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

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Abbreviations

**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
Executive summary

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.
Introduction

The prevalence of torture and the death penalty

01
The Universal Declaration of Human Rights\(^1\) states that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment\(^2\). The UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment\(^3\), 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 Punishment\(^4\) (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 organisations\(^5\) 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.
4 Adopted by the UN General Assembly on 18 December 2002 and entered into force on 22 June 2006.

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 capacity\(^6\).

\(^6\) 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.
04
Although 140 countries have abolished the death penalty, 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 year. 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-treatment 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 treaties and reflected in the strategic framework and action plan on human rights and democracy and the EU guidelines (see Box 2).
10 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).

14 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.


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.

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.

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 obligations15. 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.
### Table 1

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

<table>
<thead>
<tr>
<th>Continent</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Torture</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Africa</td>
<td>0</td>
<td>3,967,906</td>
<td>456,120</td>
<td>4,248,938</td>
<td>2,192,122</td>
<td>514,511</td>
<td>3,844,082</td>
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<td>1,178,945</td>
<td>758,097</td>
<td>0</td>
<td>2,530,910</td>
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</tr>
<tr>
<td>Asia</td>
<td>36,465</td>
<td>10,281,020</td>
<td>613,754</td>
<td>2,366,367</td>
<td>1,936,457</td>
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<td>11,242,841</td>
<td>26,476,904</td>
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<tr>
<td>Europe</td>
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<td>2,956,958</td>
<td>235,093</td>
<td>2,661,831</td>
<td>2,830,007</td>
<td>100,000</td>
<td>787,065</td>
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<td>10,800,143</td>
<td>0</td>
<td>0</td>
<td>6,734,343</td>
<td>25,208,718</td>
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<td><strong>TOTAL</strong></td>
<td>36,465</td>
<td>25,607,729</td>
<td>1,693,089</td>
<td>21,256,224</td>
<td>9,215,890</td>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
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<td>0</td>
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<td>2,150,783</td>
<td>6,818,208</td>
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<td>17,382,338</td>
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</tbody>
</table>

Source: European Commission.

### Table 2

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

<table>
<thead>
<tr>
<th>Continent</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Torture</strong></td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Africa</td>
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<td>7</td>
<td>4</td>
<td>5</td>
<td>4</td>
<td>3</td>
<td>6</td>
<td>29</td>
</tr>
<tr>
<td>America</td>
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<td>3</td>
<td>3</td>
<td>6</td>
<td>0</td>
<td>4</td>
<td>23</td>
</tr>
<tr>
<td>Asia</td>
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<td>5</td>
<td>5</td>
<td>4</td>
<td>0</td>
<td>18</td>
<td>52</td>
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<tr>
<td>Europe</td>
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<td>7</td>
<td>2</td>
<td>4</td>
<td>6</td>
<td>1</td>
<td>3</td>
<td>23</td>
</tr>
<tr>
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<td>0</td>
<td>10</td>
<td>1</td>
<td>0</td>
<td>6</td>
<td>23</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>1</td>
<td>46</td>
<td>14</td>
<td>27</td>
<td>21</td>
<td>4</td>
<td>37</td>
<td>150</td>
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<tr>
<td><strong>Death penalty</strong></td>
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<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
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<td>Africa</td>
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<td>1</td>
<td>1</td>
<td>0</td>
<td>0</td>
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<td>2</td>
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<td>0</td>
<td>1</td>
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<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Multi-continental</td>
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<td>1</td>
<td>0</td>
<td>4</td>
<td>0</td>
<td>12</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
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<td>0</td>
<td>14</td>
<td>6</td>
<td>3</td>
<td>10</td>
<td>0</td>
<td>33</td>
</tr>
</tbody>
</table>

Source: European Commission.
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?

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.
Observations

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 reports.

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 papers 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 elements 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.

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.
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.

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.

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 co-ordinated 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
Observations

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 2014\textsuperscript{21}, 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.

21

The process for selecting projects was well documented but insufficiently rigorous. Project assessments (see \textit{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.

\textbf{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 planned\textsuperscript{22}. 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.

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.

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.
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.

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.

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.
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 criteria. 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 proposals, there were no reassessments despite a significant difference between the assessors’ total scores for four of the 10 projects. For another call for proposals, 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.

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.

Smaller local civil society organisations have comparative disadvantages when requesting grants due to cumbersome application procedures, language requirements 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.
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 designs. This is a missed opportunity.

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 used\(^9\). By and large, main project activities were carried out as planned\(^10\). 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).

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.

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).
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.

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.

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.

The Court made a comparison for the 14 out of the 31 projects examined that aim to provide assistance directly to final beneficiaries. 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.

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.

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 not.

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;
Observations

(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.
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.

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.

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 2013.

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 implementation. 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.
Conclusions and recommendations

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.

** 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.

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

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).
Conclusions and recommendations

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
Annexes

The death penalty in Africa

Source: Amnesty International 2013

Source: Eurostat.
The death penalty in Latin America

Annex III

Source: Eurostat.
The death penalty in the United States

Source: Eurostat.
## Global calls for proposals 2007-2013

<table>
<thead>
<tr>
<th>Call for proposal</th>
<th>Type and description</th>
<th>Subject</th>
<th>Topic</th>
<th>Grant amount per project (euro)</th>
<th>Duration</th>
<th>Amount initially allocated (euro)</th>
<th>Amount finally awarded (euro)</th>
</tr>
</thead>
<tbody>
<tr>
<td>126-224</td>
<td>Global call 'Restricted Call for Proposals 2007'</td>
<td>Torture</td>
<td>Support to human rights and democracy actions on torture and other forms of ill-treatment</td>
<td>Minimum: 200 000&lt;br&gt;Maximum: 1 500 000</td>
<td>Minimum: 12 months&lt;br&gt;Maximum: 36 months</td>
<td>22 000 000</td>
<td>22 171 837</td>
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<tr>
<td>127-238</td>
<td>Global call 'Open Call for Proposals 2008'</td>
<td>Death penalty</td>
<td>Actions supporting human rights and democracy issues covered by the EU guidelines on the death penalty</td>
<td>Minimum: 150 000&lt;br&gt;Maximum: 1 000 000</td>
<td>Minimum: 12 months&lt;br&gt;Maximum: 36 months</td>
<td>4 000 000</td>
<td>8 244 166</td>
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<tr>
<td>128-815</td>
<td>Global call 'Restricted Call for Proposals 2009'</td>
<td>Torture</td>
<td>Support to human rights and democracy actions on torture and other forms of ill-treatment</td>
<td>Minimum: 200 000&lt;br&gt;Maximum: 1 500 000</td>
<td>Minimum: 18 months&lt;br&gt;Maximum: 36 months</td>
<td>20 000 000</td>
<td>25 266 659</td>
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<tr>
<td>131-085</td>
<td>Global call 'Restricted Call for Proposals 2011'</td>
<td>Torture/ death penalty</td>
<td>Lot 1: Strengthening the role of civil society networks in promoting human rights and democratic reform&lt;br&gt;Lot 2: Actions supporting the EU guidelines on the abolition of death penalty</td>
<td>Minimum: 200 000&lt;br&gt;Maximum: 1 500 000</td>
<td>Minimum: 18 months&lt;br&gt;Maximum: 36 months</td>
<td>Lot 1: 14 600 000&lt;br&gt;Lot 2: 7 000 000</td>
<td>Lot 1: 855 324&lt;br&gt;Lot 2: 6 618 135</td>
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<tr>
<td>132-762</td>
<td>Global call 'Restricted Call for Proposals 2012'</td>
<td>Torture</td>
<td>Fighting impunity on&lt;br&gt;Lot 1: Civil society actions against torture and other cruel, inhuman or degrading treatment or punishment&lt;br&gt;Lot 2: Civil society actions promoting the effective functioning of the International Criminal Court and the Rome Statute System</td>
<td>Minimum: 500 000&lt;br&gt;Maximum: 1 500 000</td>
<td>Minimum: 24 months&lt;br&gt;Maximum: 36 months</td>
<td>Lot 1: 16 215 000&lt;br&gt;Lot 2: 6 000 000</td>
<td>Lot 1: 21 219 618</td>
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</table>

Source: European Commission.
Projects for which the Court’s auditors reviewed the Commission’s assessment of concept notes and full proposals

<table>
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<tr>
<th>Country</th>
<th>Contract number</th>
<th>Call for proposal</th>
<th>Subject</th>
<th>Beneficiary</th>
<th>Project name</th>
<th>Grant amount (euro)</th>
<th>Reason for selection</th>
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<td>Georgia</td>
<td>2008/148-044</td>
<td>2007/126-224</td>
<td>Torture</td>
<td>Association Justice and Liberty</td>
<td>Prevention of torture in military guardhouses.</td>
<td>204 961.00</td>
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<td></td>
<td>2008/148-184</td>
<td>2007/126-224</td>
<td>Torture</td>
<td>Empatia Association</td>
<td>Strengthening the system of rehabilitation for torture victims in Georgia</td>
<td>679 937.00</td>
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<td>China</td>
<td>2008/148-024</td>
<td>2007/126-224</td>
<td>Torture</td>
<td>The Great Britain – China Centre</td>
<td>Prevention of torture in the PRC</td>
<td>787 966.00</td>
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<td>Democratic Republic of the Congo</td>
<td>2008/148-156</td>
<td>2007/126-224</td>
<td>Torture</td>
<td>Solidarité Pour La Promotion Sociale Et La Paix Asbl</td>
<td>Assistance et rehabilitation des victimes de la torture en RDC</td>
<td>421 836.00</td>
<td>Audited</td>
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<td>Argentina, Brazil, Madagascar, Morocco, Thailand and Turkey</td>
<td>2008/148-045</td>
<td>2007/126-224</td>
<td>Torture</td>
<td>Association for the Prevention of Torture</td>
<td>Preventing torture through the promotion of the optional protocol to the convention against torture in five target countries</td>
<td>986 306.00</td>
<td>Assessors’ scores are significantly different</td>
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<td>Moldova</td>
<td>2008/148-070</td>
<td>2007/126-224</td>
<td>Torture</td>
<td>United Nations Development Programme</td>
<td>Support for strengthening the national preventive mechanism as per OPCAT provisions</td>
<td>640 000.00</td>
<td>Assessor’s scores are significantly different</td>
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<tr>
<td>Israel</td>
<td>2009/148-034</td>
<td>2007/126-224</td>
<td>Torture</td>
<td>Adalah —The legal centre for Arab minority rights in Israel</td>
<td>Combating and preventing torture and ill-treatment of Palestinian prisoners held in Israeli prisons and Palestinian civilians in the Occupied Palestinian Territory</td>
<td>638 651.00</td>
<td>Just fell short for selection</td>
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<td>Argentina</td>
<td>not contracted</td>
<td>2007/126-224</td>
<td>Torture</td>
<td>Comité para la defensa de la salud, la ética profesional y los derechos humanos asociados civil</td>
<td>Programa de asistencia y rehabilitación a víctimas de la represión y la tortura en contextos de acciones judiciales por crímenes de las humanidad</td>
<td>683 708.00</td>
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<td>Beneficiary</td>
<td>Project name</td>
<td>Grant amount (euro)</td>
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<td>India</td>
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<td>2007/126-224</td>
<td>Torture</td>
<td>Stichting Interkerkelijke Organisatie voor Ontwikkeling-swerking</td>
<td>Reducing the impact of conflict among disadvantaged groups in Nepal</td>
<td>530 243.00</td>
<td>Project name does not relate to the objective of the global call</td>
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<td>Kenya</td>
<td>2008/148-075</td>
<td>2007/126-224</td>
<td>Torture</td>
<td>Independent Medico-Legal Unit</td>
<td>Initiative of holistic rehabilitation and prevention of torture project</td>
<td>1 058 322.00</td>
<td>Assessor’s scores are significantly different</td>
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<td>Georgia</td>
<td>2013/318-878</td>
<td>2013/132-762</td>
<td>Torture</td>
<td>Empatia Association</td>
<td>Caucasian anti-torture network: multi rehabilitation services for torture victims and fighting impunity</td>
<td>980 000.00</td>
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<td>China</td>
<td>2013/318-802</td>
<td>2013/132-762</td>
<td>Torture</td>
<td>The Rights Practice Lbg</td>
<td>Fighting torture in China: strengthening the role of civil society</td>
<td>662 500.00</td>
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<td>South Africa</td>
<td>2013/318-879</td>
<td>2013/132-762</td>
<td>Torture</td>
<td>Stichting Young In Prison (YIP)</td>
<td>Ending impunity in torture and cruel, inhuman and degrading treatment of children in prison in South Africa and Malawi</td>
<td>882 817.00</td>
<td>Audited</td>
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<td>United Kingdom,</td>
<td>2013/318-874</td>
<td>2013/132-762</td>
<td>Torture</td>
<td>The Redress Trust Limited LBG</td>
<td>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)</td>
<td>1 194 521.00</td>
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<td>2013/318-886</td>
<td>Torture</td>
<td>Centre International Pour La Justice Transitionnelle Internationnal Center For Transitional Justice Asbl</td>
<td>Complementarity in practice: strengthening the national judicial response to international crimes in the Democratic Republic of the Congo and Côte d’Ivoire</td>
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### Annexes

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Source: European Commission.
## Grants examined

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## Annexes

### Annex VII

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Source: European Commission.
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.
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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.

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.

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 Aprodepep 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.
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.

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.

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).

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.).

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.
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.

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.

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.

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.

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 guard-houses and indirectly supported an informed decision of the Georgian government to set up national preventive monitoring under the Public Defender’s Office.

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.
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.
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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.

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.
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.

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.
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 3
The Commission partially accepts this recommendation.

Recommendation 4
The Commission does not accept this recommendation.

Recommendation 5
The Commission does not accept 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.
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.
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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.