Overview of the human rights and democracy situation: In 2018, the main human rights related issues in the US included the death penalty, the use of the detention facility in Guantanamo, the protection of the rights of migrants and refugees, freedom of the press, as well as women's rights and LGBTI rights. The US continued its disengagement from human rights multilateral fora. The death penalty continued to be applied in a trend mirroring the remarkable lows of the last 4 years, with 25 executions in 2018 (up from 23 in 2017 and 20 in 2016) and 41 new death sentences (up from 39 last year). The number of executions and of new death sentences remained therefore historically low. The State of Washington became the 20th State to abolish the death penalty in October 2018, with its Supreme Court pointing to the racial and social disparities in its application. The New Hampshire legislature also passed a bill abolishing the death penalty, which the Governor unfortunately vetoed. Public support for the death penalty remains steady, at 56%, with for the first time fewer than half of Americans (49%) saying they believe it is fairly applied.

President Trump revoked in January 2018 the 2009 Executive Order on the closure of the detention facilities at US Naval Station Guantánamo Bay. One detainee was released in May 2018 and as of 18 December 2018, 40 inmates remained in detention, including 5 cleared for release and 26 not charged with a crime. The administration has also pledged to continue using the facility and transfer additional detainees when lawful and necessary to protect the nation.

The administration’s “no tolerance” policy led to the separation from their parents and detention of hundreds of migrant children apprehended while illegally crossing the Southern border. Policy changes increased the length of the detention of unaccompanied children and led to the increased use of larger facilities with suboptimal conditions. A new historically-low 243 annual cap of 30,000 refugees was set (down from 45,000 last year) and is unlikely to be met given the delays in the admission process. In a context of a hardening of the immigration policy, the end of the Deferred Action for Childhood Arrivals policy, targeted restrictions to the asylum policy and to the temporary protected status have all been announced but remain challenged by several lawsuits currently limiting their impact.

Harassment and attacks against journalists increased in 2018, in an environment of
increased polarisation and heightened rhetoric, often critical of the media. Several incidents were recorded. Strong protections however persist in the US Constitutional order regarding freedom of expression and freedom of the media.

On women's rights, the administration followed-up on its commitment to reinstate the so-called Mexico-City Policy prohibiting the funding of foreign NGOs involved in abortion counseling. The confirmation of an additional conservative Supreme Court Justice, Brett Kavanaugh, gave rise to concerns that the Supreme Court would question the existing jurisprudence on sexual and reproductive health and rights. The administration continued to play a very visible role in supporting freedom of religion and belief, hosting a Ministerial meeting on the issue in July 2018. However, efforts from the Justice Department to promote religious liberty could potentially impact negatively LGBTI access to healthcare and other services.

Criminal justice policy and prison reform have seen unexpected progress with the adoption by Congress in December 2018 of a bipartisan bill reducing minimum sentencing guidelines, giving prospects of early release for some federal inmates, in particular non-violent offenders convicted at the height of the “war on drugs”. The initiative reflects progress at State level, with efforts to reduce the rate of incarceration, on which the US continues to lead worldwide.

Last but not least, 2018 confirmed the US disengagement from human rights fora at the multilateral level as the US announced in June its decision to withdraw from the Human Rights Council.

2. EU action - key focus areas: The European Union remains the most engaged international actor on the abolition of the death penalty in the United States and is steadily supported by Member States Embassies and Consulates across the country. As lethal injection remains the most used execution method, the EU export ban on drugs for execution remains a very efficient instrument. However, legal challenges to the use of these drugs were unsuccessful in several states. Debates about reinstating old execution protocols are also resurfacing, as evidenced by the two executions by electric chair which took place this year in the State of Tennessee. The EU made 7 demarches in death penalty cases (up from 6 in 2017) as well as three interventions to Governors unrelated to individual cases. In one case, the Governor commuted the sentence to life imprisonment. For the first time, a group of 10 human rights counsellors from 7 Member States, the EU Delegation and Norway, visited Columbus, capital of the State of Ohio, in May 2018 to meet with local authorities, legislators, academia and NGOs on the issue of the death penalty. On the World and Europe Day Against the Death Penalty, the EU Delegation co-organised one event in Washington DC with the Embassy of Spain. EUDEL supported financially and logistically one event in Houston with a local organization, the German Consulate and the University of Houston Downtown, which could be replicated in 2019 across the country. EUDEL also joined several death penalty-related events with partner organisations and EU embassies.

On Guantanamo, the EU position remained unchanged and the EU continued to follow the developments, in the context of the US announcement that it would keep detention facilities open and explore the transfer of additional detainees. On women's rights, the EU continued to support the Equal Futures Partnership. On criminal justice reform and detention, police violence and the human rights of LGBTI persons, the EU monitored developments closely, and EU Delegation staff joined the Capital Pride.

The EU Special Representative for Human Rights Stavros Lambrinidis conducted his first working visit with the Trump administration in February 2018 and had a wide-ranging exchange with the White House, the State Department, the Justice Department, as well as with think-tanks and civil society. His visit was an opportunity to explore synergies
while conveying EU concerns on some aspects of US policy. The resumption of regular exchanges on
multilateral issues and on third countries of concern at working level between the State Department
and the External Action Service has been a success; however, resuming the EU-US Human Rights
Consultations upon the (still pending) confirmation of the US Assistant Secretary for
Democracy, Human Rights and Labor would allow the EU to discuss all of its key areas of concern
more directly with the Administration.

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