.09.2012).

of these acts lay at the basis of further discussion, because although they have no binding effect, they constitute a very insightful and at times critical study of the current state of the European Union policy in the area of our interest. They are especially valuable, since they relate to the most recent world affairs such as the Arab Spring or the situation in Mali, thus providing the most current EU acts of law in this field.

Focusing on their decisions – in order to organize a further discussion – various aspects of EU's human rights policy can be proposed. Their catalogue (shown below) is not of course of an exhaustive (or closed) nature, such as precluding the ability of the European Union to respond abreast to the geopolitical situation in the world.

The first of the indicated aspects will be the external aspect, in which efforts are directed at third countries. Its isolation may not surprise, as the EU has made human rights part of its external action, entering them in the EU common foreign and security policy.

Discussing the external aspect, the fact of referring to the category of human rights in the agreements adopted by the EU should be noted with special attention. As an exemplification one can indicate the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States, of the one part, and the European Community¹² and its Member States, of the other part, signed in Cotonou on 23 June 2000¹³. It states directly in art. 9 that the cooperation between its parties leads towards sustainable development centred on the human person, who is the main protagonist and

¹² What is particularly important in this context, by 2010/648/EU Council Decision of 14 May 2010 on the signing, on behalf of the European Union, of the Agreement amending for the second time the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States, of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000, as first amended in Luxembourg on 25 June 2005. (EC) OJ L 287,04.11.2010, the European Union was named the legal successor of the European Communities, therefore, now the parties in this agreement are the countries of Africa, the Caribbean and the Pacific on the one hand, and the European Union on the other.

¹³ (EU) OJ L 317, 15.12.2000.

beneficiary of development; this entails respect for and promotion of all human rights. The subject provisions indicate that human rights and their protection is an element of cooperation between the parties of the agreement. One must be aware, however, that without the institutional strengthening of protection, for example, by establishing a regulatory body for the implementation of the agreement¹⁴, such provisions are certainly important, but their importance cannot be overstated.

Another example of the implementation of the external dimension of the Union policy is the ability to include legally binding human rights clauses into the EU international agreements¹⁵. As follows from the Joint Communication to the European Parliament and the Council – Human rights and democracy at the heart of EU external action – towards a more effective approach of 12 December 2011¹⁶, the clause is the basis for cooperation in the field of human rights and the promotion of human rights for all areas covered in the scope of the agreement. It is also the legal basis of measures taken in the event human rights violations. These measures may include suspension of meetings and technical cooperation programs with the country concerned¹⁷. It should be noted however, that the European Union under-use this tool. And although the clauses are placed in the concluded agreements (it is talked about more than 120 contracts containing the clause), the Union itself calls for “bolder steps in carrying out the appropriate sanctions as stipulated in the human rights clauses of the agreement, including possible temporary suspension of the agreement”¹⁸. The Union uses such radical measures reluctantly, which is

¹⁴ Such example is provided by the functioning of the European Court of Human Rights.

¹⁵ See: European Parliament resolution of 14 February 2006 on the human rights and democracy clause in European Union agreements, (EU) OJ C 290E, 29.11.2006; European Parliament resolution of 25 November 2010 on human rights and social and environmental standards in international trade agreements (2012/C 99 E/07), (EU) OJ C 99, 03.04.2012.

¹⁶ COM(2011) 886 final.

¹⁷ Joint Communication ..., p. 11.

¹⁸ Point 26 of the European Parliament resolution of 18 April 2012 on the Annual Report on Human Rights in the World and the European Union’s policy on the matter, including implications for the EU’s strategic human rights policy (2011/2185(INI)),

the main weakness of this instrument. However, the sole idea of putting them in the concluded contracts is valuable and emphasizes the importance of human rights protection in the European Union's external relations.

As signalled above, not only does the European Union conclude international agreements relating to human rights in the scope of its *ius tractatum*, but it also puts human rights clauses in them.

In addition, through the activities of its institutions, and above all the European Parliament with powers in this respect, it also refers to the situation in third countries, often taking a clear stand on them.

Exemplification of the above are events in Belarus, in particular the case of Ales Mikhalevic and Natalia Radina¹⁹, in Pakistan – the murder of Shahbaz Bhatti, Minister for Minorities Affairs²⁰, in Uganda – the murder of David Kato²¹, in Yemen – the case of Muhammed Taher Thabet Samoum²², or the widespread practice of caning in Malaysia²³. The European Parliament also does not elide in its activities the events in Egypt²⁴ or Tunisia²⁵. This allows a positive evaluation of its activity as a body which “by making its voice heard systematically as well as urgently on the

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2012-0126+0+DOC+XML+V0//EN> (updated: 20.04.2012)

¹⁹ European Parliament resolution of 10 March 2011 on Belarus (in particular the cases of Ales Mikhalevic and Natalia Radina), (EU) OJ C 199E, 07.07.2012.

²⁰ European Parliament resolution of 10 March 2011 on Pakistan, in particular the murder of Shahbaz Bhatti, (EU) OJ C 199E, 07.07.2012

²¹ European Parliament resolution of 17 February 2011 on Uganda: the killing of David Kato, OJ C 188 E, 26.08.2012

²² European Parliament resolution of 17 February 2011 on Yemen: persecution of juvenile offenders, in particular the case of Muhammed Taher Thabet Samoum, (EU) OJ C 188 E, 26.08.2012

²³ European Parliament resolution of 16 December 2010 on Malaysia: the practice of caning, OJ C 169 E, 15.06.2012

²⁴ European Parliament resolution of 17 February 2011 on the situation in Egypt, OJ C 188 E, 28.06.2012

²⁵ European Parliament resolution of 3 February 2011 on the situation in Tunisia, OJ C 182 E, 22.06.2012

key questions of the day, (...) has taken up a leading role in promoting human rights in all the EU does”²⁶.

The second aspect, noticeable in the European Union policy on the protection of human rights, is the institutional aspect. From the standpoint of the effectiveness of EU policy in the subject scope, it is one of the most important, since the creation of specific institutions (or the cooperation with already existing ones) gives rise and provides a formal opportunity for a permanent and consistent implementation of this policy, not only by the EU itself, but also by institutions appointed for this purpose, or with whom it undertakes to cooperate.

Here come to the fore creative actions aiming to establish within the European Union institutions whose purpose is the broadly defined protection of human rights. It must be regarded that what is especially valuable is the awaited²⁷ appointment of EU Special Representative for Human Rights, which took place on 25 July 2012, and which appointed Stavros Lambrinidis²⁸ (former Minister for Foreign Affairs of Greece) to the position. One also cannot ignore the earlier acts of the appointment of the European Ombudsman, or the Personal Representative for Human Rights in the Office of High Representative of the Union for Foreign Affairs and Security Policy or the creation of the European Instrument for Democracy and Human Rights²⁹. What is also important is the functioning, in the internal structures of the main EU institutions, of dedicated organizational units dealing with the protection of human rights, as exemplified by, functioning within the Council, the Working Party on Fundamental Rights, Citizens Rights and Free Movement of Persons or the Working Party on Human Rights.

²⁶ Joint Communication ..., p. 17.

²⁷ Recommendation to the Council of 31 May 2012 on the EU Special Representative for Human Rights (2012/2088(INI)).

²⁸ Council Decision 2012/440/CFSP of 25 July 2012 appointing the European Union Special Representative for Human Rights, OJ L 200/21, 27.07.2012.

²⁹ Regulation (EC) No.1889/2006 of the European Parliament and of the Council of 20 December 2006 on establishing a financing instrument for the promotion of democracy and human rights worldwide, OJ L 386, 29.12.2006.

The institutional aspect (except from the creation actions above) is also implemented by the European Union's cooperation with institutions functioning on the international arena and international organizations. Analysis of the documents mentioned above requires the mentioning, in the first category, of the International Criminal Court, the Human Rights Council and the United Nations High Commissioner for Human Rights. In the second category, among others, the United Nations, the Council of Europe, the African Union, the Organization of American States, or even the League of Arab States.

Due to the accepted classification, two aspects of EU policy are also interesting: the personal aspect – referring to the various categories of persons protected, and also the subject aspect – which focuses on the protected matter.

The guidelines adopted by the European Union may be an examples of the first. As examples one can point the EU Guidelines for the promotion and protection of the rights of the child approved on 10 December 2007, the EU Guidelines on children and armed conflict of 16 June 2008, and the EU Guidelines on violence against women and girls and combating all forms of discrimination against them of 8 December 2008. The EU also deals with issues related to the supporting of human rights defenders, which is a relatively new trend in its activity.

The example of the second of the aspects mentioned above may be the Guidelines to EU policy towards third countries on torture and other cruel, inhuman or degrading treatment or punishment of 18 April 2008, the EU Guidelines on the Death Penalty of 16 June 2008, or the Updated European Union Guidelines on promoting compliance with international humanitarian law of 15 December 2009. Also, what is worth mentioning is the EU's interest in arms control, its attention to freedom of religion and the fight against the persecution of Christians in the world and against unequal treatment, or the striving for freedom of expression and the independence of the media.

The documents cited above, namely the European Parliament resolution of 18 April 2012 and the EU Strategic Framework of 25 June 2012, reflect the EU's human rights status. The first of these is certainly a fairly rigorous assessment of progress of the work already undertaken; the

second one outlines a coherent strategy transcribed onto the individual elements to be the basis for the EU action in the future. All of them certainly have one thing in common – the precisely formulated and expressed concept placing the European Union in the European system of protection of human rights and showing that the question of protection is at the centre of its external relations in all areas of EU policies.

III. THE SYSTEMIC NATURE OF THE PROTECTION OF HUMAN RIGHTS IN EUROPE

Until the entry into force of the Treaty of Lisbon, the treaty obligation to protect human rights in Europe had lain exclusively on the Council of Europe, which had held the mentioned protection as an objective of its activity since 1949. It had worked out a well functioning control mechanism for compliance with regulations contained in the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 (hereinafter the European Convention³⁰) implemented by the European Court of Human Rights.

This fact, however, did not change the fact that the European Union in the course of evolution, has been and is trying to strengthen the protection of human rights in its structures. However, despite the many initiatives taken in this regard, including those of a legislative nature (though not always mandatory), it has not yet lived to see the rise of – acting on its behalf and to its benefit – a regulatory body which operates directly on the observance of these rights, endowed with powers to act in the event of violations. Therefore, even in the times of the activity of the European Communities one could see the postulates for their accession to the European Convention³¹. However, in the absence of a normative basis for this, it was not possible. This situation changed dramatically due to the entry

³⁰ Journal of Law of 1993, No. 61, pos. 284.

³¹ X. Groussot, T. Lock, L. Pech indicate that the first proposals were reported in the late 70s. See by these authors: EU Accession to the European Convention on Human Rights: a Legal Assessment of the Draft Accession Agreement of 14th October 2011, „Policy Paper – European Issues” 2011, No. 218, p. 2.

into force of the Treaty of Lisbon, which in art. 6, paragraphs 2 and 3 provided a formal opportunity (even a need) for the EU accession to the European Convention³², whose fundamental rights were established *ex lege* as part of the European Union law, assigning them the status of general principles of law³³. Similar changes were contained in art. 17 of Protocol No 14 to the European Convention changing the control system of the Convention signed on 13 May 2004 and which did not enter into force until 1 June 2010³⁴.

The essence of the accession was expressed in the European Parliament resolution of 15 December 2010, according to which the EU's accession to the European Convention will provide a minimum level of protection of human rights and fundamental freedoms in Europe. It will also provide an additional mechanism for enforcing human rights, namely the possibility of appealing to the European Court of Human Rights in the event of violation of the rights covered by the Convention, committed by EU institutions or a Member State implementing the EU legislation³⁵. Cur-

³² It is widely commented upon in both Polish and foreign subject literature. See for example: Ochrona praw podstawowych, ed. J. Barcz, Warszawa 2008, A. Dziegiel, Przystąpienie Unii Europejskiej do Konwencji o ochronie praw człowieka i podstawowych wolności – unifikacja standardów w zakresie ochrony praw człowieka w Europie [in:] Prawo międzynarodowe – Problemy i wyzwania, ed. J. Menkes, Warszawa 2006, A. Gajda, Przystąpienie UE do EKPCz i inkorporacja Karty Praw Podstawowych do prawa UE a umocnienie ochrony praw podstawowych w III filarze UE [in:] Ochrona praw podstawowych w Unii Europejskiej, ed. J. Barcz, Warszawa 2008; W. Weiß, Human Rights in the EU: Rethinking the Role of the European Convention on Human Rights after Lisbon, „European Constitutional Law Review” 2011, Vol. 7, Issue 01, J. Callewaert, The European Convention on Human Rights and European Union law: a long way to harmony, „European Human Rights Law Review” 2009, No. 6, P. Douglas-Scott, A Tale of Two Courts: Luxembourg, Strasbourg and the Growing European Human Rights Acquis, „Common Market Law Review” 2006, Vol. 43, Issue 3.

³³ For further reflections on this subject see: E. Cała-Wacinkiewicz, Poszanowanie praw człowieka jako ogólna zasada prawa wspólnotowego..., pp. 105–116.

³⁴ Journal of Law of 2010, No. 90, pos. 587

³⁵ European Parliament resolution of 15 December 2010 on the situation of fundamental rights in the European Union (2009) – effective implementation after the entry into force of the Treaty of Lisbon (2009/2161(INI)). www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2010-0483&language=EN (updated: 20.09.2012).

rently there is a gap in this area in the fact that you cannot sue the European Union itself for human rights violations, but only the state which is only indirectly responsible for them, which gave rise to the support actions of the discussed accession.

In this position, one can discern the axiological foundations such as the need for a comprehensive and full protection of human rights, serving to respect their dignity, democratic values and citizenship. They are also – in themselves – arguments for the systemic regulation of human rights protection. Although this accession has not yet happened³⁶, it is to be “a strong signal concerning the coherence between the Union and the countries belonging to the Council of Europe and its pan-European human rights system”³⁷. This statement shows the apparent need for the systemic (or complex³⁸) protection of human rights in Europe, which is a guarantor of the proper protection of rights of an individual.

That consistency can be understood as the need for communication between the subsystems operating in Europe, i.e. the subsystem of the Council of Europe and the European Union. Their merging through the EU accession to the European Convention will serve to reinforce the European system of human rights protection by implementing the demand for consistency in the protection of fundamental rights in Europe. The proposed approach captures the *in genere* essence of the horizontal approach to the systemic nature of human rights protection, performed by legal cooperation between two organizations which are subjects of international law with equal rights, and therefore in a landscape layout.

³⁶ This process raises many questions of a legal and political character, hence the lengthy negotiations on the accession agreement, which will be signed by the European Union on one side and 47 members of the Council of Europe on the other.

³⁷ European Parliament resolution of 19 May 2010 on the institutional aspects of the accession of the European Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms (2009/2241(INI), <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2010-0184+0+DOC+XML+V0//EN> (updated: 20.04.2012).

³⁸ For the fact that “after Lisbon” the protection of fundamental rights will become more complex see N. O’Meara, A More Secure Europe of Rights? The European Court of Human Rights, the Court of Justice of the European Union and EU accession to the ECHR, “German Law Journal” 2011, Vol. 12, No. 10, p. 1832.

This consistency is all the more understandable that the founding elements of both organizations are democratic values.

In the vertical approach though, and we can speak of a multi-level system. R. Grzeszczak puts emphasis on it, speaking of the multi-level protection of fundamental rights, which, he believes, is settled on the state system, the EU system and the international law system³⁹. In this context, it would be more appropriate to point to the European context (in place of the EU one), as it is in Europe where system solutions are undertaken, solutions serving to enhance the effectiveness of the protection of rights of the individual. The EU protection seems to be still in the creation phase.

This multi-levelness is also indicated in the documents of the European Parliament, which emphasizes the emergence of a new multi-level system of protection of fundamental rights, deriving it from many sources, including the legally binding Charter, the rights guaranteed under the European Convention and the rights derived from the constitutional traditions of Member States and interpretations of these in conformity with the European Court of Human Rights and the Court of Justice⁴⁰. Here, in turn, emerges a multi-level relationship with the European law (the Charter and the Convention) in relation to a national law (constitutions of the states and the interpretation of law), that is, in the horizontal layout. It should be emphasized that this position is not about the comparative valuation of these levels of the system – but about their coherence, and complementarity, and also mutual exclusion of competition between them.

An interesting approach to the systemic human rights protection is also, presented in some EU documents, the concept of a joined up approach⁴¹, whereby the European Union “is committed to putting human rights and democracy at the centre of its external action, as a “silver thread” running through all that it does. The Treaty on European Union

³⁹ R. Grzeszczak, *Karta Praw Podstawowych w europejskim i krajowym porządku prawnym*, ed. A. Wróbel, Warszawa 2009, p. 62.

⁴⁰ European Parliament resolution of 15 December 2010 on the situation of fundamental rights in the European Union (2009) – effective implementation after the entry into force of the Treaty of Lisbon (2009/2161(INI), OJ C 168 E, 15.06.2012.

⁴¹ Therefore, for instance, Joint Communication ..., pp. 10–11.

makes clear that human rights and democracy are guiding principles for all the EU's actions. There is scope to be more joined up across the wide range of EU policies, so that together they achieve their full impact"⁴². This joined up approach is characterized by the fact that "all actions developed in the framework of these policies (including measures taken by Member States implementing them within their respective areas of competence) must continue to be fully compatible with the respect, protection and promotion of human rights"⁴³.

Locating human rights "at the centre of" the European Union's activities in the frames of multipurpose comprehension and naming of, in fact, the same goal to increase the effectiveness of EU human rights protection seems to be not only a measure favourable from the perspective of the individual, but also the whole European community. Therefore, whether we talk about the "systemic", "complex", "multilevel" and finally "joined up" approach, it is – in short – just a matter of semantics. There is no doubt that the EU has started to seek the status of a significant international organization that works to protect fundamental rights.

IV. SUMMARY

Referring to the above and making the evaluation of the European Union policy on the protection of human rights, it must be emphasized that although they are important, they are still are not understood as the "*raison d'être*" of the European Union⁴⁴. This is because it still remains an integrative organization of mainly economic nature.

However, the fact that the European Union with its actions fits into the implemented post-war human rights protection not only through political declarations, but through concrete actions of an external, as well as institutional, nature, shows that it increases in force in the protection in

⁴² Joint Communication..., p. 10.

⁴³ Joint Communication..., p. 10.

⁴⁴ A. Von Bogdandy, The European Union As A Human Rights Organization? Human Rights and the Core of the European Union, „Common Market Law Review” 2000, No. 37, p. 1338.

question. And perhaps treating it as a “human rights organizations⁴⁵” is a bit premature, but it is clear from the *Bosphorus* judgment⁴⁶ that the European Court of Justice refers not only to the European Convention, but also to the jurisdiction of the European Court of Human Rights, which causes the recognition, in the existence of an equivalent human rights protection in the Union law, of the presumption of conformity with the Convention under certain circumstances⁴⁷.

The said recognition confirms that the European Union action cannot fail to be appreciated. Its accession to the European Court of Human Rights will fasten the system of human rights protection in Europe and the significance of this fact cannot be overstated. Certainly the success of the EU human rights protection depends not only on the introduction of human rights protection mechanisms (as mentioned), but mainly on their enforcement⁴⁸. And the European Union is able to be provided with it by the European Court of Human Rights, who has a long-established status and years of jurisprudence prestige.

Abstract

The overall objective of this paper is to outline the evolution of human rights policy in the European Union⁴⁹, with particular emphasis on the delimitation of

⁴⁵ Term after: A. Von Bogdandy, *The European Union...*, p. 1307.

⁴⁶ The European Court of Human Rights' Judgment in the Case of *Bosphorus Hava Yollari Turizm ve Ticaret Anonim Şirketi (Bosphorus Airways) v. Ireland*, [GC] No.4503/98, ECHR 2005-VI.

⁴⁷ Discussion document of the Court of Justice of the European Union of 05 May 2010 on certain aspects of the accession of the European Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms, http://curia.europa.eu/jcms/upload/docs/application/pdf/2010-05/convention_en_2010-05-21_12-10-16_272.pdf (updated: 20.09.2012).

⁴⁸ The emphasis on implementation put: T. Ahmed, I. de Jesús Butler, *The European Union and Human Rights: An International Law Perspective*, „The European Journal of International Law” 2006, Vol. 17, No.4, p. 801.

⁴⁹ The topic is discussed broader in the following publications: *Poszanowanie praw człowieka jako ogólna zasada prawa wspólnotowego a Karta Praw Podstawowych* [in:]

time resulting from the entry into force of the Treaty of Lisbon⁵⁰ signed on 13 December 2007, which revealed how strongly law is related to politics⁵¹. Focusing on that issue is not accidental. This results from the fact that the European Union is an excellent example of an international organization whose priority aim at the moment of its creation was not the protection of human rights treated as an end in itself, and which in the course of its development has made the protection and promotion of human rights, “a silver thread running through all EU actions”⁵².

The specific objectives (though no less important from the point of view of the essence of human rights protection in the European Union) are: to show the systemic nature of the protection of those rights, the nature which is increasingly becoming part of the European Union, hitherto breaking somewhat the monopoly of the Council of Europe in this field; and to evaluate the European Union policy on the protection of human rights.

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⁵⁰ Journal of Law of 2009, No. 203, pos. 1569.

⁵¹ This relationship became apparent even in the context of the delayed ratification of the Treaty by the President of Poland.

⁵² Joint Communication to the European Parliament and the Council. Human rights and democracy and the heart of EU external action – towards a more effective approach. COM (2011)886 final.