THE DEATH PENALTY: FROM MORATORIUM TO ABOLITION
(The International and European Day against the Death penalty, 10 October 2012)

Today, 10 October, we celebrate the 10th anniversary of the World Day against the Death Penalty and the 6th European Day against the Death Penalty. This is a good occasion to remind ourselves of the positive trend towards abolition of the capital punishment and to reaffirm our commitment to do more.

In taking stock of the achievements we should assess the progress made in reaching out to like-minded countries that champion the cause of death penalty abolition.

The past decade has seen an increase of the number of countries that have officially abolished the death penalty. Several countries have ended it in practice, either by declaring an official moratorium or by refraining from carrying out executions. Others have taken steps to narrow the scope of crimes for which the death penalty can be attributed. Today 141 countries are abolitionist in law or in practice while only 58 states still retain and use the death penalty. Twenty one countries recorded executions in 2011, less by a third of the countries that did carried out executions ten years ago. However, conversely in 2011 alone at least 1,923 people were sentenced to death and, in total, at least 18,750 people remained under sentence of death worldwide.

The European Union holds a strong and principled position against the death penalty; it considers it cruel, inhuman and irreversible punishment. Article 2 of the EU Charter of Fundamental Rights provides that no one shall be condemned to the death penalty, or executed in any circumstances. All European Union Member States are fully committed to this provision.

The European Union sees the abolition of the death penalty as one of the main objectives of its human rights policy, a commitment that is outlined clearly in the EU Guidelines on the death penalty, the first ever human rights guidelines adopted by Council of the European Union back in 1998.

At the European Union we believe that the abolition of the death penalty is essential for the progressive realization of human rights. Historically, we arrived at that conclusion gradually, step by step. In 1789 for the authors of the Declaration of the Rights of Man and of the Citizen, it was inconceivable to proclaim an abolition of the death penalty. Even 1948 Universal Declaration of Human Rights is silent on this point. But in the aftermath of World War II the call for abolition began to take momentum.

Several major human rights treaties were drafted with built-in exceptions to the right to life: life could be taken by the state in the context of a judicially administered death penalty following a fair trial.

In the 1960s a series of notorious miscarriages of justice in some EU Member States occurred, resulted in wrongful executions. The public reaction triggered greater awareness that the death penalty does not prevent an increase in violent crime. Despite the pro-death penalty arguments, many people felt that the death penalty did not bring justice to the victims of such crimes.

The reverse observation is also true. Discussion to reintroduce the use of capital punishment for certain crimes in the legal system does surface from time to time in the EU Member States, for instance when a particularly terrible murder case is in the news. However, no mainstream political party candidates have been elected for their pro-death penalty convictions.

The abolition of the death penalty has brought about a shift in public opinion. For example, France was the last Western European country to carry out an execution in 1977. In 1981, the year the death penalty was formally abolished in France, 63% of French people supported the use of the death penalty. By 2007, this figure had decreased to 44%. Today France is amongst the countries that lead the international efforts to ban the death penalty. Last month, jointly with Benin, the latest country to abolish the death penalty, France has co-hosted the launch of the universal campaign for the abolition
of death penalty under the slogan “From Moratorium to Abolition”, aiming to increase the awareness of a universal abolition of the death penalty. As part of the campaign, on 9th October, the French Minister of Foreign Affairs, Mr. Fabius met with the human rights defenders, gathering for the first time various defenders and lawyers of people condemned to death penalty from all over the world.

The UK also plays a prominent role in movement towards universal abolition. The UK’s “Strategy for Abolition of the Death Penalty” was published in 2010. Since publishing, the Government has raised the death penalty bilaterally with a number of priority countries at both official and Ministerial level in Asia, Africa, the Middle East, the USA, Europe and the Caribbean. The British government has funded several projects that have contributed toward the global abolition of the death penalty. In June 2011 the mandatory death penalty for felony murder was ruled unconstitutional in Trinidad and Tobago as a result of one of these projects.

Spain is another telling example. It has been a strong promoter of the International Commission against Capital Punishment (ICACP). Established in 2010 and involving a number of well known personalities, including former Heads of State and Government, and chaired by the former Spanish Minister for Education Mr. Mayor Zaragoza. The Commission has scheduled a meeting in Madrid on October 8 – 10 to prepare the regional meeting against the Death Penalty on 18-20 October in Rabat, Morocco and the 2013 V World Congress against Capital Punishment. The Congress will take place in Madrid, organized by the NGO “Ensemble contre la Peine de Mort” (ECPM) and will be co-sponsored by the Governments of Spain, Norway and Switzerland.

The International Commission against Capital Punishment is assisted by a Support Group of “like-minded” countries, which work together in favour of abolition of the death penalty. Along with representatives from Algeria, Argentina, the Philippines, France, Italy, Mexico, Mongolia, Portugal, Dominican Republic, South Africa, Togo and Turkey, Kazakhstan has joined the Support Group.

The European Union acknowledges the policy of Kazakhstan in the pursuit of the gradual abolition of the death penalty. In June 2003, Kazakhstan declared a moratorium on capital punishment and six years later amended the Constitution to abolish the death penalty in all cases, except for crimes of terrorism leading to loss of lives and severe crimes committed during war time. The law includes the right to seek pardon.

The EU encourages Kazakhstan to continue with further legislative changes. The ongoing work to re-draft the Criminal, Criminal Procedure and Criminal Executive Codes presents a unique opportunity to make progress in this area, and would allow the ratification of the 2nd Optional Protocol to the International Covenant on Civil and Political Rights, related to the abolition of the death penalty. The EU welcomes Kazakhstan’s actions and hopes for the complete abolition of the death penalty in the future.

EU has already supported various projects on the subject in Kazakhstan in order to raise awareness and encourage abolition of the death penalty. For example, in 2011, in the framework of the EU funded project “Progressive Abolition of the Death Penalty and Alternatives that Respect International Human Rights Standards”, Penal Reform International prepared an information brochures, produced film "Forgotten", reflecting conditions for those sentenced to life imprisonment in Central Asia, and hold a regional conference on the subject.

The EU Member States path to the complete abolition has been very long, taking over 150 years to gradually reduce the number of capital offenses, increase the use of alternative sentences, suspend, and then finally formally abolish capital punishment. The EU does not expect countries that retain the death penalty to change overnight. Nevertheless, it is evident that such countries have every reason to
reconsider their stance. Today the abolition of capital punishment becomes synonymous with the protection of human rights.

On the Death penalty abolition and on other areas of shared interest, the EU will continuously remain a reliable partner to Kazakhstan in his domestic reforms process and international activities.

Ambassador Aurélia Bouchez, Head of the European Union Delegation to Kazakhstan

Ambassador Extraordinary and Plenipotentiary of France to Kazakhstan, Mr Jean-Charles Berthonnet

Ambassador Extraordinary and Plenipotentiary of the Kingdom of Spain to Kazakhstan, Mr Manuel Larrotcha Parada

Her Majesty’s Ambassador Extraordinary and Plenipotentiary to the Republic of Kazakhstan, Mr David Moran

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