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Evaluation of Coordination and Coherence in the  
Application of Article 96 of the Cotonou Partnership  
Agreement

## **Appendix Case Studies**

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# 1 Fiji Case Study<sup>1</sup>

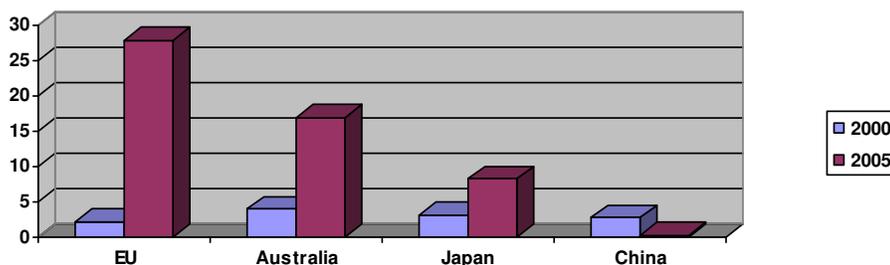
## 1.1 Introduction

Fiji is a former colony of the United Kingdom and achieved independence in 1970. Fiji has been an important actor in EU-ACP development cooperation, and had it not been for the 2000 coup, the meeting that established the Cotonou Agreement would have been held in Fiji's capital city and the agreement would have been known as the Suva Agreement. Now instead of giving the name to the EU-ACP aid agreement, Suva only has the questionable honor of being the first capital to host the Agreement's Article 96 consultations.

### *Framework for Coordination*

Its relatively high level of per capita income (almost €6,000) makes Fiji just barely eligible for aid and also not very dependent on development cooperation. Aid constitutes only 2.1% of Fijian GDP, and European aid constitutes slightly less than half of the total Fijian aid receipts (48% in 2005). The percentage was much lower, however at the time of the initiation of the Article 96 consultations (16.2%). The EU is Fiji's biggest donor as far as official development cooperation through the Fijian government is concerned, followed by Australia and Japan, while the contributions of other donors are not comparable to the three biggest donors. During the time of the Cotonou consultations, the contributions of Australia, Japan and China exceeded those of the EU. The levels of aid of the major partners in Fijian development cooperation in 2000 and 2005 can be seen in Figure 1.1 below. European development cooperation in Fiji has focused on environmental issues, infrastructure, human development and education.

**Figure 1.1 Development Cooperation with Fiji<sup>2</sup>**



In addition to the level of aid receipts, the conditions of development cooperation also affect the aid. Interviews with Fijian authorities and development specialists indicate that the common Fijian perception is that due to the abundant availability of totally condition-free aid, Fiji is not very vulnerable to European persuasion using aid as leverage. For example, Japan, which is increasingly interested in donor cooperation as such, still treats its project-based aid in most cases in a very apolitical, pragmatic manner, and avoids placing political conditions on aid. At the same time, the European share of Fiji's aid receipts is so sizable that it would be difficult to imagine that the volume of aid could be easily replaced by other donors.

<sup>1</sup> The study team consisted of a member of the project team (Timo Kivimäki, the author of the report) and some of the leading experts on Fijian politics and development cooperation (Professor Robbie Robertson, Professor Graham Hassall, and Professor Ron Duncan, as well as Dr. Miliakere Kaitani).

<sup>2</sup> The Japan 2005 figure is actually from 2004. Source: Ministry of Finance and National Planning, Figures for 1999 and 2005 are revised estimates, while the other figures are actual allocations. The figures do not include aid to civil society organizations, regional projects and programs, or to global programs. Communication with Ministry of Finance and National Planning 2006. The amounts are in millions of US dollars.

European conditions for the resumption of development cooperation were not seen to be intrusive, with Fijian officials tending to explain the conditions as reasonable: Fiji would have tried to take the path suggested by the European conditions anyway, and thus the conditions were felt only as support for “the voices of reason”. At the same time Fijian officials felt that they “had to do their best to meet the conditions in order to resume development cooperation”. European development cooperation was seen as “generally helpful for the political development of Fiji”. Due to Fiji’s positive attitude towards European conditions of partnership, Fiji did not have any reason to try to divide the donor community, thus coordination of efforts was easy: Fiji would have expected relatively similar policies from each European donor organization even without coordination.

The official Fijian attitude towards European aid is very appreciative, and there have not been any major controversies related to European aid in Fiji. Interviews with representatives and experts from NGOs and opposition parties reveal that European development cooperation generally has wide support in Fiji. European access to Fiji’s sugar, together with the fact that Fiji’s sugar industry is largely in the hands of ethnic Indians, has sometimes provoked populist conclusions that Europe prefers to assist the Indians rather than the ethnic Fijians.

European aid is increasingly being coordinated with other donors. Instead of seeing this organization of the donor community as threatening, Fijian ministries have taken a proactive role to ensure that donor coordination takes place within the framework of Fijian development plans. Fijian national development planning and the strategies of different Fijian ministries offer a structure for the coordinated planning of the donors. While the general framework of cooperation is based on bilateral country consultations with the Fijian Foreign Ministry, and while the practical financial issues are also dealt with on a bilateral basis with the Fijian Ministry of Finance and Planning’s Development Cooperation Unit, other ministries, especially the Ministry of Education, already have their own institutional settings and regular donor coordination meetings. The fact that Fiji supports donor cooperation clearly makes it easier for the donors to coordinate their policies. Fiji has not tried to play donor agencies against each other, and there has never been any need to conceal coordination efforts. European participation in donor coordination is very much appreciated. However, the rigidity of the European planning framework sometimes makes coordination between development partners and donor organizations difficult. This problem was well illustrated by the fact that one of the donor officials interviewed thought that even minor decisions related to the implementation of EU aid require the consensual acceptance of all EU member countries!

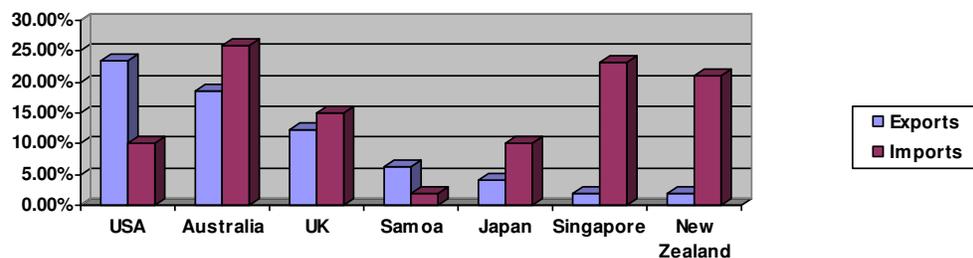
The relative ease with which this cooperation meets the European conditions was also indicated by the mutual perception of the transparency of communication and actions on both sides. To some degree, it seems that the officials dealing with the consultation process have a professional bond across the negotiation table, and at times, it seemed that Fijian officials agreed with the European officials and were almost embarrassed by the statements and actions of their politicians and especially the military. On the European side, interviews revealed that the relevant Fijian officials were “old acquaintances” and thus easy to deal with. This group identification based on professional cultures (diplomats and civilian officials vs. politicians and military) could easily be exaggerated and somewhat harmful for democracy and the supremacy of the civilian political administration, however in the administration of the consultations it seems to have been helpful. Coordination of development efforts is easier if all partners act in a professional manner as people who belong to the same professional identity group.

The gravity point of European internal coordination between Member States and the Commission is in Brussels, while the embassies in Suva are informed about the result of coordination meetings in Brussels. European donors meet regularly, often at the embassy that represents the EU President country. These meetings take place at least once a month, but when the situation demands, European embassies and the delegation meet almost every day. The European Commission’s

central role on issues of European coordination is reinforced by the small size of individual member countries' development allocation and the need for the coherence of policies in Fiji. The trend towards member countries distributing their aid through multilateral organizations in Fiji further reduces the challenges related to intra-European coordination in Fiji because, with less independent individual decision-making by member countries, coordination becomes easier. Due to the small size of the country, and the small number of European development cooperation officials in Fiji, European donor coordination has not been highly institutionalized, instead it has utilized direct informal personal contacts between a handful of people.

Fijian eagerness to resume development cooperation was probably also based on a fear that was not related to aid, but to economic cooperation more generally. Despite the total discontinuation of aid due to the coup, Fijian officials were appreciative that Fiji's problems did not cause their exclusion from the Cotonou Agreement,<sup>3</sup> or the UN's military missions. Furthermore the Fijian government was "very happy that the EU did not invoke any drastic measures," according to a key official. The reference to drastic measures was probably related to measures that might affect fisheries and agricultural trade, but most strongly to the preferential treatment Fiji enjoys in European sugar markets. Fiji depends on the European economy in the form of both European tourism and the remittances of Fijians working in Europe. The special access Fiji's sugar exports have to EU markets is, however, the main economic link between the EU and Fiji. The value of Fiji's exports is 44.5% of total GDP, which justifies the perception of many diplomats that Fiji needs the international community for its market access rather than aid. Yet some experts claim that the main problem for Fiji is not market access but poor export supply response due to the domestic obstacles to increased investment, and aid may well be useful for overcoming these supply constraints. In spite of this, Fiji has very few problems in the form of lack of access. Of the EU Member States, the UK has the closest economic contacts with Fiji, as the country's third biggest trading partner with around 13% of Fiji's external trade. The relative value of trade with Fiji's partners can be seen in Figure 1.2.

**Figure 1.2: Fiji's Exports and Imports, 2005<sup>4</sup>**



### *Framework for Coherence*

Like elsewhere, European political objectives in Fiji include the development of democracy, respect for human rights and the improvement of the level of governance. Commercially, Fiji's trade, especially in sugar and fishery products are of the interest of Europe. At the same time development objectives include the eradication of poverty and environmentally sustainable development. Constitutional interruptions have always meant instability and economic disruption in Fiji, which is why democratic development and rule of law are well in line with development goals, at least in the long run. Yet conditionality set in the consultation process harmed the short run development objectives in the country as the resumption of development cooperation had to

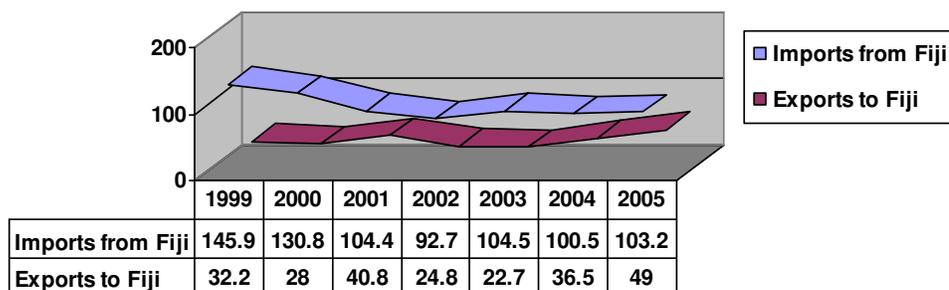
<sup>3</sup> It seems that this unfounded fear was based on Fiji's experiences with the Commonwealth, in its exclusion for 10 years after the first coup in 1987, and exclusion from the Commonwealth councils after the 2000 coup.

<sup>4</sup> Information drawn from several sources (CIA World Factbook; Fiji Foreign Ministry).

wait for developments in the normalization of governance. As trade was not intentionally influenced by the appropriate measures, trade objectives were not seriously harmed even on a short term. As can be seen in Figure 1.3, Fiji does not offer a major market for European products and thus even if there had been a contradiction between trade and the priorities of promotion of democracy, human rights and rule of law, trade interests would not have seriously influenced the consistency of the application of Article 96 as a measure of bringing development cooperation policies closer to the political objectives of democracy promotion.

While the explicit setup of the Article 96 consultations did not aim at influencing trade, the problems of governance clearly affected European trade relations with Fiji. Figure 1.3 shows that both European exports to Fiji and European imports from Fiji were mildly affected. However, according to trade specialists, the effect was caused by the political instability rather than the measures taken under Article 96. Problems affecting trade, aid and investment in Fiji as the result of the coup have been estimated to have caused a loss of one billion Australian dollars (around €600 million).<sup>5</sup>

**Figure 1.3: European-Fijian Trade, 1999-2005 (€ million)** <sup>6</sup>



Coherence of policies in various fields of European activity in Fiji is helped also by the structure of diplomatic communication. Due to the size of the country, the community of officials dealing with issues related to Fiji is small. This size and the relatively low level of economic and other interaction with other nations also means that diplomatic communication between Europe and Fiji is at a modest level. Among the EU Member States, only the UK and France have high-level diplomatic representation (Embassy/High Commission) in the capital Suva. Both countries have only a few people assigned to development cooperation-related activities in Fiji, and these personnel cover six other Pacific island nations in addition to Fiji. The European Commission also has a delegation in Suva, covering 10 other Pacific countries, 4 OCTs and regional programs. The Pacific Islands Forum, the Asian Development Bank and many other multilateral agencies are becoming increasingly significant forums of coordination and communication on aid-related issues.

Fiji has a mission in Brussels, with most officials focusing on trade and agricultural/fisheries issues. Other than this, London has traditionally been the only European location in which Fiji has had high-level diplomatic representation. The relatively centralized nature of European internal coordination of development cooperation activities in Fiji has emphasized the role of direct communication between the Fijian Mission in Brussels and the European Union. Fiji's long-time Minister for Foreign Affairs and Trade, Kaliopate Tavola served at this mission for more than a decade, further facilitating access for senior European Commission officials to the highest foreign policy leadership in Fiji.

<sup>5</sup> Reid, Robert Keith, Business journalist, interviewed on 'Fiji: Encore for a Coup', *Background Briefing*, ABC Radio National, 4 February 2001.

<sup>6</sup> EUROSTAT, [http://trade.ec.europa.eu/doclib/docs/2006/april/tradoc\\_128149.pdf](http://trade.ec.europa.eu/doclib/docs/2006/april/tradoc_128149.pdf).

## *Fijian Governance: A pattern that leaves no room for interpretation*

Fiji's internal stability has for many years been affected by the delicate balance between indigenous Fijians and Indians, who immigrated to the island between 1879 and 1921 as indentured labour under the British colonial rule, and developed into a prominent economic force, especially in the retail industry and in the sugar fields. As has been proven in comparative studies<sup>7</sup> the bipolarized ethnic setting with two relatively equally dominant ethnic groups is a major contributor to political instability and difficulties in democratic development. Furthermore, the perceived economic dominance of the Indo-Fijian economic elite, and the political domination of the Fijian political elite creates a situation of rank imbalance<sup>8</sup> where comparative conflict and governance studies have revealed a perceived risk of the economic elite buying political influence, or the political elite violently using political powers to challenge the economic elite.<sup>9</sup> The political debate in the country has been focused on the ideas of indigenous rights and the rights of all citizens<sup>10</sup>. As these two positions tend to suggest very different conceptions of political rights, Fiji has become a case of polarized expectations between ethnic groups in relation to their rights. As has been shown in comparative studies, this also contributes to Fiji's conflict and coup potential.<sup>11</sup>

In addition to the division between indigenous and Indian Fijians, Fiji's political life has increasingly been influenced by a division between elite and common people, which in turn is related to the ethnic division. Ethnic Indians' dominance of Fiji's business – 80% of the chief executive officers in Fiji are Indo-Fijians – is being used as evidence of the need for affirmative action programs, which also benefit the rich ethnic Fijian elite. Fiji's Prime Minister has justified the use of the current affirmative action program ("the Blueprint") by rich Fijians by stating that the program is "trying to help an entire community to breach that gap... They (Fijian elite) are indigenous Fijians, the scheme is for them, there is no distinction between who is who. So I see no problem with that."<sup>12</sup> Yet according to the Fiji Poverty Report by the Fijian Government and the UNDP, Indo-Fijians are over-represented in the category of poor people in Fiji.<sup>13</sup>

The desire for ethnic "Fijian paramountcy" has been the primary cause of the occasional constitutional interruptions, coups and violence. As such, clear and easily detectable violations against the principles of democracy, rule of law and human rights are part of the dynamics of Fiji's

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<sup>7</sup> Collier, Paul 2000. Ethnicity, Politics and Economic Performance. *Economics and Politics*, November, 12(3), 225-45; see also Vasil, R.K. 1984. *Politics in Bi-Racial Societies: The Third Year Experience*. Vikas Publishing House. New Delhi.

<sup>8</sup> For classical explanations of conflict by rank imbalance, see Johan Galtung 1985. "Military Formations and Social Formations: A Structural Analysis", in Wallensteen, Galtung & Portales, eds. *Global Militarization*. Westview: Boulder, Colorado, pp. 1-22.

<sup>9</sup> The perception of Indo-Fijian economic dominance is not accurate. It is based on the traditional dominance of Indo-Fijians in professions. However, the role of the transnational corporations, especial Australian companies is much more dominating than is perceived. Furthermore, the Indo-Fijian domination of professions has declined as a result of the large and continuing emigration of Indo-Fijians since the first coup in 1987.

<sup>10</sup> On the issues in this debate and the problems of reconciling indigeneous rights and basic human rights of the Indo-Fijians, see Plant, Roger 2002. *Indigenous Peoples, Ethnic Minorities and Poverty Reduction*. Asian Development Bank: Manila.

<sup>11</sup> Empirical comparative studies by the World Bank on political instability in Indonesia suggest that the existence of conflicting sets of normative systems predicts conflict in Indonesia better than any other indicator. See Barron, Patrick, Rachael Diprose, David Madden, Claire Q. Smith, and Michael Woolcock 2003. "Do Participatory Development Projects Help Villagers Manage Local Conflicts: A Mixed Method Approach to Assessing the Kecamatan Development." Project Rep No 27092, CPR WP 9 Indonesia, September 2003; Barron, Patrick, Claire Q. Smith, and Michael Woolcock 2004. "Understanding Local Level Conflict Pathways in Developing Countries: Theory, Evidence, and Implications from Indonesia." World Bank Conflict Prevention and Reconstruction Unit, Working Paper 19, December 2004.

<sup>12</sup> Qarase, Lasenia, Care-taker Prime Minister, 'Fiji: Encore for a Coup', *Background Briefing*, Interviewed in ABC Radio National, Background Briefing: 4 February 2001.

<sup>13</sup> Government of Fiji & UNDP. 1997. *Fiji Poverty Report*. UNDP: Suva & New York.

pattern of governance problems. Thus, in the case of Fiji, the type of governance problems does not allow conflicting interpretations: constitutional interruption involving violence and a governance vacuum clearly requires consultations on the fundamentals of the development partnership. The fact that this is the case makes it easier for European and other donors to coordinate their actions and apply measures that apply to political problems of partnership: Fijian pattern of governance problems is such that cannot be interpreted in fundamentally differing ways.

Three times – in 1977, 1987 and 2000 – Fiji has elected a parliament without a clear indigenous ethnic Fijian majority. In 1977 the institution of Governor General was used to prevent an Indo-Fijian dominated cabinet from being established. This was achieved by the Governor General appointing – unconstitutionally, according to most Fijian law experts – a Prime Minister from the mainstream ethnic Fijian Party, even though the Indo-Fijian dominated National Federation Party had won the elections and secured 50% of the parliamentary seats. The Governor General justified the unusual appointment by referring to security reasons. When the situation arose again in 1987 and in 2000, the Indo-Fijian dominated government was removed by a *coup d'état*, and a new pro-ethnic Fijian government was put in its place. In the words of a traditional chief, "I'm afraid it's what failed leaders who hunger for power, who are greedy for themselves, it's what they use to stir the emotions of the Fijian people, to rouse them, and to take action that would eventually lead to an illegal takeover of the government...I am afraid that it is something that because it is racial, it's something that rarely fails."<sup>14</sup>

The military has traditionally been dominated by ethnic Fijians, while the police force has become more Fijian only since the coup of 1987. The military as an organization did not support the coup of 2000, even though many of the individuals and a unit involved in the coup were from the Republic of Fiji Military Force. However, in 2000 many of the coup-makers were from the Fijian Police, and it seems that the coup-makers assumed that the Police Commissioner, Isikia Savua, would lead Fiji after the coup. Since that time, the relations between the Fijian Police and the Military Forces, and between units and individuals within the Fijian Police have not been problem-free, and the Police Commissioner had to step down as a consequence.

While the constitutional discontinuities in Fiji have been motivated by the call for ethnic Fijian paramountcy, many observers have concluded also that the threat of violence has limited Fijian democracy. The dominantly ethnic Fijian parties that have ruled Fiji – the National Alliance Party until 1987, the SVT until 2001, and the SDL until now – have supported the claim for power and concessions towards ethnic Fijians by referring to security imperatives.<sup>15</sup> Prime Minister Ratu Mara (leader of the Alliance Party), for example, explained this in the *Fiji Sun* (March 30 1978) by saying that “if people, the citizens of this nation do not understand the deep emotions of Fijians... blood will flow in this country.” The current Prime Minister, Mr. Lasenia Qarase said the same on ABC Radio National (4 Feb 2001) in arguing for ethnic affirmative action – or “the catching up exercise” – by saying that “if we don’t do that catching up exercise, we will continue to have political instability in this country.”

Security has been the rationale for the political power of the ruling party, not only invoked when the Governor General ruled against an Indo-Fijian Prime Ministership, but also repeatedly affecting elections. After security crises the Indo-Fijian mobilization always collapses and the share of Indo-Fijians voting for the ruling party increases (as seen in 1982, 1992 and 2001), then mobilization steadily increases as the memory of the crises fades away, until it again collapses after a new violent episode. The political dynamics and security balance seem to have caused racial violence

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<sup>14</sup> Vesikula, Meli, Fijian traditional chief, ‘Fiji: Encore for a Coup’, *Background Briefing*, ABC Radio National, 4 February 2001.

<sup>15</sup> Other reasons include the assessment by the Governor General that Ratu Mara commanded the support of the majority of the parliament and the fact that the NFP was divided on the issue of the selection of their leader as Prime Minister.

and constitutional interruptions approximately every ten years (1968, 1977, 1987, 2000). Violence has served the function of keeping Indo-Fijians polarized and aware of the security-related realities, but also of diverting the poor ethnic Fijian population's attention from the inadequate pro-poor policies of the government and towards the economic dominance of Indo-Fijian business elite.<sup>16</sup> After the election of 2006, with the first ever multiparty government and some new policies to focus attention on the frustrations of the poor rather than just the ethnic Fijians, Fiji might be heading into a new political era with more stable constitutional development, with a more settled environment for economic development, increase of trade and the reduction of poverty. In this sense one would be tempted to say that the European efforts to encourage democratization and better governance in Fiji have been successful and that the political objectives of encouraging better governance have managed to be harmonized with the objectives of development and increase of trade. However, the causal linkage between European measures and the actual development as measured by macroeconomic indicators and indicators of governance cannot be demonstrated with the simple analysis of the processes of consultation. Yet, even if it is not possible to track the contribution, one can claim that European political and development cooperation effort have been part of a process that has led to the fulfillment of both political and development cooperation objectives.

## 1.2 Issue

In the 1999 elections, Fijians elected a government which was perceived as pro-Indian, and the majority of the parliament supported the formation of a cabinet under an Indo-Fijian Prime Minister, Mahendra Chaudhry. Despite the 1997 constitutional stipulation that all parties with more than 10% of the Parliament seats be invited to the cabinet, the 1999 cabinet had been established without the support of the main ethnic Fijian party, the SVT. As a result, Fijian political life was turbulent after the election. A year after Parliamentary elections, on 19 May 2000, a military unit along with a group of civilians staged a *coup d'état*, which was immediately condemned by the EU. The coup was led by a retired military officer, Ilisoni Ligairi, and a businessman, George Speight, and it was conducted by a military unit, the Counter Revolutionary Warfare Unit, which was established for the protection of the palace of the former Prime Minister and leader of the 1987 *coup d'état*, Colonel Sitiveni Rabuka. The declared motive for the coup was the perceived threat of ethnic Indian dominance of politics in Fiji. While by some members of the Fijian military, police and the main ethnic Fijian institutions were supportive of the motive behind the coup, the method was condemned by most. As a result the coup never managed to get the support of the other areas of the military and thus failed to gain control of the country. However the sympathy, mixed with many opportunistic motives, triggered widespread looting and anti-Indian rioting and later fuelled a mutiny in the Fijian Military Force.

Due to the fact that the issue that triggered Article 96 consultations was a military-civilian coup, it was easy for European actors to work in a coordinated fashion. Coups have always justified consultations, and thus it would have been very difficult for any of the European actors to claim otherwise. However, the fast pace of events following the coup challenged the European coordination as far as exact reactions were concerned.

Key cabinet members and members of the parliament were taken hostage and the confusion worsened when on 27 May 2000, the President nominated an acting Prime Minister, and only two days later stepped aside, leaving political power to the military. The British Commonwealth was

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<sup>16</sup> For an excellent analysis of the crises of 1968, 1977, and 1987, see Lal, Viktor 1990. *Fiji: Coups in Paradise. Race, Politics and Military Intervention* Zed Books: London. For the best analysis of the coup of year 2000, see Robbie Robertson & William Sutherland, 2001. *Government by the Gun. The Unfinished Business of Fiji's 2000 coup*. Pluto Press: Annandale.

already engaged in action and communications with the rebel leaders, but it seems that the main topic of consultations with the rebels was the release of hostages, rather than Fijian relations with the Commonwealth. Thus the Commonwealth did not actually acknowledge the *de facto* authority of the coup-makers as the government of Fiji, even though later declarations reveal that there was some confusion about this matter. On the issue of the release of hostages, the British government simply acknowledged that it was the coup-makers who had the power to release the hostages. Later, on June 6, the Commonwealth Ministerial Action Group (CMAG) decided to suspend Fiji from the Council of the Commonwealth.<sup>17</sup> The decision to suspend Fiji from the Council of the Commonwealth was not UK-led, but rather came from the CMAG, and it was not negotiated with other European donors, although they were informed of it in advance. The fact that at this stage the EU had not yet managed to react to the situation in any manner could be seen as a problem of European coordination. The slowness of European reaction, perhaps due to the overall rigidity of the EU decision-making system, made Europe a follower of the Commonwealth and donor coordination rather than being a proactive agent and a leader of coordinated donor policies.

The military abrogated the constitution on 29 May 2000, appointed a new head of an interim government on July 3, and negotiated peace with the rebels.<sup>18</sup> The Muanikau Accord with the rebels managed to secure the freedom of all the hostages, and disarm the rebels, but it also offered the rebels an amnesty and safe return to the Fijian Military Force, and agreed that a new interim President and Vice President were to be nominated by the Great Council of Chiefs, an old colonial institution which had survived and become “indigenous.”<sup>19</sup> Furthermore, the agreement required the establishment of a Constitutional Review Board, and a new civilian administration to replace the one nominated on July 3. As a consequence, the commander of the military force asked the Great Council of Chiefs to appoint an interim President and Ratu Josefa Iloilo was nominated on July 13, 2000. All of these decisions were later challenged by the Fijian judicial authorities.

Despite the fact that the coup failed to gain wide support from the military and top Fijian politicians, political changes echoed many of the concerns and objectives of the coup-makers. The ousted government and the parliament, which the coup-makers felt were Indian-dominated, were dissolved, while the racially balanced constitution of 1997 was abrogated. The interim government of July 3 2000 did not have a single minister of Indian ethnic origin. Furthermore, the interim government had several ministers from the group of the coup-makers, and the coup-makers seemed to have considerable control over the decisions on cabinet seats. In short, the Fijian military’s bargaining with the coup-makers was more conciliatory than most international observers would have liked to see.

On July 4, the day that the interim government was sworn in, the British Foreign Secretary issued a statement that:

1. Demanded the immediate, unconditional release of hostages;
2. Announced the British position that although the new interim government consisted of civilians it was no substitute for a democratically elected government;
3. Stated the British concern for the abrogation of the 1997 constitution; and
4. Urged the military commander Commodore Frank Bainimarama to take urgent steps to restore a democratically elected government, under an internationally acceptable constitution which respected the rights of all Fijians.

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<sup>17</sup> This decision was milder than the one in 1987, after the first Fijian coup, which excluded Fiji from the entire Commonwealth for a whole decade (until the Constitution of 1997 had taken effect).

<sup>18</sup> *Muanikau Accord*, 9 July 2000

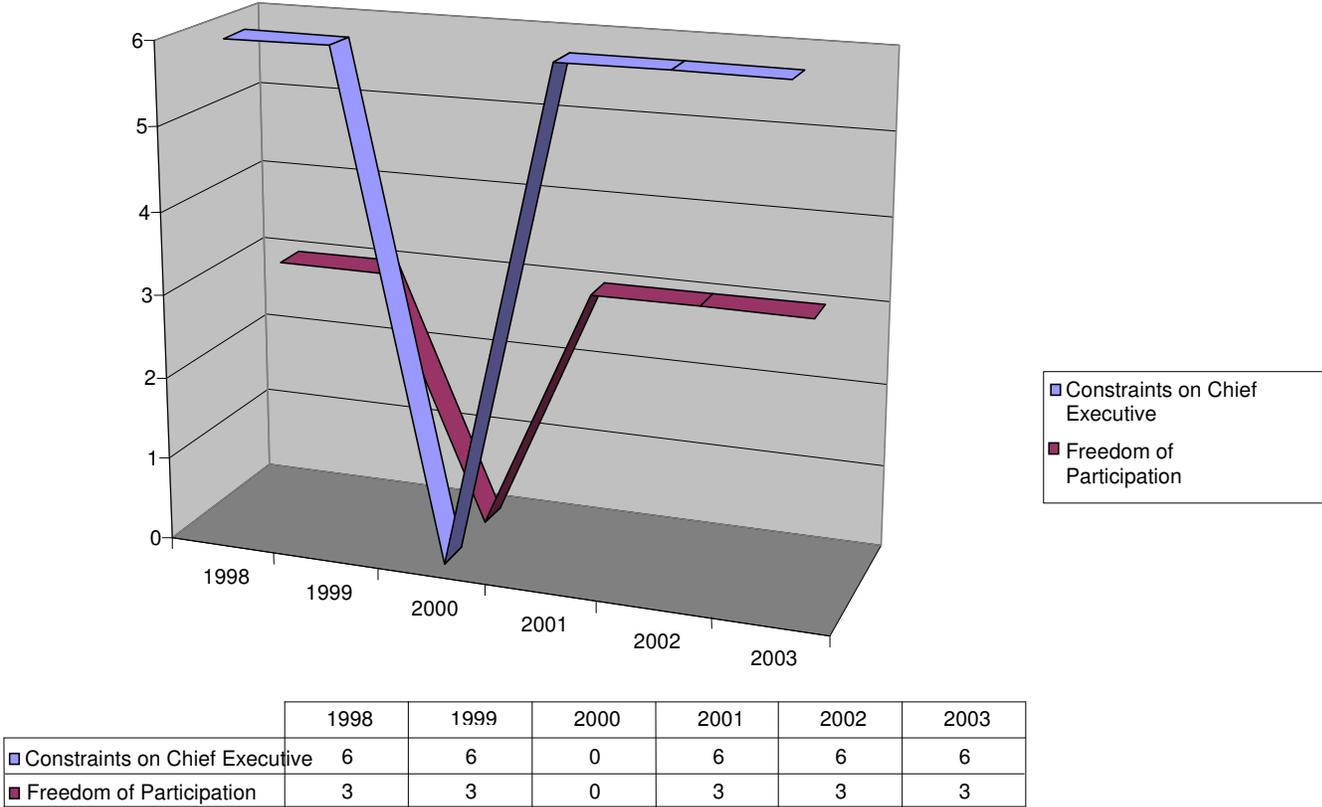
<sup>19</sup> Lawson, Stephanie 1997. “Chiefs in Contemporary Fiji”, in Geoffrey White and Lamont Lindstrom (eds.) *Chiefs Today: Traditional Pacific and the Post-Colonial State*. Stanford University Press: Stanford.

This statement was issued before any common European action, but reflected common European concerns. In a confusing situation, the statement demonstrated slight confusion about agency in Fiji, as it made some demands that only the rebels could fulfill and some that only the interim government could respond to.

Later, the Fijian High Court found the agreement with the rebels to be illegal, and the leaders of the *coup d'état* were arrested, the military-nominated interim government was declared illegal and the old constitution was reinstated. Despite the very confusing phases of the Fijian constitutional interruption, Figures 1.4 and 1.5 show that the crisis was short-lived. Fiji held new parliamentary elections in September 2001, and the country returned to democracy. Prominent figures in the interim administration, including the interim Prime Minister Mr. Lasenia Qarase received their renewed mandates, this time from the people.

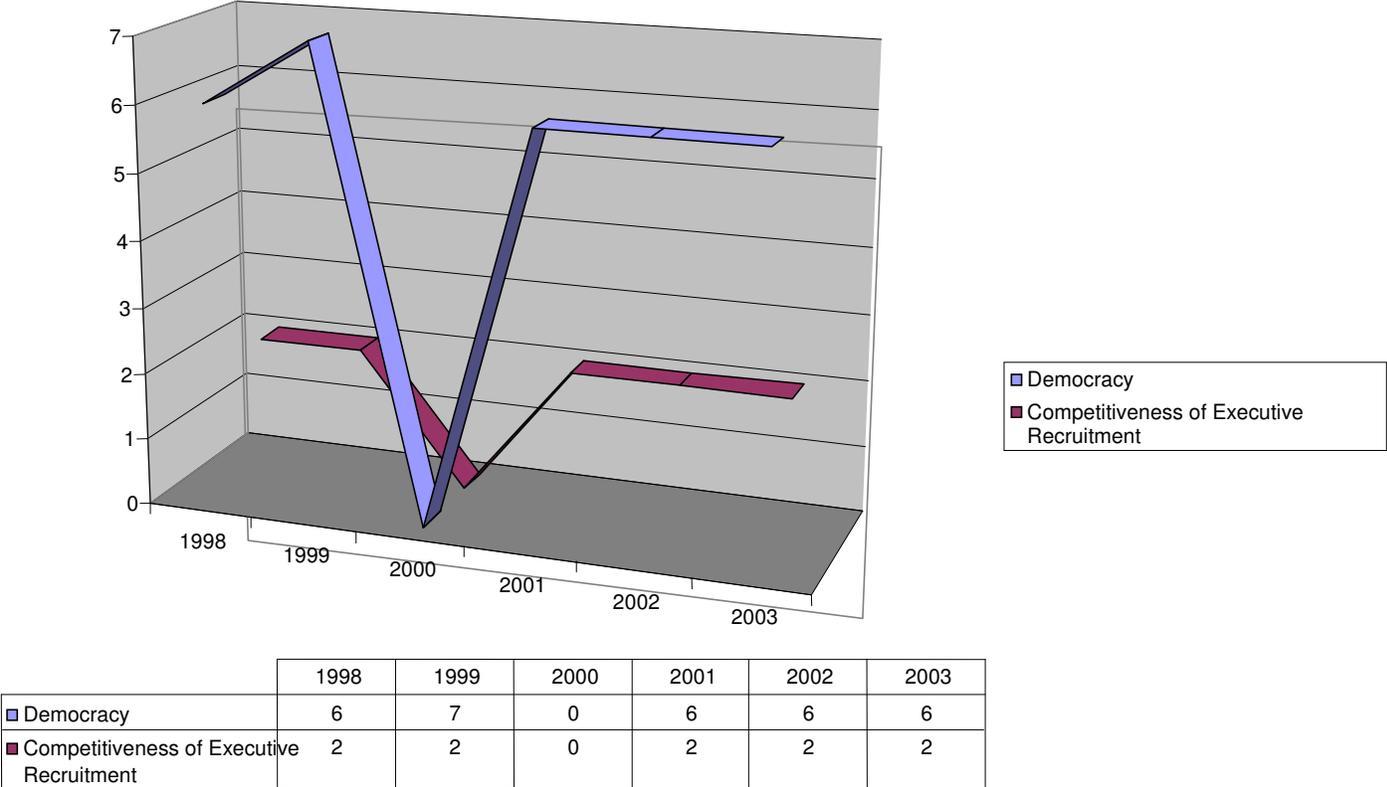
The final matter that remained before the newly elected government could comply with the constitution was the issue of parliamentary seats. As mentioned above, parties that receive more than 10% of votes have a constitutional claim for a certain number of cabinet posts. Negotiations between the new ethnic Fijian ruling party SDL and the leading opposition party, the Fijian Labour Party, proved unsuccessful and as a consequence, the ruling party refused to honor its constitutional obligation of offering cabinet seats to the FLP. The constitutional challenge regarding to the new cabinet was resolved only in 2004, when the Labour Party decided to stay in opposition.

**Figure 1.4: Human Rights in Fiji<sup>20</sup>**



<sup>20</sup> Source, Polity IV, database. The number indicating the level of constraints on chief executive ranges from 0 to 7, while the average in 1998-2003 for ACP countries was 3,5. The number for freedom of participation ranges from 0 to 5, with an ACP average of 2.6.

**Figure 1.5: Democracy and Rule of Law in Fiji<sup>21</sup>**



**1.3 Invoking Article 96**

The criteria for invoking Article 96 consultations were clearly present in Fiji in 2000: in the midst of confusion and a legitimacy vacuum, governance deteriorated drastically, there was no rule of law, and democracy and respect for human rights were replaced by the rule of the gun. The analysis of the European donors present in Suva (the EU, the UK and France) was unanimous, and neither was there any disagreement among the Member States on initiating the consultations in Brussels. Furthermore, the attitude of the Fijian officials and the Foreign Minister was proactive, the foundations of the development partnership were in question, and there was a need to consult on how to proceed. In this respect the decision to initiate consultations on 19 October 2000 (during France’s EU Presidency) was the result of good coordination. In stating its reasons for consultations, the EU referred to the essential elements of the Cotonou Agreement, namely respect for human rights, democratic institutions and the rule of law. The taking hostage of parliamentarians and ministers, the unconstitutional replacement of the elected government, the deposing of President Ratu Sir Kamisese Mara, and the repealing of the 1997 constitution were explicitly mentioned as reasons for consultations.

The confusion within the Fijian governance system complicated the modalities of consultations. Unlike the Commonwealth, the EU never communicated with the coup-makers. This was an important political decision, since requesting consultations with the “government” would constitute a *de facto* recognition of that body as the representative of Fiji. In this manner the initial

<sup>21</sup> Source: Polity IV Dataset. The number indicating the level of democracy ranges from 0 to 10, while the average in 1998-2003 for ACP countries was 3.3. The number for competitiveness of executive recruitment ranges from 0 to 8, with an ACP average of 1.3.

reactions to the political challenge in Fiji were not entirely coordinated within Europe. Yet, despite the slightly different approaches between the EU and the Commonwealth, there was never any disagreement between the UK and the other EU donors regarding who to invite for consultations. Furthermore, it could be said that the UK's approach within the context of the Commonwealth did not constitute a serious coordination problem within the EU: the Commonwealth simply decided to act earlier than the EU, and at that stage the issue of hostages was high on the agenda. One could say that in that specific negotiation, the Commonwealth stand was the same as that adopted by the EU in the later phase: one has to explicate that negotiations do not constitute *de jure* recognition, but at the same time each issue has to be negotiated with those who constitute the real power-base, legitimate or illegitimate. This policy line could have been challenged by some European actors, as *de facto* recognition does directly influence the political power setting in a country. Insisting on dealing only with the legitimate government could in some cases show the domestic actors the hopelessness of their efforts to take power by force. One could perhaps claim that this line would have been more coherent with the European line in support for constitutionality. It could be argued that negotiating parties could have insisted on dealing only with the Chaudhry government – something Chaudhry himself campaigned for. While perhaps unrealistic, this line could have been more coherent with the explicit political objectives of the EU common foreign policy in support of democracy. Yet, perhaps based on realities of political power, none of the European actors decided to opt for this interpretation of coherence, and thus European approach was unanimously accepted and well-coordinated.

On 4 August 2000 the EU requested<sup>22</sup> consultations with the interim government and their preparations were facilitated by the Foreign Minister of the interim government, Kaliopate Tavola, who had been Fiji's ambassador to the European Communities and enjoyed the trust of the EU. The interim government's President Iloilo was the point of communication, and on 19 October in the actual consultation process it was again the Foreign Minister of the interim government who represented Fiji. The interim government was declared illegal in November by the High Court of Justice. Nonetheless, the EU continued to communicate with President Iloilo, who had been unconstitutionally appointed by a colonially initiated tribal liaison group of Fijian chiefs (the Great Council of Chiefs), which has since assumed greater constitutional authority. The constitutional challenge was declared illegal by the Fijian court several months after the consultations had started.

While *de facto* political authority in Fiji had been dispersed, it seems clear that the EU always dealt with the entity that was in the most powerful position at the time but had not led or participated in gross human rights violations, an issue that was emphasized by the EU officials. At the same time, the EU was not legitimizing the interim government through consultations: the lack of *de jure* legitimacy of the government was the very justification for the consultations.

## **1.4 Taking appropriate measures**

In concluding consultations,<sup>23</sup> the EU decided on 9 April 2001 to continue its planned development projects with due neutrality during the run-up to the elections, and to continue contributions to regional projects, operations of a humanitarian nature, trade cooperation and trade related preferences, which included the special access of Fiji's sugar to the European markets. However, the notification of the 9<sup>th</sup> EDF allocation and the financing and implementation of new programs and projects under the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> EDF National Identification programs were subjected to two conditions:

- free and fair elections, and

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<sup>22</sup> COM (2000) 460 final.

<sup>23</sup> Council Decision 2001/334/EC of 9 April 2001 concluding consultations with the Republic of the Fiji Islands under Article 96 of the ACP-EC Partnership Agreement (OJ L 120, 28.04.2001, p. 33-35).

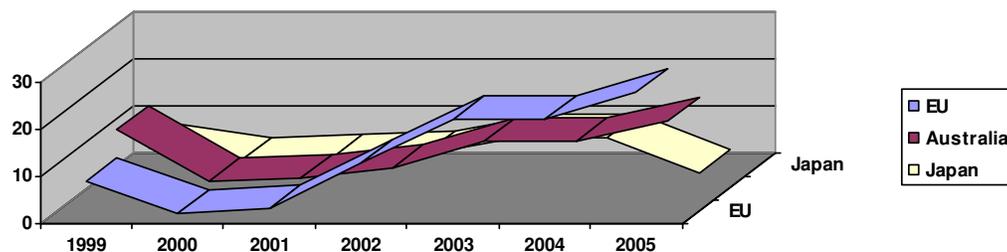
- the appointment of a legitimate government.

In addition to these matters, the EU followed such issues as the maintenance of law and order, the election campaign, the formation of a legitimate government, and the conviction of the leaders of the *coup d'état* of 19 May 2000. In this it utilized several instruments, but these did not include sending observers to the general elections of 2001.

During the time of the 2000 coup and subsequent consultations, the EU had approved an urban waste management program worth €8.5 million, which had to wait until the first phase of the relaxation of conditions of aid in 2002 before it could commence. Other projects affected in the same way included an infrastructure project to remove a major traffic bottleneck between the capital city and its airport, known as the New Rewa River Bridge project (€11m) and a human resources development project in education – Lautoka Teachers' College (€4.5m). A health project for the support of the Fiji School of Medicine was not delayed by the suspension of aid in Fiji, as this project (€4.5m) supported a regional institution rather than a school that catered only for Fijian children. None of the suspended development cooperation activities had been started, reducing the impact of their delay. A smaller educational project, aimed at increasing access to education for the rural and urban poor, had already been started before the decision to invoke the Cotonou Article 96 consultation, and this project was the only clear casualty of the coup, as its implementation was intended for the year when none of the conditions for development partnership were in place.

If one looks at the influence of the Fiji coup on actual development cooperation allocations, one sees a similar pattern among all the main donors. Even Japan, with no explicit political linking of aid to political elements of partnership, was affected by the practical difficulties of implementing aid projects and virtually suspended aid during the years of confusion. Descriptions of the US military programs in Fiji suggest that if these programs could be comparably shown in dollars, one would see the same pattern there as well. The US resumption of military programs due to the Iraq war meant, however, that all reservations on military cooperation were lifted in 2003, slightly before the EU.

**Figure 1.6: Coup and the Development of Aid Allocations in Fiji<sup>24</sup>**



The appropriateness of the EU decision to suspend new aid was challenged by the interim Prime Minister Lasenia Qarase. According to the Prime Minister, the decision was unfair, since at that time, Zimbabwe was experiencing worse governance and poorer democracy, yet it was not subjected to consultations. The measures of the EU were, however, considered modest and prudent by the Fijian officials and the public while Commonwealth's exclusion of Fiji from the Council was met with much harsher criticism. Pakistan, which had experienced a military coup but no serious sanctions, was raised as another example of inconsistent treatment, and this criticism

<sup>24</sup> Figures are from the Ministry of Finance and National Planning. Figures for 1999 and 2005 are revised estimates, while the other figures are actual allocations. The figures do not include receipts to civil society organizations, regional projects and programs or to global programs.

underlines the argument for consistency in EU policies in relation to the consultations. Without consistency, governments subjected to consultations could feel unfairly treated.

In the case of Fiji, however, the challenge to the development partnership was severe, and the deterioration of governance and democracy, at least according to our quantitative comparative governance data, much more severe than in the cases of Zimbabwe and Pakistan. It was clear that Zimbabwe in 2000 – or any other case where aid was continued – did not compare to the challenges faced in Fiji. The inability to solve the root problems of the serious crisis in the Fiji-EU partnership justified the strong measures. Even if a statistical analysis suggests that Fiji was able to return quickly to democracy and better governance, Fiji could not fully rectify the problems that had created the crisis. In spite of the elections and a functioning and efficient new government, Fiji did not have a constitutionally valid cabinet until 2004. The problems of instability and the coup were not necessarily because of a lack of effort on the part of the Fiji government, let alone Foreign Ministry officials. It was not necessarily the Fijian political elite who were to blame for the problems so much as elements that were to a large extent beyond the power of the political elite. Yet, we still do not know the full story of the coup and in particular whether there were high-level people backing the coup. The cabinet also deliberately excluded the Fijian Labour Party from power sharing and this was against the rules of the constitution. Furthermore, the coup, the military mutiny and political rioting were serious challenges to governance, and thus obstacles to European-Fijian development partnership, despite the fact that in these questions the Fijian government may have shared the donors' stance against the looters and mutiny makers. Yet, the government also benefited greatly from the coup, which essentially put them in office.

The decision on appropriate measures and the conditions for resuming full cooperation was taken without significant disagreement between the EU institutions and Member States. Decisions were prepared in the Commission in collaboration with the Council, and thus they were not challenged at any stage in the decision-making process. Decisions in Brussels were assisted by analyses and briefings that reflected the consensus of the three European actors in Suva (the UK, France and the EC Delegation). None of the Member States, not even the UK (the former colonial master and the EU Member State with the closest economic ties) or France (the Member State holding the EU Presidency) took any distinctive role in the preparation of decisions on appropriate measures, monitoring, or the lifting of the sanctions.

EU measures were reviewed every six months after the consultation. On 27 November 2001, after free and fair elections were held and a new government was appointed, the Council decided gradually to resume EU-Fiji cooperation. Micro projects focused on the rural population were continued and the EU also announced its willingness to consider a financial contribution to support actions that promoted human rights and democracy in Fiji as of 2002.

However, the EU was not yet satisfied with the constitutional legitimacy of the government. According to Fiji's constitution of 1997, the government has to allocate seats in the cabinet to all parties that have reached more than 10% of the votes, yet the Indian-dominated Labour Party had not received the seats that it was entitled to in accordance to its share of the votes. According to the Fijian Supreme Court, this was a violation of the constitution. Full European cooperation was made conditional on the settlement of this issue. Consequently, full cooperation was only decided upon by the European Union on 11 November 2003 after the Labour party itself declared that it was not interested in the cabinet seats that the ruling party was offering for it. The final conditions were lifted on 6 February 2004, which was late if one compares it to the decisions of other donors. Australia and the US had already lifted reservations in 2003, while Japan had never imposed any conditionalities.

According to some experts, there were rumors in Fiji that the decision to lift all reservations was pegged to Fiji's decision to support Europe in some sugar trade-related issues in the World Trade

Organization. These rumors were based on the fact that the two decisions were made almost simultaneously, but they lacked credibility given that the WTO stands were taken with relatively little preparation, whilst the lifting of reservations had to be made according to the same time-consuming procedures as the decision on consultations. Synchronizing these two decisions would probably have been impossible, let alone if this synchronization was in conflict with the practices and policies of the EU.

The decision to insist on constitutionality of the government is in line with the concerns of all donors over the political rights of non-indigenous people. Furthermore, insistence on constitutionality in a country whose political balance has been conditioned by vicious cycles of constitutional interruptions is important for the support of democratic development. Yet, from the perspective of coherence one could point to the fact that the 1999 government had similarly rejected the constitutional rights of the Fijian main party to be represented in the cabinet, and that time Europe did not react. The Labour Party had, however, sufficient seats to rule in its own right, and it chose to form a multi-party government with other Fijian parties who together represented about 60% of the ethnic Fijian vote. Also, that context was entirely different, as the Labour Party was democratically chosen to lead the country and Europe was not in a consultation process with Fiji in 1999. Thus the relatively small unconstitutionality, which did not even show in the quantitative representations of the quality of governance used in this evaluation, could not alone justify consultations. What justifies the continuation of appropriate measures does not necessarily justify their commencement.

## **1.5 Main actors and approaches**

### *EU, Council, Commission & Member States*

In general, the objectives and policies of European actors in Fiji were relatively coherent, and the policies of European actors were well coordinated. This was despite the fact that some of the actors were party to two different coordination arrangements. The UK and France suspended their aid – mainly scholarship programs – very soon after it could be seen that the government was not able to resolve the difficulties related to the coup. While the scholars already studying in France or in the UK were not called back, no new scholarships were granted. The UK participated in the coordination of activities of the Commonwealth, making it a European actor cooperating in a non-European forum, which in theory made the European coordination difficult, because at least one of its members was participating in a parallel decision-making process. However, since Commonwealth actors, especially Australia and New Zealand, were major development cooperation actors in Fiji, it was important that the EU coordinated with these actors.

Due to the lack of strong interest from the member countries, common European policies were planned in the Commission and none of the Member States felt the need to assume strategies of their own or challenge the common approaches prepared by the Commission in close collaboration with the Council and the Member States. As has been stated, the EU President at the time (France) and Fiji's former colonial master (the UK) played more important roles than other Member States in the preparation of the European analysis and provision of input from Suva, but this was simply due to the fact that they alone had embassies in Suva.

### *Other donors*

The process of preparation of the European approach in Fiji took longer than that of Member States or the other donors. This was especially visible in the first reactions to the coup, as Australia, New Zealand and the UK, within the framework of the British Commonwealth, were already trying to influence the situation during the coup and the hostage crisis, while the EU's reaction did not

emerge until the hostage crisis was over. Also, the final lifting of conditions took much longer for the EU than for other donors, such as the US, Australia and New Zealand. To some extent the priorities of the US in Iraq affected their time-table, as the US needed Fiji's political support for the proposed actions, and this need for support was stronger than the objections related to the unconstitutionality of Fiji's government.

All in all it seems that the main challenge for the EU in the coordination of its policies with other major donors was related to the complex mechanisms of decision-making. Since the EU is one of the major donors, the EU could have had a more pro-active role and could have offered some leadership, if it had been able to act in a more flexible manner, instead of just following the smaller donors. This problem is illustrated by the fact that some of the other donors were able to react quickly to the issue of the kidnapping of the legal Fijian government, and the EU was not.

### *Fiji Government*

While the Fijian government was clearly trying its best to get back to normality and to democracy, it was also pressured by the imperatives of stability. For the international donor community these imperatives pushed the interim government too far, pushing it into compromises with the coup makers. Some analysts and donor officials felt that despite the fact that the political elite and the military did not accept the means used by the coup-makers, many central players in the Fijian political elite nevertheless sympathized with the objectives of the rebels. The coup gave them the opportunity to implement pro-ethnic Fijian policies which challenged the rights of the Indo-Fijians. Yet even the Fijian political elite, and many of the foreign policy technocrats and diplomatic professionals, tried their best to reconcile the security imperatives and the power political setting with the requirements of democracy, human rights and rule of law.

### *Civil Society*

Fiji's political debate is relatively free and the state imposes few limitations on the press, NGOs, or ordinary citizens. Yet the cycle of coups has posed a challenge, particularly to the rights to free expression of Indo-Fijians, especially in the time immediately following the coups. At the same time their voices were silenced by the massive emigration of Indo-Fijians since 1987, an exodus that was amplified by the 2000 coup. In addition to the racially motivated coups, Fijian political debate is often obsessively racist, and it tends to be very difficult for Fijian civil society to focus on concrete problems, or the social divisions between the rich and poor.

In the 2000 coup the police were sometimes perceived as siding with the ethnic Fijians and even the coup-makers,<sup>25</sup> and since the police were unable to prevent civilian intimidation of Indo-Fijian politicians and officials, many Indo-Fijians felt well-advised not to mobilize their political opposition to the pro-Fijian policies. Indo-Fijian discourse is muted, particularly on matters to do with affirmative action for ethnic Fijians. The European decision to ask for the suffrage of Fijian citizens and the tying of the continuation of aid to the formation of a legal constitutional government did not, despite good intentions, manage to optimize European input to the strengthening of the legal protection of democratic expression. New elections just two years after the 1999 elections and the rejection of the constitutional, democratic expression of popular will in 1999 did not send the same signal as international insistence on constitutional processes would have. The Fijian elite should honor the results of elections (such as the election of 1999) even if the

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<sup>25</sup> The brother of the Police Commissioner was one of the rebels, and according to Robbie Robertson & William Sutherland (*Government by the Gun. The Unfinished Business of Fiji's 200 Coup*. Pluto Press & Zed Press, Australia & New York 2001), it seemed as if the coup-makers would have wanted to grant the Prime Ministership to the Police Commissioner. Police Riot Forces were moved out of the coup area before the coup, and coup-makers were given food by the Fiji Police acting on instructions from the Police Commissioner. Furthermore, many Indo-Fijians felt that many of the rebels' village heads were granted ad hoc police jobs as Special Constables after the coup.

result was not good for those who hold the coercive power. Thus insisting on a constitutional government based on the parliament of the 1999 would have conveyed this message better than the decision to insist on new elections.

At the same time, it seems that the decision to go for new elections was an expression of donor realism: since Fiji was not an aid-dependent country, the donor community would not have been in a position to support the constitution in any crucial manner. The fact that the EU, unlike other donors, insisted on resolving the constitutional problem caused by the non-invitation of the Labour party into the post-2001 cabinet gave a strong signal against ad hoc constitutional arrangements in Fiji. Furthermore, the EU has been an important sponsor of several civil society initiatives. Most notable of these initiatives have been the Citizens' Constitutional Forum and the Good Governance Programs of the University of the South Pacific's Pacific Institute of Advanced Studies in Development and Governance, as well as the programs of the Fiji Human Rights Commission. All these activities have had a positive role in the strengthening of the constitutional protection of civil society.

### *ACP Group and Regional Organizations*

Despite the fact that Fiji has been an important member of the ACP group and is a leading member of the Pacific Island Forum, the country did not seem to seek any leverage from the regional organization or the ACP group in its "bargaining" with the EU. This was probably because of the relatively good bargaining position of Fiji as a country substantially independent of aid, and because of the fact that the pressure from the EU was felt to be supportive rather than intrusive.

## **1.6 Lessons learned**

The Fijian case could be used as a control case in the analysis of how coordination and coherence work when there are no strong individual political or economic interests of the EU Member States. A careful analysis of the individual choices made in the process of consultations shows that a coherent line was followed and that policies were carefully coordinated among the European donor countries and the Commission. During the process of consultations, there were Fijian voices accusing Europe of lack of coherence and consistency; however, these voices could easily be understood within the context of aid bargaining between the two development partners. References to objective indicators seem to show that the accusations could not be backed up with evidence. Furthermore, after the bargaining processes, Fijian voices seem to be very appreciative of European coherence in rulings during the consultation period. Europe's strategy is constantly compared to the approach of the Commonwealth – and there the comparison often includes the drastic measures taken by the Commonwealth after the first coup in 1987 – and this comparison is systematically used to show that the European policy was better. With regards to coordination, during the process of consultations there were never any accusations of Europeans speaking with several voices. It could be said that the slight difference in approaches by the British Commonwealth and the EU posed a challenge to the British coordination of its approaches, yet the British commitments in the Commonwealth did not in any way seem to create a situation in which the UK would have wanted to dictate its will to the EU in relation to the decisions pertaining to the consultation process. The role of the UK was not dominant in the preparatory work for consultations, which seemed to have been led by the Commission.

In summary, one could say that the main contributors to the avoidance of major problems of coherence and coordination in Fiji were probably as follows:

1. The trigger for initiating Article 96 consultations was not subject to challenging interpretations. It was therefore easy for development cooperation to seek coherence with

political objectives of the CFSP with regards to the promotion of democracy and rule of law. Furthermore, it was not possible for any European actors to try to challenge the common line and the European donor coordination, since the case was so clearly such as was regulated by the Article 96.

2. Fiji did not attempt to divide the donors or offer alternative interpretations of the situation, thus coordination between European donors was easy.
3. Good leadership of the Commission meant that European actors were supplied with sufficient common background information for common decisions, thus it was easy for the actors to act in coherence with CSFP policies, and coordinate policies.
4. There was good cooperation in Suva between the Commission and the two Members States with embassies there, France and the UK.
5. European and Fijian diplomats shared perspectives and common professional culture.
6. The lack of strong national interests, including economic interests, related to the consultations issues on the part of any Member State meant that European donors did not have problems following a coherent set of policies in good coordination.
7. There was a lack of strong conflicting and partial interests by the other (non-European) main donors and European and non-European donors shared common interests in stability in Fiji. The long term coherence of development and political interests was felt strongly in the case of Fiji.
8. The EU did not have a strong need to follow another donor group in its policies in relation to the governance challenge.

## 2 Guinea-Bissau Case Study<sup>26</sup>

### 2.1 Introduction

#### *Country Background*

Guinea-Bissau is a small country (at high tide it is about the size of Belgium), with approximately 1.3 million inhabitants,<sup>27</sup> squeezed between Senegal and the Republic of Guinea. The territory was colonised by Portugal in the 17<sup>th</sup> Century, and was originally organised around trading *comptoirs*, commercial companies and the slave trade, under the colonial rulers based in Cape Verde until 1879. The frontiers between the Portuguese and French territories in the region were not clearly defined until 1886, when the present borders were agreed as a result of trading between France and Portugal. Earlier, the whole area (incorporating Guinea-Bissau, Senegal, the Gambia and Guinea) was known as “the colony of Guinea” and the influence of European colonial powers mingled. In the trading between France and Portugal a territory under Portuguese influence, the present day Senegalese province of Casamance, was exchanged for a French territory comprised of a northern province of the present-day Republic of Guinea. In 1963 Guinea-Bissau became the Portuguese Province of Guinea until the unilateral independence declaration in 1973. Guinea-Bissau’s independence was recognised by Portugal after the April 1974 Carnation revolution that overthrew the Salazar regime.

Guinea-Bissau can be characterised as a post-conflict society, following the civil war of 1998-99. The present day situation cannot be understood without reference to the independence war led by the African Independence Party of Guinea and Cape Verde (PAIGC) between 1963 and 1973, under the leadership of the much revered anti-colonialist leader, Amílcar Cabral. All of the political elite and practically all of the political parties still use the anti-colonial liberation war as their reference point for legitimacy, and with few exceptions, they are all veterans of the independence struggle. Furthermore, most political parties are splinters of PAIGC, split apart because of personal ambitions and/or divergent positions on how to relate to the legacy of this mythical source of legitimacy in the new circumstances of political pluralism and economic liberalisation. The splitting up of PAIGC has also been interpreted as a symbol of the disappearance of peer-to-peer, informal conflict resolution mechanisms that had been used during the liberation war among comrades, in the face of the advance of more institutionalised and legal conflict resolution imposed by the contemporary world.

As a result of this political evolution, the armed forces of Guinea-Bissau are politicised in the sense of party politics. This is the most important source of political instability in the country, and most observers from the political sciences tend to interpret the *coups d’état* of 1980 and 2003 and the civil war of 1998-99 from this angle.<sup>28</sup>

The military uprising on June 7 1998, is a case in point. On the surface, the issue at stake was arms trafficking by the army of Guinea-Bissau to the Casamance rebels in Senegal. The Army Chief

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<sup>26</sup> This report is authored by Maaria Seppänen. The interviews for the study were carried out either in French or Portuguese. English language summaries of the interviews were sent to the interviewed persons whenever possible, and were checked and commented upon by the local research partner Leonardo Cardoso. Also Marc Thill from the Delegation of the European Commission in Bissau has read and commented upon this report, and his commentaries are fully integrated into this report.

<sup>27</sup> UNDP Human Development Report for Guinea-Bissau: estimates for 2005. The figures in the UNDP report are based on statistics from Guinea-Bissau’s National Institute of Statistics and Census (INEC) in 2005 and the World Bank.

<sup>28</sup> See van del Drift, Gaillard and others 2000, in *Soronda: Revista de Estudos Guineenses*. Instituto Nacional de Estudos e Pesquisa: Bissau.

Ansumane Mané was deposed in January 1998 under suspicion of lending and vending weapons to the Casamance rebels. A military commission was initially charged with investigating the accusations, but shortly after this a parliamentary committee was appointed, indicating that the National Assembly was taking its constitutional role more seriously. The committee was to present its report on June 8, but on June 6, President João Bernardo “Nino” Vieira arrested Mané, clearly wishing to prevent the report becoming public. Mané, offended in his military honour by being made a scapegoat for the arms trafficking scandal, led a military uprising in the early hours of June 7, urging the President to be faithful to the legacy of the liberation war and quickly gaining strong support among the population, particularly the old, often unemployed war veterans. President Vieira was accused of autocratic power and of anti-patriotism for “selling the country” to foreigners. Vieira repeatedly refused to negotiate with the rebels, and he was originally backed in this by the international community (including ECOWAS and the EU).

The conflict very soon became international, reflecting its cause, namely the purported support of Guinea-Bissau to the rebels in Casamance. Within days of the June 7 uprising, Senegalese troops had entered the territory of Guinea-Bissau,<sup>29</sup> and the Republic of Guinea sent armament and troops to support the Vieira government. From this moment on, it was not only a civil war but a war with regional international connections: Vieira on one hand with the support of Senegalese and Guinean troops, and Mané on the other hand with some Casamancese peasants and rebels.

Under ECOWAS monitoring, a peace agreement was signed in Abuja, Nigeria, in November 1998, and an agreement was made to appoint a government of national unity with ministers selected in equal numbers by the two parties. Both sides had difficulties in keeping the agreed cease-fire. The national unity government took office in February 1999 but during the same month the most intense military activities took place in Bissau, where for instance the European Commission Delegation’s building was partially burned and the French Embassy got hit by grenades. The final attempt to negotiate peace came too late, in the form of the Geneva Round Table on 4-5 May 1999, but the very next day, Mané and his troops seized Bissau, burned the Presidential Palace, captured Vieira and handed him over to the Portuguese Ambassador.<sup>30</sup> Portugal granted immediate exile to Vieira, who was later found guilty of trafficking arms with the Casamance rebels.

During the course of the war, the position of the international community changed considerably in favour of the rebels. According to van der Drift,<sup>31</sup> in May 1999 Mané was urged by Nigeria’s President Abubakar to put an end to the situation. It became ever more apparent that Nino Vieira had no popular support to carry on his mandate, and the situation was eased from the European point of view when the transitional government committed itself to swiftly organising general elections, which it achieved by conducting legislative and presidential elections in 2000.

### *Relations between Guinea-Bissau and Europe*

In the 1990s, France started to exercise ever increasing influence in Guinea-Bissau, reflecting its historical involvement in the region. Guinea-Bissau had joined the International Organisation of the Francophonie in 1979, and in 1997 it became member of the West African Monetary Union with its currency FCFA, which was then backed by the Central Bank of France (and now the ECB). The currency was tied to the French franc (1 FRF= 100 FCFA), and is now tied to the Euro according to the rate of the French franc (1 € = 655 FCFA). French and francophone companies started to enter into the economy of the country. In addition to European economic relations, Senegal is a relatively important economic and political power in Guinea-Bissau, as was seen in the events of the *coup d’état* of September 2003. According to some critical observers, Guinea-

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<sup>29</sup> Gaillard 2000 even suggests that they were already on their way to Bissau 7 June.

<sup>30</sup> van der Drift 2000, Gaillard 2000.

<sup>31</sup> van der Drift 2000.

Bissau is running the risk of becoming an appendix of Senegal. The Senegalese presence can be seen for example in the products on sale in any consumer goods market (especially processed food and beverages) and in television programs.

Portugal has riposted by presenting itself as the early discoverer of West Africa and during the 1990s<sup>32</sup> it founded the Community of Lusophone Countries (CPLP, Comunidade dos Países da Língua Portuguesa) to enhance cooperation between African Portuguese-speaking countries (including São Tomé e Príncipe), Brazil, and in 2002, East Timor, in order to consolidate its political and cultural influence in its former colonies.

A significant aspect of the narrative about the civil war is that the EU Member States did not have a unitary standpoint regarding this conflict. The war itself ended up being an indirect confrontation between France and Portugal. From the beginning, France took a strong position in favour of Nino Vieira while Portugal almost explicitly supported the Mané uprising. On 8 June 1998 the EU issued a Presidential Declaration denouncing an attempted coup, and followed this one month later with a resolution of the European parliament on the same subject<sup>33</sup>. In September 1998 the European Parliament again expressed its concerns about new hostilities in Guinea-Bissau<sup>34</sup> and in October there was a declaration from the Presidency on the same subject.<sup>35</sup> At this time, Sweden had a diplomatic presence in Bissau. The *chargé d'affaires* of its embassy reported that when the Africa Working Group was meeting in Brussels in January 1999, Sweden with the support of Portugal proposed a demarche to the Republic of Guinea and Senegal to request the withdrawal of their troops from Guinea-Bissau, but France succeeded in blocking the initiative.<sup>36</sup>

Other European countries currently have little direct contact with Guinea-Bissau. Sweden supported Guinea-Bissau even during the liberation war, and after independence it became an important aid donor there. The Netherlands was also significant in terms of volume of aid and political presence, and both of these countries contributed to a trust fund managed by the UNDP for the organisation of elections after the 2003 coup, and they also channel funds into the region in other forms. In spite of this, the exit of two important European donors (and the definitive absence so far of the US) and several other organisations meant a significant reduction in total aid received by Guinea-Bissau.

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<sup>32</sup> The idea of a community of Portuguese speaking countries was launched in Brazil in 1989, and the final signature sealing the foundation of CPLP was made in July 1996.

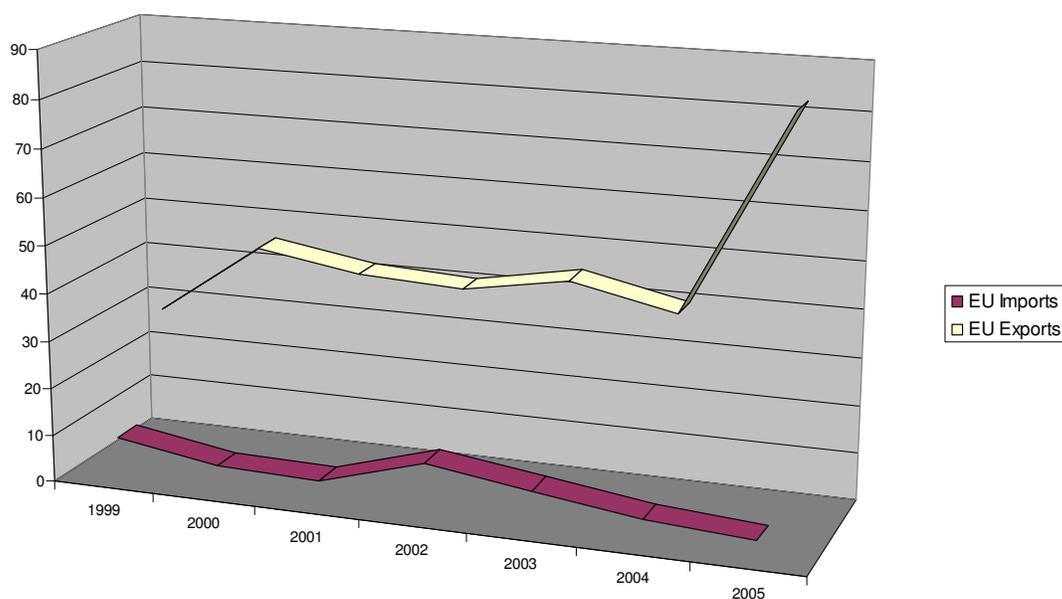
<sup>33</sup> Resolution of the European Parliament of July 6, 1998 (OJ C210, 06/06/1998, p. 202).

<sup>34</sup> OJ C292, 21/09/1998, p. 157.

<sup>35</sup> OJ 10-1998, 8/22 (1.3.128), from 22.10.1998.

<sup>36</sup> see van der Drift 2000

**Figure 2.1: EU Trade with Guinea-Bissau<sup>37</sup>**



### *Economy*

Guinea-Bissau is the sixth poorest country in the world, ranked 172 of the 177 countries listed in the Human Development Index for 2005.<sup>38</sup> According to the latest statistics, the GNP per capita in 2005 was €108<sup>39</sup>, after having declined by 7% annually since 1997,<sup>40</sup> when Guinea-Bissau recorded its highest level of GDP at €178 per capita<sup>41</sup>. An average of two thirds of citizens live on less than two US dollars per day (the UN poverty line, currently approximately €1.57), with figures ranging from 51.6% in the capital to 79.6% in the poorest region.<sup>42</sup> Absolute poverty (less than one US dollar per day per person) is suffered by 9.3% of the population in Bissau and 24.8% in the other regions of the country. The average life expectancy at birth is 45 years, and child and infant mortality has risen from 203‰ in 1999 to 205‰ in 2003. According to the estimates on reaching the Millennium Development Goals (MDG),<sup>43</sup> at the present rate of real growth<sup>44</sup> it would take 120 years to reduce poverty by 50%. The only MDG that is within realistic reach before 2015 is school enrolment, which has been rising slowly but steadily.

It is obvious that a GNP per capita of about €79 underestimates the weight of the informal economy in the cities and of subsistence farming in the countryside, especially when there hardly are any beggars in the streets of Bissau, nor can one see urban-type misery, so familiar in big cities' slums elsewhere. The fact remains, however, that Guinea-Bissau is a very poor country. Its foreign debt has not so far been alleviated by the HIPC initiative, due to problems in public finance management and therefore a failure to reach the completion point. Some debt relief has been offered by the Club of Paris. The main export commodity is cashew nuts (90% of exports) and, to a lesser extent, the payments for fishing rights by China and the EU. Domestic investment is down to almost zero, and 85% of public investments come from official development assistance (ODA).

<sup>37</sup> In million Euro, EUROSTAT, [http://trade.ec.europa.eu/doclib/docs/2006/april/tradoc\\_128149.pdf](http://trade.ec.europa.eu/doclib/docs/2006/april/tradoc_128149.pdf)

<sup>38</sup> Index 0.348 in the scale from 0 (theoretical minimum) to 1 (optimum).

<sup>39</sup> Original data is given in US dollars. Conversion made by using June 2005 exchange rate. Exchange rates in this volume are from European Commissions InforEuro statistics.

<sup>40</sup> UNDP-Bissau 2006. *Rapport national sur le développement humain en Guinée-Bissau 2006*.

<sup>41</sup> Original data is given in US dollars. Conversion made by using June 1997 exchange rate.

<sup>42</sup> idem, based on a Rapid Poverty Appraisal carried out in 2002.

<sup>43</sup> UNDP-Bissau February 2006. *Note su la situation socio-économique de la Guinée-Bissau*, unpublished document.

<sup>44</sup> Taking into consideration the yearly population growth of almost 3%.

Development assistance also constitutes an important part of GNP (30.5% in 2002 and 26.3% in 2004).

The economy of Guinea-Bissau is predominantly rural, and agriculture forms the bulk of the GNP, with rice (the primary crop) and cashews together constituting 58% of GNP. The economy is highly vulnerable and dependent on the export of cashew nuts. The production of cashews has increased in both volume and value. The volume of exportation in 2005 was 96,900 metric tons at the price of €521 per ton<sup>45</sup>, and cashews could become the pillar of the national economy were it not for the problems of transportation, conservation and transformation (value-adding). It is significant that the *Anacardia* tree (which produces cashew nuts) grows everywhere even without cultivation, almost as a weed, and thus has high income redistribution potential if these problems can be resolved.

The other important source of revenue for Guinea-Bissau is fishing rights. China, for instance, has several trawlers in the territorial waters of Guinea-Bissau.<sup>46</sup> Fishing rights and cashew nut exports constitute more than half of the state's revenues.

The economy has potential, however. The territorial waters of Guinea-Bissau are the best in West Africa for the construction of a deep-water port (reaching 40m in depth) and the fishing waters count among the richest in fish, although the stocks are being depleted by industrial fishery ships of China and the EU to the detriment of local subsistence fishing. Another unexplored potential source of revenue is petroleum, found in the territorial waters of Guinea-Bissau and already a motive of foreign interests.

ODA from all donors together formed 30% of GNP in 2002, and 26% in 2004. There is hardly any foreign direct investment (only 1.6.% of GNP in 2003). Although inflation is not a large problem, this has to be seen as a result of a stagnating economy (including chronic non-payment of public sector wages) rather than a balanced national economy or sound public finance management.

### *Development cooperation*

During the liberation struggle prior to 1973-1974, Sweden supported the liberation movement (PAIGC). After 1974, the Netherlands started activities in Guinea-Bissau and joined Sweden as one of the country's largest donors. Portugal, although initially with smaller total disbursements, was also important from the Carnation revolution onwards, as was the EU, and, after the economic liberalisation of the early 1980s, the USA. Until 1986, socialist countries including the URSS, DDR, Cuba and other people's democracies of Eastern Europe were present in Bissau as development partners, although this too often took the form of construction of massive industrial "white elephants" with no sustainability. After political liberalisation and the economic liberalisation of 1986, the interest of the socialist block faded away but the role of "the Banks" (the World Bank and the African Development Bank) became important.

The civil war in 1998-99 and the regime of Kumba Yala marked an end of an era. Many countries closed down their embassies and gradually terminated their development cooperation, and relatively important international NGOs such as Rädde Barnen (Save the Children) closed down operations.<sup>47</sup> In 1997 the Swedish development authority SIDA commissioned an evaluation of

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<sup>45</sup> Original data is given in US dollars. Conversion made by using June 2005 exchange rate.

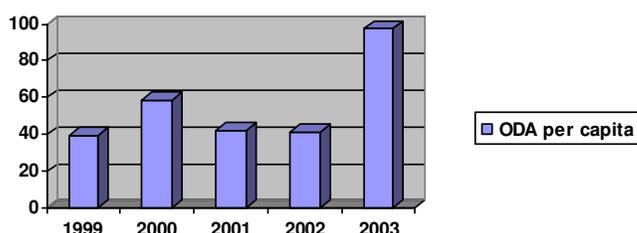
<sup>46</sup> In several interviews it was mentioned that the authorities of Guinea-Bissau had recently seized 8 Chinese fishing ships operating under the same name and signs, under the fishing permit of one ship.

<sup>47</sup> These statements were made at the Ministry for Foreign Affairs. No official statistics by recipient country of the OECD/DAC or the World Bank cover periods prior to 2000.

bilateral cooperation<sup>48</sup> that observed a lack of political will to collaborate and recommended an extension of the bilateral agreement (1998-2000) for a maximum of two years if no improvements were made. In addition to Sweden's serious doubts about aid effectiveness, the war coincided with the tendency amongst donors to concentrate in fewer countries (and fewer sectors in each country) selected according to the criteria of governance, democracy and the rule of law. In this situation, a small country coming out of an armed conflict, with a President who disregarded these principles, was punished severely.<sup>49</sup>

External ODA resources have drastically decreased since the end of the 1990s. According to an interview,<sup>50</sup> between the end of the war in 1999 and the coup in 2003, aid went down by 75%. In the years 1987-97 the average ODA/GNI ratio had been 55%. In spite of this drop, Guinea-Bissau is still one of the most heavily aided countries in the world (€82 per capita in 2003<sup>51</sup>) – and one could ask where the money goes, as it certainly does not show in the urban scenery in Bissau, which has not been reconstructed after the war.

**Figure 2.2: Total net ODA per capita**<sup>52</sup>



**Table 2.1: Top ten aid donors to Guinea-Bissau 2002-2004 (average per year)**<sup>53</sup>

	€ million
Italy	36
IDA	24
EC	17
Portugal	10
AfDF	7
France	5
Netherlands	4
UNDP	2
Arab Agencies	2
Sweden	2

<sup>48</sup> Sjölander, Stefan 1997. *Development co-operation between Guinea-Bissau and Sweden: Macroeconomic development, structural reform and project performance*. SIDA evaluation 97/23 (available also at <http://www.sida.se/shared/jsp/download.jsp?f=UTV+97-23.pdf&a=2337>). No figures of aid flows from the 1990s are given in the evaluation nor on SIDA's internet pages.

<sup>49</sup> The Netherlands' development cooperation policy of 1998-2003 decided to phase out from Guinea-Bissau on the basis of poor governance records; see [http://www.minbuza.nl/default.asp?CMS\\_ITEM=553258960F4145B7819711DAD9BB0EDX3X53084X52#TOC\\_23](http://www.minbuza.nl/default.asp?CMS_ITEM=553258960F4145B7819711DAD9BB0EDX3X53084X52#TOC_23). 15.07.2006. No figures are shown on earlier cooperation volumes.

<sup>50</sup> Interview at the Ministry for Foreign Affairs. No official statistics about total aid flows were available locally in Bissau. All figures related to aid flows should be taken with much care as they vary greatly between sources.

<sup>51</sup> Original data is given in US dollars. Conversion made by using January 2003 exchange rate.

<sup>52</sup> Monitoring Resource Flows to Fragile States. 2005 Report. OECD, June 2, 2006; DCD(2006)1.

<sup>53</sup> OECD Country at a glance data in <http://www.oecd.org/dataoecd/21/44/1881312.gif>; 15.07.2006; Original data is given in US dollars. Conversion made by using January 2003 exchange rate.

The peak in 2003 ODA figures shown in Figure 2.2 is apparently due to the interim debt relief agreement signed between Italy and Guinea-Bissau in 2003.<sup>54</sup> As shown in Table 2.1, this made Italy statistically the largest donor for 2002-2004, with an average of USD 36m per year, however this is deceptive as Italy's entire contribution of €72m was disbursed in 2003<sup>55</sup>. In addition to this significant amount, Sweden, the Netherlands, France, the EU and UN agencies committed additional funds in 2003 for the organisation of elections in 2004 (€2m from Sweden, €1.2m from the EU; €4m from the Netherlands). There is, however, a question about how much of this total debt relief of €72m actually translated into a real flow of currency to the economy of the country.<sup>56</sup>

The present day group of donors in Guinea-Bissau consists mainly of the EU, two of its Member States Portugal and France, UN agencies (FAO, UNFPA, UNICEF, WFP, WHO) and the UNDP, Brazil, Russia and Cuba. The group of donors is currently starting the process of mutual coordination (harmonisation) in order to coordinate their efforts and reinforce their mechanisms, and there the role of the EU will be important. It has been agreed that the presidency of the donor harmonisation will alternate between the EU Delegation and the UNDP for 6 month periods. The other participants in this group are ECOWAS, the CPLP and possibly the World Bank, which does not have a permanent representative at the highest level in Bissau but only a sub-office under the regional office in Dakar. China, very much present in the fisheries business, prefers to remain bilateral.

## **2.2 Issue**

### *The pre-coup situation: The regime of Kumba Yala*

President Kumba Yala was elected in 2000, in free and fair elections monitored by international observers coordinated by the UNDP, during the transition period that followed the war of 1998-99. There was, however, general unhappiness with his regime because of the economic and political crisis Yala's government led the country into. He had been elected amidst hopes to reactivate the economy but instead of building on the existing economic structure, he tried to create new firms, mostly with incompetent people and poor management. He had also tried to move part of the economy's central functions from Senegalese hands into the hands of Guinea-Bissau nationals, with catastrophic consequences for the economy because of break-down of commercial networks. As a result, the economy became largely informal and the state's tax income revenues fell below any previous level.

At the political level Kumba Yala's government was characterised by ethnic clientelism which seriously affected exportations and governance. During his time in government, administrative hierarchy and authority disappeared and there was even an illiterate person in the post of cabinet minister. Payment orders were given on small pieces of paper (Post-It notes), and Yala put representatives of his own ethnic group, the *balante*,<sup>57</sup> in leading positions regardless of their technical or professional abilities. In three years there were four Premiers and fifty ministers, revealing great instability.

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<sup>54</sup> <http://sedi.esteri.it/dakar/>, the web-pages of the Italian Embassy in Dakar.

<sup>55</sup> Original data is given in US dollars. Conversion made by using January 2003 exchange rate.

<sup>56</sup> Many heavily indebted poor countries do not allocate funds for bilateral debt payments anyway – and this is, of course, the reason for debt relief. Therefore, debt relief implies in many cases only a hypothetical inflow of cash and is virtual as aid, although it is calculated in aid flows.

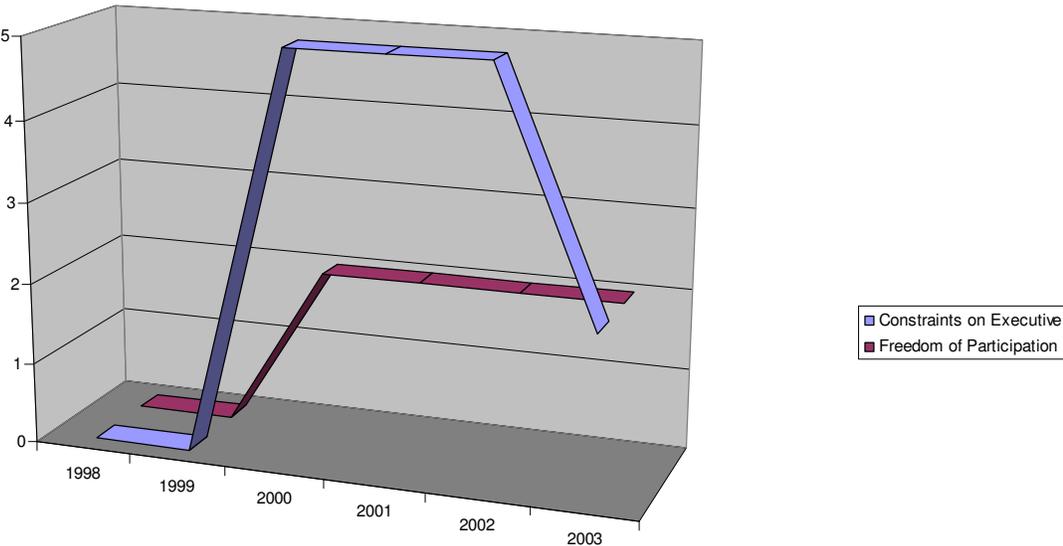
<sup>57</sup> The majority ethnic group in Guinea-Bissau.

In 2002, Kumba Yala unilaterally dismissed the parliament (the National Assembly) and other government officials and refused to organise legislative elections. This was a “self-coup” in that the President appropriated power. He also failed to promulgate a revised constitution that the National Assembly had approved in 2001. There were strikes almost monthly, and public sector salaries were not paid for almost a year. As a response, there were small and unsuccessful coup attempts in 2001 and 2002. By 2003 there were people ready to turn to violence and attempt to assassinate the President.

In June 2003, the EU was already “extremely concerned”<sup>58</sup> about “the growing destabilisation of the country in the economic, social and political fields.”<sup>59</sup> The EU expressed its preoccupation about the “weakening of rule of law in Guinea-Bissau,”<sup>60</sup> the disappearance of separation of state powers, violations against freedom of expression and bad budgetary governance of the Yala regime. The EU urged Guinea-Bissau to show more respect for democratic criteria, freedom of expression and impartiality of elections.

In September 2003 there was a coup that successfully overthrew Yala. Figures 2.3 and 2.4 show the disruption caused by the coup of September 2003, but also the low levels of freedom of participation and competitiveness preceding it.

**Figure 2.3: Human Rights in Guinea-Bissau<sup>61</sup>**



	1998	1999	2000	2001	2002	2003
■ Constraints on Executive	0	0	5	5	5	2
■ Freedom of Participation	0	0	2	2	2	2

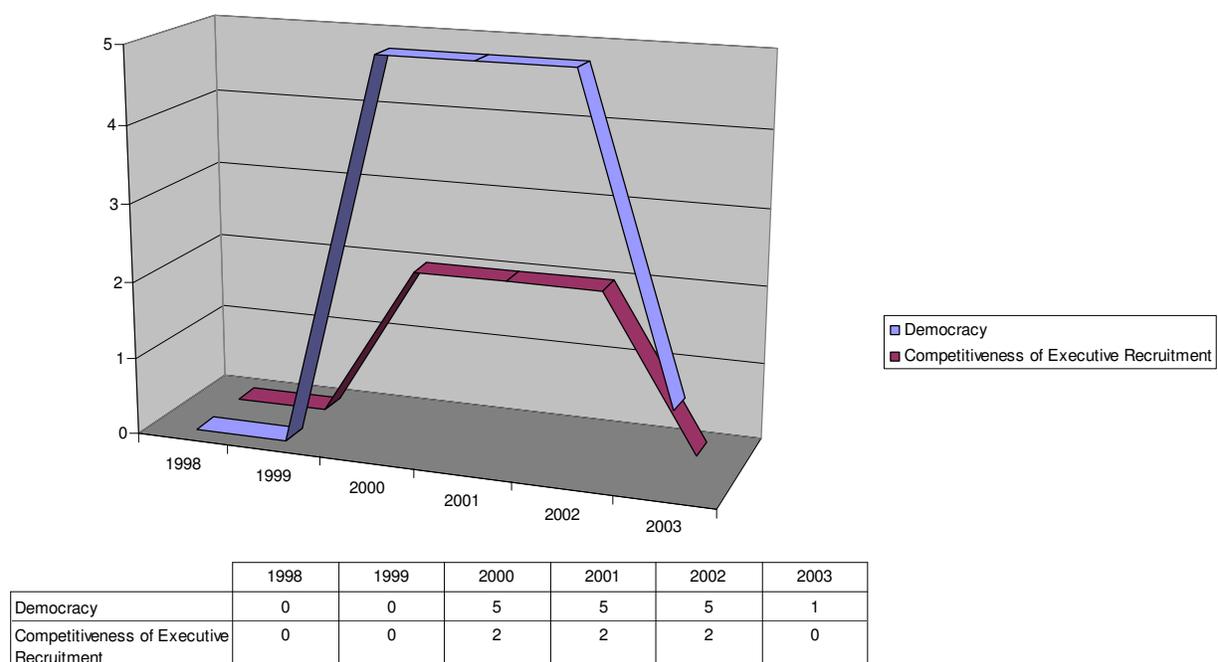
<sup>58</sup> OJ 6-2003, point 1.6.26.

<sup>59</sup> Ibid.

<sup>60</sup> Declaration by the Presidency on behalf of the EU on Guinea-Bissau, Europe press release, 18 June 2003. Ref.: PESC/03/69, quoted in Mbangou 2005.

<sup>61</sup> The number indicating the level of constraints on chief executive ranges from 0 to 7, while the average in 1998-2003 for ACP countries was 3,5. The number for freedom of participation ranges from 0 to 5, with an ACP average of 2.6. Source: Polity IV Dataset.

**Figure 2.4: Democracy and Rule of Law in Guinea-Bissau<sup>62</sup>**



### *The coup d'état of September 2003*

On the eve of the coup, President Yala was hosting an informal social gathering at his home when he was unexpectedly summoned to a military celebration at the army headquarters. There he was received with honours, and at 4 am as the celebrations concluded, he was told that he no longer was President of the Republic. Several key figures received information about the coup by 5 am. The military – the President’s own men according to some observers – called Senegalese President Abdoullah Wade and announced to him that they had taken power in Guinea-Bissau. The civil society umbrella organisation PLACON was informed of the coup and convoked a meeting for 8.30 the same morning, at which it prepared a position paper.

During the day, the military invited the organised forces of Guinea-Bissau society (political parties, civil society, businessmen and religious organisations) to a meeting where they officially announced that Kumba Yala had been deposed. One of the military officers had already pronounced himself President on the radio, causing concern for the people present at this meeting. The various groups represented at the meeting were unanimous: nobody wanted a *coup d'état*. In addition, it seems that nobody (not even the military) wanted the take-over of power to appear as a military coup, as this would have seriously harmed the country’s interests. Thus the debate at this meeting concentrated upon the length of the transitional period. The military wanted a long, 3-5 year transition to normal rule while all the others insisted on a very short transition. The latter position prevailed with the help of the religious leaders and in this way the organised forces of society showed that they had learned from the past.

On the other hand, virtually nobody was unhappy about Yala being deposed. The previous situation had been intolerable, and while everybody condemned a military seizure of power, the military

<sup>62</sup> The number indicating the level of democracy ranges from 0 to 10, while the average in 1998-2003 for ACP countries was 3.3. The number for competitiveness of executive recruitment ranges from 0 to 8, with an ACP average of 1.3. Source: Polity IV Dataset.

could almost credibly present their actions as a way of preventing the worse fate of the country succumbing to violence again. In the meeting, it was commonly agreed that there would be a five day period of grace to prepare a Transitional Charter and to negotiate a transitional government. An *ad hoc* committee was appointed, the presidency of which fell by common agreement on the Catholic Bishop of Bissau, *Dom Camnate Na Bessing*.

A communiqué issued by the PAIGC political party on the subject is eloquent and representative of the opinions expressed in the interviews.<sup>63</sup> The communiqué recounts the constant and repeated violations of the Constitution by the deposed President, namely the refusal to promulgate the new Constitution, the dismissal of the President and Vice-President of the Supreme Court, the dissolution of the parliament and the undue prolongation of the government's term beyond what was legally stipulated. It observes the deep political crisis caused by the elimination of checks and balances on political power, and laments the social and economic depression, the "sinking" of the private sector, the fiscal deficit and the flagrant corruption that had been preventing the payment of public sector salaries for almost a year. The PAIGC condemned the take-over of political power by force but congratulated the military committee for its will to reinstate the constitutional and democratic order.

Meanwhile, Kumba Yala had finally understood that he really was deposed, and started to protest. It took some days (until September 18) to convince him that he had definitively lost his mandate, and Yala had to admit that he had no support to retain his position. Over the telephone, President Wade had already offered Yala exile in Senegal, which he refused. The *ad hoc* committee had sent a delegation to Dakar to ask President Wade to mediate in the issue and convince Yala to resign, but in the end, local efforts were able to convince Yala before the ECOWAS delegation arrived. The official resignation of Kumba Yala was written in three languages and read by him on television after the final draft had been approved by the military.

On the same day that Yala tendered his resignation, a delegation of the ECOWAS arrived in Bissau. There were four presidents in the delegation, amongst whom the most important ones proved to be President Wade of Senegal and President Obasanjo of Nigeria. According to the Ambassador of Senegal to Bissau and other interviewees in this research, it was President Obasanjo of Nigeria who finally convinced the military to accept a swift transition to democracy.<sup>64</sup> According to one interviewee, Obasanjo told the military that "he is a military man himself, so he knows what he is talking about; nobody in the modern world will take seriously a military government." This was peer-to-peer talk from a civilian president, democratically elected but with a military background, to his military peers. According to the same source, President Wade also implored the military to cede power, saying that the military must exercise responsibility, not power.

Over the fifteen days following the military take-over, a Transition Charter was negotiated under the leadership of Bishop Na Bessing, with active participation from civil society organisations and other key groups. Senegal had sent two lawyers (the Mediator of the Republic – the Senegalese Ombudsman – and the Minister of Justice) to help in the formulation of the Transition Charter; Bissau-Guinean civil society organisations and political parties developed the original draft. The military, however, made last-minute changes to the agreed final draft at the moment when the Charter was officially signed by representatives of political parties, civil society organisations and

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<sup>63</sup> Partido Africano da Independência da Guiné e Cabo Verde (PAIGC) 2003. *Comunicado September 15, 2003*. Unpublished document.

<sup>64</sup> In Bissau in general, local knowledge referred to the role of the ECOWAS in convincing the military to accept a short transition period and give up plans to remain in power, not in the context of making Kumba Yala to resign. C.f. Mbangi, Lydia, 2005. *Recent Cases of Article 96 Consultations*, ECDPM Discussion Paper 64C.

other dignitaries, and the signatories did not have the opportunity to see the changes before signing.<sup>65</sup>

When Henrique Rosa was appointed interim President on September 28, he had been hand-picked by the Bishop and briefed for office by him. The *ad hoc* Transition Committee and the military together appointed the members of the National Transition Council and the Transition Government, but the military was able to dictate the identity of the Prime Minister.

## 2.3 Invoking Article 96

On December 19 2003, the EU decided to open consultations with Guinea-Bissau under Article 96.<sup>66</sup> It is unclear where the initiative came from to invoke Article 96 after the coup, with the transitional government (and the present civil servants) believing it was Guinea-Bissau that took the initiative while the European side felt that it was “Brussels” (the Commission) that took the initiative. There need not be contradiction between these two positions, however. Rather, the discrepancy can be seen as an expression of a mutual will to use Article 96, resulting from informal communication between the EU and the National Transition Government. On the part of Guinea-Bissau, the Cotonou Partnership Agreement and its Article 96 constituted an opportunity to normalise the situation with an important donor (the EU), and eventually get funding for a return to civilian regime through elections and beyond, as was so strongly desired by the whole society. For the EU, in addition to Guinea-Bissau being a standard case of a *coup d'état* where Article 96 is consistently used, the consultations offered an opportunity to encourage and support the government, the National Transition Government, in its attempts to return to democracy. This was expressed in the Commission’s proposal to the Council, which argued that consultations would provide an opportunity for the interim government to explain their plans to reinstall democracy and an opportunity for the EU to see how it could support these plans. For Guinea-Bissau the short period of time and the eventual lack of the explicit use of Article 8 (political dialogue) was not a problem since both sides wanted to proceed quickly.

The consultations were held in Brussels on 19 January 2004 in a very cooperative atmosphere in which the transitional government presented its action plan. Convinced by the peer-group of countries and pressured by civil society organisations, the military and the transition political bodies (the council acting as an interim parliament, and the transitional government) were prepared to relinquish power once the elections of March 2004 had been held. According to the roadmap agreed at the consultations, Guinea-Bissau promised:

- to confirm the transition program, and in particular those aspects related to the organisation of legislative elections;
- to adopt measures aimed at improving governance in the management of public finances; and
- to re-establish a progressive legal system, an independent justice system, and the civil control of the armed forces.<sup>67</sup>

As a follow-up to the roadmap, monthly assessments of Guinea-Bissau’s progress towards fulfilling its commitments were to be undertaken. An observer mission dispatched by the European Commission from 10 to 13 February 2004 concluded that preparations for elections were in progress, and that the proposed schedule could be fulfilled. The mission also observed progress in

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<sup>65</sup> One can clearly see the changes in the Charter: a military committee and its functions have been added to the political bodies of the transition period, in addition to changes to the functions of the interim President and the National Transition Council, acting as an interim parliament, and of the Transition Government.

<sup>66</sup> COM(2003) 824 final.

<sup>67</sup> Council Decision 2004/680/EC of 24 September 2004, Concluding Consultations with Guinea-Bissau under Article 96 of the ACP-EC Partnership Agreement (OJ L 311, 08.10.2004, p. 27-29).

the re-establishment of the judicial system. Its main recommendations related to improvements in governance of public finances.

The transitional government held legislative elections on 28-30 March 2004. Despite some allegations of fraud, these constituted a positive step and international observers characterised the electoral process as relatively free and fair. It seems that the allegations of fraud were at least partially due to the discontent of some party leaders with the results. Two of them went to see President Wade of Senegal and complained about the results. Wade received the unhappy delegation on an occasion that was broadcast live on TV and confirmed the official results and urged the politicians to accept the facts, to the great embarrassment of the party leaders. Similarly, it took interventions of the peer-group of countries, above all Senegal, to convince the politicians of the validity of the results of the first round of presidential elections in June 2005, imputed by the losing candidates, including Kumba Yala himself.<sup>68</sup>

## **2.4 Taking appropriate measures**

The consultations concluded on September 24 2004,<sup>69</sup> after a monitoring mission had visited the country in August. The EU decided not to suspend its cooperation activities financed under the 6th, 7th, 8th and 9th European Development Fund (EDF). The “appropriate measure” was, from the European point of view, not to sanction Guinea-Bissau by reducing European aid but to make the continuation and increase of aid conditional on progress made in the undertakings made by the transitional government.

There were several reasons for this soft treatment. The most important one was that the coup was not violent and the previous, ousted government of Yala had been unstable. Secondly, the EU appreciated the initiative of the new rulers in negotiating a Transition Charter, and used Article 96 as an instrument to support Guinea-Bissau in its transition to constitutional order.

In April 2005, Guinea-Bissau presented a report on their political situation to the European Commission.<sup>70</sup> During the first half of 2005, an EU delegation visited Guinea-Bissau, presided over by the local Presidency, Portugal. After the presidential elections of June-July, an EU delegation, under the locally represented Presidency, France, visited the country to assess the progress made in fulfilling commitments. The mission did not propose to prolong the appropriate measures, and the EU-Guinea-Bissau relations were fully normalised on October 11, 2005.

Guinea-Bissau not only succeeded in fulfilling the key commitment of holding free and fair elections, but it also managed to do so within the time-frame set by the roadmap, which was much appreciated by the EU. Guinea-Bissau, on the other hand, appreciated the fact that the EU accepted the agenda (action plan) and timetable presented by the transitional government and did not impose its own agenda.

The EU does not automatically send electoral observers to countries under Article 96 consultations even in cases where the holding of free and fair elections is one of the agreed benchmarks. In spite of this, after strong Portuguese advocacy, the personal initiative of the country desk officer in Brussels, and the petition of the head of the Delegation in Bissau, an electoral observation mission was sent to Guinea-Bissau for the presidential elections of 2005. This enhanced coordination within the Commission, as the election observation missions are administered by RELEX. The

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<sup>68</sup> Kumba Yala has a captive constituency among the *balante*. After having given up hope of re-election, he endorsed Nino Vieira, who won at the second round. Yala then emigrated to Morocco.

<sup>69</sup> Council decision 2004/680/CE in September 24, 2004. Commission’s proposal: COM (2004) 423.

<sup>70</sup> Mbangu op.cit, p. 3.

mission found the elections well organised and transparent, meeting the essential international standards of democratic elections. The voting and counting were “fair” or “good” in all polling stations, and the voters were able to exercise their franchise freely in spite of occasional outbreaks of violence leading up to the second round campaign.<sup>71</sup>

The EU not only refrained from suspending its cooperation with the country, but it also released additional funds to support the transition. The EU, in its analysis of the situation, took into consideration the fact that the country was just emerging from a conflict,<sup>72</sup> an analysis shared by other donors. In this respect, the EU policy was coordinated with the individual policies of its Member States. The Netherlands, Sweden and France, for instance, supported a trust fund dedicated to the transition and managed by the UNDP,<sup>73</sup> while Portugal supported Guinea-Bissau bilaterally. Guinea-Bissau was also assisted by the UN and international financial institutions.

The viewpoint in Guinea-Bissau, however, was that the consultations had implied “sanctions.” Even persons well informed about the EU decisions explicitly talked about sanctions in the context of the invocation of Article 96, and how these “hurt the poor people.” In reality the EU never stopped disbursing aid to the Guinean government. At least partially, the question probably resulted from wild rumours running around after the September 2003 coup, concerning a potential total cancellation of aid if a military government were installed. In any case, the statistics do not confirm a radical reduction of aid flows, quite to the contrary, even if the Italian debt relief is not taken into account. What is true, however, is that a part of the new aid was earmarked for facilitation of the political transition such as the organisation of elections.

This issue is an expression of the strong feelings about the nature Article 96 as a sanction instrument among the ACP countries. Even in such an “easy” case as Guinea-Bissau where no economic sanctions nor interruptions of disbursements were implied (in fact, aid increased) and where the transitional government had actively sought to engage in consultations under Article 96 in order to normalise relations with the EU, the ultimate perception was that the EU “punished” the country by invoking Article 96.

## **2.5 Main actors and approaches**

### *EU & Member States*

After September 14 it took four days for the EU to react: the declaration condemning the *coup d'état* is dated September 18 2003.<sup>74</sup> While declaring itself “decidedly against any unconstitutional take-overs of power”, the EU “takes note” of the military committee’s intention to re-establish the constitutional order and a civilian regime, and committed its support together with other international actors (the UN and the CPLP) for a swift return to normality, namely the organisation of elections, and promotion of national reconciliation. The delayed reaction was most probably due to the fact that Kumba Yala did not originally want to give up his power, and it took exactly those four days, until September 18, to negotiate his resignation. Here the EU waited until it was sure that there really had been an effective unconstitutional assumption of power. All in all, however, this was a “standard” case of Article 96: a *coup d'état*. The EU had no problems in condemning it, while expressing its appreciation of the coup-makers’ will to re-establish the constitutional order.

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<sup>71</sup> [http://ec.europa.eu/comm/external\\_relations/human\\_rights/eu\\_election\\_ass\\_observ/guinea\\_bissau/press\\_statement\\_190805.pdf](http://ec.europa.eu/comm/external_relations/human_rights/eu_election_ass_observ/guinea_bissau/press_statement_190805.pdf)

<sup>72</sup> Mbangi op.cit.

<sup>73</sup> Mbangi op.cit.

<sup>74</sup> The UN Security Council, instead, opted for “condemning the assumption of power by unconstitutional means” (Press Release SC/7873 of September 15 2003), a much more lenient wording due to the considerations of the pre-coup situation.

According to the interviews in Bissau, no person representing the EU or its Member States really regretted the ousting of Yala, although few people could express this officially at the time.

### *Political parties*

Political parties were unanimous about the situation. While condemning the seizure of power by force, albeit bloodless, the discontent with the Kumba Yala regime had been too deep for them not to feel a certain satisfaction. The parties exercised pressure upon the military to accept a short transition period, and participated actively in the negotiations on the Transition Charter.

### *Civil society*

Civil society organisations shared the concern of the political parties, and participated in the *ad hoc* committee and in the planning of the transition period. The original version of the Charter was drafted by PLACON, the National Platform of Civil Society Organisations. Some PLACON activists also privately exercised informal pressure on the military. For PLACON, the events of 2003 constituted an empowering moment. On that occasion, and after the death of the Army Chief in October 2004 following a military mutiny, the civil society organisations became aware of the role they could play.

Religious groups shared the conviction that the best solution was a swift return to constitutional rule, and worked in harmony towards that end. The Catholic Bishop of Bissau chaired the *ad hoc* committee of transition, and hand-picked the interim President, Henrique Rosa, and briefed him for office.

### *Regional and international organizations*

Other international actors included the delegation of the community of West African countries, ECOWAS, whose most important role was to convince the military that they should not try to stay in power. Other organisations such as the United Nations witnessed the signing of the Transition Charter, and for their part had also exercised pressure on the military to accept a short transition to a civilian regime. These actors, including the CPLP, later worked with the EU to support the transition, and more specifically, in the organisation of elections.

## **2.6 Lessons learned**

It would appear that the EU learned from the experience of the civil war in 1998-99 and used this knowledge to guide its response to the more recent event. The same applies also for the regional peer-group, ECOWAS, which reacted in a coordinated and coherent way to the coup of September 14, contrary to what had happened during the war in 1998-99. This helped to resolve what was potentially a very dangerous situation. In particular, the field study highlighted the very significant role played by a new generation of African leaders in solving the situation post-September 2003.

But this observation, too, is partial and underestimates the strength of the organised forces of the society and their capacity to learn from the past. The most striking fact in the interviews, unforeseen before the fieldwork, was how efficiently civil society, politicians, and even the military worked to avoid a fate that could have been waiting around the corner, namely another armed conflict. It was above all these local parties who, with help from the peer group of countries, were able to force the military to accept a transitional government for a short time, and the transitional government to accept elections and their results. Even though the invocation of Article 96 was felt as a sanction by the partner country, the organised social and political forces

participated actively in the process. Without this the Article 96 consultations with the EU would have had a totally different outcome.

In conclusion, what can be seen as the reason for the success of a peaceful transition from a conflict-ridden pre-coup situation to a relatively smooth transition to civilian rule was that all involved parties, from donors, the international community, national civil society and political parties to religious leaders shared the same analysis of the situation and worked in harmony for the resolution of the crisis.

The success of coordination and coherence of the EU policy in the use of Article 96 in Guinea-Bissau can be explained by the following:

1. The situation was a clear cut case of a *coup d'état*, where Article 96 is consistently used.
2. There were no diverging views or interests among the EU actors, including Member States with historical interests (France and Portugal). All actors condemned the coup but did not regret the President being deposed.
3. The bloodlessness of the coup contributed to a peaceful transition. The transitional government presented a roadmap, and the EU used the Article 96 consultations and appropriate measures to support the democratic transition as proposed by the Transition Government. The EU respected the locally owned transition program and timetable.
4. Coordination with other donors was easy as the EU is a leading donor in the country and its Member States were also influential in the UN and the African Development Bank Group.
5. The EU supported the elections not only financially but also by sending an observer mission. This served as a mechanism to bring together development policy and foreign policy objectives.

## 3 Guinea Case Study<sup>75</sup>

### 3.1 Introduction

The Republic of Guinea formed part of French West Africa from 1891 until 1958. The Paris treaty of 1814 had confirmed French power over territories known as “the Southern Rivers” (*les Rivières du Sud*), and commercial trading houses (*comptoirs*) consolidated the French presence in these territories under the colonial administration based in Dakar, Senegal. At the collapse of the fourth republic in France, in 1958 the colonies were given the choice between autonomy and independence. Guinea, with Ahmed Sékou Touré at lead, was the only colony that chose the latter. Sékou Touré was the grandson of a famous rebel leader opposed to French colonisation in the late 19<sup>th</sup> Century. Sékou Touré’s words, “prefer freedom in poverty to prosperity in chains” have today acquired a less glamorous connotation.

The country first relied on the Soviet Union. Sékou Touré’s party, the PDG (*Parti Démocratique Guinéen*) was the only political party allowed. Soon afterwards, the country oriented itself towards the Chinese model of socialism – there was even a Chinese type of cultural revolution. Opposition politicians were repressed, accused of favouring imperialism, tortured and imprisoned. In the course of the 1970s, Guinea established normal relations with France<sup>76</sup> and received aid from the USA. However, until the death of Sékou Touré in 1984, the Republic of Guinea continued to be a one-party dictatorship, with low respect for human rights, repression of political critics and no press freedom.

Touré’s follower Lansana Conté, the leader of the military committee and the current President of Guinea, announced that dictatorship had no place in Guinea and that liberalisation was the way forward. He carried out economic reforms to liberalise the economy, but in the end he was not – and still is not – prepared to accede to a thorough political liberalisation. In the course of the 1990s, however, there was a period of relative political freedom. In 1990, a constitution was adopted which provided for elections by universal suffrage. In 1992, the country adopted a multi-party system and presidential tenure was limited to two terms. In 1993, presidential elections were held, followed in 1995 by general, legislative, elections. Although not free from irregularities, the opposition was allowed to participate in the elections and the polls were considered “acceptable”<sup>77</sup> by the international community. After the second Presidential elections in 1998, however, the situation deteriorated as the opposition leader, Alpha Condé, and his supporters were arrested for contesting the elections results.

After its military incursion into Guinea-Bissau in 1998-1999, Guinea became involved with the conflicts of its Southern border neighbours, as Sierra Leonean and Liberian rebel groups attacked the Guinean territory and about half a million refugees entered its territory. If anything, military conflicts in the neighbourhood taught the Guinean opposition to avoid violence as a means of achieving political goals.

#### *Economy*

Guinea has about 9.3 million inhabitants and a GNP of €329 per capita<sup>78</sup>, with huge income differences. With a land mass of 245,000 km<sup>2</sup>, it is about the size of Romania. The country is rich

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<sup>75</sup> Maarja Seppänen has the main responsibility of this report. The local research partner was Ansoumané Camara from the Kofi Annan University, Conakry.

<sup>76</sup> Valéry Giscard d’Estaing was the first French President to visit the Republic of Guinea.

<sup>77</sup> COM(2003) 517.

<sup>78</sup> Original data in this paragraph is given in US dollars. Conversion made by using January 2006 exchange rate.

in natural resources (diamonds, gold, about half of the world's known bauxite reserves, and recently discovered off-shore oil). Bauxite represents 20% of GNP, 80% of exports and 30% of state revenue. This revenue could be greatly increased by addressing the low level of enrichment in the country, since international market price for bauxite is about €23 a metric ton, €241 for alumina, and €1,203 for aluminium. The primary barrier to increasing value-added production is the lack of abundant electric power to produce either alumina or the end product, aluminium. Guinea is nicknamed "West Africa's water tower" because of its water resources, so hydroelectric power constitutes an option for redressing this.

Agriculture has high potential, too. While it does not represent an important source of export revenue, it produces a high percentage of the GNP through local income production and is important in the informal subsistence sector. Agriculture represents various possibilities for rapid poverty reduction.

In spite of its potential, the economy is not performing well. Economic growth is estimated to be 2% per year, against a population growth of 3% yearly, resulting in negative real growth. Fiscal pressure<sup>79</sup> is 13% compared to an average of 17% in other West African countries, and inflation is up to 40% per year.

There are many reasons for this situation, some of which are related to development cooperation. The international price of bauxite has decreased. The government has constantly spent more than it collects in fiscal revenue, covering the deficit with internal lending, which has increased inflation. In 2001, the World Bank gave the Guinean government credit of €58 million<sup>80</sup>, as part of its fourth Structural Adjustment Program (SAP) in the country, but the government could not comply with the SAP conditions and as of 2002 the IMF suspended disbursements, and the World Bank froze all budget support.<sup>81</sup> As a result, the government has had to return to the strategy of borrowing internally to supply the State Treasury, which has in turn drained the Central Bank's reserves. By 2006, the State Treasury owed about €260 million to the Central Bank, compared to roughly €50 million only three years earlier. Since August 2005 the Central Bank has not sold Guinean Francs, and its lack of foreign currency reserves has rendered it unable to defend the value of the Guinean Franc.

Guinea is supposed to form part of the initiative of the West African Monetary Union, with a common currency by 2009, however, the criteria for joining the Union have not been met and in fact, the goal of joining becomes more distant every year. The fiscal deficit is increasing, inflation is out of control and public finance is not well managed. Although Guinea is included in the Heavily Indebted Poor Countries (HIPC) initiative, and has prepared a national Poverty Reduction Strategy Paper (PRSP), due to the political and economic situation it has not been able to reach the completion point, and along with it the promised debt relief of €641 million<sup>82</sup> (in USD 100 million tranches).

The population is hard hit by the rising price of fossil fuels, and high inflation, which eats up purchasing power. The average pay for a civil servant has been reduced dramatically since independence.<sup>83</sup> The vast majority of the Guinean inhabitants are experiencing impoverishment, and social discontent is rising, as expressed in two general strikes in 2006 (February-March and June). Water scarcity poses problems in the more populous districts of Conakry, although the provision of water is more or less stabilised in central parts of Conakry. Electricity services have

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<sup>79</sup> Fiscal pressure is the total percentage of taxes and duties in the formation of GNP.

<sup>80</sup> Original data is given in US dollars. Conversion made by using June 2001 exchange rate.

<sup>81</sup> Financial inputs for SAP and poverty reduction support generally take the form of budget support, accompanied by strong conditions for its expenditure.

<sup>82</sup> Original data is given in US dollars. Conversion made by using January 2006 exchange rate.

<sup>83</sup> OGDH (Guinean Organisation of Human and Citizens' Rights), June 16, 2006. *Declaration*.

not been expanded to respond to population growth, and equipment has not been repaired in decades. Power cuts do much harm to economic activity and facilitate delinquency.

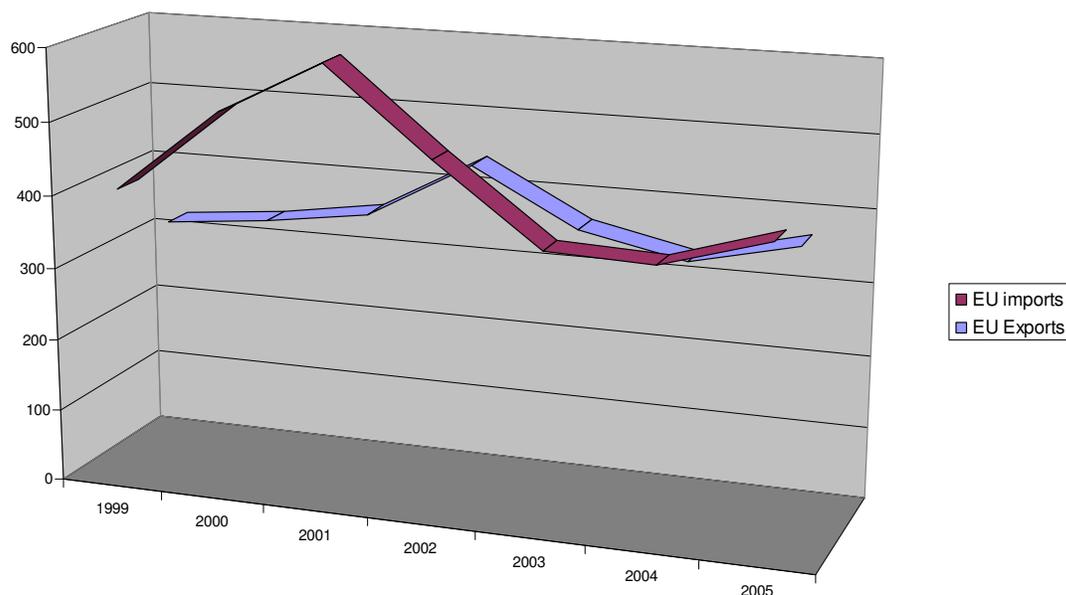
### *Relations with Europe*

France is no doubt the main European power in Guinea, although historically the Portuguese and the English have also had a significant presence on the Guinean coast. According to the Guineans the specific circumstances of Guinea's independence have marred the relations between Conakry and Paris until now. The refusal of President Charles de Gaulle to recognise Guinea's independence and to vote for its membership in the UN in 1958 is felt by the Guineans as a national offence even today. For most Guineans the relationship with France is complicated, yet the French notion of *La République* is rooted in the popular consciousness in Guinea. The political system is Presidential and the design of republican institutions has a strong French influence.

The other two European Member States with Embassy level representation are Germany and the United Kingdom. The former inherited an embassy in Conakry from the DDR, while the UK presence is very new, with its Embassy opened after the armed conflicts in Liberia and Sierra Leone.

The EU-Guinean trade relations had deteriorated to a very low level at the time of invocation of Article 96 consultations in 2003-2004, but have slightly recovered since (see Figure 3.1).

**Figure 3.1: EU Trade with Guinea (in € million)<sup>84</sup>**



The EU and two of its Member States (France and Germany) are among Guinea's main development partners. According to the OECD, France spent €63 million on development in Guinea in 2003-2004, and Germany spent €19 million in that year. The Community Cooperation program that forms the backbone of the EU's development strategy in Guinea started in 1975 after Guinea signed the Lomé Convention and the 4<sup>th</sup> EDF. In 2003-2004 the EU disbursed €44 million in funding for this program. Guinea has used only about a third of the 8<sup>th</sup> EDF allocations (2004-05).<sup>85</sup> The 9<sup>th</sup> EDF has not been signed and therefore none of the promised €220 million has been disbursed. If Guinea does not proceed to sign the agreement and meet its commitments before the

<sup>84</sup> Source: EUROSTAT, [http://trade.ec.europa.eu/doclib/docs/2006/april/tradoc\\_128149.pdf](http://trade.ec.europa.eu/doclib/docs/2006/april/tradoc_128149.pdf).

<sup>85</sup> Original data is given in US dollars. Conversion made by using January 2003 exchange rate.

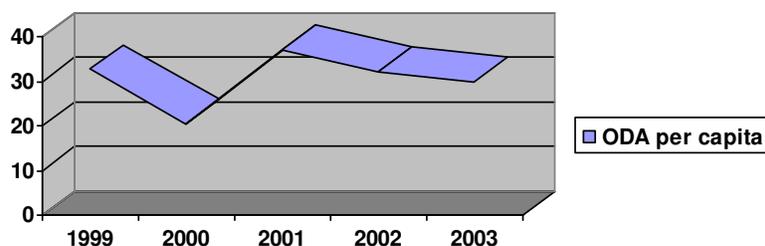
end of 2006, it will lose 50% of the original allocation, losing the other half as well if it does not comply by mid-2007. Commissioner Louis Michel, however, visited Conakry end of October 2006 and was said to have been “impressed” by the progress made in democratization, freedom of speech and public administration. This could trigger the release of the funds.<sup>86</sup>

**Table 3.1: Top Ten Donors of Gross ODA 2003-2004 average (€ m)<sup>87</sup>**

	€ m
France	63
IDA	51
United States	46
EU	44
Japan	24
Germany	19
Arab Agencies	16
UNHCR	16
AfDF*	11
Canada	8

\*African Development Foundation

**Figure 3.2: Total net ODA per capita (current €)<sup>88</sup>**



Since 2001 there has been a downward tendency in disbursements of ODA in per capita terms (see Figure 3.2), and this has continued to the current time. The peak in 2001 (constituting an 80% increase on the previous year) is due to the final disbursement of the World Bank’s Structural Adjustment Program. This was followed in 2002 by a total suspension of all World Bank aid except project aid (eight projects worth a total of €213 million, only one third of which has been disbursed), and Canada ceased bilateral operations in Guinea in 2004. The unexpended balances of the 7<sup>th</sup> and 8<sup>th</sup> EDF with the EU are significant, especially the 8<sup>th</sup> EDF, only about a third of which has been disbursed (€77.5 million, of a promised €210.4 million).<sup>89</sup> As for the 9<sup>th</sup> EDF, only €2 million of the original allocation of €220 million has so far been disbursed, and only €156 million will be available at best (dependant on Guinea’s compliance before the end of 2006).

ODA as a percentage of GNP was 8.1 in 2004.<sup>90</sup> This is not very high but still significant: while ODA is secondary as a source of income for Guinea, it is important as a source of foreign currency

<sup>86</sup> *Le Monde*, 1.12.2006.

<sup>87</sup> OECD, <http://www.oecd.org/dataoecd/21/43/1881303.gif>. Original data is given in US dollars. Conversion made by using January 2003 exchange rate.

<sup>88</sup> OECD, 2 June 2006 *Monitoring Resource Flows to Fragile States: 2005 Repor.*; DCD 2006, 1.

<sup>89</sup> Undated report from early 2006 of the Guinean Ministry for Development Co-operation to the European Union.

<sup>90</sup> OECD, <http://www.oecd.org/dataoecd/21/43/1881303.gif>.

which props up the external balance of payments. The decreasing flow of external aid to Guinea has contributed to inflation.

The reasons for the decrease in aid flows and the low levels of disbursements stem from lack of good governance in public financial administration. The government of Guinea appears incapable of managing aid in such a way that would make disbursements possible: the administration is said to be “paralysed” and “out of breath.” A local periodical<sup>91</sup> illustrated the state administration’s paralysis and the embarrassment of the donors with the story of the replacement of the Prime Minister<sup>92</sup>, Cellou Dalein Diallo, a respected reformer who had opened a window to political dialogue with the opposition in January 2005.<sup>93</sup> On 4 April 2006, the Parliament instructed Diallo to prepare a decree in collaboration with another minister, however he failed to fulfil this requirement and the President sacked Diallo the next day and the decree was annulled. Diallo’s successor (an ex minister who had been convicted of misappropriation of public funds) disappointed many, donors included.

The Conté regime is running out of human resources, and this also affects its capacity to disburse development aid. The attitude of the government does not contribute positively to the situation: President Conté is known to have publicly announced that he “does not need the white man’s money.”

### **3.2 Issue**

The following description of the political circumstances that lead to the invocation of Article 96 is based to a large extent on the analysis of the European Commission in its proposal to invite the government of Guinea to consultations.<sup>94</sup> The analysis is complemented by the information gathered from the interviews in Conakry and Brussels.

After having been arrested in 1998 for contesting the electoral results of the Presidential elections, the opposition leader Alpha Condé of the RPG (*Rassablement du Péuple de Guinée*) was condemned to five years in prison on 11 September 2000.<sup>95</sup> The EU had expressed its wish that the trial process be fair and transparent a week before the opening of the process on 12 April 2000.<sup>96</sup> The Joint EU-ACP Parliamentary Committee passed a resolution dated 12 October 2000,<sup>97</sup> expressing parliamentarians’ concern about the lack of due trial process and the political nature of the process against Condé, denouncing the harassment against the President of the National Assembly who defended Condé, and expressing their “horror” at the assassination of a representative of UNHCR in Macenta, a town in the interior of Guinea.

A further deterioration of the democratisation process was observed in the 2000 municipal elections, which were marked by violence. Condé’s RPG and another opposition party, Sydia Touré’s UFR (*Union des Forces Républicaines*), failed to win a single municipality despite attracting a significant percentage of the vote in certain prefectures, and they contested the result. The legislative elections of 2000 were postponed due to the unrest at the country’s borders with Liberia and Sierra Leone.<sup>98</sup>

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<sup>91</sup> *L’Économiste*, April 2006: Conakry (a monthly periodical specialised in economic affairs).

<sup>92</sup> The Guinean constitution does not incorporate a Premier Minister, but allows the President to appoint one of the state Ministers to act as *primus inter pares*, and this person is normally referred to as a kind of Prime Minister.

<sup>93</sup> *L’état de l’Afrique 2006. Jeune Afrique hors-série No 12*, p. 188-189. May 2006.

<sup>94</sup> COM(2003) 517 of 26.08.2003.

<sup>95</sup> Condé served half of his sentence and was freed after 2 ½ years.

<sup>96</sup> OJ 4-2000, 12/19; 1.6.12. of 06.04.2000.

<sup>97</sup> *Journal of the European Parliament*, 12.10.2000.

<sup>98</sup> COM(2003)517.

The situation worsened further when the ruling party PUP (*Parti pour l'Unité et du Progrès*) of Lansana Conté announced its intention to amend the Constitution by referendum after the National Assembly had rejected the draft amendment. The amendments proposed the abolition of the limit of two Presidential terms, and the change from election to appointment of heads of districts. The EU expressed its concern at the referendum's possible implications for the country's stability and democratic development, and called for observance of the constitutional rules, preservation of checks and balances, liberalisation of the media,<sup>99</sup> and the establishment of a framework for a fair and transparent electoral process.<sup>100</sup> On 8 November there was a reminder demarche on the same topic to the Guinean government urging it to observe criteria enabling the referendum to be held in democratic conditions. The referendum was held on 11 November 2001, and the reforms were approved with 98.4% of the votes, with official statistics reporting a voter turnout rate of 87%, despite the fact that hardly any voters were seen at the voting booths. The international community represented in Conakry expressed its reservations and called the government to postpone the legislative elections scheduled for 27 December 27 in order to create an acceptable electoral environment for all political parties in Guinea.<sup>101</sup>

During the Swedish presidency of the EU, Hans Dahlgren, a high level civil servant at the Swedish Ministry of Foreign Affairs, was appointed as a special EU Presidency representative for the Mano River Union<sup>102</sup> initially in the context of the Liberia and Sierra Leone armed conflict. His role was confirmed by the subsequent presidencies, and was much appreciated in Conakry.<sup>103</sup> Dahlgren visited Guinea in December 2001, and reiterated the request to postpone the legislative elections in order to ensure that they were conducted properly. He also asked for an election observation mission to be invited to monitor the process. The minimum conditions for the EU support were the creation of an independent electoral supervisory body, neutrality of the state administration, a commitment by all the parties involved to renounce all forms of violence, and the presence of an international electoral observation team. Under international pressure, the Guinean government agreed to postpone the elections.

In April 2002, the EU sent out a fact-finding mission to assess progress in the electoral process and gauge whether it was desirable, useful and viable to give support for the elections. The mission concluded that the minimum conditions had not been met. The EU decided not to become involved in a process marred by serious irregularities and devoid of any real competition. The EU did not provide financial or technical aid nor did it send out election observers.

The EU, however, decided to continue monitoring the run-up to the presidential elections, which were now scheduled for 2003. In October 2002, Dahlgren again held talks with the authorities and reiterated the minimum conditions required by the EU for democratic elections. On 14 November 2002, Danish Foreign Minister Moeller and EU Commissioner Nielson wrote to President Conté on behalf of the EU, stressing the importance the EU attached to efforts by the authorities to carry out electoral reform.<sup>104</sup> A joint letter from the EU Presidency (Denmark) and a Commissioner was not standard procedure. The concurrence of Denmark's incumbency as EU president, a Dane in the role of Commissioner, and Dahlgren's role strengthened the voice of Scandinavian countries in the case of Guinea. However, at that time there was not unanimity in the Council to approve a declaration or resolution on the situation in Guinea.

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<sup>99</sup> There is state monopoly of electronic broadcasting (radio and TV) in Guinea. The liberalisation required by the EU concerns radio frequencies, not TV in the first instance.

<sup>100</sup> 25.10.2001; 13241/01 (Press release 388) P168/01; Council, General Affairs and Foreign Relations.

<sup>101</sup> COM(2003)517.

<sup>102</sup> The Mano River Union is an economic and customs alliance that incorporates Liberia, Sierra Leone and the Republic of Guinea.

<sup>103</sup> The only criticism has concerned the fact that Mr Dahlgren is not totally fluent in French.

<sup>104</sup> COM(2003)517.

In January 2003, a ministerial delegation from Guinea handed over the President's reply and held talks with Mr Dahlgren and Commissioner Nielsen. Neither the reply nor the discussions with the ministerial delegation pointed to a genuine commitment on the part of the Guinean government to make progress, so the EU asked the delegation to provide further information on the reforms actually undertaken since the fact-finding mission of April 2002. The EU asked the government of Guinea to invite international observers for the presidential elections but the government did not accept the petition. A mission sent from Brussels concluded that conditions were not conducive to free and fair elections or to an electoral observation mission. The mission was, in fact, prevented from carrying out its work properly and was nearly ejected from the country by the Guinean authorities.

The conclusion at the time of the Commission's communication to the Council concerning the opening of consultations under Article 96 in August 2003 was that there had not been real progress on electoral reform, nor had the Guinean authorities shown any sign of moving towards a genuine process of democratisation in the near future. The authorities had informed Dahlgren during his visit to Conakry in April 2003 that "President Conté's health did not allow progress to be made" on the way to democratisation – despite that fact that the electoral campaign for the President had been launched in January and was continuing.<sup>105</sup>

The presidential elections were held in October 2003 and were boycotted by the opposition. Unsurprisingly, Lansana Conté was elected for a third term. No European electoral observation was conducted in Guinea and the elections were plagued by irregularities and harassment. An opposition party leader, Jean Marie Doré of the UPG (*Union pour le Progrès de la Guinée*) was arrested for defamation, for having said on French radio news that Conté was sick and therefore, constitutionally not fit to run. He was released after 48 hours of detention, the basis of the official argument being that Conté himself had publicly said that he suffered from certain maladies.<sup>106</sup> The general opinion at the time was that his release was a way of maintaining silence about the real health situation of the President, since a public trial against Doré would have attracted much more attention to Conté's illness.

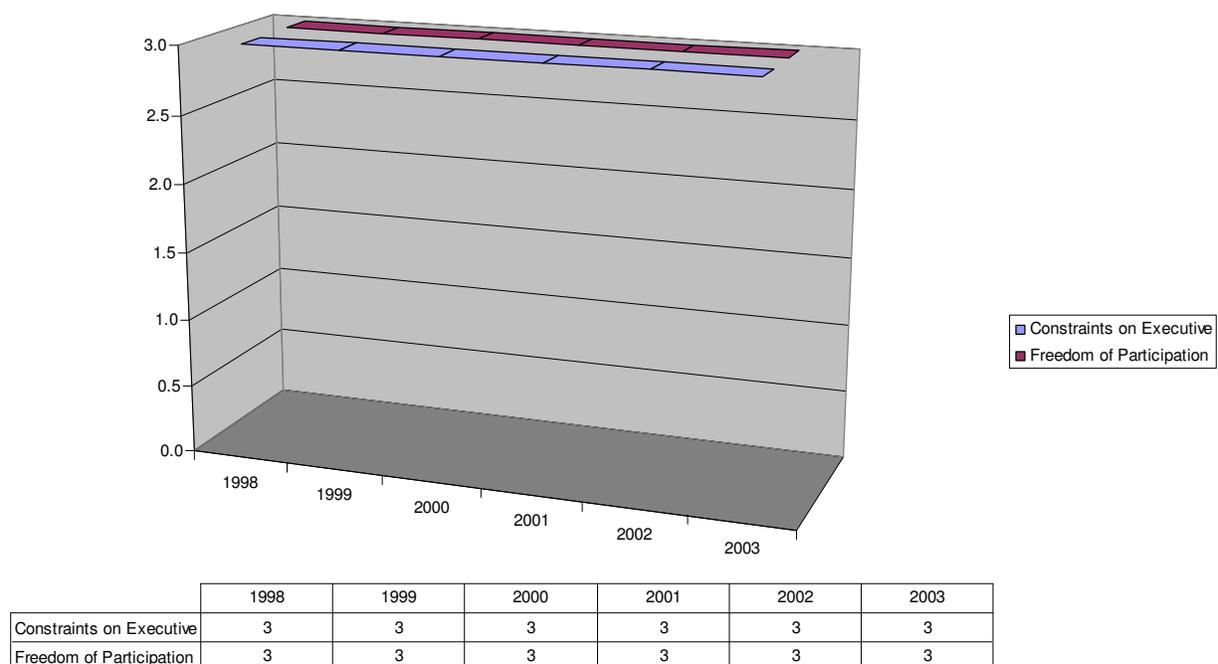
Figures 3.3 and 3.4 show that with respect to human rights, governance and democracy, the situation had been problematic for a long time. It was lack of improvement rather than a sudden deterioration of the situation that became a problem.

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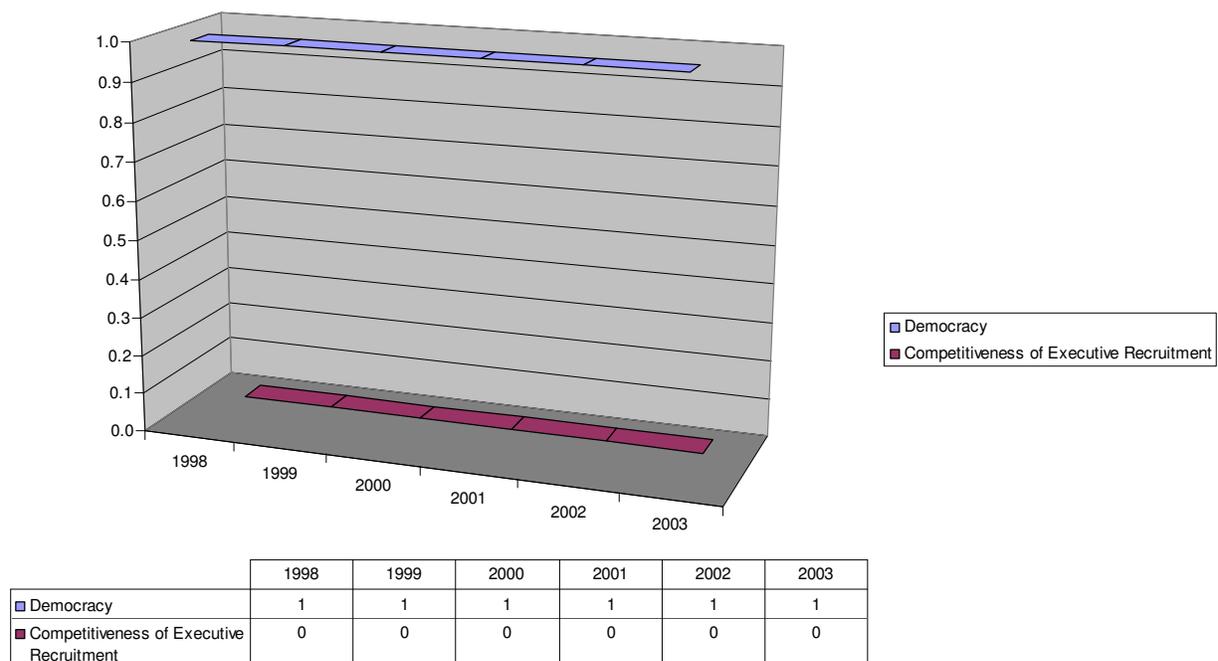
<sup>105</sup> COM(2003)517

<sup>106</sup> Doré himself stated that he would have preferred to stand a public trial in order to expose the President's health situation.

**Figure 3.3: Human Rights in the Republic of Guinea<sup>107</sup>**



**Figure 3.4: Democracy and Rule of Law in the Republic of Guinea<sup>108</sup>**



<sup>107</sup> The number indicating the level of constraints on chief executive ranges from 0 to 7, and the average for ACP countries in 1998-2003 was 3.5. The freedom of participation scale ranges from 0 to 5, with an ACP average of 2.6.

<sup>108</sup> The number indicating the level of democracy ranges from 0 to 10, and the 1998-2003 average for ACP countries was 3.3. The number for competitiveness of executive recruitment ranges from 0 to 8, with an ACP average of 1.3.

Interviewees in this field study in Conakry provided interesting perspectives on the situation. One official reflected that, “whereas in the old socialist countries, the leading party could get 99% of the votes, here in Guinea, Conté beats them; in the latest elections, PUP got 102% of the vote.” There are elections where the local electoral committees visibly tear opponents’ ballots and opposition representatives are not allowed to participate in electoral committees. Whereas at the beginning of the democratisation process in 1991 it was a question of the “right to electoral fraud,” now the question is about something deeper: there is no electoral register, the supporters of the ruling party PUP are allowed to vote with a certificate distributed by the government but official identity cards with a photo are demanded from the opposition electors. The government does not respect its own commitments, and the commitment to dialogue is “a masquerade”. The elections are a masquerade<sup>109</sup>; it is no more question of an electoral fraud but of a “rapt” or sweeping of election results, of “electoral piracy,” in that the President decides personally how many seats to distribute to each party and calls a party leader to propose a certain number of seats.<sup>110</sup>

### **3.3 Invoking Article 96**

In its communication to the Council, the European Commission considered factors contributing to a gradual deterioration of the democratic environment – the “dubious” referendum, the undemocratic parliamentary elections in 2002, and lack of positive signs of imminent change in the situation – which amounted to disrespect for the essential elements set out in Article 9 of the Cotonou Agreement. The Commission noted that political dialogue under Article 8 had been conducted exhaustively over the preceding two years. Proof of this was seen in the regular dialogue conducted by the heads of mission of Member States and the European Commission in Conakry, contacts between the Special Presidency Representative, Mr Dahlgren, and the Guinean authorities, correspondence between the EU institutions and the Guinean government, and the visit by the ministerial delegation to Brussels in January 2003. It was therefore deemed necessary to open consultations in accordance with Article 9 and 96,<sup>111</sup> and this was done in a communication dated 26 August 2003.

While the arguments for an “Article 96 case” were no doubt present in the violations of the spirit and letter of the Cotonou Article 9 essential elements by the government of Guinea, the background to the Commission’s proposal to initiate the consultations process was less flattering for the EU. In the process we can see the difference that can be made by individuals – in other words, it was not differences between Member States that had an impact, but rather differences between their representatives in Conakry.

In the meeting of the EDF committee in June 2003, one Member State (Germany) had refused to sign the 9<sup>th</sup> EDF allocation for the Republic of Guinea, and blocked approval of the Country Strategy Paper. The EDF committee does not have the legal mandate to decide whether or not to continue aid disbursements to a certain country, so Germany’s refusal meant that the EU had to choose either to find a legal basis for suspending aid to Guinea, or to go on as usual. The Cotonou Agreement offered such a legal basis in the form of Article 96, and this was invoked. Another factor that might have played a role was President Conté’s health, since at that time it was commonly believed that this would cause the imminent conclusion of his regime. This was an additional incentive to act rigorously.

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<sup>109</sup> The expression “masquerade” was used in three separate interviews.

<sup>110</sup> Two independent interviews (one European embassy and one opposition party) claimed that after the latest legislative elections, the only opposition party that participated in the elections had received a telephone call from the President suggesting three parliamentary seats, in spite of a high score in several electoral districts. The party leader refused to accept these seats.

<sup>111</sup> COM(2003)517.

Whereas the previous Ambassador of Germany had been influential in defining his country's strict position in Brussels, his follower, who served in Conakry from July 2003 to July 2006, took a totally opposing perspective. According to him, the decision not to sign the 9<sup>th</sup> EDF was made contrary to all EU regulations "based on personal relations at the EDF committee," and this constituted a bad example of governance both to the partner countries and to new Member States. For the other Member States present at the embassy level in Conakry at that time, the situation was exactly the reverse: for example, the present Ambassador of France considered Article 96 to have been a useful instrument in the case of Guinea, whereas his predecessor had not been very keen on using sanctions against Conakry in 2003.

At the Commission, it was hoped that the Article 96 consultation process would unblock the situation caused by one Member State. On 30 March 2004, the Council decided to open consultations with Guinea. There was no real debate about the invocation of Article 96 after the motives for this approach had been explained. The first round of consultations was organised for 15 April 2004 but the Guinean delegation did not attend. The Commission then sent a letter to the government of Guinea urging it to present its position concerning the critical points. In May, a delegation of the African Union and ACP ambassadors resident in Brussels travelled to Conakry in order to convince the Guinean government that it was worthwhile attending the consultations.

The second round took place in Brussels on 20 July 2004. Due to the holiday season the European side was represented by interim people. The representatives of the Guinean government presented a memorandum on their planned reforms. These entailed:

1. a return to democracy through resumption of dialogue with the opposition and civil society and a revision of the electoral arrangements;
2. holding local and parliamentary elections based on the new electoral arrangements in June 2005 and June 2007 respectively;<sup>112</sup>
3. upholding the Constitution and the law, guaranteeing respect for human rights and fundamental freedoms, including the rights of political parties to organise, meet, demonstrate and speak in public, and launching discussion on a legal framework for liberalisation of the airwaves;
4. promoting decentralisation; and
5. enhancing macroeconomic management and implementing sectoral reforms.

The EU emphasised that the scope of the undertakings and progress in implementing them would be the decisive factor in determining the nature and scope of any appropriate measures adopted at the conclusion of the three-month period of dialogue and on-the-spot consultations. The conclusion of these consultations also provided that the EU would continue the dialogue with a view to ensuring that democracy and the rule of law in Guinea were enhanced, as a prerequisite for a complete normalisation of relations.

The Guinean government presented a progress report to the EU on 30 September 2004. This was followed by a joint Presidency-Commission mission to Conakry. The mission found that the "Guinean authorities had taken encouraging initiatives," particularly in relation to political dialogue with the opposition, the organisation of municipal and presidential elections, and the liberalisation of airwaves.<sup>113</sup> In fact, the mission had met with the President on the liberalisation of radio broadcasting, and had told him that there should be a law on this issue. The President, taken

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<sup>112</sup> Municipal elections were finally held in December 2005.

<sup>113</sup> COM(2003)804.

by surprise, replied “find a law,” and his ministers produced a decree which Conté signed and then told them to commence work – however the application of the decree is still lagging behind.<sup>114</sup>

Whereas the proposal to open consultations with Guinea under Article 96 had not provoked serious disagreements among the Member States, the Council of Ministers had difficulty in deciding about the conclusion of the consultations. There had not been real improvement in the situation in Guinea and the difficult question was whether to use the stick or the carrot. The challenge was to find equilibrium between the position of those Member States who were not very strict and emphasised the principle of partnership in the Cotonou Agreement, and the position of those who supported a principled approach to democracy, human rights, rule of law and good governance.

There was disagreement on one particular sentence in the concluding minutes. This was resolved by making reference to an agreement of the African Union that Guinea had signed. The Council decision reads that “the EU is anxious for the measures listed in your [the government of Guinea’s] progress report on their implementation,” and in Point 1, that the EU is “[c]ontinuing national dialogue in order to review electoral arrangements and operational requirements in accordance with the Declaration on the Principles Governing Democratic Elections in Africa adopted by the African Union in Durban in 2002, with a view to guaranteeing transparent and democratic electoral procedures.”<sup>115</sup> It was assumed that the liberalisation of radio waves was already resolved because the decree had been signed.

In February 2005 there was a mission to Conakry. In its report to the Council it had to define “whether the glass was half empty or half full” with regard to the progress made in Guinea. The report concluded that there was progress but problems remained: “Some substantive initiatives had been taken in respect of some of the undertakings referred to [electoral reform, liberalisation of the media, decentralisation] and some undertakings had been met; nevertheless several important measures concerning essential elements of the Cotonou Agreement have not yet been taken.”<sup>116</sup>

The position of the Guinean government differed radically from the prevailing European interpretation. According to the Guinean government, Article 96 is to be used only after one of the signatories of the Cotonou Agreement has observed violations of the rule of law, democracy and human rights, and good governance, and has started a process of political dialogue regarding these violations. These conditions were not met in the case of consultations with Guinea, “because no political dialogue was carried out before the invocation of Article 96.” The Guinean government considered that the invitation to consultations was a unilateral measure imposed by the EU and was done without consulting the other ACP countries. This was the reason why Guinea, together with other ACP countries, negotiated for modifications in the Partnership Agreement during the mid-term review in 2005. According to these modifications, Article 96 can be invoked only after consulting the ACP group of countries. A consensus was reached at the Ministerial EU-ACP Summit in Luxembourg in 2005 with the approval of Commissioner Louis Michel.

In summary, there were different interpretations about what is meant by the political dialogue stipulated in Article 8 of the Cotonou Agreement. As was argued in the Commission’s communication COM(2003)517 concerning the opening of consultations, the EU believed that this political dialogue was undertaken in the form of the earlier communications and declarations from 2001 on the referendum, the legislative and presidential elections (2002 and 2003 respectively), the

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<sup>114</sup> Wave lengths have been distributed by the National Council of Communication and in July 2006 seminars have been organised to commonly decide upon the location of radio broadcasting antennas. By 11 July 2006, however, no private radio stations were yet operating in Guinea, in spite of the Guinean government’s original commitment to liberalise airwaves by June 2005.

<sup>115</sup> 2005/321/EC: Council Decision of 14 April 2005 concluding consultations with the Republic of Guinea under Article 96 of the Cotonou Agreement (OJ L 104, 23.4.2005, p. 33-36).

<sup>116</sup> 2005/321/EC.

letter from Commissioner Nielsen and Minister Moeller in 2002, and the regular debates in diplomatic circles. The government of Guinea believed that political dialogue was supposed to start only when “one of the parties” observed violations, that the attempts to solve the problem should follow during subsequent political dialogue, and that Article 96 should be invoked only if no solution can be found. It seems that the EU invocation of Article 96 as the direct result of one Member States’ refusal to sign the 9<sup>th</sup> EDF and the Country Strategy Paper, gave the Guinean government leeway to interpret the facts to its advantage.

### **3.4 Taking appropriate measures**

The letter informing the Republic of Guinea about the EU’s decision to conclude consultations was sent in April 2005. The following appropriate measures were taken:<sup>117</sup>

1. Cooperation financed from the unspent balances of the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> EDF would continue for implementation of the undertakings given by Guinea in the context of the consultations (particularly decentralisation, liberalisation of the media and good economic governance).
2. Cooperation would also continue for implementation of the programs directly aimed at improving the living conditions of the most disadvantaged sections of the population or victims of the sub-regional political crisis.
3. Programs to strengthen civil society, respect for and reinforcement of democracy, human rights and rule of law and the emergence and consolidation of free media could be supported.
4. Humanitarian operations, trade cooperation and trade-linked preferences would be continued.
5. Support would be provided for the preparation of the elections once electoral arrangements were established guaranteeing a transparent and democratic electoral process based on the Durban Declaration on the Principles Governing Democratic Elections in Africa.
6. The 9<sup>th</sup> EDF was reduced by €65 million. The Cooperation Strategy and National Indicative Program would be finalised with regard to the situation in the country.

The progress was to be assessed on two criteria: that free and transparent local elections were held, and that electoral arrangements and operational requirements for parliamentary elections were progressing.

It was taken for granted that the media had already been liberalized, but contrary to the new legislation Guinea did not liberalise airwaves before the municipal elections, which were held in December 2005. Guinea has not signed the National Indicative Program, and it runs the risk of losing the totality of the 9<sup>th</sup> EDF. Local municipal elections were held, with electoral observation by national observers. Although not free of irregularities, they were considered acceptable.

The normalisation of the EU relations with Guinea therefore depends primarily on the organisation of parliamentary elections in 2007. The opposition parties criticise the EU for concentrating too much on the elections, and believe that no progress has been made in electoral reform (establishment of an independent electoral committee, and free participation of the opposition). A government representative claimed that the government had taken the opposition’s proposal for electoral reform and sent it to the National Assembly for debate, but this was denied by the opposition parties. A joint government-parliament commission has, however, been formed to formulate electoral reform.

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<sup>117</sup> 2005/321/EC.

For the opposition, there is no basis for transparent elections as long as there is no electoral register and voters do not have identity cards with a photograph. There seems to be a consensus among all actors (the EU, the government and the opposition) that the EU funding will be used to compile an electoral register of all citizens old enough to vote, and that other donors' funding will eventually support the distribution of voters' cards free of cost to all citizens with suffrage. This would be a good start, but it remains to be seen whether the commitments of the government will be met according to schedule.

### **3.5 Main actors and approaches**

#### *The EU*

The EU had multiple roles in the invocation of Article 96 in Guinea, and its activities were not always coherent. Germany (one of two Member States present in Conakry) prevented the European Development Fund committee from approving the 9<sup>th</sup> EDF and the Country Strategy Paper of Guinea, beyond its legal mandate. It seems that the Commission, at least partially, made the decision to invoke Article 96 in order to find a legal basis for the suspension of aid to Guinea. France, the other Member State present in Conakry, was indifferent or in any case not keen to use Article 96 but did not press its position at the moment of the Council's decision in 2004. When the diplomatic representatives of these two countries changed, however, the new incumbents each took the inverse position to that of their predecessor.

As the Special Presidency Representative for the Mano River Union, Hans Dahlgren actively participated as a facilitator or messenger between the EU and the Guinean government. According to commentaries in Conakry, his participation was much appreciated, because "the Commission tends to think that it is the EU, and sometimes it is healthy to have a representative of the Council in the field." The Scandinavian influence in the case was augmented by Danish input in the form of a personal letter on behalf of the EU from Commissioner Nielson, a Dane, and the Danish Foreign Minister, Mr Moeller, to the Guinean government.

Finally, whereas there was no disagreement on invoking Article 96 in the Council, in order to be able to conclude the consultations, it had to find equilibrium between hardliners and those with a softer attitude.

#### *The Guinean government*

The government of Guinea had a strict approach to the invocation of Article 96. It did not attend the first date of consultations in April 2004, which therefore had to be rescheduled for July, an inconvenient date for the EU because of summer holidays. When the Guinean representatives attended in July, they presented a rather vague action plan. The government appealed to Article 8 of the Cotonou Agreement and claimed that political dialogue had not been properly carried out and therefore the invocation of Article 96 was a unilateral imposition by the EU. While this was not a totally convincing argument, Guinea was able to raise the issue at the mid-term review of the Cotonou Partnership Agreement.

In general, the attitude of the Guinean government has not been cooperative. The government has made promises without commitment or capacity to carry them through. In the words of one interviewee, the government "excels in the art of simulacra." In an interview for this report, a government representative stated that radio airwaves should not be liberalised because the people in Guinea are ignorant, and they should not be allowed to exercise free vote because "they do not even know how to deposit the ballot in the urn." In spite of this, after the two general strikes in

2006, the government has made all efforts to try to control the rising prices of staples, rice above all. Furthermore the access to ministers' offices is open to anybody who wishes to take his/her complaint to the highest level.

There seems to be a belief that social discontent and tension are rising, with unpredictable outcomes. A further unknown is the health situation of President Conté. With no designated heir, a possible scenario is that the country will suffer from internal power struggles when Conté dies or resigns. A military government is not to be discounted, either. Whereas the highest positions in the Armed Forces are occupied by those rewarded for their loyal services to the ancient regime, among the middle ranks there are people educated in European military academies, with a more democratic view of society and the role of the military within it.

### *The ACP group*

The ACP group of countries made a direct intervention in this case by sending a delegation of ambassadors from Brussels to Conakry to convince the Guinean government to attend the consultations. Locally in Conakry, however, a representative of the ACP group of countries was not convinced of the appropriateness of Article 96 in the case of Guinea, revealing a lack of consensus among ACP countries. While it is recognised that the Cotonou Partnership Agreement has represented the political will of all signatory parties, cultural relativism is not far from the surface. In Conakry it is common to hear people saying that a distinction should be recognised between what is desirable and what is feasible in this particular context, and that Europe should stop imposing its own concepts of democracy on Africa. Here again, the opinion of the representative of a given ACP country at the embassy level in Brussels does not necessarily coincide with the view of that same country's representative in Conakry, nor with the government's official position.

### *Opposition*

In the face of the negative examples of the Ivory Coast, Sierra Leone and Liberia, there is an explicit agreement between the opposition parties, including those forming FRAD (*Front Républicain pour l'Alternance Démocratique*), to reject violence as a means of achieving political goals. In interviews for this research, representatives of opposition parties stated that if there has so far been no violence in Guinea, it is thanks to the opposition parties' conscientious decision. Politicians for example are not actively waging campaigns of ethnic or religious divisions in order to support their political positions.<sup>118</sup>

The opposition parties unconditionally supported the use of Article 96, which in August 2004 led to a (short-lived) resumption of political dialogue, with the opening of an inter-party coordination office. These groups took a strong stance against a relativist "two continents, two criteria" approach. The case of a European President arrogantly stating that Africans cannot be trusted to follow normal rules of democracy because they have had so little time to practice it, was presented as a cautionary example of a basically racist attitude. Now, however, the opposition parties lament that "it takes two to tango," meaning that they perceive a lack of will to enter dialogue on the part of the government.

The opposition parties expressed a uniform stand on aid: "shut down the aid tap, because development aid only favours the inner Presidential circle." While this opinion may have some validity – political power has helped the ruling inner circle to consolidate its economic position –

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<sup>118</sup> Despite being a multiethnic country with several religions, in Guinea there are practically no social limitations on intermarriage between ethnic groups and religions (Muslim and Christian, for instance). Most Guineans are related to other ethnic groups by marriage, creating a significant mental barrier to commencing armed hostilities against others.

at the end this is not the only truth. Through the external balance of payments, aid money props up the Guinean franc and reduces inflation and, therefore, has direct influence on the population's purchasing power.

According to the opposition, the EU is making a mistake in concentrating its attention exclusively on democracy and elections, and should instead be more concerned about the other elements of Article 9 of the Cotonou Agreement, namely human rights and the rule of law. With regard to the possible resignation of President Conté, one opposition party expressed its concern that a "solution" is being planned undemocratically in the inner circles of power.

Nonetheless, the parliamentary elections of 2007 will be crucial. If the opposition is allowed to participate fully and an electoral register and voters' identity cards permit for legitimacy, small steps can be taken along the path towards democratisation. If this is not the case, there is potential for a social explosion, given that the Conté government has not been able to "buy" citizen's compliance or silence through economic growth.

### *Civil society*

In general, there has not been an active or direct role for national forces other than the government in the consultation process. Trade unions, human rights organisations and the national coalition of NGOs agree in that there is no political dialogue in Guinea. In the absence of political dialogue, however, trade unions, NGOs and the private sector play a key role in the socio-economic sphere. The strength of civil society is demonstrated in 14 days of general strikes in Guinea this year alone (February-March and early June).

While supportive and respectful of the role the EU is playing in trying to force the Guinean government to change, the civil society actors consider that European development cooperation should continue to support the population directly, circumventing the government: "[i]f aid is suspended, it is not the government that suffers but the population."

## **3.6 Lessons learned**

The sequence of events that lead to the invocation of Article 96 of the Cotonou Agreement started at the same time as the EU expressed its concerns about the worsening situation in Guinea's neighbour, Guinea-Bissau in June 2003. Contrary to the experience in Guinea-Bissau, the consultations in Guinea did not start swiftly, and in spite of slight progress, the process can hardly be described as successful.

Although most observers believe that the main reason for the difficulties in the use of Article 96 was the Guinean government's lack of will to democratise the political system in the country, the EU's actions are also partially to blame. It seems that the Commission, at least partially, proposed invoking Article 96 to the Council in order to find a legal basis for the suspension of aid to Guinea after the 9<sup>th</sup> EDF and the Guinea Country Strategy Paper were blocked by Germany. A further incentive for the Commission to act was the ill health of President Conté and a belief that there was a momentum for change.

The situation in Guinea had been problematic for a long time. The EU had attempted to influence it under the Danish Presidency. It is also evident that the opinions of the Member States represented in Conakry differed. It is thus understandable that the invitation to the consultations came as a surprise to the government of Guinea, which then reacted in a rather uncooperative way.

As a result there were different interpretations of what constituted the political dialogue stipulated in Article 8 of the Cotonou Agreement. For the EU, all earlier communications and declarations constituted political dialogue under Article 8, while the government of Guinea did not agree that this was the case since violations of the essential elements of Article 9 and the possibility of invoking Article 96 were not explicitly raised. In this context, the added value of Article 96 consultations was not evident.

The main obstacles hampering coherence can be summarised as follows:

1. While there was a consensus among the EU institutions and Member States and the main ACP actors that the Guinean government was violating the essential elements, and in particular the fundamental element, of the Cotonou Partnership Agreement, there was no shared conviction about the ability of the Article 96 consultations to bring about positive changes.
2. The evaluation of the feasibility of Article 96 varied between the European diplomatic representations in Conakry, between the position holders in relation to their predecessors or followers, and the position taken by the European capitals. These differences stemmed from but also contributed to the defiant attitude of the Guinean government.
3. Article 96 was partially used in order to find a legal basis for the refusal of one member state, Germany, to sign the 9<sup>th</sup> EDF and to approve the Country Strategy Paper, rather than being based on a common analysis of the feasibility of that instrument.
4. Due to the political situation in Guinea there was no political dialogue in the country and civil society was not able to utilise the external pressure for political opening up in the country.
5. The former colonial power, France, increased bilateral aid to Guinea when the EU took appropriate measures that included withholding €65m from the 9<sup>th</sup> EDF.

Coordination can be regarded having had some success because:

1. The communication and information flows between the resident ambassadors, the delegation, the Commission and the Council was good. A special merit here falls on the role of the Special Presidency Representative for the Mano River Region.
2. At the level of joint decisions and their implementation, the appropriate measures addressed issues that were raised as concerns in the invocation of Article 96.
3. There was a consensus between the donors and the Guinean government that the EU, together with other donors, finances electoral register and electors' cards.

## 4 Zimbabwe Case Study<sup>119</sup>

### 4.1 Introduction

Zimbabwe was colonized under the British Empire as a private property of Cecil Rhodes' British South Africa Company. The country declared independence as Rhodesia in 1965, but the minority rule government was recognized by neither Britain nor the UN. Majority rule and 'real independence' were established in 1980 after a violent liberation war. The party that won the first independence elections, the Zimbabwe National African Union (ZANU) led by Robert Mugabe, has been intolerant towards political opposition, which has nonetheless been able to become organized and express political plurality within a functioning multi-party system.

Zimbabwe's development achievements and racial reconciliation during the first decade of independence were internationally celebrated. With an efficient agricultural sector, it was Africa's breadbasket. Human development indicators improved significantly as the government expanded the coverage of education and health services. Even as late as 1997 Zimbabwe was praised as having achieved better results in poverty reduction than most other developing countries.<sup>120</sup>

However, economic problems started to build in the early 1990s. Amidst increasing discontent, a new popular opposition party, the Movement for Democratic Change (MDC) emerged, centered on labor union and civic groups and openly supported by some white Zimbabweans. Facing the state machinery on the side of ZANU(PF)<sup>121</sup> it has, however, not been able to turn its popularity into an electoral victory, an issue which has raised concern among donors. The government's pragmatic approach towards the white minority has given way to open bitterness and forceful acquisition of the properties of white farmers and foreign companies. As a result, Zimbabwe's reputation and economy deteriorated rapidly. The country was invited to participate in Article 96 consultations in 2001, and in 2002 the Council of the EU decided on "appropriate measures," commonly known as "smart sanctions." These measures are still applicable.

Inflation reached 600% in 2004 and was estimated to be at the world record level of 1,200% in mid-2006. Famine is threatening the lives of about half the population. It is estimated that up to one third of the adult population is HIV-positive, making the life expectancy in Zimbabwe one of the lowest in the world. Zimbabwe has become a pariah state. The attempts of outsiders to ease the situation either with carrots or with sticks have been in vain.

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<sup>119</sup> The study team consisted of local experts Professor Lloyd Sachikonye from the Institute of Development Studies, University of Zimbabwe, MA Tyanai Masiya from the Midlands State University, and Professor Liisa Laakso, who is the author of the report.

The background of the land conflict and current economic crisis in Zimbabwe are analyzed in detail in the Introduction, in the section entitled "Land conflict and economic crisis", since these are central in the local level discourse on EU-Zimbabwe relations. This importance is reinforced by the fact that in some interviews the interviewees devoted half of the time to the land question and the economic problems. Another lengthy section in the Introduction concerns the "Context of Democracy, Governance, Human Rights and the Rule of Law." Its purpose is to provide a balanced background to the developments that are frequently referred to in the current debate. Readers who are familiar with this background might find it convenient to skip those two sections.

<sup>120</sup> UNDP, *Human Development Report 1997, Human Development to Eradicate Poverty*, 1997 p. 22, [http://hdr.undp.org/reports/global/1997/en/pdf/hdr\\_1997\\_ch1.pdf](http://hdr.undp.org/reports/global/1997/en/pdf/hdr_1997_ch1.pdf).

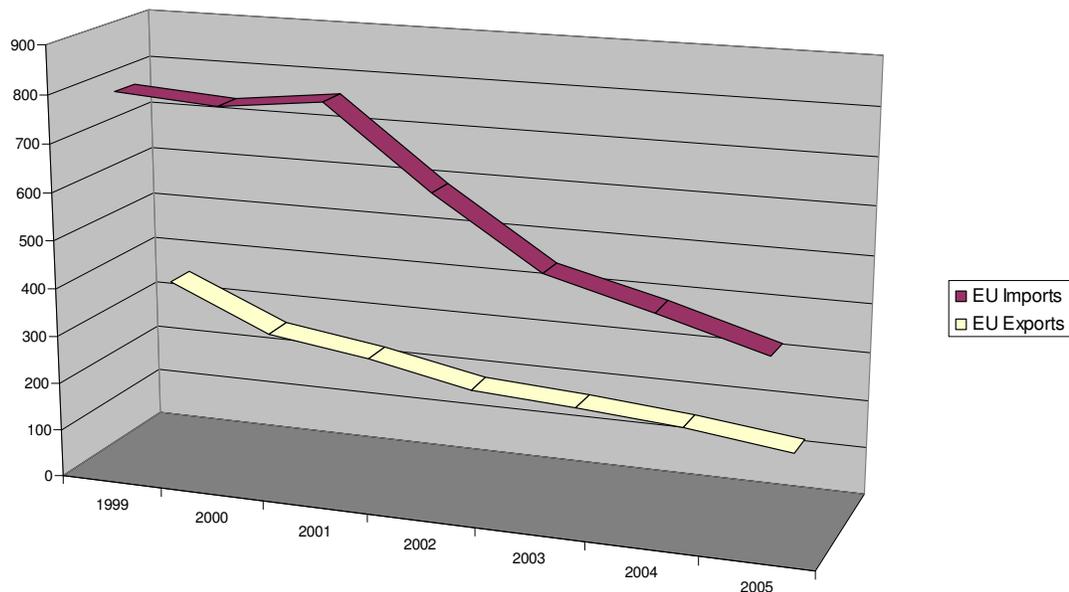
<sup>121</sup> PF (Patriotic Front) refers to the unity of the two liberation movements during the Lancaster House negotiations and peace agreement.

## Zimbabwean-European Relations

At the level of diplomatic representation, most EU Member States have missions in Zimbabwe. These are: United Kingdom, Sweden, the Netherlands, Italy, Germany, Spain, France, Poland, Czech Republic, Portugal, Greece, Austria and Belgium.<sup>122</sup> Soon after independence, Zimbabwe became a signatory of the Lomé Convention, and in November 2002 it ratified the Cotonou Agreement. The impact of preferential market access arising from the Lomé Convention/Cotonou Agreement has been positive for Zimbabwe. Under the Beef and Veal Protocol and the Sugar Protocol, Zimbabwe has a preferential tariff quota. Zimbabwe has also benefited from the STABEX fund for supporting export earnings, owing to a decline in prices of commodity exports.

Zimbabwe enjoys a trade surplus. In 2001, trade between the EU and Zimbabwe accounted for 35% of Zimbabwe's exports and 18% of its imports. The main products exported to the EU were tobacco (34%), iron and steel (10%), plants and flowers (9%), cotton (8%) and nickel (6%). The main imports were machinery (30%), vehicles (16%) and chemicals (12%). Due to the economic situation, Zimbabwe's trade with the EU has been declining. In 2004, exports to the EU still represented a share of more than 30% of Zimbabwe's total exports while imports had declined to 9%.<sup>123</sup> Projections for 2005 were that imports from the EU would decline from €153 million in 2004 to €130 million while exports to the EU would decline from €452 million to €391 million.

**Figure 4.1: EU Trade with Zimbabwe<sup>124</sup>**



In the field of aid, cooperation between the EU and Zimbabwe has increased as humanitarian aid has become particularly significant. Other donors are also present in the country. The donors' agenda in Zimbabwe is focused primarily on humanitarian aid and support for the social sector, as well as democracy, human rights, good governance and cooperation with civil society and the parliament. The Netherlands, for instance, supports NGOs in the fields of human rights and governance, caring for orphans, peace building and voter education. Aid from the EU (i.e. the

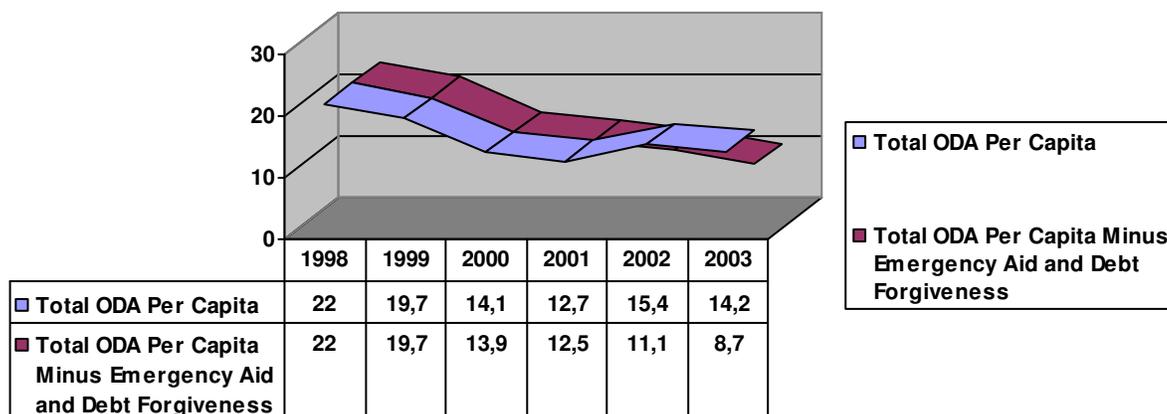
<sup>122</sup> Belgium closed its embassy in September 2006.

<sup>123</sup> The European Commission's Delegation to Zimbabwe, *EU - Zimbabwe Trade Statistics*, 2006, [http://www.delzwe.ec.europa.eu/en/eu\\_and\\_country/trade\\_statistics.htm](http://www.delzwe.ec.europa.eu/en/eu_and_country/trade_statistics.htm).

<sup>124</sup> In million euro, EUROSTAT, [http://trade.ec.europa.eu/doclib/docs/2006/april/tradoc\\_128149.pdf](http://trade.ec.europa.eu/doclib/docs/2006/april/tradoc_128149.pdf).

Commission and Member States, including the important contributions from the UK, Germany and the Netherlands) constitutes the biggest share of Zimbabwe's total aid receipts (see Figure 4.2). This is well known both by the Zimbabweans and the Europeans.

**Figure 4.2: Net ODA to Zimbabwe 1992-2003.**<sup>125</sup>



Views on the changes in total aid flows differ, with the general Zimbabwean view being that the flows have decreased, while Europeans are saying that the amount of total aid is now greater than ever before. The statistics until 2003 show that aid decreased dramatically between 1992 and 2000, but that it was relatively stable between 2000 and 2003 if humanitarian aid is included. If humanitarian aid is excluded, total disbursements continued to decrease between 2000 and 2003. However it was already at such a low level that drastic drops were no longer possible. Since 2003, increased humanitarian aid has made the total aid disbursement bigger (on the EU aid, see figure 4.6 below). Yet it is difficult to believe that the total aid would be even close to the level of early 1990's.

The major controversy around European aid to Zimbabwe relates to support given to NGOs. According to the EU, the assistance is strictly impartial, while the Zimbabwean government believes that giving financial support to NGOs equates to supporting the opposition and influencing the agenda of civil society in Zimbabwe. Not surprisingly, the views of Zimbabwean civil society are divided.

#### *Land conflict and economic crisis*

The bitterness towards the white minority stems from racial injustices during the Rhodesian era, particularly those embodied the Land Apportionment Act of 1930, which denied the Africans the right to occupy the best farming land. At independence, half of the nation's productive land was owned by fewer than 6,000 white commercial farmers, while 75 percent of Zimbabwe's smallholder households were situated in regions with low rainfall, reducing productivity. Much of liberation struggle was centered on the issue of "stolen land." Expectations regarding land reform were enormous. The *First Transitional Plan* (1982) had set its target of resettlement at the ambitious figure of 162,000 families by 1985. In the *First Five-Year National Development Plan* (1986) the target was 15,000 families each year.

<sup>125</sup> *Monitoring Resource Flows to Fragile States, 2005 Report*, Fragile States Group (FSG), Development Co-operation Directorate, Organisation for Economic Co-operation and Development (OECD), 2.6.2006, <http://www.oecd.org/dataoecd/61/9/37035045.pdf>.

In reality, during the first decade of independence only 52,000 families were resettled and the number of families living in the less productive lands increased by tens of thousands due to population growth. The government's ability to implement land reform was constrained by provisions in the independence constitution agreed upon in the Lancaster House peace negotiations in Britain. This made compulsory land acquisitions impossible for a period of ten years, with land reform only able to be realized on a "willing seller - willing buyer" basis. Britain was blamed for having betrayed the promise to fund the purchase of land from commercial farmers, made during the Lancaster House negotiations.<sup>126</sup> On the other hand, the state was accused of not using the constitutional means available to it, namely its ability to define what constituted "adequate compensation."<sup>127</sup> This led to claims that the government in fact feared the risk to the country's export revenue of disbanding large-scale production, as large-scale farms accounted for 40% of export earnings in the 1990s. Furthermore the state was not able to invest adequately in large-scale agriculture and resettlement proved to be costly due to the need to construct roads, clinics and schools for large numbers of people moving to new areas. At that time the strategic choice of the government seemed to be to develop the African small-scale farming approach in the Communal Areas (CAs, former African reserves) rather than massive resettlement.<sup>128</sup>

In spite of significant improvements in the CAs, many families gradually became dependent on government help, especially in the form of seeds, fertilisers and drought relief, which began during the three years of drought over 1982–1984. According to the 1992 census, the number of people living in the CAs was almost 5.5 million, more than half of the population. In some provinces more than three quarters of the population lived in the CAs, and there were districts where year after year the majority of people were registering for drought relief food. After the very difficult 1992 drought, the relief was distributed very efficiently and only few famine-related deaths occurred. However, the widespread loss of livestock reduced the already limited ability of CA farmers to adapt to the liberalization of agricultural markets that was part of the economic reforms of the 1990s.

The expiration of the constitution in 1990, with its "willing seller - willing buyer" principle, and the subsequent Land Acquisition Bill introduced in 1992, did not bring major changes. The government's guidelines for its "new" land policy stated promotion of large-scale indigenous farming as an official goal for the first time. A hundred large leasehold farms owned by the state were handed over to African large-scale farmers, among them numerous government politicians and officials.<sup>129</sup> By the end of 1998, only 3.5 million hectares had been transferred to 73,000 families, and the number of families awaiting resettlement had grown to 525,000<sup>130</sup>. About 4,000 commercial farmers still owned 30% of the arable land, although this group increasingly included black Zimbabweans. It is therefore not surprising that during the late 1990s, squatters began to illegally occupy land in a systematic manner, raising fears of "a general rural uprising against white commercial farmers."<sup>131</sup> At this stage there was relatively little violence, and the squatters, white farmers and police were often able to find compromises to defuse tensions.

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<sup>126</sup> Stoneman, Colin and Lionel Cliffe 1989. *Zimbabwe: Politics, Economics and Society*. Pinter Publishers: London, p. 33.

<sup>127</sup> Sylvester, Christine 1991. *Zimbabwe: The Terrain of Contradictory Development*. Dartmouth: London, p. 73.

<sup>128</sup> Amin, Nick 1992. "State and Peasantry in Zimbabwe since Independence", *The European Journal of Development Research*, 4(1): 112 - 162.

<sup>129</sup> Moyo, Sam 1994. "Land Tenure Bidding Among Black Agrarian Capitalists in Zimbabwe", *Southern Africa Political & Economic Monthly*, 7(8): 37 - 40.

<sup>130</sup> Moyo, Sam., B. Rutherford, and D. Amanor-Wilks 2000. "Land Reform and Changing Social Relations for Farm Workers in Zimbabwe", *Review of African Political Economy*, 84: 181-202.

<sup>131</sup> Chitiyo, Tapera Knox 2000. "Land, Violence and Compensation: Reconceptualising Zimbabwe's Land and War Veterans Debate", *Track Two* 9 (1), <[http://ccrweb.ccr.uct.ac.za/two/9\\_1/zimbabwe.html](http://ccrweb.ccr.uct.ac.za/two/9_1/zimbabwe.html)>.

This was the background to the government's sudden announcement in autumn 1997 that over 1,500 commercial farms had been designated for acquisition. The government did not have sufficient funds to finance these acquisitions, and this was exacerbated by the fact that about 700 of the designated farms were tobacco farms, a crop that accounted for about a quarter of the country's foreign exchange earnings and employed almost one million people directly and indirectly. These farms accounted for more than half of the country's tobacco growing land.

In a land reform conference in 1998, donors announced their willingness to finance the land reform, but not according to the government plans of quick resettlement of 100,000 families. Donors pointed out that previous resettlement schemes had benefited top state officials, and stated their concerns about the legality of the process and adequate compensation for the farmers. In the end, the government was able to take fewer than 50 farms and the acquisition expired for the remaining farms. Frustration followed and peasants demanding to be resettled attacked the offices of provincial authorities.

Since 2000, it seems that the government has used the land occupation for political purposes in order to intimidate the opposition. Illegal occupation of land and the hasty land reform program have had negative effects on the economy. The coffee industry is one example. Before the reform, 180 large coffee farmers provided 99% of total production, with the remainder provided by 2000 smallholder farmers. Now 157 large farmers have been removed from their farms and production has dropped from 18,000 tonnes to 2,000 tonnes, and is projected to decline to just 500 tonnes in 2007.

It is misleading to think that the land conflict is the root cause of the current crisis. The majority of Zimbabweans wanted jobs, not land: although the ZANU(PF) electoral slogan in 2000 was "land is the economy and the economy is the land," according to survey studies only 9% of Zimbabweans thought that land was the most important issue the government had to deal with. Unemployment and inflation were seen much more important.<sup>132</sup> The current crisis could have been contained by creating jobs in industry. However since the mid-1990s the country has undergone a process of de-industrialisation.

Zimbabwe inherited a diversified but protected economy from Rhodesia due to the economic sanctions imposed by the international community against Ian Smith's minority rule government (1965-1979). Manufacturing industry was developed in response to the need to become self-reliant, rather than for international competitiveness. In 1990, however, under the pressure from the IMF and World Bank, the government launched the Economic and Structural Adjustment Program (ESAP). At that time Zimbabwe was not in large-scale economic distress, but the economy was not growing fast enough to absorb a rapidly growing labour force nor was it sufficient to generate the tax revenues necessary for continued expansion in health and education services. With the liberalization of markets and measures to reduce fiscal deficit, ESAP was an attempt to reinvigorate the economy and attract foreign investments, but the decision to liberalize interest rates before the fiscal deficit was under control led to a situation in which the government's interest bill shot up, and this undermined its ability to meet the fiscal deficit target. The private sector faced two simultaneous shocks: price competition in the domestic market after import liberalization and very high interest rates. This meant that enterprises could not take out loans to invest in restructuring their production. Companies (many of them owned by white Zimbabweans) that had been well managed ended up bankrupt and the textile industry in particular witnessed huge job losses. Responsibility for the inappropriate sequencing of fiscal and financial reforms at least partially belongs to the IMF, as it has conceded.<sup>133</sup>

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<sup>132</sup> Addison, Tony and Liisa Laakso 2003. "The Political Economy of Zimbabwe's Descent into Conflict", *Journal of International Development*, 15(4): 457-470.

<sup>133</sup> IMF 1998. *External Evaluation of the ESAP: Report by a Group of Independent Experts*, Washington DC:108-109.

High inflation, public sector redundancies and the capping of wages added to the collapse of urban incomes, which had a negative effect in rural areas still suffering from the consequences of the 1992 drought. By the mid 1990s, average real earnings of private sector workers were 75% of their 1990 level, while public sector real earnings fell to 61% of their 1990 level. Economic liberalization and privatisation provided opportunities for corruption, becoming a force of cohesion within the political elite as it became more unpopular. In 1998 President Mugabe, without cabinet consultation, sent troops to the Democratic Republic of the Congo (DRC) to fight against rebels backed by Rwanda and Uganda. A 2001 UN report on the DRC conflict concluded that “the declining exchange rate, the failing Zimbabwean mining industry, and the critical energy shortage in Zimbabwe have left few sources for personal enrichment by Government officials. These officials started looking to the Democratic Republic of the Congo.”<sup>134</sup> The Zimbabwean government admitted that its army was involved in business projects in the DRC “for the sake of generating the necessary revenue” instead of “burdening the treasury for more resources, which are not available.”<sup>135</sup> However, the DRC proved to be a tough environment in which to make profits. The costs of the war exceeded the benefits of the business opportunities. In July 2000, the government told the IMF that it was spending over €3 million per month on the DRC war, but a leaked government memorandum put the cost at €175 million between January and June 2000, leading the IMF to suspend loan disbursement.<sup>136</sup>

In 2004, Zimbabwe was warned by the IMF that it risked expulsion if it did not pay its arrears to the organization. By mid-2005, the arrears stood at €236 million. In August 2005, Zimbabwe paid €96 million leaving it with arrears of €140 million.<sup>137</sup> The Executive Directors of the IMF expressed deep concern at the continued sharp economic and social decline, triple-digit inflation, output decline and increased poverty. In their view, *Operation Murambatsvina* (‘drive out rubbish’) in 2005, had posed further risks to the nation’s economic outlook. In that operation, urban dwellers and informal sector vendors were hastily and violently evicted, forcing 750,000 people to leave their homes and causing “untold human suffering” according to UN special envoy Anna Tibaijuka.<sup>138</sup>

Although Zimbabwe further reduced its arrears in early 2006, the IMF has not allowed it to take any more loans. While the threat of expulsion may have receded, funding from the IMF and the World Bank is no more accessible.

### ***Context of Democracy, Governance, Human Rights and the Rule of Law***

ZANU came to power after internationally monitored elections in 1980. The political situation was complicated by the fact that there were two liberation movements: Robert Mugabe’s ZANU and Joshua Nkomo’s ZAPU. The split in the liberation movement had taken an ethno-regional character and was volatile in the context of apartheid South Africa’s destabilisation policy in the region. A short period of government under a coalition of ZANU and ZAPU was followed by an internal conflict involving human rights violations and the killing of civilians in Matabeleland, the stronghold of ZAPU. Approximately 20,000 civilians died but the outside world did not react. Instead Zimbabwe was praised for its peaceful resistance to South African destabilisation attempts and its policy of reconciliation with its white minority. The conflict continued until 1987 when ZAPU was “merged” to ZANU, as ZANU(PF), creating a *de facto* one-party state.

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<sup>134</sup> quoted in Addison & Laakso 2003.

<sup>135</sup> *BBC*, 25 July, 2000.

<sup>136</sup> Original data is given in US dollars. Conversion made by using July 2000 exchange rate.

<sup>137</sup> Original data in this paragraph is given in US dollars. Conversion made by using June 2005 exchange rate.

<sup>138</sup> Report of the Fact-Finding Mission to Zimbabwe to assess the Scope and Impact of Operation Murambatsvina by the UN Special Envoy on Human Settlements Issues in Zimbabwe Mrs. Anna Kajumulo Tibaijuka, 2005, [http://www.un.org/News/dh/infocus/zimbabwe/zimbabwe\\_rpt.pdf](http://www.un.org/News/dh/infocus/zimbabwe/zimbabwe_rpt.pdf).

At independence the liberation movements had accepted a constitution that was not the kind of constitution they had fought for. In addition to protecting the land property of the whites, the constitution failed to introduce a strong executive, reserved 20 seats out of 100 to the whites and stipulated a multi-party political system. It was, however, written so that major changes became possible in 1987 (when the white seats could be abolished) and in 1990 (when a unanimous vote in the parliament would no longer be necessary in order to make changes concerning political and property rights). In 1987 the government took steps towards an “African” one-party state by introducing an Executive Presidency. The plan was to prohibit party political competition, but by 1990 the rest of Africa was moving in the opposite direction and after animated internal debate, ZANU(PF) had to resign itself to the possibility of continuing political competition.

In a sense Zimbabwe, too, felt pressure for a democratic transition during the early 1990s. Civil society was strengthening but had to coexist with an unaccomplished one-party state. This resulted in a tense relationship between the government and civil society, with the latter demanding the dismantling the powers of the President. In 1997 a group of NGOs formed the National Constitutional Assembly (NCA) with the Zimbabwe Congress of Trade Unions (ZCTU) Secretary General Morgan Tsvangirai as its chairman. The intention was to conduct broad consultations and civic education and to draft a more democratic constitution.

By the mid-1990s the government was facing pressure not only from the trade union movement but also on the part of the former liberation fighters (referred to as the war veterans), many of whom had received very little after independence. Following their angry demonstrations, in 1997 President Mugabe promised financial support to the 60,000 war veterans. The already volatile relationship between the government and the trade unions deteriorated when the ZCTU opposed a 5% levy proposed by the government to fund the war veterans’ pensions. From then on, trade unionists and veterans’ organization were seen as opposing each other, in spite of the fact that there were war veterans among the workers.

The government formed its own commission to examine constitutional issues in order to draft a new constitution which would go to a public referendum. The NCA boycotted the government’s commission on the grounds that it was dependent on the President. This deadlock gave birth to the MDC in autumn 1999, when some groups behind the NCA came to the conclusion that the constitution could never be democratised without a supportive parliament. Thus they decided to challenge the position of the ruling party in the forthcoming parliamentary elections in 2000.

When the government presented its new constitutional proposal in December 1999, the NCA and the MDC explained to the public that the changes that appeared to reduce the powers of the President were merely cosmetic. To the government’s surprise voters rejected its proposal in a referendum in 2000. Violent occupations of white-owned farms started soon afterwards in February 2000 and the occupied farms became bases from which the war veterans campaigned for the ruling party for the forthcoming parliamentary elections. Mugabe publicly backed the farm occupations and criticized judges who ordered the veterans to leave the farms. Harassment of MDC supporters has continued since then. In 2001, before the presidential elections, the government institutionalised the position of the young militias with the National Youth Service program. These youths assisted war veterans in the campaign and came to be known as “green bombers,” “green shirts,” “bandits” and “terrorists.”

*Operation Murambatsvina* (the eviction of urban dwellers and informal sector vendors) was conducted after the 2005 elections in Zimbabwe’s cities, where support of the MDC was strongest and anti-government protests had taken place. It has been widely seen as an attempt by the government to force the supporters of the opposition into rural areas, which are the stronghold of ZANU(PF). The eviction of some war veterans from the houses they built in occupied farms shows

that one of the political motivations was probably also to check the power and influence of the war veterans within the ruling party.

The government of Zimbabwe has restricted freedom of speech by controlling television, radio and printed media. In 2000, however, the circulation of the only independent daily newspaper, the *Daily News*, rocketed to 129,000 demonstrating that the paper was penetrating the rural areas, while the circulation of the government controlled *Herald* decreased to 55,000. In the following year three anti-tank landmines blew off the roof of the printing press of the *Daily News* and in 2003 the paper was shut down by the government.

NGOs also face repression. The legislation under which NGOs are currently regulated is the Private Voluntary Organizations (PVO) Act, which provides the Minister of Public Service, Labour and Social Welfare with powers over the regulation of NGOs. The Minister can suspend any or all members of an executive committee of an NGO and appoint trustees to run the organization. Apparently the government did not consider these powers sufficient, drafting a new NGO bill in 2004 with the underlying aim of exerting greater control over NGOs engaged in governance and human rights work, including the option of refusing to register or re-register NGOs that dealt with such issues, and a provision that prohibited funding to them. The government's reason was that such NGOs were critical of its policies, and supported the agenda of the opposition movement especially the MDC.

Significantly, although the NGO bill was passed by Parliament owing to the two-thirds majority of the ZANU(PF) government, the President did not sign it into law. This was largely due to the lobbying from the NGOs, churches, political parties and the international community. As was observed at the time, had the bill been given Presidential assent, it would have been "the death-knell of civil society organizations." Nevertheless, the mere existence of the bill has had an intimidating effect on NGOs, and punitive measures against them such as occasional raids or harassment of staff has made most of them feel insecure. While a few NGOs have relocated to neighbouring countries as a consequence, others have become more cautious in their activities and pronouncements. In spite of this difficult atmosphere, their umbrella organization, the National Association of Non-Governmental Organizations (NANGO) continues to play an active coordinating role.<sup>139</sup>

## 4.2 Issue

Before the 2000 referendum, political relations between Zimbabwe and the EU had been cordial. In 2000 the EU expressed open criticism toward the Zimbabwean government. As recorded in the Council conclusions on Zimbabwe in April 2000,

[s]tressing the importance of respect for human rights, democratic principles and constitutional government, the Council called on the Government of Zimbabwe to enforce law and order, international law and international standards. It condemned the legislation adopted by the Zimbabwe Parliament allowing confiscation of farm land without compensation and called on the government to comply with the Court order to end illegal occupations. Noting that Zimbabwe was one of the European Union's chief development partners, the Council reaffirmed the Union's commitment to providing support for orderly and transparent agrarian reform in Zimbabwe if the rights of all citizens were respected. The Council also recalled the Zimbabwe Government's undertaking to hold free and fair elections in May 2000 and the Union's undertaking to provide support for organising the elections subject to all rights being respected.<sup>140</sup>

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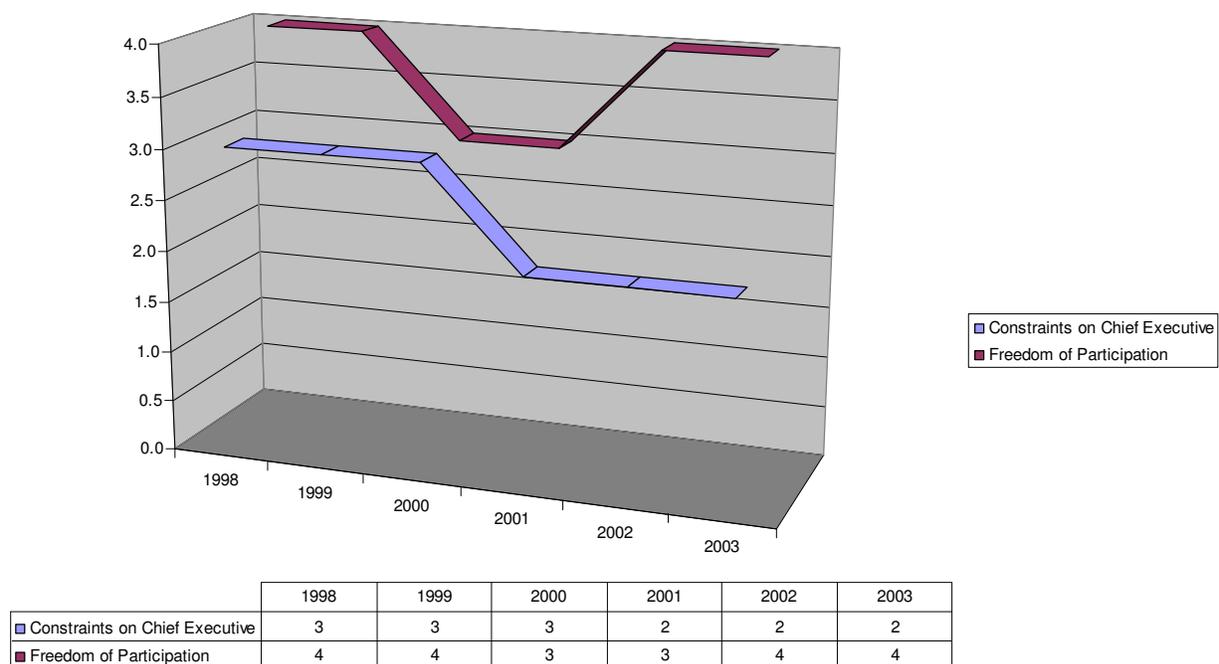
<sup>139</sup> Zimbabwe Human Rights NGO Forum 2005. *Zimbabwe "Facts or Fictions"*, Harare.

<sup>140</sup> <http://europa.eu/bulletin/en/200004/p106073.htm#anch0248>

The concern of the EU was directly related to the forthcoming elections and it actively pressed the Zimbabwean government to accept international observers. Zimbabwe's agreement to this made the 2000 elections the first Zimbabwean elections with official observers from foreign governments, including EU Member States.<sup>141</sup> Even before its Election Observation Mission (led by former Swedish deputy minister of development cooperation Pierre Schori) entered the country, the EU criticized the campaign period as not enabling a free and fair election, while the African observers were mostly positive as the polling itself was relatively peaceful.<sup>142</sup> ZANU(PF) won the elections with 62 seats compared to the MDC's 57. Intimidation of the opposition continued ahead of the 2002 presidential elections - and so did the criticism of the EU. Since that time, Zimbabwe has been on the agenda of the Council Africa working group, General Affairs Council and European Parliament, including the ACP-EU Joint Parliamentary Assembly, and the EU has issued several critical CFSP statements on the situation in Zimbabwe.

As Figure 4.3 shows, the human rights situation at the time of both elections was not alarming, as seen through the measures of freedom of participation and constraints on the President. In spite of this, the level of democracy was low (Figure 4.4) and corruption high (Figure 4.5).

**Figure 4.3: Human Rights in Zimbabwe<sup>143</sup>**

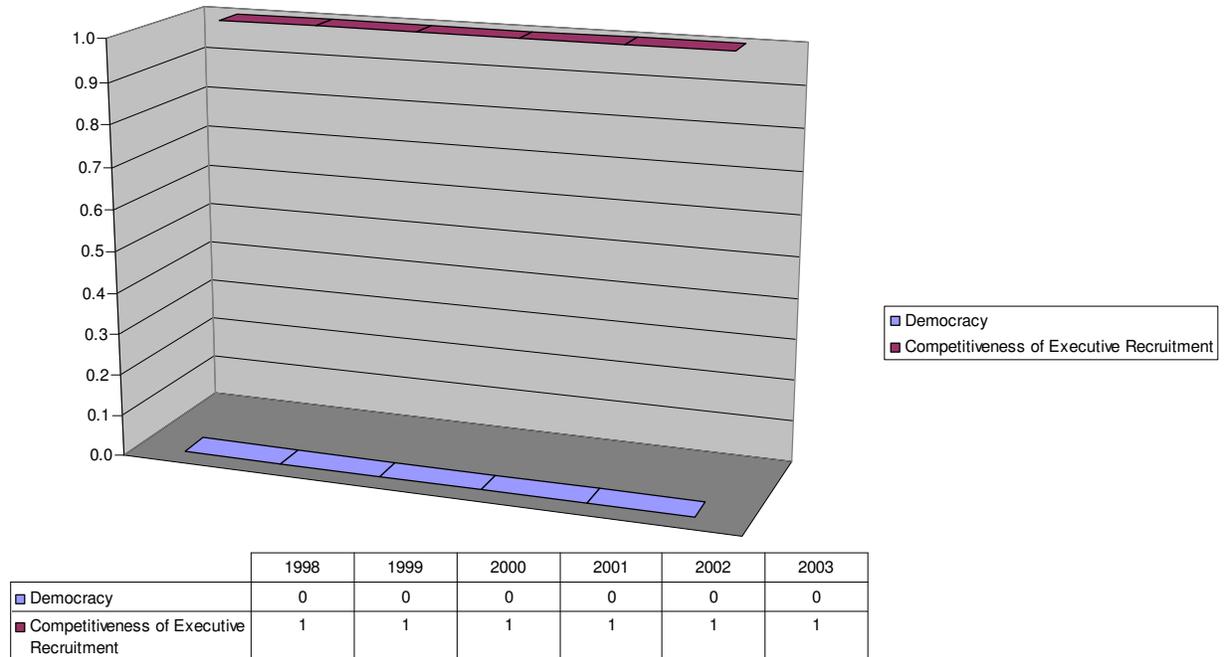


<sup>141</sup> The independence elections in 1980, which were internationally observed, had been organized by the British and the Rhodesian administration.

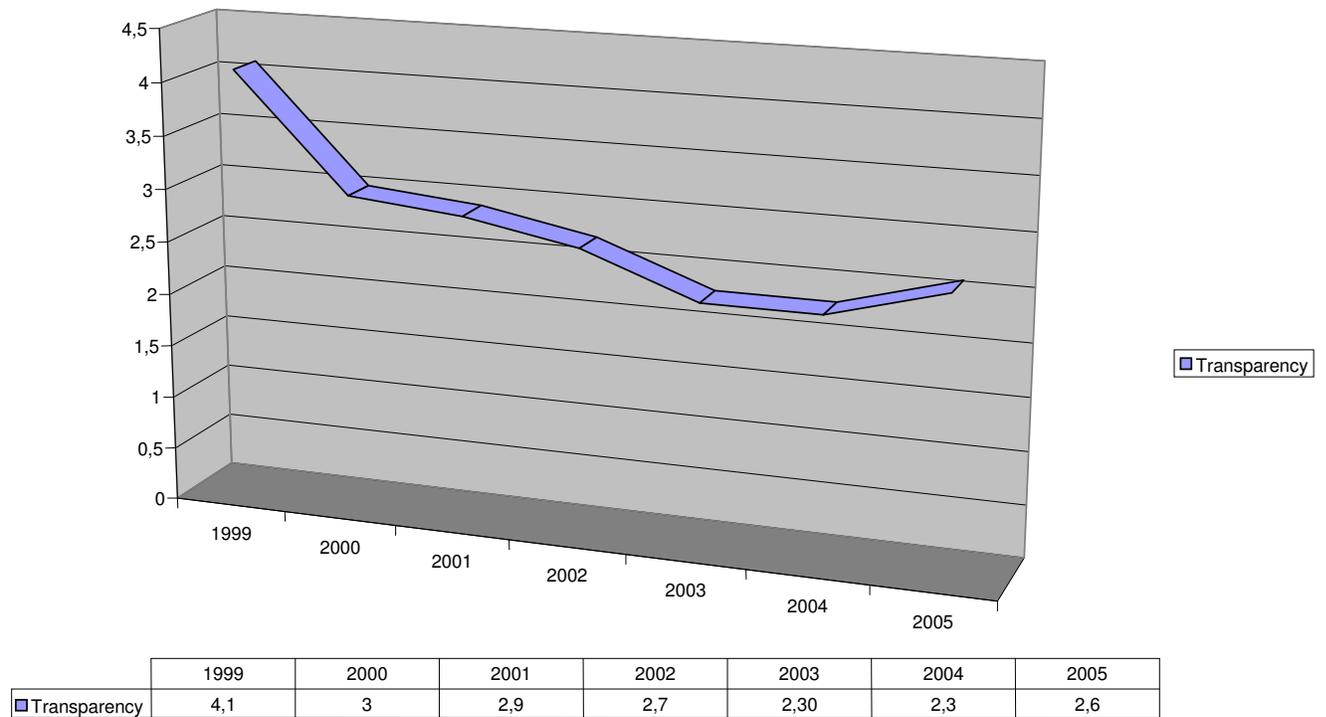
<sup>142</sup> Laakso, Liisa 2002. "The Politics of International Election Observation: The Case of Zimbabwe in 2000", *Journal of Modern African Studies*, 40(3): 437-464; *Report of the EU Election Observation Mission on the Parliamentary Elections in Zimbabwe on 24- 25 June 2000*.

<sup>143</sup> Polity IV Dataset. Source: Polity IV Dataset. The number indicating the level of constraints on chief executive ranges from 0 to 7, while the average in 1998-2003 for ACP countries was 3.5. The number for freedom of participation ranges from 0 to 5, with an ACP average of 2.6.

**Figure 4.4: Democracy and Rule of Law in Zimbabwe<sup>144</sup>**



**Figure 4.5: Transparency in Zimbabwe<sup>145</sup>**



<sup>144</sup> Polity IV Dataset. The number indicating the level of democracy ranges from 0 to 10, and the average in 1998-2003 for ACP countries was 3.3. The number for competitiveness of executive recruitment ranges from 0 to 8, with an ACP average of 1.3.

<sup>145</sup> Source: Transparency International Dataset, various years.

Some representatives of civil society (the labor unions, parts of the church and human rights groups) and the opposition appreciate the EU focus on democracy and its basis in the Cotonou Agreement. The view of the Zimbabwean government and other representatives of the Zimbabwean civil society (including the private sector) is that the forceful occupation of farms irritated the UK in particular, and in spite of being comprised of Member States with different views, the EU adopted the UK position.

Mugabe's words (quoted in the government owned newspaper *The Herald*, 6.12.2002) to the incoming Dutch ambassador to Zimbabwe after the Article 96 consultations were concluded and the EU had imposed appropriate measures against Zimbabwe, are revealing: "We do not understand how the Netherlands could be dragged into a fight that is British, pretending there are issues of human rights and good governance."<sup>146</sup> *The Herald* explained that:

[the] Netherlands and the rest of the European Union have ganged up against Zimbabwe and imposed sanctions at the instigation of Britain. Britain has been campaigning for Harare's isolation because of the Government's resolve to correct colonial imbalances by redistributing land, which was forcibly grabbed from locals by white settlers, mostly British descendants.<sup>147</sup>

In reality there were several EU Member States that were at least as critical of the Zimbabwean government as the UK. Sweden, which held the EU Presidency in the first half of 2001, has been particularly important in that group. This can be explained by the disappointment felt by the Swedes towards the Zimbabwean government, which they had faithfully supported since the liberation war. The feelings were particularly bitter after the husband of a Swedish citizen was murdered during the farm occupations. A similar change could be seen in the policy of Denmark, which closed its embassy in Harare, although in that case a change of government in Denmark probably also played a part, and cynics could conclude that the worsening situation in Zimbabwe provided a convenient excuse to the new Danish government to scale down its commitments in Africa. Finland, too, closed its embassy in Harare, although it was never represented there at the ambassadorial level and was not an important donor.

With regard to the dominant role of the UK vis-à-vis the other European "superpower" in Africa, France, it is significant to note the agreement made between the UK and France in Saint Malo in 1998, which stipulates that both countries should respect each other's Africa policy. For France this meant that it left the EU-Zimbabwe policy largely to the British even if it disagreed about the desirability and feasibility of that policy.

Last but not least, the UK-Zimbabwe relations seem to have been most challenging under a Labour government in the UK. The Conservatives, perhaps in order to protect British business interests in the country, have been more pragmatic – starting with Prime Minister Margaret Thatcher, who facilitated the peace negotiations in 1979. In 2000, Mugabe noted:

Mrs Thatcher ... came here in a very humble way – tough as she was, iron lady that she was – knowing that certain situations require that discussions be held. Not so Labour. They appear as arrogant little fellows – people who have suddenly come into leadership – who probably never expected to do so.<sup>148</sup>

Thus there is also an interpretation that the EU-Zimbabwe problem was in fact a problem of the British Labour government-ZANU(PF) relationship, or even more narrowly, a Blair-Mugabe personal problem.

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<sup>146</sup> *The Herald*, 6.12.2002

<sup>147</sup> <http://www.raceandhistory.com/selfnews/viewnews.cgi?newsid1039144030,64205,.shtml>.

<sup>148</sup> BBC, 26 June, 2000.

While the assumptions of the dominant role of the British within the EU have to be understood in the context that the UK has the largest concentration of interests in Zimbabwe of any EU Member State, the Britain's approach does not stem from its interest but rather from principles and values stated in the Cotonou Agreement. However, Zimbabwean perceptions of the role of their old colonial master inevitably carry with them the discourse on the injustices of the colonial past which appears not to be something that either the EU or the British government is prepared to discuss. The UK's International Development Secretary Clare Short wrote to Zimbabwe's Minister of Agriculture and Land, Kumbirai Kangai in November 1997, stating that:

I should make it clear that we do not accept that Britain has a special responsibility to meet the costs of land purchase in Zimbabwe. We are a new government from diverse backgrounds without links to former colonial interests. My own origins are Irish and as you know we were colonised not colonisers.

Soon after, the Minister of State, Foreign and Commonwealth Office, Tony Lloyd, declared that "colonisation is not something that people of my generation in Britain benefited from."<sup>149</sup> This was the attitude that, according to the Zimbabwean government, ruined not only its possibilities to get adequate funding for its land reform program in 1998, but also the prospects of a genuine dialogue between Zimbabwe and the EU/UK.

Britain and the EU, however, were not alone in their criticism of the government of Zimbabwe. An important reference group in this regard was the Commonwealth, which suspended Zimbabwe in 2001. The US, in turn, passed a specific piece of legislation, the "Zimbabwe Democracy and Economic Recovery Act" in 2001, which included calls for sanctions targeting those responsible for political violence in the country, and instructed US directors on the boards of the World Bank and IMF to vote against any lending to Zimbabwe, except on humanitarian grounds.

### **4.3 Invoking Article 96**

The decision of the EU to invoke Article 96, and before it to use Article 8 was "process-oriented" and was based on the long-term deterioration of the situation. According to the EU, Zimbabwe did not live up "to its previously good reputation regarding the essential elements."<sup>150</sup> Member States took an active role in determining the critical approach of the EU, while the Commission tried to cooperate with Zimbabwe as far as possible. The Council requested that the Commission take the initiative of invoking Article 96. Member States' initial views on this diverged, with the Nordic countries, the Netherlands, Germany and the UK taking a hard line while France, Belgium and Spain were more moderate. In the beginning France opposed the idea altogether.

The EU Delegation and Member States' embassies in Harare had already started discussing the possibility of dialogue under Article 8 in September 2000, with some Member States advocating a direct move to Article 96. The Commission provided the proposals for consensus and in February 2001 a request was made to the Government of Zimbabwe to start an Article 8 political dialogue. In Brussels in March, Commissioner Poul Nielson and President Mugabe decided to conduct a political dialogue under Article 8. The Africa Working Group decided that the Heads of Mission in Harare would lead the dialogue.<sup>151</sup>

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<sup>149</sup> Olden, Mark 2002. "Zimbabwe: The Election Aside", *SchNEWS OF THE WORLD*, <http://www.schnews.org.uk/sotw/zimbabwe.htm>.

<sup>150</sup> *Communication From the Commission on the opening of consultations with Zimbabwe pursuant to Article 96 of the Cotonou Agreement*, 26.10.2001, COM(2001) 623 final, p.2.

<sup>151</sup> Mackie, James and Terhi Lehtinen 2003. "Implementing the Political Dimensions of the Cotonou Agreement: EU Political dialogue and consultations with Zimbabwe" *Mimeo*, 6.1.2003.

Over the following few months, five meetings were held in Harare, but the only subject that was discussed was the agenda. At the end of June the Zimbabwean government pronounced itself ready to start the dialogue. The EU General Affairs Council noted the following aims:

- an end to political violence, and in particular an end to all official encouragement or acceptance of such violence,
- an invitation to the EU to support and observe coming elections and full access to that end;
- concrete action to protect the freedom of mass media;
- independence of the judiciary and respect for its decisions; and
- an end to illegal occupation of properties.

The Council set a two-month time limit for Zimbabwe to progress on these points before taking appropriate measures, however Zimbabwe postponed the dialogue until Foreign Minister Mudenge visited in Brussels in October.

Meanwhile in September 2001 a land reform conference was held in Abuja, Nigeria, involving a number of Commonwealth countries and the UNDP. The UK was the only EU Member State present. The UNDP drafted a proposal for the land reform program which was acceptable to the donor community. For a short while there was some optimism on the part of the UK in particular, however Zimbabwe's failure to start implementing the Abuja Agreement soon made the UK and the whole EU tougher again. The Commission started preparing a communication to the Council and Mudenge visited Brussels as planned and met the EU Troika in October, but this did not help the situation. A few days later the General Affairs Council considered the Commission's proposal and approved the opening of an Article 96 process. No effective dialogue had taken place within the Article 8 framework, and even though Article 8 enables civil society organizations to take part in the dialogue, they had had no role or were not even informed about the issue.

The EU had concluded that it was "hardly realistic to expect an early reversal of present policies" in Zimbabwe.<sup>152</sup> The government of Zimbabwe replied 15 days later, as stipulated in the Cotonou Agreement, accepting the invitation. After some exchange of views, 11 January 2002 was agreed as the date for consultations. Mudenge was very critical of the time frame, stating that:

It will be recalled that Zimbabwe signalled its readiness, as early as June last year, to launch the Zimbabwe-EU dialogue under Article 8, after the EU Troika in Harare and our own Core Dialogue Group of officials had elaborated a framework for dialogue on that platform. After successive EU presidencies had kept us on a long and unexplained standby, we were utterly dismayed at the sudden decision by the EU's General Affairs Council to move the Zimbabwe-EU dialogue to the Article 96 procedure. I personally conveyed through diplomatic channels and in writing to the previous two EU presidencies Zimbabwe's readiness to commence dialogue since June 2001 but for still quite inexplicable reasons my requests for the commencement of dialogue under Article 8 were never taken up. The reply I eventually got was to be informed the EU General Council had decided to move away from Article 8 to Article 96 procedures. Why this unilateral action was taken still baffles us. To us this is a poor example of the spirit of partnership.<sup>153</sup>

Zimbabwe sent five ministers to the consultations, led by the Minister of Foreign Affairs. The EU delegation did not include representatives at ministerial level, but was led by the Spanish Ambassador and Permanent Representative to the EU. For the Zimbabweans, the lower level of the EU delegation indicated a lack of respect, in spite of the EU's explanation that it was the result of busy timetables and the length of time taken to reach an agreed date.

In the consultations, the EU asked the government of Zimbabwe to normalise the situation in the country with particular regard to the five points mentioned above. Mudenge in turn referred to the partnership principle in the Cotonou Agreement, the need for a deeper EU appreciation of the problems Zimbabwe had with land reform and the urgent need to restore UK-Zimbabwe

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<sup>152</sup> COM(2001) 623 final, p. 3.

<sup>153</sup> Quoted in Mackie and Lehtinen, op. cit.

collaboration on the land reform and resettlement program as agreed in Abuja. Significantly he referred directly to bilateral relations between Zimbabwe and some Member States, saying that the “informal sanctions” must cease. Zimbabwe also asked the EU to “strongly denounce violence from all political parties in Zimbabwe; and [r]equest two Member States of the EU, the Netherlands and the United Kingdom respectively, to immediately stop all radio broadcasting on behalf of the opposition Movement for Democratic Change (MDC) in the Republic of Zimbabwe.”<sup>154</sup>

The EU sought access for observers and the media to the forthcoming elections in addition to a detailed plan from the government of Zimbabwe on “its actions on all points covered by the discussion” within one week. The EU said it would be reviewing the situation at the General Affairs Council on 28 January, and the letter the EU requested was sent by Mr Mudenge on 18 January. The EU subsequently noted that Article 9 “essential elements” were not being respected, decided to close the Article 96 consultations and announced its intention to impose sanctions on Zimbabwe if

- Zimbabwe prevented the deployment of an EU observation mission starting by 3 February 2002, or if it later prevented the mission from operating effectively. Likewise, if the Government of Zimbabwe prevented the international media from having free access to cover the election; or
- there were a serious deterioration in the situation on the ground, in terms of a worsening of the human rights situation or attacks on the opposition; or
- the election was assessed as not being free and fair.

Mudenge responded saying that this was unjustified. According to Zimbabwe there was a dispute between Zimbabwe and the EU and Zimbabwe therefore wanted to invoke Article 98 of the Cotonou Agreement. The provisions in Article 98 allow disputes between parties to be submitted to the Joint Council of Ministers for settlement.<sup>155</sup>

The government of Zimbabwe promised that foreign observers would be allowed and Pierre Schori’s EU observer team arrived in Zimbabwe in early February. The Zimbabweans, however, indicated that certain EU nationalities would not be acceptable. In June 2000 British observers were not approved and the EU did not contest this; the ban now included half a dozen EU nationalities including the Swedes. Schori was therefore unable to remain in Zimbabwe and left only a week after his arrival, just before the General Affairs Council meeting of 18 February 2002. The Commission and the Council secretariat were already preparing the papers for the passing of sanctions against Zimbabwe<sup>156</sup>. The General Affairs Council meeting resulted in an agreement to conclude the consultations and to adopt appropriate measures, since the human rights situation, electoral policy and rule of law in the country had not improved.<sup>157</sup>

Zimbabweans were surprised by this haste, which reflected the Member States’ desire to have a positive influence on the arrangements for the 2002 presidential elections. Many Zimbabwean observers accused the EU of double standards. Some Member States saw grounds for such

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<sup>154</sup> ACP/26/017/02, quoted in Mackie and Lehtinen op. cit.

<sup>155</sup> As James Mackie and Terhi Lehtinen have noted, such provision is standard in any international treaty. The Joint ACP-EU Council of Ministers discussed the issue at the end of June 2002. The Zimbabwean submission concentrated on what they saw as a series of unilateral steps taken by the EU in the conduct of both the Article 8 dialogue and the Article 96 consultations and the EU’s failure to take seriously the issues Zimbabwe had raised in the political dialogue. The EU response focused on refuting the Zimbabwean claims of procedural mistakes and justifying its reasons for wishing to send an observer mission to the Zimbabwean elections. Mackie and Lehtinen, op. cit.

<sup>156</sup> *Commission Proposal for a Council Regulation*, 11.02.2002, COM(2002) 88 final.

<sup>157</sup> *Council Decision 2002/148/EC* of 18 February 2002 concluding consultations with Zimbabwe under Article 96 of the ACP-EC Partnership Agreement (OJ L 50, 21.02.2002, p. 64-65).

accusations, since there were much worse cases in Africa which had not even led to discussions concerning Article 96.

The EU attempted to coordinate its policies with the SADC (Southern African Development Community), however, the SADC's policy of non-interference did not allow its Member States to get involved openly with Zimbabwe's internal dispute. For SADC, the priority was to have Zimbabwe return to normalcy and to avoid its isolation. According to some representatives of EU Member States it was a mistake to try to involve other SADC countries in its dispute with Zimbabwe: at the very least, it showed a poor understanding of the regional context. Many in Africa viewed Mugabe as a hero, and in addition to this, as the eldest incumbent President and a liberation war leader he was not somebody who could easily be advised by other African leaders.

#### **4.4 Taking appropriate measures**

The General Affairs Council's decision to impose "smart sanctions" against the high officials of the Zimbabwean Government (who were believed to be in a position to influence government decisions) was a unilateral EU measure, involving a CFSP common position. The sanctions concerned travel restrictions and freezing the assets of the 20 individuals concerned. By July 2002 the list of these individuals was extended to 72 persons, including all "Cabinet Ministers, Politburo Secretaries, Deputy Ministers, Assistant Secretaries of the Politburo and the spouse of President Mugabe."<sup>158</sup> The EU also forbade the sale of arms to Zimbabwe, and the 9<sup>th</sup> EDF for the period 2002-2007 was not signed.<sup>159</sup> While government-to-government cooperation was suspended, further aid was to be directed towards social sectors and cooperation with civil society, and relief aid continued.

##### *Implementation*

As often is the case, the effective implementation of sanctions has not been easy. Blocking the assets of Zimbabwean individuals relies on EU Member States' control over their banking sectors. While a number of other countries, like the US, have made similar decisions, there are several countries in Asia in particular which do not implement such measures, reducing the actual impact of the sanctions on the individuals concerned. The EU travel ban has been extended to the spouses in some cases, but not to children, many of whom are studying in Europe, with financial support coming directly or indirectly from the state of Zimbabwe. Also, the restrictions do not apply in specific cases, as for example when the named persons are attending or traveling to UN meetings. Mugabe for example traveled to Paris in transit to the UN in New York and to Rome to an FAO meeting.

The dialogue between the EU and Africa has been affected by the EU-Zimbabwe dispute and the travel ban, causing trouble and uncomfortable media attention not only for the Zimbabwean leadership but also for Europeans. The EU, for instance, had to agree to move one EU-SADC meeting scheduled for Copenhagen to Maputo because of the restrictions. France invited Mugabe to an Africa Summit in Paris, because it did not want to damage its relations with Africa over the Zimbabwe issue. To the irritation of the French this made the hand shake between Chirac and Mugabe the most important piece of news of the whole meeting in the British press.<sup>160</sup> A decision by the European Parliament not to allow two Zimbabwean ministers on the banned list to access their buildings resulted in the last minute cancellation of the 4<sup>th</sup> Session of the ACP-EU Joint

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<sup>158</sup> EU Council press statement 10945/02.

<sup>159</sup> This would have allocated 108 million euros in the A-envelope and 19 million euros in the B-envelope.

<sup>160</sup> Similarly, Prince Charles shaking hands with President Mugabe in the Pope's funeral in Rome was widely published.

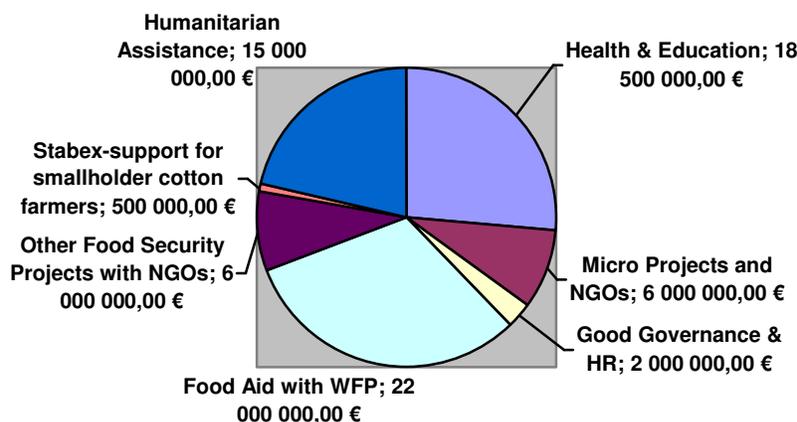
Parliamentary Assembly in November 2002.<sup>161</sup> In Zimbabwe the government has used such incidents in its own propaganda. Both Africans and Europeans seem to agree that the Zimbabwe issue has brought unnecessary tension to their relations.

### *Development cooperation*

As far as development cooperation is concerned, since 2002 the Commission has reviewed programs in Zimbabwe, remaining focused on education and health programs that directly benefit the population. Humanitarian assistance has increased the total aid disbursement and the EU has provided support to the Parliament in order to remain engaged and to promote political debate in the country.<sup>162</sup> The cooperation between the EU and the Parliament has been fruitful. In spite of the dominance of the ruling party, the Parliament provides an important forum for political debate. Furthermore Zimbabwe was one of the focus countries of the European Initiative for Democracy and Human Rights (EIDHR) for the period of 2002-2004 benefiting NGO activities, micro projects outside the capital and human rights training for the police forces. The NGO co-financing budget line is also used, and Zimbabwe is a pilot country in the DAC/OECD program for fragile states, an exercise led by the Commission in Zimbabwe.

In 2005, total aid from the EU was €70 million and well over half of this (€45 million) was food aid, food security and humanitarian assistance (see Figure 4.6).

**Figure 4.6: Distribution of EU Assistance to Zimbabwe in 2005<sup>163</sup>**



According to the government of Zimbabwe, relations between the Ministry of Health and the EU have actually improved since the imposition of sanctions. Before the sanctions, only small amounts of money trickled into the Ministry of Health and program support was channeled through government bureaucracy, causing delays. At the moment, the support, including technical support, is offered directly to service providers. The National Pharmaceutical Company (NatPharm) is

<sup>161</sup> Mackie and Lehtinen, op. cit.

<sup>162</sup> ECDPM. 2005. *InfoCotonou No. 10: The challenge of remaining engaged with 'difficult partnerships'*. Maastricht: ECDPM.

<sup>163</sup> Total 70m euro, EU (2005) *An Overview of EU-Zimbabwe Current Cooperation*, Harare.

working with the EU on a strategy for bringing drugs directly to the people. The Commission, views Zimbabwe's health policy as being exemplary and the EU Member States are harmonising their activities in this area.

Direct cooperation with the government – that is, channeling aid through the government – seems to be more contentious. Although the Commission delegation represents a view that when a policy (like health or education) is good, it is appropriate for the EU to support the government ministries implementing that policy, some Member States argue that aid should not be distributed in cooperation with the Ministries, since transparency in the government remains very low. According to these Member States, the Commission is more lenient with Zimbabwe than the appropriate measures require. NatPharm, however, is an acceptable channel to distribute aid even for the most hard line Member States. It is a parastatal, placing it in a grey area in this regard.

Member States' bilateral relations make the picture even more unclear. According to some EU commentators, the Member States are free to be strict or lenient in their interpretation of the common decisions, although all express solidarity under Article 96.

As far as humanitarian relief programs are concerned, there is good coordination among EU and Member States' donor agencies, as well as other donors, even at the operational level. Representatives of civil society have also noted that the support given to NGOs for coordination is very effective: project proposals are shared, thereby preventing duplication of support. There is also a common fund for NGO support, although donor governments sometimes want to fund activities bilaterally that raise their own profile.

#### *Inconsistencies within the EU*

In other areas, coordination varies. As far as policy decisions are concerned, the gravity point is in Brussels and the embassies in Harare are merely informed about the results of coordination meetings in Brussels. Even though the feedback and analysis provided by the embassies to the capitals is seen as important, many argue that their ability to influence the decisions is only indirect and that there is some difference between their opinions. In the case of some Member States, like Sweden, the capitals are said to take harder positions than the embassies. It was also noted that the capitals are more rigid in their positions, while personalities are important at the local level: in other words a new ambassador or head of delegation might have a different approach from his or her predecessor.

At a field level, EU Member States and the EC delegation have coordinated their positions through regular Heads of Missions (HOMS) meetings. European donors meet often but not regularly, depending on the embassy that represents the EU Presidency. The United Kingdom, for example, organized regular meetings during its presidency. Furthermore there is a group of a few like-minded countries that regularly communicate to form a common view. Direct informal personal contacts amongst a handful of people are also important and this cooperation extends to non-EU Member States as well, including the United States, Canada and Australia. This form of cooperation, of course, excludes other Member States. The most important donor excluded from such cooperation is France, which today is one of the largest creditors to Zimbabwe. There is a clear tension between France and the group of like-minded Member States, including the UK. While the Zimbabwe situation is not a priority for France in Africa since France does not have important economic interests there, France is defending its right to have much better bilateral relations with the government of Zimbabwe than the EU has. This is not well understood by the other Member States.

The situation is further complicated by the fact that the cooperation between France and the Commission is good in Harare. Some Member States criticize the Commission delegation for

being too cooperative and overlooking the common view of the Member States. This criticism is not shared by other Member States, including new ones and those with only limited bilateral cooperation in Zimbabwe.

The problem is not so much with cooperation *per se*. Different actors are efficiently making their positions known to each other, both formally and informally. The problem is that even though all Member States officially declare that they are firmly behind the common EU policy, their opinions differ. This has become clearer as the Zimbabwean crisis deepens. While all Member States agree that it is impossible to come to an unambiguous conclusion about the effectiveness of the EU measures (that is, what would have happened if smart sanctions had not been imposed), in the words of one commentator, the frustration has given space to a rather unhelpful “we told you so” squabble, although “in 2001 and 2002 a decision had to be made and a point had to be made.”<sup>164</sup> Both the credibility of the EU policy and face-saving nonetheless appear as important issues. For some Member States, even minor steps on the part of the Zimbabwean government would be sufficient to cause the EU to reconsider its policy.

Incoherence then stems from the fact that it has not been possible to come together and decide on a new policy that would be wholeheartedly supported by all Member States. As a result there seems to be a Council position, which is very close to the UK (and US) position, a French position which is different, a Commission position which is somewhere in between, and a critical position held by several Member States that simply are not comfortable with the current situation.

The fact that the EU members are divided makes it possible for the government of Zimbabwe to claim that it has allies within the EU. The government-owned media has done its best to exploit these opportunities. For example the new Swedish ambassador was quoted as saying that smart sanctions have hit the poor, although he later rejected this. An MEP was also quoted as saying that land reform was the real issue behind the sanctions. As result the EU and Member States always emphasise officially that the EU has one position, while Zimbabwe’s state-owned media tells a different story and it seems to be common knowledge that the EU is divided.

### *Perceptions of the measures*

Views diverge regarding the content and the purpose of the appropriate measures. The government of Zimbabwe actively communicates to its public that it believes that the country is under sanctions and the common perception amongst Zimbabweans is that aid has decreased as a result of these sanctions. Although the Zimbabwean government recognizes that the EU and its Member States are investing in the social sector, it does not praise the EU for excluding humanitarian aid, aid benefiting the people and economic relations from the appropriate measures. The government’s view is that the measures are negatively affecting the economy beyond the targeted individuals. The extent of the measures is easily exaggerated and the UK in particular bears the brunt of this. President Mugabe has referred to the measures as “illegal sanctions” because they are not endorsed by the United Nations.<sup>165</sup>

The smart sanctions have divided Zimbabwean civil society, including the churches and the opposition. Some believe that sanctions should be extended if they are to be really effective, including for example refusing the leaders’ children access to education in overseas universities. The current sanctions are perceived as being so weak that they can neither harm nor help anyone, whereas “if the agony suffered by the ordinary citizen could also be made to reach the leaders, they would change.”<sup>166</sup> The many loopholes in the sanctions have also resulted in a certain loss of

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<sup>164</sup> Interviews in Harare, June 2006.

<sup>165</sup> 29 June 2006 at the funeral of the Minister of Information, ZBC TV report from the funeral 29.6.2006.

<sup>166</sup> Interviews in Harare June 2006.

credibility for those imposing them. ZCTU representatives argue that although it is appropriate to target individuals responsible for Zimbabwe's crisis, these individuals have the means to evade the sanctions.

Others believe that the sanctions are making things worse: even though the crisis in Zimbabwe is a governance issue and the EU measures are restricted, they are indirectly affecting all sectors of the economy, including investments, rather than the well-being of the politicians themselves. It is the poor who bear the brunt of the economic crisis, which has also wiped out the middle class. Some argue that there is need for education of the citizens so that they know that the economic problems in Zimbabwe are not due to smart sanctions. The fact that in spite of the current crisis, EU countries have continued to try to alleviate poverty was appreciated but poorly communicated to the people. Smart sanctions are sometimes seen as "emotionally motivated personal punishment" of some individuals, who had been supported by the Europeans during and after the liberation struggle but who did not live up to the common values.<sup>167</sup>

Another body of opinion holds that implementing the appropriate measures so quickly was justified because there was a sudden breakdown in the rule of law. These observers acknowledge that prior to Article 96 being invoked, mediation processes took place to try to help Zimbabwe understand the need to abide by the provisions of the Cotonou Agreement. During consultations, conditions were laid down for Zimbabwe to make changes, and clear warning was given regarding the consequences if changes were not made.

As far as the purpose of the appropriate measures is concerned, there is a widespread assumption in Zimbabwe that the aim of the EU was to effect a regime change. In April 2006, British Prime Minister Tony Blair noted that what his government was doing was "to try and get the right diplomatic pressure on the Zimbabwean regime to change."<sup>168</sup> The Zimbabwean interpretation is that this meant the removal of ZANU(PF) from power. The UK, however, claims that this is not the case, but that the question concerns a policy change. All EU Member States emphasize that regime change is not and never has been on their agenda. However, one representative of the EU Member States noted that in 2000 and 2001 there was a belief that "it will be easy to get rid of Mugabe" and this was one of the motivations behind the consultations.

A somewhat surprising detail in the criticism toward the official EU policy, in the government discourse as well as in the discourse of some civil society representatives and even some EU Member States, is the frequent references to the development of China's relations with Zimbabwe. These are constantly represented as a threat to the European interests, as though trade between China and Zimbabwe, Chinese investment in Zimbabwe, or development aid from China would translate to lost opportunities for Europeans, or as though China could become a powerful player ideologically, with values that are different from those of Europe. According to one observer, "there appears to be some desperation on the part of some EU members to protect their business interests, particularly with the "Look East" policy. The policy is collapsing but some EU members have been overwhelmed by the propaganda. They think China is moving in big time and they may lose out."<sup>169</sup> Although the new "EU Strategy for Africa" notes China's "economic weight and political influence" in Africa,<sup>170</sup> it is difficult to understand the logic that sees China as a threat to EU relations with Zimbabwe, particularly as Europeans themselves are busy developing their relations with China. Furthermore, in terms of aid at least, China does not appear to be an answer to Zimbabwe's current problems, having provided limited food aid to Zimbabwe, but with a strict condition that the money is spent in China.

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<sup>167</sup> Interviews in Harare June 2006.

<sup>168</sup> UK House of Commons Hansard Debates for 19 Apr 2006: Column 123, <http://www.publications.parliament.uk/pa/cm200506/cmhansrd/cm060419/debtext/60419-03.htm>.

<sup>169</sup> Interviews in Harare June 2006.

<sup>170</sup> COM(2005) 489 final, 12.10.2005, p. 10

Many Zimbabwean observers believe that the EU should have left open the possibilities for dialogue, which the smart sanctions made difficult. These observers see a need for the EU to remove sanctions and allow leaders to travel and conduct the dialogue. While smart sanctions have succeeded in causing embarrassment to the country's leadership, this has caused more anger than willingness to negotiate.

Furthermore it seems that direct support to the people has partly exacerbated the difficult relations between the EU and the government. Circumventing government causes friction because the EU is viewed as seeking to influence the government without involving it. This situation has arisen due to incidents such as the Zimbabwean government seeking to gain mileage from the EU humanitarian support by providing it through its own structures so that it would be viewed as government support to the people.

Most observers argue that the current environment would present difficulties for negotiations while a minority believes that it warrants discussion at the level of the UN.

### *Continuing the use of appropriate measures*

In every year since 2002, the EU has decided to maintain the appropriate measures with some changes such as adding names to the travel ban, which now totals 127 people. As a preparation for an exit strategy, in 2003 the EU set out benchmarks, according to which any positive moves on the side of the government of Zimbabwe could be assessed. The benchmarks are consistent with the initial concerns of the EU and are comprehensive. Although the question is an internal EU decision, the Zimbabwean government has been informed of the benchmarks. The Member States last discussed the feasibility of the benchmarks in June 2006 and it appears that for the Northern "hard liners" in particular the question is one of principle and the EU should not soften its approach in the fear of losing its credibility. However, this possibility has been discussed and Zimbabwean observers noted that "EU countries appear to be giving up."

Nothing has formally prevented an Article 8 political dialogue from proceeding. However, little dialogue has occurred between the Member States and Zimbabwe. Formal contact has been at the minimum level, for example with only low ranking officers attending the national day celebrations of most foreign missions. Some of the ambassadors of the EU Member States are trying to promote dialogue with government ministers, but for many Europeans the current discourse of ZANU(PF) is anti-west, anti-white and racist, which makes dialogue difficult. A recent example of such discourse was seen at a meeting in June, arranged for the heads of diplomatic missions with the Minister responsible for Land and Land Reform and two other ministers. Zimbabweans, in turn, assert that the government is not anti-white since, for example, there are hundreds of British companies in the country.

The Member States are waiting for Zimbabwe to come up with new proposals before talks can be initiated, since all European overtures have so far been abused or gone unanswered by the government of Zimbabwe. If governance is part of government concerns and land reform is approached in a positive manner, then the EU Member States would be close to lifting sanctions.

The views of the Member States and the Commission differ to the extent that some Member States argue that any Article 8 discussions need to be initiated by Member States and such discussions have not been conducted, while other Member States are of the opinion that there was dialogue led by the Austrian Presidency during Spring 2006 and the Commission regarded its interaction with the Zimbabwean government (particularly as far as the preparatory work for the 10<sup>th</sup> EDF was concerned) as dialogue referred to in Article 8.

Zimbabweans saw the new EU ambassador in the country as “proactive” in this regard. The previous ambassador, in their view, had concentrated more on human rights than dialogue with the government. It appears that the new Commissioner, Louis Michel, is also proactive. He met with Zimbabwe’s Minister of Finance and Minister of Foreign Affairs in Gaborone on 24 February 2006, and again in Brussels on 26 April, during the ACP Ministers of Finance meeting. The latter meeting drew attention from Member States and some MEPs (and subsequently Zimbabweans) as the Commission wanted to extend the stay of the Zimbabwean Minister in Brussels by one day, in order to meet more convenient flight connections. This was interpreted by the Member States and members of the Parliament as a deliberate move to circumvent the travel ban and to give a message to the government of Zimbabwe that the Commission wanted to normalise the relations. In the end Belgium did not extend the Minister’s visa.

The response of the Commission to the Development Committee and MEPs was that the Commissioner only wanted to take advantage of the meeting to continue the discussion on the 10<sup>th</sup> EDF. The Commission has said to the Zimbabwean government that the policy remains the same, but that the EU in accordance to the Council resolution in February 2006 wants to explore possible avenues for crisis resolution. The intention is to use the 10<sup>th</sup> EDF program exercise as an entry point for formal dialogue.

Zimbabwe is still a partner and has been included in the 10<sup>th</sup> EDF discussions, even though the EDF fund will only be released if the appropriate measures in this regard are lifted by the Council. The Commission delegation in Harare has also invited civil society organisations to participate in the 10<sup>th</sup> EDF discussions. An important initial meeting was held on 7 June 2006.

## **4.5 Main actors and approaches**

### *EU, Council, Commission and Member States*

The EU has a single position as far as the consultation process and the appropriate measures are concerned, however the Member States differ in terms of their bilateral relations. The views of the Commission and the Member States also differ as far as dialogue under Article 8 with the government of Zimbabwe is concerned.

According to Zimbabwean observers the EU is divided into three groups over the case of Zimbabwe. There is a group that is deeply involved, a group that has adopted a softer stance and a third group that is indifferent. The UK has an important role, and nations such as the Netherlands, Sweden and Germany have significant development cooperation activities in the country. The Northern Member States are close to the UK position, although at least some of them show a tendency towards softer viewpoints at the level of the missions in Harare than in their capitals. France is openly pursuing very different bilateral relations, but does not oppose the UK view as far as the common EU policy is concerned, viewing the dominant role of the UK as legitimate. There are Southern Member States, like Greece, which at the mission level are known to be critical of the EU policy. Some ambassadors simply argue that if they are accredited to a particular country, they keep the dialogue window open.

According to Zimbabweans, Member States that have softer stance towards the government of Zimbabwe are also able to negotiate with the government to have their citizens’ farms reinstated. Belgium and Germany are understood to be negotiating, and might succeed where the hardliners do not. Irrespective of the truth of these claims, they show how incoherent the EU Member States approaches and aims look at the local level.

The new Member States appear to belong to the “indifferent” group. They support the EU position, but at the mission level are quite critical towards current situation. Some of them have deep historical knowledge of Zimbabwe and the region, including the Cold War discourse of “demonizing the west as evil imperialists.” During the liberation struggle, however, most of the Eastern European countries like Czechoslovakia had close relations to ZAPU rather than the more radical ZANU, which was closer to China and Romania. At the level of the missions it seems that the new Member States would have much more to offer in the formulation of common EU policy than they have so far done in Brussels.

The Commission is pursuing cooperation with the government of Zimbabwe wherever possible. This is consistent with the idea of partnership within the Cotonou Agreement, but potentially contradicts the Members States’ CFSP measures punishing the Zimbabwean leadership.

Both the Member States and the Commission are engaged with civil society, but the antagonistic relations between the state and civil society make this difficult. As a consequence the cooperation divides civil society.

#### *Other donors*

Other Western donors have very similar approach to the EU’s smart sanctions. The most critical donor is the US, whose current ambassador in Harare has been a vocal defender of human rights and democracy, for which he has been criticized in the government owned media. The US is also accused of attempting to change the regime in Zimbabwe. Colin Powell spoke about "regime restoration" in 2005<sup>171</sup> and the new US ambassador to South Africa, Jendayi Frazer has spoken about a "coalition of the willing" to push for regime change to end the crisis in Zimbabwe.<sup>172</sup> Norway, Canada, Switzerland and Australia have a softer approach than the US.

#### *Government*

The government of Zimbabwe is not coherent itself. The crisis in the country is exacerbated by the crisis in the ruling party. There are different factions in the party centered on the question of succession as Zimbabwe approaches the end of the “founding leadership.” The ruling party emerged from a guerrilla movement and as such has never been prepared to lose elections and assume the role of an opposition party.

Ethno-regional divisions play an important role in the government and the ruling party, which is a mass party, penetrating all regions and activities in the country. At this level, there is effective power sharing within the government, even though this does not translate to open political pluralism.

It is also important to note that Zimbabwe is a relatively small country. Various civil society groups, including the trade unions, church and private sector have contacts within the government. If the individual level is taken into consideration, the relationship between civil society and the government, or between the opposition and the ruling party embodies at least some potential for dialogue.

Finally it needs to be noted that, even though Zimbabwe lacks capacity and can be regarded as a fragile country and a failing state, it is not close to being a collapsing state. On the contrary many critical parts of the state are functional and strong.

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<sup>171</sup> "Powell calls for 'regime restoration' in Zimbabwe", NewZimbabwe.com, last updated 04/28/2005.

<sup>172</sup> Basildon Peta, "US seeks 'coalition' to force Zimbabwe regime change", NewZimbabwe.com, last updated 04/28/2005, <http://www.newzimbabwe.com/pages/powell5.11519.html>.

## *Civil Society*

Zimbabwean civil society is vibrant, particularly in the urban areas. Church groups for instance are influential throughout the country. Labour unions and human rights groups represent critics of the government and are close to the political opposition. Some civil society groups are accused of benefiting from the EU's appropriate measures in the sense that "they continue receiving money from Europe," however the proposed NGO law threatens the NGO sector in the field of governance and human rights.

On the other hand there are also many groups that are apolitical or supporters of the government, and the government is able to choose to enter into dialogue with them. On 25 June for instance, there was a national day of prayer which was organised by the churches and attended by the President, while at the same time there are also representatives of the church who openly clash with the government.

## *The Private sector*

The private sector advocates the normalization of relations between the donor community and Zimbabwe. While this sector acknowledges the seriousness of the human rights violations, and while individuals representing the private sector have been victimised (even murdered), the general approach is that the size of the problem of human rights violations (like the number of politically motivated killings) is relatively small when compared to the size of the whole population that is now suffering as a result of the tense relations with the donors.

The private sector would prefer to see the issue of human rights isolated from the economic and technical cooperation that is vital for the recovery of Zimbabwean business.

## *Opposition*

The MDC is a popular but heterogeneous collection of various groups united by the willingness to oust ZANU(PF) from power. The MDC has used international pressure as part of its strategy. According to some observers, the status offered to the opposition in Western capitals is much higher than that accorded to the government of Zimbabwe.

Just like the ruling party, the MDC (as well as the nation's smaller opposition parties) does not have tested systems for making leadership changes. It has been weakened by a split resulting from division over the party's participation in the election of the newly established Senate. While the split appears to have a regional dimension, with the pro-senate faction establishing its base in Bulawayo, some party members claim that it is a result of the disagreement between pro-senate academics and the more radical labour-based individuals.

## *ACP Group and Regional Organizations*

The SADC approach to its Members' problems is one of solidarity. South Africa and Mozambique have tried to put pressure on the government of Zimbabwe, but allying publicly with the EU on this issue would be counterproductive to their efforts.<sup>173</sup> There has nonetheless been incessant pressure from the EU for SADC Member States to intervene in the Zimbabwe crisis.

A number of meetings between the SADC/ACP and EU have been postponed or have failed to eventuate because of their common position in favour of Zimbabwe. The SADC's priority

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<sup>173</sup> Council of the European Union 2004. *Outcome of Proceedings, Africa Working Group meeting 7-8 December 2004*, Brussels.

objective is to return the economy and politics of Zimbabwe to normalcy. According to it the smart sanctions should be reviewed, as they affect the whole region economically.

In terms of the way forward, there is an important role for the neighboring countries. Tanzanian former President Benjamin Mkapa, for example, has been accepted by Robert Mugabe as a mediator in the crisis.

## **4.6 Lessons learned**

It seems to be particularly difficult for the EU to coordinate its policy in cases where there has been a gradually worsening situation rather than a sharp rupture like a *coup d'état*. The Zimbabwe experience shows the specific challenges of coordination and coherence when European Member States have significant connections to the country in question. The Article 96 process was invoked very quickly, such that dialogue under Article 8 did not even start properly. Even though the EU had informed Zimbabwe of its position, it seems that there were at least some misunderstandings or miscalculations on the part of Zimbabweans, who were surprised by the speed of the process.

The Zimbabwean government has constantly referred to the EU policy as having been dominated by the UK, however, a number of other EU Member States share the UK's viewpoint. There are also Member States whose bilateral relations with Zimbabwe are different from those of the EU. Zimbabwe is blaming the EU sanctions for the economic crisis in the country and accusing the EU and other donors of supporting the political opposition and influencing its agenda, as well as encouraging NGOs to concentrate on governance and human rights issues. The EU, and the UK in particular, are believed to be pursuing a regime change in Zimbabwe.

Since the appropriate measures are still in force and the relations between Zimbabwe and the EU are not normalized, Zimbabwean authorities interpret and explain the situation to the public in a way that suits their own purposes. The difficult task facing the Commission and Member States at the local level is to try to communicate the actual content and objectives of their policies to the public.

The overall experience of the use of Article 96 in Zimbabwe has largely been negative, in the sense that various stakeholders are frustrated. There are, however, interesting developments which might show it is possible for the EU to translate its policy into positive measures as the preparatory discussion for the 10<sup>th</sup> EDF is deliberately being used to enhance political dialogue.

In summary one could say that current weaknesses in coherence of the EU policy in Zimbabwe are due to:

1. the desire to have a positive impact on a forthcoming election, which was shortsighted with regard to the gradually developing situation;
2. the continuing nature of the crisis in Zimbabwe;
3. the difficulties facing outsiders wishing to influence the Zimbabwean government;
4. the antagonistic attitude of some parts of the government towards the donor countries;
5. the EU Member States holding different opinions about the seriousness of the situation and the best way to improve it;
6. the fear that the EU would lose credibility if it changed its policy;
7. the EU's inability to form alliances with Zimbabwe's neighboring countries;
8. Zimbabwe having become a problem in the EU-Africa relations; and
9. the lack of an "exit plan."

Coordination can be regarded as successful because:

1. communication between the Council, the Member States and the Commission has been very good;
2. there has been strong willingness on the part of the EU to provide humanitarian assistance to Zimbabwe and support for the people of Zimbabwe;
3. there is good cooperation within Zimbabwe as far as aid programs are concerned;
4. some parts of the government are cooperative and promote policies that the EU can support; and
5. there are fresh initiatives to use the discussion for the 10<sup>th</sup> EDF as an entry point for political dialogue and to translate the benchmarks into positive measures.

## 5 Overview of Six Cases<sup>174</sup>

### 5.1 The Central African Republic

The Central African Republic (CAR) was a French colony until 1960, and France is the only EU Member State that has an embassy in Bangui, the capital. The CAR has experienced many coups, and even a period under a self-declared emperor, Jean Bedel Bokassa, between 1966 and 1979. The CAR has not been favored by the donor community, even though it is one of the poorest countries in the world, with a GNP of only €253 per capita<sup>175</sup>, and is heavily dependent on foreign aid. The CAR's economic difficulties were exacerbated by the cut of budgetary support from the IMF in 2001. In this context the role of the EU is very important.

Through the consultations, a forgotten, relatively small country attracted at least some attention of the Member States, and the EU in general achieved a prominent role among donors and even with regard to the international financial institutions.

#### Issue

The motive for making use of Article 96 in the case of the CAR was a *coup d'état* in 2003, in which an army general, François Bozizé, overthrew Ange-Félix Patassé, who had been in power since the elections of 1993. Patassé had tried to secure his increasingly unpopular regime in the midst of economic crisis with the help of Libyan soldiers and Congolese rebel troops. The coup was a follow-up to Bozizé's military assault on the capital in October 2002. On 15 March 2003 Bozizé took power, suspended the constitution and dissolved the National Assembly. France sent 300 military personnel to Bangui to protect foreign nationals wishing to leave, and to assist in restoring peace.

The serious problems of financial governance could have been addressed by the EU long before the situation deteriorated to the point of *coup d'état*.<sup>176</sup> Furthermore many violations of democratic principles had been observed in the country. A statistical analysis based on the Polity data clearly shows the rupture in 2003, but also reveals a lack of democracy preceding that event (Figures 5.1.1 and 5.1.2).

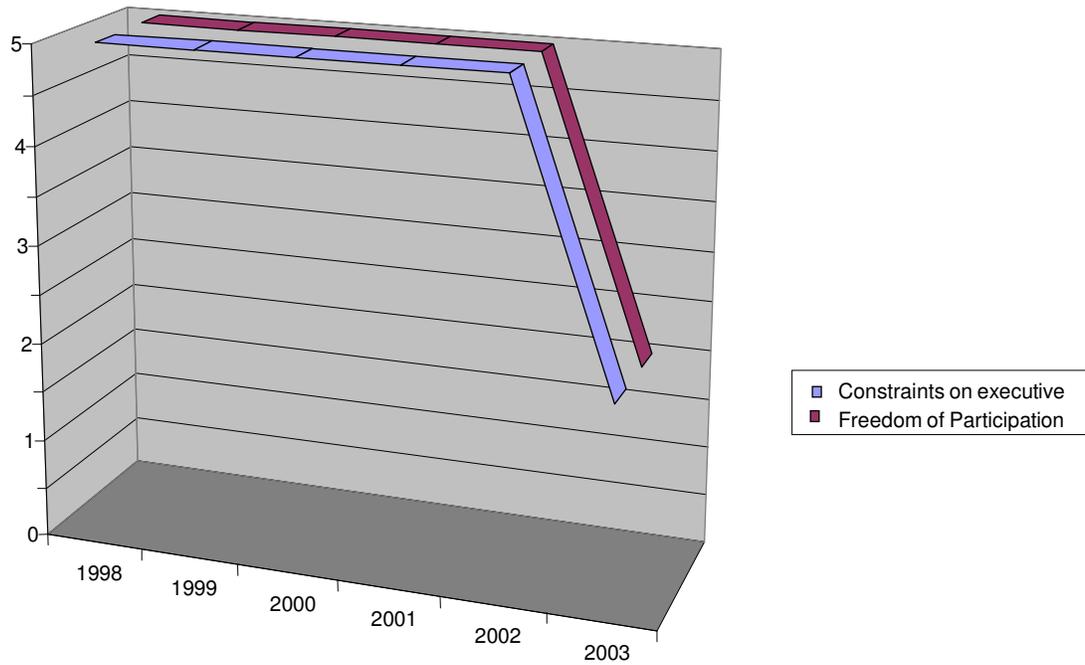
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<sup>174</sup> This chapter is written by Liisa Laakso and Maaria Seppänen.

<sup>175</sup> Original data is given in US dollars. Conversion made by using January 2006 exchange rate.

<sup>176</sup> Mbangu, 2005.

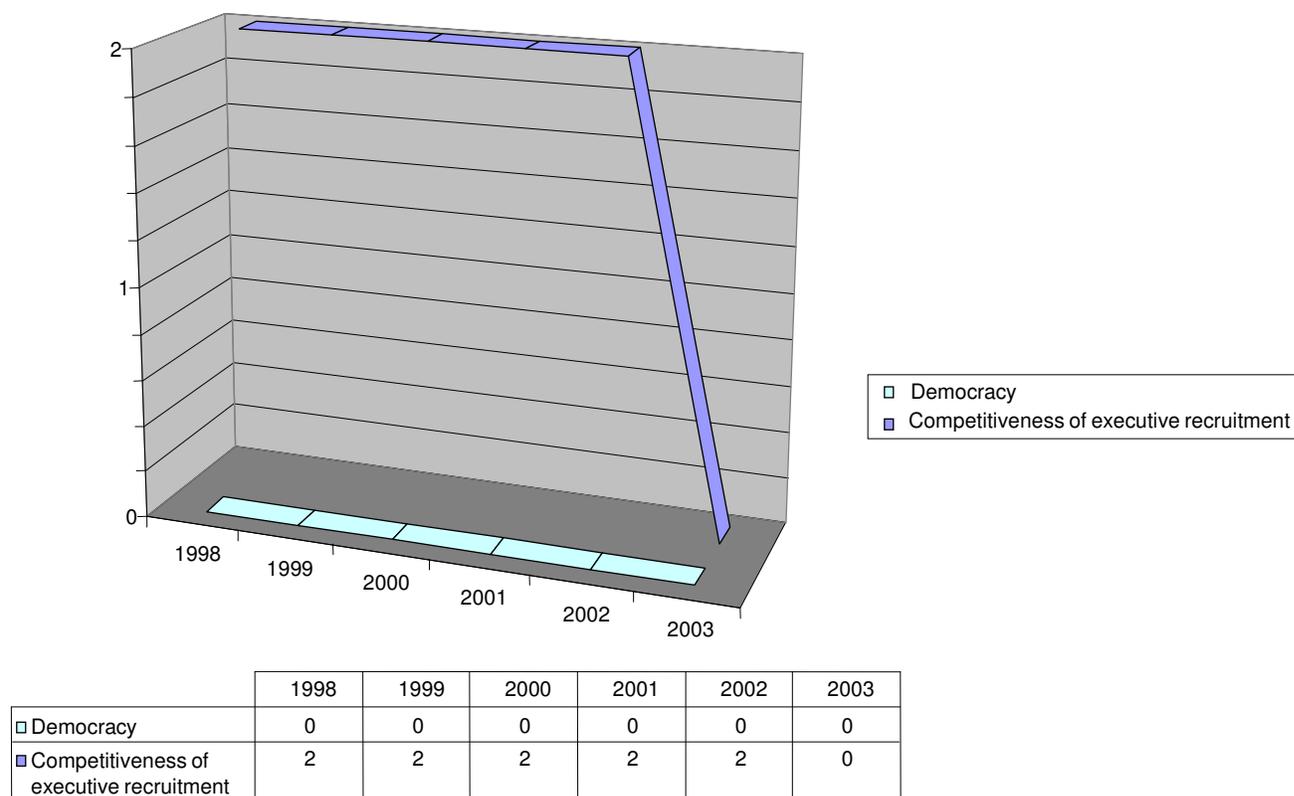
**Figure 5.1.1: Human Rights in the Central African Republic<sup>177</sup>**



	1998	1999	2000	2001	2002	2003
Constraints on executive	5	5	5	5	5	2
Freedom of Participation	5	5	5	5	5	2

<sup>177</sup> Polity IV Dataset. The number indicating the level of constraints on chief executive ranges from 0 to 7, and the 1998-2003 average for ACP countries was 3.5. The number for freedom of participation ranges from 0 to 5, with an ACP average of 2.6

**Figure 5.1.2: Democracy and Rule of Law in the Central African Republic<sup>178</sup>**



## Invoking Article 96

For the EU, the *coup d'état* was a flagrant violation of the essential elements of the Cotonou Agreement. The Commission therefore proposed to initiate consultations on the basis of Article 96 on 28 April 2003,<sup>179</sup> and the Council approved this on 22 May 2003. There were no differing opinions among the Member States.

Consultations were started on 12 June 2003 and Bozizé was invited to Brussels. A road map for a national transition to democracy was agreed. The government was to establish a National Transition Council, and a schedule for presidential, legislative and local elections was to be fixed within three months. In order to re-establish internal security, the army and security forces were to be reorganised within three months. In the area of good governance in public finances, the payment of salaries due to civil servants was defined as a key step. Furthermore, the new government was urged to respect the Kimberley process (concerning the export of diamonds). Finally, the new government committed itself to applying anti-corruption laws and combating corruption. Thus the consultations were not limited to democracy and human rights but addressed economic governance and corruption issues, too, reflecting the fact that the political crisis was linked to public finance mismanagement and corruption.

The transitional government's efforts to address some of these issues began even before the Article 96 consultations had formally started. On 11 September 2003, the CAR's Council of Ministers

<sup>178</sup> Polity IV Dataset. The number indicating the level of democracy ranges from 0 to 10, and the 1998-2003 average for ACP countries was 3.3. The number for competitiveness of executive recruitment ranges from 0 to 8, with an ACP average of 1.3.

<sup>179</sup> COM(2003) 222 final.

approved an action plan to improve public finances, and the Council also applied the EU recommendations on the Kimberley process. As a positive response, the EU supported the transition, including the forthcoming elections, with a budget of €4m.

## **Taking appropriate measures**

A review mission visited the CAR in August, and the consultations were followed up by monthly reviews. On 27 October 2003, the national dialogue on reconciliation was officially concluded, with the adoption of 126 recommendations. Several key issues remained unresolved, in that the freedom of the opposition and the timetable for the elections were uncertain, and the EU was not satisfied with the measures for restructuring the army. Consequently the EU imposed a partial suspension of cooperation as an appropriate measure in October 2003.<sup>180</sup>

While the decision to invoke Article 96 was not a cause of debate at the Council, discussion regarding appropriate measures evoked different views on whether the EU should suspend aid immediately or gradually. Sweden suggested tight sanctions but France advocated softer ones, appealing to the Council to acknowledge the catastrophic economic situation of the CAR. France's view prevailed and aid for 2003 was not suspended, thereby protecting funding for a road project, the paving of Bangui's streets and macro-economic support. Instead, the 9<sup>th</sup> EDF funds would be reduced by 20% every year until the CAR government's commitments were fulfilled. Macro-economic support would resume only after the implementation of a clear electoral plan with elections in early 2005 and improvements in public finances. In March 2004, the head of the EU delegation in Bangui, Joseph Loveras, made a public statement that the EU would continue its support for social and humanitarian projects during the transition period, but would intensify financial cooperation with the country only after 'transparent, fair and democratic elections were held.'<sup>181</sup>

Presidential elections were held on 13 March 2005. Bozizé ran as candidate and won the elections. Legislative elections were held on 8 May 2005, and relations with the EU were normalised on 1 July 2005.

## **5.2 Mauritania**

The Islamic Republic of Mauritania declared independence from France in 1960 against the will of the Arab League, which until 1970 considered this territory to be an integral part of Morocco. The country has a strongly stratified society where the 'whites' – that is, Arab-Berbers (Moors) who speak Hassanya (an Arabic dialect heavily influenced by Berber) – dominate the Nigero-Congolese speaking minority black populations of the South (Wolof etc.). Slavery was only officially prohibited in Mauritania in 1980 but Amnesty International and other NGOs consider that over 10% of the population is still kept in slavery. The dominant Arab-Berber class, the beneficiaries of the situation, has not been interested in denouncing slavery in the country and sometimes the situation has caused violent clashes between the Arab-Berbers and the black populations. This was the case especially in 1989-1991 when there were racial riots after which black Mauritians were expelled to Senegal and Senegal reciprocated by expelling 100,000 Mauritians living in Senegal.

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<sup>180</sup> Council Decision 2003/837/EC of 24 November 2003 concluding the consultation procedure opened with the Central African Republic and adopting appropriate measures under Article 96 of the Cotonou Agreement: OJ L 319, 4.12.2003, p. 13-16.

<sup>181</sup> Mbangi, L. 2005, p. 10.

After 1980 there have been several *coups d'état*, both failed and successful. The country was heavily criticised for poor human rights and democracy, and in 1991 a new constitution was approved which introduced a multi-party system in Mauritanian politics.

Since February 2006, Mauritania has been an oil producing country, and economic growth is expected to shoot up by 20% this year. There are three embassies of EU Member States in the capital, Nouakchott, being those of France, Germany and Spain.

## Issue

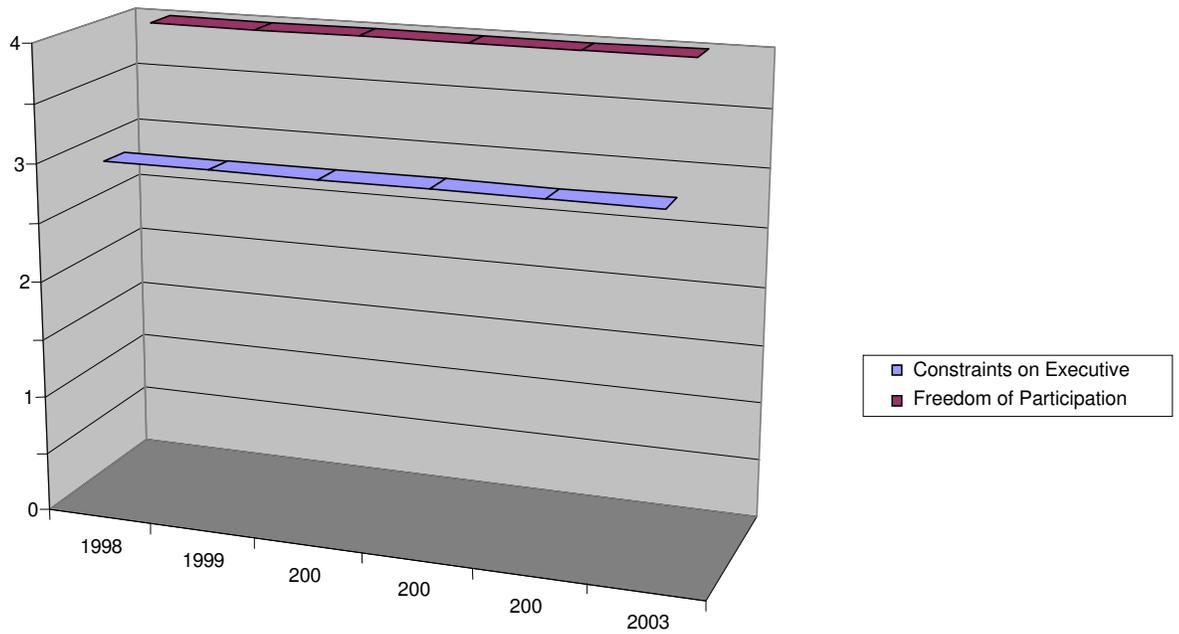
Mauritania was the first Article 96 case after the Mid Term Review of the Cotonou Agreement in June 2005 and after the nomination of the new Commissioner, Louis Michel. The issue leading to the invocation of the Article was a bloodless *coup d'état* by the Presidential Guard and the police on 3 August 2005. The coup overthrew Maaouiya Ould Taya, a former military colonel who had participated in a *coup d'état* in 1984, and who had later been elected President in 1992, 1997 and 2003. There was strong criticism of his government for repression and lack of basic freedoms. Earlier in 2005, the country had experienced a situation of pre-civil war due to Islamic attacks from Algeria on its eastern border in protest of the detention and condemnation of Islamic moderate militants, and because of purges among military and civil servants of eastern ethnic origin.

A military council took power. The fall of Ould Taya's regime was received with relief by the political forces and approval by the many ethnic groups. The military council announced its intention to arrange for a democratic transition in 2007. The detained Islamists were released, the parliament was dissolved and an interim caretaker government was put in place. The transition council announced the creation of three inter-ministerial committees to plan a reform of the justice system, the improvement of good governance and the transition to democracy. By-laws prevent members of the transition council and government from running as candidates in elections.

In contrast with these good signs, the leader of the military council, Ely Ould Mohamed Vall is, however, an old supporter of Ould Taya, and was responsible for the latter's repressive policies in the past in his capacity as chief of internal security.

Figures 5.2.1 and 5.2.2 are based on the Polity data, which does not yet include the year 2005. What is evident, however, is that the situation was already very problematic in the preceding years, and the level of democracy, in particular, was very low.

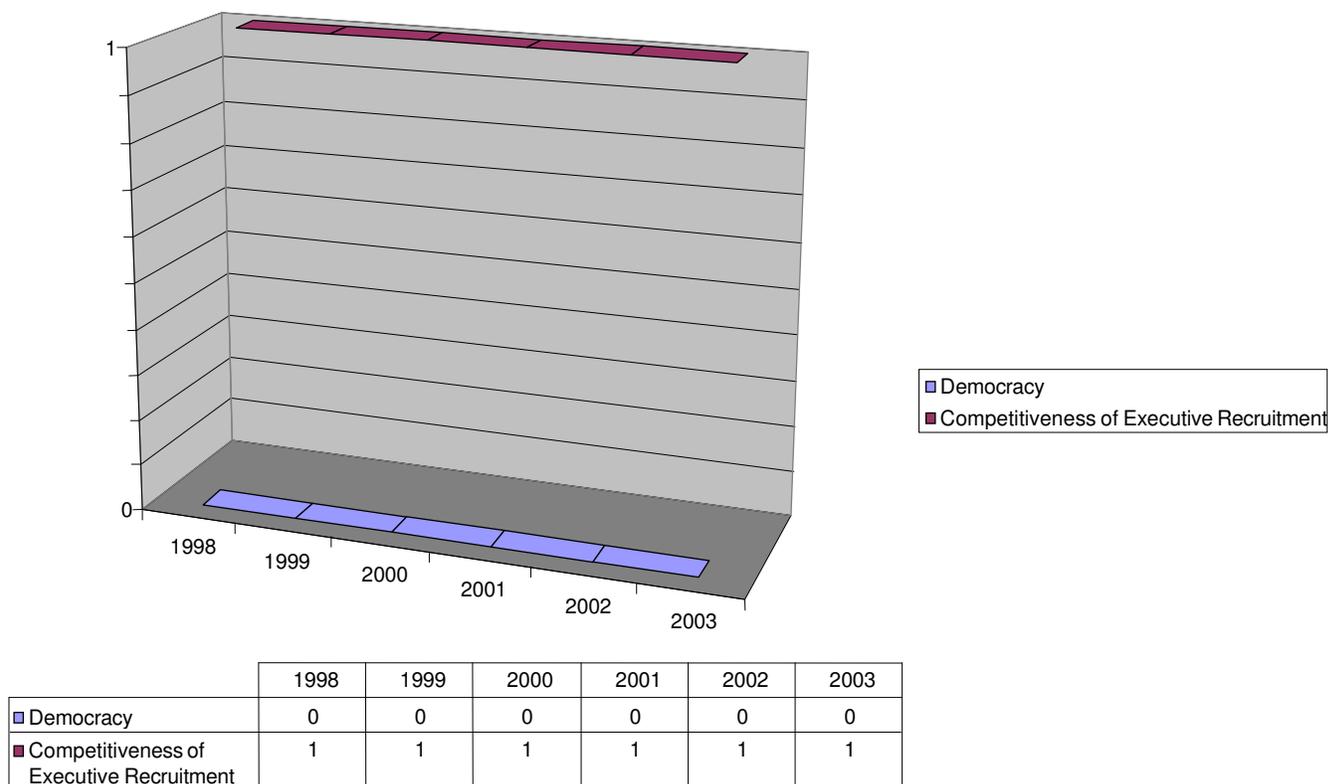
**Figure 5.2.1: Human Rights in Mauritania<sup>182</sup>**



	1998	199	2000	200	2002	2003
■ Constraints on Executive	3	3	3	3	3	3
■ Freedom of Participation	4	4	4	4	4	4

<sup>182</sup> Polity IV Dataset. The number indicating the level of constraints on chief executive ranges from 0 to 7, and the 1998-2003 average for ACP countries was 3.5. The number for freedom of participation ranges from 0 to 5, with an ACP average of 2.6

**Figure 5.2.2: Democracy and Rule of Law in Mauritania<sup>183</sup>**



## Invoking Article 96

The EU Presidency (held at the time by the UK) and the Commission condemned the seizure of power on the very day of the coup, and the Commission proposed opening of consultations on 28 October 2005.<sup>184</sup> The proposal was approved by the Council on 29 November 2005, and the consultations were started the following day. At the opening of the consultations, the Mauritanian transitional government presented a memorandum dated 24 November 2005, which together with the reports of the national consultation workshops held in October 2005 formed the basis for the resulting commitments discussed with the EU.

Later, there was some debate within the EU as a consequence of the short time frame. Some Member States argued that they had not had time to carefully study the Commission's draft preparatory documents for the opening of the consultations, which themselves had to be prepared by the Commission at short notice. There was, however, consensus in the Council that Article 96 was the most logical way to react to the *coup d'état*, while underlining the constructive spirit of the consultations.

The proposal to open consultations without going through the normal political dialogue established in Article 8 of the Cotonou Agreement is justified in the Commission's proposal by a 'particular urgency' felt by both Mauritania and the EU. On the one hand, Mauritania wanted to proceed with its transition very quickly, and had been in communication with the EU on the subject. On the

<sup>183</sup> Polity IV Dataset. The number indicating the level of democracy ranges from 0 to 10, and the 1998-2003 average for ACP countries was 3.3. The number for competitiveness of executive recruitment ranges from 0 to 8, with an ACP average of 1.3.

<sup>184</sup> COM(2005) 546 final.

other hand, and as expected and wished by the group of ACP countries, the EU wanted to have a high level presence (at ministerial level) at the consultations. 30 November was the only possible date for consultations if they were to occur during the UK's Presidency, which was highly desirable because after the change in Presidency it would have taken two more months to organise consultations. The attitude of the EU towards Mauritania was to 'honour their efforts and to help them in the transition process,' acknowledging that 'any supplementary delay would have sent them a wrong message.'

## **Taking appropriate measures**

On 10 April 2006, the Commission sent a proposal<sup>185</sup> to the Council for the conclusion of the consultations, and the Council approved the proposal on 29 May. There was only one parliamentary reservation, registered by Poland, and a few linguistic reservations,<sup>186</sup> which did not affect the closure of consultations.

The basis for proposing the conclusion of consultations was that, in the light of the progress reports on the performance of its undertakings submitted by Mauritania in mid January and mid April 2006, it was considered that steady progress had been made and that the indicative timetables established in the different areas had been respected. Mauritania was organising a referendum on a new constitution as well as legislative and municipal elections in 2006, and presidential elections were planned for March 2007. There were also other reform plans among the engagements of the Mauritanian government, the complete list of which it had chosen from a much longer list of commitments made to its citizens by the transition government following the national consultation workshops of October 2005.

It was logical that the measures taken did not affect EU cooperation in Mauritania, given the political will and initiative taken by the government of Mauritania with regards to proceeding to consultations, and its autonomously prepared transition plan, which was in place even before the consultations. Rather the 'appropriate measures' were designed to accompany and support Mauritania in its transition to democracy.

## **5.3 Côte d'Ivoire**

Côte d'Ivoire was a French colony until 1960. Contrary to the experience in many other newly independent nations, European nationals did not flee the country when it achieved independence. Not only does Côte d'Ivoire have strong connections with France, it has also a significant French population controlling a large portion of small and medium size enterprises. Economically, the country was once one of the most stable and successful countries in Africa, and it represented about 40% of West Africa's exports until the 1980s.

Félix Houphouët-Boigny became President after independence and held office until his death in 1993. Tensions between the mostly Christian South and the mostly Islamic North surfaced during the rule of his follower, Aimé Henri Bédié. After the December 1999 *coup d'état* against Bédié by General Robert Guéï, the EU invited Côte d'Ivoire to consultations under the Article 366a of the Lomé Convention. These consultations were concluded in May 2000.

Six EU Member States have embassies in Abidjan: France, Belgium, Germany, Italy, Denmark and Spain.

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<sup>185</sup> COM(2006) 166 final.

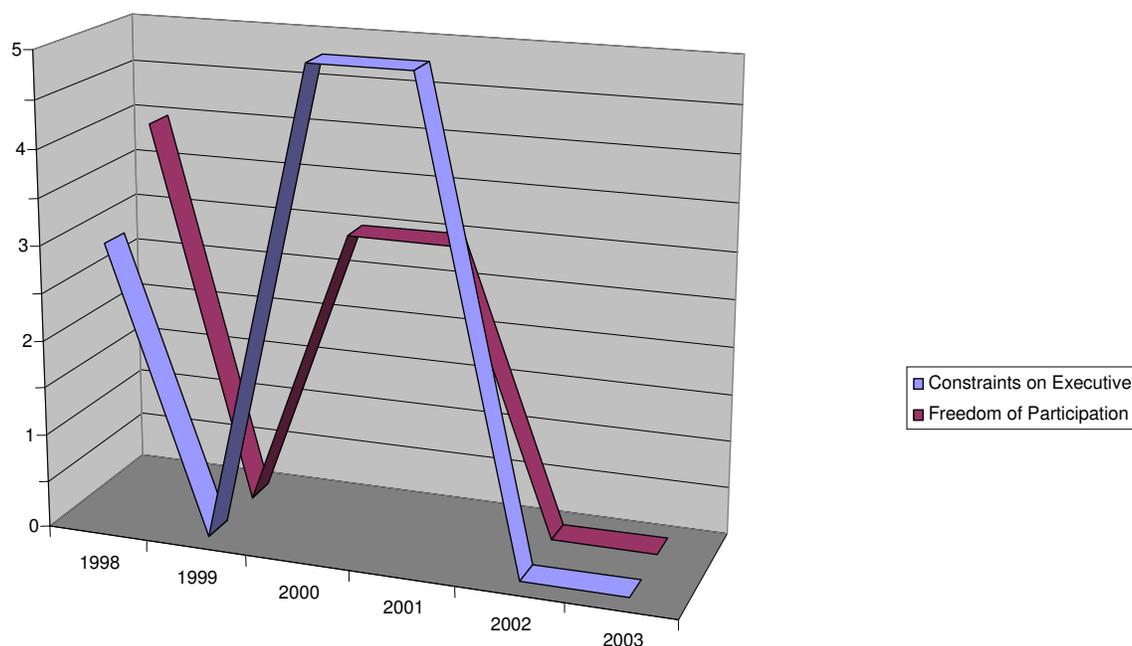
<sup>186</sup> These concerns related to translations into EU languages (FI, IT, PT, ES).

## Issue

The EU did not regard the presidential and legislative elections organised in October and December 2000 as sufficiently open due to violence and restrictions preventing the opposition from participating freely. According to the new constitution of 2000, approved by a referendum, the candidates had to show that both of their parents had been citizens of the country, which made the North's favoured candidate, Alassane Outtara ineligible to run, having been judged to be Burkinabé. Consequently, the Commission proposed consultations to the Council under the Cotonou Agreement and the Member States approved.

As the Figures below show (5.3.1, 5.3.2, and 5.3.3), the country has been very volatile and the conditions of human rights, democracy and rule of law were actually quite promising in 2001 when the consultations were started, but deteriorated in 2002. Corruption has also increased.

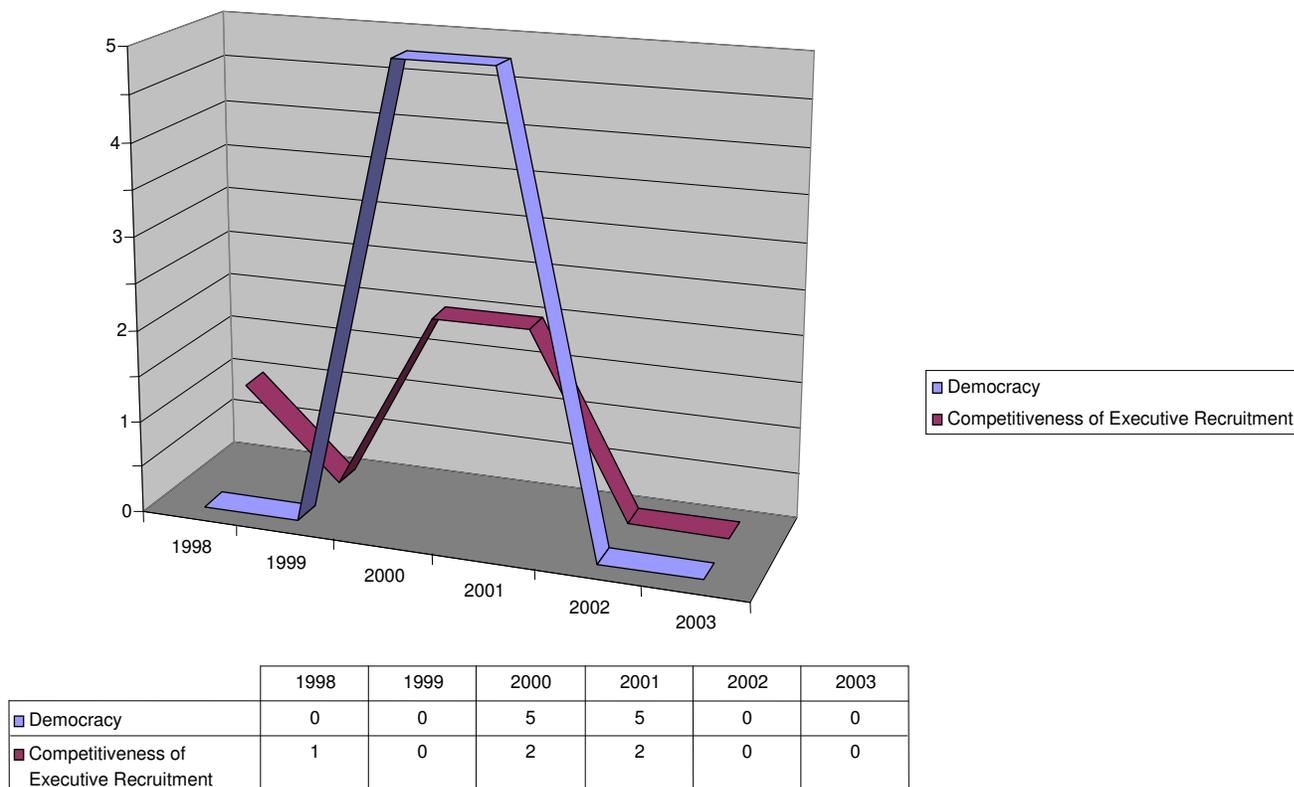
**Figure 5.3.1: Human Rights in Côte d'Ivoire<sup>187</sup>**



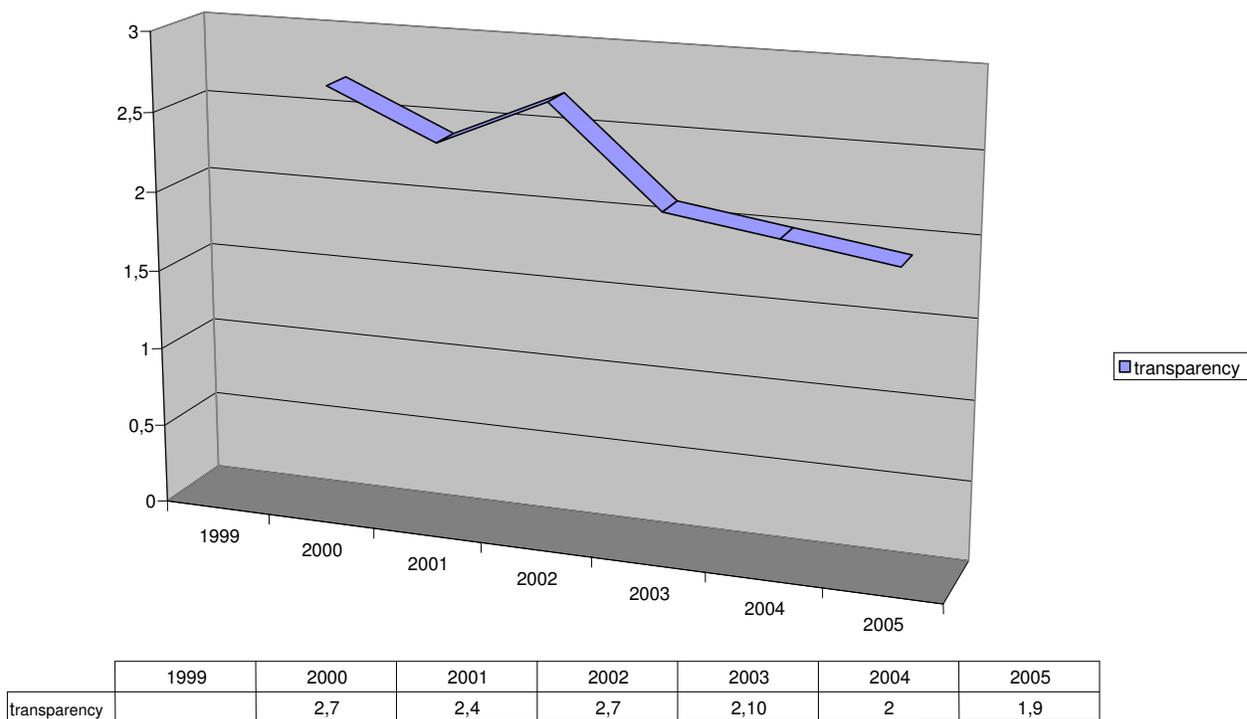
	1998	1999	2000	2001	2002	2003
Constraints on Executive	3	0	5	5	0	0
Freedom of Participation	4	0	3	3	0	0

<sup>187</sup> Source, Polity IV, database. The number indicating the level of constraints on chief executive ranges from 0 to 7, while the average in 1998-2003 for ACP countries was 3.5. The number for freedom of participation ranges from 0 to 5, with an ACP average of 2.6.

**Figure 5.3.2: Democracy and Rule of Law in Côte d'Ivoire<sup>188</sup>**



**Figure 5.3.3: Transparency in Côte d'Ivoire<sup>189</sup>**



<sup>188</sup> Source: Polity IV Dataset. The number indicating the level of democracy ranges from 0 to 10, while the average in 1998-2003 for ACP countries was 3.3. The number for competitiveness of executive recruitment ranges from 0 to 8, with an ACP average of 1.3.

<sup>189</sup> Source: Transparency International Dataset, various years.

## **Invoking Article 96 and Taking Appropriate Measures in 2001**

In addition to the lack of transparency in the presidential elections of October 2000 and the legislative elections of December 2000, the Commission also referred in its communications to the government's commitments, as agreed at the conclusion of the consultations under Article 366a of the Lomé Convention and which were not fulfilled.<sup>190</sup> The case of Côte d'Ivoire in 2001 therefore serves as a bridge between the Cotonou Agreement and the Lomé Convention.

The consultations were concluded in July 2001. Appropriate measures taken were “a gradual and conditional approach toward new projects in support of the restoration of constitutional democracy, the rule of law, good governance and civil society.”<sup>191</sup>

The relations were normalised in January 2002 after the government of Côte d'Ivoire had made progress in national dialogue, electoral arrangements and press freedom.

## **New proposal in 2004**

The conflict between the Southern loyalists and rebel troops from the North supported by Burkina Faso broke into an open war after the massacre of Guéï, his wife and other persons in Abidjan on 19 September 2002. Despite a peace agreement made in 2003 (the Marcoussis agreements), the fighting erupted again in 2004. In March, a demonstration was violently repressed, with over one hundred people wounded or killed, the assassination of a Canadian-French journalist, disappearances and other atrocities. The authorities and politicians on different sides of the civil war were not keeping the promises they had made at the Marcoussis agreements. In April 2004 the United Nations together with France sent a peacekeeping force to the country (Operation Unicorn).

In August 2004 the Commission presented a communication to the Council proposing the commencement once more of consultations according to Article 96. For the first time, however, the Council decided against the Commission's proposal and Côte d'Ivoire was not invited to consultations. The arguments by which the Commission justified its proposal for the consultations were the violation of human rights and lack of rule of law and good governance, including a failure to carry out the auditing of the cocoa sector, funded by the EU.

There were several reasons that the Council – France and Germany in particular – opposed a new round of consultations. While the first half of 2004 had been marked by violence, in August-September the situation had already improved, and the Member States considered that invoking Article 96 would have been counter-productive. Furthermore Germany and France argued that possible sanctions implemented by the EU would not improve the situation, not least due to the limited logistical, legal or territorial control the government had over the crisis. The UN was also involved with a peacekeeping force, although it became active as a mediator in the conflict only after the violence broke out again in November 2004. The UN, however, also constituted a channel for EU activity, as seen for instance in the EU's adoption of the UN position on an arms embargo. The gravity of the situation meant that the Member States, especially France, were also worried about the open violence against their citizens in the country. Any threats of sanctions against the government may have been seen as increasing the risk of such aggression. In any case the situation deteriorated, and at the end of 2004 France evacuated over 8,000 French citizens from the country.

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<sup>190</sup> COM(2004) 547 final.

<sup>191</sup> Council Decision 2001/510/EC of 25 June 2001 concluding consultations with Côte d'Ivoire under Article 96 of the ACP-EC Partnership Agreement (OJ L 183, 06.07.2001, p. 38-41)

Even though the essential elements of the Cotonou Agreement had been violated, the view of the Member States was that the EU had more leverage to influence the peace process in the country by maintaining as normal relations as possible, than it gained by invoking consultations. In a way the seriousness of the situation and the threat of civil war eroded the usefulness of Article 96.

## **5.4 Haiti**

Haiti, a former colony of France, was the first colony to gain independence, which it achieved in 1804. Haiti is the poorest country in the Western hemisphere and the only LDC in the Caribbean region. About 80% of the population lives under the poverty threshold. Distribution of wealth is very unequal: 4% of the population disposes of 66% of the country's resources and 70% of the population disposes of only 20%. Although a heavily aid dependent country, Haiti only became eligible for support from the EDF in 1994 (8<sup>th</sup> EDF). The economic interests of the EU Member States in Haiti are limited due to the overwhelming weight of the geographically close super power, the United States, where the majority of Haiti's exports are destined and from where about half of the nation's importation originate.

Ever since 1957, the beginning of the Duvalier dynasty's regimes (Papa Doc and Baby Doc), Haiti has resembled a failing state with weak rule of law and endemic violence. After the fall of the Duvalier dynasty in 1986, only the 1990 elections under UN surveillance can be judged to have been free and fair. Jean-Bertrand Aristide was elected President but was ousted by a military coup the following year. He was put back into office by a military intervention by the US in 1994, after which he dissolved the armed forces and organised both legislative and presidential elections in 1995 (September and December, respectively). A man of his confidence, René Préval (the President) won 87% of the votes. In the years between the military coup and the return of Aristide (1991-1994), large-scale violence and repression took place. It is estimated that up to 5,000 people were killed by the army. Since the coup of 1991, Haiti had been the object of an embargo by the US, and in 1993 the UN imposed commercial and financial sanctions against the country.

Three EU Member States have embassies in Port-au-Prince: France, Germany and Spain. Other important diplomatic missions belong to the US and Canada who are also leading aid donors. Haiti is a member of the Organisation of American States and CARICOM, the community of mainly English-speaking Caribbean countries and territories.

### **Issue**

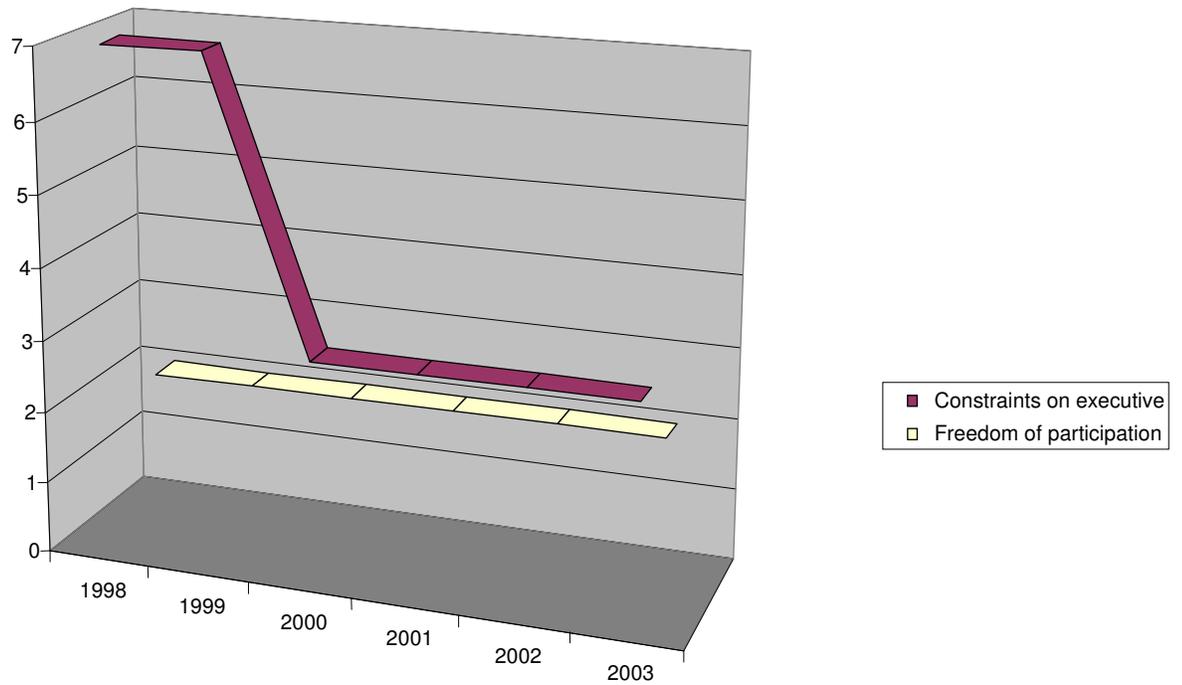
The reason for invoking Article 96 in Haiti was a flawed electoral process, not simply electoral fraud. Originally the Haitian parliamentary elections should have been organized in November 1998 but were postponed until 2000. As a result of the 1995 elections, Préval faced a strong opposition in the parliament, and after the resignation of his Prime Minister in 1997, the opposition had been able to block the political decision-making machinery and paralyze Haitian politics by refusing to appoint a Prime Minister. Préval therefore considered he was justified in dissolving the parliament as soon as its 4-year term ended in January 1999, although no arrangements for elections had been made at that time. By March, however, Préval had already established a plan with the opposition for the organization of legislative and presidential elections, and after some minor postponements, the elections were finally held in April and May 2000 for presidential elections, and May and July 2000 for legislative elections.

In the presidential elections, Aristide won on the second round (May), but there was controversy concerning the designation of senators. According to the international community, with the OAS in

charge of electoral observation, the system of counting the votes violated the constitution and the electoral law, in addition to observed cases of fraud: nine senators were appointed in the first round although the seats should have been submitted to a second round. The OAS ceased the electoral observation for the second round in July, as the Aristide government had paid no attention to the international pressure.

Figures 5.4.1 and 5.4.2 show the deterioration in the situation after 1999, but also that freedom of participation was already very low.

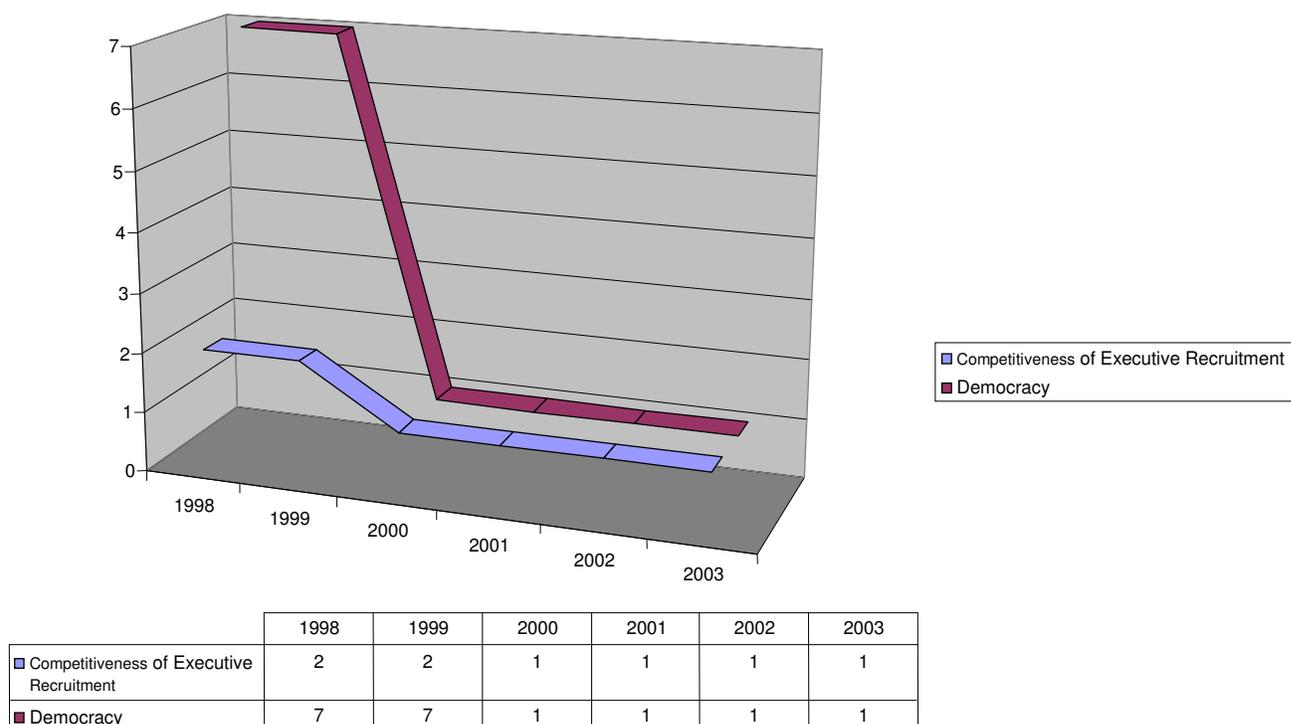
**Figure 5.4.1: Human Rights in Haiti<sup>192</sup>**



	1998	1999	2000	2001	2002	2003
■ Constraints on executive	7	7	3	3	3	3
□ Freedom of participation	2	2	2	2	2	2

<sup>192</sup> Source, Polity IV, database. The number indicating the level of constraints on chief executive ranges from 0 to 7, while the average in 1998-2003 for ACP countries was 3.5. The number for freedom of participation ranges from 0 to 5, with an ACP average of 2.6.

**Figure 5.4.2: Democracy and Rule of Law in Haiti**



## Invoking Article 96

The EU declaration of 12 July 2000 draws attention to the irregularities in the electoral process. As there was no proper response, the Council decided to invoke Article 96 of the Cotonou Agreement, which had only very recently been signed, and invite Haiti to consultations 2 August 2000.<sup>193</sup>

In the invitation to consultations, the EU asked how the Haitian government intended to comply with democratic principles and the rule of law. The consultations were held in Brussels on 26 September 2000, but the only concession the EU got from Aristide's government was that it promised to arrange new elections for senators.

The advocates of the initiative to invoke Article 96 were the French and German ambassadors. Spain, while diplomatically present, took a more passive role. The delegation of the European Commission in Port-au-Prince was also active. The strong EU reaction to the flawed electoral process was at least partially due to events that took place at a meeting of the contact group of donors in Haiti, where the UN, the Organisation of American States and the international financial institutions (WB, IADB, IMF) urged the EU to invoke Article 96, praising the existence of such a legal instrument.

## Taking appropriate measures

When the Haitian authorities subsequently failed to take into account the concerns expressed by the EU, the Council decided to take appropriate measures in January 2001. The measures were the non-provision of the second tranche of the 8<sup>th</sup> EDF, totalling €44m, the suspension of the direct

<sup>193</sup> COM(2000) 486 final.

budget aid under the 8<sup>th</sup> EDF, redirection of the remaining 8<sup>th</sup> EDF funds to support food security through projects that directly benefit the Haitian people, civil society and the private sector, and finally, the non-allocation of funds under the 9<sup>th</sup> EDF preparations while the sanctions were still applicable. The EU did not withdraw humanitarian assistance, but cooperation even in this field was difficult due to the government's attempts to politicize humanitarian assistance.<sup>194</sup>

The progress towards normality has been very slow in Haiti. In 2002 the embargo on Haiti was partially lifted by the US, while the EU continued and/or modified its sanctions several times, and only retracted them in 2004. The relations were fully normalised in October 2005 when new elections were planned, although these elections were postponed a number of times, with first round of presidential elections finally held in February 2006 and the second round in April. The new President René Prével was sworn in early in May 2006.<sup>195</sup>

## **5.5 Liberia**

Liberia received independence in 1849, having been established by the American Colonization Society in 1816 for free African slaves. About 95% of the 3 million inhabitants are members of indigenous African ethnic groups. Civil war between rebel groups, warlords, and youth gangs was declared over in 2003, having destroyed much of the economy, and yet civil unrest has persisted. Germany is the only EU Member State that has an embassy in Liberia.

### **Issue**

Liberia was ruled by Charles Taylor from 1990. He attained his power by the gun but was elected President in 1997, which intensified the war in the north-eastern parts of the country. Pursuant to Security Council Resolution 1306 (2000) the UN Panel of Experts accused Liberian rebel forces of human rights violations in Sierra Leone,<sup>196</sup> and the EU supported the sanctions imposed by the UN Security Council in March 2001. Figures 5.5.1 and 5.5.2 show that the situation deteriorated markedly in 2003.

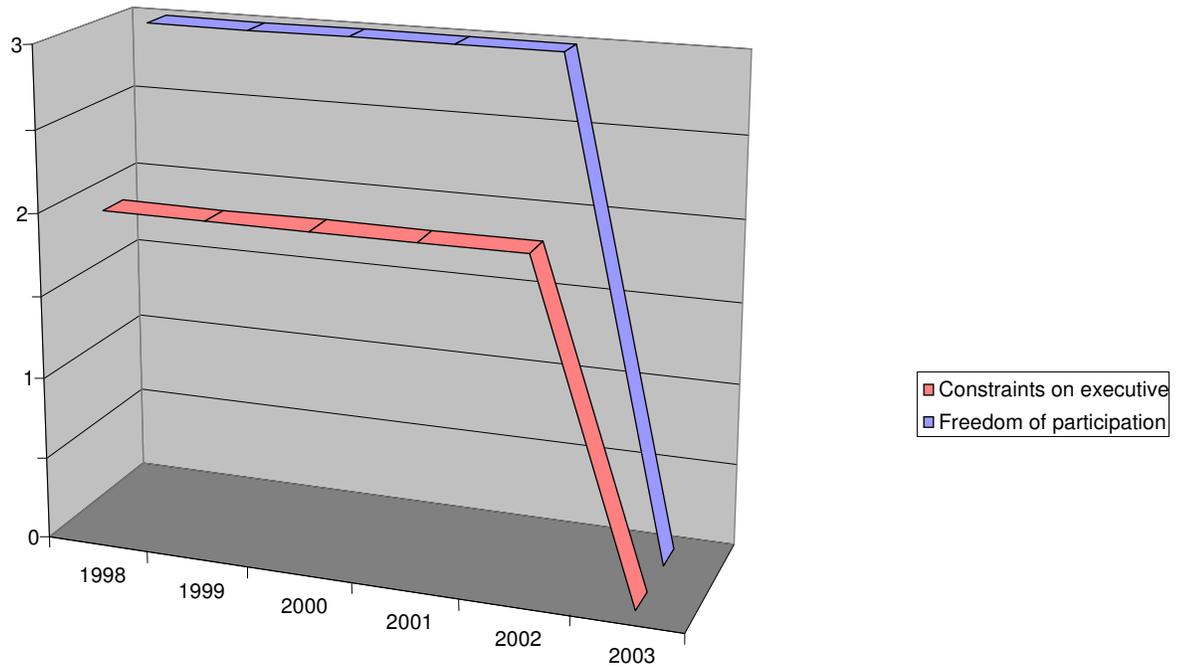
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<sup>194</sup> Hazelzet, H. 2005. Suspension of Development Cooperation: An Instrument to Promote Human Rights and Democracy? (ECDPM Discussion Paper 64B). Maastricht: ECDPM, p. 13.

<sup>195</sup> Council Decision 2005/756/EC of 17 October 2005 repealing Decision 2001/131/EC concluding the consultation procedure with Haiti under Article 96 of the ACP-EC Partnership Agreement (OJ L285, 28.10.2005).

<sup>196</sup> Hazelzet, 2005, p. 3.

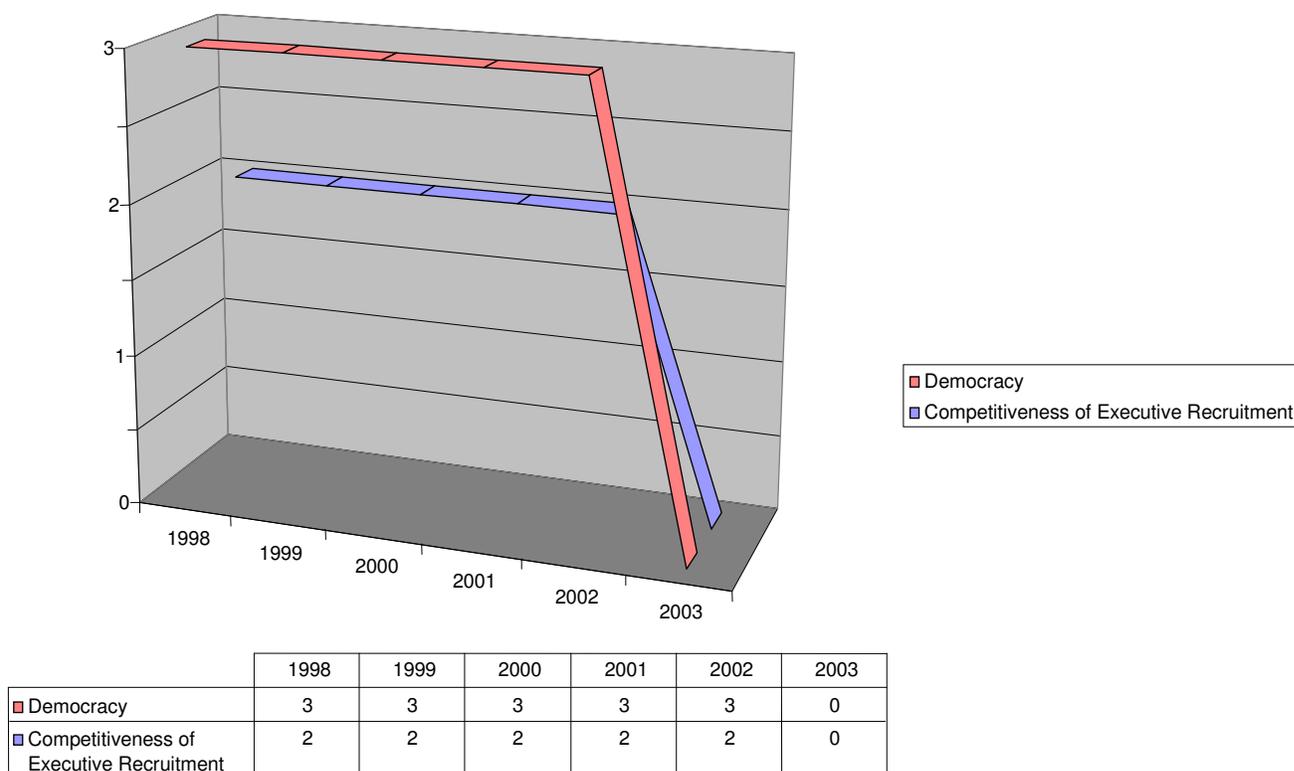
**Figure 5.5.1: Human Rights in Liberia<sup>197</sup>**



	1998	1999	2000	2001	2002	2003
Constraints on executive	2	2	2	2	2	0
Freedom of participation	3	3	3	3	3	0

<sup>197</sup> Source, Polity IV, database. The number indicating the level of constraints on chief executive ranges from 0 to 7, while the average in 1998-2003 for ACP countries was 3.5. The number for freedom of participation ranges from 0 to 5, with an ACP average of 2.6.

**Figure 5.5.2: Democracy and Rule of Law in Liberia<sup>198</sup>**



## Invoking Articles 96 and 97

The Commission justified consultations with Liberia on the basis of violation of democratic principles, human rights and rule of law and lack of good governance. The specific concerns of the Commission were:

- human rights abuses;
- lack of opposition activity in the run-up to the 2003 elections, and limitations to freedom of expression;
- the lack of transparency in the public accounting system, and corruption in the management of natural resources and the exploitation of monopolies; and
- assistance to the *Front Uni Révolutionnaire* (RUF) of Sierra Leone, accused of gross human rights violations in Sierra Leone.

The Member States approved the proposal. The Council decision on opening consultations with Liberia under Articles 96 and 97 was made on 23 July 2001.<sup>199</sup> Liberia is the only country that has been called to consultations because of a perceived breach of the good governance article (Article 97). According to Andrew Bradley, however, the actual consultations were conducted under Article 96.<sup>200</sup> Liberia is also the only case in which the Council considered that alleged involvement in human rights violations in a neighboring country (Sierra Leone) justified consultations.

<sup>198</sup> Source: Polity IV Dataset. The number indicating the level of democracy ranges from 0 to 10, while the average in 1998-2003 for ACP countries was 3.3. The number for competitiveness of executive recruitment ranges from 0 to 8, with an ACP average of 1.3.

<sup>199</sup> Doc. 13798/01 (Presse 412)

<sup>200</sup> Bradley, A. 2005. An ACP Perspective and Overview of Article 96 Cases. (ECDPM Discussion Paper 64D) Maastricht: ECDPM 2005.

In the consultations Liberia committed itself to:

- legally investigating the involvement of the armed forces in violence towards civilians and providing human rights training to security personnel;
- establishing an independent human rights commission, a national reconciliation commission, and a credible independent election commission;
- provision of personal protection for key opposition leaders, prevention of harassment of critics of the government, and simplification of the granting of short-wave radio licenses;
- revitalization of the judicial review body;
- payment of proper salaries to the civil service, public utility and parastatal revenue accounted for in a transparent manner, liberalization of fuel and rice to ensure competition and transparency; and
- compliance with UN requests in relation to the involvement of Liberia in the conflict in Sierra Leone, particularly in terms of cutting all ties with the RUF.<sup>201</sup>

## **Taking appropriate measures**

Intensive discussions were conducted, both in Brussels and in Liberia (in December 2001 and February 2002 respectively), and the Liberian authorities indicated their willingness to make progress on various issues. Initially, the EU approached reformist elements within the Liberian administration that were willing to cooperate. But since Charles Taylor remained in power, it proved impossible for the reformists to follow through.<sup>202</sup>

When the consultations were concluded in March 2002, the human rights situation, freedom of opposition candidates to participate in the 2003 elections, and transparency in the management of public accounts had not been sufficiently addressed, according to the EU. The EU also urged the Liberian authorities to comply with the UN requests concerning the RUF in Sierra Leone. The EU decided to follow the developments closely through political dialogue involving the Presidency and the Commission, with six-monthly reviews.

The EU promised to support ongoing projects to meet the needs of displaced persons, regional projects, humanitarian projects, the preparation of the elections, and implementation of other measures that were agreed at the consultations. It also promised that trade-related preferences would not be affected. However the 8<sup>th</sup> EDF national indicative program (NIP) was divided into two parts: institution building and direct support to populations on the one hand, and more structured aid on the other hand. The first part was linked to progress made in restoring democratic structures and improving public financial management. The second part was conditional upon the holding of free and fair elections in 2003, the improvement of the political situation and the good governance situation. Furthermore notification of the 9th EDF allocation was to be made only after free and fair elections.

## **5.6 Togo**

Togo received its independence from France in 1960, having previously been colonized by Germany. France and Germany are the only EU Member States that have embassies in Togo.

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<sup>201</sup> Letter in the concluding decision: Council Decision 2002/274/EC of 25 March 2002 concluding consultations with Liberia under Articles 96 and 97 of the ACP-EC Partnership Agreement, OJ L 096, 13.04.2002, p. 23-26.

<sup>202</sup> Hazelzet, 2005, p. 13.

Like Côte d'Ivoire, Togo had also experienced consultations under the Lomé IV Convention, i.e. Article 366(a). Political development in Togo has caused concern in the EU and among other donors since 1992 when the new constitution, approved by a referendum and based on multi-party political system, was arbitrarily changed by President Gnassingbé Eyadéma concentrating powers in the executive. The EU stopped part of its aid to Togo in 1993, although funding of social and health projects and a decentralization program continued under the 7<sup>th</sup> EDF. The cooperation continued only after the democratic principles were restored in the constitution in 1994. Again in 1998, a flawed presidential election caused the non-resumption of development cooperation. The country has not been among the recipients of the 8<sup>th</sup> and 9<sup>th</sup> EDF.

## Issue

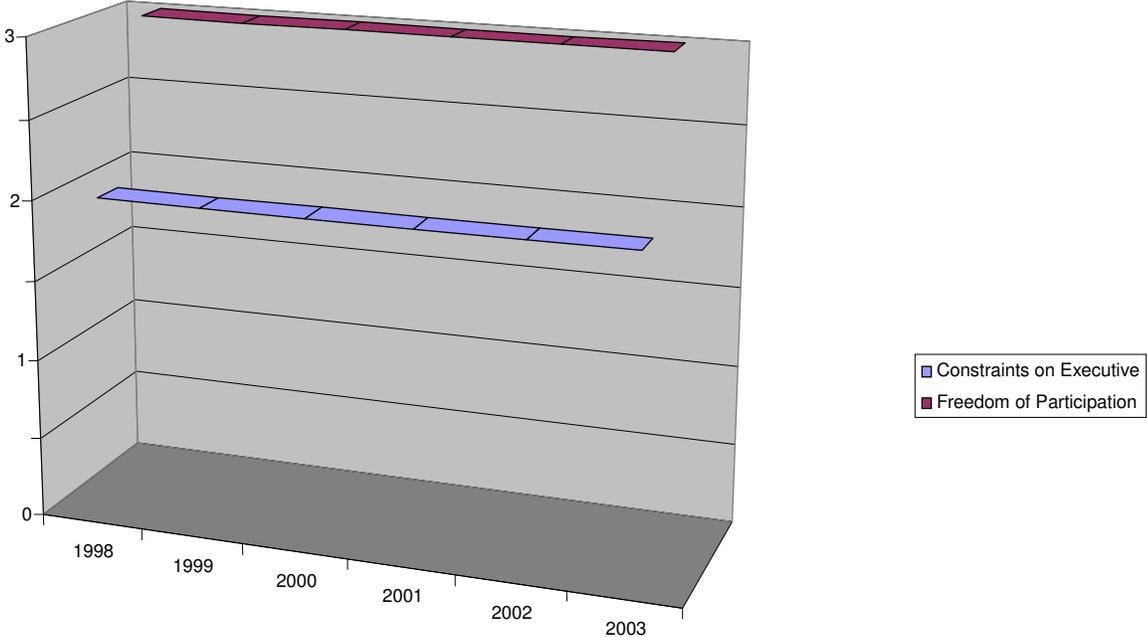
In 1999, the opposition party the *Union des Forces de Changement* (UFC) with its leader Gilchrist Olympio, boycotted the parliamentary elections, denouncing them as unfair. To resolve the conflict between the opposition and the ruling party, *Rassemblement du Peuple Togolais* (RPT), President Gnassingbé Eyadéma promised not to stand as a candidate in the 2003 presidential elections. Furthermore, an independent national electoral commission (CENI) was set up on 30 June 2001 with the support of the EU. However, in 2002, the government dissolved the CENI and the electoral system was changed to favor the ruling party. The opposition was violently repressed. The parliamentary elections held on 30 October 2002 were once again boycotted by the opposition. The EU decided to stop its facilitation efforts for the inter-Togolese dialogue that was no longer proceeding. The EU also viewed the parliamentary elections as lacking credibility. President Gnassingbé Eyadéma stood as a candidate and won the elections in June 2003, despite his earlier promise to step down. The opposition and independent observers reported that the elections were not fair. For instance, two opposition candidates were prevented from participating in the elections since they had not provided medical certificates. Gnassingbé Eyadéma assumed power on 20 June 2003. The EU once again expressed serious concern about the lack of freedom and transparency in the electoral process and its results. In a separate statement, the EU also addressed the lack of respect for human rights observed in the country.<sup>203</sup>

The question therefore was not about a sudden violation of the essential elements of the Cotonou Agreement but about a situation which the EU had already assessed as problematic and necessitating the suspension of normal cooperation. Figures 5.6.1 and 5.6.2 confirm the continuing low level of democracy and human rights in Togo.

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<sup>203</sup> Declaration by the presidency on behalf of the EU on the conditions for presidential elections in Togo, 15 October 2003, PESC/03/60; Declaration by the Presidency on behalf of the EU on the parliamentary elections in Togo, 5 November 2002, PESC/02/163.

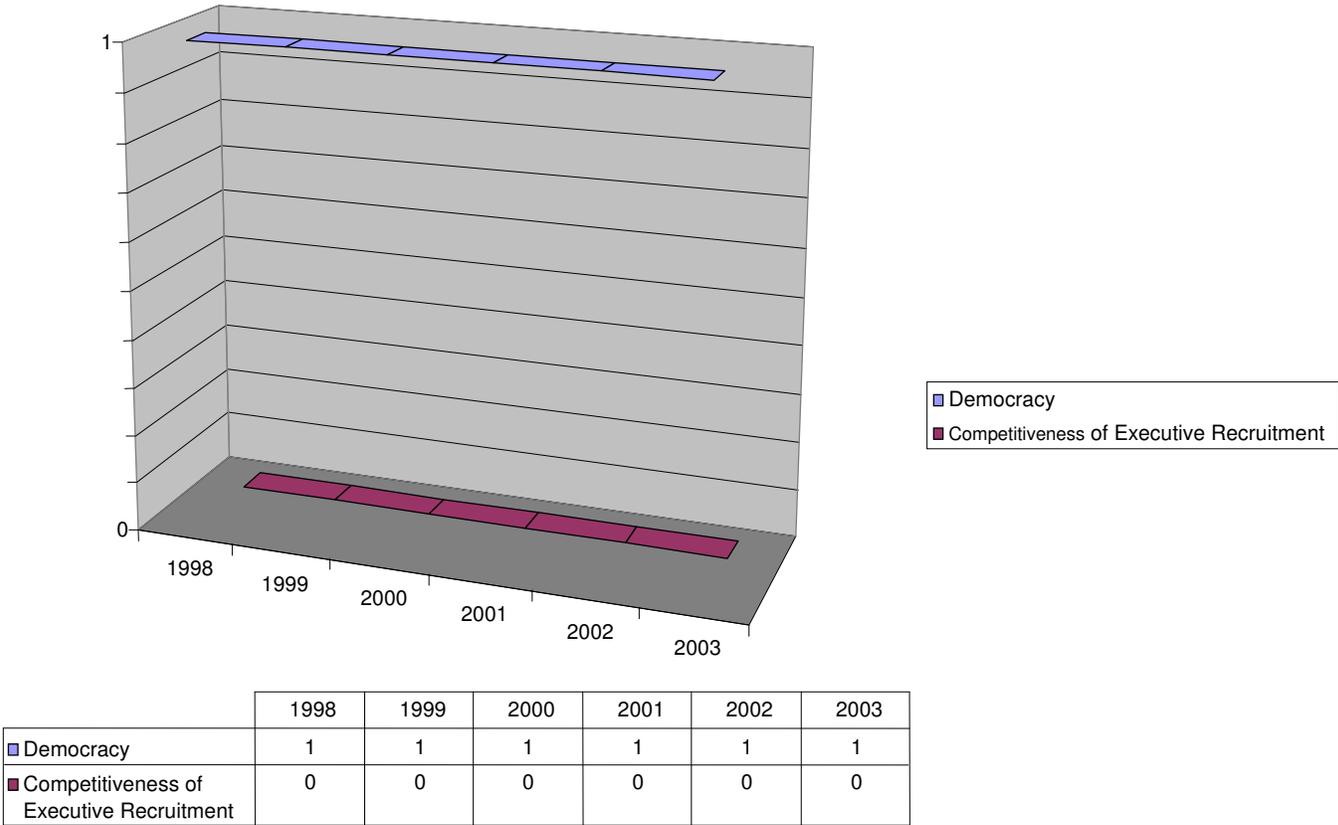
**Figure 5.6.1: Human Rights in Togo<sup>204</sup>**



	1998	1999	2000	2001	2002	2003
Constraints on Executive	2	2	2	2	2	2
Freedom of Participation	3	3	3	3	3	3

<sup>204</sup> Source, Polity IV, database. The number indicating the level of constraints on chief executive ranges from 0 to 7, while the average in 1998-2003 for ACP countries was 3.5. The number for freedom of participation ranges from 0 to 5, with an ACP average of 2.6.

**Figure 5.6.2: Democracy and Rule of Law in Togo<sup>205</sup>**



**Invoking Article 96**

The consultations in 2004 were called at the request of the government of Togo, which wanted to normalize its foreign relations and to overcome the impasse created as a result of the measures already in place. Although the formal invitation to start consultations was sent by the EU, various formal demarches undertaken by Togo showed its willingness to open a consultation procedure. It was strongly supported by the ACP group in this. In October 2003, for instance, Prime Minister Koffi Sama visited Brussels. He addressed the Development Committee of the European Parliament and promised that his government would do its best to normalize political life in the country. The EU also sent positive signals to Togo preparing the country for consultations. For instance, it released €9.5m for the government’s action plan for the environment.

The EU notified Togo of its decision to open consultations on 31 March 2004.<sup>206</sup> The formal cause for consultations was the lack of respect for human rights, democracy and fundamental freedoms. Among the Member States, Germany in particular supported the idea of consultations while France was more reluctant. The consultations were carried out in Brussels in April and July 2004, and resulted in agreement on a roadmap consisting of 22 points towards democracy and the normalization of relations with the EU.

<sup>205</sup> Source: Polity IV Dataset. The number indicating the level of democracy ranges from 0 to 10, while the average in 1998-2003 for ACP countries was 3.3. The number for competitiveness of executive recruitment ranges from 0 to 8, with an ACP average of 1.3.

<sup>206</sup> COM(2003) 850 final.

In the area of establishing democracy and the rule of law, Togo was asked to guarantee freedom for all political parties, to hold legislative elections as soon as possible, and to hold local elections within 12 months. In the area of human rights, Togo committed itself to stop extra-judicial executions, torture and other inhumane treatment, and to free all political prisoners. Regarding the freedom of the press and of civil society, Togo promised to guarantee without delay freedom of speech and of circulation, and free access to information for all political actors and members of civil society. In order to ensure effective follow-up to the EU-Togo dialogue under Article 96, the Togolese government committed itself to deliver regular reports to the EU on the progress achieved, and to facilitate in-country missions by the Commission.

The EU's initial goal was to obtain a fixed schedule for elections. However, during the consultations, Togo indicated its inability to meet specific deadlines for the legislative elections. The main reasons invoked were the slow pace of government administration due to weak capacities, and the numerous institutional changes that holding free and fair elections would require. The EU finally accepted Togo's argument, agreeing that legislative elections would be held 'as soon as possible' in the context of a new electoral code, which was to be set up within six months.<sup>207</sup>

## **Taking appropriate measures**

In practice the consultations, which were concluded in November 2004,<sup>208</sup> revitalized Togo's dialogue with the EU. The decision to conclude consultations included a 24 months period of monitoring of the situation in Togo with the appropriate measures in place.

Despite the fact that Togo expressed a wish to open consultations under Article 96, its ability to implement the agreed changes was not evident. This was particularly the case with regard to human rights and freedom of the press and civil liberties. In response to the EU's request to improve the respect for human rights and fundamental freedoms, the government of Togo listed achievements the country had already accomplished. In other words, the analysis of the problems to be solved was not shared, which complicated the procedure.

The government started a political dialogue with the opposition, corresponding with one of the key commitments made by the government during the consultations in April. Initiated in May 2004, this national dialogue assembles various non-state actors with the aim of building a transparent political framework.

Between 1 and 5 June 2004, the EU organized an evaluation mission to the country. This delegation met with members of the government, the opposition and civil society in order to assess the level of implementation of the 22 commitments. Upon completion of the visit, the Head of Mission said that although the government had shown good will to achieve the commitments, it was not possible to make a conclusive evaluation. On 31 August 2004, the Commission proposed a roadmap towards the full resumption of EU aid to Togo. This proposal accepted that the government has taken significant measures to improve respect for human rights and fundamental freedoms in the country, but nevertheless found that serious concerns remain regarding the full restoration of democracy. Accordingly, the proposal linked the full resumption of aid to the

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<sup>207</sup> Mbang, 2005, pp. 11-14.

<sup>208</sup> Council Decision 2004/793/EC of 15 November 2004 concluding the consultation procedure with the Togolese Republic under Article 96 of the Cotonou Agreement (OJ L 349, 25.11.2004, p. 17-20)

holding of free and fair elections, and proposed incentives to encourage a return to a democratic process. It also foresaw monitoring of events in Togo by the EU over a 24-month period<sup>209</sup>.

In the context of the national dialogue, a first draft of a new electoral code was adopted on 14 October 2004. The EU measures were applicable, but cooperation in the field of humanitarian aid and trade including trade preferences continued.

In early 2005 the situation worsened again due to the death of President Gnassingbé Eyadéma. According to the constitution, the Speaker of the Parliament should have assumed interim power but he was on an official visit abroad. The power was taken by Gnassingbé Eyadéma's son, Faure Gnassingbé and the Speaker's return flight was denied permission to land in Lomé. Thanks to pressure by the international community, including the EU, later in February 2005 Faure Gnassingbé gave up the Presidency to the Speaker, and presidential elections were organized in April 2005. The campaign was marked by violence, and it is estimated that there were up to 1,000 casualties of the violence before, during and after the elections. No new consultations were invoked by the EU. The Commission and France in particular accepted the results according to which Faure Gnassingbé won the elections. However, the European Parliament had a different opinion. The dispute on the result of the elections has continued. In April 2006 the national dialogue committee in charge of the 22 commitments towards democracy was sworn in.

November 13, 2006 the Council approved the decision to extend the appropriate measures for further 24 months<sup>210</sup>

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<sup>209</sup> Togo: Commission Proposes 'Roadmap' Towards the Full Resumption of EU Aid, European Commission, 31 August 2004, IP/04/1054.

<sup>210</sup> Council Decision of 13 November 2006 amending Decision 2004/793/EC; in OJ L/2006/335 42.

## Interviews

### *In Bissau:*

Ba, Saliv: Secretary General, Chamber of Commerce, Industry and Agriculture (CCIA), 30.6.2006.

Balina, Michel: Resident Co-ordinator of the United Nations System in Guinea- Bissau, 3.7.2006.

Carvalho, Apolinário Mendes: Secretary General ad interim, Ministry for Foreign Affairs, 29.6.2006.

Dieng, Abdoulaye: SEM Le Général, Ambassador of Senegal to Guinea-Bissau, 30.6.2006.

Gomes, Daniel: Comandante, Permanent Member of the Politburo of PAIGC (group interview), 3.7.2006.

Handem, Jamel: Executive Secretary, PLACON (Plataforma de Concertação de ONGs), 3.7.2006.

Na Bessing, Dom Camnate: Bishop of Bissau; Bissau, 5.7.2006, Ppresident of the ad hoc transition committee (September 14-18, 2003), 5.7.2006.

Naonta, Gustavo: Secretary Permanent, Politburo of PAIGC (group interview), 3.7.2006.

Nulli, Franco: Ambassador, Head of Delegation in Bissau, European Commission, 29.6.2006.

Moreira, José Manuel Paes: Ambassador of Portugal to Guinea- Bissau, 3.7.2006.

Sambu, Soares: Minister for Foreign Affairs of Guinea -Bissau (2004-2005), Member of PAIGC (group interview), 3.7.2006 (group interview).

Tavares, José Antonio Mendes: Assistant, Chamber of Commerce, Industry and Agriculture, 30.6.2006.

Thill, Marc: Counsellor, Delegation of the European Commission in Bissau, 29.6.2006.

Tsassa, Célestin: Senior Economist, UNDP in Bissau, 3.7.2006.

### *In Brussels:*

Biesebroek, Arend: European Commission, DG Development, Unit A.1, Programming, Strategic Planning and Financial Management – EDF Programming, 26.4.2006 and 24.5.2006.

Bradley, Andrew: Assistant Secretary-General, Political Affairs & Human Development Department, ACP Secretariat, 21.12.2005.

Bossuyt, Jean: Program Coordinator, Actors of Partnership Program, ECDPM, 13.2.2006.

Christiane, Serge: European Commission, DEV.D.2 - Relations with West Africa, Liberia, 12.5.2006.

Costa, Rui: DG Dev, Desk Officer: Republic of Guinea and Islamic Republic of Mauritania, 24.5.2006

García Pérez, Mercedes: EU Council Secretariat DGE II, Development and ACP department, Council, 14.3.2006.

Hazelzet, Hadewych: EU Council Secretariat, DGE IV - Human Rights, 3.4.2006.

Iltis, Renée: Unit DEV.B.1 Development policy, coherence and forward studies, Policy Officer, 14.3.2006

Matthiessen, Michael: Personal Representative of the SG/HR for Human Rights, General Secretariat of the Council of the European Union, 15.3.2006.

MacDonald, Kathy: EU Council Secretariat DGE II, Development and ACP department, Council, 14.3.2006.

Pascual, Alfonso: Administrateur principal, Unit DEV.B.1 Development policy, coherence and forward studies, 14.3.2006

Pijuan Canadell, Joan Maria: Unit DEV.C.3 Relations with the countries and the region of Southern Africa, International Relations Officer - Desk Officer: Zimbabwe, 14.3. and 19.7.2006.

Piazzardi, Sergio: DG Dev, Desk Officer for Fiji, 12.5.2006.

Rensi, Roberto: DG Dev, Desk Officer: Ivory Coast, 12.5.2006

Salmon, Hubert: DG Dev, Administrateur principal, Desk Officer: Guinea-Bissau, 12.5.2006

Scuero, Sergio: DG Dev, Desk Officer: Tchad and Central African Republic, 11.5.2006

Spirlet, Patrick: DG Dev, Head, Unit for West Africa (Regional), 24.5.2006.

Stathopoulos, Lyssandros: DG Dev, DEV.A.3 Desk Officer (Interinstitutional Coordination), Relations with the European Institutions and ACP, civil society and NGOs, 14.3.2006

Thieulin, Denis: DG Dev, Desk Officer: Togo, 2.5.2006.

Timans, Rolf: B/1, Head of Unit, Human rights and democratization, 3.4.2006.

*In Conakry:*

Amoussou, Timothé: Expert, Ministry for International Development Co-operation, 11.7.2006

Baldé, Kazaliou: Minister of Commerce, Industry and SME (interviewed in his quality of capacity as ex former Ambassador of Guinea in Brussels until 31.5.2006), 7.7.2006

Bangoura, Sékouba: Director of International Co-operation, Ministry for International Development Co-operation, 11.7.2006

Baumgartner, Dieter: Ambassador of Germany to Guinea-Conakry (2003-2006), 10.7.2006

Bedford, Eleanor: Consultant for the World Bank and AfDF, Evaluation of Risks of Development Co-operation in Guinea, 8.7.2006

Berit, Jean-Michel: Ambassador of France to Guinea and Sierra Leone, 11.7.2006.

Confédération National des Travailleurs de Guinée (CNTG); 15 persons of the Executive Board, 6.7.2006 (among others: Mariama Kesso Diallo, Secretary General, Oumou Bah, Mamady Camara and Hamidou Cissoko)

Doré, Jean Marie: President, Union pour le Progrès de la Guinée (UPG), opposition party leader, 6.7.2006

Piergrossi, Anna-Silvia: Head of the Delegation of the European Commission, 6.7.2006

Puig Vara, José: Senior Economist, Delegation of the European Commission, 6.7.2006

Rassemblement du Peuple de Guinée (RPG); opposition party; 12 persons, 6.7.2006 (among others: Fatou Bngoura, vice-president, Kory Kondiano, ex Minister of Commerce, and Dr. Mohamed Diané, administrative secretary and ex MP)

Sékou Sylla, Ben: Chairman, National Council of Civil Society Organisations of Guinea (CNOSCG – Conseil National des Organisations de la Société Civil Guinéenne) plus three members of the secretariat, 8.7.2006

Sow Thierno Maadjou, Alpha: President, and Thierno Diallo, Organisation Guinéenne de Defense des Droits de l'Homme et du Citoyen (OGDH), 7.7.2006

UDFG (Union des Forces Démocratiques de Guinée), opposition party, 8.7.2006 (with Mr Mamadou Bah, president, plus Oury Bah and Abdoulaye Diallo, board members)

*In Harare:*

Blumberger-Sauerteig, Karin-Elsa: Ambassador, Embassy of the Federal Republic of Germany, Harare, 28.6.2006.

Chaumba, Charles: Secretary General, Catholic Commission for Justice and Peace (CCJP), Harare, 22.6.2006.

Chicava Z. Gemos, Alberto: Deputy Ambassador, Mozambican Embassy, Harare, 5.7.2006.

Chibebe, Wellington: Secretary General, Zimbabwe Congress of Trade Unions (ZCTU), Harare, 28.6.2006.

Chifamba, Tadeous: Divisional Head of Multilateral Affairs, Ministry of Foreign Affairs, Harare, 29.6.2006.

Cuelnaere, Leone: Counsellor / Deputy Head of Mission, Royal Netherlands Embassy, Harare, 22.6.2006.

Dare, Gillian: First Secretary, Political/Press and Public Affairs, British Embassy, Harare, 29.6.2006.

Darikwa, Patricia: Health Program Manager, Ministry of Health and Child Welfare, Harare, 5.7.2006.

Dayton, Win: First Secretary, United States, Harare, 29.7.2006.

Gifford, Trevor: Vice President , Commercial Farmers Union (CFU), Harare, 27.6.2006.

Guerquin, Bruno: Conseiller, Embassy of France, Harare, 23.6.2006.

De Bruycker, Marc: Head of Social sector, European Commission delegation in Zimbabwe, Harare, 22.6.2006.

Heinsbroek, Johannes: Ambassador, Royal Netherlands Embassy, Harare, 22.6.2006.

Mafinyane, Dennis: Secretary General of the Zimbabwe Council of Churches (ZCC), Harare, 26.6.2006.

Maisiri, Trevor: Pastor, Evangelical Fellowship of Zimbabwe, Harare, 23.6.2006.

Mandaza, Ibbo: Director, SAPES Trust, Harare, 5.7.2006.

Makalima, Mlungisi: Ambassador, Embassy of South Africa, Harare, 5.7.2006.

Makumbe, John: Senior Lecturer, Department of Politics and Administration, University of Zimbabwe, Harare, 28.6.2006.

Mataure, Michael: Executive Director, Parliamentary Public Services Trust, Harare, 23.6.2006.

Matombo, Lovemore: President, ZCTU, Harare, 28.6.2006.

Muchabaiwa, Bob: Membership Development Manager, National Association of Non Governmental Organisations (NANGO), Harare, 22.6. 2006.

Mukonoweshuro, Eliphaz: Secretary for Foreign Affairs, Special Advisor to the MDC President, Movement for Democratic Change, Harare, 29.6.2006.

Ngirande, Fambai: Advocay and Communication Manager, National Association of Non Governmental Organisations (NANGO), Harare, 22.6.2006.

Olsa, Jaroslav: Ambassador, Embassy Czech Republic, Harare, 5.7.2006.

Patel, Hasu: Professor Emeritus and Professor of Political Science, Former High Commissioner of Zimbabwe to Australia, New Zealand and Singapore, University of Zimbabwe, Harare, 29.6.2006.

Rylander, Sten: Ambassador, Embassy of Sweden, Harare, 26.6.2006.

Stadthaus, Marcus: Deputy Head of Mission, Embassy of Germany, 28.6.2006.

Zinumwe, Cephas: Advocacy Officer, National Association of Non Governmental Organisations (NANGO), Harare, 22.6. 2006.

Zvoma, Austin: Clerk of Parliament, Parliament of Zimbabwe, Harare, 19.7.2006.

*In Suva and Nadi:*

Best, Carrie-Ann: Second Secretary, Development Cooperation Section, Australian High Commission. 20.6. 2006.

Bolenga, Jeanatte: USP Election Observer Mission, 2006.

Chand, Anand: Scholar, specialist on the NFP Party. 19.6. 2006 (group meeting).

Davukula, Jone: NGO leader, Citizens' Constitutional Forum. 19.6. 2006.

de Wargny, Jean-Guy: First Councillor and Deputy Head of Mission, French Embassy in Fiji. 20.6. 2006.

Duncan, Ron: Professor, University of the South Pacific, 19.4-22.6. 2006.

Duruntalo, Alumita: Scholar, specialist on the SDL Party. 19.6. 2006 (group meeting).

Firth, Stewart: Professor, University of the South Pacific, 19.6. 2006 (group meeting)

Fraenkel, Jon: Professor, University of the South Pacific, 19.6. 2006

Hassall, Graham: Professor, University of the South Pacific, 19.-22.6. 2006.

Hodges, Maggie: Projects & Education Officer, British High Commission. 22.6. 2006.

Kado, Milicent: Official, French Embassy in Fiji. (at the Embassy already in 2000) 19.-20. 6, 2006.

Kaitani, Miliakere: Lecturer, Development Studies, Pacific Institute of Advanced Studies in Development and Government, 19.6. – 22.6. 2006.

Lal, Brij: Professor, University of the South Pacific, 19.6. 2006 (group meeting).

Morgan, Rosalyn: Development Cooperation Section, Australian High Commission. 20.6. 2006 (already at the HC in 2000).

Madraiwiwi, Jon Ratu: Vice-President, Republic of the Fiji Islands, 19.6. 2006 (group meeting).

Mara, Solo: Director of Political Affairs, Ministry of Foreign Affairs and External Trade. Republic of Fiji. 16.6. (correspondence in the aid of Tupou Raturaga).

Nand, Vineeta: Press and Public Affairs Adviser, (already at the High Commission in 2000) British High Commission, 22.6. 2006.

Painting, Julia: Deputy High Commissioner, British High Commission, 22. 6. 2006.

Parkinson, William: Owner of an influential Radio Station, 19.6. 2006 (group meeting).

Party Activist 1, NFP (opposition) party, 19.6. 2006.

Party Activist 2, Fijian Labor Party, 21.6. 2006.

Party Activist 3, NFP 22.6. 2006.

Party Activist 4, SDL Party, 22.6. 2006.

Pinsolle, Xavier: Development Attaché, Delegation of the European Commission for the Pacific.

Rabitsch, Armin: Election Expert, European Union Election Observation Mission – Fiji 2006. 19.6. 2006.

Ralha, Maria: Head of Operations, Delegation of the European Commission to the Pacific. 22.6. 2006.

Raturaga, Tupou: Charge d'affaires a.i., Fiji Mission to the European Union, 16.6. 2006.

Ratuva, Steve: Senior Researcher, University of the South Pacific, 22.6. 2006.

Robertson, Robbie: Professor, University of the South Pacific, 19.-22.6. 2006

Siler, Brian J: First Secretary, Head of Economic/Political Section, American Embassy in Fiji. 20.6. 2006.

Wakasugi, Satoshi: Assistant Resident Representative, Jica (Japanese Development Cooperation Agency) Fiji Office, 21.6. 2006.

Yauvoli, Amena V: Deputy CEO, Ministry of Foreign Affairs & External Trade. Fiji. 22.6. 2006.

## Annex 1: Fiji, chronology

- 1874 Fiji becomes a British colony.
- 1966 Fiji attains self-government under British rule.
- 1968 By-elections of Indo-Fijian communal seats turn to violent race riots.
- 1970 Fiji attains independence.
- 1977 Constitutional crisis caused by elections, in which an Indo-Fijian National Federation Party gains 50% of parliamentary seats.
- 1987 Elections place the predominantly Indo-Fijian coalition into the cabinet.
- 1987 Coup and the exclusion of Fiji from the British Commonwealth. Fiji is ruled by a decree until 1992.
- 1990 New racially-based constitution guaranteeing ethnic Fijian parliamentary dominance.
- 1997 New constitution with more balanced rights for races. Fiji re-joins the Commonwealth.
- 1999 Elections held, which give Fiji its first Indo-Fijian Prime Minister.
- 2000, May 9 Coup.
- 2000, May 29 President Ratu Mara steps aside. Army takes over, abrogates constitution.
- 2000, July 4 Qarase appointed head of an interim government;  
British Foreign Secretary issues a statement demanding immediate, unconditional release of hostages, maintaining that although the new interim government consisted of civilians it was no substitute for a democratically elected government, stating the British concern for the abrogation of the 1997 constitution and urging military commander Commodore Frank Bainimarama to take urgent steps to restore a democratically elected government, under internationally acceptable constitution which respects the rights of all Fijians.
- 2000, July 9 Army signs a peace agreement with the rebels (Muanikau Accord).
- 2000, July 13 Great Council of Chiefs (GCC) meets and appoints Iloilo as President a day after the GCC held a meeting with the rebel leader.
- 2000, July 14 Release of parliamentarians and constitutional cabinet members held hostage by the rebels.
- 2000, July 26 In violation of the Army agreement with the rebels, rebel leaders arrested.
- 2000, August 4 Consultations requested by the EU and pre-consultation phase started between the EU and Foreign Minister Tavola.
- 2000, October 19 Consultations with Fiji initiated.
- 2000, November 5 Army mutiny. 8 casualties.
- 2000, November 5 High Court Justice Gates declares the interim government and the military abrogation of the Constitution illegal.
- 2001, March 1 Court of Appeal agrees with Gates decision.
- 2001, March 8-13 GCC reappoints Iloilo President.
- 2001, March 14 Iloilo appoints Momoedonu Prime Minister and dissolves Parliament.
- 2001, March 15 Momoedonu resigns and Qarase appointed caretaker Prime Minister.
- 2001, April 09 EU appropriate measures decided upon: partial suspension of aid.  
Continuation of aid conditional upon new elections and the forming of a constitutional cabinet.
- 2001, July 11 High Court rules that Iloilo's dismissal of Parliament and calling of fresh elections are justified by the Doctrine of Necessity.
- 2001, August 25 – September 1 General Elections.
- 2001, November 27 Decision for a gradual resumption of EU-Fiji cooperation.
- 2003, October Labour Party decided to stay in the opposition, thus solving the constitutional challenge shadowing the new government.
- 2003, November 11 European Union decision to fully resume EU-Fiji cooperation, as a result of the Fiji Labour party's decision to stay in opposition.
- 2004, February 6 Lifting of the final conditions on European aid.

## Annex 2: Guinea-Bissau, chronology

- 17th century -1879 Under Portuguese influence and later, colonial administration based in Cape Verde.
- 1879 The present territory becomes part of the “Colony of Guinea,” separate from Cape Verde.
- 1886 Portugal and France define present-day frontiers between Senegal, Guinea-Bissau and French Guinea.
- 1956 First independence movements are formed in Conakry and Dakar.
- 1963 Guinea-Bissau becomes the Portuguese province of Guinea; the liberation struggle’s first offensive is launched.
- 1973 Guinea-Bissau unilaterally declares independence from Portugal and gets international recognition. The first President of the PAIGC’s State Council is Luiz Cabral, half brother of Amílcar Cabral.
- 1974, April 25 Carnation Revolution in Portugal; Portugal recognises Guinea-Bissau’s independence in September and that of Cape Verde in 1975.
- 1977 Luiz Cabral re-elected by the National Popular Assembly.
- 1980 Cabral deposed in a military coup by João Bernando “Nino” Vieira.
- 1983-86 Transition to economic liberalisation.
- 1987-88 Structural adjustment program is signed with WB and IMF.
- 1989 First legislative elections under one-party rule (PAIGC); Vieira re-elected as President by the National Popular Assembly.
- 1991 One-party system is deleted from the Constitution.
- 1993 Parliament (NPA) approves amendments to the constitution; all parties participate in the formulation of a new electoral law.
- 1994 First multi-party legislative and Presidential elections in August; Nino Vieira is elected President.
- 1998 June – May 1999 Civil war.
- 2000 Legislative and Presidential elections; Kumba Yala is elected President.
- 2003, September 14 Kumba Yala is ousted by a military coup.
- 2003, September 14-18 *Ad hoc* transition committee headed by Bishop Na Bessing negotiates the resignation of Kumba Yala and formulates the National Charter of Transition.
- 2003, September 18 ECOWAS delegation arrives in Bissau and convinces the military committee to accept a short transition period.
- 2003, September 18 The EU condemns the *coup d’état*.
- 2003, September 28 National Transition Charter is signed; *ad hoc* committee ceases functions; Henrique Rosa is appointed President and the National Transitional Government takes over.
- 2003, December 19 The EU invokes Article 96 and invites the transitional government to consultations.
- 2004, January 19 Consultations held in Brussels.
- 2004, February 10-13 Observer mission from the EU.
- 2004, March 28-30 Legislative elections.
- 2004, September 24 Consultations conclude.
- 2005, January to June Presidency monitoring mission visits Guinea-Bissau.
- 2005, April Progress report presented to the European Commission by Guinea-Bissau.
- 2005, June-July EU electoral observation mission present in Guinea-Bissau.
- 2005, June 19 First round of presidential elections conducted.
- 2005, July 24 Second round of presidential elections conducted.
- 2005, October Nino Vieira assumes Presidency.
- 2006 EU relations fully normalised.

### Annex 3: Guinea, chronology

1814	The Paris Treaty confirms French possession of the “Southern Rivers” ( <i>Rivières du Sud</i> ).
1891	The Southern Rivers becomes the autonomous colony of French Guinea.
1895	Guinea is integrated to the French West Africa.
1955	Sékou Touré is elected Mayor of Conakry.
1958	Dissolution of the Fourth Republic in France; the colonies are given the choice to become independent but only Guinea chooses to declare independence. France refuses to recognise independence and support Guinea’s membership of the UN.
1958-84	Guinea under socialist system and repressive rule.
1984	Sékou Touré passes away; Lansana Conté assumes power. Economic liberalisation commences.
1990	Constitution approved by referendum, providing for universal suffrage.
1992	Multi-party system adopted; presidential terms limited to two.
1993	Presidential elections held and Lansana Conté is elected President.
1995	Legislative elections held and the opposition is allowed to participate.
1998	Presidential elections held and Conté is re-elected but the opposition contests the results; opposition leader Alpha Condé is arrested.
1998-99	Guinea conducts military incursion into Guinea-Bissau.
2000-2002	Guinea becomes involved in the Liberia and Sierra Leone conflicts; refugees flock into Guinea.
2000	Municipal elections are held and are characterised by fraud and violence; the results are contested by the opposition.
2001	Fourth round of Structural Adjustment Support Credit received from the World Bank.
2001, November	Referendum conducted on amending the Constitution, fraud is present.
2001, December	Hans Dahlgren visit Conakry and successfully urges Guinea to postpone parliamentary elections.
2002	IMF suspends disbursements; World Bank follows suit.
2002, April	EU fact-finding mission sent to Guinea to assess the electoral process.
2002, October	Hans Dahlgren visits Conakry; presents minimum conditions for elections.
2002, November	Letter signed by Commissioner Nielsen and Danish Foreign Minister Moeller sent to the Guinean government.
2003, January	Guinean ministerial delegation hands over Conté’s reply to the EU and conducts talks with Nielsen and Dahlgren.
2003, August 26	Commission’s communication to the Council to open consultations based on Article 96.
2003, October	Conté is re-elected in presidential elections, while the opposition is repressed.
2004, March	Council decides to open consultations with Guinea under Article 96.
2004, April, 15	First round of consultations held but Guinean delegation does not attend.
2004, July 20	Second round of consultations: Guinea is present but due to vacations, European representation is lower-level; EU approves Guinea’s plans.
2004, September	Joint Presidency-Commission mission visits Conakry; Guinea submits a progress report and is found to have taken “encouraging initiatives.”
2005, February	Joint Presidency-Commission mission visits Conakry.
2005, April	Consultations conclude; progress is conditioned on municipal elections and progress in arrangement and operational requirements of parliamentary elections.
2006, December	Municipal elections are organised.
2006, September	Parliamentary elections are pending for 2006; appropriate measures are in place.

#### Annex 4: Zimbabwe, chronology

1890	Cecil Rhodes' British South Africa Company occupies the region under a British Royal Charter.
1930	Land Apportionment Act. The African farmers are evicted to reserves.
1965	Unilateral Declaration of Independence by the Rhodesian minority regime.
1970	African nationalists start armed liberation struggle
1979	Peace agreement at Lancaster House.
1980	Mugabe's ZANU wins elections, power sharing government with Nkomo's ZAPU.
1982	Government repression and conflict between ZANU and ZAPU in Matabeleland.
1987	ZANU and ZAPU agree a Unity Accord. A <i>de facto</i> one-party state is created. An Executive Presidency is established.
1991	Economic structural adjustment program launched.
1997	Human rights groups, churches and labour groups establish the National Constitutional Assembly (NCA).
1998	Mugabe sends troops to the DRC. International donors' conference on land reform suggests an independent land commission to resolve conflicts over land allocation and promises funds to assist in its implementation.
2000	A referendum is held on a constitution drafted by the government-appointed Constitutional Commission. The government loses at the ballot box. The constitution is amended to permit the expropriation of property without compensation. EU sends observers to the general elections, which it describes as not free and fair.
2001, March	Mugabe meets with Commissioner Poul Nielson in Brussels and accepts the EU proposal to conduct a political dialogue under Article 8.
2001, September	Meeting of the Commonwealth ministers in Abuja. The Zimbabwean Government commits itself to "take firm action against violence and intimidation," the UK promise funds for the land reform process drafted by UNDP. Later that year Commonwealth ministers report that the government has done little to honor commitments to end the land crisis.
200, October	Article 96 consultations requested by the EU.
2002	The EU withdraws its election observers after the EU team leader is expelled. The EU concludes consultations and decides on smart sanctions.
2003	The EU renews its sanctions against Zimbabwe for a further 12 months, but (in the face of opposition from the UK) allows President Mugabe to travel to a summit in Paris after African countries warn they would not go to Paris without Mugabe. The EU postpones a summit with African leaders planned for Portugal in April, as most European countries would boycott the summit if Mugabe is invited, which was a condition for most African leaders to attend the meeting. Zimbabwe withdraws from the Commonwealth after its suspension is extended indefinitely.
2004-2006	EU agrees on benchmarks to assess progress of the government of Zimbabwe. The EU renews its sanctions against Zimbabwe every 12 months.