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"I/A" ITEM NOTE

from : General Secretariat of the Council
to : Coreper /Council

Subject : Draft Council conclusions on the first review of the implementation of the EU
Guidelines on Human Rights Defenders

1. The Council adopted the EU Guidelines on Human Rights Defenders (doc. 10056/1/04) in June 2004 with a view to enhance the EU's long established efforts for the protection and support of human rights defenders.

2. The Guidelines task COHOM to promote the integration of issues related to human rights defenders into relevant EU policies and actions and undertake reviews of their implementation at appropriate intervals. In line with this mandate, COHOM has taken stock of progress made and has formulated recommendations for further action towards the full and effective implementation of the Guidelines.
3. On 7 June 2006 PSC approved the draft Council conclusions set out in Annex I and the first evaluation of the implementation of the EU Guidelines on Human Rights Defenders set out in Annex II
4. Coreper is invited to
 - endorse the first evaluation of the implementation of the EU Guidelines on Human Rights Defenders and recommendations set out in Annex II ;
 - recommend to the Council that it adopts the draft Council conclusions set out in Annex I.

**DRAFT COUNCIL CONCLUSIONS ON THE FIRST REVIEW OF THE
IMPLEMENTATION OF THE EU GUIDELINES ON HUMAN RIGHTS DEFENDERS**

1. The Council pays tribute to the courage of human rights defenders and expresses its sincere admiration for the invaluable contribution they make to advancing respect for human rights worldwide. The Council expresses its concern about the ongoing threats and attacks and strongly condemns killings of human rights defenders, as documented in the latest report by the UN Special Representative on human rights defenders. It calls on all states to ensure the safety and protection of the rights of human rights defenders and calls particular attention to the situation of women human rights defenders.
2. The Council welcomes the first review of the implementation of the EU Guidelines on Human Rights Defenders (ANNEX II). The Council acknowledges progress made towards the implementation of the Guidelines but underlines the need to continue efforts to further increase the level of awareness amongst all relevant EU actors at the Brussels, capitals and mission level about the existence, purpose, content and operational application of the Guidelines. The Council therefore requests all relevant actors of the European Union to implement the steps recommended by the review.
3. The Council, its Member States and the Commission are committed to continued close cooperation with civil society in promoting human rights and in raising awareness about the content and the purpose of the Guidelines and to advance their full implementation. In this context, close cooperation with the European Parliament will also be pursued.
4. The Council stresses the importance of the mandate of the UN Special Representative and other relevant special procedures, and the crucial role played by the Special Representative in implementing the UN Declaration on Human Rights Defenders and enhancing the protection of human rights defenders throughout the world. It reiterates the EU's full support for the UN Special Representative and is committed to continued close cooperation with this crucial

mechanism. In view of the newly established Human Rights Council, the Council also underlines the importance the EU attaches to continued access and active participation of human rights defenders and NGOs from the outset.

5. The Council will continue to regularly review progress towards implementation of the Guidelines as well as action taken in response to the recommendations of this first review.

FIRST REVIEW OF THE IMPLEMENTATION OF THE EU GUIDELINES ON HUMAN RIGHTS DEFENDERS

A. INTRODUCTION

1. The Council adopted the EU Guidelines on Human Rights Defenders (doc. 10056/01/04) in June 2004 with a view to enhance the EU's long established efforts for the protection and support of human rights defenders.
2. The Guidelines task COHOM to promote the integration of issues related to human rights defenders into relevant EU policies and actions and undertake reviews of their implementation at appropriate intervals. In line with this mandate, this document takes stock of the progress made and recommends further action towards the full and effective implementation of the Guidelines.
3. The summary analysis and recommendations draw on submissions by partners and on responses received from EU Heads of Mission in 79 countries to a questionnaire and in particular examples of good practices given therein. They build on the useful lessons learned from the Freedom of Expression campaign in the second half of 2005, including on raising awareness, visibility and type of action, and incorporating local, NGO and HRDs' own expertise. They also reflect recommendations made at the workshop on human rights defenders at the Seventh Annual EU NGO Forum on Human Rights (London 8-9 December 2005) as well as contributions from international NGOs and local human rights defenders. Finally, the review takes into account recommendations made by the UN Special Representative on human rights defenders in her most recent report (E/CN.4/2006/95/Add.5).

B. SUMMARY ANALYSIS

4. The enormous potential of the Guidelines to render the EU's action in support of HRDs more effective is recognized by partners, NGOs and EU HoMs alike. In the words of HoMs in a country where rates of attacks and killings of HRDs have been documented to be amongst the highest worldwide by the UN Special Representative for Human Rights Defenders and international NGOs, the "Guidelines have provided a structure, purpose and a consciousness of action which was previously lacking. Surely, the political demarches that have been undertaken in the last couple of years were facilitated and encouraged by the existence of the Guidelines."

5. While the EU has a long-established tradition of supporting those in the frontline of the defence of human rights, the Guidelines are a relatively new instrument. It is welcomed that the Guidelines have assisted in coordinating a common and more joined-up EU approach in many countries, yet it remains difficult to assess whether they have made an appreciable difference, both in terms of local EU approaches to HRDs and in the impact action based on the Guidelines has had on the situation of HRDs. Several proactive steps have been taken since the adoption of the guidelines in June 2004 to advance their concrete implementation and to raise awareness of the guidelines themselves. These include: the production of a Manual for the EU Guidelines on Human Rights Defenders in December 2004, the Freedom of Expression campaign from July-December 2005, the EU-NGO Forum focusing on freedom of expression and human rights defenders in December 2005, and the ongoing campaign dedicated to women human rights defenders. Although a considerable number of demarches and other interventions undertaken since June 2004 can be accounted for, a system to track EU efforts at a central level has yet to be put in place to allow for a more thorough analysis of the impact of EU action.

AWARENESS

6. The level of awareness amongst EU Missions, but also amongst policy makers in capitals and in Brussels continues to vary greatly. From the feedback received from HoMs it appears that only a few member states have issued operational directives to their missions as a follow-up to the adoption of the Guidelines, only very few appear to have been provided with specific training.

7. Where missions have received instructions it was felt that the level, frequency and quality of contacts with HRDs have gained substance. Many posts report that even though the content of the Guidelines is often not sufficiently known, their operational recommendations have been implemented, and established contacts with local HRDs have continued at the same level as before June 2004. Proactive outreach and readiness to engage the government of the respective countries on the situation of HRDs are often driven by a strong local human rights profile by the EU and the personal dedication of mission staff, rather than Guidelines.

LOCAL OUTREACH AND ACTION

8. On the other hand, a number of posts have stated that the Guidelines have not resulted in an increase of outreach to local HRDs or in specific actions taken. In some countries, the activities under the current global campaign on Women Human Rights Defenders (WHRDs) mark the first structured outreach to the local HRD community, in others this stock-taking exercise has provided a first opportunity for the discussion of the Guidelines at HoMs level.

9. The majority of posts considers that contacts by EU missions with local HRDs have a positive and considerable impact, in particular in terms of moral support and encouragement for the defenders. It is also felt that a consistent and long-term commitment to human rights and the unimpeded work of HRDs can yield positive results or at least stabilizes the situation of HRDs. HoMs in countries where there is no or limited space for an independent civil society to operate openly and in safety however point to the need for a carefully calibrated application of the Guidelines to the local environment in order to avoid adverse impacts of EU action on local HRDs. Generally, HoMs call for flexible approaches adapted to the local situation and the profile and characteristics of local HRD communities. Reports received on activities under the current global campaign on Women Human Rights Defenders underline that the specific protection needs of WHRDs have to be addressed also beyond the current focus.

10. Although staff shortages in individual missions and overall limited EU presence exist in many locations, that have often not allowed for the appointment of individual focal points for HRDs, HoMs have provided plenty of examples on how these resource constraints are being, at least in part, compensated for by pooling and increasing coordination of local resources on human rights issues, including on HRDs.

PRACTICAL SUPPORT FOR HRDs

11. In a majority of countries, HRDs receive financial or other material support by Member States and/or the European Commission. At the same time, many posts expressed the need for the allocation of earmarked resources for sustained outreach activities, in particular to HRDs in more remote/rural regions and for local promotional activities in support of the implementation of the Guidelines.

PERSPECTIVE OF NGOS

12. According to the international NGOs consulted during this exercise, knowledge about the existence of the Guidelines also appears to be relatively low amongst local HRDs, which in their analysis is partly due to a lack of active promotion of the Guidelines so far. In light of the increased vulnerability of HRDs they report, NGOs have stressed their high expectations that EU Missions reach out to local human rights defenders in a more proactive manner and that the EU generally respond to protection needs with greater resolve and pressure in its bilateral relations with governments of the countries concerned, as well as in multilateral fora. They also call for more interventions for individuals at risks and a higher degree of visibility for EU action, especially when public action is deemed the more effective approach by the concerned HRDs.

C. RECOMMENDATIONS

The following action is recommended with a view to steadily improving awareness and implementation of the Guidelines.

I. AWARENESS-RAISING AND TRAINING

I. 1. AMONGST EU ACTORS

The EU should increase the level of awareness amongst all relevant EU actors at the Brussels, capitals and mission level about the existence, purpose, content and operational application of the Guidelines, including as a tool to advance the global application of the UN Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (UN Declaration on human rights defenders). Internal awareness raising efforts should aim at a deeper understanding of the work of human rights defenders.

Steps towards implementation:

MEMBER STATES (CAPITALS)/COMMISSION (BRUSSELS) TO

- (1) consider appointing a focal point for HRDs in human rights departments;
- (2) disseminate Guidelines and consider organizing training workshops with regional departments, as well as visa and consular staff;
- (3) consider integrating a special HRD segment in human rights training provided for embassy/delegation staff, incl. consular staff, relevant staff in Permanent Representations, technical co-operation staff, before posting; such training should also draw attention to the specific risks and protection needs of Women Human Rights Defenders;
- (4) consider exchanging their training modules on HRD and/or inviting specialized officials from other Member States/Commission to participate in their training sessions;
- (5) further disseminate and encourage the use of the Manual produced by The Netherlands amongst staff of EU missions;

- (6) disseminate translations of the EU human rights guidelines in EU languages that are the lingua franca in third countries and key non-EU languages (currently translations in Arabic, Chinese, Farsi, Russian) amongst regional desks and embassies/delegations;
- (7) provide missions with translations of the UN Declaration on human rights defenders;
- (8) consider using annual ambassadors/heads of delegation conferences at headquarters for further training and exchanges of lessons learned from HRD actions undertaken by peers;
- (9) highlight work of the UN Special Representative and regional HRD mechanism in training efforts; inform missions of relevant reports and recommendations of these mechanisms;
- (10) consider, on the basis of informal burden-sharing, visits by human rights/HRD experts from capital/Brussels to selected priority countries to encourage dialogue with HoMs and local EU mission human rights staff and to provide training;

MEMBER STATES (CAPITALS)/COMMISSION (BRUSSELS) AND HoMs TO

- (11) consider involving HRDs and international NGOs in training efforts at headquarter and mission level;
- (12) consider increased involvement of local UN human rights experts in such efforts;

I. 2. INCREASING EXTERNAL PUBLICITY

The EU should take a more pro-active stance towards the external promotion of the Guidelines and EU efforts to implement them, amongst human rights defenders and local, regional and international NGOs.

Steps towards implementation:

ALL ACTORS TO:

- (13) establish the routine of handing over copies of the EU human rights guidelines in first bilateral contacts with human rights defenders and NGOs, as well as at human rights functions/events;

MEMBER STATES (CAPITALS)/COMMISSION (BRUSSELS) TO

- (14) include links to all EU human rights guidelines and to the Council Webpage listing the guidelines on websites of Ministries of Foreign Affairs, embassies and delegations;
- (15) share and encourage the sharing of existing translations and promotional tools amongst all actors;
- (16) consider allocating earmarked funds for promotional and outreach activities to EU Missions, e.g. for activities such as visits to regions where Member States/EC do not have cooperation projects;
facilitation of HRD visits from remote regions to capitals etc.;
- (17) distribute significant number of copies of the EU Guidelines to EU Missions;

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- (18) pool available translations of EU human rights guidelines in local languages and electronic versions of promotional material on Council human rights website;
- (19) consider the production of short promotional material with general information about the Guidelines and examples for best practices specifically targeting human rights defenders and local NGO audiences;

EU MISSIONS, AT THE INITIATIVE AND/OR UNDER THE CO-ORDINATION OF THE LOCAL PRESIDENCY, TO

- (20) devise common local strategies for the promotion of the Guidelines, which could include engaging national authorities
- (21) consider the organization of public launches of the guidelines in the presence of representatives of the local HRD community, the media and, where appropriate, representatives of the local Government;
- (22) solicit assistance by local HRDs for the translation of the Guidelines into local languages;
- (23) dedicate local publications (e.g. EC Delegation newsletters) to the situation of HRDs;

I. 3. SUPPORTING AND PROTECTING HUMAN RIGHTS DEFENDERS

I.3.1. STRENGTHEN CO-ORDINATION AND SHARING OF INFORMATION

EU Missions should explore all avenues for strengthened coordination, cooperation and informal burden-sharing in order to make maximum use of collective Member States and Commission resources sur place. The common objective should be to carry out activities on behalf of HRDs in a sustainable way and to ensure effective knowledge and information management:

Steps towards implementation:

EU MISSIONS, AT THE INITIATIVE AND/OR UNDER THE CO-ORDINATION OF THE LOCAL PRESIDENCY, TO

(24) designate a focal point for HRD defenders, wherever staff resources permit; where such focal points exist, initiate network which can support in particular the local Presidency; in countries with small EU presence, a local focal point could be designated; in countries with an EUSR office, the focal point could be located in this office;

(25) initiate, wherever possible, local informal EU human rights working groups which meet on a regular basis and exchange knowledge and information on local human rights issues, incl. situation of human rights defenders; consider the participation of like-minded non EU countries in these groups;

(26) establish rotation routines for activities such as trial observations on behalf of the local Presidency/Troika; coordination of visiting programmes of missions to more remote regions;

(27) consider creation of common local database of HRDs that could facilitate outreach for the purpose of capacity building, training and other activities and could serve as an institutional memory tool that tracks contacts with HRDs, developments such as arrests, court cases, demarches etc;

I.3.2. PROACTIVE OUTREACH AND VISIBLE SUPPORT

Mindful of the EU's objective that HRDs should be provided with the best possible support, missions should be encouraged to adapt their approaches to the local environment and the specific challenges this environment may pose for HRDs. As a matter of principle, HRDs should be consulted on the level of contact they wish to maintain and on the advisability of publicity of action/association with EU Missions.

Steps towards implementation:

MEMBER STATES (CAPITALS)/COMMISSION (BRUSSELS) TO

(28) regularly instruct missions to proactively establish and deepen contacts with human rights defenders in a manner which best serves their security and protection, to monitor their situations and to proactively report on developments of concern and recommend concrete measures to be taken at mission/capital/Brussels level;

(29) encourage reporting on the overall situation of human rights defenders and the local implementation of the Guidelines, in particular in the framework of annual updates to the EU human rights factsheets and in EU HoMs reports on human rights;

(30) provide guidance to missions on how to identify genuine HRDs and different categories of HRDs, in particular in repressive settings where there is a lack of civil society or where the profile of local human rights activists does not concur with established concepts/perceptions of civil society/NGO community;

EU MISSIONS, AT THE INITIATIVE AND/OR UNDER THE CO-ORDINATION OF THE LOCAL PRESIDENCY, TO

(31) establish routine of holding meeting of HoMs with broad spectrum of local HRDs, incl. HRDs which are not beneficiaries of EC or Member State funding and from rural/remote regions, at least once per Presidency;

(32) regularly invite HRDs to meetings of networks of human rights experts at missions;

(33) devise local implementation strategy for the Guidelines, in consultation with local HRDs, as part of broader local human rights action plans; attention should be given to the specific needs of Women Human Rights Defenders in this regard;

(34) in posts where publicity and visibility of contacts/activities can contribute to stabilize/improve situation of human rights defenders, consider to increase/intensify activities along the lines of the following best practice examples indicated by HoMs:

(i) including human rights hotspots in official travel programmes of HoMs;

(ii) visiting local projects to give visibility as well as legitimacy;

(iii) attending meetings/events of HRDs;

(iv) support cultural initiatives with human rights content which provide a platform for highlighting activities of HRDs

(v) organizing joint press conferences with HRDs, in particular in situations of acute risk;

(vi) considering establishing (financial) human rights awards;

(vii) inviting HRD to meet visiting government or parliamentary, delegations, incl. from the EP;

(viii) giving visibility to EU representatives present as observers at trials against HRDs defenders.

I. 4. EFFECTIVE EU ACTION ON BEHALF OF HUMAN RIGHTS DEFENDERS

The EU should take steps to enhance the effectiveness of actions taken on behalf of human rights defenders, including by ensuring follow-up to action taken.

Steps towards implementation:

MEMBER STATES (CAPITALS)/COMMISSION (BRUSSELS) TO

(35) encourage missions to devise results-based approach adapted to local environment and to act quickly, in urgent cases and critical situations on the basis of standard terms of reference without reverting to capitals;

(36) ensure systematic follow-up to demarches and other expressions of concern, including with representatives of concerned governments in capital and in Brussels;

LOCAL PRESIDENCIES AND EU MISSIONS TO

(37) give active consideration to the view of HRDs on the likely effectiveness of EU action when advising on public versus private action;

(38) advise on diversifying target authorities for demarches to amplify the EU's message;

(39) reflect concrete results and effectiveness of interventions, in reports on EU action;

(40) strengthen cooperation with UN and like-minded countries in particular in difficult or adverse situations where independent HRDs cannot operate openly;

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(41) facilitate adequate follow-up to demarches and the evaluation of the impact of action taken on behalf of individual cases by creating a central database on EU demarches, incl. demarches under the EU human rights guidelines.

I. 5. PROMOTION OF RESPECT FOR HUMAN RIGHTS DEFENDERS IN RELATIONS WITH THIRD COUNTRIES AND IN MULTILATERAL FORA

The situation of HRDs and the environment in which they work should be systematically integrated in the EU's political dialogues with third countries, including in bilateral dialogues by EU Member States.

Steps towards implementation:

ALL ACTORS TO

- (42) underline the EU' support for the implementation of the UN Declaration in political dialogues with third countries, recalling that the Declaration was adopted unanimously;
- (43) draw attention to the Guidelines and the UN Declaration in all dialogues where the situation of HRD is discussed;
- (44) address concerns relating to the institutional framework and the environment in which HRDs work, incl. their possibilities to access resources, incl. financial, from abroad;
- (45) draw on the reports and recommendations of the UN Special Representative on human rights defenders and regional HRD mechanisms in the preparation of dialogues; support the implementation of the recommendations of these mechanisms, as well as pertinent recommendations of other UN and/or regional mechanisms relating to the environment in which HRDs operate;

PRESIDENCY/TROIKA/COUNCIL WORKING PARTIES/EU MISSIONS/EUSRs TO:

- (46) involve HRDs in the preparation of dialogue meetings;
- (47) facilitate dialogue between HRD and authorities of dialogue country in the framework of political and dedicated human rights dialogues;
- (48) consult local HRDs and NGOs in establishing human rights-related priorities for bilateral cooperation/political dialogue;
- (49) organize meetings with HRD in the margins of/on the occasion of high level EU meetings;

PERSONAL REPRESENTATIVE OF THE SG/HR ON HR TO

- (50) continue the practice of direct contacts with HRDs in Brussels and during field visits;
- (51) encourage and facilitate meetings of HRDs with members of the EU Troika and EUSR, including during their visits to third countries;
- (52) support the Presidency and the Troika in providing follow-up to action taken on behalf of HRDs;
- (53) strengthen interaction with EUSRS on human rights issues in general and HRD in particular;
- (54) continue contacts with UNSR and engage contacts with the African Special Rapporteur on Human Rights Defenders and the special Human Rights Defenders Unit within the Inter-American commission on Human Rights.

I.6. PRACTICAL SUPPORT FOR HUMAN RIGHTS DEFENDERS

The EU should ensure that support provided to HRDs takes into account their specific financial and protection needs, as well as the urgency to address these needs.

Steps towards implementation:

MEMBER STATES (CAPITALS)/COMMISSION (BRUSSELS) TO

(55) consider increasing funds to periodically finance projects and one-off public events related to human rights at the country-level and to HRDs in particular;

(56) consider including protection programmes and support for practical security measures into support given to HRDs in countries where these are systematically targeted;

(57) provide missions with information on visiting and training programmes, incl. scholarships available for HRDs, as well as relevant budget lines;

(58) support exposure of local HRDs to regional and international HRD networks, incl. by facilitating attendance of local HRDs at international human rights events and conferences;

COMMISSION AND MEMBER STATES TO

(59) seek to ensure that funding is accessible to local and national HRDs, and that funding procedures are kept as efficient and as non-bureaucratic as possible; taking into consideration the administrative capacities of small NGOS;

MEMBER STATES/ TO

(60) consider developing protection tools for situations where the life or physical and mental integrity of HRD may be at immediate risk;

(61) consider issuing of emergency visas for HRDs in grave danger, building on the experience and good practice of some member states.

I. 7. ROLE OF COUNCIL WORKING PARTIES

COHOM TO

(62) further develop cooperation with the UN Special Representative on human rights defenders and cooperation with regional human rights mechanisms on all aspects of the implementation of the Guidelines;

(63) continue to review the implementation of the Guidelines at regular intervals, including the effectiveness of EU action taken, and report to the Council, via PSC and COREPER on the progress made towards their implementation, as appropriate on an annual basis, in particular as part of the annual review of the EU human rights policy;

(64) consider enhancing public reporting on and transparency of EU action, with due regard to the security of the HRDs on whose behalf action has been undertaken.
