

TOWARDS THE MODERNISATION
OF THE EUROPEAN UNION-MEXICO
GLOBAL AGREEMENT:

**Ensuring a central place
for Human Rights**

Lead autor:

- Mónica Velasco-Pufleau (Director of the European Union–Latin American and Caribbean Relations Chair of the European Institute of International Studies).

Co-authors (listed in alphabetical order):

- Mtro. Luis Antonio Huacuja Acevedo (Lecturer at Dr. José María Luis Mora Research Institute. Independent Consultant and Researcher).
- Dr. Jacobo Ramírez (Associate Professor in Latin American Business Development, Copenhagen Business School).
- Dr. Gabriela Sánchez Gutiérrez (Director of the Dr. José María Luis Mora Research Institute).
- Dr. Mario Torres Jarrín (Director of the Institute of European Studies and Human Rights of the Pontifical University of Salamanca).

Language versions

Original: ES.

Editors:

Manuscript completed: February 20, 2023.

© KONRAD-ADENAUER-STIFTUNG E.V.

KONRAD-ADENAUER-STIFTUNG E.V.

Mexico Bureau

Río Guadiana 3,

06500-Mexico City, Mexico.

Tel. (+52) 55 5566 4599

<https://www.kas.de/es/web/mexiko>

kasmex@kas.de

Twitter: @kasmexiko

Facebook: <https://www.facebook.com/kasmexiko/>

Project Manager

Juan Pablo Campos González (juan.campos@kas.de)

Image and Communication Coordinator

Jatziry Herrera Jiménez (jatziry.herrera@kas.de)

© EUROPEAN INSTITUTE OF INTERNATIONAL STUDIES

EUROPEAN INSTITUTE OF INTERNATIONAL STUDIES

Primusgatan 53,

11267-Stockholm, Sweden,

<https://www.ieeiweb.eu/>

info@ieeiweb.eu

Project Manager

Mónica Velasco Pufleau (monica.velasco-pufleau@ieeiweb.eu)

Edited in Mexico.

This study is available on the Internet:

<https://www.kas.de/es/web/mexiko>

www.ieeiweb.eu

If you are unable to download the information you want, please request a hard copy by email: kasmex@kas.de

Disclaimer

The views expressed in this document are solely the responsibility of the authors and do not necessarily reflect the official position of the publishers or institutions.

Reproduction and translation for non-commercial purposes are authorized, provided the source is acknowledged, the publisher is given prior notice and a copy of the publication is sent to the author.

Introduction

Unlike Mexico's other international relations, its contractual relations with the European Union (EU) contain a human rights (HR) clause (also known as the "democracy clause").¹ This is included in Article 1 of the Global Agreement between the EU, its Member States and Mexico² (currently being modernised),³ which defines respect for HR and democratic principles as "essential elements" of the Agreement, as follows:

Respect for democratic principles and fundamental human rights, proclaimed by the Universal Declaration of Human Rights, underpins the domestic and external policies of both Parties and constitutes an essential element of this Agreement.

The systematic inclusion of the HR clause in international agreements to which the EU is a party

facilitate positive and constructive collaboration (based on dialogue and cooperation) with third country governments, according to the EU policy on the matter.⁴ Likewise, read in conjunction with the so-called "non-execution" clause (foreseen in Article 58 of the Global Agreement) on the (non-) fulfilment of the Parties' obligations,⁵ it enables the adoption of appropriate measures that may include the partial or total suspension of the Agreement or even its termination. However, the EU has indicated that this restrictive approach is optional and will always be the last feasible option.⁶

Consequently, since the entry into force of the Global Agreement in 2000, the EU and Mexico have established close cooperation (whether bilateral, regional or thematic) in the field of HR and other areas related to the strengthening of democracy and the rule of law.⁷ There has also been cooperation at the level of Member States. For example, it has

¹ On the rank and integration of HR norms contained in international treaties to which Mexico is a party in the Mexican legal system, see, among others, R. Ortega García 2015: "El enfoque restrictivo de los derechos humanos: comentarios a la contradicción de tesis 293/2011", *Revista Mexicana de Derecho Constitucional* 32, pp. 265-291.

² Economic Partnership, Political Coordination and Cooperation Agreement between the European Community and its Member States, of the one part, and the United Mexican States, of the other part (OJEU L 276/45, 28/10/2000).

³ See L. Huacuja Acevedo and M. Velasco Pufleau 2022: "Foreword", in Konrad-Adenauer-Stiftung (KAS) Mexico and European Institute of International Studies (EIIIS) (eds.), *Towards the Modernisation of the European Union-Mexico Global Agreement: Together for a more sustainable trade and development*, Mexico City, pp. 3-6; L.A. Huacuja Acevedo et al. 2023: *Towards the Modernisation of the European Union-Mexico Global Agreement: Strengthening Political Dialogue*, Mexico City: KAS and EIIIS.

⁴ The HR clause has been included in agreements concluded with more than 120 countries. European Commission (EC) and High Representative of the Union for Foreign Affairs and Security Policy 2011: *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*, COM(2011) 886 final, Brussels, p. 11 [EC and HR].

⁵ Together with the "essential element" clause (included in Article 1 of the Global Agreement), the "non-execution" clause constitutes the basic structure of the HR clause used by the EU. See EC 1995: *Communication from the Commission on the inclusion of respect for democratic principles and human rights in agreements between the Community and third countries*, COM(1995) 216 final; L. Bartels 2005: *Human Rights Conditionality in the EU's International Agreements*, Oxford: Oxford University Press.

⁶ EC 2001: *Communication from the Commission to the Council and the European Parliament – The European Union's role in promoting human rights and democratisation in third countries*, COM(2001) 252 final, Brussels; EC and HR, *supra* note 4, p. 11; I. Zamfir 2019: *Human rights in EU trade agreements: The human rights clause and its application*, PE 637.975, Brussels: European Parliament (EP) Research Service, p. 10.

⁷ See, among others, Mexico's Ministry of Foreign Affairs (SRE, by its Spanish acronym) n.d.: *La política exterior mexicana de derechos humanos al servicio de la democracia y el Estado de derecho (2006–2012)*. *Memoria documental*, at: <https://sre.gob.mx/images/stories/doctransparencia/rdc/memodoc/7mddgdhd.pdf> [accessed 23/01/2023] [SREa].

been channelled through the German Society for International Cooperation (Deutsche Gesellschaft für Internationale Zusammenarbeit –GIZ, by its name and acronym in German) on behalf of the German Federal Government.⁸

In addition, the EU and Mexico initiated a High-Level Dialogue on HR in 2010,⁹ to discuss the HR situation on both sides and coordinate positions in multilateral HR fora.¹⁰ Since 2012, this official dialogue has been accompanied by a seminar, involving civil society organisations based on both sides of the Atlantic.¹¹ At the time of writing, the most recent High-Level Dialogue on HR and civil society seminar took place in Brussels in July 2022.¹²

Nevertheless, HR challenges remain signifi-

cant, especially in Mexico, which is experiencing a HR crisis.¹³ The European Parliament (EP) itself has condemned serious abuses on multiple occasions over the years, frequently calling on the EU to strengthen its support for Mexico.¹⁴

In this context, this policy paper seeks to contribute to the ongoing process of modernisation of the Global Agreement, by offering recommendations on the future content and implementation of cooperation and political dialogue on HR.¹⁵ It is structured as follows: (i) a brief introduction to the situation of HR in Mexico and the EU; (ii) the official perspectives for updating the HR clause; (iii) the main concerns surrounding the clause, and cooperation and political dialogue on HR; and (iv) the presentation of a series of final recommendations.

⁸ See, in particular, the programmes and projects related to the rule of law and democracy, at: <https://www.giz.de/en/worldwide/306.html> [accessed 23/01/2023]. See also the speech of Marita Bröemmelmeier, in Mexico's Chamber of Deputies 2022: *En vivo / Conferencia Internacional: Hacia la Modernización del Acuerdo Global*, at: <https://www.youtube.com/watch?v=s1eSSYYR-qw&t=3708s> and <https://www.youtube.com/watch?v=lfvrjlgkBTI> [accessed on 23/01/2023] [Chamber of Deputies].

⁹ Normally, this dialogue is co-chaired by the EU Special Representative for Human Rights on the European side, and by the head of the SRE's Undersecretariat for Multilateral Affairs and Human Rights on the Mexican side.

¹⁰ Council of the EU 2010: *Mexico–European Union Strategic Partnership. Joint Executive Plan*, 9820/10, Presse 126, Comillas, pp. 27-28 [Council of the EU].

¹¹ See, for example, Red TDT 2022: *OSC exigen a México dar seguimiento a recomendaciones en materia de derechos humanos, en el marco del X Diálogo de Alto Nivel con la Unión Europea*, at: <https://redtdt.org.mx/archivos/17653> [accessed 23/01/2023] [Red TDT].

¹² SRE 2022: *X Diálogo de Alto Nivel UE-México sobre Derechos Humanos*, at: <https://www.gob.mx/sre/prensa/x-dialogo-de-alto-nivel-ue-mexico-sobre-derechos-humanos> [accessed 23/01/2023].

¹³ A. Anaya-Muñoz and B. Frey (eds.) 2019: *Mexico's human rights crisis*, Philadelphia: University of Pennsylvania Press [Anaya-Muñoz and Frey]; A. Anaya Muñoz et al. (coords.) 2021: *La impunidad activa en México: cómo entender y enfrentar las violaciones masivas a los derechos humanos*, Guadalajara: ITESO and University Network for HR [Anaya Muñoz et al.]

¹⁴ See, for example, EP 2007: *Resolution on the murders of women (feminicide) in Mexico and Central America and the role of the European Union in fighting the phenomenon*, P6_TA(2007)0431, Brussels; EP 2014: *Resolution on the disappearance of 43 teaching students in Mexico*, P8_TA(2014)0041, Strasbourg; EP 2022: *Resolution on the situation of journalists and human rights defenders in Mexico*, P9_TA(2022)0078, Strasbourg.

¹⁵ In particular, these recommendations incorporate the discussions of the cooperation panel of the international conference “Towards the Modernisation of the EU–Mexico Global Agreement: Opportunities for Strengthening Human Rights, Rule of Law and Sustainable Development” (Mexico City, 2022), organised by KAS Mexico, in collaboration with the EIS Chair on EU–Latin American and Caribbean Relations, the Dr. José María Luis Mora Research Institute, the Institute of European Studies and Human Rights of the Pontifical University of Salamanca and the Copenhagen Business School. See Chamber of Deputies, *supra* note 8. The analysis of the promotion of HR in the framework of the new chapter on trade and sustainable development is excluded. On this issue, see J. Ramírez et al. 2022: “Policy Paper”, in KAS and EIS (eds.), *Towards the Modernisation of the European Union–Mexico Global Agreement: Together for a more sustainable trade and development*, Mexico City, pp. 7-11 [Ramírez].

Brief overview of the situation of HR in Mexico and the EU

As noted in the introduction, Mexico is facing a HR crisis, with hundreds of thousands of violations being committed by state and non-state actors (notably organised crime), either independently or in complicity.¹⁶ To name but one of many examples,¹⁷ approximately 100,000 people have been disappeared since 1964, according to official data.¹⁸ The vast majority of them disappeared in the last 16 years.¹⁹ More than 30,000 people have been disappeared in the current administration alone (2018–).²⁰ The Government itself has acknowledged that these are enforced disappearances in a high percentage of cases,²¹ but only ten convictions for this crime were handed down at the federal level between 1 June 2001 and 15 January 2018.²² In 2019 and 2020, no such convictions were obtained, according to available information.²³

This almost absolute impunity affects both HR violations and other crimes, encouraging their systematic repetition.²⁴ In 2021, for example, the national impunity rate reached 91.8% of the total number of reported cases. For enforced disappearance alone, impunity reached 98.9%. In the case of other violations, such as intentional homicide and feminicide, it was 96.9% and 88.1%, respectively.²⁵ Among the causes affecting the proper functioning of the criminal justice system are corruption and lack of human, technical and scientific capacities and resources; but it has also been proven that “there is active impunity as a result of a series of actions developed with the explicit aim of undermining investigations and not generating results”.²⁶ Therefore, in the case of Mexico, it is essential to support and monitor the justice system with a view to strengthening it.²⁷ Having laws is insufficient when they are poorly or not implemented at all.

¹⁶ A. Anaya-Muñoz and B. Frey 2019: “Introduction”, in Anaya-Muñoz and Frey, *supra* note 13, p. 2.

¹⁷ This example was highlighted by Centro Prodh in the conference “Towards the Modernisation of the EU–Mexico Global Agreement”. See the speech of María Luisa Aguilar, in Chamber of Deputies, *supra* note 8.

¹⁸ Between 15/03/1964 and 23/01/2023. Mexico’s National Search Commission (CNB, by its Spanish acronym), *Versión Pública del Registro Nacional de Personas Desaparecidas y No Localizadas* (RNPNDNO), at: <https://versionpublicarnpdno.segob.gob.mx/Dashboard/ContextoGeneral> [accessed: 23/01/2023].

¹⁹ Amnesty International 2022: *México: Militarizar la seguridad pública generará más violaciones de derechos humanos y perpetuará la impunidad*, at: <https://www.es.amnesty.org/en-que-estamos/noticias/noticia/articulo/mexico-militarizar-la-seguridad-publica-generara-mas-violaciones-de-derechos-humanos-y-perpetuara-la-impunidad/> [accessed: 23/01/2023].

²⁰ In total, 80,870 people have been disappeared between 01/12/2006 and 23/01/2023; without integrating into the result the “figure without reference year”. 15,787 were disappeared during the Calderón administration (01/12/2006–30/11/2012); 33,458 during the Peña Nieto administration (01/12/2012–30/11/2018) and 31,625 during this administration (01/12/2018–). CNB, *Public Version of the RNPNDNO*, at: <https://versionpublicarnpdno.segob.gob.mx/Dashboard/Sociodemografico> [accessed: 23/01/2023].

²¹ I.E. Saldaña 2020: “Hay 61 mil 637 desaparecidos; suman 5 mil 184 casos en lo que va del sexenio”, *Excélsior*, 7 January.

²² Committee on Enforced Disappearances 2018: *Concluding observations on the report submitted by Mexico under article 29, paragraph 1, of the Convention. Addendum. Information received from Mexico on follow-up to the concluding observations*, CED/C/MEX/CO/1/Add.2, p. 21.

²³ CNB n.d.: *Informe para el Comité contra las Desapariciones Forzadas de Naciones Unidas*, p. 40, at: <https://comisionacional-debusqueda.gob.mx/wp-content/uploads/2022/03/CNB-Informe-CED-Espanol.pdf> [accessed: 23/01/2023].

²⁴ Anaya Muñoz et al., *supra* note 13, p. 109.

²⁵ México Evalúa 2022: *Hallazgos 2021: Seguimiento y evaluación del sistema de justicia penal en México*, Mexico City, pp. 170, 177–178.

²⁶ Anaya Muñoz et al., *supra* note 13, p. 109. Authors’ translation.

²⁷ *Ibid.* See also the speech of Ricardo Silva, in Chamber of Deputies, *supra* note 8.

As for the EU, Amnesty International's 2021/2022 report denounced, among other abuses, the erosion of judicial independence in Poland, which has confronted the EU "with its greatest rule of law crisis to date". In addition, lesbian, gay, bisexual, transgender and intersex people have continued to face discrimination and violence in countries such as Poland, Bulgaria and Hungary. High levels of violence against women has also persisted in Spain, Italy, Greece and Portugal, where numerous women were murdered by their partners or ex-partners. Hate crimes increased in Germany and, although measures were adopted, they "fell short of addressing institutional racism and of setting out an overall strategy against racist violence". Moreover, summary returns of refugees and migrants continued in many European countries, including of the violent and illegal kind. In this context, migrants' rights defenders continued to be criminalised in Cyprus, France, Malta, Greece and Italy.²⁸

In addition to their commitments under the international HR regime, it should not be forgotten that all Member States are bound by the Treaty on EU to respect the common values on which the EU is founded (including democracy, the rule of law and respect for HR). Failing this, they can be subject to

sanctions by the Council of the EU in the case of, for example, serious and persistent violations.²⁹

The future of the HR clause from the official perspective

At the time of writing, it is not possible to know the exact content of the HR clause of the modernised Global Agreement, given the restricted nature of the texts resulting from the negotiations on political and cooperation issues.³⁰ Nonetheless, European and Mexican authorities have affirmed that the rule of law will be included as an essential element of the future Agreement, in addition to respect for democratic principles and HR.³¹ According to the Mexico's Ministry of Foreign Affairs (SRE, by its Spanish acronym), the Parties' commitment to international HR instruments will also be expanded, and it has been agreed to cooperate in different areas. These include the strengthening of HR institutions, transparency, accountability and civil society participation, in addition to preventing impunity and promoting the universality of international HR treaties.³²

Regarding the implementation of the clause, as Federica Mogherini stated,³³ it can be expected

²⁸ Amnesty International 2022: *Amnesty International Report 2021/22: The state of the world's human rights*, London, pp. 44–49, 175, 181, 211, 304, 342.

²⁹ Articles 2 and 7 of the consolidated version of the Treaty on EU (OJEU C 202/15, 07/06/2016). See also, International Federation for Human Rights 2022: *Poland, Hungary: Use of Article 7 to fight the shift towards authoritarianism in Europe*, at: <https://www.fidh.org/en/international-advocacy/european-union/poland-hungary-article-7-authoritarianism-european-union> [accessed: 23/01/2023].

³⁰ In contrast, the texts of the "Agreement in Principle", announced in 2018 as part of the modernisation of the trade pillar of the Global Agreement, have been published. See *EU–Mexico agreement: The agreement in principle*, at: https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/mexico/eu-mexico-agreement/agreement-principle_en [accessed: 23/01/2023].

³¹ EP 2016: *Answer given by High Representative/Vice-President Mogherini*, parliamentary question E-007468/2016; SRE n.d.: *Memoria documental 2012-2018. Proceso de modernización del marco jurídico bilateral entre México y la Unión Europea*, pp. 37–39, at: https://www.gob.mx/cms/uploads/attachment/file/426877/MD_Modernizaci_n_marco_jur_dico_M_xico-UE_2012-2018.pdf [accessed: 23/01/2023] [SREb].

³² SREb, *supra* note 31, p. 62.

³³ High Representative for Foreign Affairs and Security Policy/Vice-President of the EC (2014–2019).

that the EU will continue to prioritise dialogue and cooperation, while sanctions will be considered a last resort.³⁴ Furthermore, the new EU–Mexico Agreement will most likely more precisely define the situations that constitute a breach of the essential elements of the Agreement. An example of this is found in Article 28(3) of the EU–Canada Strategic Partnership Agreement, which specifies that:

[...] for a situation to constitute a ‘particularly serious and substantial breach’ of Article 2(1) [i.e. the essential element clause], its gravity and nature would have to be of an exceptional sort such as a coup d’État or grave crimes that threaten the peace, security and well-being of the international community.³⁵

Concerns related to cooperation, political dialogue and the HR clause

The HR clause

The mode of implementation of the HR clause in the context of EU–Mexico relations has been the subject of debate for nearly three decades. On the one hand, some support the positive approach (i.e. based on dialogue and cooperation) adopted

by the EU so far. On the other hand, some have called for restrictive measures against Mexico in response to abuses committed on its territory, including suspension of the Global Agreement and its modernisation.³⁶

In particular, various civil society organisations and Members of the EP from the Group of the Greens/European Free Alliance (Greens/EFA) have called for “giving teeth” to the HR clause in the framework of the modernisation of the Global Agreement. This is because they consider it inefficient to guarantee respect for these rights in practice as the economic interests of large transnational corporations are frequently prioritised over the protection of HR.³⁷ Among their suggestions to reverse this situation are, for example, the establishment of a permanent committee to evaluate compliance with the clause, with the participation of civil society, in addition to a mechanism to receive complaints about violations committed. Furthermore, they have proposed the creation of an advisory council of experts, with EU participation, to support the Mexican Government in ending impunity.³⁸ This council was recommended by the United Nations High Commissioner for Human Rights after his visit to Mexico in 2015 and has also been supported by academics.³⁹

³⁴ EP 2019: *Answer given by Vice-President Mogherini on behalf of the European Commission*, parliamentary question E-000703/2019. On EU sanctions, see EU Council 2023: *How and when the EU adopts sanctions*, at: <https://www.consilium.europa.eu/en/policies/sanctions/> [accessed: 23/01/2023].

³⁵ OJEU L 329/45, 03/12/2016. See also the speech of Monica Velasco Pufleau, in Chamber of Deputies, *supra* note 8.

³⁶ M. Velasco-Pufleau 2017: “The Impact of Parliamentary Diplomacy, Civil Society and Human Rights Advocacy on EU Strategic Partners: The Case of Mexico”, in S. Stavridis and D. Jančić (eds.), *Parliamentary Diplomacy in European and Global Governance*, Leiden: Brill-Nijhoff, pp. 134-155. For example, among the former are the majoritarian groups in the EP. Whereas the latter include the Greens/EFA and the Confederal Group of the European United Left/Nordic Green Left (now The Left in the EP). *Ibid.*

³⁷ Ecorys 2017: *Ex-post evaluation of the implementation of the EU–Mexico Free Trade Agreement: Final Report*, Brussels: EC, p. 142 [Ecorys]; H. Castellà 2017: *The human rights clause in the modernization of the Global Agreement between the EU and Mexico*, pp. 43-45, at: <https://terrabras.esquerrarepublicana.cat/documents/informemexiceng.pdf> [accessed: 23/01/2023]; EFE 2017: “Piden no renovar tratado México–UE”, *Reforma*, 22 November; Senate of Mexico 2018: *Presentación del informe: La Cláusula de Derechos Humanos*, at: https://www.youtube.com/watch?v=R5i601g_tM4 [accessed: 23/01/2023] [Senate].

³⁸ Senate, *supra* note 37.

³⁹ Office of the United Nations High Commissioner for HR Mexico 2016: *Recomendaciones a México del Alto Comisionado de las Naciones Unidas para los Derechos Humanos, Sr. Zeid Ra'ad Al Hussein y Respuesta del Estado mexicano*, Mexico City; Anaya Muñoz et al., *supra* note 13.

In fact, this is not the first time that mechanisms have been called for to guarantee the effective implementation of the HR clause in the framework of EU–Mexico relations. This request even precedes the entry into force of the Global Agreement, when several organisations warned that, in the event of not doing so, the clause would be no more than a declaration of good intentions.⁴⁰ The EP has also supported the establishment of specific monitoring and complaint mechanisms to more effectively use HR clauses in general, as well backing them with clear criteria and procedures to be followed in the event of non-compliance.⁴¹

EU–Mexico cooperation in the field of HR

European cooperation (bilateral, regional and thematic) has been well received by the various stakeholders in Mexico, being seen as an extremely positive aspect of relations.⁴² The Government

itself has encouraged it, coinciding with its marked openness to scrutiny and international cooperation on HR since 2000.⁴³ In this context, several initiatives have been implemented with the Mexican Government, such as the Human Rights Programme (DCI-ALA/2007/019-116, 2008-2011).⁴⁴ These have encouraged Mexico’s participation both financially and in terms of management. As the European Commission (EC) acknowledges, due to this type of initiatives, a “privileged relationship” has developed with the SRE in the field of HR cooperation,⁴⁵ which is “the natural interlocutor of international and regional HR institutions and one of the main promoters of HR in Mexico”.⁴⁶

However, Mexico stopped receiving bilateral cooperation from the EU under the 2014–2020 multi-annual financial framework,⁴⁷ by virtue of its status as an upper-middle-income country.⁴⁸ Consequently, no new specific initiatives in the field of HR were

⁴⁰ Ciudadan@s de México ante los acuerdos de libre comercio con la UE n.d.: *First Report*, at: <http://www.rmalc.org/historico/tratados/ue/documentos/ciudadanos.pdf> [accessed on 23/01/2023]. See also, J. Villarreal (coord.) 2008: *Balance del Acuerdo Global entre México y la Unión Europea: a 8 años de su entrada en vigor*, Mexico City: Regional Office for Mexico, Central America and the Caribbean of the Heinrich Böll Stiftung.

⁴¹ See, among others, EP 2022: *Resolution on human rights and democracy in the world and the European Union’s policy on the matter – annual report 2021*, P9_TA(2022)0041, Strasbourg, point 101; EP 2023: *Resolution on human rights and democracy in the world and the European Union’s policy on the matter – annual report 2022*, P9_TA(2023)0011, Strasbourg, point 34.

⁴² Ecorys, *supra* note 37, pp. 142, 161.

⁴³ See M. Acosta 2012: “NGOs and Human Rights”, in R.A. Camp (ed.), *The Oxford Handbook of Mexican Politics*, Oxford: Oxford University Press, pp. 423-445.

⁴⁴ SREa, *supra* note 7, pp. 55-58.

⁴⁵ In particular, with the Directorate General in charge of human rights and democracy.

⁴⁶ *Draft Commission Decision of [...] on the Annual Action Programme 2007 in favour of Mexico to be financed under Article 19 09 01 of the general budget of the European Communities*, annex II, p. 5 (Ref. Ares(2020)4456198).

⁴⁷ Notwithstanding the above, the Mexican Government was able to benefit from geographic (Latin America) and thematic cooperation, such as the Civil Society Organisations and Local Authorities Programme, under the Development Cooperation Instrument 2014–2020. It also accessed other forms of European support, such as that provided by the Partnership Instrument for cooperation (beyond development cooperation) with third countries (OJEU L 77/77, 15.03.2014). Civil society organisations were also able to participate in the European Instrument for Democracy and Human Rights (OJEU L 77/85, 15.03.2014) established for the 2014–2020 period.

⁴⁸ For a critical view of this “graduation” approach towards Latin America, see J.A. Sanahuja et al. 2015: *Beyond 2015: Perspectives and Proposals for Development Cooperation between the European Union and Latin America and the Caribbean*, Hamburg: EU-LAC Foundation.

programmed during this period, leaving a gap in the existing positive track record of cooperation and collaboration. Instead, cooperation in this sector was included in the ambitious Social Cohesion Laboratory II programme (DCI-ALA/2012/022-727), which faced great challenges in its implementation due to its magnitude and complexity.⁴⁹

The new financial instrument Global Europe (2021–2027)⁵⁰ represents an opportunity to strengthen cooperation with Mexico as it allows the specific problems of the transition upper-middle income countries to be addressed, in line with the comprehensive nature of the 2030 Agenda.⁵¹ In particular, it will seek to promote advanced forms of cooperation, such as those that promote the exchange of knowledge and good practices, technical assistance, and South–South and triangular cooperation.⁵² However, the limitation of resources allocated for financial cooperation is evident; a criticism that has been made in the past.⁵³ For the

Americas and the Caribbean as a whole, less than 6% (EUR 3,395 million) of the financial envelope for all geographic programmes (EUR 60,388 million) has been earmarked, according to the Global Europe instrument. The budget for all thematic programmes only amounts to over 10% (EUR 6,358 million) of the geographic programmes. Of this 10%, 21% (EUR 1,362 million) corresponds to the HR and Democracy programme.⁵⁴

This impacts not only cooperation with the Government but also funding for organisations and human rights defenders in Mexico, who conduct their activities in a context of extreme violence. As Front Line Defenders points out, Mexico is one of the most dangerous countries in the world for this group of people, with 42 defenders killed in 2021 alone.⁵⁵ This situation cannot be ignored by either Mexico or the EU. The EU's support remains indispensable, and a commitment made as part of its objective to contribute to the protection of HR worldwide.⁵⁶

⁴⁹ This bilateral cooperation programme was co-financed by the EU under the 2007–2013 financial framework and ran until 2019 (including a six-month closure period). The overall management was carried out by the Mexican Agency for International Development Cooperation (Agencia Mexicana de Cooperación Internacional para el Desarrollo, by its Spanish name). On its challenges and successes, see W.E. Cerritelli and G. Tonello 2019: *Evaluación final del Laboratorio de Cohesión Social II México* (Ref. Ares(2020)4801955).

⁵⁰ Neighbourhood, Development and International Cooperation Instrument – Global Europe (OJEU L 209/1, 14/06/2021) [Global Europe].

⁵¹ *Ibid.* For more information, see J.A. Sanahuja and E. Ruiz Sandoval 2019: *La Unión Europea y la Agenda 2030 en América Latina: políticas de cooperación en una región de “desarrollo en transición”*, Madrid: Fundación Carolina.

⁵² *Joint statement by the Council and the representatives of the governments of the Member States meeting within the Council, the European Parliament and the Commission: The New European Council on Development ‘Our World, Our Dignity, Our Future’*, pp. 19–20 (OJEU C 210/1, 30/06/2017).

⁵³ EP 2018: *Resolution on the next MFF: Preparing Parliament’s position on the post-2020 MFF*, P8_TA(2018)0075, Strasbourg, point 105; EC 2018: *Proposal for a Regulation of the European Parliament and of the Council establishing the Neighbourhood, Development and International Cooperation Instrument*, COM(2018) 460 final, Brussels, p. 5.

⁵⁴ Global Europe, *supra* note 50, p. 21.

⁵⁵ Front Line Defenders 2022: *Global Analysis 2021*, Dublin, p. 5.

⁵⁶ Articles 3(5) and 21 of the Treaty on EU. On the support received so far by organisations working for HR in Mexico, see: <https://web-gate.ec.europa.eu/europeaid/online-services/index.cfm?ADSSChck=1675173748558&do=publi.welcome> [accessed on 23/01/2023].

The EU–Mexico High-Level Dialogue on HR

According to the EU itself, the High-Level Dialogue on HR with Mexico has proven to be a useful mechanism for addressing key HR issues in a frank and open manner.⁵⁷ This has included being able to address cases such as Ayotzinapa,⁵⁸ accompanying the dialogue with specific cooperation initiatives.⁵⁹ It has also facilitated concertation in multi-lateral HR fora, where the positions of both sides converge significantly.⁶⁰

However, from the perspective of civil society organisations participating in the seminar accompanying the official dialogue, the latter continues to face methodological challenges, including ensuring closer links with these organisations. Such links would include inviting them to participate as observers of the official dialogue or guaranteeing the presence of Mexican and European authorities throughout the seminar. Among other issues, the organisations have also insisted on the need for greater follow-up and

implementation of their recommendations, which should continue to receive technical and financial support from the EU to generate real change in the protection of HR.⁶¹ Moreover, the annual frequency of the Dialogue to address issues related to the situation of HR in Mexico and the EU has not been guaranteed on all occasions.⁶²

Although paradigmatic and an innovation in relations, the seminar also faces certain challenges that could be considered. Among these is the need to maintain balanced levels of participation between the Mexican and European components, which favours both socialisation between them and ensures a positive impact on the situation of HR in Mexico and the EU. It is illustrative, for example, that in the last seminar, European participation was clearly outnumbered by Mexican participation, even when the seminar was held in the EU.⁶³ The observance of the principle of reciprocity is in the interest of the Mexican Government, as well as part of the EU's thematic guidelines for the development of official dialogue.⁶⁴

⁵⁷ See, for example, T. Borg 2014: *Debate on the disappearance of 43 teaching students in Mexico* [Speech], at: https://www.europarl.europa.eu/doceo/document/CRE-8-2014-10-23-ITM-006-03_EN.html [accessed: 23/01/2023] [Borg].

⁵⁸ Among other HR violations, the case concerns the enforced disappearance of 43 Mexican students from the Normal Rural School of Ayotzinapa in September 2014 in the city of Iguala de la Independencia (State of Guerrero). See Interdisciplinary Group of Independent Experts (GIEI, by its Spanish acronym) 2015: *Informe Ayotzinapa: Investigación y primeras conclusiones de las desapariciones y homicidios de los normalistas de Ayotzinapa*; GIEI 2016: *Informe Ayotzinapa II: Avances y nuevas conclusiones sobre la investigación, búsqueda y atención a las víctimas*; GIEI 2022: *Informe Ayotzinapa III: Resumen*, all available at: <https://centroprodh.org.mx/GIEI/?-cat=6> [accessed: 23/01/2023].

⁵⁹ SRE and European Union 2015: *Mexico and the European Union strengthen their cooperation in the field of human rights*, Mexico City.

⁶⁰ Borg, *supra* note 57.

⁶¹ See, among others, Amnesty International et al. 2016: *Conclusiones del Cuarto Seminario de la Sociedad Civil en el marco del Sexto Diálogo de Alto Nivel sobre Derechos Humanos entre México y la Unión Europea*, Brussels; Red TDT, *supra* note 11.

⁶² It did not take place in 2013, 2019 and 2021. On the commitment to hold annual meetings for these purposes, see Council of the EU, *supra* note 10, p. 28.

⁶³ See Red TDT, *supra* note 11.

⁶⁴ Council of the EU, *supra* note 10, p. 28; Council of the EU 2021: *Revised EU Guidelines on Human Rights Dialogues with Partner/Third countries*, Brussels, 6279/21, p. 5.

Recommendations to the EU and Mexico

1. Ensure that the respect, protection and promotion of HR are at the centre of relations between the EU, its Member States and Mexico, both at the bilateral (political dialogue, cooperation, trade and investment) and multilateral levels. In the latter, in addition to strengthening the international HR regime, priority should be given to actions that lead to visible progress in this area in the territory of all Parties. Such actions include actively supporting compliance with the recommendations emanating from the different bodies and mechanisms for the protection of HR established within the framework of the United Nations with respect to the situation in Mexico and the EU Member States.
2. Strengthen the content of the HR clause that will be included in the new legal framework for relations and avoid creating false expectations about its implementation. Otherwise, there is a risk of damaging the objective of the clause itself, the trust between the different stakeholders and the credibility of the EU as an actor committed to the promotion of HR globally. The views of the Mexican Government and Mexican and European civil society organisations, in addition to those of HR defenders, should be included in this process. Other actors should also be involved, such as the academic and research sector.
3. Ensure that the financial resources available for European cooperation (bilateral, regional and thematic) are sufficient to address the complex HR challenges faced by Mexico, regardless of its classification as an upper-middle-income country. The most important indicator, in this case, must be the country's serious HR crisis. The Mexican Government, being the main agent responsible for respecting and guaranteeing the enjoyment of HR in its territory, should energetically commit itself to this task, both through funding⁶⁵ and the transparent and responsible management of financial resources. This is without prejudice to this financial cooperation is accompanied by the more advanced forms of cooperation mentioned above (exchange of good practices, technical assistance, triangular cooperation, etc.), in order to promote greater rapprochement and understanding between the different actors of the EU and Mexico (for example, government representatives, judicial bodies, parliamentary institutions and civil society organisations).
4. Continue to promote technical and financial support from the Member States to eradicate HR abuses in Mexico, attacking the structural causes that provoke them in coordination with European cooperation. Furthermore, this support should cohere with the content of other national and European policies implemented in Mexico (among others, on trade and arms exports), so that such policies also contribute to the protection of HR in the country.⁶⁶
5. Analyse the feasibility of incorporating actors other than the State, such as European transnational corporations, in the technical and financial cooperation aimed at the protection of HR in Mexico. This should be carried out in collaboration with the civil society organisations active in this field. This is obviously in addition to these companies' own responsibility to respect HR in all their activities in the country.⁶⁷ Transparency in the allocation and use of resources must be guaranteed at all times.

⁶⁵ As appropriate, in accordance with applicable European and Mexican regulations and policies.

⁶⁶ As part of a future study, consideration could also be given to analysing the coherence of policies implemented in the EU territory (related to drug use and consumption, for example) with the promotion and protection of HR in third countries, such as Mexico.

⁶⁷ See Ramírez, *supra* note 15.

6. Continue strengthening the High-Level Dialogue on HR as the mechanism for dialogue par excellence in this field between the EU and Mexico. This includes ensuring it takes place annually and that its development is based on reciprocity, in addition to promoting concrete cooperation actions in the bilateral and multilateral sphere for the benefit of citizens. In particular, the implementation of the aforementioned advisory council of experts to end impunity in Mexico should be explored. In addition to deepening the issues addressed so far, this dialogue could also deal with issues that promote the adequate regulation of cyberspace at the global level, considering the impact it has on HR.⁶⁸
7. Continue strengthening collaboration between the High-Level Dialogue on HR and the civil society seminar that accompanies it, including through the effective implementation of its recommendations and by ensuring close dialogue. In turn, this seminar should encourage the inclusive and representative participation of the different Mexican and European organisations interested in joining the process, on the basis of reciprocity. Until now, the work of these organisations in the defence and promotion of HR has been key, and this should continue to be encouraged and supported with the necessary political will and financial resources.

⁶⁸ For more information, see the speech of Mario Torres Jarrín, in Chamber of Deputies, *supra* note 8.

 Konrad-Adenauer-Stiftung México

 Fundación Konrad Adenaur - Oficina México

 @kasmexiko

#KASMéxico



EIIS | EUROPEAN INSTITUTE
OF INTERNATIONAL STUDIES