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The EU’s Performance at the UN Human Rights Council

ABSTRACT Performance in the United Nations (UN) is a key element of the EU’s ‘effective multilateralism’ strategy. The Lisbon treaty has streamlined EU participation at the multilateral forums, and aims at making the EU a more effective and visible actor also in the UN bodies. The EU aspires to be a leading force in the global promotion of human rights. This paper studies how the EU has actually performed in the main UN human rights body, the Human Rights Council (HRC). EU performance is evaluated through different elements of performance: effectiveness, relevance, efficiency, and financial/resource viability. EU effectiveness can be measured in many ways, and this paper discusses both, EU’s internal and external effectiveness. The EU relevance for its member states and external others has increased in the HRC. However, despite remarkable resources (personnel, experience and finance), the EU efficiency has remained at a moderate level. The EU should be a far more influential actor in the Council. Factors that can be used to explain good/bad EU performance include the legal framework conditions, domestic EU politics, the status of the relevant EU legislation and policies, and the international context.

Key words: EU, performance, UN, Human Rights Council

Introduction

Year 2012 was claimed to be a landmark year for the EU’s external human rights policy. EU launched its first human rights strategy and a complementing Action plan with common objectives for member states and EU institutions. The strategy aims to enhance EU effectiveness and visibility in the multilateral human rights fora, especially at the UN. The EU aspires to be an active and determined participant at the UN human rights bodies, as well as strongly committed to support the UN human rights mechanisms. According to the human rights strategy, the EU underlines the leading role of the Human Rights Council in addressing urgent cases of human rights violations, and the EU will contribute vigorously to the effective functioning of the Council. Since 2012, the EU has also started to make clear lists of priorities at the UN human rights fora. These procedures aim to start a more ‘strategic period’ in the EU’s external human rights policy. This paper studies whether EU’s actual diplomatic performance in the Council corresponds to its high ambitions and rhetoric.

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2 EU human rights strategy 2012, actions 34 & 35.
4 EU human rights strategy 2012.
For the EU, as for any international organization nowadays, performance is path to legitimacy. Measurements of ‘performance’ and performance studies have increased in prominence in EU studies. Currently, evaluating EU performance has also become integral part of policy making. Previous studies have assessed EU’s policies within single issue areas and across a wide spectrum of different organizations. One of the first efforts to evaluate EU performance focused on the EU and the United Nations. The UN is an important locus for the EU to gain support and approval for its policies. However, within the UN the EU has mixed performance records, and it is impossible to generalize organ- and issue-specific findings. My paper contributes to evaluating the EU’s performance at the UN human rights system, an area where the EU aims to play a front-runner role. However, performance has many meanings and it is necessary to unpack the concept before evaluation. In this paper I will examine the EU’s performance in the HRC along the four core elements of performance: effectiveness, relevance, efficiency, and financial/resource viability introduced by Jørgensen, Oberthür and Shahin.

However, before performance evaluation, some important clarifications must be made. The EU is not a state and as such it cannot become a full member of the UN. Thus, when assessing EU’s performance in the HRC one needs to take into account collective as well as individual EUMS contributions. Finding out what is EU action and what is individual member state action (without any cooperation) is difficult because of the burden-sharing practices of the EU. That is why this paper takes into account both, EU and national level contributions to the HRC work, even if the emphasis is on collective EU action. Secondly, voting patterns of EU member states have been used to analyze EU success in the HRC, but it is questionable whether these can provide important information about EU performance. This is because most of the HRC resolutions are adopted by consensus, and only the most contentious issues demand voting. Because the HRC is a body where decisions are made by majority voting, the EU’s minority position is a challenge. The EU tries to avoid voting altogether, and if there is a vote, it could be seen already as a sign of EU failure. When evaluating EU performance much more emphasis should be put on negotiation processes, informal consultations and debates. In this paper I utilize several indicators for evaluating EU action in order to achieve better understanding of overall EU diplomacy.

Evaluating EU performance at the Human Rights Council is a demanding task. I will start by shortly presenting what the HRC is and how it works. After that I outline the framework conditions, internal and external, or political and legal, for the EU’s performance. Overall, the increased clarity, effectiveness and efficiency that the Lisbon Treaty was supposed to bring to the EU foreign policy and external relations have, so far, apparently not materialized with respect to many international institutions, including the HRC. Even when the EU states manage to form common positions, the EU is not necessarily successful in the HRC, because of external political constellation and UN’s institutional rules and procedures. After outlining the framework conditions for EU performance, I will evaluate EU performance by considering different ways to understand EU effectiveness. Then I will discuss EU relevance for its stakeholders, both for member states and external others. Finally EU performance is assessed shortly by discussing EU’s resource viability and efficiency. In the end I will draw some conclusions about the EU’s diplomatic performance at the Human Rights Council and different ways of measuring its success/failure.

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5 Gutner & Thompson 2013, 55.
6 see Jørgensen & Laatikainen (eds.) 2013, Oberthür et al. (eds.) 2013.
7 Laatikainen & Smith 2006.
8 Smith 2013, 65.
10 Jørgensen et al. 2011.
11 Jørgensen et al. 2011, 612.
**UN Human Rights Council**

The Human Rights Council (HRC) is an inter-governmental body within the United Nations system responsible for strengthening the promotion and protection of human rights around the globe. The Council is based in Geneva, Switzerland, and works as a part of the wider UN human rights machinery. The UN General Assembly (GA) established the Council as its subsidiary organ on 15 March 2006. The Council replaced the former much criticized UN Commission on Human Rights (CHR) which had existed since 1946. According to the founding resolution “the Council shall be responsible for promoting universal respect for the protection of all human rights and fundamental freedoms for all, without distinction of any kind and in a fair and equal manner”. The Council should also address situations of violations of human rights, including gross and systematic violations, and making recommendations thereon. The Council is also the primary forum to promote the effective coordination and the mainstreaming of human rights within the United Nations system. As can be noted, the mandate of the Council is quite expansive and its role within the wider UN human rights structure pivotal.

The Human Rights Council consists of 47 UN member states elected by the General Assembly for a three year period. All the members do not change simultaneously, and states can serve two consecutive terms. Allocation of seats is organized along regional groups: African group, Asia-Pacific group, Latin American and Caribbean group (GRULAC), Eastern Europe and Western Europe and Others group (WEOG). These groups are used to ensure the geographical equality of the Council and they coordinate their actions on issues of common concern. Political or religiously defined groups such as the Organization of the Islamic Cooperation (OIC), the European Union (EU), the Non-Aligned Movement (NAM) and JUSCANZ have been more important for the work of the HRC. Unfortunately these blocs have reinforced divisions and boundary-drawing exercise between in-group and out-groups within the Council by forming voting coalitions and competing for influence. Power politics and state interests have had a heavy influence on the work of the Human Rights Council threatening to override its main task of protecting and promoting human rights.

The Human Rights Council meets at the UN office in Geneva and its working methods and agenda were set in the resolution 5/1. The Council holds three regular sessions a year taking place in March, June and September which usually last around three weeks (total of 10 weeks). The key human rights tool of the Council is the *Universal Periodic Review* (UPR) mechanism which studies the human rights records of all the UN member states in a four-year cycle. The Human Rights Council can use various *Special procedures* to address specific country situations (country mandates) and thematic issues (thematic mandates). The *Complaint procedure* of the HRC allows individuals and organizations to bring complaints on gross and reliably attested violations of human rights to the HRC. The Human Rights Council carries important role as a global standard-setter in the area of human rights, by making resolutions, decisions and different statements. Besides resolutions, HRC with its different procedures produces many reports on specific topics and country cases, which inform “international society” and provide basis for further action.

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12 In CHR several countries were spending their energy merely protecting their own performance from scrutiny by being on the inside. The credibility and professionalism of the Commission was eroded and there occurred demands to renew or replace it (Weiss 2012, 38).

13 A/RES 60/251 (15 March 2006).

14 Rathgeber 2012.

15 HRC/5/1 (18 June 2007).
Framework conditions influencing EU participation and performance in the HRC

This chapter presents the framework conditions for EU participation and performance at the HRC. Previous research suggests that four factors are especially relevant in explaining EU performance: legal framework, domestic EU politics, nexus between internal and external EU policy and the international context\(^{16}\). I will start by explaining the legal-institutional conditions, i.e. how the EU is represented at the HRC, how EU actors coordinate their views, and what kind of daily practices are in place in Geneva. Then I will move to grasp how different political factors effect EU participation at the HRC. The EU role and performance is highly dependent on domestic\(^{17}\) politics and member states willingness to promote common EU positions.

First of all, the legal framework of the HRC creates political possibilities, but also sets boundaries for any action by the EU. The formal competences of the EU, and the division of competences between the EU and its member states, contribute significantly to our understanding of EU performance and especially EU relevance with respect to all international governance institutions\(^{18}\). Formal competencies and restrictions are evident in the UN context, where the possibility of participation of regional actors, such as the EU, is rather limited. In the Human Rights Council, like in most cases at the UN, only UN member states can have a full participant status. The EU is an observer\(^{19}\), having a right to speak, deliver statements and interventions, but without voting rights. Thus, the EU is represented in the Human Rights Council through its member states and EU agencies\(^{20}\). The number of EU states in the Council varies every year, but usually 7-9 EU member states are simultaneously members of the HRC in three different regional groups (Asia, Eastern Europe and WEOG). At the UN bodies some EU member states have been keen to maintain their individuality and independent positions (notably the UK) instead of promoting enhanced EU status and ‘one voice’ approach.

In Geneva, everyday practices of EU coordination and representation have followed contextual necessities. Before the Lisbon treaty EU positions were represented by the rotating presidency country. Current practices have evolved to a significant extent on the basis of practices established by the succeeding presidencies. In the end, the legal status of the EU has had a rather minor role for EU participation in the HRC\(^{21}\). As Kissack notes, the legal basis of EU participation is undoubtedly important, but rarely reflects actual EU behavior. Most of the operating procedures used to coordinate representation are politically determined.\(^{22}\) There has been some tension between the EU and member states, concerning the representation and delegation of issues. Even the wordings of common statements have been under scrutiny\(^{23}\). The EU member states agree on a case by case basis whether and how to be represented externally and how to cooperate\(^{24}\). These arrangements are not in line with the ‘spirit of the Lisbon treaty’ and risk confusing third countries regarding the allocation of competences inside the EU.

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\(^{16}\) Jørgensen et al. 2011, see also Basu et al. 2012, 6.

\(^{17}\) Domestic refers here to EU politics as well as to EU member states’ national politics.

\(^{18}\) Wessels 2011.

\(^{19}\) The EU managed to upgrade its status in the UN General Assembly in May 2011 (A/RES/65/276), but the consequences of this decision to other UN forums are varied and diverse practices are currently in place.

\(^{20}\) EU actors include the President of the European Council, the Commission, the High Representative and EU delegations.

\(^{21}\) Bruyninckx et al. 2012, 258-259.

\(^{22}\) Kissack 2010, 21.

\(^{23}\) The UK has been concerned about in whose name statements are made. Nowadays, it is indicated in the beginning of each statement on whose behalf it is made. For shared competencies the preferred language is ‘on behalf of the EU and its member states’.

\(^{24}\) Council of the European Union 2011, EU statements in multilateral organizations, General arrangements (15901/11).
The EU delegation is a rather new actor in the Geneva context and it has had to learn how to work effectively, both internally and externally. Even if the EU delegation has increased its relevance, many of the current EU practices are still work in progress. In most human rights issues the EU cooperates and takes actively part in HRC debates. The EU-delegation in Geneva follows all HRC topics, which is especially beneficial for smaller EUMS delegations with limited resources. When an agreed common EU position is reached, it is delivered by the EU Delegation or by the rotating presidency, depending on HRC forum and competencies. Member states are also free to advance their own positions, as long as they respect the principle of ‘sincere cooperation’. Member states do a lot of burden-sharing and information exchange. The idea is to make benefit of vast diplomatic networks and issue expertise of different member states. The EUMS also have their own pet projects and resolutions to drive forward in the Council, often in agreement with other EU members.

Already since 2005, the EU member states have agreed to speak for ‘one message but with many voices’ at the HRC, meaning that they should all intervene in debates to reinforce and reiterate EU’s common message. The EU speaks first, after which member states often repeat EU message and add their own comments and opinions when needed. Successful EU performance is possible only when the member states are willing to coordinate and cooperate. EU member states are committed to stand behind common EU objectives, informally and formally. However, the limited competencies of the EU in the area of human rights slow down internal EU negotiations because member states must consult their capitals during the process. Intensive cooperation before issues come up in Geneva (in Brussels) is essential for effective EU action. The EU cooperation in Geneva happens often with a price, and the EU does not have enough time to seek important allies for its positions. The EU common positions are also considered inflexible, and it is difficult to make changes after the final EU decisions are made. Thus, third parties find it difficult to understand the EU and work with it.

The legal status of the EU-delegation in Geneva is not clear despite the Lisbon treaty changes. The rotating presidency system is still working, and it seems that its position is quite stable in practice. For state centric arenas such as the UN, the EU needs its member states voice and representation. EU member states also have different attitudes towards EU coordination in human rights issues, the UK presenting the most sceptical party. Diverging preferences of member states can constrain EU effectiveness and relevance. In human rights issues such differences occur rather rarely, but when they do, they influence EU performance in the Council. The EU positions can become watered down compromises, which do not help to promote human rights standards. Often the EU is criticized for representing the lowest common denominator positions. Further EU enlargement can make it more difficult for the EU to find common position in some human rights questions when/if internal religious and cultural differences increase in Europe.

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25 In some forums only states or member states of the HRC are able to speak. If the rotating presidency is not a member of the HRC it must decide which EU country works on behalf of it.
26 Smith 2010, 229.
27 COHOM is the forum for cooperation in external human rights policy.
28 Smith 2010, Brantner & Gowan 2008a, 2008b.
29 Point that came out with most of the interviews with third parties. What was interesting was that EU’s closest allies (other European and Western countries) were very critical towards EU coordination meetings and secret diplomacy.
30 Zaru & Geurtz 2012, 51.
31 This was evident in EU member state interviews in Geneva.
32 For example in questions concerning Israel-Palestine issues and reproductive rights.
33 Fact that was often mentioned in external parties’ interviews, see also Brantner & Gowan 2008b, 2009a, 2010, 2011.
Internal EU policy and law are important for determining and understanding the extent of formal legal competences, and they also matter politically for understanding the role of the EU in international institutions. Progressive internal human rights policy enhances EU credibility and reinforces its message at the global level. The EU is eager to ‘upload’ its internal political priorities in human rights issues and pursue a leading role in global human rights governance in line with its normative self-understanding. This works well in issues where EU states have found common agreement internally, for example in the case of abolition of death penalty. However, there is a danger that big EU countries rule the game and smaller member states need to follow their positions. The multilateral arena inflates the power of Germany, France and UK, especially in the case of the UN where they have privileged position. Inequality during the EU coordination may make smaller countries more reluctant to act through the EU in the HRC, and thus decrease EU relevance. Smaller like-minded countries may start to cooperate more actively in human rights issues instead of working at the EU-level. There are already signs showing for example increased Nordic cooperation in the HRC.

However, EU credibility as a human rights promoter and the legitimacy of EU’s human rights claims can suffer from several inconsistencies between internal and external human rights reality. Currently, the situation of migrants and minorities has raised a lot of debate in the HRC, and UN Special Rapporteur on human rights of migrants has focused on flaws in the EU’s migration policy. Member states may also try to use international discussions to strengthen their positions in internal human rights debates. Some controversial human rights debates, such as LGBTI-rights, reproductive rights and the status of traditional values, have already caused slight differences among the EU member states. Internal differences may make it difficult to form common positions at the HRC or EU positions reflect only lowest common denominator between EU states.

The broader international political constellation is an important structural factor that shapes and conditions EU performance. Recent decline in EU influence and effectiveness linked in particular to the rise of the emerging economies and a consequent relative loss of the EU’s international weight has consequences for EU performance in human rights issues. Whereas politics in these institutions have been dominated by a transatlantic constellation in the past, this constellation has become more multi-polar, reflecting broader changes in the international system. This has been especially evident in the HRC, where Western states form a minority. The ECFR project has tracked EU’s success on human rights issues in the UN system in 2008-2011. These reports, based on voting records, claim that EU’s (and Western) power has been on the wane in the Human Rights Council. They notice how growing majority of anti-Western powers led by China and Russia regularly have blocked EU statements in the Council. These reports conclude that the need for Europe to focus its diplomatic energies at the UN on influencing the rising non-Western powers rather than managing the EU’s internal splits is more urgent than ever. In many occasions the EU has failed to be influential because of the evolving political climate of UN human rights governance fora, with emerging economies playing an increasingly significant role.

34 Jørgensen et al 2011, 613.
35 see Manners 2002.
36 Kissack 2010, 21.
40 http://ecfr.eu/content/entry/the_eu_and_human_rights_in_a_post-western_world/
42 Brantner & Gowan 2011, 10.
These structural factors pose a challenge for the assessment of the EU’s performance in international institutions. The power of the EU to influence the institutional arrangements is rather limited. The EU was very active during the review process of the HRC in 2010-2011, but failed to have any relevant consequences for the process. The maintenance of the status quo was already seen as a victory for the EU. There may be instances where the EU has exploited its potential to the best of its abilities and still does not achieve its goals, for example because its partners are unwilling to cooperate. The EU presents Western human rights values for the South, and has difficulties when working in majoritarian forums like the HRC. The human rights interpretations of developing countries differ from the EU view, which still emphasizes civil and political rights instead of economic and social rights. Even combined Latin America, Eastern Europe and WEOG can mobilize less than half of the votes in the HRC. However, this problem is acute only when very controversial issues are on table at the HRC and voting is needed.

<table>
<thead>
<tr>
<th>UN regional group</th>
<th>Number of states of total 47 (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Africa</td>
<td>13 (28%)</td>
</tr>
<tr>
<td>Asia</td>
<td>13 (28%)</td>
</tr>
<tr>
<td>Latin America</td>
<td>8 (17%)</td>
</tr>
<tr>
<td>Eastern Europe</td>
<td>6 (13%)</td>
</tr>
<tr>
<td>WEOG (Western Europe and Others Group)</td>
<td>7 (15%)</td>
</tr>
</tbody>
</table>

**Evaluating EU performance in the HRC**

**What is performance?**

If good performance is growingly a path to legitimacy, it is necessary to understand what this performance actually is. There is little consensus as to what constitutes a valid set of criteria for measuring performance. Following Gutner and Thompson, I claim that performance can be understood as both, diplomatic outcomes and processes, and this distinction is helpful in finding ways to measure EU performance. Performance evaluations have pointed predominantly at actors’ goal achievement, which is quite narrow and problematic perspective to performance. This is because in the case of the EU, it is sometimes difficult to know what the concrete goals of the EU are in certain institutional context. The more process-related aspects of performance are often left aside in evaluation, even if these could actually tell lot about the performance of actors. In the end, goal achievement is based on successful (and often more informal) processes. On the other hand, process performance does not necessarily translate into outcome performance. Secondly, it is not fair to evaluate mere outcomes if the actor in question is heavily constrained by contextual factors outside

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44 Rathgeber 2012.
45 Blavoukos & Bourantonis 2011b.
46 Around 21 votes from 47, see Kissack 2010, 47.
47 Gutner & Thompson 2013, 56.
48 Gutner & Thompson 2013, 62-63.
of its control. Outcomes do not tell much about processes at the informal diplomatic level, often main forum for EU efforts.

Previous research studying EU performance in different institutions focuses on internal EU developments, such as the effects of launching EU Security strategy (2003) or Lisbon treaty, to EU performance. The assumption seems to be that when the EU is internally a more capable and coherent actor, it will produce better external outcomes. However, EU performance is often highly dependent on external contexts and institutional limitations. Well-functioning internal processes do not necessarily imply that an entity will fulfill its goals. The expectations may be too great, or goals too difficult to achieve in a given context.\(^49\) On the other hand, EU performance might look pretty good, if its goals are very modest. Previous research evaluating EU performance in the HRC\(^50\) has concentrated on voting records, which is only one and quite narrow aspect for assessing EU behavior. I will look at EU performance by taking into account several parameters and discuss their merits and flaws in evaluation efforts.

In this paper, EU’s performance in the HRC is studied along the elements identified by Jørgensen, Oberthür and Shahin:

1) effectiveness (the extent to which an organization is able to fulfil its goals)
2) relevance (the ability of an organization to meet the needs and gain the support of its priority stakeholders in the past, present and future)
3) efficiency (a ratio reflecting a comparison of outputs accomplished to the costs incurred therefor) and
4) financial viability (the ability of an organization to raise the funds required to meet its functional requirements in the short, medium and long term).\(^51\)

Effectiveness is more concerned about EU outcomes or EU ‘output’, while the three other elements focus more on processes as ‘enabling factors’. Because effectiveness is the most general way to look at EU performance, I will focus on this element from different perspectives. Secondly, I will discuss EU relevance, which is crucial aspect for having any EU-action. Thirdly, I will deal with efficiency and resource viability together shortly.

**EU effectiveness**

EU effectiveness is concerned about the EU goal achievement and there are several ways to approach it in the Human Rights Council. Laatikainen and Smith use four ways to define ‘effectiveness’ in the EU-UN relations\(^52\) which takes into account both internal and external EU objectives. The EU’s *internal effectiveness* refers to EU ability to speak with one voice and find common EU positions at the UN, an important policy goal. Secondly, *external effectiveness* means EU’s ability to achieve its more substantial objectives. Is the EU able to influence other actors and debates in certain issue areas? A third and more general feature of effectiveness is EU’s ability to contribute to the *effectiveness of the UN*, and the HRC more particularly. Is EU action really helping the Council to serve its purposes? EU documents repeat the commitment to multilateralism and the UN in particular. Last but not least, the aspect of effectiveness concerns *UN’s own effectiveness* to achieve the aims it aspires, and goes beyond evaluating the EU action. It needs to be noted shortly, that the relevance of the HRC has increased after 2011, and the current crisis around the world are

\(^{49}\) Gutner & Thompson 2013, 58.

\(^{50}\) Brantner & Gowan 2008a, 2009b, 2010, 2011.

\(^{51}\) Jørgensen et al 2011, 603.

\(^{52}\) Laatikainen & Smith 2006, 9-10.
lively debated at the Council sessions\textsuperscript{53}. The amount of adopted resolutions is steadily growing, and more cross-regional cooperation has intensified. In the following, I will shortly discuss the first three aspects of EU effectiveness in the HRC context.

The EU’s internal effectiveness has been remarkable in the HRC. The EU states have agreed to speak with one voice in the HRC, and after the Lisbon treaty, the EU-delegation has taken responsibility of EU coordination. Nowadays EU coordination is a normal way to proceed, and coordination processes have become more fluid and effective. The EU coordination results in common statements, resolutions made on behalf of the EU, and in voting cohesion\textsuperscript{54}. The EU has been the most active bloc in the Human Rights Council delivering statements in most of the human rights issues at hand. However, the EU does not usually make collective statements during the Universal Periodic Review (UPR) debates, which concern the human rights situations of individual countries, because it wants to maintain the 'peer-review’ nature of this procedure. As the table 1 shows, EU output regarding common statements has been quite stable during the HRC.

In order to evaluate the overall EU output, including statements made by the individual EU states, figures would look pretty different. Currently it seems that the EU strategy is to use increasingly the voice of member states. Through the individual member states, the EU is able to avoid “bloc mentality”. The EU states are anyway committed to “delivering one message with many voices”. The EU delegation or the presidency usually speaks first, and then member states align themselves to EU position and add their own comments, if necessary. Originally the idea was that the EU message would be repeated in the Council debates by all the member states interventions, but states have not always followed this logic. If the EU speaks only once, it may lose the perception of it as a big bloc of countries. On the other hand, it may well be asked whether it is necessary to repeat the EU message, if nothing relevant is added. How many times the EU should speak in order to be effective is just one of the questions the EU has not yet solved.

\begin{table}[h]
\centering
\begin{tabular}{|l|c|c|c|c|c|c|c|c|}
\hline
\hline
\textbf{EU statements/interventions} & 55 & 70 & 96 & 80 & 74 & 73 & 80 & 80 \\
\hline
\end{tabular}
\caption{EU statements and interventions during general sessions of the HRC (statements made on behalf of the EU by EU-delegation or by rotating presidency)}
\end{table}

source: HRC extranet https://extranet.ohchr.org/sites/hrc/Pages/default.aspx

Besides statements and interventions, the EU organizes many public diplomacy activities and hosts meetings and side events alone or in cooperation with third states, regional actors or some organizations\textsuperscript{55}. These more informal debates and forums should be taken into account when assessing EU output. It would be interesting to know the number of these events, the participating countries and other actors as well as who are invited to present their positions in these occasions. Often the most crucial discussions are conducted during these events and issue experts are able to inform decision makers. These events are also more open for civil society organizations, which can make their important contributions to the work of the Council. The EU is often praised for its capabilities to widen the participation of the HRC.

\textsuperscript{53} Rathgeber 2012 & 2013, Wouters & Meuwissen 2013.
\textsuperscript{54} Smith 2006, 157.
\textsuperscript{55} Often different human rights organizations.
Another way to look at EU’s output is to count how many HRC resolutions are sponsored by the EU or EU member states (see table 2). The EU does a lot of burden-sharing in the HRC and member states have responsibility for preparing certain resolutions\textsuperscript{56}. The EUMS have united forces for outreach and lobbying. The idea is that those member states with more expertise, motivation and networks in some thematic or country resolution can promote them most effectively. Improving internal burden-sharing is one of the strategic objectives of the EU\textsuperscript{57}. It also explains the low amount of resolutions sponsored by the EU. The EU acts collectively mainly in country-specific resolutions and member states drive different thematic resolutions. Most of the EU sponsored resolutions are adopted in the HRC, and in this sense the EU is very effective. This fact does not however tell about the ambitiousness of EU resolutions.

Table 2: Human Rights Council resolutions 2006-2013, EU/EUMS sponsored resolutions

<table>
<thead>
<tr>
<th>Year/session</th>
<th>adopted resolutions (by vote)</th>
<th>EU sponsored resolutions</th>
<th>EUMS resolutions</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013/24 (September)</td>
<td>35/7 (total 95 res.)</td>
<td>0</td>
<td>22</td>
</tr>
<tr>
<td>2013/23 (June)</td>
<td>26/7</td>
<td>1</td>
<td>7</td>
</tr>
<tr>
<td>2013/22 (March)</td>
<td>34/14</td>
<td>3</td>
<td>9</td>
</tr>
<tr>
<td>2012/21 (September)</td>
<td>33/8 (total 94 res.)</td>
<td>0</td>
<td>8</td>
</tr>
<tr>
<td>2012/20 (June)</td>
<td>22/4</td>
<td>1</td>
<td>5</td>
</tr>
<tr>
<td>2012/19 (March)</td>
<td>39/15</td>
<td>6</td>
<td>13</td>
</tr>
<tr>
<td>2011/18 (September)</td>
<td>28/7 (total 89 res.)</td>
<td>0</td>
<td>8</td>
</tr>
<tr>
<td>2011/17 (June)</td>
<td>25/8</td>
<td>0</td>
<td>8</td>
</tr>
<tr>
<td>2011/16 (March)</td>
<td>36/11</td>
<td>5</td>
<td>8</td>
</tr>
<tr>
<td>2010/15 (September)</td>
<td>28/9 (total 71 res.)</td>
<td>0</td>
<td>8</td>
</tr>
<tr>
<td>2010/14 (June)</td>
<td>16/3</td>
<td>1</td>
<td>4</td>
</tr>
<tr>
<td>2010/13 (March)</td>
<td>27/8</td>
<td>3</td>
<td>6</td>
</tr>
<tr>
<td>2009/12 (September)</td>
<td>28/7 (total 73 res.)</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>2009/11 (June)</td>
<td>12/4</td>
<td>1</td>
<td>5</td>
</tr>
<tr>
<td>2009/10 (March)</td>
<td>33/14</td>
<td>1</td>
<td>12</td>
</tr>
<tr>
<td>2008/9 (September)</td>
<td>19 (total 69 res.)</td>
<td>3</td>
<td>0</td>
</tr>
<tr>
<td>2008/8 (June)</td>
<td>14</td>
<td>1</td>
<td>7</td>
</tr>
<tr>
<td>2008/7 (March)</td>
<td>36</td>
<td>2</td>
<td>8</td>
</tr>
<tr>
<td>2007/6 (September)</td>
<td>37 (total 49 res.)</td>
<td>2</td>
<td>15</td>
</tr>
<tr>
<td>2007/5 (June)</td>
<td>2</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>2007/4 (March)</td>
<td>10</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>2006/3 (September)</td>
<td>4 (total 14 res.)</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>2006/2 (June)</td>
<td>5</td>
<td>5</td>
<td>3</td>
</tr>
<tr>
<td>2006/1 (March)</td>
<td>5</td>
<td>0</td>
<td>2</td>
</tr>
</tbody>
</table>

Source: Annual Reports of the HRC 2006-2013, HRC extranet, EU annual reports on human rights

Table 2 shows how the total amount of adopted resolutions in the HRC is increasing. It is interesting to speculate what the amount of voting suggests. It seems that the composition of the Council has to do with the number of voting: there has been a decrease in voting at the Council lately, and this has probably been because of the absence of countries like Cuba, Russia and

\textsuperscript{56} There is a list where these responsibilities are outlined. Member states can have ownership of some resolution because of history, colonial ties, but also because of motivation and interest to work on specific thematic issue. Submission of resolutions follow annual calendar for resolutions, so same issues come up in same yearly sessions.

\textsuperscript{57} EU human rights strategy 2012, action 35.
China. This year these countries are again serving in the Council, and there might be more confrontations. Much depends also on issues that are on table, and that is why there is a higher amount of voting during March sessions. A higher voting rate is probable with more controversial questions and recently difficult thematic resolutions have been on the table in March session. Voting is also one way to pressure others: “if you do not make these amendments to your resolution, we will put it under the vote”. It has become more common to table broad, cross-regional group resolutions, which are widely supported already at the time of submission. Recently, the willingness to share leadership of resolutions has also increased. For example, Arab and African countries have taken the leadership in initiatives concerning countries in their own region. Diversification of initiators strengthens the HRC and makes its work more legitimate. On the other hand, countries do not want to lose their positions, so they usually withdraw their unsuccessful draft resolutions.

Table 2 also shows that EU or the EU member states have been very active in sponsoring resolutions. Some of the EU resolutions are shared with third parties, such as the resolution on the rights of the child (with GRULAC). Individual EU countries also work with third states when sponsoring resolutions and it is not always clear how to count the sponsorship of resolutions. Main sponsorship is the most relevant in this case, because main sponsors submit resolutions, and take responsibility for leading negotiations. Countries can also co-sponsor resolutions and main sponsors try to achieve as many co-sponsors as possible for their resolutions. If there is a large amount of co-sponsors for a single resolution, the main sponsor can block any attempts to redefine the resolution by others. The third possibility is to work as an additional sponsor of resolution, which means that country can later on confirm that it supports a resolution. The EU aim is that member states support or oppose resolutions as a group.

In the HRC the EU member states aim to vote in cohesive manner, even if this is not required. If internal agreement cannot be found, the EU states usually abstain. The EU also delivers common explanations of vote, when needed. The EU voting cohesion in the HRC has been very high. There are only few cases where EU votes have split in the HRC. These cases usually deal with item 7 (Israel-Palestine). Table 3 shows EU split votes and topics where splits have occurred. Because of the political constellation of the HRC, results of the HRC votes remain discouraging for the EU. In the Human Rights Council bloc voting has been the rule, meaning that countries follow their own political groups when. The EU is often on the losing side when Asian and African countries (South) disagree with the EU. While Western and non-Western countries continue to vote on fairly predictable lines on human rights issues, there has been some unexpected alliances formed during the last two years. Currently some of the countries in Asia and Africa vote more independently. Especially the Arab Spring has brought new actors and issues to the HRC and weakened the influence of the OIC. The EU has engaged with third partners on potentially problematic initiatives (right to peace, defamation of religions etc.) and tried to achieve compromises. The EU willingness to compromise its objectives in the HRC has raised some criticism.

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58 Especially Cuba and Russia make provocations (such as amendments to resolutions) in the HRC.
59 see HRC voluntary annual calendar for thematic resolutions
60 Brantner & Gowan 2011, 6.
61 OIC Organisation of Islamic Cooperation (57 states). The Organization is the collective voice of the Muslim world and aims to ensure and protect the interests of the Muslim world.
62 Smith 2010.
Despite high degree of internal effectiveness, EU’s external effectiveness is often claimed to be quite poor[63]. One of the main reasons mentioned for this is that the EU’s internal negotiations take much time and no time is left for outreach efforts.[64] It is true that multilevel EU decision making and internal negotiation practices make it difficult to position in others’ views. Outsiders find it difficult to understand how the EU works and who is leading the EU negotiations. However, the EU has improved both, its internal cooperation and its outreach, remarkably. The EU is active in making statements, interventions, informal debates and resolutions. It works with different parties from diverse regions. It is also good at getting its resolutions supported by others. However, the problem is that the EU is quite conservative actor in the Council in that it does not push new issues[65]. Most of the EU resolutions are inherited from the past. Another problem is that EU points selectively other countries in its resolutions. For example China is never subject of EU resolutions. Important commercial or other interests play crucial role here. The EU also drops easily those resolutions which are not likely to be supported by others. The EU effectiveness in the sense of achieving its goals might look good, but on the other hand its objectives should be more critically studied.

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[63] Brantner & Gowan 2008a, 2009a, 2009b.
[65] Smith 2006, 158.
The last aspect of effectiveness is related to the considerations mentioned above. Is the EU effectively contributing to the effectiveness of the HRC? The EU aims to support the HRC mechanisms and procedures. During the first years of the Council the EU was crucial for the functioning of the body. The absence of the US before 2009 made it difficult for the EU to act in the Council. Political blocs and anti-Western sentiments created a challenging atmosphere for the EU. The EU members were trapped in the middle, claiming to act as a bridge between the US and the rest, but often failing to influence either. Influential countries of the South set the agenda and blocked EU positions. It seems that this period made the EU very cautious. In the end, the EU represents Western interpretation of human rights for many developing countries, and the overall divide between North and South in the UN is apparent in the HRC. The increasing EU cooperation and unity may create more bloc mentality in the Council. Other political groups have at times found it necessary to unite their forces in order to balance EU power. Political rather than human rights considerations have gained importance. This might make the HRC less effective body for human rights promotion.

**EU relevance**

Another important perspective to EU performance is EU relevance. How relevant is the EU’s participation in the HRC in the eyes of its stakeholders? In cases where there is no relevance, it is logically not possible to talk about EU performance. ‘Relevance’ is thus constitutive of being able to talk about EU performance. Coordinated EU position must have some added value for the stakeholders. First of all, it is necessary to define, who the relevant stakeholders of the EU are in the HRC context. EU’s human rights policy is an area of shared competencies, and intergovernmental decision-making is the main working method. Thus, EU member states and member state delegations in Geneva are considered as the main stakeholders of EU policies. But one needs to take into account EU’s relevant others in the HRC, such as other member states, human rights NGOs, HRC secretary and other regional actors. Do they perceive the EU as a relevant participant in the Geneva context?

In general, the EU appears to have become much more relevant for its member states when acting within international institutions over the past two decades. This is true also in Geneva where the role of the EU-delegation has increased as the locus for EU coordination and representation. This is a bit surprising because HRC is considered to be mainly intergovernmental forum, and independent from Brussels. The rotating presidency system is still running strong, and the collective EU role is much more restricted than in some other organizations. However, it seems that EU member states have learned to work through common voice, and coordination is mainly evaluated positively. EU unity is a political goal, and much work is done in order to achieve and maintain it. On the other hand unity is easier to achieve in human rights issues where the member states mostly agree on subject issues. The EU states also realize that they need common action if they want to have their voices heard in the HRC. The EU has agreed on common objectives and action plan in the area of human rights. The EU works together in the priority areas - they defend the universality of human

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66 Brantner & Gowan 2008a.
67 Brantner & Gowan 2011, 6.
68 In external interviews it was mentioned how it has been the EC/EU countries, already from the beginning of the CHR, which have voted as a bloc. Other actors have merely followed this example.
69 This part of the evaluation is partly based on semi-structured interviews conducted in Geneva in the period of April-November 2013. Interviewed persons worked in EUMS delegations, EU-delegation, third country delegations, human rights organizations and HRC secretary.
70 Jørgensen et al. 2011, 604.
71 Jørgensen et al 2011, 599.
72 see EU human rights strategy 2012.
rights, help human rights defenders, fight for children’s rights etc. In the Security Council for example, the relevance of the EU for its member states is much more limited, because important national interests are in question.\(^{73}\)

Despite the high level of unity and europeanization in human rights issues, EU countries have also their own profiles and national projects they try to promote at the HRC. Member states are able to go alone, whilst respecting the principle of ‘sincere cooperation’,\(^{74}\) whatever this means. National capacities to promote human rights issues in the HRC vary a lot and EU countries are not equal during the coordination. One obvious problem is that big EU member states often rule the game. Other EU members are simply invited to (co-)sponsor resolutions to increase their legitimacy and political leverage without shaping their content and affecting their outcome. Many smaller countries are happy with the situation, benefitting from the work of others. Especially the work of the EU-delegation is highly appreciated. If there is a synergy between national and EU priorities, everything works well. It is easier for the EU delegation to discuss about sensitive issues, which MS are sometimes reluctant to drive forward. However, the willingness to cooperate may decrease if smaller countries cannot get their voices heard in issues they find important. Because EU decisions in the HRC are made in consensus, smaller countries can effectively block common positions. The problem is that EU positions often reflect only the lowest common denominator between member states.

Thus, one of the big questions is if the EU level is really needed in the HRC. Could the EU member states act more effectively and achieve their aims without coordination? Some member states feel constrained by the EU when they would like to drive more progressive human rights positions.\(^{75}\) If there is no EU agreement on some issue, why to aim at finding collective positions? On the other hand, some more conservative member states feel that the EU should not be active in promoting reproductive rights or LGBTI rights so loudly. Despite internal EU differences, EU coordination is important channel for information exchange and delivering best practices. At the moment it seems that the EU has taken a more strategic perspective to its work in the Council. EU coordination has been strengthened and streamlined, and the EU is more united than before. The EU has noted how its collective action can at times be counterproductive. Through burden-sharing the EU has been able to improve its outreach and form more cross-regional initiatives. Thus, it is a conscious choice of the EU to promote resolutions through individual member states.

It should also be taken into account how relevant the EU is for outsiders, other countries, organizations, HRC secretary and regional organizations.\(^{76}\) Other actors perceive the EU as one united actor, despite underlying differences between EU states. The EU was criticized for spending most of the time looking inwards, trying to solve things internally, and trying to come out with one voice. For outsiders, it seems that finding a common EU position is an end in itself. EU cooperation is conducted in secrecy and sometimes negotiation positions change in this process. It was also doubted that big EU countries are those that have a final say in the formation of EU positions. Some external partners work directly with these countries in order to make the deal. However, the EU-delegation is a growingly important point of contact in Geneva, especially in the case of strategically important partners. The EU-delegation in general, is perceived as constructive negotiation partner that does not have national interests behind it. The EU invites its partners\(^{77}\) to cooperation meetings before Council sessions to inform about its priorities and tries to find

\(^{73}\) Blavoukos & Bourantonis 2011b

\(^{74}\) Council of the European Union 2011, EU statements in multilateral organizations, General arrangements (15901/11).

\(^{75}\) For example Sweden and Netherlands.

\(^{76}\) I interviewed 35 outsiders presenting these groups.

\(^{77}\) Individual countries, strategic partners, neighborhood countries, regional organizations, human rights organizations
common ground in country and thematic issues. Third states are willing to get the EU on board (as co-sponsor) when submitting resolutions because the EU is really 28 states\textsuperscript{78}. However, for many others (former colonies, NGOs) individual EU countries are more important partners than the EU as such. External partners also seem to cooperate most likely with big EU state ambassadors when they want to safeguard their preferences. External actors find it difficult to understand EU burden-sharing practices, and they are often confused about multiple EU/EUMS actors and voices. The EU and EUMS priorities are mixed in the eyes of other actors.

**EU efficiency and resource viability**

Financial/resource viability refers to the ability of the EU to raise the resources required for high performance in the negotiations, in the respective institution in short, medium or long term. Because resources include financial means, personnel and possibly other resources, such as external expertise and knowledge, indicators beyond funds alone should also be reflected.\textsuperscript{79} The amount of personnel in the EU ‘machinery’ is huge. The EU-delegation in Geneva has around 5 experts working in human rights issues. The number of experts in national missions varies, but each EU state has usually at least two human rights experts. During the rotating presidency, the number of experts increases remarkably, as well as when the EU state serves as a member of the HRC. Depending on national resources and objectives, member states have from four to more than ten human rights experts in their Geneva delegation. There is also assisting persons working in the capitals of member states. Thus, together the EU-delegation and member states probably have more than 200 human rights experts working in HRC related issues. Experts in Geneva may have other responsibilities in other Geneva-based organizations.

More relevant is of course the negotiation skills, expertise and personalities of these experts. Usually human rights experts spend only three years in Geneva, which means that there is not that much continuity in their work. New experts and delegations tend to be quite conservative and careful in the beginning of their term. There is also exceptions to the general short term stay; some experts spend years or return to Geneva after break, and have longer time-perspective towards the Council work. Human rights experts can have very different backgrounds and this fact has crucial importance when driving some thematic or country cases. The EU benefit is that it usually has among the personnel (EU or EUMS) good experts in several issue areas. When compared with many African or Asian states, the difference in resources and expertise is huge. One third of the EU-delegation personnel should come from the member states, but there is some worries that member states do not send their best candidates to EU delegations. One important change after the Lisbon treaty has been the increased role of the EU delegation in Geneva. The permanent presidency of the EU has brought continuity and stability to EU diplomacy. The former rotating presidencies had very different resources to carry the responsibilities of presenting the EU. The six months period was often quite demanding to work effectively in the HRC context.

The EU also has more financial resources and instrument at its disposal than any other HRC member. The EU is the largest contributor to the UN system and it has been able to give even additional funds for special procedures and country mandates to balance the decreased UN member state contributions. Economic crisis has not yet directly affected EU resources in the Human Rights Council. However, the crisis can diminish the size and resources of the EU member state missions in Geneva. This could mean increasing burden-sharing between the member states, and more responsibility for the EU-delegation. The EU resources are more essential for those EUMS with

\textsuperscript{78} Even if the EU has only 7-9 votes.

\textsuperscript{79} Jørgensen et al. 2011, 605.
small delegations. The economic crisis will also influence how much states are able to contribute to
the UN. In the future there can be reluctance to accept some expensive mandates, and states must
start to make more precise cost/benefit analysis when deciding on expensive country operations.
However, this is not the case yet. Economic crisis can also affect the way how economic interests
and human rights issues get mixed in the future. Economic interests might weight more than human
rights concerns. EU countries with weak economic situation are not necessarily able to resist the
temptation of getting investments. In these cases human rights considerations might be put aside for
example in relations with Russia, Kazakhstan and China.

Last but not least aspect is EU’s ideological resources and normative power image. The European
regional human rights regime is considered to be example for other regions. European human rights
institutions and norms present high standards and working models. However, this normative
example is maybe more in Europe than in the EU. Countries like Norway and Switzerland have
strong and constructive image in the Council. Even if they often align themselves to EU positions,
they have succeeded to gain more support. On the other hand, the EU is part of the West and its
human rights interpretations are not shared by the majority of the HRC members. The EU
emphasizes political and civil rights, whereas countries form the South would like to debate more
about economic, social and cultural rights. Interestingly, there is still quite big difference between
the EU and the US in the eyes of others. After acceding to the Council in 2009, the US has claimed
leadership role and takes the honor of making the HRC more effective body. However, the pro-
Israeli attitudes of the US as well as its strong positions driven with more coercive measures make it
less attractive partner for others. The EU is often considered more reliable actor who is willing to
listen to others.

EU efficiency is closely related to its resource viability. Efficiency refers to the relationship
between achieved goals and incurred costs. Has the EU been effective in activating its resources to
meet the aims set for EU action in the HRC? As a hybrid organization, the Union is bound to be at
least to some extent inefficient. Internal EU coordination among 28 countries takes much time and
energy, even if the processes have developed during the HRC work. It is very difficult to measure
EU’s relative efficiency or compare it with other actors. In general it could be said that the EU
efficiency does not look good at the Council. The EU is active and uses a lot of resources, but with
the current amount of resources the EU should be far more influential. The EU could be a leader of
the HRC and run negotiations at different diplomatic levels. But it seems reluctant to adopt this kind
of role. The EU does not use effectively the resources and instruments at its disposal. With the
recently adopted strategic approach, the EU has started to link its HRC priorities to its bilateral
relations. On the other hand, the EU seems reluctant to use some of its more coercive measures
towards other states in order to promote human rights.

The efficiency of the EU’s human rights policy is largely dependent on how others perceive the EU
agency and aims. If other actors see the EU as a legitimate and reliable partner, it will be much
easier for the EU to drive its objectives. In the work of the HRC, the EU has been rather arrogant
actor in the HRC and mainly lectured for others and pointed at their failures. In order to be more
efficient, the EU should change its ways to communicate; more dialogical approach is needed. The
EU should be more willing to discuss about its own human rights problems. Currently, the EU
seems incapable of discussing issues such as migration and racism in the Council. The economic
crisis and deteriorating human rights situation in some EU countries should be discussed more
openly.
Conclusions

This paper has offered an overview of the EU’s performance in the UN Human Rights Council by considering EU effectiveness, relevance, resource viability and efficiency. As a conclusion, the picture of EU performance is mixed. In the end, much depends on how we are to measure success and failure. The EU has been internally very united and actively pursued its priorities, which is a clear sign of success. Also the EU relevance for its member state and outsiders in the Council has increased. The EU is more present and visible actor in the HRC practices. The EU has lot of resources relevant for the UN context: personnel, expertise, financial capability and even ideological influence. But if EU resources and achieved outcomes are compared, the EU does not look very efficient actor. It should be able to do much more.

EU’s diplomatic performance may be evaluated by looking at the outcomes it has achieved. In this sense, the EU has been fairly successful by reaching most of its stated aims. However, this does not tell much about the nature or substance of the EU objectives. It seems that the EU has taken the challenging external conditions for its action seriously, and not pursued too ambitious and controversial projects in the HRC. The EU may fear that it polarizes the debate too much and makes the HRC less effective organization. On the other hand, EU success at the level of processes is difficult to measure as well. Successful outcomes often tell about successful processes behind the formal decision making. One of the most obvious examples of the EU success has been the EU ability to widen the participation at the Council. It has also served as an organizer of various informal events and meetings. The EU has also build bridges to other regional organizations (AU, OIC) and tried to find common ground in human rights issues. Through widening and sharing the leadership of HR issues, the EU could make the HRC more effective body.

The framework conditions outlined in the beginning of this paper can explain at least to some extent EU successes and failures. The EU has been able to develop its internal coordination to the extent that legal-institutional limitations at the UN do not matter that much for the EU’s performance. The EU member states have shown willingness and commitment to common EU representation and delegation of power. EU works as a good platform for member states to upload their preferences and even burden-share in issues they find dear. Collectively member state can achieve much louder voice and visibility in the Council. However, big member states France and UK and to some extent Germany are privileged in the UN forums. They are also more willing to maintain their individuality. This might be a problem for the EU, especially if smaller and middle size states do not want to be led by these countries.

EU’s internal developments in the area of human rights policy do have relevance for the HRC work. The EU aspiration to act as an example is widely recognized but not necessarily accepted. The EU has problems in maintaining consistency between internal and external human rights policies, a fact that undermines EU credibility at the HRC. EU’s internal human rights problems, such as treatment of minorities, are often mentioned in the HRC but seldom really discussed. The EU as such does not have competencies to answer on behalf of individual EU states to these accusations. EU countries are also quite reluctant to criticize each other. However, in the context of the HRC external political constellation is the element which seems to influence EU performance most. EU’s external effectiveness and efficiency are limited by external environment and UN’s political divisions. External framework conditions deserve more attention when the EU’s performance in the HRC is evaluated.

80 Special representative for HR, EU delegation or High Representative cannot answer to the violations of human rights made by individual EU member states.
This paper has offered some avenues for thinking about EU performance. Evaluating EU performance in the HRC has proven to be a difficult task with different possible measures. Much depends on how we interpret the core elements or concepts used in this paper. The different measures for evaluating EU performance presented in this paper are not the only possible options. In the future, for example, the importance of EU legitimacy for EU performance could be integrated into the analysis. For sure, there will be growing interest in studying EU performance in the future both in academic and policy studies, and I hope my case study will help to develop and discuss new possible schemes for EU performance evaluation.

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