GUIDELINES
Human Rights and
International Humanitarian Law
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Cataloguing data can be found at the end of this publication.

DOI 10.2860/36325

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Printed in Germany

(Cover page pictures : pictures 1 and 2 European Communities, picture 3 EUFOR Tchad/RCA)
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When the EU launched the Common Foreign and Security Policy ten years ago, it placed Human Rights at the heart of this policy. This stemmed from our conviction that respecting and promoting the rule of law as well as fundamental rights and freedoms not only defines the EU but is also in our interest. The European Security Strategy, adopted in 2003 and reviewed last year, states clearly that “spreading good governance, supporting social and political reform, dealing with corruption and abuse of power, establishing the rule of law and protecting human rights are the best means of strengthening the international order”.

An integral part of our Human Rights Policy is a series of Guidelines on issues of importance to the Union. These Guidelines are practical tools to help EU representations in the field better advance our policy. The first Guideline, on the Death Penalty, was elaborated in 1998. It was followed by six others focussed on Torture, Dialogues with Third Countries, Children Affected by Armed Conflict, Human Rights Defenders, the Rights of the Child and Violence Against Women.

The first five Guidelines were published as a brochure four years ago; this new edition adds those Guidelines adopted since then. In preparation for publishing this booklet, all of the older Guidelines underwent a review and renovation to reflect changes both in the Union and the external environment that have taken place since 2005.

There is one other innovation in the edition you hold in your hands: for the first time, we have included a guideline developed in 2005 by Member State legal experts on the topic of International Humanitarian Law. Because of the explosive growth of operations and missions conducted under the European Security and Defence Policy and as a result of our conviction that counterterrorism be conducted within the framework of international law, the Guideline on IHL is growing in importance.

Javier Solana,
Secretary General/High Representative for CFSP
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1. Introduction

The United Nations, *inter alia* in the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights of the Child (CRC) and in the ECOSOC Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty, has established strict conditions only under which the death penalty may be used. The Second Optional Protocol to the ICCPR provides for states to commit themselves to permanent abolition of the death penalty. The European Union has moved beyond this and espouses abolition for itself and others.

During the 62nd session of the General Assembly, the Plenary of the General Assembly adopted the Third Committee resolution on a Moratorium on the use of the death penalty (62/149). The European Union actively participated in the cross-regional alliance which successfully led and guided this initiative through the General Assembly and all EU partners co-sponsored this initiative. In this resolution, the General Assembly calls on all States that still maintain the death penalty to:

- Respect international standards that provide safeguards guaranteeing the protection of the right of those facing the death penalty, in particular minimum standards;
- Progressively restrict the use of death penalty and reduce the number of offences for which it may be imposed;
- Establish a moratorium on executions with a view to completely abolishing the death penalty.
- This General Assembly resolution also calls upon States which have abolished the death penalty not to reintroduce it.

The GA resolution is in line with the resolutions on the death penalty as adopted by the Commission on Human Rights over the past decade in all consecutive sessions, the last being resolution 2005/59.

At the October 1997 Council of Europe Summit, Heads of Government, including all EU member states, called for universal abolition of the death penalty. Moreover, new member states of the Council of Europe have committed themselves to moratoria and to ratify the 6th Protocol of the European Convention on Human Rights (ECHR) committing them to permanent abolition. The 13th Protocol of the ECHR, which has been signed by all EU member...
states and entered into force on 1 July 2003, commits the member states concerned to permanent abolition of the death penalty in all circumstances.

The Committee of Ministers of the Council of Europe decided in September 2007 to declare a “European Day against the Death Penalty” which is to be marked each year on 10 October. In December 2007, this European Day was also declared by the European Union.

Article 2 of the EU Charter of Fundamental Rights provides that no one shall be condemned to the death penalty, or executed. All European Union member states are fully committed to these provisions and implement them in practice.

In the Organization for Security and Cooperation in Europe (OSCE), participating States are committed under the Copenhagen document to exchange information on the abolition of the death penalty and to make this available to the public. The EU fulfils this by regular statements within the OSCE’s Human Dimension framework.

The Rome Statute of the International Criminal Court as well as the statutes of the International Tribunal for the Former Yugoslavia and the International Tribunal for Rwanda, all of which the EU supported, contain no provision for the death penalty, notwithstanding the fact that they were set up to deal with mass violations of humanitarian law including genocide.

The EU will keep these Guidelines under regular review and would envisage conducting such a review every three years.

II. Operational paper

The EU considers that abolition of the death penalty contributes to the enhancement of human dignity and the progressive development of human rights.

The objectives of the European Union are:

- To work towards universal abolition of the death penalty as a strongly held policy view agreed by all EU member states; if necessary with the immediate establishment of a moratorium on the use of the death penalty with a view to abolition.

- Where the death penalty still exists, to call for its use to be progressively restricted and to insist that it be carried out according to minimum standards as set out in the attached paper, while seeking accurate information about the exact number of persons sentenced to death, awaiting execution and executed.

These objectives are an integral part of the EU’s human rights policy.

The European Union will continue to intensify its initiatives, including declarations or demarches on the death penalty, in international fora and towards other countries, in the light of the attached Minimum Standards Paper.

The European Union will consider, case by case, and on the basis of relevant criteria, whether to make demarches to other countries over the use of the death penalty.

The main elements of the EU approach will be as follows:
General demarches

Where relevant, the European Union will raise the issue of the death penalty in its dialogues and consultations with third countries. Elements in these contacts will include:

- The EU’s call for universal abolition of the death penalty, or at least for a moratorium.
- Where its use is maintained, the EU will emphasise that states should only use the death penalty in line with the provisions contained in the minimum standards as set out in the attached paper, based on the provisions contained in international human rights law and other international standards, and they should maintain maximum transparency, including through publishing information about the death penalty and its use.

The precise nature of such approaches will take into consideration, inter alia:

- Whether the country has a properly functioning and open judicial system;
- Whether the country has made international undertakings not to use the death penalty, e.g., in connection with regional organisations and instruments;
- Whether the legal system of the country, and its use of the death penalty, is closed to public and international scrutiny, and whether there are indications that the death penalty is widely used in contravention of minimum standards.

Particular consideration will be given to making EU demarches on the use of the death penalty at times at which a country’s policy on the death penalty is in flux, e.g., where an official or de facto moratorium on the death penalty is to be ended, or where the death penalty is to be reintroduced through legislation.

Particular consideration will be given to reports and findings by relevant international human rights mechanisms.

A demarche or public statement may be made where countries take steps towards abolition of the death penalty.

Individual cases

In addition, where the European Union becomes aware of individual death penalty cases which violate minimum standards, the EU will consider making specific demarches. Actions will be considered on a case by case basis.

Speed will often be essential in these cases. Member states proposing such demarches should therefore provide as much background as possible drawing on all available sources. This should include brief details of the alleged crime, criminal proceedings, the precise nature of the violation of the minimum standards, the status of any appeal and, if known, the expected date of execution.

Where there is sufficient time consideration should be given to seeking, from Heads of Mission, detailed information and advice on the case prior to demarches being made.

Human rights reporting

EU Heads of Mission should include an analysis of the application and use of the death penalty and the effect of EU action in
this respect in their human rights reports, including in the human rights fact sheets.

**Possible results of EU interventions: other initiatives**

The EU’s objective, where possible, is to persuade third countries to abolish the death penalty. To this end, the EU will encourage countries to consider acceding to the Second Optional Protocol to the ICCPR and comparable regional instruments. Additionally, where this is not possible, the EU will nevertheless maintain abolition as an objective, and will:

- Encourage states to ratify and comply with International human rights instruments, especially those relating to the use of the death penalty, including the ICCPR;
- Encourage and offer bilateral and multilateral cooperation, inter alia in collaboration with civil society, including in the legal field with the aim of establishing a fair and impartial judicial process for criminal cases.

**Action in multilateral fora**

The EU will raise the issue of the death penalty in relevant multilateral fora and seize all appropriate opportunities to put before them initiatives aimed at introducing a moratorium on the use of the death penalty and, in due course, abolition. Whenever appropriate, the EU will seek to include references to the establishment of a moratorium on executions and the abolition of the death penalty in documents produced under the proceedings of these multilateral fora.

The EU will encourage relevant international organisations to take appropriate steps to encourage states to ratify and comply with international treaties and standards relating to the death penalty.

**III. Minimum standards paper**

Where states insist on maintaining the death penalty, the EU considers it important that the following minimum standards should be met:

- Capital punishment may be imposed only for the most serious crimes, it being understood that their scope should not go beyond intentional crimes with lethal or other extremely grave consequences. The death penalty should not be imposed for non-violent acts such as financial crimes, religious practice or expression of conscience and sexual relations between consenting adults nor as a mandatory sentence.
- Capital punishment may be imposed only for a crime for which the death penalty was prescribed at the time of its commission, it being understood that if, subsequent to the commission of the crime, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby.
- Capital punishment may not be imposed on:
  - Persons below 18 years of age at the time of the commission of their crime;
  - Pregnant women or new mothers;
  - Persons who have become insane.
- Capital punishment may be imposed only when the guilt of the person charged is based upon clear and convincing
evidence leaving no room for alternative explanation of the facts.

- Capital punishment must only be carried out pursuant to a final judgement rendered by an independent and impartial competent court after legal proceedings, including those before special tribunals or jurisdictions, which gives all possible safeguards to ensure a fair trial, at least equal to those contained in Article 14 of the International Covenant on Civil and Political Rights, including the right of anyone suspected of or charged with a crime for which capital punishment may be imposed to adequate legal assistance at all stages of the proceedings, and where appropriate, the right to contact a consular representative.

- Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases of capital punishment.

- Capital punishment may not be carried out in contravention of a state's international commitments.

- The length of time spent after having been sentenced to death may also be a factor.

- Where capital punishment occurs, it shall be carried out so as to inflict the minimum possible suffering. It may not be carried out in public or in any other degrading manner.

- The death penalty should not be imposed as an act of political revenge in contravention of the minimum standards, e.g., against coup plotters.
2. Torture and other cruel, inhuman or degrading treatment or punishment

I. Purpose

The purpose of these guidelines is to provide the EU with an operational tool to be used in contacts with third countries at all levels as well as in multilateral human rights fora in order to support and strengthen ongoing efforts to prevent and eradicate torture and ill-treatment in all parts of the world. The term "torture" is used in these guidelines in accordance with the definition provided in Article 1 of the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment. For the purpose of these guidelines ill-treatment means all forms of cruel, inhuman or degrading treatment or punishment, including corporal punishment, which deprives the individual of its physical and mental integrity. While addressing specific concerns about torture and ill-treatment is the primary purpose, the guidelines will also contribute to reinforcing the EU’s human rights policy in general.

II. Introduction

The European Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law. These principles are common to the Member States. Respect for human rights features among the key objectives of the EU’s common foreign and security policy (CFSP).

Torture and ill-treatment are among the most abhorrent violations of human rights and human dignity. According to the Universal Declaration of Human Rights no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. No exceptions are permitted under international law. All countries are obligated to comply with the unconditional prohibition of all forms of torture and ill-treatment. Despite the efforts by the international community torture and ill-treatment persist in all parts of the world. Impunity for the perpetrators of torture and ill-treatment continues to prevail in many countries.

To work towards the prevention and the eradication of all forms of torture and ill-treatment within the EU and world-wide is a strongly held policy view of all EU member states. Promotion and protection of this right is a priority of the EU’s human rights policy.

In its work towards the prevention and eradication of torture and ill-treatment the EU is guided by relevant international and regional norms and standards on human
rights, the administration of justice and the conduct of armed conflict including \textit{inter alia} those contained in the following instruments:

- Universal Declaration of Human Rights;
- UN International Covenant on Civil and Political Rights (ICCPR) and its two Optional Protocols;
- UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and its Optional Protocol;
- UN Convention on the Rights of the Child (CRC) and its two Optional Protocols
- UN International Convention on the Elimination of All Forms of Racial Discrimination (CERD);
- UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and its Optional Protocol;
- UN International Convention for the Protection of All Persons from Enforced Disappearance;
- UN Convention on the Rights of Persons with Disabilities and its Optional Protocol;
- European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols no. 6 and 13 as well as the relevant case-law of the European Court on Human Rights;
- European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT);
- Statute of the International Criminal Court;
- Statute of the International Tribunal for the Former Yugoslavia;
- Statute of the International Tribunal for Rwanda;
- Geneva Conventions on the Protection of Victims of War and its Protocols as well as customary rules of humanitarian law applicable in armed conflict.

An additional list of relevant norms and standards that the EU may invoke in its contacts with third countries is provided in the Annex to the guidelines.

**III. Operational guidelines**

The operational part of these guidelines is meant to identify ways and means to effectively work towards the prevention of torture and ill-treatment within the CFSP. An example of measures already undertaken to this end within the CFSP is the adoption of the EU Regulation on trade in torture equipment of July 30, 2005.

The prohibition of cruel, inhuman or degrading punishment imposes clear limits on the use of the death penalty. The present guidelines thus also serve a complementary role to the Guidelines to EU policy towards third countries on the death penalty.

The EU supports actively the work of the relevant actors (the Committee Against Torture, the Human Rights Committee, the Committee for the Prevention of Torture of the Council of Europe, the Sub Committee for the Prevention of Torture as well as the UN Special Mechanisms and other relevant actors). The EU will pro-actively contribute to ensure that the existing international and regional safeguards against torture and ill-treatment are strengthened and effectively implemented.
Monitoring and reporting

In their periodic reports, the EU Heads of Mission will include an analysis of the occurrence of torture and ill-treatment and the measures taken to combat it. The Heads of Mission will also provide periodic evaluation of the effect and impact of the EU actions. The Heads of Mission will have the possibility of sending embassy representatives as observers to trials where there is a reason to believe that defendants have been subjected to torture or ill-treatment.

Assessment

The Council Working Group on Human Rights (COHOM) and the relevant Geographic Working Groups will on the basis of the reports of the Heads of Mission and other relevant information, such as reports and recommendations from UN Special Rapporteurs and Treaty Bodies as well as non-governmental organisations, identify situations where EU actions are called upon, agree on further steps or make recommendations to higher levels.

The Council will review the guidelines at least every three years.

EU action in relations with third countries

The EU’s objective is to influence third countries to take effective measures against torture and ill-treatment and to ensure that the prohibition against torture and ill-treatment is enforced. In its contacts with third countries, the EU will, when deemed necessary, express the imperative need for all countries to adhere to and comply with the relevant international norms and standards and will consequently emphasise that torture and ill-treatment are forbidden under international law. The EU will make its objectives known as an integral part of its human rights policy and will stress the importance it attaches to the prevention of torture and ill-treatment with a view to its global eradication.

To achieve these objectives, the EU will take, inter alia, the following actions:

Political dialogue: The human rights component of the political dialogue between the EU and third countries and regional organisations shall, where relevant, include the issue of torture and ill-treatment.

Démarches: The EU will make démarches and issue public statements urging relevant third countries to undertake effective measures against torture and ill-treatment. The EU will, where need be, request information on allegations of torture or ill-treatment. The EU will also react to positive developments that have taken place.

In well documented individual cases of torture and ill-treatment the EU will urge (by confidential or public démarche) the authorities in the country concerned to ensure physical safety, prevent abuses, provide information and apply relevant safeguards. Actions on individual cases will be determined on a case-by-case basis and may form part of a general démarche.

Bilateral and multilateral co-operation: Combating and preventing torture and ill-treatment will be considered a priority in bilateral and multilateral co-operation for the promotion of human rights, inter alia in
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Collaboration with civil society, including in the legal field and the field of training. Particular attention should be given to such co-operation within the framework of the European Instrument for Democracy and Human Rights (EIDHR).

In its actions against torture the EU will urge third countries to take, inter alia, the following measures:

Prohibit and condemn torture and ill-treatment:
- prohibit torture and ill-treatment in law, including criminal law;
- condemn, at the highest level, all forms of torture and ill-treatment;
- take effective legislative, administrative, judicial and other measures to prevent the occurrence of acts of torture and ill-treatment in any territory under its jurisdiction;
- prevent the use, production and trade of equipment which is designed to inflict torture or other cruel, inhuman or degrading treatment or punishment and prevent the abuse of any other equipment to these ends.

Adhere to international norms and procedures:
- accede to the UNCAT, the ICCPR and relevant regional instruments, as well as to give favourable consideration to accession to the OPCAT;
- give favourable consideration to accede to the International Convention for the Protection of All Persons from Enforced Disappearance;
- withdraw reservations incompatible with the purpose and object of the CAT and the ICCPR;
- consider withdrawing other reservations to the CAT and the ICCPR and other relevant treaties;
- consider allowing individual and interstate complaints under the CAT, CEDAW and the ICCPR;
- accede to the Statute of the International Criminal Court;
- comply with the requests for interim measures of protection, rulings, decisions and recommendations of international human rights bodies;
- co-operate with the relevant UN mechanisms, in particular the UN Special Rapporteur on Torture, the UN Special Rapporteur on Violence against Women, the UN Special Rapporteur on trafficking in persons, the UN Special Rapporteur on the promotion and protection for human rights while countering terrorism, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, the UN Special Rapporteur on contemporary forms of racism, the Working Group on contemporary forms of Slavery, the Working Group on Arbitrary Detention, the Working Group on enforced or involuntary disappearances and, where appropriate, the UN Special Rapporteur appointed for the country concerned;
- co-operate with the Subcommittee for the Prevention of Torture and consent to publication of the Subcommittee’s reports on visits to their countries;
- ensure that no one is forcibly returned to a country where he or she risks being subjected to torture or ill-treatment;
in countries where the death penalty is still applied, ensure that in addition to the limitations contained in Article 6 ICCPR, executions, as well as death row conditions, must be such as to cause the least possible physical and mental suffering;

- co-operate with the relevant Council of Europe mechanisms, in particular the decisions of the European Court of Human Rights and recommendations of the Committee for the Prevention of Torture, and consent to publication of the Committee’s reports on visits to their countries.

Adopt and implement safeguards and procedures relating to places of detention:

- adopt and implement legal and procedural safeguards against torture and ill-treatment in order to ensure that persons deprived of their liberty are brought before a judicial authority without delay and that they have access to lawyers and medical care without delay and regularly thereafter and ensure that the persons deprived of their liberty can inform their relatives and other relevant third parties without delay;

- ban secret places of detention ensuring that all persons deprived of their liberty are held in officially recognised places of detention and that their whereabouts are known;

- ensure that procedures for detention and interrogation are in conformity with relevant international and regional standards;

- improve the conditions in places where persons deprived of their liberty are held in order to conform with international and regional standards.

Establish domestic legal guarantees:

- ensure that statements obtained through torture and ill-treatment shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made;

- abolish all forms of judicial corporal punishment;

- ensure that no exceptional circumstances whatsoever, including a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture or ill-treatment;

- ensure that no order from a superior officer or a public authority may be invoked as a justification of torture or ill-treatment;

- ensure that law enforcement officials, military, medical and other relevant personnel will not be punished for not obeying orders to commit acts amounting to torture or ill-treatment.

Combat impunity:

- bring those responsible for torture and ill-treatment to justice in trials that conform to international norms for a fair trial and which exclude the death penalty or extradite them for prosecution in another state where these guarantees are fulfilled;

- conduct prompt, impartial and effective investigations of all allegations of torture in accordance with the Istanbul Rules annexed to CHR resolution 2000/43;
— ensure to the greatest possible extent that amnesty is not granted in respect of acts of torture, and ensure that amnesties do not deprive individuals of the right to an effective remedy, including compensation and rehabilitation.

**Groups requiring special protection:**
— establish and implement standards and measures relating to women, children, refugees, asylum-seekers, internally displaced persons, migrants and other groups requiring special protection against torture and ill-treatment.

**Allow domestic procedures for complaints and reports of torture and ill-treatment:**
— establish and operate effective domestic procedures for responding to and investigating complaints and reports of torture and ill-treatment in accordance with the Istanbul Rules;
— ensure that alleged victims of torture or ill-treatment, witnesses, those conducting the investigation and their families are protected from violence, threats of violence or any other form of intimidation or reprisal that may arise pursuant to the report or investigation.

**Provide reparation and rehabilitation for victims:**
— provide reparation for the victims of torture and ill-treatment and their dependants, including fair and adequate financial compensation as well as appropriate medical care and social and medical rehabilitation,
— contribute annually to the United Nations Voluntary Fund for Victims of Torture preferably with a substantial increase in the level of contributions.

**Allow domestic visiting mechanisms:**
— allow visits by suitably qualified representatives of civil society and independent bodies to places where persons deprived of their liberty are held.

**Establish national institutions:**
— consider creating and operating and, where appropriate, strengthening independent national institutions (e.g. human rights ombudspersons or human rights commissions) which can effectively address the prevention of torture and ill-treatment.

**Provide effective training:**
— train law enforcement officials and military personnel as well as medical personnel (civil and military) to comply with the relevant international standards;
— ensure the training of the judiciary, prosecutors and lawyers on the relevant international standards;
— ensure that transfers of equipment and training for military, security or police use do not facilitate torture and ill-treatment;
— ensure that training programmes for law enforcement personnel include training on the prevention of violence against women, on the rights of the child and on discrimination on such grounds as race and sexual orientation.
Support the work of medical professionals:
- enable medical professionals to work independently and confidentially when preparing observations on alleged cases of torture and ill-treatment;
- protect doctors, forensic experts and other medical professionals who report cases of torture and ill-treatment.

Conduct autopsies:
- ensure that medico-legal autopsies are carried out by trained forensic specialists in accordance with internationally recognised standards;
- provide for proper forensic examination in all cases of serious injury of detained persons.

Other initiatives

The EU will:
- continue to raise the issue of torture and ill-treatment in multilateral fora, such as the UN, the Council of Europe and the OSCE. The EU will continue to actively support the relevant resolutions at the UN bodies including the General Assembly and the Human Rights Council;
- support the relevant international and regional mechanisms (e.g. the Committee Against Torture, the Subcommittee on the Prevention of Torture, the European Committee for the Prevention of Torture, the relevant UN Special Mechanisms) and stress the need for states to co-operate with the mechanisms;
- support the UN Voluntary Fund for the Victims of Torture and the voluntary fund established under OPCAT and encourage other countries to do so;
- offer joint or bilateral co-operation on the prevention of torture and ill-treatment;
- support public education and awareness-raising campaigns against torture and ill-treatment;
- support the work of relevant national and international NGOs to combat torture and ill-treatment and maintain a dialogue with them;
- continue to fund projects undertaken to improve training of personnel and conditions in places of detention and will maintain its substantial support for rehabilitation centres for victims of torture across the world.
ANNEX

In addition to the list of instruments included in the introductory part of the guidelines the EU may invoke, where relevant, in its contacts with third countries concerning torture and ill-treatment the following norms and standards and principles.

- Charter of Fundamental Rights of the European Union, in particular articles 4 and 19(2)
- UN Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- UN Declaration on the Elimination of Violence Against Women
- UN Convention Relating to the Status of Refugees
- UN Declaration on the Protection of All Persons from Enforced Disappearances
- UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions
- UN Standard Minimum Rules for the Treatment of Prisoners
- UN Basic Principles for the Treatment of Prisoners
- UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment
- UN Rules for the Protection of Juveniles Deprived of their Liberty
- UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power
- UN Basic Principles on the Independence of the Judiciary
- UN Basic Principles on the Role of Lawyers
- UN Guidelines of the Role of Prosecutors
- UN Standard Minimum Rules for Non-Custodial Measures
- UN Code of Conduct for Law Enforcement Officials
- UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials
- UN Principles on Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment
- UN Basic Principles and Guidelines on the Right to a Remedy and Reparation
- Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) annexed to UN Commission on Human Rights resolution 2000/43
- Safeguards guaranteeing protection of the rights of those facing the death penalty (ECOSOC resolution 1984/50)
- Vienna Declaration and Programme of Action
- General Comments by the UN Committee against Torture, in particular No. 1 on Article 3, and No. 2 on Article 2
- General Comments by the UN Human Rights Committee, in particular No. 20
- on Article 7, No. 21 on Article 10 and No. 29 on Article 4 of the International Covenant on Civil and Political Rights
- General Recommendation no. 12, 14 and 19 of the Committee on the Elimination of Discrimination against Women
- African Charter on Human and People’s Rights
- African Charter of the Rights and Welfare of the Child
- American Convention on Human Rights
- Inter-American Convention to Prevent and Punish Torture
- Inter-American Convention on Forced Disappearance of Persons
- Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women
- Recommendations of the Committee of Ministers of the Council of Europe:
  - no. R (87) 3 European Prison Rules
  - no. R (98) 7 Concerning the ethical and organisational aspects of health care in prison
  - no. R (99) 3 On the Harmonisation of Medico-legal Autopsy Rules
  - no. R (99) 22 Concerning Prison Overcrowding and Prison Population Inflation.
  - no. R (00) 19 on the role of public prosecution in the criminal justice system
  - no. R (00) 21 on the freedom of exercise of the profession of lawyer.
  - no. R (01) 10 on the European Code of Police Ethics
  - no. R (03) 05 on measures of detention of asylum seekers
  - no. R (03) 17 on enforcement
  - no. R (03) 20 concerning new ways of dealing with juvenile delinquency and the role of juvenile justice
  - no. R (03) 22 on conditional release (parole)
  - no. R (03) 23 on the management by prison administrations of life sentence and other long-term prisoners
  - no. R (04) 10 Concerning the protection of the human rights and dignity of persons with mental disorder
  - no. R (05) 9 on the protection of witnesses and collaborators of justice
  - no. R (06) 2 European Prison Rules
  - no. R (06) 6 on Internally Displaced Persons
  - no. R (06) 8 on assistance to crime victims
  - EU Regulation on trade in torture equipment of July 30 2005.
  - EU Code of Conduct on arms export.
I. Introduction

In its conclusions of 25 June 2001 the Council welcomed the Commission communication of 8 May 2001 on the European Union's role in promoting human rights and democratisation in third countries, which represents an invaluable contribution towards strengthening the coherence and consistency of the EU's policy on human rights and democratisation. In its conclusions the Council reaffirmed its commitment to the principles of coherence and consistency, integration of human rights into all its actions, openness of its policies and identification of priority areas. As part of the process of implementing those Council conclusions, the Working Party on Human Rights (COHOM) undertook to establish guidelines on human rights dialogues in consultation with the geographical working parties, the Working Party on Development Cooperation (CODEV) and the Committee on measures for the development and consolidation of democracy and the rule of law, and for the respect of human rights and fundamental freedoms.

II. Current situation

The European Union is engaged in human rights dialogues with a number of countries. Those dialogues are in themselves an instrument of the Union's external policy. They are among a range of measures which the EU may use to implement its policy on human rights, and constitutes an essential part of the European Union's overall strategy aimed at promoting sustainable development, peace and stability, which, as emphasised by the World Summit declaration of 2005, approved by consensus and at the highest level by the UN General Assembly, are interdependent with respect for human rights and mutually reinforce one another. The decision to initiate such a dialogue is, in accordance with the guidelines on human rights dialogues with third countries adopted in 2001, to be made by the Council of the European Union. However, it should also be said that there is room for greater consistency in the EU's current approach towards dialogues. In fact, we are faced with an increasing number of such dialogues, and furthermore such dialogues take place at very different levels (e.g. at the level of experts from the capitals or heads of mission) and in very different fora. The decision to create new dialogues must therefore be taken with due regard for the anticipated added value and the resources available for their implementation.
Thus, different types of dialogues exist, including:

Dialogues or discussions of a rather general nature based on regional or bilateral treaties, agreements or conventions or strategic partnerships dealing systematically with the issue of human rights. These include in particular:

- relations with candidate countries;
- the Cotonou Agreement with the ACP States;
- relations between the EU and Latin America;
- the Barcelona process (Mediterranean countries) and the neighbourhood policy (countries of the Caucasus in particular);
- political dialogue with Asian countries in the context of ASEAN and ASEM;
- relations with the Western Balkans;
- bilateral relations in the framework of association and cooperation agreements.

Dialogues focusing exclusively on human rights. At present there are several regular, institutionalised dialogues devoted solely to human rights between the European Union and a third country or regional organisation (e.g. dialogue with China, consultations with Russia, dialogue with the five States of Central Asia and dialogue with the African Union). These are highly structured dialogues and consultations held at the level of human rights experts from the capitals. At one time the European Union also maintained a human rights dialogue with the Islamic Republic of Iran. Others are held at the level of heads of mission (e.g. India, Pakistan and Vietnam). The fact that such dialogue exists does not have to mean that the human rights issue is not also discussed at other levels of the political dialogue.

In addition, in the context of various cooperation or association agreements with third countries, there are specific sub-committees or groups dealing with the human rights issue. This is the case in particular with various countries on the southern shores of the Mediterranean such as Morocco, Tunisia, Lebanon, Jordan, Egypt, Israel and the Palestinian Authority.

Ad hoc dialogues extending to CFSP-related topics such as that of human rights. The EU currently maintains such dialogues, for example with Sudan, at the level of heads of mission on the spot.

Dialogues in the context of special relations with certain third countries, on the basis of broadly converging views. With the United States, Canada, New Zealand, Japan and the associated countries, for example, these mostly take the form of six-monthly meetings of experts, with the Troika representing the EU, before the Human Rights Council and the annual United Nations General Assembly. Provision is also made for consultations with the African Union prior to the meetings of the Human Rights Council and the Third Committee of the UN General Assembly. The main objective of these dialogues is to discuss issues of common interest and the possibilities for cooperation within multilateral human rights bodies.

In addition to dialogues at EU level, a number of Member States also maintain dialogues with various third countries at national level.

The guidelines on human rights dialogues have several aims, namely to:
- identify the role played by this instrument in the global framework of the CFSP and the EU's policy on human rights;
- strengthen the coherence and consistency of the European Union's approach towards human rights dialogues by analysing on a case-by-case basis the added value of opening a dialogue on human rights and the resulting workload for the COHOM;
- facilitate use of that instrument by defining the conditions in which it is to be applied and made effective;
- notify the third parties (in particular, international organisations, non-governmental organisations, civil society, the media, the European Parliament, third countries) of this approach.

Political dialogues with the ACP countries under the Cotonou Agreement have their own detailed arrangements and procedures as laid down in Article 8 of the Agreement. However, for consistency's sake, exchanges of news and experience must be held on a regular basis in the COHOM Working Party framework.

III. Basic principles

The European Union undertakes to intensify the process of integrating human rights and democratisation objectives ("mainstreaming") into all aspects of its external policies. Accordingly, the EU will ensure that the issue of human rights, democracy and the rule of law will be included in all future meetings and discussions with third countries and at all levels, whether ministerial talks, joint committee meetings or formal dialogues led by the Presidency of the Council, the Troika, heads of mission or the Commission. It will further ensure that the issue of human rights, democracy and the rule of law is included in programming discussions and in country strategy papers.

However, in order to examine human rights issues in greater depth, the European Union may decide to initiate a human rights-specific dialogue with a particular third country. Decisions of that kind will be taken in accordance with certain criteria, while maintaining the degree of pragmatism and flexibility required for such a task. Either the EU itself will take the initiative of suggesting a dialogue with a third country, or it will respond to a request by a third country.

IV. Objectives of human rights dialogues

The objectives of human rights dialogues will vary from one country to another and will be defined on a case-by-case basis. These objectives may include:
- discussing questions of mutual interest and enhancing cooperation on human rights inter alia, in multinational fora such as the United Nations;
- registering the concern felt by the EU at the human rights situation in the country concerned, information gathering and endeavouring to improve the human rights situation in that country.
- Moreover, human rights dialogues can identify at an early stage problems likely to lead to conflict in the future.

V. Issues covered in human rights dialogues

The issues to be discussed during human rights dialogues will be determined on a
case-by-case basis. However, the European Union is committed to dealing with those priority issues which should be included on the agenda for every dialogue. These include the signing, ratification and implementation of international human rights instruments, cooperation with international human rights procedures and mechanisms, combating the death penalty, combating torture, combating all forms of discrimination, children’s rights, and in particular those of children in armed conflicts, women’s rights, freedom of expression, the role of civil society and the protection of human rights defenders, international cooperation in the field of justice, in particular with the International Criminal Court, promotion of the processes of democratisation and good governance, the rule of law and the prevention of conflict. The dialogues aimed at enhancing human rights cooperation could also include – according to the circumstances – some of the priority issues referred to above, (in particular the implementation of the main international human rights instruments ratified by the other party), as well as preparing and following up the work of the Human Rights Council in Geneva, of the Third Committee of the UN General Assembly in New York and of international and/or regional conferences. They are held on a reciprocal basis, which enables the third country to raise the human rights situation in the European Union.

IV. Procedure for the initiation of human rights dialogues

Any decision to initiate a human rights dialogue will first require an assessment of the human rights situation in the country concerned. The decision to embark on a preliminary assessment will be made by the Working Party on Human Rights (COHOM), involving as far as is necessary the geographical working parties, the Working Party on Development Cooperation (CODEV) and the Committee on measures for the development and consolidation of democracy and the rule of law, and for the respect of human rights and fundamental freedoms. The assessment itself will be made by COHOM in coordination with the other Working Parties. Amongst other things the assessment will look at developments in the human rights situation, the extent to which the government is willing to improve the situation, the degree of commitment shown by the government in respect of international human rights conventions, the government’s readiness to cooperate with United Nations human rights procedures and mechanisms as well as the government’s attitude towards civil society. The assessment will be based, inter alia, on the following sources: reports by heads of mission, reports by the UN and other international or regional organisations, reports by the European Parliament and by the various non-governmental organisations working in the field of human rights, and Commission strategy papers for the countries concerned.

Any decision to open a human rights dialogue will first require the defining of the practical aims which the Union seeks to achieve by entering into dialogue with the country concerned, as well as an assessment of the added value to be gained from such dialogue. The European Union will also in the medium-term, on a case-by-case basis, establish criteria for measuring the progress achieved in relation to the benchmarks and also criteria for a possible exit strategy but
without that being the condition for the launching of a human rights dialogue.

Exploratory talks will be held before a human rights dialogue with the country concerned is launched. The aim of those talks will be twofold: first to define the objectives to be pursued by any country accepting or requesting a human rights dialogue with the EU and to determine possible ways of increasing that country’s commitment towards international human rights instruments, international human rights procedures and mechanisms and the promotion and protection of human rights and democratisation in general; and subsequently to update the information in the reports following the preliminary assessment. The talks will also provide an opportunity to explain to the country concerned the principles underlying the EU’s action, as well as the Union’s aims in proposing or accepting a human rights-specific dialogue. The exploratory talks will preferably be led by an EU Troika team of human rights experts representing the capitals, in close consultation with the Heads of Mission accredited in the country concerned. An assessment of the exploratory talks will then be carried out. The European Union will decide in the light of that assessment whether or not it wishes to continue on a more structured and institutionalised basis.

Any decision to initiate a human rights-specific dialogue will require discussion within the Working Party on Human Rights and its prior agreement. The final decision to initiate a human rights dialogue and to define the practical arrangements for such a dialogue, whether at the level of experts from the capitals or at local level by the heads of mission, lies with the Council of the European Union.

The geographical working parties and, if necessary, the Working Party on Development Cooperation (CODEV) and the Committee on measures for the development and consolidation of democracy and the rule of law, and for the respect of human rights and fundamental freedoms, should also be involved in this decision-making process.

Should the assessment be a negative one and/or the European Union decide not to initiate a human rights dialogue, the European Union will consider whether other approaches might be appropriate, such as emphasis on the human rights aspect of the political dialogue with the country concerned, inter alia by including specialist human rights knowledge in the political dialogue team.

The Working Party on Human Rights (COHOM) will be responsible for following up the dialogue and for setting the agenda in all the scenarios, where necessary together with the other bodies concerned, viz. the geographical working parties, the Heads of Mission, the Working Party on Development Cooperation (CODEV) and the Committee on measures for the development and consolidation of democracy and the rule of law, and for the respect of human rights and fundamental freedoms.

VII. Practical arrangements for human rights dialogues

Flexibility and pragmatism are the keywords in the context of the practical arrangements for human rights dialogues, which should thus be determined on a case-by-case basis, by
joint agreement with the country concerned. The arrangements will cover aspects such as where and how often the dialogue is to be held and the level of representation required.

In principle, all the dialogues should last for at least one full day, with the exception of those held with States sharing views similar to those of the European Union, and, as far as possible, simultaneous interpretation should be provided in order to make maximum use of the time available for the discussions. Furthermore, when it instigates a dialogue, the European Union must make it clear to the third country that it reserves the right to refer to individual cases and to provide it, at each meeting, with a list of individual cases in respect of which it expects to receive a response. This list could be accompanied by a request for the release of the persons whose case has been raised, and, if necessary, those individual cases could be discussed at the level of the political dialogues. Where appropriate, the European Union will publish a press release at the end of the dialogue, to be posted on the website of the General Secretariat of the Council and of the relevant Commission delegation. Consideration will also be given, on a case-by-case basis, to organising a joint press conference and interviews with the press after each session of a dialogue.

To ensure that the discussions are as fruitful as possible, the dialogues should, as far as feasible, be held at the level of government representatives responsible for human rights. For the sake of continuity, the European Union should be represented by the Troika, at the level either of representatives from the capitals or of Heads of Mission.

The European Union will ensure that dialogue meetings are regularly held in the country concerned. This approach has the advantage of giving the EU delegation a better opportunity to gauge for itself the situation on the spot and, subject to the agreement of the country’s authorities, to contact the people and institutions in which it is interested. Traditionally, dialogues whose primary purpose is to discuss issues of mutual interest and to strengthen human rights cooperation are held in Brussels. That tradition should preferably be maintained.

As far as possible, the European Union will ask the authorities of countries involved in the human rights dialogue to include in their de-legations representatives of the various institutions and Ministries responsible for human rights matters, such as the Justice and Interior Ministries, the police, prison administration etc. Likewise, civil society could become involved under the most suitable arrangement in the preliminary assessment of the human rights situation, in the conduct of the dialogue itself (particularly by organising, in certain cases, seminars with representatives of civil society of the third country and of the European Union in order to discuss specific thematic issues in greater depth in parallel with the formal dialogue), and in following up and assessing the dialogue. The European Union could thus signify its support for defenders of human rights in countries with which it maintains exchanges of this kind.

The EU will as far as possible give the human rights dialogues a degree of genuine transparency vis-à-vis civil society.
VIII. Consistency between Member States' bilateral dialogues and EU dialogues

Information exchange is essential if maximum consistency between Member States' bilateral dialogues and EU dialogues is to be ensured. Exchanges of this kind, particularly on the issues discussed and the outcome of discussions, could be conducted by COREU or the Working Party on Human Rights (COHOM). The diplomatic post of the current Presidency in the country concerned could also gather relevant information on the spot. Where appropriate, informal ad hoc meetings between the members of the Working Party on Human Rights (COHOM), the relevant geographical working parties, and the European Parliament could be considered. It would also be possible to consider holding informal ad hoc meetings with other countries which maintain human rights dialogues with the country concerned (as in the case of the current dialogue with China). Such meetings should involve the COHOM Working Party, and the geographical working parties or study groups.

The assistance afforded by the European Union in the area of human rights and democratisation in the countries with which it maintains a dialogue should take into account developments in the dialogue and its outcome. To that end, the European Commission will regularly notify COHOM of the use of funds from the European Instrument for Democracy and Human Rights (EIDHR), so that an exchange of views can be held on the consistency of such assistance measures with the priorities defined by COHOM, with due regard also for any assistance provided by the Member States in that area.

IX. Consistency between human rights dialogues and EU Resolutions to the UNGA and the HRC

Human rights dialogues and Resolutions submitted by the European Union to the UNGA or the HRC on the human rights situations in certain countries are two entirely separate forms of action. Accordingly, the fact that there is a human rights dialogue between the EU and a third country will not prevent the EU either from submitting a Resolution on the human rights situation in that country or from providing support for an initiative by the third country. Nor will the fact that there is a human rights dialogue between the EU and a third country prevent the European Union from denouncing breaches of human rights in that country, inter alia in the appropriate international fora, or from raising the matter in meetings with the third countries concerned at every level.

X. Assessing human rights dialogues

All human rights dialogues will be assessed on a regular basis by COHOM, in conjunction with the relevant geographical working party, preferably, and as far as possible, every other year.

The assessment may be made by the current Presidency, assisted by the Council Secretariat or, in individual cases, by calling on the services of an external consultant. It will be submitted for discussion and decision to the Working Party on Human Rights (COHOM) in cooperation with the geographical working parties, the Working Party on Development Cooperation (CODEV) and the Committee
on measures for the development and consolidation of democracy and the rule of law, and for the respect of human rights and fundamental freedom. Civil society will be involved in this assessment exercise.

The task will involve assessing the situation in relation to the objectives which the Union set itself before the start of the dialogue, and will examine how much added value has been provided by the dialogue. The examination will look particularly closely at the progress made on the priority areas of the dialogue. If progress has indeed been made, the assessment should, if possible, analyse how far the European Union’s activities have contributed to that progress. If no progress has been made, the European Union should either adjust its aims, or consider whether or not to continue the human rights dialogue with the country concerned. Indeed, a dialogue assessment must allow for the possibility of a decision to terminate the exercise if the requirements given in these guidelines are no longer met, or the conditions under which the dialogue is conducted are unsatisfactory, or if the outcome is not up to the EU’s expectations. Likewise, a decision may be taken to suspend a dialogue which has proved successful and has therefore become redundant. Such matters will be dealt with by the Working Party on Human Rights (COHOM) as a matter of priority.

As for dialogues aimed at strengthening human rights cooperation, particularly those held within international and regional bodies, the assessment will focus on those areas in which cooperation could be further improved.

XI. Managing human rights dialogues

Given the increasing numbers of dialogues, the Working Party on Human Rights (COHOM) must consider the problem of how these should be managed. Continuity is a very important factor, as is the strengthening of the structures supporting the current Council Presidency in the preparations for the dialogues and their follow-up. To prepare each dialogue properly will also require provision of the basic elements from the geographical working parties, but also if necessary from the Working Party on Development Cooperation (CODEV) and the Committee on measures for the development and consolidation of democracy and the rule of law, and for the respect of human rights and fundamental freedoms. The Council Secretariat’s support is essential in terms of centralising all the data, preparing both the content and the logistics, and following up the dialogues. The European Union could also consider, on a case-by-case basis, the possibility of associating a private foundation or organisation specialised in the field of human rights with one or more dialogues.

XII. The human rights position in political dialogues

As indicated in paragraph 3, the European Union will ensure that the issue of human rights, democracy and the rule of law is incorporated into all meetings and discussions it has with third countries, at every level, including political dialogue and, if necessary, at the highest level. The European Union undertakes to include human rights experts in the EU delegations. The decision on who will provide the expert
knowledge will be taken on a case-by-case basis, but with an eye to continuity. Although this type of discussion does not afford the possibility of dealing with human rights issues in any great depth, the European Union will endeavour to raise the priority issues referred to in paragraph 5 with the country concerned.
1. Children and armed conflict

In the past decade alone, armed conflicts are estimated to have claimed the lives of over two million children and physically maimed six million more. Conflict deprives children of parents, care-givers, basic social services, health care and education. There are some twenty million displaced and refugee children, as well as one million orphans, while others are held hostage, abducted or trafficked. Systems of birth registration and juvenile justice systems collapse. At any given time, there are estimated to be at least 300,000 child soldiers participating in conflicts.

Children have special short and long term post-conflict needs, such as for tracing of family members, redress and social reintegration, psycho-social rehabilitation programmes, participation in disarmament, demobilisation and reintegration programmes as well as within transitional justice frameworks. In this regard, the EU welcomes the creation of a follow-up forum to the Paris Commitments, which focuses on coordinating and facilitating international support for such programmes.

In many situations, there remains a climate of impunity for those committing crimes against children, as proscribed by international humanitarian law and the Rome Statute of the International Criminal Court. The EU underlines the fundamental role of international criminal jurisdictions in fighting impunity and addressing the relevant violations of international law concerning the illegal use and recruitment of child soldiers.

The Convention on the Rights of the Child (CRC) is almost universally ratified, but by no means universally applied. Particularly in situations of armed conflict, children suffer disproportionately, in a variety of ways, and with long lasting effects. The impact of armed conflict on future generations may sow the seeds for conflicts to continue or to re-emerge. The Optional Protocol to the CRC on the involvement of children in armed conflict is aimed at countering this situation.

The EU welcomes that important international mechanisms have been established dealing with children and armed conflict, in particular, the Special Representative of the UN Secretary General for Children and Armed Conflict, and the Security Council Working Group on Children and Armed Conflict. Consequently, the EU and its member States shall take into
consideration and, where appropriate, coordinate their action with these mechanisms, in a view to maximise impact of their respective interventions.

II. Purpose

Promotion and protection of the rights of the child is a priority of the EU’s human rights policy. The European Union (EU) considers it of critical importance to address the issue of children and armed conflict not only because children are suffering in the present and will shape the future but because they have inherent and inalienable rights, as set out in the CRC, its Optional Protocols and other international and regional human rights instruments. The EU aims to raise the awareness of this issue by giving more prominence to EU actions in this field, both within the EU and in its relations with third parties.

The EU undertakes to address the short, medium and long term impact of armed conflict on children in an effective and comprehensive manner, making use of the variety of tools at its disposal, and building on past and ongoing activities (overview of EU actions in Annex I). The EU’s objective is to influence third countries and non state actors to implement international and regional human rights norms, standards and instruments, as well as international humanitarian law (as listed in Annex II) and to take effective measures to protect children from the effects of armed conflict, to end the use of children in armed forces and armed groups, and to end impunity for crimes against children. The EU recognises the importance of ensuring coordination and continuity between the various policies and actions targeting the situation of children affected by armed conflict in the various policy areas, including CFSP/ESDP, external assistance and humanitarian aid.

III. Principles

The EU is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law. These principles are common to the Member States. Respect for human rights features among the key objectives of the EU’s Common Foreign and Security Policy (CFSP), which includes the European Security and Defense Policy (ESDP). Respect for human rights is also part of the Community’s policies regarding trade and development co-operation and humanitarian assistance.

The promotion and protection of the rights of all children is a priority concern of the EU and its Member States. In its work to ensure the protection of children affected by armed conflict, the EU is guided by relevant international and regional norms and standards on human rights and humanitarian law including, inter alia, those contained in Annex II.

The EU supports the work of the relevant actors, in particular the UN Secretary General, the Special Representative of the Secretary General for Children and Armed Conflict, the Working Group of the Security Council on Children and Armed Conflict, UNICEF, UNIFEM, OHCHR, UNHCR, UNDP, ILO, the Committee on the Rights of the Child, the Human Rights Committee, the Human Rights Council, the Third Committee, the Council of Europe, OSCE/ODIHR as well as UN Special Mechanisms and other relevant actors such as the ICRC, the Human Security Network and civil society organisations. The EU also supports the work
of child protection networks and Task Forces monitoring UN Resolution 1612 on the ground. The EU will pro-actively contribute and work with these actors to ensure that the existing international safeguards to the rights of the child are strengthened and effectively implemented.

IV. Guidelines

Regular monitoring, reporting and assessments form the basis for the identification of situations where EU action is called for. Where EU-led crisis management operations are concerned, decision making will proceed on a case-by-case basis, bearing in mind the potential mandate for the specific action and the means and capabilities at the disposal of the EU.

Monitoring and reporting

In their periodic reports and where relevant, and in full knowledge, and in coordination with, the reporting and monitoring system of the UN established through UNSC resolutions 1539 (2004) and 1612 (2005), the EU Heads of Mission, Heads of Mission of civilian operations, EU Military Commanders (through the chain of command) as well as the EU Special Representatives will include an analysis of the effects of conflict or looming conflict on children. These reports should address in particular violations and abuses against children, recruitment and deployment of children by armies and armed groups, killing and maiming of children, attacks against schools and hospitals, blockage of humanitarian access, sexual and gender-based violence against children, abduction of children and the measures taken to combat them by the parties in case. While these six violations provide a primary focus, they do not exclude monitoring and reporting of, and response to, other violations committed against children as relevant in each country situation. They will include in their normal reporting periodic evaluation of the effect and impact of EU actions on children in conflict situations where appropriate. Where relevant, Heads of Mission may prepare ad hoc reports on country situations, including an update on the implementation of relevant country strategies which may cover also these issues. Lessons learned from EU crisis management operations may form another important source of information for the competent working parties provided they are not classified.

The Commission will draw the attention of the Council and Member States to relevant reporting in this area and provide further information, where appropriate and necessary, on Community-funded projects aimed at children and armed conflict and post-conflict rehabilitation. Member States will feed into this overview by providing information on bilateral projects in this area.

Assessment and recommendations for action

The Council Working Group on Human Rights (COHOM) in close co-ordination with other relevant working parties will on the basis of the above mentioned reports and other relevant information, such as reports and recommendations from the UNSG (including the list of parties to armed conflict that recruit or use children as annexed to the annual report to the UN Security Council on children and armed conflict), the Special Representative of the Secretary General for Children and Armed Conflict, the UN Security
Guidelines on Human Rights and International Humanitarian Law

Council working group on Children and armed conflict, UNICEF, UN Special Mechanisms and human rights Treaty Bodies as well as non-governmental organisations, at regular intervals identify situations where EU actions are called upon, in particular where alarming situations arise which call for immediate attention, and make recommendations for such action to the appropriate level (PSC/Coreper/Council).

EU tools for action in relations with third countries

The EU has a variety of tools for action at its disposal. The EU will build on existing initiatives in order to consolidate, strengthen and advance EU actions for children affected by armed conflict (as in Annex I). In addition, the tools at the EU’s disposal include, inter alia, the following:

Political dialogue: The human rights component of the political dialogue at all levels between the EU and third countries and regional organisations shall, where relevant, include all aspects of the rights and well being of the child during pre-conflict, conflict and post-conflict situations.

Démarches: EU will make démarches and issue public statements urging relevant third countries to take effective measures to ensure protection of children from the effects of armed conflict, to end the use of children in armed forces and armed groups, and to end impunity. The EU Special Representatives and Heads of Mission will be tasked to continue to address the matter with non state actors where relevant. Where appropriate, the EU will also react to positive developments that have taken place.

Multilateral co-operation: The Community is engaged in funding projects relating to children and armed conflict in several fields, in particular for Disarmament, Demobilisation, Reintegration and Rehabilitation (DDRR) and through humanitarian assistance. The Commission will identify possibilities for extending such support, for example in the context of its Country Strategy Papers and its Mid Term Reviews, paying specific attention to the situations in priority countries. The Commission will also specifically consider the link between relief, rehabilitation and development. In this continuum, the Commission has recognised the importance of support to education in emergencies, which has to be integrated into comprehensive longer-term policies. Member States will equally seek to reflect priorities set out in these guidelines in their bilateral co-operation projects.

Crisis management operations: during the planning process, the question of protection of children should be adequately addressed. In countries where the EU is engaged with crisis management operations, and bearing in mind the mandate of the operation and the means and capabilities at the disposal of the EU, the operational planning should take into account, as appropriate, the specific needs of children, bearing in mind the particular vulnerability of the girl child. In pursuit of the relevant UNSC resolutions, the EU will give special attention to the protection, welfare and rights of children in armed conflict when taking action aimed at maintaining peace and security.

Making use of the various tools at its disposal, the EU will seek to ensure that specific needs of children will be taken into account.
in early-warning and preventive approaches as well as actual conflict situations, peace negotiations, peace agreements, ensuring that crimes committed against children be excluded from all amnesties, post-conflict phases of reconstruction, rehabilitation, reintegration and long-term development. The EU will seek to ensure that the local community, including children, is involved in the peace process. In this context, the EU will take advantage of and build on experience gained within the UN system and regional organisations. Girls and those children, who are refugees, displaced, separated, abducted, affected by HIV/AIDS, disabled, subject to sexual exploitation or in detention are particularly vulnerable.

Training: the co-ordinated EU Training Concept in the field of crisis management should take account of the implications of these guidelines. In light of this, the EU recommends training in child protection.

Other measures: the EU might consider making use of other tools at its disposal where appropriate, such as the imposition of targeted measures. When EU agreements with third countries are approaching renewal the EU will consider carefully the country’s record on respect for children’s rights, with particular reference to children affected by armed conflict.

V. Implementation and follow-up

COHOM is furthermore requested to:
- oversee the implementation of EU action taken in accordance with these guidelines and to that end develop modalities to render paragraph 12 operational, as well as to oversee the implementation of relevant country strategies. In this context, reference is made to the 25 June 2001 General Affairs Council’s conclusions, which recalled that the Community actions should be consistent with the EU’s action as a whole;
- review and update on a regular basis the EU list of priority countries;
- promote and oversee mainstreaming of the issue of children and armed conflict throughout all relevant EU policies and actions, as well as to co-operate with other EU bodies in the area of security and development to comprehensively protect the rights of children;
- undertake ongoing review of the implementation of these guidelines, in close co-ordination with the relevant working groups, Special Representatives, Heads of Mission, Heads of Mission of civilian operations and EU Military Commanders (through the chain of command);
- continue to examine, as appropriate, further ways of co-operation with the UN and other international and regional intergovernmental organisations, NGOs as well as corporate actors in this area;
- report to PSC on an annual basis on progress made towards fulfilling the objectives set out in these guidelines;
- submit an evaluation of these guidelines to the Council with recommendations for improvements or updates as and when appropriate;
- On that basis, consider establishing a focal point (for instance a special group of experts or Special Representative) to ensure the future implementation of these guidelines.
ANNEX I

Non-exhaustive list of international norms, standards and principles the EU may invoke in contacts with Third Countries concerning children affected by armed conflict

I. UN human rights instruments

Treaties and protocols
- Convention on the Rights of the Child, 1989;
- Optional Protocol II to the Convention on the Rights of the Child on the involvement of children in armed conflict, 2002;
- Optional Protocol I to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, 2002;
- ILO Convention 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999.

Security Council Resolutions
- Security Council Resolution 1539 (2004, Children and armed conflicts);

Resolutions by the General Assembly related to Children and Armed Conflict
- Resolutions on the rights of the child introduced by the EU, jointly with GRULAC, in the Human Rights Council and Third Committee of UN General Assembly on a yearly basis. These resolutions contain paragraphs on children and armed conflict.

II. International Humanitarian Law, Refugees and IDPs
- Geneva Convention relative to the Treatment of Prisoners of War, 1949;
- Geneva Convention relative to the Protection of Civilian Persons in Time of War, 1949;
- Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), 1978;
- Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 1977;
- Convention relating to the Status of Refugees, 1951;
- Protocol relating to the Status of Refugees, 1967;

III. International Criminal Law
- Rome Statute of the International Criminal Court, 2002;
- Amended Statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, 1993 (as amended in 1998, 2000, 2002);
- Statute of the International Criminal Tribunal for Rwanda, 1994;
- Statute of the International Tribunal for Sierra Leone.
IV. Other relevant international principles, guidelines and normative instruments

- The Paris Commitments to Protect Children from Unlawful Recruitment or use by Armed Forces or Armed Groups adopted on 6 February 2007.
- Report of the Special Representative of the Secretary-General for Children and Armed Conflict, Item 68 (a) on the provisional agenda of the 2007 UN General Assembly (A/62/228).
- Enhancing the EU Response to Children Affected by Armed Conflict With particular reference to development policy, Study for the Slovenian EU Presidency prepared by Andrew Sherriff in December 2007.

V. Regional instruments


ANNEX II

EU Actions in the field of Children and Armed Conflict (INDICATIVE)

FSP Instruments

- EU guidelines on torture and other cruel, inhuman or degrading treatment or punishment (doc. 7369/01) and working paper to implement the guidelines (doc. 15437/02).
- EU Guidelines for the promotion and protection of the rights of the child adopted on 10 December 2007.
- Common Positions on human rights and good governance in Africa (doc. 98/350/CFSP).
- Common Positions on Rwanda, Somalia, Sierra Leone, Zimbabwe, DRC, Nigeria, Liberia, Angola, Cuba (including the imposition of targeted sanctions in some of these cases).

• Joint Actions (DRC, South Ossetia, Bosnia Herzegovina, various special representatives), and Common Strategies (Russia, Ukraine, Mediterranean region).

• EU Programme for Preventing and Combating Illicit Trafficking in Conventional Arms of 26 June 1997.

• EU Code of Conduct on Arms Export adopted on 8 June 1998. Ongoing work to introduce EU-wide controls on the exports of paramilitary equipment.

• Common Position on conflict diamonds and Council Regulation implementing the Kimberley Process certification scheme for the international trade in rough diamonds (doc. 15328/02).

Crisis management (ESDP)

• Council Conclusions on Checklist for integration of the protection of children affected by armed conflict into ESDP

• Council Conclusions on ESDP of 14 May 2007.

• Council conclusions concerning the declaration by the EU and the UN on cooperation between the two in crisis management (doc. 12875/03).

• Council Conclusions of 21 July 2003 on co-operation between the EU and the UN on crisis management: protection of civilians in EU-led crisis management operations (doc. 11439/03).

• Draft guidelines on protection of civilians in EU-led crisis management operations (doc. 14805/03).

• Comprehensive EU concept for missions in the field of rule of law in crisis management, including annexes (doc. 9792/03).

• Implementation of the EU programme for the Prevention of Violent Conflicts (doc. 10680/03). This programme sets out the various EU initiatives undertaken in the context of conflict prevention, including training of officials.

• Harmonisation of training for EU civilian aspects of crisis management and recruiting (doc. 11675/1/03) and Common Criteria for training for EU aspects of civilian aspects of management (doc. 15310/03).

• The EC has contributed to increase the UN capabilities in areas such as rapid deployment, training and DDR. The Commission and the Council Secretariat’s Policy Unit have also developed “conflict indicators” (watch lists of countries in difficult situations). One programme example is the co-operation with the African Union in order to improve its capacity building on the peaceful solution of conflicts and desk to desk co-operation with partner countries covering specific sectors such as illegal exports of timber and water resources.

• General review of the Implementation of the Checklist for the Integration of the Protection of Children affected by Armed Conflict into ESDP Operations (doc. 9693/08).

• EU Concept for support to Disarmament, Demobilisation and Reintegration adopted on 14 December 2006.
Mainstreaming Human Rights and Gender into European Security and Defence Policy – Compilation of relevant documents of 29 June 2007 (doc. 11359/07).

Civcom advice on the Checklist for the Integration of the protection of children affected by armed conflict into ESDP operations given on 29 May 2006 (doc. 9877/06).

Joint statement on UN-EU cooperation in Crisis Management signed in Berlin on 7 June 2007.

**Community instruments (development co-operation, trade, humanitarian assistance)**

- Council Resolution on Corporate Social Responsibility (doc. 5049/03).
- Various Trade and Co-operation Agreements, in particular the ACP-EU “Cotonou” Partnership Agreement, contain specific paragraphs on children, conflict prevention, human rights.

- Assistance and protection of vulnerable children is seen in the wider context of poverty eradication, therefore, in the framework of EC development cooperation. Children are an important focal group of external aid, in particular in sectoral policies such as education and health. Numerous child-related activities are funded by the EC through ECHO, EDF, EIDHR.

- Assistance and protection of children involved in armed conflicts is channelled through a number of Commission programmes. The promotion of children’s rights was one of the priorities for funding under the European Initiative for Human Rights and Democracy in 2001, was mainstreamed in funding for the period 2002-2004, and is now retained in the new European Instrument for Democracy and Human Rights.

- In accordance with the European Consensus on Humanitarian Aid, which recognises the particular vulnerabilities of children in humanitarian crises, the Commission is committed to pay special attention to them and to address their specific needs. Examples of humanitarian operations with a child component supported by the Commission include: demobilisation, rehabilitation and reintegration projects (Uganda), health and nutrition projects (Sudan, Colombia, Palestinian), psychosocial support (Sierra Leone, Sudan, West Bank, Gaza Strip and Lebanon), funding of schools in emergency camps for displaced persons (DRC, Sudan, Sierra Leone, among others), family tracing and reunification (Colombia).

- ECHO also funded research and advocacy activities of Save the Children, Belgian Red Cross and others and supports UNICEF in strengthening its capacities to effectively deliver on its commitments for children in emergencies in the area of child protection.


- Summary of CAAC-Related EU Projects prepared by the European Commission (non paper).

- Commission Communication “A Special Place for Children in European Union External Action” and attached “Action

**European Parliament**
- European Parliament resolution on the situation of women in armed conflicts and their role in the reconstruction and democratic process in post-conflict countries (doc. 2005/2215(INI)).
- European Parliament resolution on the exploitation of children in developing countries, with a special focus on child labour (doc. 2005/2004(INI)).
5. Human Rights Defenders

I. Purpose

Support for human rights defenders is already a long-established element of the European Union’s human rights external relations policy. The purpose of these Guidelines is to provide practical suggestions for enhancing EU action in relation to this issue. The Guidelines can be used in contacts with third countries at all levels as well as in multilateral human rights fora, in order to support and strengthen ongoing efforts by the Union to promote and encourage respect for the right to defend human rights. The Guidelines also provide for interventions by the Union for human rights defenders at risk and suggest practical means of supporting and assisting human rights defenders. An important element of the Guidelines is support for the Special Procedures of the UN Human Rights Council, including the UN Special Rapporteur on Human Rights Defenders and appropriate regional mechanisms to protect human rights defenders. The Guidelines will assist EU Missions (Embassies and Consulates of EU Member States and European Commission Delegations) in their approach to human rights defenders. While the primary purpose of the Guidelines is to address specific concerns regarding human rights defenders, they also contribute to reinforcing the EU’s human rights policy in general.

II. Definition

The definition of human rights defenders, for the purpose of these Guidelines, draws upon operative paragraph 1 of the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms (see Annex I), which states that "Everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels".

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.

III. Introduction

The EU supports the principles contained in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms. Although the primary responsibility for the promotion and protection of human rights lies with States, the EU recognises that individuals, groups and organs of society all play important parts in furthering the cause of human rights. The activities of human rights defenders include:

- documenting violations;
- seeking remedies for victims of such violations through the provision of legal, psychological, medical or other support;
- combating cultures of impunity which serve to cloak systematic and repeated breaches of human rights and fundamental freedoms; and
- mainstreaming human rights culture and information on human rights defenders at national, regional and international level.

The work of human rights defenders often involves criticism of government policies and actions. However, governments should not see this as a negative. The principle of allowing room for independence of mind and free debate on a government’s policies and actions is fundamental, and is a tried and tested way of establishing a better level of protection of human rights. Human rights defenders can assist governments in promoting and protecting human rights. As part of consultation processes they can play a key role in helping to draft appropriate legislation, and in helping to draw up national plans and strategies on human rights. This role too should be recognised and supported.

The EU acknowledges that the activities of human rights defenders have over the years become more widely recognised. They have increasingly come to ensure greater protection for the victims of violations. However, this progress has been achieved at a high price: the defenders themselves have increasingly become targets of attacks and their rights are violated in many countries. The EU believes it is important to ensure the safety of human rights defenders and protect their rights. In this regard it is important to apply a gender perspective when approaching the issue of human rights defenders.

IV. Operational guidelines

The operational part of these Guidelines is meant to identify ways and means of effectively working towards the promotion and protection of human rights defenders, within the context of the Common Foreign and Security Policy.

Monitoring, reporting and assessment

EU Heads of Mission are already requested to provide periodic reports on the human rights situation in their countries of accreditation. The Council Working Party on Human Rights (COHOM) has approved the outline of fact sheets to facilitate this task. In line with these fact sheets Missions should address the situation of human rights defenders in their reporting, noting in particular the
occurrence of any threats or attacks against human rights defenders. In this context HoMs should be aware that the institutional framework can have a major impact on the ability of human rights defenders to undertake their work in safety. Issues such as legislative, judicial, administrative or other appropriate measures, undertaken by States to protect persons against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of their legitimate exercise of any of the rights referred to the UN Declaration on Human Rights Defenders are all relevant in this regard.

The EU Heads of Mission are requested to deal with the situation of human rights defenders at meetings of local working groups on human rights. Where it is called for, HoMs should make recommendations to COHOM for possible EU action, including condemnation of threats and attacks against human rights defenders, as well as for demarches and public statements where human rights defenders are at immediate or serious risk. HoMs may decide to conduct an urgent local action to support human rights defenders who are at immediate or serious risk, and to report on their action to COHOM and other relevant working parties with recommendations concerning the scope for following up the European action. HoMs should also report on the effectiveness of EU action in their reports. Furthermore, Missions should pay particular attention to the specific risks faced by women human rights defenders.

The HoM reports and other relevant information, such as reports and recommendations from the Special Rapporteur on Human Rights Defenders, other UN Special Rapporteurs and Treaty bodies and the Commissioner for Human Rights of the Council of Europe as well as non-governmental organisations, will enable COHOM and other relevant working parties to identify situations where EU action is called for and decide on the action to be taken or, where appropriate, make recommendations for such action to PSC/Council.

**Role of EU Missions in supporting and protecting human rights defenders**

In many third countries, EU Missions (Embassies of EU Member States and European Commission Delegations) are the primary interface between the Union and its Member States and human rights defenders on the ground. They therefore have an important role to play in putting into practice the EU’s policy towards human rights defenders. EU Missions should therefore seek to adopt a proactive policy towards human rights defenders. They should at the same time be aware that in certain cases EU action could lead to threats or attacks against human rights defenders. They should therefore, where appropriate, consult with human rights defenders in relation to actions which might be contemplated. If action is taken on behalf of the EU, EU Missions should provide feedback to human rights defenders and/or their families. Measures that EU Missions could take include:
- preparing local strategies for the implementation of these guidelines, with particular attention to women human rights defenders. EU Missions will bear in mind that these Guidelines cover human rights defenders who promote and protect human rights, whether civil, cultural, economic, political or social. EU Missions should involve human rights defenders and their organisations in the drafting and monitoring of local strategies;

- organising at least once a year a meeting of human rights defenders and diplomats to discuss topics such as the local human rights situation, EU policy in this field, and application of the local strategy for implementing the EU Guidelines on human rights defenders;

- coordinating closely and sharing information on human rights defenders, including those at risk;

- maintaining suitable contacts with human rights defenders, including receiving them in Missions and visiting their areas of work; consideration could be given to appointing specific liaison officers, where necessary on a burden-sharing basis, for this purpose;

- providing, as and where appropriate, visible recognition for human rights defenders and their work, through appropriate use of the media – including the internet and new information and communication technologies – publicity, visits or invitations for such purposes as presenting prizes they have obtained;

- where appropriate, visiting human rights defenders in custody or under house arrest and attending their trials as observers.

**Promoting respect for human rights defenders in relations with third countries and in multilateral fora**

The EU’s objective is to influence third countries to carry out their obligations to respect the rights of human rights defenders and to protect them from attacks and threats from non-State actors. In its contacts with third countries, the EU will, when deemed necessary, express the need for all countries to adhere to and comply with the relevant international norms and standards, in particular the UN Declaration. The overall objective should be to bring about an environment where human rights defenders can operate freely. The EU will make its objectives known as an integral part of its human rights policy and will stress the importance it attaches to the protection of human rights defenders. Actions in support of these objectives will include the following:

- where the Presidency or the High Representative for the Common Foreign and Security Policy or the Personal Representative of the SG/HR on Human Rights or EU Special Representatives and Envoys or representatives of the Member States or the European Commission are visiting third countries, they will, where appropriate, include meetings with human rights defenders during which individual cases and the issues raised by the work of
human rights defenders are addressed, as an integral part of their visits;

- the human rights component of political dialogues between the EU and third countries and regional organisations, will, where relevant, include the situation of human rights defenders. The EU will underline its support for human rights defenders and their work, and raise individual cases of concern whenever necessary. The EU will be careful to involve human rights defenders, under the most appropriate arrangements, in the preparation, follow-up and assessment of the dialogue in accordance with the EU Guidelines on human rights dialogues;

- EU Heads of Mission and EU Embassies will remind third countries' authorities of their obligation to implement effective measures to protect human rights defenders who are or could be in danger;

- working closely with other like-minded countries notably in the UN Human Rights Council and the UN General Assembly;

- recommending, where appropriate, to countries when they are under the Universal Periodic Review of the Human Rights Council that they bring their legislation and practices into line with the UN Declaration on Human Rights Defenders;

- promoting the strengthening of existing regional mechanisms for the protection of human rights defenders, such as the focal point for human rights defenders and national human rights institutions of the OSCE Office for Democratic Institutions and Human Rights, the Commissioner for Human Rights of the Council of Europe, the Special Rapporteur on Human Rights Defenders of the African Commission on Human and Peoples' Rights and the special Human Rights Defenders Unit within the Inter-American Commission on Human Rights, and the creation of appropriate mechanisms in regions where they do not exist.

Support for Special Procedures of the UN Human Rights Council, including the Special Rapporteur on Human Rights Defenders

The EU recognises that the Special Procedures of the UN Human Rights Council (and the individuals and groups carrying them out: Special Rapporteurs, Special Representatives, Independent Experts and Working Groups) are vital to international efforts to protect human rights defenders because of their independence and impartiality and their ability to act and speak out on violations against human rights defenders worldwide and undertake country visits. While the Special Rapporteur on Human Rights Defenders has a particular role in this regard, the mandates of other Special Procedures are also of relevance to human rights defenders. The EU’s actions in support of the Special Procedures will include:

- encouraging States to accept as a matter of principle requests for country visits under UN Special Procedures;

- promoting, via EU Missions, the use of UN thematic mechanisms by local human
rights communities and human rights defenders including, but not limited to, facilitating the establishment of contacts with, and exchange information between, thematic mechanisms and human rights defenders;

- since the Special Procedure mandates cannot be carried out in the absence of adequate resources, EU Member States will support the allocation of sufficient funds from the general budget to the Office of the United Nations High Commissioner for Human Rights.

Practical supports for Human Rights Defenders including through Development Policy

Programmes of the European Union and Member States aimed at assisting in the development of democratic processes and institutions, and the promotion and protection of human rights in developing countries – such as the European Instrument for Democracy and Human Rights – are among a wide range of practical supports for assisting human rights defenders. These can include but are not necessarily limited to the development cooperation programmes of Member States. Practical supports can include the following:

- supporting human rights defenders, as well as NGOs that promote and protect human rights defenders' activities, through such activities as capacity building and public awareness campaigns, and facilitating cooperation between NGOs, human rights defenders and national human rights institutions;

- encouraging and supporting the establishment, and work, of national bodies for the promotion and protection of human rights, established in accordance with the Paris Principles, including, National Human Rights Institutions, Ombudsman's Offices and Human Rights Commissions.

- assisting in the establishment of networks of human rights defenders at international level, including by facilitating meetings of human rights defenders both within and outside the EU;

- seeking to ensure that human rights defenders in third countries can access resources, including financial resources, from abroad and that they can be informed of the availability of those resources and of the means of requesting them;

- ensuring that human rights education programmes promote, inter alia, the UN Declaration on Human Rights Defenders;

- providing measures for swift assistance and protection to human rights defenders in danger in third countries, such as, where appropriate, issuing emergency visas and facilitating temporary shelter in the EU Member States.

Role of Council Working Parties

In accordance with its mandate COHOM will keep under review the implementation and follow-up to the Guidelines on Human Rights Defenders in close coordination and cooperation with other relevant Council Working Parties. This will include:
- promoting the integration of the issue of human rights defenders into relevant EU policies and actions;
- undertaking reviews of the implementation of these Guidelines at appropriate intervals;
- continuing to examine, as appropriate, further ways of cooperating with UN and other international and regional mechanisms in support of human rights defenders;
- reporting to the Council, via PSC and COREPER, as appropriate on an annual basis, on progress made towards implementing these Guidelines.
6. Promotion and Protection of the Rights of the Child

I. Introduction

The Convention on the Rights of the Child is the most widely ratified human rights treaty in history. In conjunction with its two Optional Protocols it contains a comprehensive set of legally binding international standards for the promotion and protection of children’s rights. Together with other international and regional standards on the rights of the child, including those adopted by the Council of Europe, these instruments provide a solid foundation for the enjoyment of human rights by all children without discrimination of any kind, while constituting a reference for promoting and monitoring progress in the realization of the rights of the child.

Further international commitments to promote and protect children’s rights were made at the UN Special Session on Children (UNGASS) in May 2002, providing a timebound strategy for implementation and for monitoring progress. With the adoption of the UNGASS Declaration and Plan of Action “A World fit for Children” in 2002, Heads of State and Government committed themselves to advancing the rights of the child worldwide and to implementing the agreed goals, strategies and actions.

In addition, the Millennium Declaration and Millennium Development Goals with direct relevance for the rights of the child were globally endorsed. The World Summit outcome document 2005 reiterated the importance of achieving their goals and targets.

At the EU level, Guidelines in the area of human rights serve as a solid regional framework for the EU’s work to promote and protect human rights in the EU’s overall external human rights policy, also regarding children’s rights. To further the rights of the child, the EU has for years been engaged in multi-faceted action comprising, in particular, the following elements:

- Implementation of the 2003 EU Council Guidelines on Children and Armed Conflict;
- Raising the rights of the child with Third Countries, in particular in the framework of political dialogue;
Funding, in particular through EIDHR, to projects to promote and protect children's rights;

Throughout its enlargement process, monitoring progress in advancing the rights of the child and supporting the reform of child protection in the candidate and potential candidate countries;

In the United Nations, the EU, together with Latin American states, annually sponsors a resolution on the “Rights of the Child” and regularly calls upon states to sign, ratify and implement the Convention on the Rights of the Child and its Optional Protocols;

Support for the work of relevant international and regional actors in the area of the rights of the child, in particular the UN Secretary General, the UN Security Council, UN treaty bodies, particularly the Committee on the Rights of the Child, UN Special Procedures and mechanisms as well as support for relevant UN organizations, particularly UNICEF, OHCHR, ILO, WHO and UNFPA and regional mechanisms, in particular the Council of Europe, the OSCE, the European Network of Ombuds on Children and civil society organizations;

In the EU’s Development Policy, the “European Consensus on Development” includes respect for the rights of the child among the EU Member States through reference to main international frameworks on human rights and the Millennium Development Goals.

For the EC, there is a three-track approach on children addressing (i) specific issues like violence against children, children affected by armed conflicts, child trafficking, etc, (ii) children’s rights and needs through specific themes like education and health as well as (iii) increasing mainstreaming of children’s rights as one of the cross-cutting issues to consider in all programmes and projects funded by the EC.

Guidance Notes to implement this policy and EC guidelines on mainstreaming children’s rights at the country level require that children’s rights are covered under a rights-based approach as a cross-cutting issue. Sector policy documents are further tools for action.

In spite of the comprehensive framework of instruments, standards and commitments on the rights of the child and of first progress in achieving the agreed objectives, the daily reality for millions of children worldwide is still in sharp contrast to these commitments and objectives: Children still face major threats to survival, lack opportunities for quality education, proper health and social care; they are victims of worst forms of child labour, sexual exploitation and abuse, diseases, armed conflict, various forms of violence; they are forced into early marriages and have to endure harmful traditional practices. Children belonging to vulnerable groups or children in particularly difficult situations face particular risks and are exposed to discrimination, marginalization and exclusion. Girl children face specific risks and need particular attention.

The follow-up process to the United Nations General Assembly’s Special Session on Children 2002 (UNGASS) and the monitoring work of the Committee
on the Rights of the Child show that the Convention on the Rights of the Child is still insufficiently implemented and that many time-bound objectives of UNGASS as well as benchmarks regarding the Millennium Development Goals are far from being achieved.

To address this situation and to allow for even more sustained and systematic action to advance children’s rights in its external human rights policy, the EU has resolved to henceforth base the worldwide promotion and protection of the rights of the child on the following Guidelines.

II. Political Chapeau: Purpose of the Guidelines

With these “EU Guidelines for the Promotion and Protection of the Rights of the Child” (the “Guidelines”), the EU stresses the importance of key international and European legal human rights instruments, norms and standards as well as political commitments relevant to the promotion and protection of the rights of the child, in particular the Universal Declaration of Human Rights, Declaration of the Rights of the Child, the International Covenants on Human Rights, the Convention on the Rights of the Child and its two Optional Protocols, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Statute of the International Criminal Court as well as the Millennium Development Declaration and Millennium Development Goals, the Declaration and Plan of Action “A World fit for Children” of UNGASS 2002 as well as other instruments and standards relevant to the rights of the child as listed in Annex II.

The EU reaffirms its determination to observe as a matter of priority in its external human rights policy the promotion and protection of ALL rights of the child, i.e. persons below the age of 18 years, taking into account the best interests of the child and its right to protection from discrimination and participation in decision-making processes, founded on the principles of democracy, equality, non-discrimination, peace and social justice and the universality, indivisibility, interdependence and interrelatedness of all human rights, including the right to development.

To achieve these objectives, the EU will promote general measures as contained in these Guidelines as well as specific action in Priority Areas, based on Implementation Strategies to be decided separately. By adopting an integrated approach on the promotion and protection of the rights of the child the EU will complement with these Guidelines its 2003 Guidelines on Children and Armed Conflict which will continue to guide EU actions in that specific area.

The Guidelines will contribute in particular to:

- Giving the rights of the child more weight on the international agenda with a view to advancing their realization and to preventing violations of children’s rights worldwide, especially at the national level;
- Stressing the EU’s commitment to the full realization of children’s rights, as enshrined in relevant international instruments, most importantly the Convention on the Rights of the Child and its Optional Protocols;
- Underlining that children’s rights are an inalienable, integral and indivisible part of universal human rights and that all rights recognized by the Convention on the Rights of the Child have an equal importance, although actions to ensure their realization need to be prioritized in the light of specific national contexts;
- Advancing the process of implementation of the Convention on the Rights of the Child and its two Optional Protocols, and of other international and regional instruments and standards on the rights of the child;
- Raising awareness of EU action on the rights of the child within the EU and with Third Countries;
- Supporting the mainstreaming of children’s rights in EU policy and action and enhance the capacity of all relevant EU actors on the rights of the child;
- Promoting synergies and strengthen inter-institutional cooperation, and complement the actions of EU institutions, including the initiatives promoted by the European Commission on the rights of the child;
- Providing the EU with an additional operational tool to be used in political contacts with Third Countries and in international fora in any area of relevance for the promotion and protection of children’s rights.

III. Operational Guidelines

Basic Principles

In its relations with Third Countries, and in international fora, the EU will in particular:
- Actively promote its objectives regarding the promotion and protection of the rights of the child as an integral part of the EU’s external human rights policy, including in development and peace and security contexts and further promote the mainstreaming of these objectives into other EU external policies, including through political dialogue, development cooperation, humanitarian assistance and the accession process;
- Pursue a human rights-based approach in the implementation of these objectives guided by the general principles of the Convention on the Rights of the Child, namely non-discrimination, best interests of the child, child participation and child survival and development;
- Promote a holistic approach, thus reaffirming the indivisibility, interdependence and inter-relationship of children’s rights while giving specific attention to priority areas of concern;
- Pursue the promotion and protection of the rights of the child in full conformity with relevant international instruments and standards, in particular the Convention on the Rights of the Child, by adopting all necessary legislative, administrative and other measures, in particular the cross-cutting measures identified as “general measures of implementation” by the Committee on the Rights of the Child.\(^1\)
- Aim for capacity building of “duty-bearers” (states and governments, to

\(^1\) General Comment 5 (2003)
meet their obligations) as well as of “rights-holders” (children, to enjoy and claim their rights).

**EU objectives**

- To remind and encourage Third Countries, and to support them in their efforts, to honour and fulfil their legal obligations and their specific commitments for the promotion and protection of children’s rights under international law and political commitments, with special reference to those obligations contained in the Convention on the Rights of the Child and its Optional Protocols, the UNGASS Declaration and Plan of Action “A World fit for Children”, the Millennium Declaration and the Millennium Development Goals and the relevant provisions of the World Summit outcome document, and to support them in meeting these obligations and commitments;

- To raise awareness and promote a better understanding of the principles and provisions on the rights of the child as enshrined in the Convention on the Rights of the Child, its Optional Protocols and other international and regional instruments and standards with relevance to children’s rights;

- To complement and strengthen ongoing EU efforts in multilateral fora and in the EU’s relations with Third Countries to promote and protect children’s rights with specific action in Priority Areas;

- To improve coherence between activities undertaken by Member States as well as in the overall European Union’s external action on children’s rights.

**Operational tools for EU action in relations with Third Countries**

To achieve these objectives the EU will use, in particular, the following tools for action:

- **Political dialogue** (i.e. inclusion of children’s rights in meetings and discussions in international and regional organizations and with Third Countries at all levels, including ministerial talks, joint committee meetings, formal dialogues led by the Presidency of the Council, the Troika, Heads of Mission or the Commission), particularly with the objectives to:

  - Raise awareness of children’s rights and of international norms and standards concerning their promotion and protection;

  - Promote the ratification and effective implementation of relevant international instruments on the rights of the child;

  - Promote legislative reform to ensure conformity of national laws with international norms and standards on the rights of the child;

  - Promote the development of national independent institutions on the rights of the child in conformity with the Paris Principles;

  - Promote the effective coordination of cross-departmental activities and of actions between national and sub-national authorities, as well as the allocation of adequate resources with a view to ensuring the promotion and protection of the rights of the child;

  - Develop child-sensitive indicators and child impact assessments for the promotion and protection of the rights of the child;
- Advocate engagement of civil society in promoting and protecting the rights of the child;
- Promote the participation of children in decision making processes for the promotion and protection of their rights.

**Demarches** (in connection with public statements, where appropriate) to react to topical relevant developments with an impact on the promotion and protection of children’s rights, particularly with the aim to remind Third Countries to undertake effective measures to promote and protect children’s rights, including by taking into account the concluding observations of the Committee on the Rights of the Child and of other relevant treaty bodies, using information from UN agencies, regional organizations, national independent institutions, civil society organizations;

**Bi- and multilateral cooperation**, including the following measures:
- **Scaling up development and humanitarian assistance programmes focusing on children’s rights**;
- **Raising the rights of the child in trade negotiations, programming discussions, country strategy papers, dialogues on development goals and National Action Plans for children as foreseen under UNGASS**;
- **Using bilateral and Community Funding and development cooperation programmes when funding projects to promote the rights of the child**;
- **Aiming to improve coherence between activities undertaken by Member States as well as in the overall European Union’s external action on children’s rights, particularly in Priority Areas**;
- **Strengthening national structures and institutions, promoting legislative reform in conformity with relevant international standards, developing independent child rights institutions in accordance with the Paris Principles**;
- **Developing child sensitive indicators and child impact assessments**;
- **Promoting the involvement of civil society and child participation**.

**Developing partnerships and intensifying coordination with international stakeholders**, e.g.:
- The UN, in particular UN human rights mechanisms, Special Procedures and treaty bodies, in particular the Committee on the Rights of the Child;
- UN organizations, especially UNICEF, OHCHR, ILO, WHO, UNFPA;
- Regional organizations, in particular the Council of Europe and the OSCE;
- The European Forum on Children’s Rights;
- Public-private partnerships, research institutions;
- Civil society and international financial institutions.
Implementation

General Action to strengthen children’s rights

As a matter of principle, the EU remains committed to promote and protect all rights of the child on an equal basis. The EU will thus continue and enhance ongoing efforts in its external human rights policy, in multilateral fora and in its relations with Third Countries, encouraging States to:

a) Adhere to and implement international norms and standards and cooperate with international human rights mechanisms and procedures, in particular by:
- Acceding and adhering to and promoting the effective implementation of relevant international instruments and standards for the promotion and protection of children’s rights, particularly the Convention on the Rights of the Child and its Optional Protocols, ILO Conventions 138 and 182, the Convention relating to the Status of Refugees and its Protocol, the Convention on the Rights of Persons with Disabilities and the Rome Statute of the International Criminal Court;
- Complying with requests for protective measures, rulings, decisions and recommendations of international human rights bodies, including those of the Committee on the Rights of the Child;
- Cooperating with the relevant UN human rights mechanisms and procedures, thematic as well as country mechanisms, in particular those with relevance to the promotion and protection of children’s rights;
- Cooperating with the relevant Council of Europe mechanisms, and promoting compliance with decisions by the European Court of Human Rights;
- Cooperating with regional mechanisms to ensure the promotion and protection of children’s rights, including monitoring progress.

b) Reinforce capacity for the promotion and protection of children’s rights at the national level, in particular by:
- Supporting the development of comprehensive national plans or strategies for the promotion and protection of the rights of the child;
- Supporting the development and strengthening of governmental mechanisms for coordinating action to promote and protect the rights of the child at the national and sub-national level.

c) Improve monitoring processes and structures, in particular by:
- Improving data bases and surveillance systems and the development of indicators to gather, analyse and promote dissemination of child-rights disaggregated related data;
- Promoting research on the rights of the child and including children in research and monitoring;
- Establishing observer capacities, including through the establishment of national independent institutions on children’s rights, such as ombudsmen;
– Promoting the participation of civil society.

d) **Promote the allocation of resources for the promotion and protection of children’s rights**, in particular by:

– Supporting the development and use of tools for making children visible in budgetary processes at the national and sub-national levels, including in the context of international cooperation;

– Promoting the evaluation of the impact of economic and social policies on children.

e) **Promote law reform for the promotion and protection of children’s rights**, in particular by:

– Encouraging and supporting the enactment and review of national legislation to ensure its compatibility with relevant international norms and standards on the rights of the child, in particular the Convention on the Rights of the Child and its Optional Protocols;

– Encouraging and supporting the enhancement of capacity of law enforcement agencies for the investigation of the violation of children’s rights and the development of child friendly procedures for the investigation and prosecution of violations of children’s rights.

f) **Combat and discourage violations of children’s rights**, in particular by:

– Prohibiting violations of the rights of children and ill-treatment of children, in law, including criminal law, and ending impunity for violations of children’s rights;

– Condemning at the highest level all forms of violations of children’s rights, including through their inclusion as offences in criminal law;

– **Taking effective legislative, administrative, judicial and other measures to prevent violations of children’s rights under the jurisdiction of the State and combat impunity for such violations**;

– Establishing domestic legal guarantees to promote and protect children’s rights;

– Providing effective training for law enforcement officials and other relevant professionals working with and for children to promote the safeguard of children’s rights and ensuring compliance with international norms and instruments;

– Providing for the recovery, rehabilitation and social reintegration of victims of violations of children’s rights.

- g) **Empower children for a more effective participation in decision making and implementation of policies affecting them, and facilitate their participation**

- h) **Enhance families’ and other caretakers’ capacities to fully carry out their roles with regard to the protection of children’s rights**

- i) **Support the development of awareness raising programmes on children’s rights**, in particular by:

– Promoting campaigns for making the public aware of the rights of children
and ensuring the promotion and protection of children’s rights;
- Promoting the incorporation of the rights of the child in school curricula and the development of professional training programmes in all relevant areas.

Specific Action to strengthen children’s rights in Priority Areas

Within the overall framework of these Guidelines, specific action will be taken in Priority Areas on the basis of separate Implementation Strategies which will complement these Guidelines. To enable the EU to better address different sets of rights of the child over time, a Priority Area will be selected by COHOM for a period of two years and an Implementation Strategy developed accordingly. The Priority Area is subject to regular review and possible change. The first such Priority Area will be “All Forms of Violence against Children”, for which the Implementation Strategy is contained in Annex I.

Role of Council Working Parties

In accordance with its mandate COHOM will keep under review the implementation and follow-up to the Guidelines on the promotion and protection of the rights of the child in close co-ordination and co-operation with other relevant Council Working Parties. This will include:
- Promoting the integration of the issue of the promotion and protection of the rights of the child into relevant EU policies and actions;
- Undertaking reviews of the implementation of the Guidelines at appropriate intervals and in the form of ad-hoc meetings;
- Reporting to Council, via PSC and COREPER, as appropriate on an annual basis on progress made towards implementing these Guidelines.

Informal platform for exchange of views with external third parties

In implementing these Guidelines members of COHOM may informally exchange views, if appropriate, with external third parties, in particular with NGOs, and international organizations. The Commission shall be fully associated. The Council decision No. 2001/264/EC of 19.3.2001 on Council security regulations shall be respected.

Monitoring and reporting

In view of the wide scope of these Guidelines, the EU will, in monitoring progress in the implementation of these Guidelines, aim at making extensive use of the expertise of and cooperate closely with relevant actors outside the EU, in particular UN bodies and mechanisms, Special Procedures, treaty bodies, in particular the Committee on the Rights of the Child, UN organizations, especially OHCHR, UNICEF, WHO, UNDP, ILO, UNFPA as well as with civil society.

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Assessment

The Council Working Group on Human Rights, COHOM, will:

- Review these Guidelines and the Implementation Strategy every two years after their adoption;
- Focus the first review of the Guidelines on the progress achieved in their implementation and on suggestions for further improvements as well as on deciding whether the Priority Area should be maintained until the next review or changed, and submit these reviews to the Council;
- Focus the first review of the Implementation Strategy on the pilot programme and progress achieved in the development of country strategies;
- Seek to identify further ways of cooperation with the UN and regional inter-governmental organisations, NGO and other relevant actors in implementing and monitoring these Guidelines and will submit, if appropriate, related proposals to COREPER or the Council;
- Promote and oversee further mainstreaming of the issue of promoting and protecting children’s rights throughout relevant EU policies, regional and multilateral fora and actively disseminate these Guidelines and promote their implementation with Members States, the EU Commission and the European Parliament.

ANNEX I

Implementation Strategy for the Priority Area “All Forms of Violence against Children”

I. Introduction

To allow for specific action in the implementation of the “EU Guidelines for the Promotion and Protection of the Rights of the Child”, the area of “All Forms of Violence against Children” has been selected as first Priority Area of these Guidelines.

Cutting across culture, social status, education, income and ethnic origin, violence against children represents a particularly widespread violation of children’s rights, also compromising children’s developmental needs. Different forms of violence continue to affect the lives of children of all ages in every region of the world, including physical, mental, psychological and sexual violence, torture and other cruel, inhumane or degrading treatment, child abuse and exploitation, hostage taking, domestic violence, trafficking in or sale of children and their organs, pedophilia, child prostitution, child pornography, child sex tourism, gang-related violence, harmful traditional practices in all settings and corporal punishment in schools. For example, according to official estimates, during 2002 around 150 million girls and 73 million boys under 18 experienced forced sexual intercourse or other forms of sexual violence. Between 100 and 140 million girls and women in the world are believed to have undergone some form of female genital mutilation/cutting. Still in 2004, 126 million children were subjected to hazardous work.
Although the consequences of violence for children may vary according to its nature and severity, the short- and long-term repercussions are in most cases grave and damaging. The vulnerability of children and their dependence on adults demand special care and determined international action to protect them from all forms of violence.

II. Objectives

To advance the promotion and protection of children from all forms of violence, the EU will pursue a two-track approach, based upon the UN Secretary General’s global “Study on Violence against Children”:

- To stress the global character of the issue of violence against children, affecting all parts of the world, and to promote worldwide support for the recommendations of the UN Secretary General’s Study, where suitable, in particular in relevant UN fora;

- To support country-specific action to prevent and combat all forms of violence against children, taking into account the different forms of violence against children in the various countries/regions of the world.

III. Operational Part

To further the afore-mentioned objectives, the EU will take action in the following areas:

**Advocacy for the UN Secretary General’s study on violence against children as global reference document for the prevention of and combat against all forms of violence against children**

**Action to be taken:**

- EU to support publicly in relevant UN, international and regional fora the UN Secretary General’s study and its findings and to promote follow-up and implementation of the recommendations contained therein;

- EU to specifically support at UN General Assembly the establishment of a mandate for a UN Special Representative on Violence against children, as recommended by the UN Secretary General’s study on violence against children;

- EU to make, also in bilateral contacts with Third Countries, appropriate reference to the recommendations and the overall UN Secretary General’s study on violence against children as the key reference document for EU action on violence against children.

Advocacy for ratification and effective implementation of international human rights instruments relevant to fighting violence against children, in particular the Convention on the Rights of the Child and its Optional Protocols, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol, the Rome Statute of the International Criminal Court, the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, ILO Conventions 138 and 182, the UN Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations
Convention against Transnational Organized Crime.

**Action to be taken:**

- **EU to recognize the desirability of all States that have not yet ratified the two Optional Protocols of the Convention on the Rights of the Child to increase their efforts to complete the ratification process and to promote the effective implementation of these Optional Protocols;**

- **EU to step up efforts to encourage, in international human rights fora as well as in bilateral contacts with Third Countries, as appropriate, ratification of the Convention on the Rights of the Child, its Optional Protocols and other international and regional instruments relevant to the issue of violence against children;**

- **EU to put special emphasis, in international and regional human rights fora as well as in bilateral contacts with Third Countries, on the promotion of the effective implementation of the provisions of the Convention on the Rights of the Child and its two Optional Protocols, and the implementation of other relevant international and regional norms and standards, and to promote the effective follow-up and implementation of relevant political commitments, in particular the results and objectives of the 27th Special Session of the General Assembly dedicated to promoting the rights of children (UNGASS) and its time-bound action plan “A World fit for Children” of 2002, the provisions of the Millennium Declaration and the time-bound Millennium Developments Goals as well as the World Summit outcome document of 2005.**

**Development of country-specific strategies to prevent and to combat all forms of violence against children**

To complement its global action to fight all forms of violence against children with specific measures in individual countries, the EU, taking into account the predominant forms of violence in various countries and regions of the world, and also addressing the gender dimension of violence against children, will develop *Country Strategies* for focused action in Third Countries:

a) For the development of and as a basis for these strategies, the EU will first make a comprehensive assessment of the situation in the various countries as regards violence against children. Such assessments should draw to the maximum extent possible on existing materials, in particular from UNICEF, UN Special Mechanisms, government sources and relevant civil society actors.

b) On the basis of such comprehensive assessments, and taking into account the recommendations of the UN Secretary General’s study on violence against children, where suitable, the concluding observations of the Committee on the Rights of the Child and of other relevant human rights treaty bodies, recommendations by human rights mechanisms, as well as relevant information provided by stakeholders, particularly UN organizations, such as OHCHR, UNICEF, WHO, ILO and UNFPA, regional and civil society organizations,
country strategies could be composed of the following elements:

- Advocacy for speedy ratification of the Convention on the Rights of the Child and its two Optional Protocols and of other international and regional human rights instruments and standards to prevent and address all forms of violence against children;

- Advocacy for the withdrawal of reservations to the Convention on the Rights of the Child and its Optional Protocols which are incompatible with the object and purpose of the Convention and its Optional Protocols or otherwise contrary to international law;

- Advocacy for the effective implementation of the Convention on the Rights of the Child and its Optional Protocols, and – as appropriate – other regional and international human rights instruments and standards and for the follow-up and implementation of political commitments with particular relevance to fighting violence against children;

- Advocacy and support to legislative reform for the inclusion of the prohibition of all forms of violence against children in national legislation and for fighting impunity;

- Encouragement and support for the establishment of independent national monitoring and child-friendly reporting and complaint mechanisms and procedures concerning cases of violence, with the development of relevant child friendly proceedings and support services;

- Advocacy and support for the active involvement of children in the development and implementation of monitoring systems and mechanisms;

- Advocacy and support for the establishment of independent national institutions to promote the prevention of and combat all forms of violence against children;

- Advocacy and support for the development of national strategies, action plans and policies on violence against children that promote, inter alia, non-violent values and awareness raising and that prioritize prevention, taking account of the gender dimension of violence, duly supported by the allocation of required resources;

- Encouragement and support for the development and implementation of national data collection, analysis and dissemination efforts and promotion of relevant research initiatives;

- Advocacy and support for capacity building measures for those who work with and for children to enhance the protection of children from violence and prevent, detect and respond to all forms of violence against children;

- Advocacy and support for the provision of child-friendly recovery and social reintegration services to victims, for the development of prevention mechanisms and child-friendly juvenile justice systems;
– Advocacy and support for the establishment of accountability mechanisms for ending impunity and to bring all perpetrators of violence against children to justice.

c) After deciding on a list of countries for which specific action is to be taken, COHOM will take the necessary measures to establish the respective country assessments and to elaborate draft Country Strategies, outlining the particularly relevant forms of violence against children and making concrete proposals how to address them.

The draft country strategies will be submitted by COHOM to EU Heads of Mission in the respective countries for additional input, assessment and endorsement at local level. After such input is received, COHOM will adopt the country strategies and initiate their implementation.

d) To speed up concrete EU action on violence against children in different parts of the world, a Pilot Programme will be set up in the initial stage of the implementation of the Guidelines, focusing EU action on a maximum of ten countries from different regions and in light of the various settings identified by the UN Study on Violence against Children. When choosing the countries to be included in the Pilot Programme, the EU could give special consideration to countries with which the EU already maintains Human Rights Dialogues or Consultations, thus allowing the EU an early and systematic inclusion of the issue of violence against children in those Human Rights Dialogues and Consultations.

**Co-operation with other relevant actors**

To make best use of existing expertise, the EU, as a matter of principle, will seek a maximum of cooperation from outside the EU in its action to combat violence against children, in particular:

– Relevant UN mechanisms, in particular Special Procedures and human rights treaty bodies, in particular the Committee on the Rights of the Child;

– UN organizations, particularly OHCHR, UNICEF, WHO, UNDP, ILO, UNFPA;

– Other international organizations, particularly the Council of Europe;


To do so, the EU will strengthen existing partnerships, in particular with the UN, the Council of Europe and the OSCE, particularly around research and systematic data collection, analysis and dissemination and in designing appropriate country response strategies, as well as consider forming new partnerships with other potential allies, such as public-private partnerships, academic institutions, civil society organisations and international financial institutions.

**Monitoring and reporting**

COHOM will take the necessary measures in order to monitor progress achieved under country-specific strategies.

In countries covered by country-strategies on violence against children, EU Heads of

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3 See Memorandum of Understanding between the Council of Europe and the European Union, of 10 May 2007, particularly Art. 21, – CM (2007) 74
mission should include this subject in their regular human rights reporting and should also report ad hoc on relevant developments, as appropriate.

Besides reports and other relevant information from EU sources, monitoring of the development of the situation of violence against children will also be based on other reliable information, in particular from UN mechanisms and organizations, especially Treaty Bodies, in particular the Committee on the Rights of the Child and UNICEF.

In addition, relevant information provided by civil society organizations and child protection networks will be taken into consideration. The participation of children in the monitoring process should be ensured wherever possible.

IV. EU tools for action

Besides including the issue of violence against children, as appropriate, into Political Dialogue and making it the object of démarches, the EU will in particular identify possibilities for using bilateral and Community Funding, as appropriate, in support of specific measures to fight violence against children according to these Guidelines and their Implementation Strategy.

V. Assessment

COHOM will carry out a first review of the Implementation Strategy two years after the adoption of these Guidelines, focussing on the pilot programme and the process of the development of country strategies. In this review, COHOM will also examine whether the Priority Area “All Forms of Violence against Children” should be maintained until the next regular review or changed.

ANNEX II

Non-exhaustive list of international norms, standards and principles the EU may invoke in contacts with Third Countries concerning the promotion and protection of the rights of the child

I. UN human rights instruments

Treaties and protocols

- Convention on the Rights of the Child (CRC), 1989,
- Optional Protocol on the sale of children, child prostitution and child pornography, 2000,
- Optional Protocol on the involvement of children in Armed Conflict, 2000
- International Covenant on Civil and Political Rights, 1966,
- Optional Protocol to the International Covenant on Civil and Political Rights, 1966
- Second Optional Protocol to the International Covenant on Civil and political Rights, aiming at the abolition of the death penalty, 1989
- International Covenant on Economic, Social and Cultural Rights, 1966
- International Convention on the Elimination of All Forms of Racial Discrimination, 1965
- Convention on the Elimination of All Forms of Discrimination Against Women, 1979,
- Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women, 1999
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990
Convention relating to the Status of Refugees, 1951
Protocol relating to the Status of Refugees, 1966
Convention on the Reduction of Statelessness, 1961
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984
Optional Protocol Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 2002

Declarations
Universal Declaration of Human Rights, 1948
United Nations Millennium Declaration, 2000
World Fit for Children Declaration and Plan of Action, 2002
Declaration of the World Conference against Racism, Discrimination, Xenophobia and Related Intolerance (Durban Declaration), 2001
The Paris Commitments to protect Children from unlawful recruitment or use by Armed Forces or Armed Groups (Paris Commitments), 2007

Principles, rules, guidelines and other normative instruments
UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) 1985
Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules) 1990
UN Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines) 1990
Basic Principles on the Use of Restorative Justice in Criminal Matters, 2002
Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, 2005
Guiding Principles on Internal Displacement (Deng Principles), 1998
Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special reference to Foster Placement and Adoption Nationally and Internationally, 1986
Principles and Guidelines on Children Associated with Armed Forces or Armed Groups (Paris Principles), 2007

II. International labour conventions
Convention 138 concerning Minimum Age for Admission to Employment, 1973
Convention 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999
Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries, 1989

III. International humanitarian law instruments
The Geneva Conventions, esp. Convention IV relative to the Protection of Civilian Persons in Time of War, 1949
Protocol I to the Geneva Conventions relating to the Protection of Victims of International Armed Conflicts, 1967
- Protocol II to the Geneva Conventions relating to the Protection of Victims of Non-International Armed Conflicts, 1967
- Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (Ottawa Treaty), 1997

IV. International criminal law instruments
- Statute of the International Criminal Court (Rome Statute), 1998

V. Private international law instruments
- Hague Convention on Protection of Children and Cooperation in Respect of Inter-country Adoption, 1993

VI. European human rights instruments
- European Charter of Fundamental Rights (in particular Art. 24, referring to the rights of the child)
- Convention for the Protection of Human Rights and Fundamental Freedoms, 1950
- European Social Charter, 1961
- European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, 1987
- Treaty on the European Union (Article 11), 1992
- European Consensus on Development:
  - **Part I – EU** (esp. paras 5, 7)
  - **Part II – EC** (esp. paras 97, 101, 103)
- Community instruments and other measures:
  - July 2006: Adoption of the EU Commission Communication “Towards an EU strategy on the rights of the child” as part of a wider, long-term EU “Pact for the Child” to promote children’s rights within the Union and in its external action;
  - June 2007: Establishment of the “European Forum for the Rights of the Child”;
  - 2007: Commission Communication – **Towards a European Consensus on Humanitarian Aid** calling for respect of international law in the delivery of humanitarian assistance.

VII. African regional human rights instruments
VIII. Inter-American regional instruments

- American Convention on Human Rights, 1969
- Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, 1994
- Inter-American Convention on International Traffic in Minors, 1994
I. Objective

The adoption of guidelines on violence against women and girls is a mark of the EU's clear political will to treat the subject of women’s rights as a priority and to take longterm action in that field. In focusing on the issue of violence against women and girls, the EU will be taking effective action against one of the major human rights violations of today’s world.

These guidelines are based on a solid multilateral *acquis*, the most recent milestones of which are the UN Secretary-General’s in-depth study on all forms of violence against women (2006), the work on indicators on violence carried out by Ms Yakin Ertük, UN Special Rapporteur on Violence against Women (2008), UN resolution 61/143 on intensification of efforts to eliminate all forms of violence against women (2006) and UN Security Council resolutions 1325 (2000) and 1820 (2008) on women, peace and security, as well as resolution 2005/2215 of the European Parliament on the situation of women in armed conflicts and their role in the reconstruction and the democratic process in countries after a conflict, the relevant articles of the Conventions on human rights and international humanitarian law and the Rome Statute establishing the International Criminal Court.

The guidelines are also intended to encourage the implementation of a greater number of specific projects aimed at women and girls, financed by, *inter alia*, the European Instrument for Democracy and Human Rights, but also by any other appropriate financial instrument of the EU and the Member States.

The adoption of these guidelines is a clear reaffirmation of the universality of human rights.

II. Definition

For the purposes of these guidelines, the definition of violence against women is based on the Declaration on the Elimination of Violence against Women:

"the term 'violence against women' means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life".
III. Operational guidelines

The EU reiterates the three indissociable aims of combating violence against women: prevention of violence, protection of and support for victims and prosecution of the perpetrators of such violence.

Operational objectives

Promote gender equality and combat discrimination against women: The EU will state that the obstacles to exercising their socio-economic and political rights increase women’s exposure to violence. In that respect, and with the aim of preventing such violence, the strategies of the Member States and of the EU in its external action must in particular focus on legislation and public policies which discriminate against women and girls, and the lack of diligence in combating discrimination practised in the private sphere and gender-stereotyping.

Collection of data on violence against women and development of indicators: Despite the successes of recent years, accurate comparable quantitative and qualitative data are needed on all forms of violence against women and girls, as well as relevant indicators, so that States can frame their actions and strategies in full knowledge of the facts. There are still considerable disparities in the types of data collected, in terms of population groups studied and the type of violence measured. The EU will endeavour to identify institutional and other tools enabling data to be collected and to help boost national capacities to collect and disseminate reliable, accurate data.

Devising effective, coordinated strategies: The EU’s action will focus on reminding States of their dual responsibility to prevent and respond to violence against women and girls. They have a duty to put in place prevention strategies and strategies for the protection and support of victims of violence, and to call for action at all levels (local, national, regional and international), and in all sectors of society, in particular by politicians, the public and private sectors, civil society and the media. Forceful institutional mechanisms at local, regional and national level must be set up in order to ensure the implementation, coordination and follow-up of these strategies.

Combating the impunity of perpetrators of violence against women and access to justice for victims: The EU will emphasise that it is essential for States to ensure that violence against women and girls is punished by the law and to see that perpetrators of violence against women and girls are held responsible for their actions before the courts. States must in particular investigate acts of violence against women and girls swiftly, thoroughly, impartially and seriously, and ensure that the criminal justice system, in particular the rules of procedure and evidence, works in a way that will encourage women to give evidence and guarantee their protection when prosecuting those who have perpetrated acts of violence against them, in particular by allowing victims and their representatives to bring civil actions. Combating impunity also involves positive measures such as the training of police and law enforcement officers, legal aid and proper protection of victims and witnesses and the creation of conditions where the victims are no longer economically dependent on the perpetrators of violence.
EU intervention tools

Intervention tools must enable all EU players to become involved, starting with Member States' embassies, Commission delegations and the General Secretariat of the Council of the EU.

The EU will ensure that it gives appropriate consideration to the synergies between the implementation of these guidelines and other EU guidelines on human rights, in particular those relating to children’s rights and human rights defenders.

In accordance with the EU's operational objectives in terms of combating violence against women, its main intervention tools will be as follows:

General approaches: The EU will regularly raise the issue of combating violence against women and girls and the types of discrimination from which such violence originates in its relations with third countries and regional organisations. Such approaches will relate in particular to the degree to which the national legal framework complies with the international standards and commitments of the States in that area, and to the effective implementation of and follow-up to those commitments. The EU will also ensure that a reference to women's rights is included in all the mandates of the EU's special representatives and envoys.

Prior to all its approaches, the EU will:

a) identify forms of violence against women and girls and analyse the relevant data and indicators concerning them;

b) identify the existence of laws and practices which are explicitly and de facto discriminatory, and from which such violence originates;

c) identify the absence and/or shortcomings of public policies defined in response to violence against women;

d) identify the international and regional instruments for the protection of women's rights which have been ratified by the countries concerned, including the existence of reservations, and the incorporation of such instruments into national law;

e) identify the recommendations made to those countries by international and regional mechanisms as regards women's rights and violence against women.

In its approaches, the EU will adopt the following positions and initiatives in particular:

f) it will encourage ratification of the UN Convention on the Elimination of All Forms of Discrimination Against Women and its Optional Protocol, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women;

g) it will encourage the withdrawal of the reservations which have been entered in respect of the Convention, and in particular those which contradict the Convention’s aims and objectives, inter alia on the basis of the interpretation given to those reservations by the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW);
h) it will encourage, by means of technical support if necessary, submission of reports to the CEDAW Committee within the deadlines specified and the follow-up to the Committee’s reports and recommendations;

i) it will maintain a dialogue and regular consultations with women’s rights defenders and women’s organisations;

j) it will encourage women’s rights defenders and women’s organisations to become involved in developing, implementing and evaluating public policies in this area;

k) it will encourage Member States to make specific commitments to combat violence and discrimination against women within the framework of the Universal Periodic Review (UPR);

l) it will encourage the development of appropriate, new regional and international instruments.

Specific additional measures to combat violence against women: Action to combat violence against women will be implemented by means of the following initiatives:

a) by encouraging the summoning of the UN Special Rapporteur on violence against women in cases where such violence is very widespread and goes largely unpunished;

b) in cases where a visit has been carried out, by ensuring that the Rapporteur’s recommendations, conclusions and observations are followed up;

c) by supporting measures to combat impunity with regard to violence against women and girls, in particular by monitoring all legal proceedings relating to cases of such violence;

d) by supporting women’s rights defenders and female human rights defenders, in particular those who are threatened or who are the victims of specific and targeted repression or harassment;

e) by promoting and supporting policies and campaigns to raise awareness of gender equality and to combat violence against women, especially campaigns to raise awareness specifically targeting men and boys;

f) by promoting and supporting campaigns focusing on the systematic neglect of girls, in particular as regards official birth registration and schooling.

Individual cases: The EU will consider taking specific measures if it becomes aware of individual cases of exceptional gravity, in particular violence perpetrated or tolerated by the State contrary to international commitments and fundamental rights to physical integrity and non-discrimination, and in the absence inter alia of satisfactory action at national level.

This applies in particular to instances of the most blatant infringements which meet one or more of the following criteria:

a) instances of violence the perpetrators of which are unlikely to be held responsible for their actions by a criminal court, in proportion to the gravity of the crime committed;

b) instances of violence the victims of which will in all likelihood have no access to appropriate, non-discriminatory redress before the criminal and civil courts;

c) cases which reflect a recurrent, systematic
or large-scale practice in respect of which laws and public policies are non-existent or inadequate, in particular the most serious cases, such as those involving murders and forced suicides perpetrated in the name of honour;
d) cases resulting from discriminatory laws and practices;
e) cases of violence, threats, harassment and repression of female human rights defenders.

**Framework for EU dialogues:** The European Union will repeatedly raise the subject of violence against women and the discrimination from which such violence originates in its specific dialogues on human rights, and in other EU policy dialogues if necessary.

These topics could be placed on the agenda for such dialogues either in the form of a specific item or through incorporation in one or more gender-specific items.

In that connection, the EU will follow up on any recommendations and conclusions of international and regional mechanisms for the protection of women's rights and combating violence against women, in particular those formulated by the UN Special Rapporteur on violence against women, those relating to women within the framework of the EPU, the conclusions and recommendations of the CEDAW Committee and those put forward by the regional protection mechanisms.

**Drafting of human rights reports:** In their reports, the Heads of Mission must systematically include in their reports a section on compliance with human rights analysing respect for women's fundamental rights, with particular reference to their right to physical integrity and non-discrimination and compliance with the international commitments of States as regards violence against women.

The reports will refer to:
a) institutional and other mechanisms responsible for collecting qualitative and quantitative data throughout the territory and in all types of environments (households, workplaces, educational establishments, places of detention and other public institutions, etc.);
b) statistics, broken down by gender, age and other relevant factors as well as information on the dissemination of those statistics to the key players concerned and the general public;
c) the legislative framework as identified in the preliminary approaches, and in particular the existence of discriminatory laws and practices.

The EU's special representatives and envoys must take account of women's rights and must include information on that subject in their reports.

**Promotion of women's rights in international fora:** The EU will continue its active role in promoting women's rights, and especially the prevention of violence against women, in international fora (in particular the United Nations). It will ensure smooth coordination with all UN women's rights bodies, continuously support their work and promulgate unified and coherent messages in such fora, thereby strengthening the role and impact of EU actions in that area.
Bilateral and multilateral cooperation:
Action to combat violence against women and girls will be accorded priority within the framework of bilateral and multilateral cooperation in defending human rights, in collaboration with civil society, including in the legal and educational fields. Particular consideration will be given to such cooperation within the framework of the European Initiative for Democracy and Human Rights, but also via any other appropriate financial instrument of the EU and Member States.

Such cooperation will aim inter alia to support the programmes of civil society in particular, focusing on the following priority areas:

Redress, rehabilitation and access to care:

a) support for programmes promoting and ensuring access to justice for the victims of violence, including victims of violence appearing in court;

b) support for access to appropriate care services provided free of charge in the fields of psychological support, legal assistance, accommodation and the reintegration of victims of violence and their children, inter alia via public information campaigns for such services;

c) promoting women and girls' access and right to information and health services, in particular as regards sexual and reproductive health, inter alia in order to better protect them from HIV infection, affirming the EU’s support for the full implementation of the Cairo Action Programme adopted at the International Conference of Population and Development (ICPD) in 1994 and the main measures for the continued application of the ICPD Action Programme agreed at the ICPD + 5 as well as for the Copenhagen Declaration and Action Programme, the Beijing Platform for Action and the Millennium Development Goals.

d) support for programmes promoting women freely exercising their right to take decisions on questions relating to their sexuality and without being subjected to coercion, discrimination or violence;

e) support for programmes targeted at categories of women who require particular attention due to an increased risk of being victims of violence.

Prevention of violence:

a) promotion of and support for action to combat impunity with regard to violence against women and girls;

b) support for education in the fundamental rights and empowerment of women and girls;

c) support for campaigns, inter alia in the field of awareness-raising and communication, focusing on gender equality and measures to combat violence against women and girls through the elimination of the gender stereotyping which contributes to violence against women and girls;

d) support for programmes aimed at improving the economic independence of women;

e) support for the training of police officers and judicial staff in matters relating to violence against women and girls and the causes and consequences of such violence.
**Strengthening capacities:**

a) the provision of assistance for national action plans implementing the CEDAW Committee's recommendations, including the internal dissemination thereof;

b) the provision of assistance for the introduction of effective coordinated mechanisms for collecting data on violence against women and girls;

c) support for women's organisations and female human rights defenders, and more generally for civil society organisations combating violence against women;

d) the provision of appropriate training to all professionals responsible for dealing with violence against women and the causes and consequences of such violence (police, judicial staff, healthcare and educational professionals, the media);

e) support for programmes to reinforce police powers to intervene in cases of violence, and in particular domestic violence, via the introduction of standardised intervention protocols, pursuant to the United Nations Resolution on crime prevention and criminal justice responses to violence against women;

f) support for the establishment of central and decentralised administration services to improve women's status;

g) the provision of assistance for national action plans implementing Security Council Resolution 1325.

**Evaluation**

The Council Working Party on Human Rights will regularly evaluate the implementation of these guidelines, inter alia on the basis of the reports submitted by the Heads of Mission and after informal consultation with civil society. The Working Party on Human Rights will keep the Council informed of the application of the guidelines and will propose to the Council any necessary improvements for applying the guidelines.
ANNEX I

Introduction to the issue of violence against women, its forms, causes and consequences

Violence against women and girls, in all its forms, is truly a scourge. Available data indicate that this is a worldwide, institutionalised phenomenon. The forms and manifestations of such violence are many, interrelated and different according to the social, economic, cultural and political context of a society.

Violence against women and girls includes, but is not restricted to, forms of physical, sexual and psychological violence (a) occurring within the family (including prenatal selection based on the sex of the foetus (except where medically necessary) and systematic neglect of infant girls; forced marriage; early marriage; violence perpetrated by partners and ex-spouses; acid attacks; dowry violence and "honour" killings, violence and forced suicides; battering; sexual abuse inflicted on female children in the home, including incest; rape by habitual or cohabiting partners; female genital mutilation and other traditional practices harmful to women; (b) occurring within the general community (including rape; sexual abuse; sexual harassment and all forms of gender-related harassment; intimidation at work, in educational institutes and elsewhere; trafficking in women and forced prostitution; modern forms of slavery; femicide; violence against women and girls in conflict and post-conflict situations; trafficking in women for the purposes of sexual exploitation and of all other forms of exploitation); (c) violence against women and girls covers all the acts listed above whether or not perpetrated or condoned by the State.

It should be pointed out here that, while, as the UN Secretary-General acknowledges in his in-depth study, much violence against women is committed by private actors and includes a broad range of individuals and entities, this factor in no way exonerates States from acting with due diligence, as set out in Recommendation No 19 of the Committee on the Elimination of All Forms of Discrimination against Women.

Certain factors render victims more vulnerable as a result of the multiple discrimination they endure, related both to their gender and the fact that they belong to distinct minority or ethnic groups, to their religion or language, their status of native women, migrant women, displaced or refugee women, women living in underdeveloped environments or in remote rural communities, institutionalised or incarcerated women, women with disabilities, HIV-positive women, lesbian, bisexual or transgender women, young girls, old or widowed women, and female victims of all other forms of discrimination.

Lastly, in situations of crisis or armed conflict, the use of rape, slavery, sexual abuse and exploitation are the most systematic and widespread manifestations of violence against women.

Apart from the serious consequences for the physical health (particularly substantially increased risk of HIV infection) and mental health of victims, violence against women
also has significant social consequences and major economic costs, to which should be added the cost of political and social instability resulting from the intergenerational transmission of violence. Violence against women thus contributes to their impoverishment and that of their families, communities, societies and countries. Violence against women is therefore an obstacle to development.

Violence against women and girls has certain structural causes, including the historically unequal balance of power between men and women as well as girls and boys, found in many societies. Furthermore, customs, traditions and religious values are used to justify violence against women. Economic inequalities suffered by women and their lack of independence are decisive factors for violence in that they reduce women’s capacity to act and take decisions, and increase their vulnerability to violence.

Political instability and armed conflicts are additional sources of violence against women and girls. Even post conflict, the climate of violence persists for a long time and in many countries which have experienced armed conflict, the increased acceptance of violence and the massive proliferation of weapons leads to increased violence outside the conflict.

In order to combat this scourge effectively it is essential that all these aspects be taken into account.

ANNEX II

International legal framework and obligations of States in combating violence against women

The international community is committed to protecting the rights and dignity of men and women via numerous treaties and political undertakings. 60 years have passed since the proclamation of the Universal Declaration of Human Rights, which clearly asserts that "all human beings are born free and equal in dignity and rights" and that "everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as … sex".

The Committee on the Elimination of Discrimination against Women (CEDAW), which monitors implementation of the 1979 Convention, has defined violence against women as a form of discrimination within the meaning of the Convention and this has led to the issue featuring more prominently in the work programmes of human rights institutions and mechanisms.

The World Conference on Human Rights, held in Vienna in 1993, led to the appointment by the UN Commission on Human Rights in 1994 of a Special Rapporteur on violence against women, followed by the General Assembly’s adoption of the Declaration on the Elimination of Violence against Women in the same year. The World Conference reaffirmed the universality and indivisibility of human rights.
The Declaration sets out a series of measures that States must take to prevent and eliminate violence against women. In particular, it requires States to condemn violence against women and not invoke custom, tradition or religion to avoid their obligations to eliminate such violence.

The Beijing Platform, adopted in 1995, won the support of 189 countries during the historic UN conference on the situation of women worldwide. The Platform identifies twelve areas requiring improvement, including combating violence against women. These areas were examined at the conference organised in 2005 in New York, on the occasion of the tenth anniversary of the Platform. The Union’s support for the Beijing Platform for Action was expressed at the highest level by heads of government at the Madrid summit in December 1995.

Since 1999, the Council of the European Union adopts – every year – conclusions on indicators and reference criteria, thus ensuring annual follow-up that is more targeted and structured. A series of quantitative and qualitative indicators were drawn up for violence against women in 2002.

The 5-year review of the Beijing Platform for Action (Beijing + 5) called on governments to take appropriate measures to eliminate violence and discrimination against women committed by any person, organisation or enterprise and to treat all forms of violence against women and girls as criminal offences.

General Assembly resolution 61/143 (2006) on intensification of efforts to eliminate all forms of violence against women, adopted by consensus, reaffirmed all the international commitments of States, including the obligation to promote and protect all human rights and fundamental freedoms of women and girls and to exercise due diligence to prevent, investigate and punish the perpetrators of violence against women and girls and to provide protection to the victims, and that failure to do so violates and impairs or nullifies the enjoyment of their human rights and fundamental freedoms.

UN Security Council resolutions 1325 (2000) and 1820 (2008) set out the international community’s undertakings to combat violence against women in situations of armed conflict. Resolution 1820 affirms the link between the maintenance of international peace and security and combating sexual violence suffered by women in conflict situations. Resolution 1820 (2008), which incorporates Article 7 of the ICC’s Rome Statute, reminds States that “rape and other forms of sexual violence can constitute a warcrime, a crime against humanity, or a constitutive act with respect to genocide, stresses the need for the exclusion of sexual violence crimes from amnesty provisions in the context of conflict resolution processes [...]”.

Resolution 2005/2215 of the European Parliament on the situation of women in armed conflicts and their role in the reconstruction and the democratic process in countries after a conflict, offers a general framework for EU action in the field concerning women in armed conflicts, in particular violence perpetrated against them.

Numerous initiatives on violence against women have also been taken by the Council of Europe and the OSCE, organisations within which the EU plays an important part.
This European Parliament 2005 Resolution sets out the specific efforts, steps and measures that must be taken to combat this scourge effectively.

These guidelines incorporate those obligations into the EU framework. In so doing, they underpin European action to protect women’s rights and promote gender equality in external relations, as defined in the Roadmap for Equality between Men and Women, the Commission’s 2007 communication on Gender Equality and Women’s Empowerment in Development Cooperation, the Council conclusions on that communication, and other guidelines for human rights adopted under the Common Foreign and Security Policy (CFSP).
I. Purpose

The purpose of these Guidelines is to set out operational tools for the European Union and its institutions and bodies to promote compliance with international humanitarian law (IHL). They underline the European Union's commitment to promote such compliance in a visible and consistent manner. The Guidelines are addressed to all those taking action within the framework of the European Union to the extent that the matters raised fall within their areas of responsibility and competence. They are complementary to Guidelines and other Common Positions already adopted within the EU in relation to matters such as human rights, torture and the protection of civilians.1

1. These Guidelines are in line with the commitment of the EU and its Member States to IHL, and aim to address compliance with IHL by third States, and, as appropriate, non-State actors operating in third States. Whilst the same commitment extends to measures taken by the EU and its Member States to ensure compliance with IHL in their own conduct, including by their own forces, such measures are not covered by these Guidelines.2

II. International humanitarian law (IHL)

Introduction

The European Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law. This includes the goal of promoting compliance with IHL.

International Humanitarian Law (IHL) - also known as the Law of Armed Conflict or the Law of War - is intended to alleviate the effects of armed conflict by protecting those not, or no longer taking part in conflict and...
by regulating the means and methods of warfare.

States are obliged to comply with the rules of IHL to which they are bound by treaty or which form part of customary international law. They may also apply to non-State actors. Such compliance is a matter of international concern. In addition, the suffering and destruction caused by violations of IHL render post-conflict settlements more difficult. There is therefore a political, as well as a humanitarian interest, in improving compliance with IHL throughout the world.

Evolution and Sources of IHL

The rules of IHL have evolved as a result of balancing military necessity and humanitarian concerns. IHL comprises rules that seek to protect persons who are not, or are no longer, taking direct part in hostilities - such as civilians, prisoners of war and other detainees, and the injured and sick - as well as to restrict the means and methods of warfare - including tactics and weaponry - in order to avoid unnecessary suffering and destruction.

As with other parts of international law, IHL has two main sources: international conventions (treaties) and customary international law. Customary international law is formed by the practice of States, which they accept as binding upon them. Judicial decisions and writings of leading authors are subsidiary means for determining the law.

The principal IHL Conventions are listed in the Annex to these Guidelines. The most important are the 1907 Hague Regulations, the four Geneva Conventions from 1949 and their 1977 Additional Protocols. The Hague Regulation and most of the provisions of the Geneva Conventions and the 1977 Additional Protocols are generally recognised as customary law.

Scope of application

IHL is applicable to any armed conflicts, both international and non-international and irrespective of the origin of the conflict. It also applies to situations of occupation arising from an armed conflict. Different legal regimes apply to international armed conflicts, which are between States, and non-international (or internal) armed conflicts, which take place within a State.

Whether situation amounts to an armed conflict and whether it is an international or non-international armed conflict are mixed questions of fact and law, the answers to which depend on a range of factors. Appropriate legal advice, together with sufficient information about the particular context, should always be sought in determining whether a situation amounts to an armed conflict, and thus whether international humanitarian law is applicable.

The treaty provisions on international armed conflicts are more detailed and extensive. Non-international armed conflicts are subject to the provisions in Article 3 common to the Geneva Conventions and, where the State concerned is a Party, in the 1977 Additional Protocol II. Rules of customary international law apply to both international and internal armed conflicts but again there are differences between the two regimes.

International Human Rights Law and IHL

It is important to distinguish between international human rights law and IHL. They are distinct bodies of law and, while both are
principally aimed at protecting individuals, there are important differences between them. In particular IHL is applicable in time of armed conflict and occupation. Conversely, human rights law is applicable to everyone within the jurisdiction of the State concerned in time of peace as well as in time of armed conflict. Thus while distinct, the two sets of rules may both be applicable to a particular situation and it is therefore sometimes necessary to consider the relationship between them. However these Guidelines do not deal with human rights law.

**Individual responsibility**

Certain serious violations of IHL are defined as war crimes. War crimes may occur in the same circumstances as genocide and crimes against humanity but the latter, unlike war crimes, are not linked to the existence of an armed conflict.

Individuals bear personal responsibility for war crimes. States must, in accordance with their national law, ensure that alleged perpetrators are brought before their own domestic courts or handed over for trial by the courts of another State or by an international criminal tribunal, such as the International Criminal Court.

III. Operational guidelines

**Reporting, assessment and recommendations for action**

Action under this heading includes:

In order to enable effective action, situations where IHL may apply must be identified without delay. The responsible EU bodies, including appropriate Council Working Groups, should monitor situations within their areas of responsibility where IHL may be applicable, drawing on advice, as necessary, regarding IHL and its applicability. Where appropriate they should identify and recommend action to promote compliance with IHL in accordance with these Guidelines. Consultations and exchange of information with knowledgeable actors, including the ICRC and other relevant organisations such as the UN and regional organisations, should be considered when appropriate. Consideration should also be given, where appropriate, to drawing on the services of the International Humanitarian Fact-Finding Commission (IHFFC) established under Article 90 of the Additional Protocol I to the Geneva Conventions of 1949, which can assist in promoting respect for IHL through its fact-finding capacity and its good offices function.

Whenever relevant, EU Heads of Mission, and appropriate EU representatives, including Heads of EU Civilian Operations, Commanders of EU Military Operations and EU Special Representatives, should include an assessment of the IHL situation in their reports about a given State or conflict. Special attention should be given to information that indicates that serious violations of IHL may have been committed. Where feasible, such reports should also include an analysis.
and suggestions of possible measures to be taken by the EU.

Background papers for EU meetings should include, where appropriate, an analysis on the applicability of IHL and Member States participating in such meetings should also ensure that they are able to draw on advice as necessary on IHL issues arising. In a situation where an armed conflict may be at hand, the Council Working Group on International Law (COJUR) should be informed along with other relevant Working Groups. If appropriate and feasible, COJUR could be tasked to make suggestions of future EU action to relevant EU bodies.

**Means of action at the disposal of the EU in its relations with third countries**

The EU has a variety of means of action at its disposal. These include, but are not limited to, the following:

- **Political dialogue:** Where relevant the issue of compliance with IHL should be brought up in dialogues with third States. This is particularly important in the context of on-going armed conflicts where there have been reports of widespread IHL violations. However, the EU should also, in peace-time, call upon States that have not yet done so to adhere to, and fully implement, important IHL instruments, such as the 1977 Additional Protocols and the ICC Statute. Full implementation includes enactment of any necessary implementing legislation and training of relevant personnel in IHL.

- **General public statements:** In public statements on issues related to IHL, the EU should, whenever appropriate, emphasise the need to ensure compliance with IHL.

- **Demarches and/or public statements about specific conflicts:** When violations of IHL are reported the EU should consider making demarches and issuing public statements, as appropriate, condemning such acts and demanding that the parties fulfil their obligations under IHL and undertake effective measures to prevent further violations.

- **Restrictive measures/sanctions:** The use of restrictive measures (sanctions) may be an effective means of promoting compliance with IHL. Such measures should therefore be considered against State and non-state parties to a conflict, as well as individuals, when they are appropriate and in accordance with international law.

- **Co-operation with other international bodies:** Where appropriate, the EU should co-operate with the UN and relevant regional organisations for the promotion of compliance with IHL. EU Member States should also, whenever appropriate, act towards that goal as members in other organisations, including the United Nations. The International Committee of the Red Cross (ICRC) has a treaty-based, recognised and long-established role as a neutral, independent humanitarian organisation, in promoting compliance with IHL.

- **Crisis-management operations:** The importance of preventing and suppressing violations of IHL by third parties should be considered, where appropriate, in the drafting of mandates of EU crisis-management operations. In appropriate cases, this may include collecting information
which may be of use for the ICC or in other investigations of war crimes.

**Individual responsibility:** While, in post-conflict situations it is sometimes difficult to balance the overall aim of establishing peace and the need to combat impunity, the European Union should ensure that there is no impunity for war crimes. To have a deterrent effect during an armed conflict the prosecution of war crimes must be visible, and should, if possible, take place in the State where the violations have occurred. The EU should therefore encourage third States to enact national penal legislation to punish violations of IHL. The EU's support of the ICC and measures to prosecute war criminals should also be seen in this context.

**Training:** Training in IHL is necessary to ensure compliance with IHL in time of armed conflict. Training and education must also be undertaken in peacetime. This applies to the whole population, although special attention should be given to relevant groups such as law enforcement officials. Additional obligations apply to the training of military personnel. The EU should consider providing or funding training and education in IHL in third countries including within the framework of wider programmes to promote the rule of law.

**Export of arms:** The European Code of Conduct on Arms Export provides that an importing country's compliance with IHL should be considered before licences to export to that country are granted.

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4 See the Agreement on Co-operation and Assistance between the European Union and the International Criminal Court.

5 Adopted on 8 June 1998, doc 8675/2/98 REV 2.
ANNEX

PRINCIPAL LEGAL INSTRUMENTS ON INTERNATIONAL HUMANITARIAN LAW

- 1907 Hague Convention IV Respecting the Laws and Customs of War
- Annex to the Convention: Regulations Respecting the Laws and Customs of War
- 1925 Protocol for the Prohibition of the Use of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare
- 1949 Geneva Convention I for the Amelioration of the Conditions of the Wounded and Sick in Armed Forces in the Field
- 1949 Geneva Convention II for the Amelioration of the Conditions of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea
- 1949 Geneva Convention III Relative to the Treatment of Prisoners of War
- 1949 Geneva Convention IV Relative to the Protection of Civilian Persons in Time of War
- 1972 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction
- 1980 UN Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects
- 1980 Protocol I on Non-Detectable Fragments
- 1980 Protocol II on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices
- 1996 Amended Protocol II on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices
- 1980 Protocol III on Prohibitions or Restrictions on the Use of Incendiary Weapons
- 1995 Protocol IV on Blinding Laser Weapons
- 1993 Convention on the Prohibition of the Development, Production, Stockpiling and use of Chemical Weapons and on their Destruction
- 1997 Ottawa Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction
- 1993 Statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991


- 1998 Rome Statute of the International Criminal Court
European Union — Council

EU Guidelines Human Rights and International Humanitarian Law

Luxembourg: Office for Official Publications of the European Communities

2009 — 82 pp. — 14.8 x 21 cm

DOI 10.2860/36325
Catalogue number QC-83-08-123-EN-C

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Guidelines
Human Rights and
International Humanitarian Law

March 2009