

European Union Guidelines on Human Rights Defenders Local Implementation Strategy Tanzania

Background

The European Union (EU) Guidelines on Human Rights Defenders (2004) provide EU Member States with practical guidance on how to protect and support Human Rights Defenders (HRDs), especially in third countries. The text of the guidelines can be found at <http://ue.eu.int/uedocs/cmsUpload/GuidelinesDefenders.pdf>.

Although the EU did not select Tanzania as one of the approximately 25 initial priority countries urgently needing a local implementation strategy for the promotion of the guidelines and for practical measures to support HRDs, the EU member states with resident missions in Tanzania¹ have nevertheless formulated a number of objectives and actions to guide their activities in support of HRDs.

This local strategy is based on recent reports on the Human Rights (HR) including HRDs situation in Tanzania, along with consultations with HR-NGOs in Tanzania and the discussions during the first EU-HRDs meeting on 18 of May 2010.

Why does the EU want to support Human Rights Defenders?

HRDs play an important role in the promotion of HR in their respective countries. They share EU values such as democracy, respect for human rights and the rule of law. HRDs work to persuade their governments to ratify international human rights treaties, to ensure that where the government has ratified such treaties, state institutions comply with the obligations in practice and they are implemented through national laws and regulations, so bringing HR protection to the people. The work of HRDs also contributes to strengthening their country's national human rights infrastructure. Supporting HRDs is therefore an integral part of the EU objective to promote human rights, one of key areas of EU Common Foreign and Security Policy.

Who are Human Rights Defenders?

The EU Guidelines on Human Rights Defenders are based on the UN Declaration on Human Rights Defenders which was adopted in 1998. According to the UN Declaration:

“Human Rights Defenders are those individuals, groups and organs of society that promote and protect universally recognised human rights and fundamental freedoms. Human Rights Defenders seek the promotion and protection of civil and political rights as well as the promotion, protection and realisation of economic, social and cultural rights. Human Rights Defenders also promote and protect the rights of members of groups such as indigenous communities. The definition does not include those individuals or groups who commit or propagate violence.”

¹ Belgium, Denmark, Finland, France, Germany, Ireland, Italy, Netherlands, Spain, Sweden, the United Kingdom, and the Delegation of the European Union.

In other words HRDs are defined by what they do. They can include individuals, lawyers, journalists, NGOs, trade unionists, minority activists and demonstrators who are acting to promote or protect human rights.

Human Rights Defenders in Tanzania

General situation

Tanzania has a relatively positive reputation in the realm of Human Rights. In national and international HR reports and discussions with HRDs, the HR situation in Tanzania is generally described as acceptable. In comparison with other sub-Saharan countries, the overall HR situation is not alarming. HR-NGOs and HRDs are accepted by Government bodies and generally not impeded from doing their work and voice their opinions. The protection of HR is however reported to be of variable quality at lower levels of Government.

As the November 2009 fact finding mission by the East and Horn of Africa Human Right Defenders Project (EHAHRDP) concluded, the HR situation and that of HRDs in Tanzania is relatively positive and individuals themselves did not seem at great risk of physical harm or unlawful prosecution by the state.

The Government of Tanzania has signed most international HR related international instruments and set up an advisory body on HR, the Commission for Human Rights and Good Governance (CHRAGG), which is under the responsibility of the Ministry of Justice.

EHAHRDP nevertheless at the same time concluded that Tanzania's positive reputation in the area of HR can itself be a challenge for HRDs in that they may struggle to draw attention and financing to their work and they may not put in place appropriate arrangements for their own protection.

In Tanzania the biggest challenges of HRDs can be summarized as:

- Funding (economic constraints)
- Impact (coordination and synergy of activities)
- Access (to information as well as to regional and international Human Rights platforms and fora)
- Obstruction of justice due to prolonged court cases and a weak judicial system.
- Lack of a sense of urgency at the international level ?

A Conservative Society

The position of women continues to be a difficult one. The Government has made significant efforts in this area, but further work is required. Issues relating to Gender have been prioritised as part of the development partner agenda in Tanzania. The Government has adhered to all international principles and put in place mechanisms and regulation to promote women's rights, nevertheless real ownership of this agenda is seen as lacking.

Witchcraft and traditional belief systems still play an important role in Tanzania. Some extreme aspects of these beliefs have resulted in issues of HR concern i.e. the killings of those living with albinism and 'witch' prosecutions. Although witchcraft is officially banned, people accused of witchcraft and those people living with albinism run a risk of abuse and violence, by their fellow citizens. Despite significant efforts, the state has proved to be incapable of fully securing the safety of these people.

Homosexuality is not acceptable to the majority of the Tanzanian population and forbidden by law. Nevertheless, although homosexuality is a criminal offence, the Tanzanian Government does not actively prosecute homosexuals. Homosexuals however do run a risk of being abused by their fellow citizens, especially when openly displaying their sexual inclination. Changing the legal framework governing this area does not seem to be an option for the Government - despite its international commitments in this regard - considering the opinion of the vast majority of the population and the negative stand of religious organisations.

Nevertheless, in the cases of gender, homosexuality and witchcraft, HRDs, for the most part unless they actually belong to one of the groups being targeted, do not seem to be at a high risk and/or targeted by violence.

Coming from a single party system

Although Tanzania officially introduced a multiparty-system in 1992, the political landscape is still very much dominated by the former single party, CCM. Excluding Zanzibar, CCM on average receives the support of over 80% of Tanzanian voters at both the national and local level; it controls all government positions and is influential within the Tanzanian commercial sector. Openly supporting an opposition party can result in more cumbersome career development, unreasonable scrutiny of business undertakings etc.

When Big Money is Involved

Both the EHAHRDP fact finding report and the EU-HRDs meeting in May 2010 identified corruption, land-rights and natural resources as issues where denouncing irregularities attracts pressure, coercion and even violence. These issues normally involve high stakes and large sums of money. Both governmental bodies and private entities can react adversely when they feel their interests are being threatened by too much attention. In particular those that seek to highlight and expose corruption have faced significant challenges. The EU considers individuals working on tackling corruption to be Human Rights Defenders.

The Role of the Media

Journalists in Tanzania are the principal instigators of attention for corruption, they are likely to work with considerable risks, and can be subject to pressure and coercion. Under the scope of this local implementation strategy, journalists working towards the promotion of fundamental freedoms such as freedom of expression and right to access to information are considered to be HRDs.

How EU will promote the guidelines in Tanzania?

The EU guidelines will be put on the websites of the EU-delegation and the different Member States and promoted in contacts of Member States with HR NGOs, HRDs and other actors, including other likeminded countries and (multilateral) organisations.

The EU-guidelines will be translated into Swahili and added to all Embassy websites.

The guidelines will be translated into a local implementation strategy that will regularly be discussed with stakeholders and adapted if necessary within the framework of the EU-HRDs yearly meetings.

Objectives of the Local Implementation Strategy in Tanzania

- To enhance collaboration amongst EU missions and coherence of EU activities in support of HRDs and offer practical guidance to missions on how to protect defenders under the current context;
- To make the existence and purpose of the guidelines more widely known among HRDs, staff of EU missions, and the Government of Tanzania, and to ensure that the views of HRDs are included in monitoring and implementation of the LIS;
- To work with HRDs to improve the channels of protection and redress at their disposal in cases of violations of their rights.

Actions

This is the first Local Implementation Strategy for Tanzania. It will be reviewed on an annual basis with input from HRDs. The actions listed below are those that are deemed appropriate under current circumstances. If the Tanzanian context were to change a number of other actions are available to the EU as outlined in the EU Guidelines on Human Rights Defenders.

Engaging EU-Missions

- Enhance collaboration amongst EU missions and coherence of EU activities relating to HRDs through existing channels, using both EU and wider fora such as EU-Fundis group, EU-HoM's, Good Governance Working Group and more specifically it's sub-groups on Accountable Governance, Corruption, and Legal Sector Reform.
- On a bimonthly basis have HRDs and HRs issues discussed at the EU-Fundis group, sharing information on contacts and engagement with HRDs, information on funding provided to HRDs and HR-NGOs, and identifying possible joint EU activities.
- Appoint a HRD liaison officer in each mission for contacts on and with HRDs
- Appoint an EU- HRDs focal point on a yearly rotating basis.
- Share EU Guidelines and Local Implementation Strategy with all staff of EU missions, in order for them to be used when appropriate in their respective

sectors and fields of expertise and assist in identifying possible sector specific provisions to be included in future local implementation strategies.

- Organise a yearly meeting between HRDs and HoMs/HRDs liaison officers
- Provide HQs with information to enhance engagement with Tanzania on the situation of HRDs in a range of international fora, among those the 2011 United Nations Universal Periodic Review Session.

Engaging HRDs

- Asses the situation of HRDs on a regular basis through the annual EU-HRDs meeting, regular contacts with HRDs, and information sharing amongst EU and other missions.
- Make the existence and purpose of the guidelines more widely known among HRDs, HR-NGO's, duty-bearer stakeholders and other actors.
- Ensure that HRDs views are included in the monitoring, implementation and evaluation of the local implementation strategy.
- Work with HRDs to improve the channels at their disposal in case of violations of their rights notably threats/ intimidation/ assault or risks to their lives including helping to ensure fair trial rights.
- Inform HRDs and HR-NGOs of the possible funding instruments available to support their work including highlighting EU funding mechanisms such as the European Instrument of Democracy and Human Rights.
- Seek to facilitate interaction between HRDs and the authorities as appropriate.
- Promote interaction between HRDs and visiting EU delegations where appropriate.
- Make efforts during EU-field missions to extend and enhance EU-contacts with HRDs to areas outside of Dar es Salaam.
- Consider activities to increase visibility of HRDs such as inviting HRDs to Embassy events, marking of specific dates such as International Human Rights Day, International Women's Day etc.
- Publish international legal instruments, reports on Tanzania etc., on EU-missions' websites.
- Publish European Parliament Resolutions relevant to HRDs on EU-missions' websites.

Engaging Government

- Consider, where appropriate, raising issues relating to HRDs with the Government, carrying out demarches, or issuing EU-statements, when clear violations of the rights of HRDs have occurred and make sure to follow-up on and evaluate the outcomes of these actions.
- Consider using Article 8 dialogue to engage Government on issues relating to HRDs.
- Seek to raise recommendations made by international and regional level mechanisms working on the protection of HRDs - such as the Special Rapporteurs of the UN and of the African Commission on Human and People's Rights (ACHPR), Universal Periodic Review (UPR - in EU dialogue and engagement with Government.

- As Tanzania is perceived at international (Human Right) bodies to have a relatively good HR reputation it is important that EU and member state delegations in Tanzania voice concern and provide information to HQs at any developments that run contrary to this reputation as appropriate, to allow engagement with Tanzania and representatives of Tanzania on issues relating to HR and HRDs at the international level.
- Encourage the Government of Tanzania to issue standing invitations to Special Procedures mandate holders from the UN and ACHPR.
- Monitor the African Peer Review Mechanism, which begins in 2010, on the role it can possibly play in supporting the work of HRDs.
- Promote the signing and ratifying by Tanzania of the AU African Charter on Democracy, Elections and Governance.
- Promote access to information and an updated media act.