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Sergei Magnitsky and the European Union: putting EU human rights policy to the test

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In poll after poll, European citizens have expressed their desire to see the protection of human rights put at the top of the European Union's list of priorities. On paper, their wish has come true: Article 21 of the Lisbon Treaty claims that human rights and the rule of law shall be at the centre of all European external actions. Additionally, in 2012, the EU adopted the so-called human rights package, reconfirming the precedence of human rights over any other political principle in foreign relations.

We hold the necessary policy tools to make human rights central to our foreign policy approach. To give but a few examples, we can rely on private and public diplomacy to convince our partner countries of the value of a more human rights-based policy. We regularly convene Human Rights Dialogues with third countries, including with Russia. We can use the leverage offered by human rights clauses in trade and association agreements, and tighten our external policies towards countries which don't play by the agreed rules and principles. The EU's budget provides for a number of programmes to foster democracy and human rights in third countries, such as the European Instrument for Democracy and Human Rights. Furthermore, the EU has the power to implement smart sanctions, targeting the political regime of a corrupt or repressive country rather than the population at large.

However, the European Union's reaction to the death of Sergei Magnitsky demonstrates the disturbing gap between rhetoric and action on human

rights. Once more, hesitation and reticence have prevailed. This is nothing new. For decades, EU member states have put economic and geostrategic interests before human rights. In exchange for business opportunities or help in keeping refugees away from the European border, we have turned a blind eye to severe human rights violations in neighbouring countries, including Russia.

Blankly claiming that the European Union has reacted too cautiously to the Magnitsky case would be too simplistic, however. In several resolutions, the European Parliament has spoken out very clearly in support of a common list of officials responsible for the death of Sergei Magnitsky, an EU-wide visa ban, and of freezing any financial assets held within the EU. However, a final decision must be adopted unanimously by the member states represented in the European Council, but the Council has thus far remained silent on this issue. This suggests that one or several member states have already expressed their opposition.

To make it worse, the Council has started negotiating a visa facilitation programme with Moscow, which would allow Russian civil servants to enter the EU more easily. While recognising that EU-Russia visa liberalisation is potentially beneficial to all sides, there is a severe risk that such a move would allow officials involved in gross human rights abuses, like the death of Magnitsky, to travel freely to the EU. This is completely unacceptable, and, like many members of the European Parliament, I would be unable to support visa facilitation for holders of Russian service passports under current circumstances.

Of course, the EU should remain committed to deepening our relations with Russia. But as a member of the Council of Europe, of the Organization for Security and Co-operation in Europe and as a signatory to relevant UN declarations, Russia has committed to the protection and promotion of human rights. The prosecution of Sergei Magnitsky is one example among many that shows this promise is not being kept. The arrest, detention and death in custody of Sergei Magnitsky is a well-documented case of disrespect for human rights. The posthumous prosecution of Magnitsky violates both international and domestic law, and demonstrates the malfunctioning of the Russian judiciary system. In this context, EU sanctions on the Magnitsky case

could prompt the Russian authorities to make genuine efforts to address, in a more concrete and convincing manner, the deteriorating rule of law in Russia and the current climate of impunity. Yet to date, no EU sanctions have been announced.

In line with several of our resolutions in the European Parliament, I have always called on the EU to adopt Magnitsky-related sanctions. Each and every bilateral or multilateral channel should be used to remind Russia of the need to conduct credible, thorough and independent investigations on all aspects of the Magnitsky case. Moscow must bring those responsible to justice and start reforming its judicial system to bring it in line with internationally agreed standards.

To achieve these objectives, however, the EU in general - but first and foremost, its member states, represented in the European Council - need to leave their geostrategic and commercial considerations aside. Only then will we be able to avoid double standards and truly implement the most essential principle embodied in the European treaties: human rights should be the fundamental priority of all our external relations - including with Russia.