

Special Report

**EU support for the fight
against torture and the
abolition of the death
penalty**



EUROPEAN
COURT
OF AUDITORS

EUROPEAN COURT OF AUDITORS
12, rue Alcide De Gasperi
1615 Luxembourg
LUXEMBOURG

Tel. +352 4398-1

Email: eca-info@eca.europa.eu
Internet: <http://eca.europa.eu>

Twitter: @EUAuditorsECA
YouTube: EUAuditorsECA

More information on the European Union is available on the Internet (<http://europa.eu>).

Luxembourg: Publications Office of the European Union, 2015

Print	ISBN 978-92-872-2647-1	ISSN 1831-0834	doi:10.2865/448120	QJ-AB-15-009-EN-C
PDF	ISBN 978-92-872-2636-5	ISSN 1977-5679	doi:10.2865/38781	QJ-AB-15-009-EN-N
EPUB	ISBN 978-92-872-2659-4	ISSN 1977-5679	doi:10.2865/160111	QJ-AB-15-009-EN-E

© European Union, 2015
Reproduction is authorised provided the source is acknowledged.

Printed in Luxembourg

Special Report**EU support for the fight
against torture and the
abolition of the death
penalty**

(pursuant to Article 287(4), second subparagraph, TFEU)

The ECA's special reports set out the results of its performance and compliance audits of specific budgetary areas or management topics. The ECA selects and designs these audit tasks to be of maximum impact by considering the risks to performance or compliance, the level of income or spending involved, forthcoming developments and political and public interest.

This performance audit was produced by Audit Chamber III — headed by ECA Member Karel Pinxten — which specialises in external actions spending areas. The audit was led by ECA Member Klaus-Heiner Lehne; supported by Thomas Arntz, attaché in Mr Lehne's private office; Sabine Hiernaux-Fritsch, head of unit; Werner Vlasselaer, team leader; Kim Hublé, auditor and Athanasios Tsamis, auditor.



From left to right: S. Hiernaux-Fritsch, T. Arntz, K.-H. Lehne, A. Tsamis, K. Hublé, W. Vlasselaer.

Paragraph

Abbreviations

I–VII **Executive summary**

1–10 **Introduction**

1–4 **The prevalence of torture and the death penalty**

5–10 **The EU’s commitment to fighting torture and the death penalty**

11–12 **Audit scope and approach**

13–53 **Observations**

13–30 **Despite appropriate needs assessments, the Commission did not optimally target funding**

14–20 **Human rights country strategies were not properly taken into account to allocate funding, and coordination with other EU action was weak**

21–27 **The process for selecting projects was well documented but insufficiently rigorous**

28–30 **The demand-driven approach ensured that beneficiary organisations had sufficient expertise and ownership of the actions but it also had disadvantages**

31–53 **Projects were implemented as planned but the overall impact of the EIDHR funding was limited**

32–39 **Project activities were generally carried out as planned**

40–48 **The impact of EIDHR funding was limited by the modest EIDHR financial contribution being spread out too thinly and in certain situations by unfavourable political contexts**

49–53 **Project achievements are sustainable but grants did not make civil society organisations more self-sustainable**

54–56 **Conclusions and recommendations**

Annex I — The death penalty in Africa

Annex II — The death penalty in Asia

Annex III — The death penalty in Latin America

Annex IV — The death penalty in the United States

Annex V — Global calls for proposals 2007-2013

Annex VI — Projects for which the Court’s auditors reviewed the Commission’s assessment of concept notes and full proposals

Annex VII — Grants examined

Reply of the Commission and the EEAS

COHOM: The Council's Human Rights Working Group

DG Development and Cooperation: Directorate-General for Development and Cooperation

EEAS: European External Action Service

EIDHR: European Instrument for Democracy and Human Rights

OPCAT: Operational Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

UN: United Nations

I

The international community has made many efforts to eradicate torture and other ill-treatment. Nevertheless, torture and other ill-treatment persist and impunity for the perpetrators remains a reality in many countries worldwide. As regards the death penalty, there are still 58 retentionist countries. Each year, more than 5 000 executions take place.

II

The EU is strongly committed to preventing and eradicating all forms of torture and other ill-treatment as well as to abolishing the death penalty throughout the world. To pursue these objectives, the EU deploys a range of diplomatic initiatives that include bilateral agreements, political dialogue and participation in multilateral forums. Furthermore, the EU considers progress in the adherence to human rights as a key condition for its development cooperation and funds projects devoted to these issues. The main instrument used is the European Instrument for Democracy and Human Rights (EIDHR), which provides grants to civil society organisations for implementing projects. Over the 2007-2013 period, the Commission awarded 183 EIDHR grants totalling 100.9 million euro for projects relating to the fight against torture and the death penalty.

III

The Court assessed the effectiveness of the EIDHR's promotion of the prevention of torture, the rehabilitation of victims of torture and the abolition of the death penalty. The Court focused on how the funding was allocated and whether sustainable results were achieved. The audit work consisted of an analytical review and interviews with staff from the Commission, the European External Action Service (EEAS) and beneficiary organisations, as well as a detailed examination of a sample of 31 projects. This involved missions to United Kingdom (London), the Democratic Republic of the Congo, Georgia and South Africa and a desk review of projects that concern China and the United States.

Executive summary

IV

The Court concludes that EIDHR support for the fight against torture, the rehabilitation of victims of torture and the abolition of the death penalty was only partially effective.

V

The Commission appropriately establishes human rights priorities for each partner country. Although the funding was generally well allocated, the Commission does not take sufficiently account of these priorities. Furthermore, projects funded are often not well coordinated with other EU action, such as traditional development support and dialogue with the partner country. The demand-driven approach to financing projects ensured that projects were generally implemented by motivated civil society organisations with good expertise. The project selection was well documented but lacked rigour. Moreover, when weaknesses of selected projects were identified, the project designs were not improved accordingly.

VI

Project activities have been carried out as planned and are generally cost-effective. The results achieved by the grants are sustainable. However, the systems for measuring impacts are rather weak, with unclear logical frameworks for projects, a lack of well-defined benchmarks and targets and an inconsistent approach to project evaluations. When projects provide direct assistance to victims, the impact is tangible albeit limited to relatively small target groups. The impact of other projects, which typically seek legislative or policy reforms, is limited by the fact that progress also depends on many other factors and political contexts that were not always favourable. The results achieved have good prospects of becoming sustainable. The civil society organisations supported, however, remain very dependent on financial support.

VII

The Court makes a number of recommendations for the Commission to improve the support for the fight against torture and the death penalty. The recommendations concern the targeting of financial resources, the coordination with other EU efforts, the selection and improvement of project proposals, the performance measurement framework and the sustainability of beneficiary organisations.

The prevalence of torture and the death penalty

01

The Universal Declaration of Human Rights¹ states that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment². The UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment³, which was signed in 1984, defines the term torture (see **Box 1**) and lays down rules for states to make the struggle against torture more effective. By the end of 2014, 156 states had signed and ratified the Convention and 10 states had signed the Convention but not yet ratified it.

02

The Operational Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment⁴ (OPCAT) aims to establish a system of regular visits by independent international and national bodies to places of detention in order to prevent torture. By the end of 2014, 76 states had signed and ratified OPCAT and 19 states had signed OPCAT but not yet ratified it. Increasing the level of OPCAT ratification remains a significant challenge.

03

Despite the efforts made by the international community, torture persists and impunity for the perpetrators of torture is still a reality in many countries. Recent reports of international civil society organisations⁵ mention the prevalence of torture and ill-treatment in 131 countries worldwide. As a result, important challenges remain as regards preventing torture and rehabilitating victims.

- 1 Adopted by the United Nations (UN) General Assembly on 10 December 1948.
- 2 Article 5.
- 3 Adopted and opened for signature, ratification and accession by General Assembly Resolution No 39/46 of 10 December 1984 with entry into force on 26 June 1987.
- 4 Adopted by the UN General Assembly on 18 December 2002 and entered into force on 22 June 2006.
- 5 Amnesty International, Report 2014/2015 'The State of the World's Human Rights' and Human Rights Watch, World Report 2015 (Events of 2014).

Box 1

Definition of torture

Torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity⁶.

⁶ The language used concerning consent or acquiescence by a public official extends state obligations into the private sphere and should be interpreted to include state failure to protect persons within its jurisdiction from torture and ill-treatment committed by private individuals.

Introduction

04

Although 140 countries have abolished the death penalty⁷, there are still 58 retentionist countries (see **Annexes I to IV**). Over the 2007-2014 period, 37 countries executed an average total of more than 5 000 persons per year⁸. More than 83 % of the executions took place in China, more than 13 % in Iran, Iraq, North Korea and Saudi Arabia, and about 3 % in other countries. At the end of 2014, more than 19 000 persons were under sentence of death worldwide.

The EU's commitment to fighting torture and the death penalty

05

The eradication of all forms of torture and other ill-treatment⁹ as well as the abolition of the death penalty are priorities of the EU's human rights policy. The EU's strong commitment in this respect is based on the European treaties¹⁰ and reflected in the strategic framework and action plan on human rights and democracy¹¹ and the EU guidelines (see **Box 2**).

06

To pursue the objectives of its human rights policy, the EU deploys a range of diplomatic activities. Partnership and cooperation agreements with non-EU countries include a human rights clause that is meant to encourage countries to comply with human rights standards. In the event of non-compliance, different measures, such as reducing or suspending cooperation, are provided for¹². The EU also includes human rights issues in its political dialogues with partner countries or regional organisations. Furthermore, the EU is engaged in specific human rights dialogues and consultations with currently 41 non-EU countries and promotes human rights through its participation in multilateral forums¹³. Diplomatic 'demarches' (which are confidential) and declarations (which are public) concerning non-EU countries' authorities are also a significant means of exercising diplomatic pressure.

- 7 In law or in practice. Seven of these countries have abolished the death penalty only for 'ordinary' crimes, as opposed to 'exceptional' crimes such as crimes under military law or crimes committed in exceptional circumstances.
- 8 *Source:* Amnesty International. These figures are estimates as several countries do not issue official figures.
- 9 For ease of reading, the concept of torture and other ill-treatment is referred to hereafter in the text as torture.
- 10 Articles 2, 3, 6 and 21 of the EU Treaty and Article 205 of the Treaty on the Functioning of the EU.
- 11 Adopted by the Council on 25 June 2012.
- 12 In the case of African, Caribbean and Pacific countries, the Cotonou Agreement sets out mutual obligations, including respect for human rights, which are monitored through continuing dialogue and evaluation. The mutual obligations are subject to the dispute settlement clause of Article 96, on the basis of which consultations and appropriate measures, including the suspension of the agreement, can be taken with regard to the country in question.
- 13 Such as the UN General Assembly's Third Committee, the UN Human Rights Council, the Organisation for Security and Cooperation in Europe and the Council of Europe.

Box 2

EU guidelines

EU guidelines on human rights provide practical instructions both for EU institutions and Member States to implement the EU's human rights policy. There are in total 11 EU guidelines that cover a wide range of issues. They are established by the Council's Human Rights Working Group (COHOM), approved by the Committee of Permanent Representatives and adopted by the Council. EU guidelines are not legally binding but represent a strong political signal of the human rights priorities of the European Union.

Introduction

07

On 25 July 2012, following the adoption of the EU’s strategic framework and action plan on human rights and democracy, the Council appointed an EU special representative responsible for ensuring the coherence, effectiveness and visibility of the EU’s human rights policy. Furthermore, the special representative has to contribute internally to implementing the strategic framework and action plan on human rights and other instruments such as the EU guidelines on human rights. The special representative also enhances the dialogue on human rights with governments of non-EU countries, international and regional organisations and civil society.

08

In addition to these activities, the EU aims to promote human rights by considering progress on human rights, good governance and democracy as a key condition for its development cooperation. In 2012, the Council decided to develop a human rights-based approach to development cooperation in order to ensure that the EU increases its efforts to assist partner countries in implementing their international human rights obligations¹⁴. It will do so by incorporating human rights principles into all EU operational development activities.

09

Furthermore, the EU funds projects that are entirely devoted to promoting human rights. The main instrument for promoting the prevention of torture, the rehabilitation of victims of torture and the abolition of the death penalty is the European Instrument for Democracy and Human Rights (EIDHR), which complements the geographical instruments. It was launched in 2006 to provide support for promoting democracy and human rights in non-EU countries¹⁵.

10

The EIDHR has been granted an overall budget of 1.1 billion euro covering all EU human rights objectives for the 2007-2013 period. Most EIDHR funding is disbursed in the form of grants that are awarded to civil society organisations for the purpose of implementing projects. In principle, the grants involve co-financing as they finance only up to 80 % of project expenditure¹⁶. The EIDHR has global coverage, including many industrialised countries, and enables funding without bilateral consent as no government approval is required of the country where the projects are implemented. EIDHR expenditure for the fight against torture¹⁷ and the death penalty amounts to 100 million euro for the 2007-2013 period (see **Table 1**). The number of contracts concluded during that period is shown in **Table 2**. Most of the projects concern awareness campaigns, advocacy activities, monitoring practices, prevention measures, legal support for victims of torture and those sentenced to the death penalty, or the treatment and rehabilitation of victims.

- 14 The decision to develop a human rights-based approach was taken with the adoption of the EU’s strategic framework and action plan on human rights and democracy (see paragraph 5).
- 15 Regulation (EC) No 1889/2006 of the European Parliament and of the Council of 20 December 2006 on establishing a financing instrument for the promotion of democracy and human rights worldwide (OJ L 386, 29.12.2006, p. 1) replaced by Regulation (EC) No 235/2014 (OJ L 77, 15.3.2014, p. 85). The EIDHR builds upon and replaces the European Initiative for Democracy and Human Rights, which was established in 1994.
- 16 Financing for projects up to 100 % is possible, though, in duly substantiated cases.
- 17 ‘Fight against torture’ refers to both the prevention of torture and the rehabilitation of victims of torture.

Table 1 EIDHR expenditure relating to torture and death penalty per continent, 2007-2013

(euro)

Torture	2007	2008	2009	2010	2011	2012	2013	TOTAL
Africa	0	3 967 906	456 120	4 248 938	2 192 122	514 511	3 844 082	15 223 679
America	0	2 226 820	388 122	1 178 945	758 097	0	2 530 910	7 082 894
Asia	36 465	10 281 020	613 754	2 366 367	1 936 457	0	11 242 841	26 476 904
Europe	0	2 956 958	235 093	2 661 831	2 830 007	100 000	787 065	9 570 954
Multi-continental	0	6 175 025	0	10 800 143	1 499 207	0	6 734 343	25 208 718
TOTAL	36 465	25 607 729	1 693 089	21 256 224	9 215 890	614 511	25 139 241	83 563 149
Death penalty	2007	2008	2009	2010	2011	2012	2013	TOTAL
Africa	0	0	76 863	285 000	734 333	0	0	1 096 196
America	0	0	1 581 610	290 859	0	1 345 046	0	3 217 515
Asia	0	0	722 028	731 761	1 416 450	2 009 842	0	4 880 081
Europe	0	0	0	0	0	200 074	0	200 074
Multi-continental	0	0	4 067 552	657 674	0	3 263 246	0	7 988 472
TOTAL	0	0	6 448 053	1 965 294	2 150 783	6 818 208	0	17 382 338

Source: European Commission.

Table 2 EIDHR number of contracts relating to torture and death penalty per continent, 2007-2013

(euro)

Torture	2007	2008	2009	2010	2011	2012	2013	TOTAL
Africa	0	7	4	5	4	3	6	29
America	0	7	3	3	6	0	4	23
Asia	1	19	5	5	4	0	18	52
Europe	0	7	2	4	6	1	3	23
Multi-continental	0	6	0	10	1	0	6	23
TOTAL	1	46	14	27	21	4	37	150
Death penalty	2007	2008	2009	2010	2011	2012	2013	TOTAL
Africa	0	0	1	1	1	0	0	3
America	0	0	4	2	0	2	0	8
Asia	0	0	2	2	2	3	0	9
Europe	0	0	0	0	0	1	0	1
Multi-continental	0	0	7	1	0	4	0	12
TOTAL	0	0	14	6	3	10	0	33

Source: European Commission.

11

The Court assessed the effectiveness of the EIDHR's promotion of the prevention of torture, the rehabilitation of victims of torture and the abolition of the death penalty. The audit focused on the following two questions:

- (a) Was the funding well allocated?
- (b) Did the grants achieve sustainable results?

12

The audit focused on the 2007-2013 period and was carried out between July 2014 and January 2015. It consisted of various components. Firstly, the Court examined the allocation of funding through the five global calls for the period under review (see **Annex V**). The examination involved interviews with staff at the European External Action Service (EEAS) and the Directorate-General for Development and Cooperation (DG Development and Cooperation) as well as a review of the Commission's assessment of the concept notes and full proposals for 45 projects (see **Annex VI**). Secondly, the Court examined seven EIDHR grants awarded to three civil society organisations in United Kingdom (London), which were visited during the audit. Thirdly, the Court examined 13 EIDHR projects concerning the Democratic Republic of the Congo, Georgia and South Africa. To this end, the Court carried out audit missions to these countries to interview staff from the EU delegations concerned, as well as representatives of the organisations that received EIDHR grants. Lastly, the Court carried out a desk review of 11 EIDHR projects concerning China and the United States (see **Annex VII**). The audit sample represents 24 % of the expenditure concerned.

Despite appropriate needs assessments, the Commission did not optimally target funding

13

The Court examined whether the calls for proposals were based on an appropriate needs assessment and were well focused and coordinated with other EU actions such as traditional development support and dialogue. The audit also assessed the selection of projects by examining whether the selection process was transparent, well documented and rigorous and whether the demand-driven approach was appropriate.

Human rights country strategies were not properly taken into account to allocate funding, and coordination with other EU action was weak

14

As the financial resources allocated to the fight against torture and the death penalty are modest compared to the challenges (see paragraph 10), they need to be focused on countries and issues with substantial needs and considerable potential for improvement.

The Commission obtains adequate information about the human rights situation in partner countries by examining information that is available in the public domain, through its contacts with civil society organisations and by actively examining the situation on the ground. EU delegations prepare notes on human rights issues on a regular basis and include relevant comments and analyses in their management reports¹⁸.

15

The Commission uses the information available in order to assess the needs appropriately and define priorities, as reflected in various documents. The EIDHR multiannual strategy papers¹⁹ provide a description of the expected results of the EIDHR, as well as their respective financial allocations. In addition, annual action programmes are drawn up containing individual descriptions of the key elements²⁰ of the actions that are going to be financed. At country level, priorities are defined in human rights country strategies (see **Box 3**). They are confidential, including the part of the document that sets out the priorities, which limits their added value.

- 18 External action management reports.
- 19 In the period under review, such strategy papers existed for the 2007-2010 and 2011-2013 periods.
- 20 Amount allocated, priorities and approach to allocating the funds.

Box 3

Human rights country strategies

Since the second half of 2011, the EU and its Member States have drawn up more than 150 human rights country strategies. Each strategy contains a thorough analysis of the situation in the country concerned and sets out a number of common priorities for the EU and the Member States. The plan is that the strategies should be updated every 2 years, or whenever there are major changes. There are 57 strategies where the fight against torture is one of the priorities, and 72 strategies where the fight against the death penalty is a priority.

Observations

16

Grants are awarded following calls for proposals (the demand-driven approach). In the 2007-2013 period, there were three global calls for proposals dedicated to the fight against torture and two global calls for proposals dedicated to the fight against the death penalty. These calls for proposals with a global coverage were managed by the DG Development and Cooperation headquarters and led to the award of 80 and 24 grants, respectively. The projects were selected from a total of 789 project proposals. Grants were also awarded through country-based support schemes. These are calls for proposals managed by the EU delegations and are specific to one country. They led to the award of 70 grants for the fight against torture and 9 grants for the fight against the death penalty. The objectives of the calls for proposals are in line with the objectives stated in the EIDHR strategy papers and the EU guidelines.

17

The global calls for proposals did not focus on the countries where the EU considers the fight against torture and the fight against the death penalty to be part of the priorities (see **Box 3**). Whereas the overall objectives of the projects examined concerning China and the United States are clearly mentioned as priorities by the EU human rights country strategy, projects in the Democratic Republic of the Congo, Georgia and South Africa concern the fight against torture even though the country human rights strategies for these countries do not clearly state the fight against torture as a priority. As a result, EIDHR resources were deployed in countries where the fight against torture or the death penalty was not a priority.

18

The objectives of most calls for proposals were described in a general way. Whereas the 2007 call for proposals to support actions on torture made a distinction between prevention (lot 1) and rehabilitation (lot 2), the calls launched in 2009 and 2012 no longer made this distinction. Rather, they encouraged a comprehensive and holistic approach encompassing three priorities — prevention, accountability and rehabilitation — which are considered interrelated and mutually reinforcing. The calls for proposals relating to the death penalty also promoted an integrated approach. They had no specific emphasis or targets.

19

In Georgia, EIDHR projects are well complemented by other EU action, such as traditional development support, negotiations for the EU–Georgia Association Agreement and dialogue. The human rights dialogue with Georgia is of particular importance since it consolidates EIDHR projects by addressing the issues on which they focus. In the other countries examined, however, EIDHR projects are not part of a coherent, strategic and coordinated approach for addressing issues relating to torture and the death penalty. The projects do not complement each other well and are not linked to the Commission's traditional development support. Furthermore, the Commission's dialogue does not complement EIDHR projects as effectively as it might. Issues relating to torture have not been addressed in human rights dialogues with the Democratic Republic of the Congo and South Africa despite the fact that EIDHR projects focus on torture prevention and the rehabilitation of torture victims. The death penalty has been included in

the human rights dialogue with China and the EU–United States consultation on human rights but the issues raised were different from the ones focused upon by the EIDHR projects.

20

The implementation of the human rights-based approach to development cooperation (see paragraph 8) is running behind schedule. In May 2014²¹, the Commission presented the Council with a ‘toolbox’ setting out how the Commission will work towards a human rights-based approach to development cooperation. It includes practical checklists and announces the development of a support package. The human rights-based approach is yet to be implemented even though a first assessment is due to take place already in 2016.

The process for selecting projects was well documented but insufficiently rigorous

21

The process for selecting projects is transparent and well documented. Project assessments (see **Box 4**) are justified with detailed scores by each assessor, as well as a narrative assessment. Furthermore, the overall conclusions of the evaluation boards are reported with sufficient detail, including the final project rankings, the determination of the threshold for selection, an explanation as to why projects are considered ineligible and the justification for reassessments.

21 Although the action plan of the strategic framework and action plan on human rights and democracy (see paragraph 5) stipulates that it was to be finalised in 2013.

Box 4

Assessing project proposals

In line with the practical guide to contract procedures for European Union external actions, civil society organisations that wish to obtain a grant first have to submit a concept note describing the main features of the project they propose. When the concept note is accepted by the evaluation board, they are then invited to submit a full project proposal. Both the concept note and the full proposal are assessed by two persons, in most cases an independent external assessor and a representative of the EU delegation where the action is planned²². The assessments are carried out using a scoring system and standardised evaluation grids with criteria that cover aspects of design, relevance, capacity, feasibility, effectiveness, sustainability and cost-effectiveness. Grants are awarded to the projects with the highest scores.

22 When the project concerns actions in more than one country, the project is assessed by a representative of the regional directorate of DG Development and Cooperation.

Observations

22

The standardised evaluation grids used by the Commission (see **Box 4**) have a number of shortcomings that hinder qualitative and objective assessments:

- (a) there is only limited guidance for scoring various criteria, and many criteria use wording such as 'sufficient', 'appropriate', 'satisfactory' and 'strategically chosen' without explaining precisely what is expected;
- (b) since 2011, project relevance is only assessed on the basis of the concept note and not on the basis of the full proposal;
- (c) several criteria are combined into one score. It is not clear how scores should be given when the assessment of the individual criteria varies;
- (d) there are no minimum requirements where they could be expected for essential aspects such as the feasibility or the impact of a project.

23

For each call for proposals, the Commission issues guidelines for assessors. These are meant to explain how assessors should conduct their assessments in order to ensure that all assessments are made in a coherent and consistent manner. However, the guidelines for assessors insufficiently mitigate the shortcomings of the standardised evaluation grids (see paragraph 22) and insufficiently clarify how specific requirements of the calls for proposals should be assessed. In relation to torture, for example, the calls for

proposals indicate that preference is given to a holistic and comprehensive approach as well as to actions that explore linkages between the promotion of economic, social and cultural rights and the eradication of torture. In the case of the death penalty, projects should contain actions which entail an integrated approach to the fight against the death penalty. However, these criteria are not explicitly assessed or scored.

24

The project assessments examined by the Court (see paragraph 12) were not always carried out with the necessary rigour:

- (a) for 25 of the 45 project assessments examined, at least one narrative assessment makes no analysis per criterion even though this is required. These assessments therefore provide less justification;
- (b) in 4 of the 45 project assessments examined, no clear explanation was given as to why low scores were granted for certain criteria;
- (c) for 11 of the 45 project assessments examined, the Court's auditors noted inconsistencies between the scores given and the narrative assessments. In most cases, this involved relatively high scores on criteria despite negative narrative assessments.

25

Assessors frequently issue different opinions for the same project. For the 45 projects examined, there was a significant difference between the scores of the two assessors for 20 % of all criteria²³. The evaluation committee has the option not to accept the scores awarded by the assessors and to carry out a reassessment of all the criteria. However, the approach to reassessments was not consistent. For three of the five calls for proposals examined, the evaluation committee carried out a reassessment when the difference between the total scores of both assessments was considered significant. Furthermore, the definition of what is a significant difference also changed over time. As a result, a number of project proposals with high scoring differences were not reassessed. For one call for proposals²⁴, there were no reassessments despite a significant difference²⁵ between the assessors' total scores for four of the 10 projects. For another call for proposals²⁶, reassessments were carried out but it was not specified for which projects this should be done and three of the eight proposals were not reassessed where there was a significant difference between the total scores of both assessors.

26

The grants requested by civil society organisations need to observe certain limits. The minimum and maximum amounts for grants have increased during the period under review. The average contract amount for death-penalty projects increased from 550 000 euro for the 2008 call for proposals to 735 000 euro for the 2011 call. The average contract amount for torture projects increased from 715 000 euro for the 2007 call for proposals to 903 000 euro for the 2009 call. The amounts were increased to reduce the number of contracts and therefore the Commission's workload.

27

Smaller local civil society organisations have comparative disadvantages when requesting grants due to cumbersome application procedures, language requirements²⁷ and, for some calls for proposals, the requirement to be active in more than one country. The increased minimum amount for grants made it even more difficult for them to apply for grants even where they have the potential to set up relevant and effective projects. To mitigate this, the Commission organises seminars and training sessions for local civil society organisations, promotes partnerships and allows sub-granting.

- 23 Difference of at least two points out of five in a single criterion. As each assessment contains 17 criteria, the Court reviewed 765 criteria in total.
- 24 Call for proposals 126-224.
- 25 Higher than 10 out of the 50 points.
- 26 Call for proposals 131-085.
- 27 Applications have to be made in English, French or Spanish.

Observations

The demand-driven approach ensured that beneficiary organisations had sufficient expertise and ownership of the actions but it also had disadvantages

28

The demand-driven approach makes it possible to address sensitive issues without government consent. The applicants of the projects examined have sufficient technically skilled staff and, in the majority of the cases, had already implemented projects of a similar scale and nature. In more than a quarter of the cases, however, the project significantly exceeded the scale of any activity the beneficiary organisation had carried out in the past, thereby posing a potential risk for the adequate implementation of the project. In only one of those cases, however, did the limited capacity of the organisation prove to be a major problem.

29

The demand-driven approach has a number of negative consequences:

- (a) the geographical scope of projects may not coincide with the places where the most impact can be achieved with the EIDHR. In most cases, the projects cover by and large those areas where the organisations were already active. In some cases, this resulted in support for activities with only very limited potential impact because the projects targeted countries where, for political reasons, no progress can reasonably be expected;

- (b) in an effort to secure grants, civil society organisations may present projects with overambitious objectives. Of the 31 projects examined, the Court identified 13 projects with clearly overambitious objectives. They typically relate to changes that require government commitment in order to be implemented. However, there is no evidence that such commitment exists, indeed quite the contrary;
- (c) beneficiary organisations may not clearly commit themselves to measurable activities. This makes it very difficult for the Commission to objectively assess at a later stage whether project activities have been carried out satisfactorily. Indicators have been defined for measuring project activities but although such indicators are in principle measurable, baselines and quantified targets have generally not been set even though this would have been possible in most cases.

30

The negative consequences of the demand-driven approach have not been properly addressed. When weaknesses are identified by the assessors of the project proposals, this does not lead to improvements in project designs²⁸. This is a missed opportunity.

28 Article 204.5 of Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L 362, 31.12.2012, p. 1) states that the proposal may not be substantially changed.

Observations

Projects were implemented as planned but the overall impact of the EIDHR funding was limited

31

The Court examined whether the projects were implemented as planned in terms of activities, budget and timing. Furthermore, the Court assessed whether the cost-effectiveness of projects was appropriately considered. The Court also examined whether they had the expected impact and whether the achievements are sustainable.

Project activities were generally carried out as planned

32

The civil society organisations that implement projects reported on their activities during and at the end of the project implementation periods. Project reporting is very much focused on activities rather than on the achievement of objectives. This hinders a results-oriented management of the expenditure.

33

This problem is related to the fact that logical frameworks (see **Box 5**) presented by civil society organisations are generally poorly drafted. They often present specific objectives, expected results and activities that are not fully coherent. In actual fact, the required template for the logical framework is not well suited to this type of projects and is overly complicated for many civil society organisations.

34

The budgets of the projects examined have always been adhered to and were almost fully used²⁹. By and large, main project activities were carried out as planned³⁰. Nevertheless, in eight of the 16 projects examined where implementation had already ended, some of the planned activities had not been carried out. This was often related to the projects being overambitious (see paragraph 29).

29 97.8% on average.

30 Even though this verification was difficult for the 10 cases where even the main project activities were not quantified (see paragraph 29).

Box 5

Logical frameworks

Civil society organisations that request grants are required to submit a logical framework of the project they wish to implement. A logical framework is a document in standard table format that sets out overall objectives, specific objectives, expected results and planned activities for a project.

Observations

35

In four cases, implementing projects as planned was hindered by unexpected events, such as partners not delivering their expected contributions or major changes in the political environment. In these cases, the issues were appropriately dealt with by the civil society organisations in consultation with the Commission. This was done by changing one or more project partners or by changing the geographical scope of the project.

36

The implementation period for 11 projects was extended by between 2 and 13 months. The arguments given for extending the implementation period did not convincingly set out why the grant was not fully used by the end of the initial implementation period or indicate that an extension was necessary and sufficient to achieve the project objectives. There is a risk that project implementation periods were extended mainly to enable beneficiary organisations to spend the budget in full rather than to achieve the project objectives.

37

As grant contracts are awarded following calls for proposals and not a tendering procedure, it is difficult for the Commission to fully ensure the cost-effectiveness of the expenditure. Furthermore, the Commission did not define benchmarks to assess the cost-effectiveness. There is nevertheless no indication that the overall cost of most of the projects examined is not reasonable for the expected results. In several cases, individual salaries are even relatively low, which demonstrates the dedication of many of the staff of the civil society organisations that implement projects. In 3 of the 31 examined cases, however, the cost-effectiveness was suboptimal. In those cases, the overall cost was high compared to the expected results.

38

The Court made a comparison for the 14 out of the 31 projects examined that aim to provide assistance directly to final beneficiaries³¹. For these projects, there is evidence that the projects implemented by the organisations located in beneficiary countries are more cost-effective than those based in other countries. The former reach out to more final beneficiaries and present a lower average cost per beneficiary receiving assistance.

31 Of the 183 grant contracts signed in the 2007-2013 period, 76 concerned projects whose main activity was to provide assistance for final beneficiaries, e.g. victims of torture.

Observations

39

Most budgets for the projects examined include a 7 % increase in the direct costs to cover indirect costs. The beneficiary organisations have different interpretations of what is covered by this flat-rate amount. As a result, office rent, salaries of finance/administrative/general management staff and other costs are treated differently. Depending on the case, all, some or none of these costs are included in the grant budget on top of the flat-rate amount for indirect costs.

The impact of EIDHR funding was limited by the modest EIDHR financial contribution being spread out too thinly and in certain situations by unfavourable political contexts

40

EIDHR funding to fight torture and the death penalty reflects the EU's strong common commitment to the fight against torture and the abolition of the death penalty. As such, it aims to enhance the EU's moral influence over human rights issues. The resources allocated, however, are relatively modest (see paragraph 10) compared to the global challenges faced (see paragraphs 1 to 4). The funding available for the 2007-2013 period was thinly spread out over 183 projects implemented in more than 120 countries worldwide, thus diluting its impact.

41

Project impacts were generally difficult to measure as the impact sought is frequently intangible, no targets are set for performance indicators (see paragraph 29) and reporting by civil society organisations to the Commission concentrates on activities (see paragraph 32). Furthermore, progress depends not only on project achievements but also on many exogenous factors. This makes it difficult and in some cases impossible to assess the extent to which the activities contributed to progress.

42

Evaluations are carried out to assess the impacts of the projects. However, they do not provide a full picture as the approach is not harmonised. Indeed, it is left to the beneficiary organisations that apply for a grant to decide whether they wish to plan for a project evaluation or not³².

43

14 of the 31 projects examined had as their main activity to provide assistance for final beneficiaries. 10 were successful in achieving that objective. This is demonstrated by the number of people who have received assistance, the reputation of the civil society organisations that implemented the projects and the appreciation of final beneficiaries as shown in statistics and expressed to the Court during interviews. However, with the exception of the projects implemented in Georgia, the projects examined have a limited impact overall as they focus on small target groups.

³² In only 18 of the 31 projects examined was provision made for project evaluations to be performed at the end of the project. See also paragraph 26 of the Court's Special Report No 18/2014 concerning EuropeAid's evaluation and results-oriented monitoring systems (<http://eca.europa.eu>).

Observations

44

For the other four projects that mainly provide assistance for final beneficiaries, there is no evidence of significant impact. Two projects provided legal support for individuals facing the death penalty in the United States but only in very few cases was it possible to avert the death penalty. Two other projects led to court submissions in many countries for cases of torture but few cases resulting in a positive decision have yet been reported.

45

17 of the 31 projects examined had main objectives other than providing assistance for final beneficiaries. Implementation has ended in nine cases; in six of those cases, the impact is less than expected:

- (a) a project that focused on torture prevention in nine former Soviet republics was partially effective in setting up monitoring systems and promoting best-practice models of rehabilitation. There is no evidence that the project was successful in increasing interaction between governments and civil society in the area of torture, in increasing civil society capacity and in increasing access to support services for the most vulnerable groups of prisoners;
- (b) a project that addressed the death penalty in 17 countries successfully increased public awareness, promoted transparency, enhanced networks and coalitions and increased civil society capacity. However, it was not so successful with regard to the more substantial project objectives, such as abolishing the death penalty or establishing moratoriums on executions. With regard to criminal-justice policy development and legal reform, there was some progress in only four of the 17 project countries and the objective of increasing ratifications of international conventions was hardly successful at all;
- (c) one project focusing on detention conditions in military guardhouses in Georgia had no demonstrated impact. Military guardhouses in poor condition were closed down after the end of the project but there is no evidence that the project contributed to this;
- (d) a project that sought to strengthen organisations that fight against the death penalty in two states in the United States had some impact, albeit far from the extent expected;

- (e) a project whose objective was to move China towards considering signing OPCAT and to contribute to the prevention of torture and other forms of ill-treatment in China did not achieve most of the detailed project results. There was some progress regarding the supervision of pre-trial detention centres, and criminal law was amended to bring it more closely in line with international standards. However, no greater consideration of OPCAT was achieved, no new implementing guidelines with regard to illegally obtained evidence were implemented, a pilot scheme for monitoring was run in only one detention centre and no improved complaints mechanism was put in place;
- (f) one project sought to reduce the use of the death penalty in China by promoting judicial discretion through the training of judges in local courts and the development of strict sentencing and evidence guidelines for trial procedures. During the project implementation period, several positive changes occurred. Several pieces of legislation and several policies relating to the death penalty were reformed: for example, the standard of sentencing in death penalty cases was unified, the death penalty was only handed down to criminals who had committed extremely serious crimes and 13 non-violent crimes ceased to be eligible for the death penalty. However, no direct link can be made between the project and these changes.

46

For the eight projects that are ongoing, it is still too early to reach conclusions about their impact. There are, however, indications that at least two projects will have less impact than expected:

- (a) one project supports greater domestic compliance in six African countries with international torture law obligations, norms and procedures. Although the workshops have been successful, as shown by increasing numbers of participants, there is no evidence that the project has had a substantial impact;
- (b) another project entailed research to develop sets of guidelines for better interpretation of the criminal policy by Chinese courts. The guidelines have been submitted to the Supreme People's Court but there has not been any reaction so far. The efforts made will have no impact if the judicial authorities are unwilling to use the guidelines. A positive outcome is unlikely since state officials have become more reluctant to support initiatives that favour the abolition of the death penalty.

Observations

47

There are various reasons why the impact of projects is limited:

- (a) some project objectives were over-ambitious and therefore could not be met (see paragraph 29);
- (b) progress in the area of torture and the death penalty is generally slow and tends to take longer than the projects themselves;
- (c) the political context in the targeted countries was not always conducive to substantial progress. Government willingness is particularly important for project objectives that do not directly target final beneficiaries.

48

Even though progress depends not only on project achievements but also on exogenous factors (see paragraph 41), there are indications that six of the projects examined that contributed towards abolishing the death penalty in the United States had a combined positive impact. Their contribution took various forms. Four projects focused on raising awareness, for instance by empowering the voices of families of the executed, operating a national speakers' bureau or conducting a nationwide media campaign. Two projects conducted research, one into how to influence policymakers and the other into assessing the situation in four states with regard to the death penalty. These projects contributed to positive developments (see **Box 6**) although the precise extent of the contribution cannot be assessed. There are indications that the awareness-raising projects have had more impact than the two projects entailing research.

Box 6

Developments in the United States as regards the death penalty

Developments in the United States as regards the death penalty were mostly positive during the period under review. The death penalty was abolished in New Mexico (in 2009), Illinois (in 2011), Connecticut (in 2012) and Maryland (in 2013), the number of death sentences fell from 118 in 2009 to 83 in 2013 and the number of executions fell from 52 in 2009 to 39 in 2013³³.

³³ Source: Death Penalty Information Center. In 2015, the death penalty was also abolished in Nebraska.

Observations

Project achievements are sustainable but grants did not make civil society organisations more self-sustainable

49

The project proposals examined address financial, institutional and policy sustainability. In addition, the sustainability of results is covered in the reports that were submitted by civil society organisations at the end of project implementation³⁴. Although project impacts frequently fall short of expectations (see paragraphs 43 to 48), the projects contributed to changes that are likely to be permanent.

50

Furthermore, the grants that were awarded enabled the beneficiary organisations to expand their geographical scope in several cases, which was beneficial for the organisation. In some cases, even the beneficiary organisations' thematic scope was enhanced by the EIDHR grant.

51

However, most civil society organisations are not self-sustainable. Some of the civil society organisations concerned manage to secure a part of their financing needs by income-generating activities or by donations from the general public, but this remains very limited overall. To finance their activities, they are highly dependent on grants from the few donors that provide funding for the fight against torture and the death penalty.

52

The fact that civil society organisations are not self-sustainable jeopardises the continuity of their activities. The suspension or cessation of EIDHR funding often results in beneficiary organisations winding down their activities and laying off staff, thereby losing expertise. In some cases, the lack of self-sustainability even jeopardises the continuity of the civil society organisations themselves.

53

Only 5 of the 31 projects that were examined included activities to make civil society organisations more self-sustainable. This objective was not achieved in three cases because planned income-generating activities were not set up or community ownership of services was not achieved. In the two other cases, self-sustainability was successfully established:

- (a) in the Democratic Republic of the Congo, a project that financed local centres to provide psychological and legal support for victims of sexual violence succeeded in making the centres self-sustainable. The project did so by establishing various income-generating activities, such as agriculture, baking, carpentry and knitting, or by providing micro loans for the local community;
- (b) a project in the United States enabled local civil society organisations in two states to develop a fundraising plan in order to ensure their financial sustainability. Both affiliates became financially sustainable, without funding from the coordinating organisation at national level.

³⁴ The Court noted only one exception.

Conclusions and recommendations

54

EIDHR support for the fight against torture, the rehabilitation of victims of torture and the abolition of the death penalty was only partially effective as the modest funding was not optimally targeted and progress was hindered by unfavourable political contexts.

Recommendation 1

Target modest resources better

The Commission should concentrate EIDHR funding on the most relevant issues and on the countries with the greatest needs and where the greatest impact can be expected, in line with the priorities defined in the human rights country strategies.

55

The Commission obtains adequate information about human rights situations in partner countries and establishes appropriate priorities for each partner country. Although the funding was generally well allocated, the Commission does not take sufficient account of these priorities. Furthermore, in many countries the projects funded by EIDHR grants are not sufficiently complemented by or coordinated with other EU action, such as traditional development support and dialogue with the partner country. The demand-driven approach to financing projects ensured that projects were generally implemented by motivated civil society organisations with good management and technical expertise. Although the project selection process was well documented, it lacked rigour and certain disadvantages of the demand-driven approach were insufficiently mitigated. In cases where

selected projects had overambitious objectives or were insufficiently clear on what was precisely to be achieved, the project designs were not improved (see paragraphs 14 to 30).

Recommendation 2

Improve coordination with other EU action

The Commission should, wherever possible, openly state the EU priorities as defined in the human rights country strategies and should focus project selection, the Commission's traditional development support and political dialogue on those priorities in a coordinated manner. Furthermore, the Commission should ensure swift implementation of the human rights-based approach.

Recommendation 3

Improve projects' selection

The Commission should further improve the standardised evaluation grids and the guidelines for assessors so as to ensure that all assessments are coherent and consistent. It should be fully clear to assessors precisely which criteria they should assess and how they should give scores. The assessments themselves should be carried out with more rigour and provide clear explanations for all criteria assessed. The reassessment approach should be clear and consistently applied.

Conclusions and recommendations

Recommendation 4

Better use the possibilities for improving project proposals where assessors have identified design weaknesses

The Commission should more systematically invite applicants to adjust their project proposals to ensure that weaknesses identified by the assessors are better taken into account, while safeguarding that adjustments are non-substantial so that fair and equal treatment remains guaranteed.

56

By and large, project activities have been carried out as planned and are generally cost-effective, in particular the projects implemented by civil society organisations in partner countries. The results achieved by the grants are sustainable. However, the systems for measuring impacts are rather weak, with unclear logical frameworks for projects, a lack of well-defined benchmarks and targets, and an inconsistent approach to project evaluations. When projects provide assistance for victims, the impact is tangible, albeit limited to relatively small target groups. The contribution of projects which seek legislative or policy reforms is difficult to assess as progress typically also depends on many other factors. In several cases, project impacts were hindered by unfavourable political contexts. The achievements that were made are sustainable. However, the civil society organisations that were supported mostly depend to a large extent on financial support and the intensity of their activities often decreases significantly when EIDHR funding ends (see paragraphs 32 to 53).

Recommendation 5

Develop the performance measurement framework further

The Commission should simplify the template for the logical framework of EIDHR projects so that the links between objectives, activities and impacts become clearer. Impact indicators and measurable targets should be defined on the basis of baselines and project activities that are planned. The approach to project evaluations should be harmonised.

Recommendation 6

Focus more on improving the sustainability of beneficiary organisations

In its calls for proposals, the Commission should promote measures to make civil society organisations more self-sustainable, for example through donor coordination, and should consider ways to provide continued support for beneficiary organisations that are performing well.

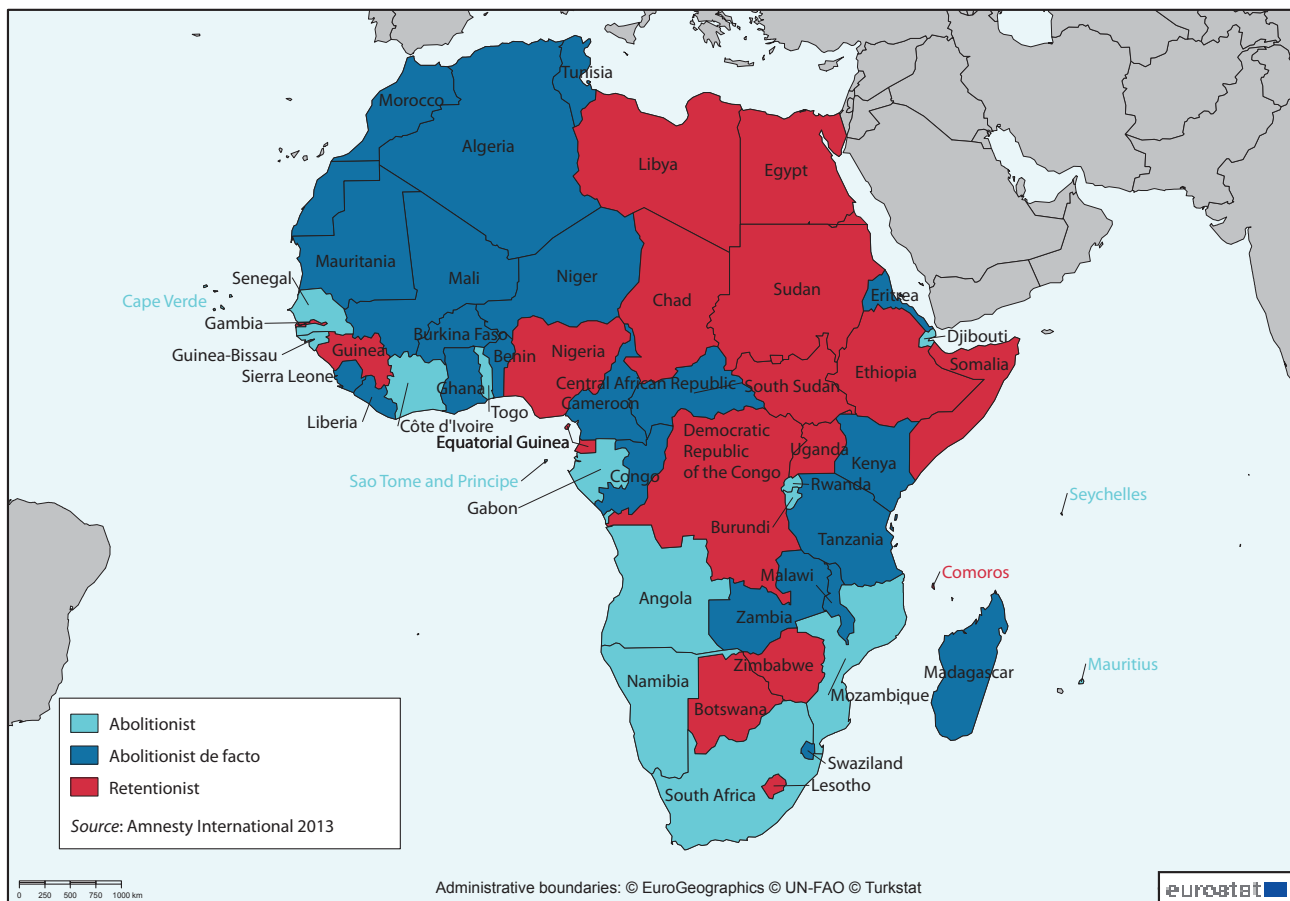
This Report was adopted by Chamber III, headed by Mr Karel PINXTEN, Member of the Court of Auditors, in Luxembourg at its meeting of 30 June 2015.

For the Court of Auditors



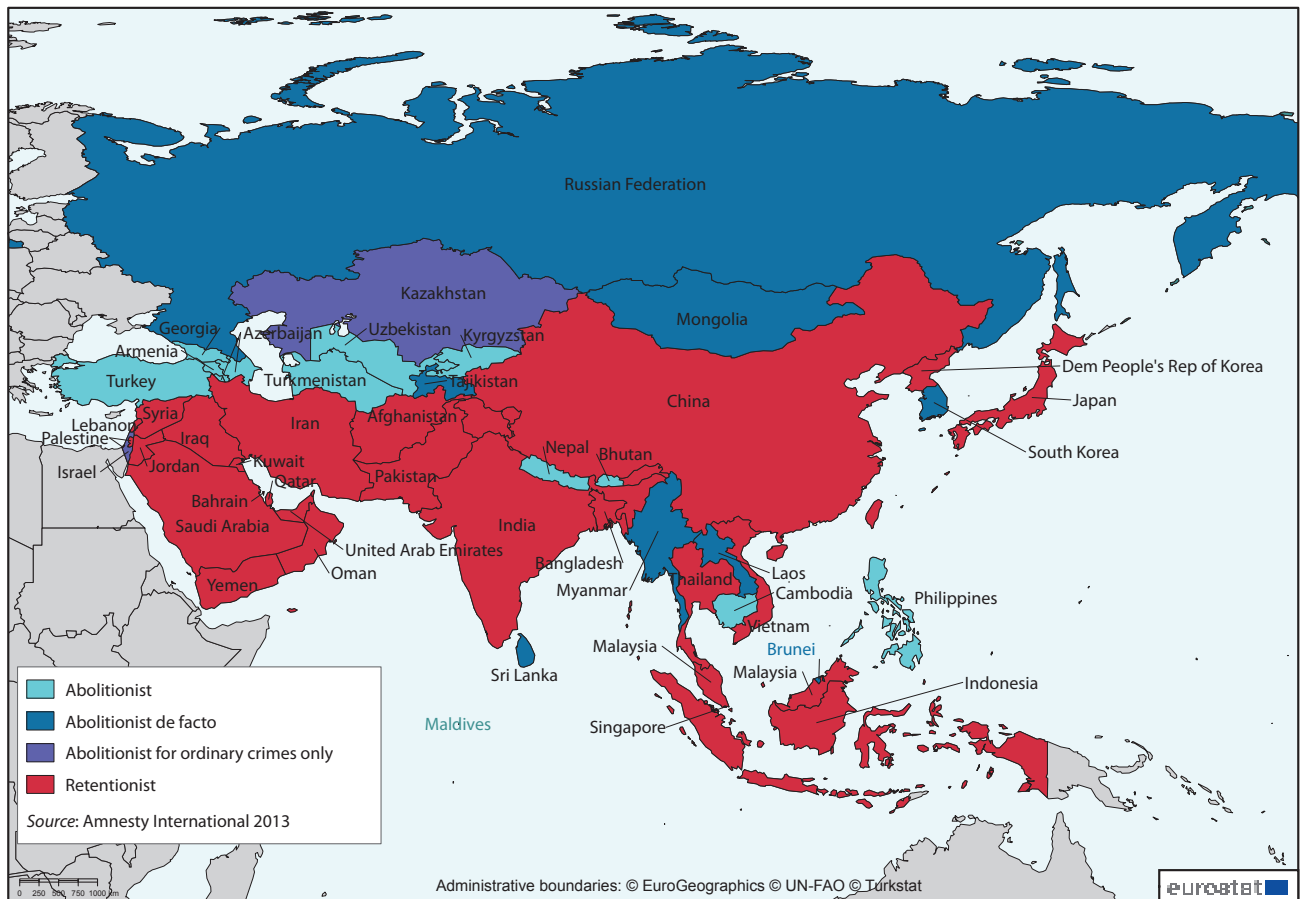
Vítor Manuel da SILVA CALDEIRA
President

The death penalty in Africa



Source: Eurostat.

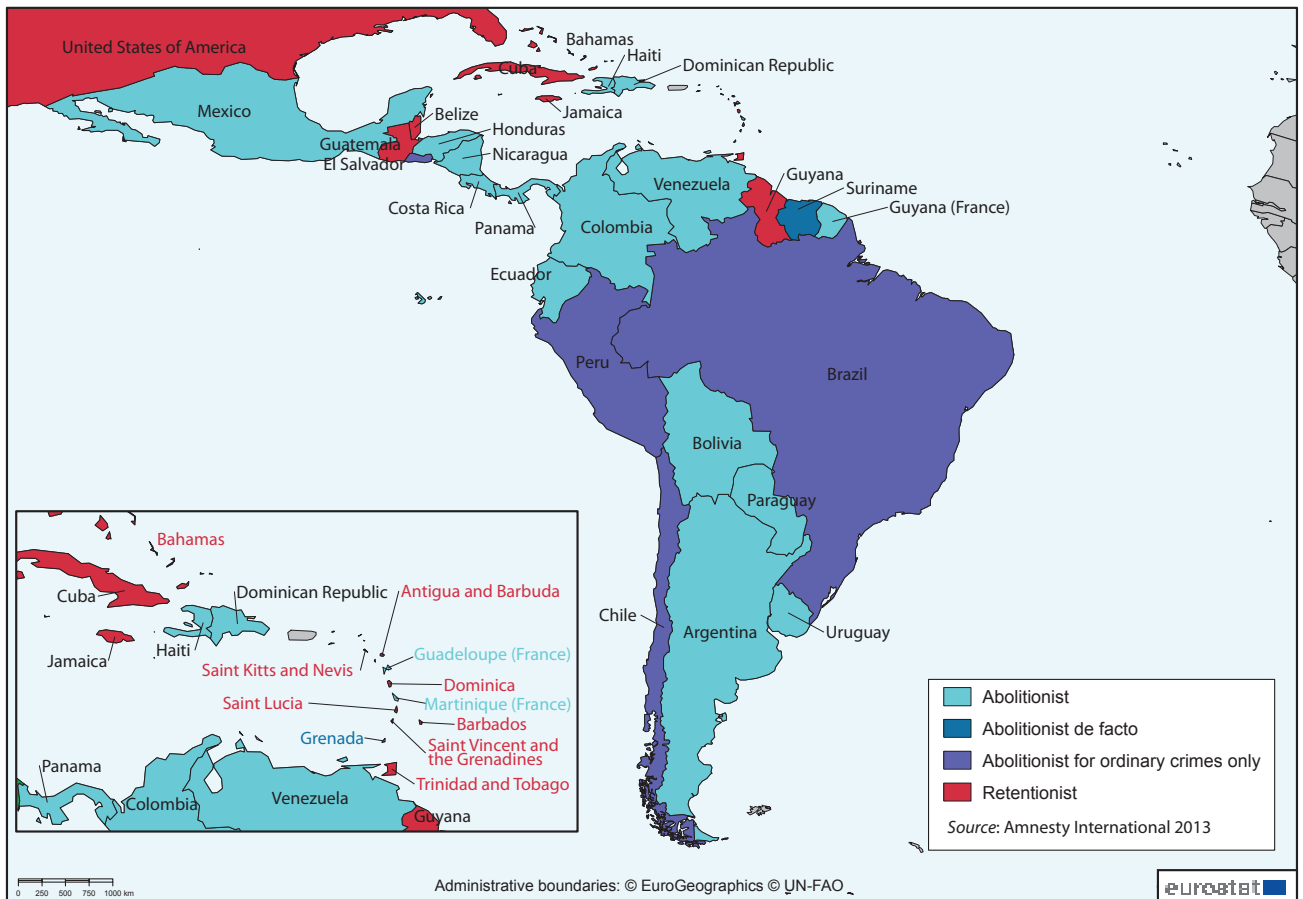
The death penalty in Asia



This designation shall not be construed as recognition of a State of Palestine and is without prejudice to the individual positions of the Member States on this issue.

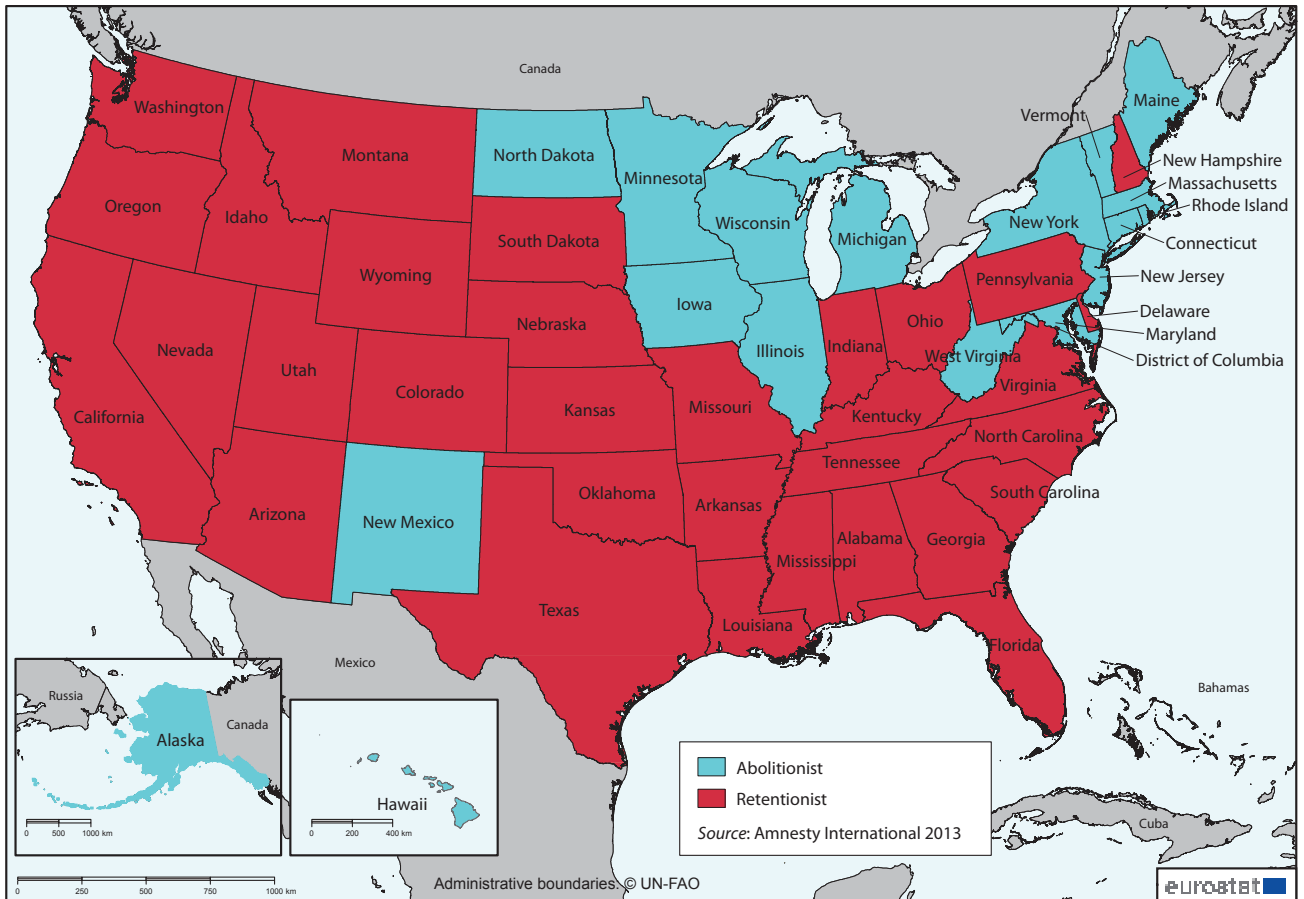
Source: Eurostat.

The death penalty in Latin America



Source: Eurostat.

The death penalty in the United States



Source: Eurostat.

Global calls for proposals 2007-2013

Call for proposal	Type and description	Subject	Topic	Grant amount per project (euro)	Duration	Amount initially allocated (euro)	Amount finally awarded (euro)
126-224	Global call 'Restricted Call for Proposals 2007'	Torture	Support to human rights and democracy actions on torture and other forms of ill-treatment Lot 1: Prevention of torture (30 % of the amount) Lot 2: Rehabilitation of victims of torture (70 % of the amount)	Minimum: 200 000 Maximum: 1 500 000	Minimum: 12 months Maximum: 36 months	22 000 000	22 171 837
127-238	Global call 'Open Call for Proposals 2008'	Death penalty	Actions supporting human rights and democracy issues covered by the EU guidelines on the death penalty	Minimum: 150 000 Maximum: 1 000 000	Minimum: 12 months Maximum: 36 months	4 000 000	8 244 166
128-815	Global call 'Restricted Call for Proposals 2009'	Torture	Support to human rights and democracy actions on torture and other forms of ill-treatment	Minimum: 200 000 Maximum: 1 500 000	Minimum: 18 months Maximum: 36 months	20 000 000	25 266 659
131-085	Global call 'Restricted Call for Proposals 2011'	Torture/ death penalty	Lot 1: Strengthening the role of civil society networks in promoting human rights and democratic reform <i>'=> not specifically related to torture; only 1 project of Lot 1 included in the audit scope</i> Lot 2: Actions supporting the EU guidelines on the abolition of death penalty	Minimum: 200 000 Maximum: 1 500 000	Minimum: 18 months Maximum: 36 months	Lot 1: 14 600 000 Lot 2: 7 000 000	Lot 1: 855 324 <i>(only related to project covered by the audit)</i> Lot 2: 6 618 135
132-762	Global call 'Restricted Call for Proposals 2012'	Torture	Fighting impunity on Lot 1: Civil society actions against torture and other cruel, inhuman or degrading treatment or punishment Lot 2: Civil society actions promoting the effective functioning of the International Criminal Court and the Rome Statute System <i>'=> Lot 2 not included in the audit scope</i>	Minimum: 500 000 Maximum: 1 500 000	Minimum: 24 months Maximum: 36 months	Lot 1: 16 215 000 Lot 2: 6 000 000	21 219 618

Source: European Commission.

Projects for which the Court's auditors reviewed the Commission's assessment of concept notes and full proposals

Country	Contract number	Call for proposal	Subject	Beneficiary	Project name	Grant amount (euro)	Reason for selection
Georgia	2008/148-044	2007/126-224	Torture	Association Justice and Liberty	Prevention of torture in military guardhouses.	204 961.00	Audited
	2008/148-184	2007/126-224	Torture	Empatia Association	Strengthening the system of rehabilitation for torture victims in Georgia	679 937.00	Audited
China	2008/148-024	2007/126-224	Torture	The Great Britain– China Centre	Prevention of torture in the PRC	787 966.00	Audited
Democratic Republic of the Congo	2008/148-156	2007/126-224	Torture	Solidarité Pour La Promotion Sociale Et La Paix Asbl	Assistance et réhabilitation des victimes de la torture en RDC	421 836.00	Audited
Argentina, Brazil, Madagascar, Morocco, Thailand and Turkey	2008/148-045	2007/126-224	Torture	Association for the Prevention of Torture	Preventing torture through the promotion of the optional protocol to the convention against torture in five target countries	986 306.00	Assessors' scores are significantly different
Moldova	2008/148-070	2007/126-224	Torture	United Nations Development Programme	Support for strengthening the national preventive mechanism as per OPCAT provisions	640 000.00	Assessor's scores are significantly different
Israel	2009/148-034	2007/126-224	Torture	Adalah —The legal centre for Arab minority rights in Israel	Combating and preventing torture and ill-treatment of Palestinian prisoners held in Israeli prisons and Palestinian civilians in the Occupied Palestinian Territory	638 651.00	Just fell short for selection
Argentina	<i>not contracted</i>	2007/126-224	Torture	Comité para la defensa de la salud, la ética profesional y los derechos humanos asociacion civil	Programa de asistencia y rehabilitación a víctimas de la represión y la tortura en contextos de acciones judiciales por crímenes de la humanidad	683 708.00	Just fell short for selection

Country	Contract number	Call for proposal	Subject	Beneficiary	Project name	Grant amount (euro)	Reason for selection
India	<i>not contracted</i>	2007/126-224	Torture	Stichting Interkerkelijke Organisatie voor Ontwikkelingswerking	Reducing the impact of conflict among disadvantaged groups in Nepal	530 243.00	Project name does not relate to the objective of the global call
Kenya	2008/148-075	2007/126-224	Torture	Independent Medico-Legal Unit	Initiative of holistic rehabilitation and prevention of torture project	1 058 322.00	Assessors' scores are significantly different
Georgia	2013/318-878	2013/132-762	Torture	Empatia Association	Caucasian anti-torture network: multi rehabilitation services for torture victims and fighting impunity	980 000.00	Audited
China	2013/318-802	2013/132-762	Torture	The Rights Practice Lbg	Fighting torture in China: strengthening the role of civil society	662 500.00	Audited
South Africa	2013/318-879	2013/132-762	Torture	Stichting Young In Prison (YIP)	Ending impunity in torture and cruel, inhuman and degrading treatment of children in prison in South Africa and Malawi	882 817.00	Audited
United Kingdom, London	2013/318-874	2013/132-762	Torture	The Redress Trust Limited LBG	Reparation for torture: global sharing of expertise Target countries: Kenya, Peru, Libya and Nepal (with some activities involving up to 15 countries in Africa, Asia, Latin America, the Middle East and Europe)	1 194 521.00	Audited
Democratic Republic of the Congo	2013/318-886	2013/318-886	Torture	Centre International Pour La Justice Transitionnelle Internationale Center For Transitional Justice Asbl	Complementarity in practice: strengthening the national judicial response to international crimes in the Democratic Republic of the Congo and Côte d'Ivoire	959 965.00	Audited

Country	Contract number	Call for proposal	Subject	Beneficiary	Project name	Grant amount (euro)	Reason for selection
Colombia	2013/318-801	2013/132-762	Torture	Corporación centro de atención psicosocial	Prevención y Atención Integral a personas y familias víctimas de tortura en Colombia y Ecuador	738 410.00	Just fell short for selection
ACP countries	2013/318-847	2013/132-762	Torture	Omega Research Foundation Limited	Towards stronger controls on the supply and use of torture technologies	1 059 387.00	Assessor's scores are significantly different
Uganda	2013/318-799	2013/132-762	Torture	African Centre For Treatment And Rehabilitation Of Torture Victims Non-Governmental Organisation	Strengthening and enhancing torture prevention, rehabilitation and accountability in east Africa	1 200 000.00	Assessors' scores are significantly different
United States	2009/167-748	2008/127-238	Death penalty	Murder Victim's Families For Human Rights Non Profit Corporation	Voices of victims against the death penalty	485 615.65	Audited
	2009/167-820	2008/127-238	Death penalty	The National Coalition To Abolish The Death Penalty	National Coalition to Abolish the Death Penalty intensive assistance programme	305 060.86	Audited
	2009/167-888	2008/127-238	Death penalty	Witness To Innocence Corporation	American DREAM campaign	374 944.62	Audited
	2009/211-244	2008/127-238	Death penalty	American Bar Association Fund	The death penalty assessments project: toward a nationwide moratorium on executions	708 162.00	Audited
China	2009/167-381	2008/127-238	Death penalty	The Great Britain China Centre	Promoting judicial discretion in the restriction and reduction of death penalty use	576 723.00	Audited
United Kingdom, London	2009/167-880	2008/127-238	Death penalty	Penal Reform International Uk	Progressive abolition of the death penalty and alternatives that respect international human rights standards	926 924.00	Audited
	2009/214-466	2008/127-238	Death penalty	Reprieve Lbg	Engaging Europe in the fight for US abolition	504 454.00	Audited

Country	Contract number	Call for proposal	Subject	Beneficiary	Project name	Grant amount (euro)	Reason for selection
United States	2009/167-889	2008/127-238	Death penalty	Death Penalty Information Center	Changing the course of the death penalty debate: a proposal for public opinion research, message development and communications on capital punishment in the US	193 443.00	Audited
All countries	2009/167-901	2008/127-238	Death penalty	International Harm Reduction Association	Restricting the death penalty for drug offences through human rights impact assessment (HRIA) of multilateral drug enforcement assistance for death penalty states	292 565.00	Assessors' scores are significantly different
Benin, Burkina Faso, Burundi, Congo Brazzaville, Lesotho, Liberia, Malawi, Mali, Niger, Central African Republic, Central Asian Republics, Caribbean: 25 countries	2009/167-753	2008/127-238	Death penalty	Comunita Di S Egidio Acapas-sociazione Cultura Assistenza Popolare	Du moratoire à l'abolition de la peine capitale. Promotion du rôle de la société civile au plan international et synergies politico-institutionnelles	725 000.00	Just fell short for selection
Belarus	<i>not contracted</i>	2008/127-238	Death penalty	Associazione Terra del Fuoco	Running for rights	203 000.00	Project name does not relate to the objective of the global call

Country	Contract number	Call for proposal	Subject	Beneficiary	Project name	Grant amount (euro)	Reason for selection
United States	2012/297-076	2011/131-085/2	Death penalty	Witness to Innocence Corporation	Eyes wide open project	850 032.14	Audited
	2012/297-078	2011/131-085/2	Death penalty	Equal Justice USA Inc Corporation	Breaking barriers: engaging new voices to abolish the death penalty in the United States	495 014.31	Audited
China	2012/297-072	2011/131-085/2	Death penalty	Beijing Normal University	'Use less' – Judicial restraints on the use of the death penalty in China	938 783.76	Audited
United Kingdom, London	2012/297-079	2011/131-085/2	Death penalty	Penal Reform International UK LGB	Progressive abolition of the death penalty and implementation of humane alternative sanctions after a moratorium or abolition	864 038.00	Audited
	2012/297-080	2011/131-085/2	Death penalty	Reprieve LGB	Engaging Europe in the fight for abolition in the US, MENA and south-east Asia	715 477.00	Audited
Jordan	<i>not contracted</i>	2011/131-085/2	Death penalty	Women for Cultural Development	Ma' Alhaya (All for life)	479 666.80	Assessors' scores are significantly different
United States	<i>not contracted</i>	2011/131-085/2	Death penalty	Nevada Coalition against the Death Penalty	Coordinated Nevada	358 153.00	Just fell short for selection
Lebanon	<i>not contracted</i>	2011/131-085/2	Death penalty	Association Justice et Miséricorde	Lutte pour l'abolition de la peine de mort au Liban	1 200 000.00	Assessors' scores are significantly different
Georgia	2010/222-921	2010/128-815	Torture	Georgian Centre For Psycho-Social And Medical Rehabilitation For Torture Victims	Ensuring access to rehabilitation services for people affected by torture and contribution to the prevention of torture in Georgia	766 000.00	Audited
South Africa	2010/222-102	2010/128-815	Torture	University Of Cape Town	Harnessing African institutions for the prevention and combating of torture and other ill-treatment in six African states — the development and implementation of operational standards.	1 194 359.00	Audited

Country	Contract number	Call for proposal	Subject	Beneficiary	Project name	Grant amount (euro)	Reason for selection
Democratic Republic of the Congo	2010/222-810	2010/128-815	Torture	Coopi - Cooperazione Internazionale	Projet de prévention, protection et réhabilitation des victimes de VS et de leurs communautés et au renforcement des capacités communautaires et étatiques à l'Est de la RDC	1 395 000.00	Audited
United Kingdom, London	2010/222-086	2010/128-815	Torture	Penal Reform International	Strengthening institutions and building civil society capacity to combat torture in nine CIS countries	1 130 583.00	Audited
	2010/222-733	2010/128-815	Torture	The Redress Trust Limited Lbg	Reparation for torture: global sharing of expertise	1 033 805.00	Audited
Benin	2010/223-216	2010/128-815	Torture	Care France Association	ETODE: Pour la justice et les droits des femmes et des filles	1 159 409.00	Just fell short for selection
Nigeria	<i>not contracted</i>	2010/128-815	Torture	Concern Universal	Preventing women's ill-treatment/Rehabilitating widows in CRS and Eboyni State	313 060.00	Assessors' scores are significantly different
Turkey	<i>not contracted</i>	2010/128-815	Torture	Roh Saglig-inda Insan Haklari Girişimi (Human Rights in Mental Health Initiative)	Project for creating a civic monitoring system in the mental health field	380 000.00	Project name does not relate to the objective of the global call

Source: European Commission.

Grants examined

Country	Contract number	Call for proposal	Subject	Beneficiary	Project name	Grant amount (euro)
United Kingdom, London	2013/318-874	2013/132-762	Torture	The Redress Trust Limited LBG	Reparation for torture: global sharing of expertise Target countries: Kenya, Peru, Libya and Nepal (with some activities involving up to 15 countries in Africa, Asia, Latin America, the Middle East and Europe)	1 194 520.70
	2009/167-880	2008/127-238	Death penalty	Penal Reform International UK LBG	Progressive abolition of the death penalty and alternatives that respect international human rights standards	926 924.40
	2009/214-466	2008/127-238	Death penalty	Reprieve LBG	Engaging Europe in the fight for US abolition	504 454.40
	2012/297-079	2011/131-085/2	Death penalty	Penal Reform International UK LBG	Progressive abolition of the death penalty and implementation of humane alternative sanctions after a moratorium or abolition	864 037.60
	2012/297-080	2011/131-085/2	Death penalty	Reprieve LBG	Engaging Europe in the Fight for abolition in the US, MENA and south-east Asia	715 476.94
	2010/222-086	2010/128-815	Torture	Penal Reform International UK LBG	Strengthening institutions and building civil society capacity to combat torture in nine CIS countries	1 130 583.00
	2010/222-733	2010/128-815	Torture	The Redress Trust Limited LBG	Reparation for torture: global sharing of expertise	1 033 805.00
China	2008/148-024	2007/126-224	Torture	The Great Britain–China Centre	Prevention of torture in the PRC	787 966.00
	2013/318-802	2013/132-762	Torture	The Rights Practice LBG	Fighting torture in China: strengthening the role of civil society	662 500.00
	2009/167-381	2008/127-238	Death penalty	The Great Britain–China Centre	Promoting judicial discretion in the restriction and reduction of death penalty use	576 723.00
	2012/297-072	2011/131-085/2	Death penalty	International Death Penalty Research Centre, Beijing Normal University	'Use less' — Judicial restraints on the use of the death penalty in China	938 783.76
Democratic Republic of the Congo	2008/148-156	2007/126-224	Torture	Solidarite Pour La Promotion Sociale Et La Paix Asbl	Assistance et réhabilitation des victimes de la torture en RDC	421 836.00
	2013/318-886	2013/132-762	Torture	Centre International Pour La Justice Transitionnelle International Center For Transitional Justice Asbl	Complementarity in practice: strengthening the national judicial response to international crimes in the Democratic Republic of the Congo and Côte d'Ivoire	959 965.00
	2010/222-810	2010/128-815	Torture	Coopi — Cooperazione Internazionale	Projet de prévention, protection et réhabilitation des victimes de VS et de leurs communautés et au renforcement des capacités communautaires et étatiques à l'Est de la RDC	1 395 000.00

Country	Contract number	Call for proposal	Subject	Beneficiary	Project name	Grant amount (euro)
Democratic Republic of the Congo	2012/307-100	132-685	Torture	Solidarite Pour La Promotion Sociale Et La Paix Asbl	Assistance aux survivants de la torture et actions de prévention (Monitoring, plaidoyers et sensibilisation) contre la torture en RD Congo	131 500.00
	2013/308-415	132-685	Torture	Ligue De La Zone Afrique Pour La Defense Des Droits Des Enfants Etudiants Et Eleves Asbl	Monitoring et suivi d'instructions des dossiers judiciaires des femmes et enfants victimes des violences sexuelles et basées sur le genre	103 300.00
	2009/224-243	128-135	Torture	Ligue De La Zone Afrique Pour La Defense Des Droits Des Enfants Etudiants Et Eleves Asbl	Renforcement d'un kiosque juridique et de soutien psychologique concernant les violences faites aux femmes	61 463.00
Georgia	2008/148-044	2007/126-224	Torture	Association Justice And Liberty	Prevention of torture in military guardhouses.	204 961.00
	2008/148-184	2007/126-224	Torture	Empatia Association	Strengthening the system of rehabilitation for torture victims in Georgia	679 937.00
	2013/318-878	2013/132-762	Torture	Empatia Association	Caucasian anti-torture network: multi rehabilitation services for torture victims and fighting impunity	980 000.00
	2010/222-921	2010/128-815	Torture	Georgian Centre For Psycho-Social And Medical Rehabilitation For Torture Victims	Ensuring access to rehabilitation services for people affected by torture and contribution to the prevention of torture in Georgia	766 000.00
South Africa	2013/318-879	2013/132-762	Torture	Stichting Young In Prison (Yip)	Ending impunity in torture and cruel, inhuman and degrading treatment of children in prison in South Africa and Malawi.	882 817.00
	2010/222-102	2010/128-815	Torture	University Of Cape Town	Harnessing African institutions for the prevention and combating of torture and other ill-treatment in six African states — The development and implementation of operational standards.	1 194 359.00
	2012/302-948	131-543	Torture	The Greater Nelspruit Rape Intervention Project Group	Sexual assault and domestic violence rights programme.	173 317.00

Country	Contract number	Call for proposal	Subject	Beneficiary	Project name	Grant amount (euro)
United States	2009/167-748	2008/127-238	Death penalty	Murder Victim's Families For Human Rights	Voices of victims against the death penalty	485 615.65
	2009/167-820	2008/127-238	Death penalty	The National Coalition To Abolish The Death Penalty	National coalition to abolish the death penalty intensive assistance program	305 060.86
	2009/167-888	2008/127-238	Death penalty	Witness To Innocence	American DREAM campaign	374 944.62
	2009/211-244	2008/127-238	Death penalty	American Bar Association	The death penalty assessments project: toward a nationwide moratorium on executions	708 162.00
	2009/167-889	2008/127-238	Death penalty	Death Penalty Information Center	Changing the course of the death penalty debate: a proposal for public opinion research, message development, and communications on capital punishment in the US	193 443.00
	2012/297-076	2011/131-085/2	Death penalty	Witness To Innocence	Eyes wide open project	850 032.14
	2012/297-078	2011/131-085/2	Death penalty	Equal Justice USA Inc Corporation	Breaking barriers: engaging new voices to abolish the death penalty in the United States	495 014.31

Source: European Commission.

Executive summary

IV

The Commission and the EEAS are fully convinced of the effectiveness of the EIDHR as one of several instruments in the fight against torture and the death penalty, a belief widely shared by the human rights community at large. This is evidenced for instance by the American Bar Association's public acknowledgment of the role of an EIDHR grant in the abolition of the death penalty in the state of Pennsylvania.

V

The EIDHR is fully consistent with the European Union's human rights priorities, both globally and for individual countries. The nature and objectives of the EIDHR put human rights organisations in the driving seat and give them an effective and practical tool to reach their own policy objectives, while at the same time helping to reach those of the EU — a win-win situation. The grants award procedures on which the EIDHR is based are strictly and transparently implemented, a notable feat considering the very large number of applicants across the world under each call and the inherent difficulty in assessing applications in a field — human rights protection — that does not lend itself easily to quantifiable assessments. The EIDHR covers actions in very complex political situations and often difficult country settings, considering that human rights objectives are not easily achievable even under the most favourable conditions. The exceedingly low number of complaints or litigation related to the EIDHR — and indeed the persistently high number of applications in each call for proposals (a total of ca. 1 200 concept note applications under the calls for proposals studied by the Court) — show that this view is also shared by the global human rights community at large. The Commission therefore fully intends to continue with the EIDHR as a demand-driven process encouraging civil society organisations to design their projects in line with their administrative, operational and geographical capacities and their own strategy.

While the need for greater coherence and synergies with other EU efforts in order to achieve a greater human rights impact is acknowledged, our services are already working in this direction, keeping in mind the delicate balance between EU human rights priorities, the relevance of projects and the capacity and ownership of partner civil society organisations. We aim, however, to select the best projects. The fight against torture and the death penalty figures among EU's global priorities. This is reconfirmed in the communication on the EU human rights action plan for 2015-2019. Therefore, torture not being explicitly mentioned among the priorities in a specific country does not exclude projects against torture from taking place in that country.

Finally, the requirements of transparency, as well as fair and equal treatment of grant applicants, should be taken into account during the award procedure, especially in view of the very high number of applicants.

VI

Projects funded under the EIDHR programme produce sustainable results and are cost-effective. The substance of these projects being often of a highly political nature, easily quantifiable metrics will not be available, unlike for instance road-building projects. Moreover, human rights initiatives are inherently dependent on a political and legal context which no donor can presume to control. A very natural paradox in the human rights field is that the most urgently needed actions take place in the most difficult contexts.

The EU is one of the very few donors supporting financially the fight against torture and the abolition of the death penalty. In many cases, it is the only one. That is why our partner organisations are relying heavily on our support. The Commission is trying to mitigate the consequences of such a reliance in collaboration with the few other donors in this field (for example the UN Voluntary Fund for Victims of Torture or EU Members States' Task Force on torture) in order to ensure as much coordination and coherence as possible.

Please also refer to our reply to paragraph 33.

VII

Of the six recommendations made by the Court, the Commission accepts one, partially accepts three and does not accept the remaining two recommendations.

Introduction

05

The strong commitment of the EU towards the eradication of torture and ill treatment and the abolition of the death penalty has been reinforced in the newly adopted action plan on human rights and democracy for the period 2015-2019.

Observations

14

In order to respond to the needs and in accordance with its worldwide mandate, the EIDHR is working through a strategic combination of targeted projects, calls for proposals and emergency funds managed by both headquarters and delegations, using procedures allowed for under the current legal framework for grants awards.

The call for proposals is the first implementing modality of the instrument. It is based on a partnership with civil society organisations and favours a bottom-up approach that encourages civil society organisations to design their projects in line with their administrative, operational and geographical capacities and their own strategy.

The second implementing modality of the EIDHR allows for targeted projects designed as a means of filling in the gaps in the call for proposals process in line with political priorities in the most difficult countries. This flexibility is reinforced in the annual action programme for 2015 and 'aims at supporting actions in a flexible and reactive way through direct awards in proven situations of short-, mid- to long-term human rights crises, where the publication of a call for proposals would be inappropriate or impossible, and/or where funding organisations working for human rights and their defenders prove to be seriously hampered'.

These two implementing modalities are complementary and allow for a worldwide coverage in line with the EIDHR mandate.

15

Depending on local circumstances (overall political climate, room for human rights advocacy discourse) and with the agreement of EU heads of mission, the main priorities of the local human rights country strategy can be made public. However, public communication of these priorities should be avoided if it is assessed that this would be detrimental to the implementation of the strategy.

In addition, what matters is that the priorities in the human rights country strategies are known to those who are in charge of EIDHR implementation.

16

In addition to calls for proposals, other implementing modalities are in place through the EIDHR, such as targeted actions.

Please refer to our reply to paragraph 14.

17

The nature and objectives of the EIDHR put human rights organisations in the driving seat and give them an effective and practical tool to reach their own policy objectives while at the same time helping to reach those of the EU — a win-win situation. Complementarity and coherence between funding and political priorities are of course fundamental, keeping in mind the delicate balance between factors such as EU human rights priorities, the relevance of projects and the capacity and ownership of partner civil society organisations. In addition, the progressive implementation of a rights-based approach to development aims at reinforcing the coherence of our support.

Under the global calls, the Commission is favouring a bottom-up approach in its procedures and defines its priorities in close consultation with civil society organisations. The EIDHR therefore promotes a non-prescriptive approach and encourages civil society organisations to design their projects in line with their administrative, operational and geographical capacities and their own strategy.

By their nature, global calls for proposals are targeting more sensitive actions that are difficult to implement at national level or to be tackled through local calls for proposals.

In the context of local calls, the Commission factors into the award and selection criteria the contextual risks and sensitivities, as well as coherence with the EU human rights strategy.

The fact that it is not explicitly mentioned in the human rights country strategy is not a reason not to finance a project in the country in order to fight torture or the death penalty. The global nature of the theme means there is a need to build global awareness and advocacy to strengthen impact in multilateral fora.

The process of human rights country strategies (HRCSs) is relatively recent.

With regards to Georgia, two out of three projects evaluated were drafted before the approval of the HRCS by the Council on 10.5.2011. Also, the political context has played an important role in pushing for a response and support for the fight against torture in Georgia.

In South Africa, the fight against torture was not included in the five priorities of the HRCS. However, the fight against torture was introduced as a priority in the 2014 local call for proposals in South Africa. Consequently, the EU delegation in Pretoria took the view that the theme of support had become a human rights priority.

18

The approach chosen ensures a holistic approach and had been discussed with civil society organisations to address adequately the variety of challenges facing organisations working on these issues and ensuring the best results. Nevertheless, the Commission acknowledges that there is still room in the global call for proposals selection process to better define, increase targeting and define suggested activities. The Commission has hence been working towards an even more targeted focus in the call for proposals, notably in the global EIDHR call for proposals for 2015, which will be launched in July 2015.

19

While the need for coherence and synergies with other EU efforts in order to achieve a greater human rights impact is acknowledged, our services are already working in this direction, keeping in mind the delicate balance between EU human rights priorities, the relevance of projects and the capacity and ownership of partner civil society organisations. We aim however to select the best projects.

The EIDHR has a worldwide mandate. In order to fulfil its mandate, the EIDHR follows an approach combining coherent and complementary tools: the global calls for proposals (thematic target), the local calls for proposals (thematic and geographical target) and the targeted projects (for the most difficult cases) as well as the emergency fund.

Please also refer to our reply to paragraph 17.

Regarding human right dialogues, the EEAS and the Commission take into account the comment from the Court and would like to highlight a few points: The agenda of the human rights dialogues is agreed between the country and the EEAS, in consultation with the delegation, DG International Cooperation and Development and other Commission services. It aims to address the priorities that have been identified in the human rights country strategies and/or the national human rights strategies. Given the political nature of the exercise, the agenda can vary to ensure focused discussion on some key priorities rather than to cover all priorities each time. This does not mean that the objectives of the EIDHR projects are not reflected in the overall dialogue between the country and the EU.

The EIDHR projects on the death penalty follow almost in totality the elements of the policy as laid out in the EU human rights guidelines on the death penalty, i.e. resting on three pillars (total abolition, moratorium, respect for minimum standards). However, the fact that the issues raised in human rights dialogues with third countries do not fully coincide with the projects is not a case of lack of consistency. The case of the United States provides such an example. During the bilateral consultations, the EU informs the American side about its general initiatives on death penalty as well as

specific actions in the US. The latter however is for information purposes only as regards the official US administration, as the death penalty actions in this country are addressed at state level, with the respective governors and boards of parole where the death row inmate is incarcerated.

In the Democratic Republic of the Congo, the Soprop project was implemented in parallel with the Apropdep on death penalty abolition (2007-2009) and with the EU political dialogue with the DRC. Even if the law on the abolition of the death penalty was not passed in the parliament, the debates around the law were already an opportunity to promote a public debate.

20

In order to move toward a rights-based approach (RBA), encompassing all human rights for EU development, several concrete steps have already been taken:

- Mainstreaming of the RBA-based approach into procedures and templates: identification fiche for aid modalities, Commission project monitoring system (ROM — results-oriented monitoring) for projects and programmes results and outcomes and the Commission grid of criteria for the evaluation of projects. In addition, the drafting of roadmaps for engagement with civil society organisations has been adapted by integrating key elements of the RBA.
- The RBA has already been integrated as a principle in the EU programming for the justice sector in Niger and Zimbabwe, as well as in the programming of EU aid in Peru.
- Training sessions have been held for (a) heads of cooperation, (b) human rights, (c) gender, (d) CSOs, (e) local authorities (f) justice sector focal points in delegations, as well as staff at DG International Cooperation and Development headquarters.

- A prior information notice for the elaboration of a general training pack and the provision of technical assistance to delegations was published in late July 2014. A service contract notice is now under preparation with detailed information on the nature as well as the scope of the required service.

22

The standardised evaluation grids and other guidance documents provide for a rigorous and consistent assessment of grant applications, whether at the concept note or full application stage, especially taking into account the very large number of applications under EIDHR calls for proposals.

22 (a)

The assessor's special attention is drawn to an extensive paragraph of a document called 'Guidelines for assessors' currently in use as an integral part of the annexes to the 'Practical guide for procurement and grants for EU external action' (PRAG) since 2013. In this document, assessors are strongly reminded that it is of the utmost importance that they provide the evaluation committee with fully pertinent and well-justified comments for each subsection of the evaluation grid and that these comments should be consistent with the corresponding scores. In addition, an information session is organised with all assessors prior to the evaluation process in order to reply to all their potential questions on the criteria of the evaluation grid. The flow of communication between the European Commission and the team leader is ensured during the whole process.

22 (b)

With the project remaining the same between these two stages (concept note and full application), the necessity to proceed with a fresh assessment on the relevance was not considered to be imperative. However, the new version of the PRAG to be issued in July 2015 will allow for the evaluator to reassess the relevance on the basis of the full proposal on an ad hoc basis.

22 (c)

On the one hand, evaluation grids have to be detailed enough to allow for a comprehensive evaluation of the applications. On the other hand, they must remain manageable for the evaluators in order to be filled in within a reasonable lapse of time. Separating every single aspect of each criterion would also increase the risk of overlapping, meaning that the same detail would be evaluated under several criteria. The Commission does not therefore intend to change the current grid templates at this stage.

22 (d)

The minimum requirement approach applies to calls for tenders, where the contracting authority outlines in detail the service, works or supplies it wants to purchase and imposes minimal requirements that have to be met by tenderers. It is not feasible to apply such an approach to grants, where the applicant defines its action. It is not realistically conceivable that the Commission could design specific requirements as to the feasibility or impact of actions that might vary considerably from each other and whose content is unknown beforehand to the Commission.

23

Since 2013, the guidelines for assessors have been part of the PRAG (Annex e 4b), and Section 3.2 of that document makes the inclusion of comments under each criterion mandatory. Furthermore, the recent practice, since 2012, has been to hold a 1-day training session for external assessors where all aspects of their work are addressed.

Please also refer to our reply to paragraph 22 (a).

In addition, the Commission would like to clarify that the assessment of the holistic approach (which implies partnership between organisations) has not been integrated in the evaluation grid. This decision has been made on purpose to leave the possibility for very good projects targeting only one or two of the factors that are relevant to the fight against torture to be selected for funding. The guidelines strongly recommended partnerships between organisations but did not make that compulsory.

This point was clarified in the guidelines for assessors and also during the 1-day briefing with external assessors.

24

The number of cases being commented upon should be seen in the context of the total number of concept notes (1 193) and full proposals (316) managed and assessed under those calls.

The procedure has furthermore been tightened in the meantime, with the adoption in 2013 of the 'Guidelines for assessors'. Please refer our reply to paragraph 22 for further details.

24 (a)

Please refer to our reply to paragraph 24.

25

As regards the cases where reassessment could take place, please note that according to Section 6.4.8.6 of the PRAG, *'the evaluation committee may decide to approve the ranking drawn up by the secretary on the basis of the assessors' report. If the committee does not accept the scores awarded by the assessors to a proposal, for example where there is a significant difference between the scores awarded by the assessors, it must justify this decision in the evaluation report'*.

Performing reassessments is an option, which explains why any discrepancy in scores is not an absolute criterion, especially with a view to the large number of applications in EIDHR calls for proposals.

26

The size of a grant is not related to its expected impact, especially in a field such as human rights that does not lend itself to straightforward quantification. The EIDHR is tackling sensitive issues in often difficult political contexts and its implementation requires thorough and time-consuming management. The capacity of grants beneficiaries is therefore essential to achieving the objectives of the programme. Increasing workloads taken together with the principle of sound administrative management also make the increase in the average value of grant contracts absolutely inescapable. This is the main reason for the increase in the minimum amounts of grants and for the increased use of sub-granting flexibility (financial support to third parties).

27

Smaller organisations continue to apply to global calls for proposals usually in partnership with more established partners. In many calls for proposals, partnership is strongly recommended, especially for actions with a global or regional transnational scope. This allows for instance smaller organisations to increase their capacities and access EU funds.

For the past 4 years, the Commission has organised a civil society seminar before the launch of the global calls for proposals to provide the opportunity for local organisations (but not only) to familiarise themselves with the EIDHR and its procedures. In 2014, the EIDHR Forum gathered more than 500 participants including grass-roots (sponsored) organisations.

In addition, EU delegations organise locally dedicated training sessions on EU procedures for local organisations (project cycle management etc.).

28

The Commission carefully assesses the situation on a case-by-case basis in order to ensure that a beneficiary organisation has the capacity and the technical skills to carry out a particular project. Nevertheless, the financial capacity of applicants is only one of the criteria taken into account to evaluate a proposal. Sometimes, the NGO supported may very well be the only one able to act in a very sensitive environment. The Commission's role is also to assist and accompany smaller organisations in the implementation of the grant and strengthening their managerial capacity.

29

The EIDHR is designed to support civil society organisations to become an effective force for political reform and defence of human rights. Therefore, the EIDHR favours a demand-driven approach that encourages civil society organisations to design their projects in line with their administrative, operational and geographical capacities as well as with their own strategy.

29 (a)

The Commission uses several implementing modalities which allow for a geographical and thematic coverage in line with the EIDHR mandate.

Please refer to our reply to paragraph 14.

Moreover, the Commission would like to recall that the fight against torture and the abolition of the death penalty are long-term processes. The impact and the results of the projects are difficult to quantify in most of the cases and relate to qualitative rather than quantitative information. This factor is however recurrent in assessing projects in the human rights field, given the nature of human rights projects.

Finally, there are indeed countries where there is very little potential for human rights improvement in the short term. However, the Commission strongly believes that this should not prevent the EIDHR from supporting civil society organisations and remaining engaged in these countries, especially when it is one of the only remaining sources of funding in such a very sensitive field. Promoting a debate, increasing awareness and advocacy are an effective approach.

29 (b)

The Commission would like to underline that:

- (1) The organisations working on such sensitive issues are often facing threatening situations. By their very nature, human rights activities target ambitious goals that might be seen as idealistic or overambitious. It should furthermore be noted that some human rights objectives are absolute by their nature — for example the absolute prohibition of torture, slavery or racial discrimination — but the relevance of these objectives lies in specific, realistic activities and outcomes that respond to the main needs of the targeted group and in achieving sustainable and permanent impact.
- (2) The burden of improving the human rights situation in any given country falls mainly on the national governments, something that is particularly true in the implementation of projects related to torture prevention and the death penalty. The political will of the government or its ministries is difficult to pre-empt and the evolution of the political context can impact the implementation of the projects positively or negatively. Indeed, if a government is willing to abolish capital punishment or torture, funding an action with the same aim might be considered redundant.

29 (c)

Please refer to our reply to paragraph 33.

30

The legal framework applying to calls for proposals precludes any modification of the proposal save for non-substantial aspects (see Article 204 of the Rules of Application for the Financial Regulation (RAP)) or negotiations with putative beneficiaries. Applicants may only be requested to clarify supporting documents or submit missing information. The requirements of transparency as well as fair and equal treatment of grant applicants therefore preclude any wholesale renegotiation of applicants' projects during the award procedure, especially in view of the very high number of applicants. We also refer to our replies to the observations on the respective role of assessors and the evaluation committee for paragraphs 22, 23, and 24 above.

33

The organisations working on such sensitive issues often face threatening situations, have limited capacities and sometimes experience difficulties in complying with EU procedures. The Commission would also like to highlight that EU delegations and headquarters regularly organise information and training sessions on EU procedures including project cycle management, in order to tackle as much as possible the lack of awareness and expertise of civil society organisations.

34

It should be underlined that the total amount for activities not taking place is invariably deducted from the final payment.

36

This observation refers to one out of many potential risks that the authorising officer has to take into account.

37

The Commission does not share the ECA's observation. Suboptimal cost-effectiveness of expenditure is marginal when compared to the total number of contracts under these EIDHR calls.

Furthermore, although calls for proposals and calls for tenders respond to the same principles of transparency, fairness and equality of treatment, the nature and requirements of procurement and grant contracts are substantially different. Grants typically preclude profit-making and imply that the ownership of the project rests squarely with the beneficiary, while tenders allow for profit-making and involve the full transfer of deliverables to the Commission, including property rights. In any case, cost-effectiveness of the expenditure is not necessarily linked to the type of procedure chosen.

Finally, tendering procedures are defined in Article 101 of the Financial Regulation as concerning '*contracts for pecuniary interest concluded in writing between one or more economic operators and one or more contracting authorities*'. It is not clear how this could be generally useful in the human rights field, where few economic operators venture.

38

Historically speaking, organisations with the most specific expertise in the field of the fight against torture, ill-treatment and the death penalty are based in Europe (e.g. London, Copenhagen, Geneva) and the United States. They are working at a global level and are fulfilling a key role in terms of advocacy to the human rights international bodies. Cost-effectiveness considerations should be balanced with regards to the added value and unique expertise of these organisations.

Given the type of projects usually funded by the EIDHR (capacity building, trainings, advocacy, etc.), the funds dedicated to human resources often represent a substantive part of the global budget. Salaries in Europe or in the United States are indeed much higher than those applying in most third countries.

39

Indirect costs calculated as a percentage of direct eligible costs are a long-established practice through the PRAG contractual templates. They are defined in Article 14 of the general conditions of the grants contract, and correspond to costs that cannot be directly attributable to the action. That definition is often completed by a more detailed breakdown of costs in Annex III (budget) of the grants contract.

40

The EIDHR is working in a sensitive and complex context where the impact is difficult to quantify and progress sometimes slow, particularly in the most difficult cases.

41

These difficulties, while real, are inherent to any activity in the human rights field in third countries. Please also refer to our replies to paragraphs 29, 32 and 43.

43

The field of human rights does not, by its very nature, lend itself to straightforward quantitative measurement. Please refer to our reply to paragraph 41.

If the objectives and targets are well-defined, even if they are modest, and if the project is successful in reaching them, the impact is not necessarily limited. In particular, the development of a methodology for a specific target can have a huge impact on future projects and therefore on the long-term objective of the project.

Many examples can be cited within the projects under examination by the Court. One project in the Democratic Republic of the Congo was focusing on women and children victims of domestic and sexual violence. The methodology proposed by the NGO was to develop a model for the sustainability of care rooms aiming to provide assistance to survivors of rape as a form of ill-treatment (ill-treatment is assimilated to torture under international law). If successful (the project is still ongoing) this methodology will be then applied to other areas and could have a multiplier effect.

Finally, the Court highlights the case of a project in Georgia which focused on a very small group: detainees within the army. This project shows that prevention plays an extremely positive role even if not immediately visible from the outside. On the long-term outcome, the project allowed for the first time the monitoring by civil society of army guardhouses and indirectly supported an informed decision of the Georgian government to set up national preventive monitoring under the Public Defender's Office.

44

The outcome of legal support is always uncertain. Nevertheless, the few positive cases that can be won with the support of the EIDHR have had a great impact and created a precedent. Moreover, the impact should not be limited to the outcome of the specific cases or court decisions but should include all intermediary steps that can be strategic for other cases and should be evaluated with a long-term perspective.

Please refer to our replies to paragraphs 43 and 45.

45

Projects funded under the EIDHR programme produce sustainable results and are cost-effective. The substance of these projects being often of a highly political nature, easily quantifiable metrics will not be available, unlike for instance for road-building projects. Moreover, human rights initiatives are inherently dependent on a political and legal context which no donor can presume to control. A very natural paradox in the human rights field is that the most urgently needed actions take place in the most difficult context. Moreover, the fight against the death penalty and torture is a long-term process. Given the nature of such projects and the sensitivity of the contexts in which it operates, the Commission recognises that the impact has been difficult to quantify. It is necessary to remain active in such contexts, in line with the objectives and worldwide scope of the EIDHR.

In addition, the field of human rights does not, by its very nature, lend itself to straightforward quantitative measurement.

In line with the bottom-up approach, potential beneficiaries identify the objectives, geographic scope activities and final beneficiaries of proposed projects in line with their (administrative, operational and geographical) capacity and strategy. Consequently, activities proposed by applicants may indeed be overambitious and potentially not have the desired impact.

45(a)

Even though the governments of Belarus, Russia and Tajikistan have not shown any indication of ratifying the optional protocol of the convention against torture this does not mean that activities should not be implemented in those countries to work towards a future ratification. In Tajikistan, for example, the project activities contributed to the Ombudsperson conducting his very first prison visit and establishing a working group at the end of 2013 on the monitoring of detention facilities, which includes representatives of civil society and prison officials. In Belarus, the project supported anti-torture NGOs which started to monitor pre-trial detention centres. In Russia, the project has provided new tools to Russian NGOs for advocating to the authorities.

45 (b)

The fight against torture and the abolition of the death penalty are long-term processes. Progress and improvements are often slow and do not necessarily coincide with the limited duration of the contracts. The political context also plays a substantial role in determining the achievement of results such as for example the ratification of the convention against torture or a moratorium on the death penalty. In this observation, the ECA refers to a project working in a very challenging and sensitive context (Middle East and North Africa (MENA), east Africa, Russia, central Asia, Belarus) where progress is indeed very slow.

45 (c)

The project represented the first intervention when NGOs were allowed to monitor army guardhouses. See our reply to paragraph 43 on the impact of the project in Georgia.

45 (d)

According to the final report, all activities have been successfully completed but it is true that the impact might not have reached the level expected beforehand by the organisation, a not too uncommon phenomenon in this field.

45 (e)

Given the nature of EIDHR projects and the sensitivity of the settings in which they are implemented the impact is often difficult to quantify and progress is sometimes slow, particularly in the most difficult cases such as China. It is necessary to remain active in such contexts, in line with the objectives and worldwide scope of the EIDHR.

45 (f)

Please refer to our reply to 45 (e).

46

Please refer to our reply to paragraph 45.

46 (a)

The impact of the project in Africa needs to be measured in the medium to long term. This will be assessed by monitoring the level of compliance (reporting, further domestication) and effective implementation (development of case-law, access to detention centres, reparations and decrease of cases of torture) of both ratified international instruments and domestic legislation to combat and prevent torture in each targeted country.

46 (b)

The impact of the project in China is difficult to measure due to a lack of adequately redacted information from the grant beneficiary. The delegation has received concrete elements pointing to the likelihood of success of the action, which is implemented by an actor well established in its participation in policy reform in China. At the same time, the project is led by an influential professor whose expertise has been sought in the ongoing amendment of the criminal law which is under review and is expected to further reduce the crimes receiving the death penalty.

Please also refer to our reply to paragraph 29 (a).

47 (a)

Please refer to our reply to paragraph 29 (a).

Box 6

The Commission welcomes the ECA's observation on the positive results of the EIDHR fight against the death penalty in the United States.

As an example of the positive impact of the EIDHR, the governor of the state of Pennsylvania recently introduced a moratorium on the death penalty leading to the immediate granting of a temporary reprieve to inmate Terrence Williams and 186 other individuals currently on Pennsylvania's death row.

Please find the link to Governor Tom Wolf's memorandum highlighting the key role of the American Bar Association report (funded by the EIDHR): http://www.ydr.com/politics/ci_27523525/gov-tom-wolf-issues-death-penalty-moratorium

One of the decisive arguments put forward by the governor in its decision is the Pennsylvania Death Penalty Assessment produced by the American Bar Association.

51

The European Union is one of the very few donors supporting financially the fight against torture and the abolition of the death penalty. In many cases, it is the only one. That is why our partner organisations are relying heavily on EIDHR support. The European Commission is trying to mitigate this by allowing them to hire fundraising officers in the frame of EIDHR projects, and the Commission also works in collaboration with the few other donors in this field (for example the UN Voluntary Fund for Victims of Torture or EU Members States' Task Force) in order to ensure as much coordination and coherence as possible.

Furthermore, it is an unavoidable paradox that the self-sustainability of human rights NGOs cannot by definition be guaranteed by continued or increased Commission funding. This complicated issue cannot be solved by increased EU funding.

52

Please refer to our reply to paragraph 51.

53 (a)

Please refer to reply to paragraph 51.

Conclusions and recommendations

54

Human rights actions are inherently difficult to assess and are particularly sensitive to political developments in target countries. Actions countering torture and capital punishment are by their nature even more sensitive than other human rights projects. Within this context, EIDHR funds have been put to good use, with great care taken to reach a delicate balance between a wide reach — EIDHR global calls are a huge success in terms of attracting many applicants from across the world — and rigorous management of funds. The Commission intends to continue its efforts to strengthen the role of the EIDHR as a vital instrument of EU human rights policy abroad.

Recommendation 1 — Target modest resources better

The Commission partially accepts this recommendation. We agree on the need to concentrate EIDHR funding on the most relevant issues as it is already narrowing the focus of its global calls for proposals, for instance the EIDHR 2015 global call.

In line with the bottom-up approach, the Commission will continue to ensure a delicate balance between EU human rights priorities, the relevance of projects and the capacity and ownership of partner civil society organisations.

Given the nature of EIDHR activities in often very difficult contexts, the Commission will therefore reject the recommendation for narrower geographical focus and will keep a non-prescriptive approach that does not focus on impact and a specific list of countries.

55

It is essential that projects in the human rights field, and especially those regarding torture and the death penalty, adequately reflect the priorities and modalities determined by those closer to the realities on the ground. During dialogues, funding of projects and their objectives are often discussed. However, agendas need to be focused on a few priorities each time. These priorities are decided in consultation between the EEAS and Commission services, the delegation as well as the partner country. Moreover, many of the actions funded either challenge engrained state practices and are thus viewed critically by partner countries, or are of a global, transnational nature, where traditional development support or dialogue with partner countries are not possible.

Finally, in view of the large number of applicants under EIDHR global calls, considering that the current legal framework for grants does not foresee such an option, and taking into account the general principles of fair and equal treatment as well as that of transparency, the Commission does not intend to negotiate the contents of grant applications with the applicants prior to contract signature.

Recommendation 2

The Commission accepts this recommendation.

Depending on local circumstances (overall political climate, room for human rights advocacy discourse), and with the agreement of EU heads of mission the main priorities of the local HRCS can be made public. However, communication should be avoided if it is assessed that this would be detrimental to the implementation of the strategy. This does not stop consistency between priorities and development assistance.

The Commission has started to implement the rights-based approach (RBA) and will continue to do so. For more concrete details on implementation of the RBA, see our reply to paragraph 20.

Recommendation 3

The Commission partially accepts this recommendation. As regards the standardised grids and guidelines for assessors, they were changed in 2013 and the Commission does not foresee any immediate changes to them. However, the Commission is continuously assessing its procedures with a view to improvements, especially concerning calls for proposals.

The Commission applies rigorous standards to EIDHR calls for proposals, despite very challenging numbers in terms of applications received (a total of 1 193 applications for the EIDHR calls for proposals covered by this audit). The coherence and consistency of the evaluation process is already safeguarded through public and detailed terms of reference and guidelines for assessors of grant applications. Award criteria are clear and consistently assessed by outside experts, and clear guidelines exist on when to reassess applications. See also our reply to paragraph 23.

Recommendation 4

The Commission does not accept this recommendation.

Current rules only allow for non-essential adaptations to grant applications to be made prior to contract signature. This has in some instances allowed for ineligible or excessive expenditure to be deleted from the initial budget.

The Commission cannot however enter into renegotiation of project design with applicants prior to contract signature, in view of the large number of applicants under EIDHR global calls, considering that the current legislative framework for grants does not foresee such an option, and taking into account the general principles of fair and equal treatment as well as that of transparency.

In accordance with Article 204(5) of the RAP, the evaluation committee may formulate some recommendations which will then be taken into account at contracting level by the authorising officer.

56

As outlined fully in our replies to paragraphs 29 and 45, impact measurement in the human rights field is particularly difficult to achieve, contrary to some other fields of development aid. Human rights progress is a dynamic process where even a project of seemingly limited nature may tip the balance towards the abolition of the death penalty in Pennsylvania, as evidenced in our reply to Box 6 of this report. This difficulty in measuring the outright impact of a single human rights project is unlikely to change dramatically even if new impact measurement systems were to be introduced.

The self-sustainability issue, a vital one for human rights organisations, cannot be solved by increased reliance on long-term funding from the Commission — especially for those outside the EU. To this end, the Commission has in some cases accepted that fund-raising efforts be included in project budgets.

Recommendation 5

The Commission partially accepts this recommendation.

In the light of the difficult political contexts in which EIDHR projects are implemented, a simplified logical framework would be beneficial for civil society organisations.

According to the bottom-up approach applicable to the EIDHR, targets and baselines should be defined by the applicants themselves. The varying capacities of civil society organisations have also to be taken into account. However, any measurement of the impact of human rights projects must absolutely take into consideration the very specific context in which EIDHR projects are implemented, not to mention the fact that the countries or regions most in need of action as regards torture and death penalties are those where progress on these issues cannot be expected to be straightforward. The difficulty of quantifying human rights issues must also be considered. We do not, therefore, consider specific targets and baselines as tools that could be used in this specific context.

The Commission is also already working on an improved impact assessment of human rights projects.

Reply of the Commission and the EEAS

Recommendation 6

The Commission does not accept this recommendation.

The self-sustainability of civil society organisations active in the field of human rights is important for the Commission, which has to that end accepted in justified cases to fund NGO staff working on fund-raising issues. Self-sustainability is also ensured through the co-financing requirement — raising that requirement further might however endanger many actions through lack of alternative funding sources. Self-sustainability also implies that grant beneficiaries should not be reliant on the Commission as their sole funding option, or on being awarded grant contracts on a continuous basis, irrespective of the merits of their projects. This is all the more the case since the very competitive calls for proposals procedure applies as a rule to grants awards. Beneficiaries that perform well when implementing their project will usually also perform well during the grant award procedure.

As for donor coordination, this is indeed relevant at the planning stage, but not at that of a call for proposals, and we fail to see how the current legal framework could allow for the intervention of third parties at that stage.

HOW TO OBTAIN EU PUBLICATIONS

Free publications:

- one copy:
via EU Bookshop (<http://bookshop.europa.eu>);
- more than one copy or posters/maps:
from the European Union's representations (http://ec.europa.eu/represent_en.htm);
from the delegations in non-EU countries (http://eeas.europa.eu/delegations/index_en.htm);
by contacting the Europe Direct service (http://europa.eu/eurodirect/index_en.htm) or
calling 00 800 6 7 8 9 10 11 (freephone number from anywhere in the EU) (*).

(*) The information given is free, as are most calls (though some operators, phone boxes or hotels may charge you).

Priced publications:

- via EU Bookshop (<http://bookshop.europa.eu>).

The EU is strongly committed to preventing and eradicating all forms of torture and other ill-treatment as well as to abolishing the death penalty throughout the world. The Court assessed the effectiveness of the European Instrument for Democracy and Human Rights, which provides grants to civil society organisations for implementing projects that pursue these objectives.

The Court concludes that the support provided was only partially effective. Although the Commission made appropriate needs assessments, it did not optimally target the funding. Because of this and also due to unfavourable political contexts, the overall impact of the projects funded was not optimal. The Court makes a number of recommendations for the Commission that concern the selection of project proposals, the coordination with other EU efforts, the performance measurement framework and the sustainability of beneficiary organisations.



EUROPEAN
COURT
OF AUDITORS



Publications Office