

Policy Department External Policies

THE EU-IRAN HUMAN RIGHTS DIALOGUE

HUMAN RIGHTS

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Abstract:

The briefing paper is divided into four main sections which aim to describe the dialogue process and to submit recommendations for future implementation of the dialogue approach. The first section gives a brief introduction to the historical background for initiating the dialogue with Iran. The second section examines the dialogue itself with regard to its format, participants, methodology, content and timescale. The third section provides a brief overview of the positive and negative results of the dialogue in relation to the set EU benchmarks and finally the fourth section consists of the recommendations put forward by the Danish Institute for Human Rights for future human rights dialogues.

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Introduction

At the request of the European Parliament the following briefing paper will examine the EU-Iran human rights dialogue from 2002 until 2004. The briefing paper is limited to this period only. The dialogue has been frozen since 2004. The EU has remained willing to continue the dialogue with Iran and has on several occasions tried to do so.

The briefing paper will not take into consideration the broader framework of the EU-Iran relations.¹ Furthermore, the briefing paper is based on DIHR's own experience at the Roundtable sessions. It does not include the confidential inter governmental part of the dialogue.

The briefing paper is divided into four main sections which aim to describe the dialogue process and to submit recommendations for future implementation of the dialogue approach. The first section gives a brief introduction to the historical background for initiating the dialogue with Iran. The second section examines the dialogue itself with regard to its format, participants, methodology, content and timescale. The third section provides a brief overview of the positive and negative results of the dialogue in relation to the set EU benchmarks and finally the fourth section consists of the recommendations put forward by the Danish Institute for Human Rights for future human rights dialogues.

¹ For instance the EU co-sponsoring of an UNGA resolution over the last three years, or the funding to EIDHR projects.

1. Legal Basis and Historical Background

1.1. Legal basis for entering the dialogue

One of the essential EU objectives is to uphold the universality and indivisibility of human rights – civil, political, economic and cultural². In accordance with this goal the European Union has for a number of years been involved in defending and promoting human rights not only in Europe but also in third countries such as Iran. This objective is also reflected in the EU treaties³ which form the legal basis for EU work on promoting and defending human rights. In connection with the specialized human rights dialogues the treaty articles concerning the Common Foreign and Security Policy (CFSP) in particular set the legal basis for initiating the EU-Iran human rights dialogue in 2002.

In article 11 of the Treaty on European Union it is stated that one of the CFSP objectives is ‘to develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms’⁴. Furthermore, in respect of development cooperation it is stipulated that, ‘community policy in this area shall contribute to the general objective of developing and consolidating democracy and the rule of law, and to that of respecting human rights and fundamental freedoms.’⁵

In reference to the legal basis and international commitments, the EU has begun specialized dialogues on human rights with China and Iran on decisions undertaken by the EU Council of Ministers for General Affairs and External Relations. The dialogue with China has been going on for more than ten years, whereas the dialogue with Iran started in 2002 and was then suspended in 2004.

Before the initiation of these dialogues, both Iran and China had been criticized in the United Nations for their human rights record⁶ and significant improvements were therefore expected if the dialogues were to be regarded as successful.

Since 2001 the EU has institutionalized the use of dialogue on human rights as part of the EU cooperation with third countries. Objectives on human rights and democracy have become an integrated part of EU foreign policy and concrete initiatives in third countries. This focus led in 2001 to the development of specific EU Guidelines⁷ on human rights dialogues which from then on set the terms for *when* and *how* to establish a human rights dialogue as well as objectives and evaluation criteria. The dialogue with Iran in 2002 was the first dialogue to be established in accordance with the EU Guidelines on Human Rights dialogues.⁸

² As reaffirmed by the 1993 UN World Conference on Human Rights in Vienna. At this conference the international community for the first time agreed upon a common plan of action for the implementation of human rights.

³ The Treaty on European Union (TEU) and the EC Treaty.

⁴ Article 11 of the Treaty on European Union. See Foreign policy: aims, instruments and achievements: http://www.europarl.europa.eu/facts/6_1_1_en.htm and The European Union’s role in promoting human rights in third countries: <http://europa.eu/scadplus/leg/en/lvb/r10101.htm>

⁵ Article 177 of the EC Treaty. http://www.europarl.europa.eu/facts/6_1_2_en.htm

⁶ Iran had been the subject of several UN resolutions going back to 1982. Dr. Ineke Boerefijn, Netherland Institute of Human Rights: Column, Human Rights Dialogues. Netherlands Quaterly of Human Rights, Vol. 21/1, 3-6, 2003. p. 4

⁷ Guidelines on Human Rights dialogues developed by the human rights working party (COHOM) of the European Council http://ec.europa.eu/comm/external_relations/human_rights/doc/ghd12_01.htm.

⁸ EU guidelines on Human Rights dialogues 2001, para. 6: Procedure for the initiation of human rights dialogues.

1.2. Historical background of the EU-Iran dialogue

In June 2002 the EU announced that it would begin negotiating a Trade and Cooperation Agreement (TCA) with Iran. These negotiations were to be accompanied by a political agreement as it was made clear that the deepening of economic and commercial relations between the EU and Iran should be matched by similar progress in all other aspects of relations with Iran. The shifting political background of EU-Iran relations at this time was the victory of the reformist coalition in Iran during the parliament elections in 2000⁹.

In particular, the EU was expecting significant positive development on four specific areas of concern, i.e. human rights, non-proliferation of weapons of mass destruction, combating terrorism and the Middle East Peace Process. The human rights situation in Iran was supposed to be one of the factors determining future progress in EU-Iranian relations.

These considerations resulted in a visit by an EU delegation of experts, between 30 September - 2 October 2002, led by Commissioner Christopher Patten, on the initiative of the Danish EU Presidency. The purpose of the visit was to examine the possibility of establishing a specific EU-Iran dialogue on human rights in accordance with the EU Guidelines.¹⁰ Following its visit, the delegation presented a report, recommending the initiation of a human rights dialogue with Iran. The report further recommended that the dialogue be led by government representatives, but also that it includes representatives from civil society, national human rights institutions, from the courts as well as academics.

Based on these recommendations and discussions with Iranian officials, the EU Council of Ministers decided on 21 October 2002 to engage in a formal human rights dialogue with Iran. The decision to approach human rights issues through dialogue was not a new one. The recommendations which led up to the EU-Iran dialogue were based on the experience of the EU-China dialogue, which had contributed considerably to raising human rights awareness in China and resulted in a number of bilateral projects addressing human rights issues such as torture, the death penalty, and fair trial. Even when it came to Iran there had been several bilateral dialogue processes before the initiation of the EU-Iran dialogue. For example, the bilateral dialogue between Denmark and Iran, which was initiated in 2001, and the EU-Iran dialogue actually took place during the Danish Presidency, which could use the experience from the bilateral dialogue.¹¹

⁹ The parliament elections on February 18, 2000 was a great victory for the reformist wing lead by President Hojatoleslam Muhammad Khatami-Ardakani.

¹⁰ In the EU Guidelines on Human Rights dialogues it is clearly stated that: 'Any decision to initiate a human rights dialogue will first require an assessment of the human rights situation in the country concerned.' Para. 6.1.

¹¹ The human rights dialogue was based on the cooperation between the Danish Institute for Human Rights and the Islamic Human Rights Commission. Germany and Finland were also among the European countries which were engaged in similar human rights dialogues with Iran.

The EU-Iran dialogue was initiated with some general objectives¹² in mind, but the overall EU objective for embarking on a human rights dialogue was to bring about concrete improvements in the human rights situation in Iran including the signing, ratification and further implementation of international human rights conventions¹³.

In regard to EU policy towards Iran, the decision was historic because it departed from the critical dialogue which the EU had supported during the 1990s¹⁴. The opportunity to establish the dialogue came about because of mutual agreement on the format, structure and terms of the dialogue between Iranian officials and the EU.

¹² The more general objectives of the dialogue were stipulated in the EU Guidelines on Human Rights dialogue, and are as follows: a) discussing questions of mutual interest and enhancing cooperation on human rights *inter alia*, in multinational fora such as the United Nations. b) registering the concern felt by the EU at the human rights situation in the country concerned, information gathering and endeavoring to improve the human rights situation in that country. EU guidelines on Human Rights dialogues, Council of the EU – 13 December 2001, para. 4: Objectives of human rights dialogues.

¹³ Council Conclusions, 21 October 2002. Para. 2

¹⁴ The EU dialogue process with Iran started in 1992 with the critical dialogue which, after a short interruption, was resumed in 1998 under the name of comprehensive dialogue. These dialogues were restricted to the political level and the areas of concern in the dialogues were not limited to human rights. The other areas of concern were: Iranian refusal to revoke the fatwa against the writer Salman Rushdie; Iranian involvement in international terrorism; and the Iranian position on the Arab-Israeli peace-process. European Council in Edinburgh, 11-12 December 1992, Conclusions of the Presidency, European Council, RAPID, DOC/92/8, para. 15.

2. The EU-Iran dialogue format

The development of EU Guidelines formed a fundamental framework for the initiation of the EU-Iran dialogue and also for the format of the dialogue. The format was furthermore based on the recommendations from the EU expert delegation report and lessons learnt from other human rights dialogues. The format and structure of the dialogue was finally decided upon in mutual agreement between European and Iranian officials.

2.1. *The role of The Danish Institute for Human Rights*

The Danish Institute for Human Rights (DIHR) served during the entire dialogue as a secretariat and lead executor of the dialogue which was managed jointly by the EU Troika and the secretariat. The DIHR was primarily the organizer and facilitator of the expert side of the dialogue meetings, and at each Roundtable session two representatives from the secretariat were present, functioning both as experts and administrative coordinators.

As secretariat, the DIHR was in charge of developing the Roundtable meeting agenda and selecting and inviting participants as well as organising the day-to-day management of related activities. The DIHR was furthermore responsible for suggesting various topics for discussion at the Roundtables which subsequently formed the basis of both the Iranian and European selection of topics for discussion at each meeting. The themes for discussion at the roundtables were fundamentally in accordance with the established benchmarks.

Thus, DIHR's overall objective was to ensure that the dialogue topics were innovative in order to allow the dialogue meetings to initiate progress in the areas of concern. The innovativeness of the dialogue topics was essentially secured because, through the entire process, the DIHR served as the dialogue secretariat and in that position possessed a general view of the process and the topics for discussion. The continued participation of DIHR in the role of secretariat minimized the risk of unnecessary repetition of previous discussions and thus reinforced the innovative and dynamic structure of the expert discussions. The importance of continuity in relation to the secretariat functions and participants was a lesson learnt from the EU-China dialogue where the changing presidencies responsible for the dialogue failed to choose topics for discussion which took up the themes from previous dialogue meeting. The focus was not on establishing a clear link from meeting to meeting which resulted in poor continuity. This was reflected in repetition or very little use of the results and lessons learnt from the previous meeting¹⁵. As a result, DIHR used their experience of the problems encountered in the EU-China dialogue to focus attention on the importance of continuation and innovation in the EU-Iran dialogue.

2.2. *The two levels of the dialogue*

The EU-Iran Human Rights dialogue can be divided into two different, but interdependent levels:

- 1) The *political level* – which consisted of restricted talks between representatives from the EU Troika and Iranian officials. The political meetings took place in closed sessions without independent experts.

¹⁵ Kjærøum, Morten: EU, China and Human Rights: Main Themes and Challenges, Arktikum Centre, Rovaniemi, Finland 7-8 September 1999, p. 6.

- 2) The *expert level* – which involved experts from academic human rights centres, national human rights institutions, human rights NGOs, and the judiciary but also representatives from the government and the Iranian parliament. The format of these expert discussions was Roundtable meetings.

2.2.1 The Expert Level – Methodology

The introduction of the expert Roundtable session was seen as a ‘less’ formal level of dialogue. The roundtable discussions fostered an exchange of views and discussions about specific issues. At each meeting different experts from both the Iranian and EU delegations made introductory presentations on human rights problems in both Iranian and EU societies. Following these presentations, an open discussion took place between all the participants at the roundtable.

There were several reasons for introducing the expert level to the human rights dialogue with Iran. The general reason for applying this two level structure was the overall positive experience from the EU-China dialogue format.¹⁶

Secondly, it was essentially assumed that the ‘depoliticized’ environment at the expert meetings could open up for more in-depth discussions concerning complicated human rights issues and that the presence of experts would help make the discussions more qualified and multi-faceted. A third related objective was the possible creation of networks facilitated by the DIHR secretariat; these networks could in the mid and long term become forums for fostering ongoing human rights discussions between Iranian and European experts. Through these networks the dissemination of knowledge and awareness of human rights questions may facilitate actual change in the human rights situation in Iran.

The overall objective of the Roundtable discussions was to gradually motivate the parties to explore areas where more concrete cooperation could take place. It was expected that the dialogue and the expected subsequent cooperation would gradually bring about concrete steps to improve respect for human rights and fundamental freedoms in Iran.¹⁷

2.2.1.1. Participants

An important aspect of the expert dialogues was the selection of Roundtable participants on both the Iranian and European side. It was considered important that the composition of the delegations corresponded as much as possible so that for example the participation of representatives from the police in Iran was matched by European representatives from this sector. This meant that the level of knowledge and responsibility on each area was similar on both sides, thus creating the fundamental conditions for a substantial dialogue to take place¹⁸.

¹⁶ The format characterized by introduction of an expert level is quite similar to the one applied in the human rights dialogue between EU and China and also in some of the bilateral dialogues for example the dialogue between Finland and Iran.

¹⁷ Contract on the EU-Iran dialogue between DIHR and the European Commission, 28 August 2003.

¹⁸ Taylor, Trevor, *The critical Dialogue Reconsidered* (1996). A substantial dialogue understood as adherence to two basic principles: 1) that the exchange is taking place between two entities without one side having a presumed stronger position or superior standing – the EU and Iran are dialogue partners. 2) Dialogue does not imply any missionary activity and thus does not appear a threat to either party – the outcome of the dialogue should not lead to the reluctant conversion of one to the views of the other.

For the expert Roundtables to be constructive it was considered significant that the discussions were as concrete as possible. Therefore it was important that the participants had practical knowledge of the issues concerned but also represented various approaches and backgrounds. As previously mentioned, continuity was considered an important aspect of the dialogue. Therefore some participants took part in several meetings with the objective of creating a level of continuity and an environment of trust and comprehensibility. At the same time, participants were selected on a case-by-case basis so that their knowledge corresponded to the themes being discussed as closely as possible.

The introduction of both civil society organisations and academics into the dialogue, with the aim of spreading knowledge of human rights and exchanging views and opinions, was an important part of the EU-Iran Human Rights dialogue. The expert dialogue was intended to make human rights truly universal by including experts and representatives from civil society.¹⁹ Furthermore, the representation of independent NGOs and academics in the human rights field also had the objective of enhancing the practical impact of the dialogue.²⁰

A key aspect of the expert Roundtables was the discussion of concrete and practical ways to solve a human rights issue in the current context. For example, at the first Roundtable one of the items on the agenda was the prevention of torture, and an expert made a practical contribution to the discussion of the issue by drawing attention to different ways of preventing torture. He identified the components of a multifaceted approach which included training and education of police, prison staff, and law students; enhancement of public information; effective visiting mechanism to detention facilities and justice for victims of torture.²¹ In this way the discussion about how to prevent torture did not ‘just’ stop at a political condemnation of the use of torture but ended up becoming a dialogue on possible solutions.

The experts contributed to the discussions at the level of information, research and advocacy, whereas the state representatives had the capacity to establish commitment at the political level and make improvements in the human rights situation based on the research and information provided by the experts as well as the NGOs. Therefore, the representation of state and government at the expert roundtables for the dialogue had an impact on the political part of the dialogue.

Thus, the composition of the respective delegations was seen as a crucial element for creating fruitful and constructive dialogue meetings.

¹⁹ Kjærum, Morten: EU, China and Human Rights: Main Themes and Challenges, Arktikum Centre, Rovaniemi, Finland 7-8 September 1999.

²⁰ The independence of the Iranian NGOs was at times contended. See for example FIDH, Letter to Members of the COHOM, FIDH assessment of the EU/Iran human rights dialogue, Paris, 1st December 2003.

²¹ P. Dalton, The Prevention of Torture Implementation: Education, Training and Public Information, in Discrimination and Prevention of Torture, Collected Papers from the first Roundtable Under the EU-Iran Human Rights Dialogue, Tehran, 16-17, December 2002, Copenhagen, Danish Institute for Human Rights, 2003, pp.111-132, p.121.

2.2.1.2. Cross-Participation of the European Parliament and the Majlis

Representatives from the European Parliament only participated in the third Roundtable meeting, whereas the Majlis were represented at all four Roundtables²². Thus, the objective of matching the respective participants from EU and Iran was not entirely met in regard to parliamentarians.

The impression from the participation of the European Parliament at the third Roundtable was that the ‘parliamentarians lighten up the discussions in a very good way’.²³ The positive evaluation of the participation of parliament members prompted an invitation for the fourth session, but unfortunately no members of parliament were able to attend. Instead two officials from the Human Rights Unit participated in the Roundtable.

Overall, the cross-participation of the European Parliament and Majlis was considered positive as it contributed to a political view on the expert introductions and following discussions. This helped make the sessions more dynamic and productive. Furthermore the participation of parliamentarians on both the EU and Iranian side of the Roundtable meetings helped to create greater awareness of the issues concerned in the respective parliaments. It also facilitated a greater dissemination of knowledge on human rights.

2.2.2 The Political Level

As mentioned previously the two levels of the EU-Iran dialogue, namely the expert and the political level, can be seen as interdependent but also as fulfilling various functions and layers in the dialogue structure.

Chart 1: The three layers of the dialogue²⁴

<p>General Format: Political meetings Focus: General condemnation of human rights violations Example: EU’s condemnation of the use of torture in Iran and the need for ratification of international conventions.</p>
<p>Practical and Concrete Format: Expert Roundtables Focus: How can we solve the human rights issues concerned? Example: The exchange of views on the use of torture and possible methods to prevent it.</p>
<p>Specific Format: Political meetings Focus: Very specific human rights violations Example: The request for the release of named prisoners of conscience</p>

²² The number of Iranian parliamentarians was halved between the two sessions. There were four at the first session and two at the last two roundtables. See also section 2.3 of the Briefing Paper.
²³ Evaluation paper on the third Roundtable of the expert side of the EU delegation, Prepared by Tina Johannesen 29/10/2003.
²⁴ It is important not to see the layers in the table as separate units as the topics for discussion to some extent were connected as were the end results.

As the table shows, the discussions on the political meetings or ‘government-only’ talks tended to be either very general or very specific. This left a gap in between that was filled by the expert Roundtables which, as mentioned previously, served as a forum for discussions focusing on real solutions to the more general issues. At the same time the Roundtables did not get bogged down in the very specific issues that were on the agenda at the political meetings.²⁵ The structure of each political meeting consisted of four fundamental elements²⁶:

1. An assessment of the Roundtable that had just taken place
2. Discussions about the current situation in Iran by reference to each of the EU benchmark headings
3. The EU’s request for information about individual cases
4. Preparations for the next session of the dialogue.

2.3. *Expert Roundtable Discussions – Participants, Time-scale and Themes*

2.3.1 *Participants at the Roundtables*

The following table lists the participating institutions, organizations and ministries at the Roundtables along with the number of representatives. Each delegation consisted of approximately 25 participants including one representative from the Secretariat (the dialogue coordinator) and a couple of interpreters.

²⁵ Kjærum, Morten & Johannesen, Tina: Dialog med autoritære stater, Udenrigs 2. 19 May, 2004. p. 80.

²⁶ Evaluation on the EU-Iran Human Rights dialogue by the Presidency 2004. Para 3.1

The EU Delegation:

Participants	Roundtables			
	1.	2.	3.	4.
EU Presidency	2	3	3	4
Next Presidency	2	1	3	5
Council of EU	1	1	4	1
EU Commission	2	4	2	2
EU Parliament			2	2
Judiciary	1		1	2
Bar Association		1		
Police Authority	1			1
Prison Authority				1
Academics and NHRIs ²⁸	8	7	8	7
International NGOs				
Amnesty Int.		1	1	1
FIDH ²⁹	1	1	1	
PRI ³⁰		1	1	1
Others ³¹	1	1	2	1

The Iranian Delegation:

Participants	Roundtables			
	1.	2.	3.	4.
Presidential Office	1	1	1	1
Ministry of Foreign Affairs	2	4	5	3
Interior Ministry	1			
Parliament	4	3	2	2
Judiciary	5	3	5	7
Bar Association		1		
Islamic Human Rights Commission	3			
Others ²⁷		5	3	
Academics	10	6	5	6
Iranian NGOs				
Protection of Women's Rights	1			1
Women's Rights Society	1			1
Org. for Defence of Victims of Violence	3	2		1
The United Nations Association			2	1
Others ³²		1	4	1

²⁷ At the Second Roundtable there were five participants from the Iranian Embassy in Brussels and at the third Roundtable there were three representatives from the Mission in Brussels.

²⁸ National Human Rights Institutions were represented at all four Roundtables. There were participants from DIHR at all four Roundtables. The German Institute for Human Rights and The Netherlands Institute for Human Rights participated in several meetings.

²⁹ Fédération Internationale des ligues des Droits de l'Homme

³⁰ Penal Reform International

³¹ At the First Roundtable there was one representative from the International Rehabilitation Council for Torture Victims and at the Second Roundtable there was one participant from the International Commission of Jurists. At the third Roundtable, the NGO Human Rights Watch and a Lawyer participated. And finally at the fourth Roundtable there was one participant from the Committee for the Administration of Justice.

³² At the Second Roundtable there was one representative from the Association for the Protection of Children's Rights. At the Third Roundtable there were representatives from The House of Non-Governmental Organizations, Women Journalist Associations and The Tehran Centre for International Studies and Hamyaran Institute participated. The Association for the Protection of Migrant Women and Children participated at the Fourth Roundtable.

2.3.2. First Roundtable – Timescale and Themes

Timescale:

The very first EU-Iran dialogue Roundtable took place during the Danish presidency, between 9 until 10 December 2002, in Tehran.

Themes:

At the first Roundtable meeting two main topics were on the agenda:

- **Discrimination – relating to women, to racial discrimination and to the rights of migrants and refugees.** There were introductions to ‘The Principle of Non-Discrimination in the Field of Human Rights’, ‘Equality between Men and Women’ and ‘Foreigners, Migrant Workers and Refugees’.
- **Torture – covering the issues of: International and national legal framework, implementation, transparency and openness.** The presentations were as follows: ‘Key Elements and Developments in the International Legal Framework of Torture Prevention’, ‘The Prevention of Torture Implementation: Education, Training and Public Information’ and ‘The European Committee for the Prevention of Torture’.

2.3.3. Second Roundtable – Timescale and Themes

Timescale:

Following the first Roundtable, a second roundtable took place on 14 and 15 March 2003 in Brussels during the Greek presidency.

Themes:

The Roundtable discussion dealt with a range of topics under the heading ‘Rule of Law’ i.e.:

- **The respective roles of judges, prosecutors and defence lawyers.**
- **Interdependence of the judiciary and fair trial.**

These two related topics were covered by discussions and introductions under headings such as: ‘The Historical and Cultural Development of the Rule of Law in Iran’, ‘Independence and Impartiality of Judges’, ‘Organization in Bar Associations’, ‘Rule of Law: the Prerequisite for the Realization of Human Rights Hierarchy of Legal Sources and Judicial Supervision’, ‘Fundamental Rights to be observed by Judicial Police in Performing their Duties’, and ‘Philosophy of the Constitution of the Islamic Republic of Iran: the Unchangeable Principles’.

2.3.4. Third Roundtable – Timescale and Themes

Timescale:

The third Roundtable was scheduled to take place in Tehran on 15 and 16 September 2003, but it was postponed and in the end the venue was moved to Brussels because of Iranian opposition to the participation of certain international NGOs³³. The third Roundtable discussion took place on the 8 and 9 October 2003 in Brussels during the Italian presidency.

Themes:

The two topics for discussion were:

- **Freedom of expression with special attention to the freedom of expression of MPs.** The discussions on this topic took its point of departure from introductions under headings such as: ‘The Rights to Freedom of Expression’ and ‘Freedom of Expression of Parliamentarians: The Case of the European Parliament’.
- **The right to development.** This issue on the agenda was also covered by a number of presentations such as ‘The Right to Development: A New Platform for International Cooperation in the Field of Human Rights’, ‘A Rights-Based Approach’ and ‘A Discussion on the Implementation of the Right to Development’.

2.3.5. Fourth Roundtable – Timescale and Themes

Timescale:

The fourth roundtable took place in Tehran on 14 and 15 June 2004 under the Irish presidency.

Themes:

The two main topics for discussion at the Roundtable were:

- **The administration of justice (police, prisons, judicial system).** The issue was covered by the following expert introductions and discussions: ‘Policing and Human Rights Northern Ireland: A Case Study’ and ‘Human Rights in Prison’.
- **Stepping up cooperation and solidarity in the field of human rights.** The presentations on this topic focused on issues such as: ‘Collective International Responsibility in the Full Realization of Human Rights Through International Cooperation, The UN Mechanisms and Regional Systems, State Reporting to UN Bodies: Experience in Germany’.

³³ FIDH, Paris 15 September 2003. Two international human rights NGOs could not obtain visas for Iran, i.e. Amnesty International and Human Rights Watch.

3. Results and Impact

The following section will examine the results and impact of the EU-Iran dialogue. It is difficult of course to point out concrete results for a human rights dialogue which consisted of only four sessions and lasted just two years. However, in this section of the briefing paper the objective is to identify some results which are related to the dialogue and should be seen in relation to the benchmarks which are the focus of the following section.

3.1. Benchmarks

The EU-Iran benchmarks related to a number of distinct topics in which Iran had established a commitment to achieve progress, and the EU had established a commitment of support to such progress. The benchmarks were set at the highest level and therefore reflected an ideal situation of full and guaranteed respect of human rights and the rule of law.

Listed below are the eight headlines for the EU-Iran dialogue benchmarks³⁴.

- Relations with the International Human Rights System and Conventions
- Openness, Access and Transparency
- Civil Rights and Political Freedoms
- The Judicial System
- Prevention and Eradication of Torture
- Criminal Punishment
- Discrimination
- The Prison System

While the meetings were taking place, a number of conclusions were reached by the Council, Academics and NGO representatives etc. regarding the dialogues, and in 2004 a more detailed evaluation³⁵ was made in accordance with the EU Guidelines and the benchmarks listed above.

In 2002 the EU Council stressed that the human rights dialogue with Iran was ‘to bring about concrete improvements in the respect for human rights and fundamental freedoms.’³⁶ Expectations for the results of the dialogue were therefore very high, and real changes in Iranian society were expected to happen as a result of direct and positive action from the Iranian government on human rights issues.

3.2. Evaluation of the Administration of the Dialogue

As mentioned previously, the administrative part of the dialogue was mostly delegated to the DIHR which functioned as the dialogue secretariat and the following section lays out some thoughts on this administration of the dialogue.

³⁴ For a more elaborate description of each benchmark and development see the Evaluation of the EU-Iran human rights dialogue by the Presidency 2004. para 1.2 and para. 2.

³⁵ The evaluation was based on a number of sources: Heads of Mission in Tehran, UN special mechanisms that have visited or have communicated with Iran recently, Council Secretariat reports of EU Troika dialogue meetings, interested human rights NGOs and other civil society participants in the roundtables with Iran.

³⁶ Council Conclusions, 21 October 2002. Para. 2

First of all the EU-Iran dialogue process was characterized by extreme politicisation. From the very beginning there were polarized opinions about whether or not a dialogue should even be initiated, and the commitment of the Iranian government to make substantial changes in the human rights situation³⁷ was questioned. The politicised environment did not make it easier to manage and administer the human rights dialogue and as a result there were constant delays and problems with obtaining visas and agreeing on who would participate in the Roundtable meetings. It was obvious, for instance, that the Iranian side was opposed to the participation of certain NGOs³⁸.

In this regard the use of a Secretariat may have had a positive aspect in relation to the time spent on coordination and the long-term effect of trying to achieve goals.

On the positive side, one could stress the continuity of the administrative functions which, as pointed out previously, helped secure the innovativeness of topics as well as a high level of knowledge from the participating experts. Nevertheless, it is stated in the 2004 evaluation that a greater knowledge of the Iranian society and laws could have further enhanced the quality of the discussions³⁹.

3.3. Steps towards Improvements

When it comes to the direct and concrete short-term results of the dialogue, several participants recognized some tendencies towards improvement of the human rights situation and cooperation from the Iranian government during the dialogue process.

This is reflected in the Council's first conclusions on the EU-Iran Human Rights dialogue on 18 March 2003, where the EU Foreign Affairs Ministers 'welcomed the commitment expressed by the government of Iran to strengthening respect for human rights in the country and to promoting the rule of law'⁴⁰ and Commissioner Christopher Patten also on a later occasion underlined the need for the dialogue and progress in certain areas of concern.⁴¹

Here is a list of some of the positive results of the dialogue:

- The open invitation extended by the Government of the Islamic Republic of Iran to all human rights thematic mechanisms in July 2002.
- The visit of the working group on Arbitrary Detention of the Commission on Human Rights to the Islamic Republic of Iran in February 2003 and its subsequent report.
- The visit of the Special Rapporteur of the Commission on Human Rights on the promotion and protection of the right to freedom of opinion and expression to the Islamic Republic of Iran in November 2003 and the scheduled visit of the Working Group on Enforced Disappearances of the Commission in February 2004.

³⁷ One argument against initiating a dialogue was that a dialogue process of dialogue could help legitimize the Iranian regime and its continuing human rights violations. Before the initiation of the dialogue, the NGO FIDH expressed the concern that Iran was not committed to making real changes in relation to human rights, and they listed a number of human rights violations. FIDH, Letter to Members of the COHOM, Paris, 23. September 2002.

³⁸ For example Amnesty International and Human Rights Watch.

³⁹ Evaluation of the EU-Iran human rights dialogue by the Presidency 2004. Suggested improvements for the Roundtables. Para 2.

⁴⁰ Council Conclusions, 18. March 2003.

⁴¹ Christopher Patten, 12. February 2004, Reply to EP debate on Iran.

- The recommendation by the head of judiciary of the Islamic Republic of Iran to judges that they choose alternative punishment in cases where the sentence of stoning would otherwise be imposed.
- Intense discussions took place in Majlis and on other levels about the ratification of CEDAW and CAT⁴². Even though the Council of Guardians blocked the decision, there were efforts by other forces in society that could contribute to growing knowledge and political will to ratify the conventions.

Apart from the results which are listed above, the dialogues also had a less direct impact. The dialogue contributed to establishing networks between European and Iranian organizations, institutions and academics. These networks can in time create mutual insight into European and Iranian society and promote the exchange of views and ideas. This exchange may in time lead to positive development relating to the social structure and conditions of Iranian society which are often the cause of human rights violations in the country. In this way the dialogue may play a role in creating forums where it is possible to speak freely about human rights issues, and where ideas for possible solutions can be discussed. This may also lead to a strengthening of the fundament for democratic development.⁴³

From a more basic viewpoint, it can also be stated that the mere existence of the dialogue marks an improvement, especially when it is considered as a step in the framework of a mid and long term process towards improvements in the human rights situation. The NGO Penal Reform International which participated in the dialogue meetings stated that ‘Iranian officials discussing human rights with foreigners can in itself be viewed as a positive step as the discussions can help Iranians become more confident and open towards European and Western countries.’⁴⁴

3.4. *Absence of Change*

Considering the hopes that the EU put into this dialogue, the results achieved and reported by the council in its conclusions of 13 October 2003 can be seen as somewhat disappointing. Although appreciating ‘the frank and constructive atmosphere during the third Roundtable’⁴⁵ and some positive initiatives undertaken by the Iranian government, the EU at this time expressed deep concern about the human rights situation in Iran.

In the 2004 evaluation it was concluded that ‘other than certain openness up until now to allowing visits by the human rights mechanisms of the UN (though not to implementing their recommendations), there has been very little or no progress at all by the Iranian authorities measured against the EU benchmarks.’⁴⁶

⁴² CEDAW – Convention for the Elimination of all Forms of Discrimination against Women. CAT – Convention against Torture and Other Cruel, Inhuman and degrading Treatment or punishment.

⁴³ Kjørum, Morten: Discussion article, Hvad nu med Iran? Danish newspaper Politiken, 4 June, 2003.

⁴⁴ Zarir Merat, Penal Reform International (PRI), Notes on the EU - Iran dialogue 8-9 October 2003, Evaluation on the continuation of the dialogue after the third dialogue meeting.

⁴⁵ EU Council Conclusions 13 October 2003. Para. 2

⁴⁶ Evaluation by the Presidency of the EU-Iran human rights dialogue 2004 p. 2.

It is clear from the Council's conclusions, the 2004 Evaluation and International NGOs⁴⁷ that there were several reasons to be very concerned about the human rights situation in Iran. The fact is that there has been hardly any progress in improving the situation during the structured dialogue process⁴⁸.

The 2004 evaluation even goes as far as to conclude that the human rights situation in some areas of concern has deteriorated during the time leading up to and since the Parliamentary elections of February 2004⁴⁹.

Despite this, it is stressed in the Council Conclusions in 2004 'that the EU finds that the dialogue approach remains one of the means by which the EU can make a contribution to improving the human rights situation.'⁵⁰

⁴⁷ For example the Human Rights NGOs FIDH, Amnesty International and Human Rights Watch.

⁴⁸ For more detailed information about the developments in the human rights situation in Iran during the dialogue period. (2002-2004) in relation to the benchmarks, see the Evaluation on the EU-Iran dialogue by the Presidency 2004 para 2.

⁴⁹ Evaluation on the EU-Iran dialogue by the Presidency 2004 para. 5

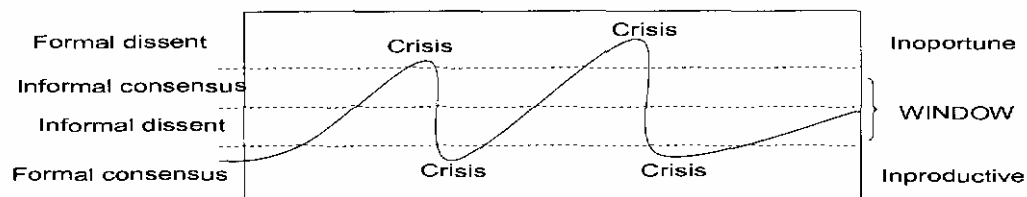
⁵⁰ EU Council Conclusions, 11. October 2004, para 7.

4. Recommendations

In a number of cases, the dialogue approach has proven to be a useful tool in promoting and defending human rights in third countries. Through human rights dialogue, it has proven possible to enter into difficult countries in order to work at improving the human rights situation and create greater stability. In that respect, dialogue opens up doors that otherwise remain closed, and the expert dialogue on human rights can create ‘windows of opportunity’ for new understandings and networks that in the mid and long term can contribute to improving the human rights situation in countries such as Iran. The expert dialogues, combined with political pressure, offer a way to target human rights issues at different levels and from different angles so that both general as well as practical solutions can be discussed.

As described in section three, the actual improvements in the human rights situation in Iran were not very significant even though there were signs of cooperation. The chart below depicts the dialogue process as following a distinct pattern.

Chart 2⁵¹: The EU-Iran dialogue process



The area signalled as ‘window’ in the chart represents the ‘window of opportunity’ to achieve consensus that will trigger change. To effectuate such change, it is crucial to have the interaction between entities of different nature (political and technical), but at the same time to recognise that these entities have different instruments to create change (delegated power and authority, respectively). The following recommendations should be seen in light of these facts about the dialogue process.

4.1. Recommendations on the dialogue structure and format

Overall, the structure and format of the EU-Iran dialogue proved to be both functional and fruitful. At the same time there was room for improvements taking into account the lessons learnt from the EU-Iran dialogue as well as other human rights dialogues.

In the following section some fundamental conditions and practical recommendations, relevant to achieving actual results from a human rights dialogue process, are outlined.

⁵¹ Chart from DIHR application 2004.

- *The importance of Commitment and Mutual Respect*

The fundamental assumption of any dialogue process is the willingness of the parties to engage in the process and abide by the commitments achieved. In the case of the EU-Iran dialogue decreasing commitment on the Iranian side, especially towards the end of the dialogue process, made it difficult to continue a substantial dialogue and to achieve concrete results⁵².

These circumstances underline the need for real commitment and mutual respect on both sides of the table for the dialogue to be constructive. In this respect it is beneficial to continue throughout the dialogue process to outline aspects of mutual respect, and recognition of achievements as part of the culture of dialogue. This is also instrumental in building confidence and credibility for the human rights focus of the dialogue.

The chances of the dialogue having any beneficial effect depend very much on political factors, specifically the question of whether human rights is a part of the country's perception of itself as a state and how the government deals with international human rights norms. Also the role and extent of the influence of civil society in the dialogue is essential because human rights dialogue must be consistent with developments in the domestic debate on the issues in the partner country.⁵³

- *The Creation of Networks and Working Groups*

A human rights dialogue such as the EU-Iran dialogue helps to create various bilateral networks which can function as forums for discussions and lead to the dissemination of knowledge on human rights issues. This aspect of a dialogue could be further enhanced if more focus was put on cooperation between the two delegations between the actual dialogue meetings. This applies to both the experts and the representatives from civil society. The creation of bilateral working groups could function as a way to enhance collaboration, help focus the dialogue and in the long term improve mutual understanding in the human rights area and lead to improvements in the human rights situation.

- *Communication to Project and Program level*

It can be advantageous to communicate the dialogue results at project and program level. The awareness of commitments achieved at the dialogue meetings can be instrumental at the project and program level. In addition, the knowledge and understanding developed at, and in relation to, the dialogue meetings can be a useful tool in the promotion of human rights.

The interaction and cooperation at project and program level is important because human rights dialogue should only be seen as one out of several instruments to defend and improve human rights. The collaboration between promoters of human rights and the use of various instruments is crucial to achieving results.

⁵² It should be added that the background to the dialogue with Iran changed in one very important aspect since the process began in 2002. When the dialogue began, a reformist movement within the Iranian government was providing a certain (if limited) dynamics for change, which the dialogue could be said to have been feeding into albeit indirectly. That, however disappeared with the elections in February 2004, and the clear change for the worse in 'atmosphere' since then was made very plain during the fourth dialogue session. The fourth dialogue session indicated that there was an increased lack of willingness on the part of the Iranian authorities to admit that there was anything wrong with the human rights situation in Iran. Evaluation on the EU-Iran dialogue by the Presidency 2004 para.5.

⁵³ Würth, Anna & Seidensticker, Frauke Lisa, *Indices, Benchmarks, and Indicators: Planning and Evaluating Human Rights Dialogues*, German Institute for Human Rights, November 2005, p. 39

An enhanced focus on the creation of networks as well as the communication and implementation of results at project and programme level are ways to further develop the dialogue approach with the aim of achieving concrete human rights improvements.

- *Improving the Interdependence of the two levels*

Communication and collaboration between the political level and the expert level of the dialogue can be improved, so that the two levels become more interdependent. Some of the issues and understanding which prevail during the expert meetings could be communicated more efficiently at the political level in order to test whether governments are willing to develop initiatives along the lines indicated by the experts. This working method could create a more dynamic interaction between the political and expert levels and substantially utilise the potential of the two dimensions with the aim of implementing concrete human rights improvements.

- *The Use of International Mechanisms*

The recommendations of the international mechanisms were taken into account in relation to the EU-Iran dialogue but it is recommended that international mechanisms play a stronger role in human rights dialogues in the future. This could help qualify the dialogues both at the political and the expert level. At every step of the planning process, human rights dialogues should make use of international reference material that is up to date with regard to the current state of the international system for the protection of human rights. These reference standards also include the country-specific recommendations of the treaty bodies and the special rapporteurs of the United Nations as well as the General Comments developed by the treaty bodies.⁵⁴

- *The Focus on Realistic Objectives and Transparency*

A criticism of the human rights dialogues, which was made before the initiation of the EU-Iran dialogue, was the lack of openness and transparency which may make it difficult for outsiders to measure the efficiency of the process. With regard to the EU-Iran dialogue, one aim was to eradicate some of the reasons for this criticism by, for example, inviting NGOs into the dialogue. It is recommended that further steps be taken in this direction and that benchmarks and targets for the dialogue be constructed as openly as possible not only to ensure that the dialogue is focused but also to enhance transparency and accountability⁵⁵.

Transparency is essential for the accountability of the dialogue but at the same time total openness towards the public is not always desirable as it can hinder the achievement of concrete results. Through openness about achieved results and commitments it is possible to make the politicians responsible accountable but at the same time it can also stop the dynamics of the dialogue because it makes the delegates more cautious. Therefore achieving a balance is important but this should never be done at the expense of the accountability of the dialogue.

⁵⁴ Würth, Anna & Seidensticker, Frauke Lisa, *Indices, Benchmarks, and Indicators: Planning and Evaluating Human Rights Dialogues*, German Institute for Human Rights, November 2005, p. 40

⁵⁵ The benchmarks for the EU-Iran human rights dialogue were not made public in writing before the evaluation in 2004 and this was a constant source of criticism. The criticism came mainly from NGOs and other Roundtable participants. Evaluation on the EU-Iran Human Rights dialogue by the Presidency 2004. Para. 1.2.

- *Reinforcing the role of the European Parliament*

As mentioned previously, the European Parliament did not play a significant role in the EU-Iran dialogue either when it came to the preparation of the dialogue or during the sessions themselves. Nevertheless, the involvement of the Parliament at the third dialogue meeting was evaluated in a positive manner. Therefore, the participation of representatives from the European Parliament can be recommended, especially if the participants are knowledgeable about human rights issues and the country concerned.

Furthermore, increased involvement in the preparation of a human rights dialogue and the whole initiative phase can be recommended as the European Parliament may be able to influence the topics chosen for discussion as well as the concrete objectives of the dialogue. More involvement from the European Parliament in human rights dialogues is important because it helps to disseminate knowledge and awareness of human rights issues. It also puts problems concerning human rights on the agenda and connects the engagement of the European parliament in the promotion of human rights with the dialogue instrument.

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