



**DIRECTORATE-GENERAL FOR EXTERNAL POLICIES
POLICY DEPARTMENT**

ASSESSING THE IMPLEMENTATION OF THE EUROPEAN UNION GUIDELINES ON HUMAN RIGHTS DEFENDERS



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IMPLEMENTATION OF
THE EUROPEAN UNION
GUIDELINES ON HUMAN
RIGHTS DEFENDERS
- The cases of
Kyrgyzstan, Thailand
and Tunisia -**

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DIRECTORATE-GENERAL FOR EXTERNAL POLICIES OF THE UNION

DIRECTORATE B

POLICY DEPARTMENT

STUDY

ASSESSING THE IMPLEMENTATION OF THE EUROPEAN UNION GUIDELINES ON HUMAN RIGHTS DEFENDERS

- The cases of Kyrgyzstan, Thailand and Tunisia -

Abstract

With the entry into force of the Lisbon Treaty and the formation of the European Action Service, human rights defenders have received renewed attention in EU external relations. In June 2012 the EU launched its Strategic Framework and Action Plan on Human Rights and Democracy including some benchmarked actions to take on behalf of HRDs and calling on EU Delegations and EU Member States missions to prepare human rights country strategies (HRCS) and to update the strategies annually. The 2008 revised European Union Guidelines on Human Rights Defenders (the Guidelines) provide a number of important recommendations for the EU and its Member State missions which have resulted in many good practice actions toward support and protection of HRDs. This study investigates the effective implementation of the Guidelines in Kyrgyzstan, Thailand and Tunisia, primarily from the viewpoints of diplomats and HRDs, with focus on the latter. Findings of this study suggest effective implementation of the Guidelines is uneven across European missions and there needs to be a joining up of the Guidelines' recommendations with the new HRCS process. Recommendations to the EU and the European Parliament include mainstreaming knowledge of the Guidelines throughout EU sections and missions, taking a more considered approach to engagement with HRDs to create enabling human rights environments and ensuring attention to the most vulnerable HRDs.

This study was requested by the European Parliament's Subcommittee on Human Rights.

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DEDICATION

This report is written in hope that my friend Azimjan Askarov will receive justice in Kyrgyzstan.

It is written in awe and respect of the dedicated lawyers defending cases of mistreatment and torture, disappearances and extra-judicial killings in the remote areas of Thailand.

It is written in sadness on hearing of the killing of the pro-democracy leader Chokri Belaid, and in recognition of how his death must have shocked the people I met in Tunis. I wish Tunisian human rights defenders strength for the difficult days ahead of them.

GLOSSARY OF ABBREVIATIONS AND ACRONYMS

Action Plan	EU Strategic Framework Action Plan on Human Rights and Democracy
Frontline	International Foundation for the Protection of Human Rights Defenders
The Guidelines	European Union Guidelines on Human Rights Defenders (2008)
Third Countries	Countries outside of the European Union
AHRD	ASEAN Human Rights Declaration
ASEAN	Association of Southeast Asian Nations
APWLD	Asian Pacific Forum on Women, Law and Development
CSO	Civil Society Organisation
COE	Council of Europe
DEVCO	Development and Cooperation – EuropeAid
EIDHR	European Instrument for Democracy and Human Rights
EEAS	European External Action Service
EU	European Union
EUD	European Union delegation (EU representative office in third country)
EMHRF	Euro-Mediterranean Foundation of Support to Human Rights Defenders
FCO	British Foreign and Commonwealth Office
FIDH	International Federation for Human Rights
HoD, HoM	Head of EU Delegation, Head of European Mission (embassy)
HRBA	Human Rights Based Approach
HRD	Human Rights Defender
HRCS	European Union Human Rights Country Strategy
HRSJ	Human Rights and Social Justice Research Institute
ICCPR	International Covenant on Civil and Political Rights
INGO	International Non-Governmental Organisation
LGBTI	Lesbian, Gay, Bisexual, Transgender, Intersex (community)
MSM	Embassies of EU Member States (Member State missions)
MoFA	Ministry of Foreign Affairs (European)
NHRI	National Human Rights Institution
NPM	National Preventive Mechanism (under OPCAT)
NGO	Non-Governmental Organisation
OPCAT	Optional Protocol of the Convention Against Torture
OSCE	Organisation for Security and Co-operation in Europe

SEAPA	South East Asia Press Alliance
UDHR	Universal Declaration of Human Rights
UPR	United Nations Universal Periodic Review
UN OHCHR	United Nations Office of the High Commissioner for Human Rights
UNSP	United Nations Special Procedures (mechanism)
WHRD	Women Human Rights Defender

EXECUTIVE SUMMARY

This study is concerned with the implementation of the European Union Guidelines on Human Rights Defenders (the Guidelines) and how this policy instrument is utilised in the EU's external relations by the EU and EU Member State missions to support and protect human rights defenders (HRDs). Recent developments in the European Union External Action Service (EEAS) make this research study timely as the EU is institutionally reassessing its policies in line with its Lisbon Treaty obligations (Treaty of Lisbon, 2009).

The Guidelines provide guidance for countries of the European Union to carry out their obligations to promote and respect the rights of HRDs and to protect them from attacks and threats from state and non-state actors. The overall objective should be to bring about an environment where HRDs can operate freely.

For the European Union (EU) to be consistent in its commitments to human rights in their external relations, the EU must make a coordinated effort in its use of relevant policy instruments and have a consistent approach toward meeting human rights obligations and promoting these principles in external relations, including the implementation of the Guidelines.

In December 2011 the European Union publicised its pledge to fully implement an integrated and joined up approach toward human rights in its external action policies, as outlined in the Joint Communication to the European Parliament and the Council on 'Human Rights and Democracy at the Heart of EU External Action – Towards a More Effective Approach' (European Commission Joint Communication to the European Parliament and the Council, 2011).

The EU has in the last year began the implementation of new human rights country strategies providing some benchmarks for both planning and assessing progress of the EU delegations (EUDs) and EU Member States human rights related activities in third countries.

This study explores in Kyrgyzstan, Thailand and Tunisia:

- how effective the revised Guidelines have been in strengthening EU policy initiatives toward HRDs, and measures taken in support of HRDs by the EU (EEAS and Member States) headquarters and country missions (with a focus on the latter);
- the level of involvement of HRDs in the preparation of country strategies on human rights, what have been the constraints to greater involvement and whether there are best practices to be highlighted;
- evaluates as far as possible, how these country strategies integrate the Guidelines;
- and identifies potential ways to improve the efficiency and inclusiveness of the implementation of the Guidelines, including possible action by the European Parliament.

The main findings of this study are based on analysis of the data in the literature and the views of interviewees and experts participating in this study.

Chapters 1 and 2 provide contextual background to the study. The perspectives of human rights defenders, diplomats and international NGO experts are documented in Chapters 3 – 5 of the study, with focus on perspectives of how the Guidelines are implemented in Kyrgyzstan, Thailand and Tunisia. Chapter 6 provides the main findings of the study, including areas of broad consensus, suggestions for further steps to take toward improving effective implementation of the Guidelines, and suggestions for further research. Recommendations to European Parliamentarians are included in this Executive Summary.

MAIN FINDINGS

Need for more considered and supported approach to HRD Engagement

The appointment of EU liaison officers on HRDs is a welcome and important commitment toward supporting HRDs. However, the time allotted to 'liaise with HRDs' in this newly appointed position appears to be undefined. It is not clear how decisions are made about time dedicated to work as 'HRD liaison' in each country, or what the job descriptions entail. Slotting responsibilities as liaison officers on HRDs with other delegate responsibilities may leave 'HRD work' minimised, if not carefully considered. While the appointment of EU focal points for human rights and EU liaison officers for HRDs has been a success, responsibilities for working with HRDs must be shared by diplomats throughout missions. Diplomats engagement with HRDs varied across the countries studied. EU Member State missions (MSMs) work closely with EUD to share responsibilities for engaging with HRDs in the capital of Kyrgyzstan, but evidence from the study indicates further support and consideration of approach is needed in Thailand, Tunisia, and outside of Bishkek.

HRDs lack understanding of how to engage as per the Guidelines

European diplomats in Kyrgyzstan, Thailand and Tunisia acknowledged their openness to engage with HRDs and most emphasise having an 'open door' policy to the HRD community. However, many HRDs do not know of the EU liaison officer on HRDs, many do not know they can call on EU country embassies for support (other than for project funding support), and many have no knowledge of protection measures available to them. Some HRDs familiar with the Guidelines' content have questions as to how to engage with the type of support envisaged for them in the Guidelines. HRDs have a responsibility for seeking support and voicing their security/protection needs, but many are unsure how best to interpret the intentions of the Guidelines, or how best to approach EU representatives. The study indicated that limited dissemination of the Guidelines to HRDs has also hindered progress with HRD engagement.

Strategies toward HRD security show both good practice and need for improvement

Evidence from the research shows there are effective strategies and actions taken by the EU and MSMs positively impacting security of HRDs in Kyrgyzstan, Thailand and Tunisia. Good practices include accompanying HRDs to airports to ensure security; monitoring of hearings and trials; EU and MSM support provided in emergency situations for HRDs; developing HRD engagement with NHRIs and state authorities; challenging laws that criminalise HRDs; developing European missions' outreach to HRDs; support for developing HRD protection networks; requests to state authorities for information on HRD cases of serious concern; *démarches* and 'quiet diplomacy' on behalf of HRDs. The use of public declarations was welcomed, but in some situations criticised as being reactive rather than pre-emptive. There was concern that public declaration responses often occur after HRDs are sentenced - that interventions do not happen often enough prior to a *fait accompli* situation.

Challenges remain for effective outreach to HRDs in remote areas

Regarding project funding, European funding streams have been effective in supporting the work of HRDs in each of the three countries studied. Participants in the study have shared best practices and ideas for improving project support to HRDs in remote areas of the targeted countries. Regarding security, HRDs in remote areas often are taking great risks in their work due to isolation, with harassment and serious threats not falling within the radar of supportive networks. HRDs working in areas outside of capital cities felt they could gain from diplomatic visits, though this happens rarely. EU representatives are encouraged by HRDs to visit them outside of the capital, personal engagement can improve recognition of their work, legitimising their activities in a hostile environment, and can be supportive in helping HRDs feel part of a larger network concerned for their wellbeing. Monitoring trials

of HRDs in areas outside of capital cities was a particular request from HRDs and INGOs, as this rarely happens and could make an impact on fair trial practice.

Human-rights-based-approach (HRBA) needed across mission sections

Diplomats who said they had prior knowledge of HRBA and/or prior experience in countries that more strictly implemented the Guidelines, felt empowered with this knowledge and experience, which in turn helped them make better decisions in the interest of HRDs. Some diplomats felt knowledge of the Guidelines to be useful in a number of areas of work not typically considered human rights related areas, exercising the knowledge and the ability to analyse the cross-cutting impact to HRDs across mission sections. Other diplomats had limited knowledge of the Guidelines' content, and gave little priority to HRDs in their work, even when working in rights-friendly missions with strong HRD-support records. One MoFA suggests the creation and use of indicators that are time bound to ensure MSs' commitment and approach to the Guidelines' recommendations. Good practices have the potential to be replicated and templates providing guidance on 'how to measure' specific good practice can be adapted across missions.

Mainstreaming human rights should include the Guidelines

There is a commitment by the EU to mainstream human rights policies in order to best influence the human rights approaches taken and impact made by the EU and Member State in its external relations. Current trainings available to diplomats on mainstreaming of human rights in their work are not inclusive of targeted approaches toward effective implementation of the Guidelines, according to evidence from the study. Training and guidance should be provided for ways in which to create human right based approaches (HRBA) to all diplomatic work, inclusive of approaches to effectively implementing the Guidelines. Mainstreaming human rights through mandatory trainings is an important component of EEAS' human rights aims – how best to effectively implement the Guidelines should be included in this initiative. The EEAS should call on EU human rights focal points and liaison officers on HRDs to share their experiences, offering examples of practical approaches taken in the field to mainstream human rights and practices that have had effective impact on support and protection of HRDs.

Gender-specific protection for HRDs

Many HRDs and EUDs taking part in the study were concerned that women human rights defenders (WHRDs) in remote areas, and particularly working unregistered or outside of established networks, may not have access to needed security. However, some diplomats did not have knowledge of gender-specific problems for HRDs, as their engagement with well-established WHRDs working in the capitals did not give evidence of these problems. WHRDs in remote areas were described as vulnerable in all three countries, standing up to challenge power held predominantly by males in leadership positions in rural areas. There were concerns about sexual violence, harassment and intimidation of WHRDs by both state and non-state actors. Cultural stigma and clashes with Muslim-extremist attitudes posed threats to women in all three countries, including WHRDs working in isolated areas. LGBTI defenders were also highlighted in all three countries as a potentially vulnerable group at risk from many of the same actors.

Emergency protection measures for HRDs

The process for accessing emergency protection for HRDs (emergency visas, emergency funds, safe-houses, etc.) are not well known or understood by a majority of diplomats or HRD participants in this study. Some HRDs are aware of access and assistance through their partnerships with the UN or INGOs on the ground. But as emphasised throughout this report, there remain many more HRDs, particularly in remote areas, who are not linked to support mechanisms or real protection networks available to assist

when they are in trouble. There are assumptions that HRDs 'know what to do or who to call', but in many instances HRDs do not know how to take appropriate security precautions. Many diplomats and HRDs in this study were not aware of the EU fund for HRDs at risk.

Respite from human rights defence work

When pressures are high, HRDs may need to temporarily discontinue their work on the ground to lessen their exposure to risk. Providing space for a 'cooling off period' can help HRDs avoid risk, and can also be a useful time for HRDs to reflect on directions in their work. Respite can be short breaks taken outside of one's city or village, or in another country. There are a number of excellent ways in which EU countries have supported HRDs taking time off for respite. There are visiting scholar programmes for professional HRDs, journalists, lawyers and NGO activists, and short visit opportunities, for example, to work with INGOs, or attend conferences. HRDs also can use this time to do advocacy or develop support or projects for their work. These initiatives could be encouraged in more institutions across Europe.

Integrating the Guidelines into the HRCS should not be optional

Responses from participants in the study suggest that the tenets of the Guidelines, and the specific operational recommendations, are absent in the new HRCS drafting process. EU delegations have the option to include a chapter in the HRCS dedicated to HRDs, or HRDs can be included as cross-cutting in all areas of the HRCS. It is not clear if attention to HRDs will be integrated in the HRCS if left to individual missions to decide.

HRDs and other participants in the study were concerned that work to support and protect HRDs often appears to be driven by particular individuals or small groups of 'rights friendly' missions. In some cases, a single individual in a mission may be tasked with most of the human rights-related work, with little back up or systemised sharing of actions taken toward HRDs across EU missions.

The new HRCS process, by not integrating the Guidelines, and not requesting strategies toward HRDs with reference to the Guidelines, puts consistent attention to HRDs at risk. By imbedding the Guidelines into the HRSC process, the EEAS could strengthen knowledge and use of the Guidelines; improve accountability of actions taken to implement the Guidelines; improve diplomat's EU human rights policy knowledge; improve communications and task sharing between EU and MSMs on HRD issues; coordinate monitoring of cases and share engagement with HRDs; improve assessment of need for project support to HRDs; and create opportunities for improving cohesive HRBA actions across EU missions.

Updating the Guidelines to secure HRD commitments

EU commitments for on-going support to HRDs may best be secured through revising or updating the Guidelines. The Guidelines provide excellent recommendations, however they should be consistent with current developments and the changing HRD landscape. Aspects of the Guidelines may become outdated in light of the new Strategic Framework. Heads of missions (HoMs) and EUDs are now encouraged to work within the HRCS process, and may give less attention to the Guidelines for direction or following the recommendations put forth. Some EUDs may choose to work within the new HRCS process without attention to HRDs. There is an opportunity to strengthen attention given to HRDs in the new Strategic Framework by updating the Guidelines, and referencing the need for effective implementation of the Guidelines in concert with the new Framework. As there is not infinite time and resources for diplomats to devote to work with HRDs, the EU and EU Member States should consider joining up their human rights commitments to HRDs by revising the Guidelines' operational recommendations to fit within the new HRCS context. The presumption is this action will improve coherence in policy and encourage the Guidelines implementation by diplomats. Updated

recommendations can facilitate this process. By benchmarking a time for attention to the planning of strategies for effective implementation of the Guidelines, the Guidelines could be joined up and consistently considered by missions when they are engaging in the HRCS drafting process. Some further points to consider in updating the Guidelines are included in the conclusions of this report.

RECOMMENDATIONS TO THE EUROPEAN PARLIAMENT

The revision of the Guidelines in 2008 was designed to provide EU missions with an enhanced policy 'tool kit' for more targeted actions to support and protect HRDs. This study has provided insight into the varying levels of implementation of the Guidelines in Kyrgyzstan, Thailand and Tunisia. Many good practices and also gaps in the implementation of the Guidelines are evident from this study, and are likely to be relevant in other countries.

The following are recommendations to the European Parliament:

- To urge the EEAS to ensure the new Human Rights Country Strategy process includes strategies aimed at the effective implementation of the Guidelines, so that attention is given to HRDs in all HRCSs;
- To support and remind diplomats in third country missions to include **well-structured** and **timely** consultation with HRDs in the process of drafting and updating Human Rights Country Strategies. HRDs should be consulted as human rights experts, and consulted to consider EU actions that impact on their work and security;
- To consult with COHOM regarding the confidentiality of the HRCS. As a minimum, HRDs request the areas of focus in the final draft of the HRCS are made available to them. This information can be important to HRDs own work tactics, can help legitimise HRDs' work, and can help in monitoring the impact of EU strategies on HRDs;
- To urge the EEAS to take steps to increase awareness of the EU commitment to actions that support and protect HRDs. There should be systematic dissemination of the Guidelines to diplomats in EU and Member State missions with request to systematically review effective implementation of the Guidelines and the impact of their actions on HRDs. All EU missions should have versions of the Guidelines in languages appropriate to their mission country to inform local actors (including HRDs) of the policy. The Guidelines have been translated in multiple languages, however multiple language versions appear to have no systemised mechanism for dissemination or identified dissemination point, which should be remedied;
- To encourage EU Member States to work with EU delegations to share responsibilities across missions for the most effective means to implement the Guidelines. Best practice examples indicate EUD and Member State missions sharing the responsibility of taking actions in accordance with the Guidelines ensures increased engagement with HRDs and can enhance the ability to protect HRDs at risk;
- There is an urgent need to raise diplomat's attention to WHRDs, LGBTI HRDs, and HRDs working in isolation in remote areas, and to address their particular protection needs. These groups were considered vulnerable in the countries of this study;
- To continue visits by European Parliamentarians to HRDs in field missions. Visits are widely appreciated by HRDs, and provide a platform for HRD voices (especially in remote areas) to be heard. Visits may serve to encourage more diplomats to visit HRDs outside of the capital;
- To consult with the High Representative of the Union for Foreign Affairs and Security Policy/Vice-President of the European Commission and the EEAS on the issue of how public declarations

- could be used more effectively as a preventive intervention tool on behalf of HRDs. Consideration should also be given to how *démarches* can be more effective in preventing further violations against HRDs or condemning laws that criminalise HRDs. The Parliament should urge the EU at the highest levels to consider other interventions on behalf of HRDs when public declarations or *démarches* are deemed inappropriate or have proven ineffective;
- To encourage the EEAS to create an on-going and sustainable process that facilitates EU human rights focal points and liaison officers on HRDs to meet from across country missions, to encourage the sharing of best practices toward HRD engagement, and to document these experiences. There are a number of best practices of effective implementation of the Guidelines that should be better known across missions, some that could be carried out on a systematic basis by EU diplomats to bring awareness to the need for support or protection of HRDs. Best practice actions (such as coordinated and announced trial monitoring, as mentioned in this study) that have positive impact on HRDs in one country may be successfully replicated in others. Knowledge transfer of useful HRD strategies needs to be encouraged between all sections of a mission and across EU departments;
 - To consider how EU human rights trainings for diplomatic staff can best mainstream human rights across thematic sections of EU and Member State missions, inclusive of attention to HRD policy. The Guidelines should be presented in trainings, with guidance on how to create indicators and benchmarks to implement best practices, in addition to responding to urgent HRD situations. Human rights trainings should be mandatory for European and external mission staff. Training content and methodology should seek to establish both theoretical understanding and practical application of HRBA principles are understood;
 - To encourage EU Member States to work with the EEAS and their diplomatic missions in support of mechanisms that provide temporary relocation when HRDs' lives are at risk. The procedure for accessing such assistance should be made known to a wider circle of diplomats and networks supporting HRDs;
 - To continue to support and encourage more Member States institutions and universities to sponsor activities that offer short-term respite and educational opportunities for HRDs. These visits can be necessary for mitigating risks when tensions are high, can help develop HRD's professional practice, and provide HRDs international networking opportunities to share developments in the human rights situations in their countries.
 - To give serious consideration to revising or updating the Guidelines, to reflect current best practices, HRD developments post 2008, and renewed attention to gaps in support and protection of HRDs. This is also an opportunity to promote the need for effective implementation of the Guidelines' recommendations in concert with the new Strategic Framework and the HRCS process, and affirm coherence in policies toward support and protection for HRDs. The 10th anniversary of the Guidelines is June 2014, an appropriate date for launching the revision.

1. INTRODUCTION

1.1 Objectives of the study

In October 2012, the European Parliament commissioned the Human Rights and Social Justice Research Institute (HRSJ) at London Metropolitan University to conduct research on 'assessing the implementation of the European Union Guidelines on Human Rights Defenders'.

This report has been prepared pursuant to the Request by the European Parliament Subcommittee on Human Rights EXPO/B/DROI/2012 as follows:

Originally adopted in 2004, and revised in 2008, the EU Guidelines on Human Rights Defenders (the Guidelines, see **Annex 1**) set out both policy objectives and practical initiatives to be implemented by EU Member States in support of human rights defenders (HRDs) in EU missions worldwide. Since 2012, the latter have been asked to draft country strategies on human rights incorporating the various EU guidelines on human rights, including the Guidelines, in consultation with local human rights activists and civil society. At the same time, the European Commission has stepped up its provisions for supporting individual HRDs in danger through projects specialising in their protection and with small grants. The study is aimed to support the Subcommittee's debate on possible courses of action for the European Parliament.

The principle aims of this study are to:

1. analyse how effective the revised Guidelines have been in strengthening EU policy initiatives toward HRDs, and measures taken in support of HRDs by the EU (EEAS and Member States) headquarters and country missions (with a focus on the latter);
2. assess the level of involvement of HRDs in the preparation of country strategies on human rights, what have been the constraints to greater involvement and whether there are best practices to be highlighted;
3. evaluate as far as possible, how these country strategies integrate the Guidelines;
4. identify potential ways to improve the efficiency and inclusiveness of the implementation of the Guidelines, including possible action by the European Parliament.

The study focuses on three countries from different geographical areas: Kyrgyzstan, Thailand and Tunisia.

1.2 Context of the study

This study is concerned with the implementation of the Guidelines and how this policy instrument is utilised by the EU and EU Member State missions to support and protect HRDs (the Guidelines, 2008).

HRDs face a number of challenges in their work, and serious problems that threaten their security including: intimidation, harassment and physical attacks; death threats; illegal imprisonment based on fabricated charges or arbitrary interpretation or application of laws; increasingly sophisticated state surveillance of HRDs' online communications and financial transactions and blocking of websites; restrictions on freedom of assembly, expression and movement; torture and mistreatment in detention; incommunicado and prolonged detention; and denial of due process and fair trial. These problems may occur particularly in countries where there are challenges to judicial independence and criminal justice systems are vulnerable to arbitrariness and abuse.

HRDs also face problems relating to their own lack of capacity and a lack of systematised networks effectively addressing HRDs' protection needs in a given region. These problems may include:

inadequate capacity to monitor and report on threats to and attacks on HRDs; the absence of rapid response mechanisms and refuges for HRDs in immediate danger. There are limits of capacity for HRDs particularly in remote areas, including: knowledge and skills in the areas of networking and advocacy; fundraising capacity; communications and IT availability; project opportunities and financial management; human rights reporting and fact-finding; limited access to, and understanding of, national laws conflicting with regional and international human rights laws; limited knowledge of processes for accessing human rights mechanisms available; and limited language capacity, which can impede networking and advocacy efforts.¹

The Guidelines provide guidance for the European Union to carry out their obligations to promote and respect the rights of HRDs and to protect them from attacks and threats from state and non-state actors. The overall objective should be to bring about an environment where HRDs can operate freely.

The European Parliament resolution of 17 June 2010 on EU Policies in favour of human rights defenders proposed recommendations to be followed through by end of year 2010 (EU Parliament 2010). The resolution is critical of non-action within EU Human Rights Policy toward a coherent and effective policy in promoting and supporting human rights defenders in third countries and calls on the EU High Representative for Foreign Affairs and Security Policy and Vice President of the EU Commission to take immediate action on implementation of specific Guidelines actions. The resolution raises specific points on the need for assessing implementation of the Guidelines, of particular note:

5. implementation by the EU missions of the guidelines on human rights defenders has so far been unsatisfactory and calls on the Commission to undertake an in-depth analysis to ensure that this issue will be addressed...;
7. ...expects that the appointment of the High Representative for Foreign Affairs and Security Policy, who is at the same time Vice-President of the Commission, and the creation of a common External Action Service, could considerably enhance the coherence and effectiveness of the EU in this field, and strongly recommends that the elaboration of local strategies in close cooperation with local independent civil society, including their regular evaluation, be institutionalised by the HR/VP, so as to ensure a real implementation of the protecting measures enshrined in the EU Guidelines on Human Rights Defenders;
17. ... Reiterates that through the Lisbon Treaty the promotion, protection and security of human rights defenders have to be placed as a priority issue in the EU relationship with third countries and have to be integrated at all levels and in all aspects and instruments of the Union's Foreign policy in order to increase the coherence, effectiveness and credibility of the EU's support for human rights defenders; considers that the development, effective implementation and regular follow-up of specific country strategies on human rights and democracy could substantially contribute to this targeting approach;
36. ...Considers, in order to develop more result-oriented action, that the High Representative of the European Union for Foreign Affairs and Security Policy should regularly evaluate the implementation of the EU Guidelines on Human Rights Defenders by each EU delegation in third countries and should prioritise and closely follow up this work, and make

¹ These violations against HRDs, and support and protection needs of HRDs, are well documented by a number of experts' reports, including Amnesty International Annual Human Rights Reports and Human Rights Watch Annual Human Rights Reports, and in the (Bennett et al) 2009 London Conference report. For reference to these and other HRD focussed literature, see the bibliography section of this report.

recommendations to those missions for enhanced action where the implementation has been noticeably weak.

In 2011, the EU Parliament continued to call for coherent, active and effective reforms in the EU external relations human rights and democracy policy. The Parliament's particular recommendations included overhauling delivery using a bottom-up, tailored, country-based approach; identifying cross cutting themes for targeted campaigns; integrating EU external relations policies for achieving greatest impact; building strong partnerships with multilateral cooperation and regional organisations; and speaking with one voice to harness Europe's collective weight (EU Parliament, 2011).

In December 2011, the European Union publicised its pledge to implement fully an integrated and joined up approach toward human rights in its external action policies, as outlined in the Joint Communication to the European Parliament and the Council on 'Human Rights and Democracy at the Heart of EU External Action – Towards a More Effective Approach'. The High Representative of the European Union for Foreign Affairs and Security Policy and Vice President of the European Commission Catherine Ashton said:

Human rights and democracy must run as a 'silver thread' throughout EU external policies. The promotion of these goals is important for other objectives, such as security, development, economic participation and social inclusion. Human rights and democracy should be taken into account in foreign policy decision making at every stage.²

This follows growing concerns amongst commentators that a lack of consistency in a principled EU human rights approach in its foreign policy could be a catalyst for worsening the security of HRDs.³

HRDs and INGOs have advocated for consistency in the implementation of the Guidelines since the Guidelines were revised in 2008, by suggesting EU missions have specific benchmarks and indicators by which to assess their actions and effective implementation of the Guidelines (Bennett et al, 2009).

A consortium of nine international human rights NGOs in 2011 called for 'minimum standards from the Guidelines' to be included within the new EU human rights country strategies (HRCS). Those minimum standards included: genuine consultations with HRDs on the country strategies; outreach and awareness raising with HRDs; proactive actions for and systematic feedback to HRDs; training to EU and mission staff on the Guidelines; and cooperation between EUD and EU Member States on HRD actions.

² High Representative of the EU for Foreign Affairs and Security Policy, Joint Communication to the European Parliament and the Council, Human Rights and Democracy at the Heart of EU External Action – Towards a More Effective Approach , 12 December 2011, p.7:

http://eeas.europa.eu/top_stories/2012/060112_hr_silverthread_en.htm

³ For commentary on EU human rights external relations and HRD developments, see for example: Kinzelbach, K., Kozma, J. 'Portraying Normative Legitimacy: The EU in Need of Institutional Safeguards for Human Rights' *Perspectives on European Politics & Society*, Vol. 10, Issue 4, 2009; Donnelly, B. 'Europe in the World: All Change or No Change in Foreign Policy After Lisbon?' *The International Spectator*, 45(2), 2010, pp. 17 — 22; Front Line, A brief evaluation of the implementation of the EU Guidelines on Human Rights Defenders 2010:

http://www.europarl.europa.eu/meetdocs/2009_2014/documents/droi/dv/201/201101/20110110_059hrdeval_en.pdf;

Wetzel, A. 'The promotion of participatory governance in the EU's external policies: compromised by sectoral economic interests?' *Democratization*, 2011, pp. 978-1000; Hautala, H. Report on EU policies in favour of human rights defenders (A7-0157/2010), 14 May 2010: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+COMPART+PE-439.063+02+DOC+PDF+V0//EN&language=EN>;

Legitimising civil society participation with reticent governments and advocating a human rights-based approach to development was at the core of this campaign.⁴

In 2005, a consortium of 11 international human rights NGOs had also published a series of recommendations concerning the gender-specific implementation of the Guidelines, drawing particular attention to women human rights defenders (WHRDs). WHRDs may have specific support and protection needs, where prescribed gender roles are often marginalised due to social status, and at times WHRDs encounter additional risks and obstacles to those faced by their male counterparts, including sexual violence.⁵

The European Parliament reiterated its concern about developing the impact and implementation by the EEAS and missions in a number of areas of concern to HRDs in its resolution of 18 April 2012 on the Annual Report on Human Rights in the World and the European Union's policy on the matter, including implications for the EU's strategic human rights policy (2011/2185(INI)).⁶

With the new shifts in functions and staffing of the EEAS, particularly in enabling its delegations in the field to assume more political roles on behalf of the Union, there is great potential for advancements in informed decision-making concerning EU Member State engagement with human rights problems. The EEAS structure provides the potential to consider what the new EUDs under the Lisbon Treaty can achieve that the previous structure did not allow, including the potential to strengthen commitments to improving external actions in support and protection of human rights defenders.

In 2010 HRD liaison officers were appointed to EUDs, a very welcome step in showing the EU's commitment to engage with HRDs. However it was not clear what benchmarks were being set for HRD liaison officers, what was expected in this job, or how this work would balance with their other multiple responsibilities of the appointed diplomat within a mission.

In June 2012, the EU Human Rights Country Strategy (HRCS) objective was published as part of the EU Strategic Framework and Action Plan on Human Rights and Democracy (Action Plan, 2012).⁷

The Action Plan has 36 initiatives - many with deadlines and benchmarks and all actions set to be completed by year-end 2014. Many of the actions have direct or cross-cutting significance to HRDs. The new Action Plan has no points directly addressing the implementation of the Guidelines (or other EU Human Rights Guidelines), but nevertheless it clearly states that the implementation of the Action Plan is building on existing policies, notably the EU Guidelines.⁸

⁴ Amnesty International and Christian Solidarity Worldwide, Letter to Veronique Arnault, Director, Human Rights and Democracy, EEAS, 17 June 2011: <http://www.irct.org/media-and-resources/irct-news/show-news.aspx?PID=13767&NewsID=3395>

⁵ Recommendations for Gender-Specific Implementation of the EU Guidelines on Human Rights Defenders, 2005: http://www.defendingwomen-defendingrights.org/recommendations_EU.php

⁶ European Parliament, Resolution, Human Rights in the World and the European Union's Policy on the Matter, including Implications for the EU's Strategic Human Rights Policy (2011/2185(INI)): [http://www.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2011/2185\(INI\)](http://www.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2011/2185(INI))

⁷ EU Strategic Framework and Action Plan on Human Rights and Democracy, 11855/12, Luxembourg, 25 June 2012; See: VI. Working with bilateral partners 31. Impact on the ground through tailor-made approaches: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/131181.pdf

⁸ EU Strategic Framework, p. 5, (Preamble).

There are a number of notable benchmarks in the Action Plan, where actions should directly impact on the EU's and EU Member States' engagement with HRDs and civil society, and the implementation of the Guidelines⁹, including:

2. Genuine partnerships with civil society, including at the local level;
5. A culture of human rights and democracy in EU external action;
8. Achieving greater policy coherence;
10. Working towards a rights based approach in development cooperation;
12. Reflect human rights in conflict prevention/crisis management activities;
17. Eradication of torture;
18. Effective support to HRDs;
19. Protection of the rights of women and gender violence;
22. Enjoyment of human rights by LGBT persons;
24. Freedom of Expression on-line and off-line;
26. Administration of justice;
27. Responding to violations: ensuring accountability;
28. Promote the respect of rights of people belonging to minorities;
29. A strengthened policy in indigenous issues;
30. Impact on the Ground through tailor made approaches;
32. Impact through dialogue;
33. Effective use of EU external policy instruments;
36. Strengthened regional mechanisms for human rights.¹⁰

Of this list, the benchmarks which are most closely related to the Guidelines are (18) *Effective support to HRDs*, and (31) *Impact on the Ground through tailor made approaches*.

18. Action (18) *Effective support to HRDs* has three elements:
 - (a) Develop and implement a voluntary initiative to facilitate the provision of temporary shelter to human rights defenders at risk (by mid-2013);
 - (b) Promote improved access by human rights defenders to the UN and regional human rights protection mechanisms, and address the issue of reprisals against defenders engaging with those mechanisms (on-going);
 - (c) Publish contact details of the human rights focal points of all EU missions, as well as EU Liaison Officers on human rights defenders on the websites of the EEAS and EU Delegations (by end 2012).
31. Action (31) *Impact on the Ground through tailor made approaches* outlines five aspects:

⁹ A number of actions may also indirectly impact policy toward HRDs and the Guidelines, but these are not listed or discussed here.

¹⁰ EU Strategic Framework 2012, pp. 5-19.

- (a) Continue to develop local human rights country strategies in third countries and complete the on-going first round. Assess lessons learnt, including with regard to the geographical scope, and identify best practise as a basis for the second round (by 2012-2013);
- (b) Ensure that the human rights country strategies are taken into account in human rights and political dialogues at all levels, in policymaking and when programming and implementing financial assistance with third countries, including in Country Strategy Papers (on-going);
- (c) Ensure that the human rights country strategies are effectively mainstreamed by the EEAS, Commission and Member States (on-going);
- (d) Ensure comprehensive follow up to the human rights country strategies through annual progress reports and reviews (annually);
- (e) Systematise follow-up of the ENP progress reports, including on human rights and democracy, so as to ensure that the "more for more" principle is applied in a consistent fashion across the ENP region (on-going).¹¹

The EU has in the last year began the implementation of new human rights country strategies providing some benchmarks for both planning and assessing progress of the EU delegations (EUDs) and EU Member States human rights related activities in third countries.

The implementation of specific recommendations from the Guidelines in supporting HRDs **potentially** can be benchmarked and reported on within the new HRCS, providing opportunity for a coherent approach to commitments in the Guidelines.

1.3 Methodology

This study is a qualitative analysis of the implementation of the Guidelines, using an inquiry framework to evaluate the effectiveness of the implementation of the Guidelines in three countries: Kyrgyzstan, Thailand and Tunisia.

The primary sources of data are interviews with individuals making and directing HRD policy (EEAS and EU Foreign Ministries), individuals implementing HRD policy (EU delegations and EU Member State missions), individuals benefiting from HRD policy (HRDs), and those monitoring and reporting on HRD policy implementation (INGOs and others).

The methodology comprises:

- A literature review covering relevant policy studies, field reports and research on the topic;
- Semi-structured interviews with human rights experts and a number of unstructured conversations with academics and experts from human rights organisations providing background information to the study or views on particular issues;
- 48 semi-structured interviews with key stakeholders (38 face to face interviews and 10 telephone interviews) with EEAS staff; European Foreign Ministries; EU delegations and EU Member State embassies in Kyrgyzstan, Thailand and Tunisia; HRDs in Kyrgyzstan, Thailand and Tunisia; international organisations working with HRDs and/or diplomatic missions in Kyrgyzstan, Thailand and Tunisia; and other HRDs;

¹¹ These HRCS actions are listed in the EU Strategic Framework Action Plan. For information on who is designated with responsibilities for carrying out each action, see EU Strategic Framework 2012, pp. 17 and 18.

- Three written responses to questionnaires from participants of same groups above (as an alternative to being interviewed);
- Attendance at conferences in London, Kyrgyzstan and Thailand on civil society and HRD concerns;
- Analysis of data collected and report writing.

Phone interviews were conducted with EEAS staff and with Foreign Ministries in Germany, France and the Netherlands (one EEAS staff member was interviewed face to face in London). Two British FCO participants were interviewed (face to face) in London.

Field visits were arranged to Kyrgyzstan (November 28 - December 2, 2012), Tunisia (December 9 – 12, 2012) Thailand (December 20 – 31, 2012) for face to face interviews with stakeholders in the capitals Bishkek, Tunis and Bangkok. Phone interviews were conducted where it was not possible to meet the participant in person.

By using an inquiry framework through semi-structured interviews, the methodology allows for dual-pronged questions and responses accommodating flexibility to address questions to the different groups of research participants. The questionnaire was designed with primarily open-ended questions drawn from the actions and concerns of the Guidelines policy. The questionnaire was disseminated to all participants who agreed to take part in the study.

Interviews were recorded, unless participants made requests not to be recorded. The duration of each interview was, on average, just over one hour. A list of interviewees is provided in **Annex 2**.

All recorded interviews were transcribed, those opting for non-recorded interviews allowed notes to be taken. Participants had the option of remaining anonymous or of making certain remarks non-attributable. The questionnaire and information for interviewees regarding consent and confidentiality is provided in **Annex 3**.

The author attended three conferences during the research period, 'Women Human Rights Defenders: 'Empowering and Protecting the Change-makers' and WHRD Conference Roundtable with UK MPs at the Houses of Parliament in London, UK (October 24 and 25, 2012); 'Women and LGBT HRD groups for Women's Human Rights Day' in Bishkek, Kyrgyzstan (November 30, 2012); 'Insurgency, Violence and Peace: Southern Philippines and Thailand's Deep South' at Chulalongkorn University in Bangkok, Thailand (December 22, 2012). These conferences provided useful information and contributed to the findings of the study. Data was complemented by and triangulated from the different stakeholder groups interviewed and conferences attended.

Individual names of interviewees are not published in this report, due to the sensitive nature of the study and the request for anonymity by a number of participants.

The selection of three countries of focus for this study reflected both time and budgetary constraints. In a four month period, visits were planned and conducted in each country, and interviews were conducted in Brussels and with other interlocutors in Europe. Various factors were considered in the selection of countries, with the essential criteria being the following:

- Access and travel in country possible for researcher;
- Freedom of movement and minimal security risk for HRDs engaging with researcher;
- EU and/or embassies of EU Member States are key actors in the country;
- Range of HRDs active in country;

- Known engagement between HRDs and EU or EU Member State missions;
- Potential for best practice examples in relations to particular areas covered by the Guidelines'
- Likelihood of EU support to HRDs making a progressive impact;
- Nature and extent of human rights violations against HRDs of concern;
- Cost effectiveness/value for money.

Kyrgyzstan, Thailand and Tunisia are the countries of focus for this study. These countries are **not** reported by the EU as being the worst or most consistent violators of rights against HRDs in their respective regions. These countries have relatively open societies enabling HRDs to operate, but in all three countries, serious offenses have been, or are being, committed against HRDs. These countries have all recently experienced major political transitions (2010 - 2011), and accordingly, political stability is, to varying degrees, not yet secured. The work of HRDs in these environments is critical to ensuring a greater degree of stability. All countries in the study have fully-fledged EU delegations (EUD) and EU Member State Mission embassies (MSMs) working on the ground.

1.4 Scope of study

This report is focused on assessing the implementation of the Guidelines in Kyrgyzstan, Thailand and Tunisia. It does not provide a comprehensive account of the level of implementation of the Guidelines or its effectiveness in supporting and protecting HRDs in the three countries. The report draws on the views of key stakeholders in the institutions and countries of concern, most of whom have a direct stake in the implementation of the Guidelines. Constraints in time and budget for this study limited the number of HRDs, EU offices, and EU mission participants in the study.

Interviews were conducted primarily with leading human rights defenders and well established lawyers in the countries studied, with INGO experts on HRDs, and with EU officials, HoMs, and diplomats responsible for human rights and human rights defenders work in their missions. Their views and experiences are considered indicative of the particular aspects queried on the effective implementation of the Guidelines.

The author strived to include a balanced representation from all stakeholder groups to participate in interviews for the study. Key stakeholders were invited to take part in the study, and the author interviewed all those responding positively to the invitation for interview. This led to two outcomes: 1) a larger group of total persons interviewed¹², and 2) some uneven representation of stakeholder groups in the three countries visited.¹³

The report does not provide an analysis of human rights violations against HRDs in the countries of concern, for further information on this please see in-depth reports on HRDs included in the bibliography references.

Human rights defence work is inherently sensitive. Some participants did not wish their comments to be on the record. Certain issues may not have been disclosed in interview, due to, for example,

¹² The tender called for at least 24 interviews to take place in the three countries visited. The actual number of interviews in the three target countries was 41.

¹³ The research was dependent on the availability of potential participants. The time and budget constraints did not allow for extended time to seek replacements for certain stakeholder groups that did not respond to, or declined, invitation to take part in the study. This resulted in some unevenness in the stakeholder groups interviewed: there was a larger number of HRD respondents in Kyrgyzstan; more diplomat respondents in Tunisia; and Thailand was the only country with INGO respondents.

institutional constraints, confidential intervention strategies or particular sensitivities that could put someone in risk.

1.5 Guide to reading this report

Each chapter of this study integrates evidence from the literature review, interviews, and conferences attended.

Chapter 2 is a contextual background for the study, providing an overview of the need for, aims, and development of the Guidelines and related policies to support and protect HRDs. This chapter also provides evidence gathered from the EEAS and Foreign Ministries of the UK, France, Germany and the Netherlands.

Chapters 3 – 5 incorporate in particular evidence obtained from the field research. The chapters analyse the evidence gathered from the key stakeholders interviewed in respectively, Kyrgyzstan, Thailand and Tunisia. Information about individual cases is included where the situation is of particular concern.

Chapter 6 presents the main findings of the study and considers best practices, gaps in support and protection, and areas where there is broad consensus, and provides suggestions for further research. This chapter also gives suggestions for integrating the Guidelines in HRCs and suggestions for updating the Guidelines.

The Executive Summary summarises main findings and provides recommendations to European Parliamentarians based on the findings of the research.

2. EU POLICY TOWARD SUPPORT AND PROTECTION OF HUMAN RIGHTS DEFENDERS

2.1 Background to the EU guidelines on human rights defenders

The definition of a human rights defender is found in the 1998 UN Declaration on HRDs, to which reference is also in the Guidelines.¹⁴ One research participant from the EEAS stressed the importance of the broad, inclusive definition:

... everyone committed to promoting and protecting human rights who do not use violence can be considered as a HRD. The importance of keeping such a wide definition is because the worst human rights violators may try to undermine this definition by narrowing it and by saying 'no, this person is not a HRD, he is a politician, he is a journalist.' Keeping the definition as inclusive as possible has not changed in the revised version of the Guidelines.

Support to HRDs is one of the major priorities of the EU's external policy in the field of human rights. HRDs – who by peaceful means advocate, mobilise and often put their lives at risk to defend the most fundamental freedoms of their fellow citizens - are key agents of change in their own society and make a significant contribution to the international community's efforts to support democracy and human rights, as is recognised by the EU.¹⁵

¹⁴ See the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (commonly referred to as the UN Declaration on HRDs) for the definition of HRD at: [http://www.unhcr.ch/huridocda/huridoca.nsf/\(Symbol\)/A.RES.53.144.En](http://www.unhcr.ch/huridocda/huridoca.nsf/(Symbol)/A.RES.53.144.En)

¹⁵ European Union External Action Service, *The EU's Work with Human Rights Defenders*: http://ec.europa.eu/external_relations/human_rights/defenders/index_en.htm

In order to streamline EU actions in this field, in 2004 the Council of the European Union adopted the *European Union Guidelines on Human Rights Defenders*.¹⁶ The Guidelines serve as an important tool for EU Member States in addressing EU engagement with, and support for, HRDs, carried out by their missions in third countries. By providing operational guidance and making practical suggestions, the Guidelines are intended to identify ways and means to work towards the promotion and protection of HRDs.

The Guidelines provide operational guidance within the context of the EU Common Foreign and Security Policy relating to:

- the monitoring and reporting on the situation of HRDs;
- the coordination and preparation of local strategies to implement the Guidelines, together with HRDs;
- the promotion of respect for HRDs within mission countries, including support for HRDs' activities in conjunction with state bodies;
- support for regional protection mechanisms and the UN special procedures, including the UN Special Rapporteur on Human Rights Defenders;
- the provision of practical support to HRDs, which includes identifying urgent actions for HRD protection and activities that promote and further human rights defence work in EU mission countries where human rights are most at risk.

As EU Member State missions (MSM) are the primary interface between EU governments and HRDs and their work, the Guidelines emphasise the importance of MSMs maintaining contact with HRDs, giving HRDs visible recognition, and showing support for the rule of law in protecting HRDs through activities such as observing trials or engaging with governments when HRDs are arbitrarily detained.

MSMs may also provide direct financial support for projects implemented by HRDs, or assist them in utilising the European Instrument for Democracy and Human Rights (EIDHR), a funding mechanism available to HRDs worldwide, which was reinforced in 2007-2013 with a budget of €1.104 billion Euros.¹⁷

In assessing the effectiveness of EU Member EU policy towards, and engagement with, HRDs, the Council of the European Union established a Working Party on Human Rights (COHOM) to take responsibility for shaping the EU's human rights policy in its external relations. COHOM's mandate is to continuously monitor developments with regard to respect for human rights throughout the world, and MSMs are expected to carry out monitoring and report to COHOM on the position of HRDs, and to make recommendations for appropriate action, such as declarations or the issuing of *démarches* when HRDs are at risk. COHOM has been responsible for drafting and revising the Guidelines as a practical tool to assist EU representations in the field to develop EU policy, and COHOM continues this work within the newly defined structure of the European Union External Action Service (EEAS).¹⁸

The implementation of the Guidelines continues to be a work in progress. Since 2004, the EU has taken a series of measures to translate the Guidelines into action – for example by elaborating local strategies for their implementation by MSMs in third countries, and by increasing the role of EU representation

¹⁶ European Union, *Ensuring Protection – European Union Guidelines on Human Rights Defenders*, 2004: <http://www.consilium.europa.eu/uedocs/cmsUpload/16332-re01.en08.pdf>

¹⁷ EuropeAid, EIDHR, *How We Finance Aid*: http://ec.europa.eu/europeaid/how/finance/eidhr_en.htm

¹⁸ European External Action Service, graphic representation: http://eeas.europa.eu/background/docs/organisation_en.pdf

and coordination with MSMs in the field through setting up EU delegation offices (EUD) in third countries.

In 2006, an evaluation of the Guidelines was conducted by the EU Council under the Austrian Presidency, and the Council adopted 64 recommendations (EU Council, 2006). A year later a set of local strategies developed by the EU German Presidency were to be implemented. When the German Presidency reviewed the implementation of local strategies in support of the Guidelines in 2007, it was found that only 59 out of 124 missions had developed local implementation strategies (the list of countries adopting strategies is not public). In 2008, under the Slovenian Presidency, the EU called for all MSMs to develop written strategies, with both long-term and short-term objectives to ensure the protection and sustainability of HRDs, and underlined the need for further commitment to help EU missions to be more proactive and effective (for example, by encouraging diplomats to get out of the capitals and into the regions, and by identifying key areas of focus).

At the end of 2008, a revised text of the Guidelines was adopted, drawing on EU missions' experience of engaging with HRDs, and in response to HRDs' worsening conditions (the Guidelines, 2008).

The 2008 revised Guidelines incorporate provisions relating to:

- the reinforcement of coordination and implementation tools for direct assistance to HRDs;
- the enhancement of the role of HRDs in planning local strategies and engagement;
- an increased focus on the means to help facilitate HRDs' work;
- and the development of the EU's monitoring and protection role, with particular focus on specific risks and groups, such as women human rights defenders (WHRDs).

In December 2009, the Council of the European Union reiterated that the revised Guidelines remain an essential instrument for systematic action in priority areas. The Council also commended the crucial work of HRDs worldwide and affirmed the EU's continuing commitment to support them, for example, by meeting with them (on a public basis) and enhancing the visibility of their activities. The Council also noted with concern various negative developments, and a clear trend in some countries of states limiting the activities of HRDs. The Council was concerned about the particularly difficult situation for human rights defenders working with indigenous rights, minority rights, LGBTI rights and gender issues (Council of Europe, Conclusions, 2009).¹⁹

The protection and security of HRDs worldwide was the focus of a two day conference held in London in April 2009, organised by the HRSJ Research Institute at London Metropolitan University, Peace Brigades International and the UK All Party Parliamentary Human Rights Group (Bennett et al, 2009). The Conference was attended by HRDs representing troubled regions, the UN Special Rapporteur on HRDs, policy makers from the EU and Council of Europe, European diplomats working in third countries, UK parliamentarians, academics and representatives of INGOs. Strengthening the protection of HRDs through the implementation of the Guidelines was at the forefront of the Conference discussions.

EU representatives at the 2009 London Conference stressed the need for the visibility and awareness of the Guidelines to be substantially improved. It was suggested that many diplomats are insufficiently aware of the Guidelines and their potential: diplomats rotate and their area of emphasis changes; countries and contexts also change and develop. In order to reinforce awareness and application of the

¹⁹ Council of Europe, Conclusions on Human Rights and Democratisation in Third Countries, Sommaire, Brussels- 2985th Foreign Affairs Council meeting, 8 December 2009:
http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/EN/foraff/111819.pdf

Guidelines, it was suggested that conditions relating to their implementation could be incorporated into diplomats' job descriptions (with annual performance reviews and other incentives). It was also suggested that diplomats should receive pre-deployment training on the Guidelines.

In 2009, an 'EU Shelter Initiative' was introduced by the Czech EU Presidency, which was discussed at the London conference. The goal of this initiative was to engage cities across Europe in hosting HRDs who have a temporary need to leave their country. The initiative was aimed not only helping HRDs but also promoting awareness of HRDs in Europe. While being hosted in European cities, HRDs could avail themselves of any necessary medical treatment, engage in human rights activities, or just rest and recuperate. The initiative did not aim to facilitate asylum procedures, its purpose was to support and better equip HRDs to return to their home country and continue their human rights defence work (Bennett et al). EU diplomats sharing views at the London Conference agreed that actions on behalf of individual HRDs must be made in consultation with the individuals and families involved and must be carefully assessed vis-à-vis the specific political context.

Some diplomats at the London Conference made clear there can be limited extent of engagement with the Guidelines when balancing other priorities, i.e. trade and investment, security, etc. Other diplomats consider their commitment to human rights and the implementation of the Guidelines as a priority policy objective, and promote this ethos through dedicated human rights trainings and human rights action plans that are developed for implementation in their third country diplomatic work.

HRD stakeholders at the London Conference advocated for the need of a much more systematic approach towards implementation of the Guidelines, in order to facilitate real changes in a government's human rights policies, applying a longer term investment to encourage and facilitate democratic and participatory processes, and to reduce the prospect of serious human rights abuses and threats to HRDs. In this respect, there was a call for recognition of HRDs as change makers, thus ad hoc engagement with HRDs is not seen as enough. Many useful recommendations came from diplomats who took part in working groups during the London Conference, however, the conference concluded that there was a clear failure thus far by EU Member States to work co-operatively and systematically to implement the Guidelines.

Conclusions from the 2009 London Conference showed the need and gaps in the implementation of the Guidelines. Where some EU foreign ministries had forged ahead to make human rights a priority in their external relations, others had not developed genuine integrated approaches to human rights as part of their foreign policy objectives. Within some MSs, human rights defender policy initiatives appear to be determined by ad hoc initiatives, the extent of which vary from country to country and are dependent on the commitments of individual diplomats. Other EU Member States approach aspects of support and protection for HRDs more systematically across their missions, such as a commitment to a thematic concern, or particular group of HRDs, or promoting clear policies for open door engagement with regular consultation between HRDs and mission diplomats.

In 2010, leading human rights organisations Human Rights Watch²⁰ and Amnesty International²¹ voiced deep concern and criticism of the EU for its lack of attention to its human rights commitments, and expressed particular concern for its weak support to HRDs in third country missions. According to

²⁰ HRW World Report 2011: <http://www.hrw.org/world-report-2011>

²¹ Brussels, 1 December 2010. On the day the European Union's new diplomatic body, the European External Action Service (EEAS), is launched, Amnesty International has expressed deep concern that the EU's human rights capacity will be drastically diminished under the new system: http://www.europarl.europa.eu/meetdocs/2009_2014/documents/droi/dv/201/201101/20110110_042prbriefing_en.pdf

Amnesty International, serious questions arose as to how the newly formed European External Action Service (EEAS) structure might further its commitment of enhancing cohesion and effectiveness in human rights as a key policy initiative of the EU in third countries.²²

The High Representative for Foreign Affairs and Security Policy and Vice-President of the Commission Catherine Ashton, in the restructuring of the external action body of the EU, set four policy goals for the newly formed EEAS in 2011, one of which is 'promoting human rights and good governance'. The human rights policy goal was described by David Sullivan, Chief Operating Officer of the EEAS as 'the silver thread running through everything we do.'²³

As was expressed by one diplomat participating in this study, 'it is important to act within the mandate of a diplomatic mission, i.e. maintain balance between staying neutral/not interfering in internal affairs and promoting human rights, including ensuring protection of HRDs.' From MSM to MSM, there are many examples of EU Member States collaborating to develop proactive and creative initiatives to respond to the needs of HRDs at risk, with many of these initiatives being done in partnership with INGOs working on the ground.

There are a number of INGOs that provide direct support and protection to HRDs working in partnership with the European Union and MSMs.²⁴ These organisations build networks and relationships with HRDs providing support and protection that is highly valued and life-saving for many human rights activists. They actively lobby EU representatives to take action on behalf of HRDs. The EUDs and MSMs often rely on information from these organisations, in addition to local NGOs, for information about security issues confronting HRDs. The EU and some EU Member States support international NGOs as part of their commitment to responding to emergency situations facing HRDs, and INGOs may provide appropriate help directly to HRDs in such circumstances.

The EU plays a highly valuable role in support of the UN's work and the implementation of international human rights standards, and it is within the UN framework that its own human rights guidelines and actions are shaped. The United Nations mandate on the situation of HRDs was established in 2000 by the Commission on Human Rights as a Special Procedure to support the implementation of the 1998 Declaration on Human Rights Defenders. Other UNSP mechanisms have thematic and regional intersections of their mandates that are concerned with HRDs (i.e. UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment or the UN Independent Expert on the Sudan).

The Guidelines set out ways in which the EU Missions should work to support the UN Special Procedure mechanisms (UNSP), including the work of the UN Special Rapporteur on Human Rights Defenders. The Guidelines emphasise that EU missions should recommend to third countries that they bring their legislation and practice into line with the UN Declaration on Human Rights Defenders.

The Guidelines set out further ways in which support can be provided: through close collaboration with the UNSPs; encouraging states to accept country visits by the UNSPs; working with states when they are subject to the Universal Periodic Review process; promoting the use of UN thematic mechanisms by local human rights communities and HRDs, and facilitating contacts between UN mechanisms and

²² See Amnesty International press release *Don't Short Change Human Rights*, December, 2010:

http://www.europarl.europa.eu/meetdocs/2009_2014/documents/droi/dv/201/201101/20110110_042prbriefing_en.pdf

²³ The Institute of International and European Affairs podcast, January 14, 2011: <http://www.iiea.com/events/david-osullivan-chief-operating-officer-of-the-european-external-action-service>

²⁴ INGOs providing assistance to HRDs that took part in this study include Dublin's Frontline, the International Commission of Jurists (ICJ) and the International Federation of Human Rights Leagues (FIDH).

HRDs; and provide funding for the Special Procedure Mandates to carry out their work. Advocating for states to implement UNSR report recommendations in a given country is another example of how EU offices and European states can address specific human rights problems in their external relations.

2.2 The European External Action Service

The European External Action Service (EEAS) was formed in June 2010 as the 'EU diplomatic corps', responsible for EU foreign policy and managing joint relations with third countries in 140 foreign delegations. The head of the EEAS, serving as High Representative for Foreign Affairs and Security Policy and as Vice-President of the European Commission is Baroness Catherine Ashton. Baroness Ashton has overall responsibility for the oversight of the implementation of the Guidelines and other human rights policy tools, falling under the responsibility of the Human Rights and Democracy Unit of the EEAS.

In 2011, the EEAS launched a new drive to bring a more coherent approach to its human rights strategies in third countries. The EEAS is aiming to achieve better external delivery mechanisms, improve collaborative processes with its partners, and introduce improved internal structures in order to meet EU human rights external action objectives.²⁵

The recent developments at the EEAS make this research study particularly timely as the EU is institutionally reassessing its policies in line with its Lisbon Treaty obligations, and is planning the implementation of new human rights country strategies. With the new shifts in functions and staffing of the EEAS, particularly in bringing its delegations in the field to assume more political roles, there is great potential for advancements in informed decision making concerning EU Member State engagement with human rights. A human rights-based approach to diplomatic actions, as advocated by Baroness Ashton, incorporates knowledge obtained in applying the human rights tools available to the EU mission staff, including the Guidelines as a tool for EU policy and actions toward HRDs. Having this knowledge and understanding allows rights-based approaches to be considered in all areas of diplomatic activity, as social and economic, political, civil and cultural activity all have human rights implications.

Within the EEAS structure, responsibility for the Guidelines policy sits within the Human Rights and Democracy Unit and human rights policies are acted on across EEAS geographic desks. The geographic desks are involved in human rights defender activities as part of their work with their field colleagues in a given country, for example, in relation to individual cases raised during human rights dialogues, or a communication regarding a *démarche* undertaken locally on behalf of an HRD. The EEAS human rights policy desk and geographic desks have cross cutting activities and direct engagement with field missions, such as liaising with colleague on visa applications for HRDs or on pending EU programmes for HRDs at risks. Programme support and grant making for HRDs and civil society is available through the European Instrument for Human Rights and Democracy (EIDHR) managed through the Directorate General for Development Cooperation - EuropeAid (DEVCO)²⁶ and the EEAS.

Under the new field structure, diplomatic actions in third countries formerly run by EU Commission delegations have been transformed into EUDs, with each delegation optimally housing a strong political section, with human rights (including the implementation of the Guidelines) responsibilities

²⁵ High Representative of the EU for Foreign Affairs and Security Policy, Joint Communication to the European Parliament and the Council: Human Rights and Democracy at the Heart of EU External Action – Towards a More Effective Approach, 12 December 2011: http://eeas.europa.eu/top_stories/2012/060112_hr_silverthread_en.htm

²⁶ DEVCO, Development and Cooperation – EuropeAid, Directorate-General responsible for designing EU development policies and delivering aid through programmes and projects across the world, see: http://ec.europa.eu/europeaid/who/index_en.htm

held within the political sections. EU human rights focal points and liaison officers for HRDs were appointed throughout 2011 - 2012 in EUD's political sections.²⁷

EUDs are coordinating EU policies with MSMs locally, and in the spirit of creating the EEAS, more national diplomats are joining EU delegations in third countries. One EEAS representative found the change has brought more attention to human rights, as national diplomats are typically more sensitivity to human rights issues based on their field experience, however, noted much of the implementation of the Guidelines will rest on the personal commitment of the individual diplomats. Another EEAS representative explained that all MSMs have been asked by the EEAS to mainstream the Guidelines' principles in their daily work. One way this is to be achieved is for Heads of EUDs (HoDs) and EU Member State Heads (HoMs) to have regular HoMs meetings where human rights and support to HRDs are discussed. One EEAS representative recognised that although this human rights approach is advocated by the EEAS, in practice 'it is very hard to implement in the field.'

EEAS participants raised the issue of the limited resources that are committed to personnel in EUDs, particularly in delegations with weak political sections and delegations responsible for multiple countries within a region. Much of the HRD work may then rest on one human rights focal point or HRD liaison officer.

The linking of human rights mainstreaming policies with field missions is a work in progress. A few participants commented on the difficulties.

... [human rights] is something that we are really working on, first to raise awareness internally in our house, in the EEAS, to raise awareness that every time you have an issue you need to link together with the colleagues who are doing human rights, you know to take this into account, because in 99% of the cases we have a link. This is one thing. And another thing, now that the strategic framework is adopted everyone is welcoming it, because it is for the first time since ten or eleven years that we have this new [human rights] strategy in order to ensure the mainstreaming of human rights.

...of course it would have been great to be made aware of these [human rights] guidelines in a better way, I think that maybe there is a problem of coordination of all the guidelines as well...but I also think that this to a large extent is a management problem, which is not necessarily a central, local level or a mid-level problem, but this is actually in the EU, there are so many decision making bodies that there is a constant problem with decisions not being implemented simply because they are not communicated well enough to the people who should implement them ...

Some participants expressed concern about the lack of human rights mainstreaming, particularly in reaching EUD diplomats working outside of political and human rights departments. There was particular concern that trade and investment policy needs to better consider human rights from the very start of project negotiations and development and the EU Commission Directorate which deals with trade '...could be more human rights aware.' It was stressed that the managing of human rights mainstreaming needs to be considered broadly across the EU.

The EEAS provides human rights trainings for EUD diplomats twice a year to work toward the aim of mainstreaming human rights into external actions. Trainings are mandatory for HoMs, HoDs, and

²⁷ Publishing the contact details of human rights focal points and HRD Liaison Officers on EEAS and EU delegation websites was to be completed in December 2012, a benchmarked commitment of the EU Action Plan, Action 18, Effective Support to Human Rights Defenders. The EU Strategic Framework and Action Plan are available at: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/131181.pdf

human rights focal points of EUDs. The Guidelines were described as *mentioned* in EEAS human rights trainings, but there are no 'Guidelines focused' trainings offered. The EEAS provides funding to the NGO Frontline to carry out two trainings per year on the implementation of the Guidelines in third countries, which involve HRDs, EUD and MSM staff. These trainings are designed to support the interface between HRDs and EU diplomats to improve effective implementation of the Guidelines.

A representative of the EEAS explains why HoDs are attending human rights trainings '... sometimes when a HoD is dedicated [to human rights], then there is a lot of work on human rights. If the HoD is not so dedicated to the issue then there is less attention. So our idea was to start from the top to ensure that the heads of diplomatic missions are aware to the issues.'

The EEAS has strengthened the **potential** for improving implementation of the Guidelines in its new policy initiative of introducing mandatory Human Rights Country Strategies (HRCs). The drafting of the strategies is led by EU delegations working with their MSM counterparts. The HRCs are to be drafted every 3 years, and EUDs can consider updating their strategies as necessary, with annual updates expected. The EEAS is adopting HRCs in all its missions world-wide.

HRCs are EU internal documents which outline human rights policy in a given third country specifying priorities on which EUDs would like to focus, for example, women rights, children rights, LGBT issues, or HRDs. The HRCs are drafted by EU delegations and MSMs and then submitted to Brussels for their input and confirmation (EEAS may request further work on the strategies from the delegation before signing off). The priorities then must be agreed between Brussels and the field, with final clearance from COHOM and the respective geographic desks/working groups. HRCs will then be endorsed by the EU Political Security Committee (PSC).

There is no (externally published) guidance of how the Guidelines would be subsumed in the HRCs. One EEAS representative explained how this is to work:

...this is a tool which should serve as a main document for EU human rights policy, and secondly it is also a tool basically to streamline all the human rights strategies which we had under various Guidelines...with the comprehensive human rights country strategies, basically now our guidance on this topic is... that of course it is possible, the support to HRDs should be included, and should be streamlined in these human rights country strategies. But as long as there is not a human rights country strategy yet in place, or if EU missions think that it is important to have a self-standing local strategy on HRDs, it [the local strategy] should be kept. The prevailing idea is to replace these local strategies on HRDs with a respective chapter in the human rights country strategy.

The EEAS commented further on changes of approach to the reporting and monitoring of the Guidelines:

The EU Guidelines on Human Rights and International Humanitarian Law are a strong political expression of the priorities of EU human rights policy. It is needless to say that all of them are interrelated, interdependent and mutually reinforcing. The *raison d' être* of the Guidelines is to ensure the coherence and consistency of EU human rights policy as well as to provide practical tools to help EU representatives around the world advance the EU's human rights policy. In short, the Guidelines should be a useful tool to facilitate implementation, not a burden.²⁸

²⁸ The EEAS reference to 'the Guidelines' here is to all EU human rights guidelines. For information on all eight EU human rights guidelines, see: http://eeas.europa.eu/human_rights/guidelines/index_en.htm

However, implementing the existing EU Guidelines has turned into a significant policy and resource challenge. There is a risk that the Guidelines become victims of their own success by overstressing the EU's capacity to implement commitments and by leading to a fragmented approach to the human rights situation in a given country.

In this context, the respective EU Council formation (COHOM) decided in December 2010 to rationalise the implementation of the Guidelines by adopting Human Rights Country Strategies (HRCS). The key objectives pursued through this policy approach were to obtain a better and more comprehensive understanding of the key human rights challenges in partner countries, to focus EU action on key priorities in partner countries, both in policy terms and financial assistance terms, to facilitate and streamline relevant activities of Member States and EU diplomatic missions in the field, to systematise reporting by the missions and contribute in a more comprehensive, pertinent manner to the various country and regional strategies. Another key objective is to rationalise and integrate the application of EU human rights guidelines, toolboxes or action plans into one coherent policy document.

The process of adopting the EU HRCS, launched in early 2011, allows EU missions locally to focus on some thematic priorities; most of them have chosen support to HRDs as one of their key priorities, which is of course closely interwoven with other priorities (e.g. freedom of association, women's rights etc.).²⁹

The integration of benchmarks for systematic consideration of strategies to implement the Guidelines as part of the HRCS process remains outside the fold. The Guidelines state the importance of involving HRDs in the drafting of local strategies, which may, depending on the discretion of the particular mission, be replaced by or integrated in the HRCS process. However, the Guidelines go further, to highlight consultation with HRDs be considered as an important part of not only the drafting, but in the monitoring of EU strategies:

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 HRDs who promote and protect human rights, whether civil, cultural, economic, political or social. EU Missions should involve HRDs and their organisations in the drafting and **monitoring** of local strategies (the Guidelines, Para 11: 2008).

COHOM has made the decision that there is to be civil society engagement in the drafting of the strategies, but the final document is strictly internal to the EU. This inhibits the monitoring of the strategies by anyone outside of the diplomatic mission or EU. As an EEAS representative explained, 'the final human rights country strategies are strictly EU internal documents and cannot be shared with the HRD community. The EU is not to disclose them in order not to undermine our effectiveness, and also not to harm the work of HRDs.'

The Guidelines specifically call for EU Missions to involve HRDs in the monitoring of local strategies. Lack of shared information on the final drafts of strategies hampers the ability to assess effective implementation of actions taken by the EU missions, and makes it difficult to involve HRDs in the monitoring of their effectiveness. Collaboration, in this sense, is not possible in assessing the impact of EU actions on HRDs.

²⁹ Potential impact of rationalising the implementation of the Guidelines (in countries of this study and broadly) will be addressed in Chapter 6 of this report.

One EU Foreign Ministry participant stated that in practice, civil society engagement varies widely across missions, but where close relations are needed, particularly for difficult HRD problems, it is problematic to engage with civil society and not be able to share the outcome of the strategies impacting them. EU supported strategies toward HRDs also serve as an important 'tool' for HRDs to use to support and protect them in their work. Another diplomat stressed that at least 'the resulting priorities (of the strategies) must be publicly shared.' Transparency of the strategies is considered important for these reasons.

The EEAS is currently addressing the issue of transparency in their strategies by revising its approach to the EU Annual Human Rights Report. The new approach will reportedly publish in greater detail EU actions taken in each mission country. An EEAS representative explained 'this new report structure will include reports on the implementation of human rights country strategies, with information coming both from the ground and from the top European levels.'

The European Instrument for Democracy and Human Rights (EIDHR) provides financial assistance to civil society groups, which complements EU development and bi-lateral cooperation with a focused commitment to the promotion of human rights and democracy outside of the EU.³⁰ This instrument does not require governments' consent to fund within the country targeted. Funding through the instrument is available to support and protect HRDs in third countries as a part of its current 2007 - 2013 funding strategy, and this commitment will continue for 2014 – 2020.³¹ Global calls for proposals are selected by the Commission in consultation with local EU missions, while country specific calls for proposals are managed by EU missions on the ground.

Some EIDHR projects that have focus on HRD capacity-building and strengthening networks for HRDs have included the promotion of the Guidelines. The EIDHR has also provided funds for the translation of the Guidelines into multiple languages.

Applying to the EIDHR mechanism for project funds may be difficult for HRDs who have never worked with the EU due to complexities in the application process and unfamiliarity with EU systems. For HRDs working in remote areas there may be even greater obstacles, including access to diplomats and other NGO colleagues to discuss proposed project ideas. The applications must be written in one of three languages (French, English or Spanish), which is a serious impediment for a number of HRDs interested in applying, and the language barrier can be particularly difficult for HRDs in remote areas. Small organisations will be less likely to benefit from the fund, as they may not have the infrastructure or capacity to manage grants of a considerable size, unless they are able to create partnerships with larger organisations. Participants at the WHRD Conference in London (WHRD Conference, October 2012) gave examples from different countries as to how women working outside of state capitals are often the WHRDs most in need and can struggle with these challenges when applying for assistance from available EU funding streams.

A DEVCO representative acknowledged they are aware of these problems and have struggled with these obstacles for smaller NGOs and HRDs working in more remote areas, and there have been attempts to simplify the application process. There have been a number of positive developments to address these challenges.

³⁰ EIDHR legal basis for carrying out its activities is found in Regulation (EC) No 1889/2006 of the European Parliament and of the Council of 20 December 2006, establishing a financing instrument for the promotion of democracy and human rights worldwide:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32006R1889:EN:NOT>

³¹ EuropeAid, EIDHR, Strategy Paper 2011 – 2013, April 2010.

Calls for proposals launched at Brussels level and at local level impose the need for EIDHR funds to reach small organisations in remote areas. Some EUDs dedicate part of their budget to reaching out to HRDs in remote areas, or to support initiatives that strengthen broader knowledge of the fund, and to build IT skills and/or language skills or strengthen HRD network participation. EUDs now prioritise EIDHR applicants from the mission country and also make it compulsory for non-national NGOs to work with local NGOs. Also, EU missions launch their own calls for proposals at local level with small funding streams directed at supporting local human rights initiatives by HRDs. Although the EIDHR (and EC funding possibilities in general) presently can only manage projects in the three prescribed languages, it should be noted that in recent years the number of proposals selected under the HRD call for proposals are from NGOs based in developing countries. Proposals to EDIHR from local NGOs, including proposals from remote areas, now almost surpass proposals coming from INGOs.

EIDHR also has a small grants programme (up to €10,000) specifically for HRDs at risk.³² The fund became operational at the end of 2009 and it is now working as a quick response mechanism for HRDs in emergency need. An application to the fund can be made through an NGO or EU delegation (there is no prescribed application procedure, other than clear information on the situation and the beneficiary filling out legal and financial forms).

The European Commission (DEVCO) together with the EEAS is currently considering ways in which it can better assist temporary relocation initiatives for HRDs at risk under the EIDHR in coordination with existing protection schemes (run by NGOs, cities, universities, etc.) inside and outside Europe. The aim is to provide a rapid and coordinated means to assist endangered HRDs to places of safety until they can return to their countries, building on the Czech Republic 'Shelter Initiative' (see Section 2.1). To inform the piloting of such a scheme, DEVCO and the EEAS have been meeting with key INGOs involved in HRD protection schemes and have recently commissioned a study on the 'Mapping of temporary shelter initiatives for Human Rights Defenders in danger in and outside the EU' (GHK Consulting, 2012). The European Commission and the EEAS will have further consultations on how such an initiative can be of benefit and will present their findings later in 2013.

2.3 European foreign ministries

European Ministries of Foreign Affairs (MoFAs)³³ participated in the study by sharing their perspectives on the implementation of the Guidelines and on their respective foreign policy strategies toward the support and protection of HRDs. Representatives from the EEAS and British Foreign and Commonwealth Office (FCO) also shared their views on implementation of the Guidelines at the WHRDs Conference in London in October, 2012.

Structurally, MoFAs are similar to the EEAS in terms of divisions of labour and responsibilities for policy toward HRDs. MoFA geographic desks have day to day responsibility for liaising with delegations in the field and MoFA human rights departments interact with missions regularly on broader human rights policy goals and specific queries or instructions, in respect to policies that include a focus on HRDs.

All MoFAs participating in the study embed support and protection to HRDs in their external relations policies. One MoFA explicitly uses the Guidelines as the framework within which their external human rights policy operates. The Dutch Foreign Ministry have an Action Plan for Human Rights Defenders and provide internal instructions to ensure consistent guidance in all diplomatic missions. The German

³² Information on EDIHR funding and EU support to HRDs can be found on the European Commission website, *Democracy and Human Rights, Human Rights Defenders*, available at: <http://www.eidhr.eu/human-rights-defenders>

³³ There were four MoFAs taking part in this study: the British Foreign and Commonwealth Office (FCO) and the French, German and Dutch Ministries of Foreign Affairs.

MoFA has adopted Guidelines on Active Human Rights Work with a specific section on carrying out diplomatic work with human rights defenders. France has internal guidance that supports the implementation of the Guidelines. The British FCO produced an Action Plan on the Guidelines in 2009, which is available on their 'intranet' as part of their internal human rights guidance to all delegations.

MoFAs provide human rights training to staff, however only one MoFA country participating in the study made human rights trainings mandatory for diplomats. Others described trainings as optional and not obligatory for their political desks or field delegates. HoMs and Deputy Heads of Mission (DHoM) had direct consultations with Human Rights Units prior to deployment, and some attended human rights trainings. It was acknowledged by some MoFAs that although human rights trainings may be well attended, non-obligatory trainings do lessen the likelihood of embedding human rights policies across geographic desks and the field missions. Optional human rights training may prompt those with an interest in human rights to attend, but others, predictably those with large workloads, will drop off. This was confirmed by, and of concern to, a number of participants working on the ground as well.³⁴

Of those that attended human rights trainings, reference to the Guidelines or specific HRD actions were not recalled by participants working on the ground, although the Guidelines are reportedly included in some MoFA's human rights training curriculum. Participants did find human rights trainings useful to their work - most cited its usefulness in refreshing their knowledge of the international human rights framework.

MoFAs shared views on what they considered best practice examples of effective implementation of the Guidelines. Activities undertaken in Mexico and the Democratic Republic of Congo were stand out examples of ways in which to create a successful diplomatic network in order to implement the Guidelines. In these countries, EU Member States share out geographic responsibilities and each gets to know a particular sub-region of the country they are responsible for and the HRDs working there. The participant explained, this 'sharing out' ensures national coverage, and provides greater depth of engagement in a given country and breadth of knowledge on human rights problems. One of the aims of this approach is to ensure better knowledge of HRDs and their protection needs. Best practices of these coordination efforts, and the sharing/documenting knowledge between and across missions, was not elaborated on and this may be an area needing further research.

MoFA support in creating benchmarks and indicators for better implementation of the EU Human Rights Action Plan was proposed as a potential best practice. Some field missions are working with benchmarks and indicators to plan strategies to better support and protect of HRDs, which is showing progress, although this does depend on capacity within field missions. One MoFA is very active in trying to make the EU Action Plan as concrete as possible and to create and use indicators that are time bound in order to realise results. This MoFA suggests templates providing guidance on 'how to measure' specific areas of good practice in support and protection of HRDs, which are replicable and can be adapted across missions.

Principled and consistent approaches to implementing the Guidelines were also advocated by MoFAs. One MoFA participant advocated an open engagement policy to HRD in their field missions: 'we should be a first port of call for HRDs and whether in public or confidentially we should support HRDs and ensure they know that they can turn to us.' Another MoFA stressed the importance of setting up an 'HRD friendly field presence.'

Some MoFAs prioritise particular human rights issues, or have particular interest on thematic areas of support to HRDs, including, for example, one focusing on financial support to indigenous women and

³⁴ Participants 'working on the ground' refers to diplomats interviewed in Kyrgyzstan, Thailand and Tunisia.

another prioritising funding and support to LGBTI groups. One MoFA had a number of human rights priority areas, including freedom of expression, internet freedom, corporate social responsibility, anti-discrimination of women and LGBTI, and freedom of religion or belief. They see HRDs as a priority area in their own right. Their overriding question is: 'how can we ensure that HRDs can do their work and increase their capacity, whatever issue they are working on?'

One MoFA responded they were actively addressing negative developments resulting from the criminalisation of HRDs, another MoFA brings this issue to the fore within bi-lateral dialogues and in their relations at the multilateral level promoting resolutions addressing these issues in relation to human rights violations in specific countries. The upcoming UN Human Rights Council in March 2013 is expected to give this issue particular attention. It was emphasised that a number of HRD support mechanisms (e.g. the directing of funding, or production of publications), all need very careful strategic consideration to combat the practice of criminalisation. One MoFA noted the difficulty in formulating response because missions can be accused by governments of 'meddling with their law.'

In such instances, European parliamentary visits to missions can be a very useful tool for making contacts with civil society groups. Many diplomats on the ground mentioned MoFA and parliamentary visits as the chief opportunities they have for engaging with HRDs outside the capitals. MoFAs recognised that in some countries there are risks for HRDs in formally meeting diplomats or visiting embassies, and parliamentary visits are always organised with attention to security as a priority.

MoFAs were asked the question to what extent (if at all) HRDs are recognised as a source of expertise by their governments and if their missions diplomats seek to strengthen such engagement. Although MoFAs in principle supported these efforts, and recognised the premise is that engagement with HRDs can help improve democratisation and help to form policy, the problem is the (host) government may not listen. Another MoFA said generally it was not possible to bring HRDs and governments together under their auspices, 'and anyway this is not likely to be successful.'

On the question of providing emergency shelter to HRDs when they are at risk, some MoFAs do have 'shelter cities' available or means to work on individual emergency cases, where others deferred to immigration offices that would need to be consulted. It was recognised that there can be problems initially at the mission-level if they do not consider all options for HRDs before suggesting they are placed far from their homes, as this may also impact their safe return to their countries, or impact on their families left behind. One MoFA indicated their interest to consider the upcoming EU Commission report on temporary relocation initiatives for HRDs to consider what further steps are possible.

3. KYRGYZSTAN

Kyrgyzstan is a small Central Asian country with a population of 5.5 million people.³⁵ Bishkek, the capital and the largest city, has approximately 900,000 inhabitants; Osh, the second largest city, has a population of 220,000. About two thirds of the Kyrgyz population live in rural areas. Almost half of the population lives below the national poverty line. Kyrgyzstan has a parliamentary government, elected in December 2010, and held presidential elections in December 2011. Both elections were considered relatively free and fair (US State Department Human Rights Report, 2012).

Kyrgyzstan has an active civil society and is relatively open for HRDs to work in, particularly in comparison to its Central Asian neighbours.

In June 2010 inter-ethnic violence between ethnic Kyrgyz and Uzbeks in the South of the country (in the cities of Osh, Jalalabad and surrounding villages) resulted in a debilitating crisis, with the loss of hundreds of lives, thousands of injuries and hundreds of thousands of displaced persons (Amnesty International, 2011).

Serious deficits in the rule of law and human rights abuses by state and non-state actors escalated after the 2010 events endangering HRDs, particularly those working in the South. Conditions stemming from the crisis are viewed by most participants in this study (diplomats, HRDs and human rights monitors) as the most critical concern for HRDs in Kyrgyzstan.

International response to the June 2010 events was weak and immediate post-conflict attention to Kyrgyzstan reticent, according to many political analysts and human rights experts. Anna Matveeva writes in her report *Violence in Kyrgyzstan, Vacuum in the Region: The case for Russia-EU joint crisis Management* (Matveeva, 2011):

The sad outcome is that 470 victims died in Kyrgyzstan and nobody stepped in or encouraged others to do so.³⁶ The EU did not take a pro-active stance on intervention as Kyrgyzstan was not high-profile enough in Western capitals...Unlike in the cases of Rwanda and Sudan, external inaction was not even questioned. The communities in South Kyrgyzstan who suffered do not have a powerful voice to criticise the internationals in their failure to protect.

At the time of the June 2010 crisis the EU had just set up a fully-fledged mission in Kyrgyzstan (December 2009). Germany had the only fully-fledged EU embassy in the country at the time, with the French just opening their embassy doors in 2010. The British established an embassy in Kyrgyzstan in March 2012, and other EU countries cover Kyrgyzstan diplomatic affairs from their embassies in Kazakhstan. Kyrgyzstan hosts a number of UN agencies working on development assistance and anti-poverty programmes and the UN OHCHR has been present in Bishkek since 2008, and established an office in Osh in response to the 2010 violence. The Organisation for Security and Cooperation in Europe (OSCE) has a large presence in Kyrgyzstan, including the OSCE Centre established in 1998, and an OSCE higher education teaching Academy, both based in Bishkek.

³⁵ Kyrgyzstan's ethnic population breakdown is Kyrgyz 64.9%, Uzbek 13.8%, Russian 12.5%, Dungan 1.1%, Ukrainian 1%, Uighur 1%, other 5.7%. See CIA World Fact Book, Kyrgyzstan, 2013: <https://www.cia.gov/library/publications/the-world-factbook/geos/kg.html>

³⁶ Matveeva reports 'altogether up to 470 were killed (74% Uzbek, 25% Kyrgyz and 1% belonged to other ethnic groups). Over 90% were men.' She notes figures of the dead varied slightly between NGO report and official Kyrgyz health office information, for further information see Kyrgyzstan Inquiry Commission Report, p. 44, Para 222.

3.1 The case of Azimjan Askarov

The case of Azimjan Askarov was raised by most participants in this study. Azimjan, an ethnic Uzbek from the Jalalabad region, has been working as a human rights defender in the region since the 1990s. He has worked as a journalist and Director of NGO Vozduh (Air), which documents the treatment of detainees, police brutality and torture. Several police officers have been dismissed following investigations by Vozduh.

Azimjan was documenting testimonies of victims during the ethnic violence in Southern Kyrgyzstan in June 2010. On June 13, 2010 Azimjan was arrested and detained by Kyrgyz authorities in the Bazaar Korgon district of Southern Kyrgyzstan, and was accused of taking part in the killing of a police officer, 'organizing mass disorders,' and 'inciting ethnic hatred.' Amnesty International and other human rights organisations monitoring his case believe the charges against Azimjan have been fabricated and Azimjan was targeted due to his work as a human rights defender.

Reports by Kyrgyz civil society, international human rights groups, and trial monitors from the EU and a number of MSMs, found Azimjan's case marred by fair trial violations. There were serious allegations of ill treatment and torture during his pre-trial detention, and Azimjan's lawyer and family were threatened and harassed.³⁷ Baroness Ashton raised his case at high level meetings and made a public declaration on his case in September 2010.³⁸ The EUD and MSMs urged that fair trial standards should be met, allegations of torture be investigated, and safety be ensured for Azimjan's relatives and lawyers.

Despite serious concerns of the seriously flawed legal process and the evidence of torture and ill-treatment of Azimjan voiced by multiple governments and international human rights groups, there were no changes implemented in order to ensure fair trial proceedings or investigate torture and ill-treatment allegations. Azimjan was convicted of instigating ethnic hatred, inciting disorder, and complicity in the murder of the police officer and was sentenced to life imprisonment, His appeal to the conviction saw similar human rights violations and the Supreme Court upheld the decision. Azimjan's lawyer recently submitted the case to the UN Human Rights Committee.

In 2011, People in Need awarded Azimjan the Homo Homini Award, and in 2012 he received the International Press Freedom Award from the Committee to Protect Journalists. Azimjan remains in a Bishkek prison and has a number of serious health problems. HRDs and diplomats in Bishkek have recently visited Azimjan in prison and voiced their commitment to continue to closely monitor his situation.

The fact that Azimjan is a well-known HRD has elevated attention to his case. However, Azimjan's case is not an isolated incident of fair trial violations and allegations of torture in Kyrgyzstan - there are many human rights cases subject to similar violations from the events of June 2010.

³⁷ For further information on the human rights situation in Kyrgyzstan, Azimjan Askarov's case and the EU political analysis following events of 2010, see: Amnesty International, *Annual Report 2012 – Kyrgyzstan*: <http://www.amnesty.org/en/region/kyrgyzstan>; Human Rights Watch, *Kyrgyzstan: Verdict Fails Justice Supreme Court Leaves in Place Case Marred by Threats, Torture, 2011*: <http://www.hrw.org/news/2011/12/20/kyrgyzstan-verdict-fails-justice>; European Union Delegation for Kyrgyzstan, *Background Note on Transparency and Accountability in Kyrgyz Republic, 2011*: http://eeas.europa.eu/delegations/kyrgyzstan/documents/press_corner/news2012/background_note_on_transparency_and_accountability_december_9_2011_qa_en.pdf

³⁸ See statement by the spokesperson of the High Representative Catherine Ashton on the conviction of human rights defender Azimjan Askarov (18/09/2010), available at: http://eeas.europa.eu/delegations/kyrgyzstan/press_corner/all_news/news/2010/20100918_01_en.htm

3.2 Views of human rights defenders in Southern Kyrgyzstan

HRDs working in Southern Kyrgyzstan feel the situation has become much worse for them since June 2010, and stress HRD work there is very different to that in Bishkek. All HRDs from this region who participated in the study continue working on cases related to the June 2010 events, many working with victims of torture, and cases of arbitrary detentions, and unfair trial. Some provide legal assistance to low income and vulnerable groups, and work toward reforms in the court system. Others work with human rights problems of children, women, HIV infected people, and cases related to trafficking, slavery, and the problems of migrants and labour migration.

All HRDs reported feeling pressure in their work, both from their caseloads being enormous and from the pressure of receiving harassment and threats. Many had received death threats, and one continues to receive threats by email.

Lawyers taking up June 2010 cases were mentioned as particular targets for harassment. Lawyers have been physically attacked and regularly intimidated in the courts, one having his licence revoked recently (although it was reinstated after a local NGO intervened). One HRD is actively involved in legal work to ensure security measures are adequately set up in the courts of the region. This HRD commented, 'we don't have time to think about our situation, the EU and engagement, at the moment, we have approximately 100 cases where people face unfair trials.'

NGOs working in the South recognise that intimidation of HRDs is carried out by both state and non-state actors, making assessing their security situation more complex. The tensions are disconcerting and a number of HRDs would like to see the diplomatic community taking more notice (preventive action) or intervening if and when necessary.

For example, in November 2012 a translator working for the International Crisis Group (ICG) was illegally searched and interrogated together with an Irish researcher, and research materials belonging to the ICG were confiscated. The International Crisis Group issued this statement:

'(ICG) strongly condemns the Kyrgyz security service's harassment of human rights defenders and others who met with one of our analysts in Osh. We have also officially protested the illegal search and interrogation of our staff member. Kyrgyzstan's State Committee for National Security (SCNS) has interrogated two human rights defenders and three private individuals in the past week, solely because they spoke with a Crisis Group analyst earlier in the month. These actions represent clear harassment of human rights defenders and others who were doing nothing more than exercising their rights of expression and assembly. If such researchers are not allowed to meet with others and discuss their work, the state is undermining the core freedoms of its citizens.'³⁹

Some participants voiced disappointment that the diplomatic community did not do more to react to the situation. One HRD commented: 'human rights defenders were involved in this case, and now there is pressure coming on human rights defenders.'

Few HRDs were aware of the Guidelines in Southern Kyrgyzstan, and commented they did not see many of the activities proposed in the Guidelines taking place in the region.

³⁹ See International Crisis Group press statement: <http://www.crisisgroup.org/en/publication-type/media-releases/2012/europe/kyrgyzstan-crisis-group-condemns-harassment-by-security-service.aspx>

One HRD explained:

In the aftermath of the June 2010 conflict our organisation and our human rights defenders received lots of threats, like we will attack you, we will chop your heads, and these threats were disseminated in the media, and thanks to our colleges in Bishkek this reached the UN Special Reporter on Human Rights Defenders and with the help of her personal involvement we received some help, but somehow the EU just ignored it... when you have one Special Reporter on Human Rights Defenders for the whole world and she gets involved, and when you have one delegation in one country and they don't do anything, it is just sad.

Other HRDs interviewed had been visited by an EU representative after the June 2010 crisis, and another was visited by the EU many times. The EU representatives asked about their security and the human rights situation and listened to them. Only one NGO in this region was aware of the EU mandate to support HRDs other than funding support, and none were aware of any EU human rights strategies that might impact on them. Of the HRDs interviewed, only one had heard of the EU small grants initiative for HRDs at risk. All commented this is valuable information for them, and could be especially important for more isolated, smaller NGOs in Southern Kyrgyzstan. None of the HRDs interviewed had been visited by a MSM.

One HRD commented on the EU and MSMs' lack of engagement:

Moral support gives you strength... just a moral support would be needed, for example, the EU could gather all human rights defenders [from our region] to Bishkek and make a small round-table or meeting where they could listen to us, talk to us. Because meeting with human rights defenders in Bishkek is one thing, and meeting with people who work on the ground is a different thing. We in the South work with sensitive issues.

All HRDs were concerned about the EU grant making process reaching remote areas. One HRD stated, 'The work of human rights defenders depends on the availability of grants. And the human rights situation in the country, in turn, depends on the effective work of human rights defenders.'

This interviewee felt very strongly that the EU should have more projects, and especially small grants, that they allocate to support the role of human rights defenders. The interviewee felt this particularly important in Kyrgyzstan's remote areas, where capacity is weak in many respects, 'We are not aware or thinking about mechanisms for our protection, we would like to increase our knowledge of human rights defenders and learn from them, perhaps exchange programmes for human rights defenders to build our capacity.'

All HRDs said that the procedure of applying for large grants from the EU is very complicated. Some felt the EU does not have interest in supporting NGOs in remote areas and mainly supports big human rights organisations. One HRD was frustrated by the way in which EU project money is managed in partnerships, and how the beneficiaries are unable to influence the process. It was reported that some HRDs working in Osh have stopped bidding for grants from the EU because they find the EU does not have interest in supporting NGOs in remote areas, and prefer to work with organisations at central level.

One interviewee stated:

The EU prefers to support international human rights organisations and support local human rights organisations through them. For example, the EU supports the UN organisations and the OSCE to support local NGOs in Kyrgyzstan. International organisations always prefer to have a relationship through the central large NGOs in Bishkek. The latter, in turn, tend to hire their representatives in the regions to implement the programme through task forces on the ground. Most programs aimed at local beneficiaries receive support in such a centralised or vertical

transmission. In this regard, it is not clear logic of the EU, which is ready to spend the majority of their funds on administrative resources, when there is every opportunity to use those funds through (directly to) local NGOs, providing more to focus on the effectiveness of the results of the planned programmes.

For example, the EU has implemented the resolution of the post-conflict situation in the south of Kyrgyzstan through OHCHR. This example is indicative of the experience of NGOs of the Osh, a stricken and devastated city as a result of the events of June 2010. Through this scheme, the NGO budget was cut and they were forced (due to lack of funding) to close two public reception in the worst affected districts. But with the funding received, nine organisations are located in Bishkek. The question is – who should benefit for people affected by the conflict in Osh?

Another HRD was part of a project focused on assistance to torture victims. They interacted with the EU monitors many times on aspects of the project, but felt they could not comment on the EU beyond that because they did not know what their role was in giving further support to HRDs. On understanding the Guidelines' principles toward HRDs, the interviewee stated, '(the Guidelines) should be disseminated among human rights defenders, especially among human right defenders in Osh. Because these principles should not be left like that, but should reach as many defenders as possible.'

Another HRD had not previously seen the Guidelines, and commented:

They [the EU] ask about our security, but we haven't heard about real assistance, and I don't think that many human rights defenders actually know that the EU can assist. Frontline when talking to us is much more concrete in terms of letting us know exactly what they can do to help us. The EU representatives, on the other hand, were asking about our security, but it wasn't clear how they can help.

3.3 Views of human rights defenders in Bishkek

Bishkek has a large HRD community, with a few large NGOs and legal groups well-known for their work in civil and political rights, who take up cases throughout Kyrgyzstan and engage in advocacy work on human rights issues.

Torture, arbitrary detention, and unfair trials are considered by HRDs as the most serious human rights challenges and judicial reform is a current priority area for many HRDs. A few of the larger NGOs have wider mandate that includes social and economic rights, networking with HRDs in remote areas, and some have particular focus to support HRD youth groups, and other HRDs working with marginalised and vulnerable groups. Most of the HRDs participating in the study focused on civil and political rights as a priority.

The congeniality and cooperation amongst Bishkek HRD groups and HRDs in the South was reported by both to be good, and of those interviewed, all felt they could reach out to each other and gain support within the larger Kyrgyz HRD network. However, it was also clear that HRD networks were not inclusive, and some HRDs felt more needs to be done to bring those with experience working on difficult human rights issues outside Bishkek into the network. South Kyrgyzstan was of concern, but also northern Kyrgyzstan was mentioned frequently, where HRDs are less known, receive very little moral and financial support, and human rights abuses continuing in these areas and are not well monitored or reported on.

Bishkek HRDs voiced concerns similar to the concerns of HRDs in the South. Many HRDs have been working under enormous pressures, and have had death threats and experience intimidation repeatedly. Intimidation by non-state actors is a growing problem for HRDs in Kyrgyzstan, and it is often

not clear to HRDs where the threats are coming from. Defending cases and human rights violations linked to the events in the South bring additional tensions for HRDs that did not exist prior to 2010. Some HRDs reported their family members have been intimidated, HRDs have been beaten by plain clothes agents, and some have been arbitrarily detained without access to a lawyer.

HRDs were asked how safe they feel in carrying out their work, one HRD commented:

50% (safe), especially after the April revolution and the Osh conflict we didn't receive threats from the government, but we did receive threats from specific groups, from nationalists or religious extremists or non-state actors...and we also saw that the State is weak themselves and how they cannot resist to this pressure, and mostly after the conflict in June, we saw how police...how demoralized they were. There are certain people that use the [non-state actor] crowd...they use violence because the effects of violence persist, so the fact of impunity... people know that impunity exists and this is why they use violence. In general, there were cases where people would attack HRDs.

Nowadays the dilemma... first of all, there is no criminal investigation in regards to those groups of people who chase after me or who come and attack the office, so now I don't know from whom I should fear, either state actors or non-state actors, because I might receive threats from both sides. How then can I protect myself or ask the police or law enforcements, if these groups of people [are not identified], let's say national groups of people, they can come and attack me but they also attack law enforcements. If before we used to talk only about journalists, or HRDs, that are attacked, nowadays we also talk about the rights of law enforcement officers, because they might also be attacked by these groups of people, so this is featured when we talk about is rule of law, not only in regards to us, or to journalists, but also to protect the rights of these officers and now we raise the issues of beating officers... There is no way out, I can only go back to the state and demand for rule of law.

HRDs felt the monitoring of trials by embassies was very important, providing security towards defenders and ensures fair trial abuses will be reported on. When threats have been serious, the diplomatic community has brought about very important leverage to ensure their safety. A number of HRDs have had assistance to temporarily leave the country in recent years, facilitated by INGOs, when they felt their lives may be in danger. MSMs have helped HRDs in accompanying them to and from airports, when they felt that they may be victims of reprisals.

HRDs commented they are often accused by the government of being a spy, or of being in the hands of the international community. One HRD sees this as a tactic to avoid good governance or allow equal participation. 'We look more inferior... I remind them we are also part of a democratic state and we should not apologise if we look for finances from international donors to help us technically.'

One HRD recognised the importance of having the support of public opinion as an important counter to aggressive attacks by the authorities, 'winning the public trust is most crucial for strengthening democratic processes and supporting the work of HRDs.'

Some HRDs are sceptical of working too closely with the EU and MSMs. Others voiced disappointment with the selectivity in relationships made by the diplomatic community to support the work of certain HRDs. Some HRDs raised concerns about with EU and MSM grant applications, in that those who can best fill out complicated applications and reporting forms are always at an advantage, and voiced concern that writing competence was measured over substance.

Another HRD recognised this tendency toward selectivity as something that needs further consideration by the EU and MSMs. There was suggestion about the provision of collaborative grants

that provide training from 'mentors' to support a younger generation of HRDs. HRDs were enthusiastic about the younger generations of HRDs taking up creative ways to address Kyrgyzstan's human rights discourse. One NGO art group established in 2005 addresses women's rights issues and tackles current political debates through art and humour. This NGO is working through the social media and internet theatre to offer a creative forum for youth to engage in political discourse, and to bring focus on societal attitudes toward women.⁴⁰

Many HRDs in remote areas are also in critical need of support, with the improvement of their skills needed in areas fundamental to progress their work, such as project management and deeper knowledge of human rights frameworks. It was emphasised that many HRDs in remote areas have expertise in their area of thematic focus and deserve recognition and support for their work, but would benefit from longer term funding streams that can support their work in tandem with capacity-building. HRDs in remote areas of Kyrgyzstan need better understanding of human rights based approaches in their work and need to improve financial management skills. This could be learned through facilitating training and partnerships with local mentors and other experts.

Most (Bishkek) HRDs interviewed recognised the importance of engagement with the diplomatic community and were grateful for the hard work being done to strengthen civil society, protect HRDs, and provide technical assistance to the state. Many of the HRDs interviewed had regular engagement with the EU and MSMs toward these aims.

One HRD commented:

We need international organisations and embassies in order for them to play mediation and moderator role, in order to create a kind of dialogue between us and also politicians when there are certain tensions in politics and when there is a crisis then for us, for civil society, it's very hard, we are weak to enter this political debate or tension, so in this case EU or other international community, they get involved and organize certain events where we can peacefully discuss, they help us have a voice, sit at a table and discuss issues. It's also valuable when international community raises or makes strong statements to publicly...for example on persecution of HRDs, or raising other HR issues.

Diplomats have built strong relationships with HRDs working on civil and political rights in particular, but HRDs saw a vacuum in support of HRDs working on health, disabilities, environmental protection, gender-based violence, LGBTI, minority rights, and largely social, cultural and economic rights. One HRD commented that this trend may be changing:

...last year the EU conducted training on identifying problems in Kyrgyzstan and identifying human rights issues, two day training, and we developed certain recommendations and concrete suggestions. The training covered law enforcement, education, economic and social rights, legislation...if before EU was not active in participating in certain events, now the EU participates in every human rights event and they organize workshops and trainings...so these recommendations, they were covering different topics and later these recommendations were sent to the parliament and to the government.

HRDs felt personal relationships were built with MSMs depending on the personalities of the particular diplomats, giving examples over time where embassies have fallen in out of favour of commitment and

⁴⁰ For examples of social media political cartoons in Kyrgyzstan, designed by the NGO '705', see the Global Voices on Line interview at: <http://globalvoicesonline.org/2012/07/18/kyrgyzstan-patriarchal-society-as-seen-by-artists/>

support to HRDs, 'the relationship with embassies depends on personal relationships or it depends on a person who represents a certain mission.'

HRDs did feel they could approach embassies freely and there were no inhibitions or security issues raised in doing so. One HRD commented:

I don't think it's a problem, it is just that we usually we don't have time, because we are busy with everyday work. It's actually embassies who invite us to meet us rather than us going. But I think that if there is a situation where we would approach them they would not refuse any meeting with us we would be welcome to meet with them and talk to them.

Some of the participants in the study had just met with Baroness Ashton, who visited Kyrgyzstan in late November 2012. One HRD felt that she was listened to, and there was real interest in HRDs work, she said: 'Madam High Representative Ashton asked us our views on the human rights situation and the areas we are focusing on and seemed genuine in her questions of how the European Union could help more.' Another HRD commented it was to the EUs' credit that Baroness Ashton met with civil society and put human rights in her agenda as a priority amongst other priorities of trade, investment and security. One participant noted the civil society representatives meeting with Baroness Ashton were all women, commenting, 'WHRDs are some of the strongest voices in the Bishkek HRD community.'

Of the WHRDs interviewed, they did not identify specific risks related to their gender.⁴¹ One WHRD explained risks are more prominently an issue for women working in rural areas:

'Poverty, social and economic rights – we think about leadership in remote areas, and then we must ask how can this be done? We have done some research on female leadership, but the family duties in remote areas don't invest in women. Women lose their resources, and we really need to start talking about WHRDs in remote in areas, this is a really important and good strategy.'

Another participant was concerned that gender-based violence and the incidences of bride kidnapping were not well monitored by HRDs in Bishkek and violence against women deserved more attention from the international community in Kyrgyzstan. There was concern the problems of rural Kyrgyzstan are being left out of the human rights agenda in the capital and the capacity of rural Kyrgyzstan to engage in these debates is limited by acute poverty and their lack of access to resources. It was also noted that the EUD and MSMs identifying the work being done by rural HRDs in this area is 'way below the radar'.

HRDs working in the LGBTI field discussed their experiences of police intimidation, and gave examples of their ability to combat threats of meetings being shut down by authorities, by challenging police intimidation through their knowledge of law and international human rights frameworks and the use of strong networks of support. Their strategies for advocacy and work needed to strengthening knowledge around international human rights frameworks, were a point of discussion at the WHRD Day conference in Bishkek in December 2012.

In November 2012, a prominent Bishkek HRD filed a complaint against the Kyrgyz State Commission of Religious Affairs in relation to the banning of the film 'I am Muslim and I am Gay,' which was part of a human rights film festival funded by the EU and French government. The authorities shut the film down, based on Kyrgyz law of 'extremist acts' and concern that 'diffusion and broadcasting within the territory of the Republic of Kyrgyzstan might encourage religious hatred and set the scene for mass

⁴¹ These views on WHRDs are from participants in Bishkek. The scope of this project did not allow for further investigations or travel to meet WHRDs in remote areas.

disorder.’ Some media outlets depicted the organisers as propagating homosexuality and being destructive to Kyrgyz values. Both EU and French diplomats have been monitoring hearings in this case.

One HRD was particularly concerned that environmental rights were not getting the attention they deserve from the EUD and MSMs, and cited HRDs working in isolation in the North, on threats of uranium tailings, toxic waste dumps, banned pesticides and mercury waste pose serious risks to the rights of thousands living close to these sites (UN Special Rapporteur on Adverse Effects of Dumping, 2010).⁴²

Particular mention was given to recent work on torture projects supported by the EU and UN OHCHR. HRDs are working to complement the work of state bodies in establishing National Preventive Mechanism benchmarks for the implementation of OPCAT.⁴³ The OSCE’s work on combatting torture and supporting police reform was also regarded highly by HRDs. One HRD was encouraged by the recent activities carried out by the EU and other organisations to combat torture and impunity. EU initiatives for round table discussions, dialogue and partnerships between civil society groups, government ministries and the international community were seen as progressive steps of the EU in supporting HRDs. Some HRDs found these cooperative projects help build trust and recognition of how civil society can contribute to working together with state bodies to combat serious human rights violations.

3.4 Views of the EU diplomats in Bishkek

Kyrgyzstan has a small number of MSMs based in Bishkek and a fully-fledged EUD. A larger number of EU countries have embassies based in Kazakhstan for their diplomatic affairs with Kyrgyzstan. The Kyrgyzstan-based EU embassies are France, Germany, and the UK, making up the core group of MSMs regularly engaging with the EUD, and with HRDs in the country.⁴⁴

All diplomats described their relations with one another as very close, highlighting their aim to cooperate and coordinate efficiently to be effective, recognising they all are understaffed and carrying large workloads.

Diplomats hold HoMs meetings monthly, although interacting with each other occurs much more frequently. Diplomats all mentioned having contact regularly on human rights and HRD issues. One diplomat stated, ‘I would say that one of the most successful areas in which we do work together is actually human rights, because it’s fundamentally such an easy area that we agree upon, and there is no doubt that we all have a common goal, that we define our aims in the same way.’

One MSM commented that human rights strategies both collaboratively or bi-lateral were a result of their mutual cooperation and communication:

⁴² See UNSR mission to Kyrgyzstan report on the adverse effects of the movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights, Okechukwu Ibeanu, June 24, 2010. See report: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/147/92/PDF/G1014792.pdf?OpenElement>

⁴³ OPCAT is the Optional Protocol for the UN Convention against Torture, and the National Preventive Mechanism is the subcommittee responsible for the implementation of the Convention as laid out in the Protocol. Kyrgyzstan had an official visit of the UN Special Rapporteur on Torture, Juan Mendez in December 2011 investigating abuses of torture from the June 2010 events in the South. See report: http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-61-Add2_en.pdf

⁴⁴ The author met with three Kyrgyz-based embassies and the EUD in Bishkek, and a Polish diplomat on visit from Kazakhstan. Other EU diplomats participating in the study are based in Kazakhstan and were interviewed by phone or gave written response to the questionnaire. ‘Diplomats’ in this section refers to the Kyrgyz-based embassies and EUD, unless otherwise noted.

There might be a situation in which we do something bilateral that we are not doing with the EU, but most of the time...if there is something that we want to do...for example, a few days ago, I think it was early last week we visited (...) in prison, it was an idea we had, and instead of doing that bilaterally we then discussed with the EU delegation and with other EU embassies whether we should do this together, we try to really coordinate the approach. This doesn't prevent everybody from doing things bilaterally as well, but we have a strategy that we have discussed together, and the EU has this as part of their human rights strategy, which we have been coordinating together and fitting in to all of our work, we try to act along these lines'...

Coordination amongst diplomats was considered better than in many other country missions by some diplomats:

...'because there are many [human rights-committed] organisations here and the EU takes a leading role, as well as the UN and the OSCE, particularly in response to the 2010 events, so I think the EU is relevant and prominent in that respect, and I think it is important to say that out loud, because it is not something that is given... making sure that our voices are heard, and of course as part of our larger organisation...it's actually quite a good opportunity to join with our other MSMs...'

In relation to reacting to serious HRD abuses or risks, diplomats felt they quickly learn of urgent situations from each other and their respective networks and are able to consider an appropriate response, 'when something comes up, we are quickly on the phone to one another.'

Trial monitoring of HRD cases was one example of good coordination amongst diplomats where HRDs' rights were of concern. Other areas where HRDs are vulnerable were closely monitored:

Prevention of torture is a major issue here, especially in pre-trial detention centres both to the HRDs and to victims themselves... Rights of minorities are also very important here, obviously since the inter-ethnic violence, so we also look at this very closely, and when I mean rights of minorities, we can talk about ethnic groups and religious groups, because religious groups are also becoming very sensitive because of the alleged Muslim extremist threat in the region... Kyrgyzstan is at moment trying to establish a balance between protecting themselves against extremism while upholding rights of minorities, and it's not always necessarily proving in favour of the latter...

Diplomats identified NGOs and lawyers as being the groups of HRDs they most frequently engage with. Diplomats report taking various steps to provide security and protection to HRDs in Kyrgyzstan, including supporting legislative changes to decriminalise elements of human rights defending; bilateral and multilateral discussions with state agents; joint EU *démarches*; and as necessary, submitting urgent requests to state agents for further information on the situation of HRDs.

Diplomats recognised the need for capacity-building of HRD groups to development their expertise and experience and improve professionalism in their work. It is recognised that HRD leaders need to expand the expertise within their staff to strengthen capacity to act, and to bring long term sustainability to human rights work. Youth NGOs need to be encouraged by such mentors. Diplomats recognise HRDs have established themselves in particular fields, particularly in Bishkek, Osh and Jalalabad, but many rural HRDs carry out their work with scarce resources and have little support from HRD networks. One diplomat pointed out this may mean less opportunity to focus on specific areas of concern in rural areas, as these HRDs may need to respond more to the requests of donor interests in order to survive.

Under the EU and Kyrgyz Republic human rights dialogues agreement⁴⁵, Kyrgyzstan held an annual conference in February 2012 on 'the role of NGOs in the implementation of the rule of law and human rights.' Cooperation of international organisations in the field of human rights was also discussed, including collaborative work toward implementation of the Universal Periodic Review (UPR).⁴⁶ Preparation for civil society involvement in the dialogues was organised by the European Union in both Brussels and Bishkek.

The international community (EU, UN, and MSMs) are currently carrying out projects on institutional and governance reform in the prison system and on judicial reform, and HRDs are engaged in multiple projects that complement the technical assistance to the state. Diplomats said there has been recent success in developing HRD engagement with NHRI's Ombudsmen Office. Bi-lateral financial support to HRD-focused projects was available from some MSMs. Britain has for a long period provided development assistance to Kyrgyzstan, and is currently launching a new funding mechanism targeting post-conflict initiatives toward peace and stability which supports civil society projects. Finland provides development assistance to the Osh region, and the Netherlands have a human rights fund available to civil society actors. France had little bi-lateral assistance available for projects, but supported cultural activities, including the recent international human rights film festival.

EUD and MSMs consult with HRDs regularly, and it was clearly indicated by all diplomats that relations with HRDs, and actions of the EUD and MSMs to continue their support and protection to HRDs, were very much a part of their on-going commitments. Although details of specific points in the HRCS were not shared, diplomats did share cases of concern and areas of continuing support and protection to HRDs.

Kazakh-based embassies do not have regular attendance at the EUD/MSM HoM meetings, but contribute to human rights focused work on an ad hoc basis. Finland has a number of projects in the Southern region, and is keen to focus efforts on supporting HRDs and CSOs directly in the area. The Polish mission travels to the South of Kyrgyzstan regularly and has met with members of civil society during its visits to post-conflict areas. The Netherlands mission based in Kazakhstan is actively contributing to the HRCS of Kyrgyzstan.

The EUD and some MSMs have travel restrictions on use of air carriers to visit Osh in the Southern region, limiting the extent of their meetings with HRDs in this region. The EUD has poor internal communication links with missions in the larger Central Asian region impeding diplomatic networking capacity and collaborative planning regionally.

Regarding systematic actions taken by MSMs to implement the Guidelines, diplomats did not refer to any regular or benchmarked activities with HRDs, but all diplomats based in Bishkek are engaging with Bishkek HRDs often. One systematic action noted from the French Embassy, was the preparation of an exit strategy report when diplomats rotate in and out of the mission. This includes a section on HRDs and a report on their diplomatic work with HRDs. The successor has a list of persons to contact when they first come to Bishkek, including HRDs, to maintain the continuity of the (human rights) activities of the embassy.

⁴⁵ For information on how the EUD seeks to facilitate and encourage dialogue between state and non-state actors in Kyrgyzstan, see the EUD website page:

http://eeas.europa.eu/delegations/kyrgyzstan/eu_kyrgyzstan/civil_society_dialogue/index_en.htm

⁴⁶ For further information on the EU-Kyrgyz Republic human rights dialogues and associated activities, see the EUD in Kyrgyz Republic website: http://eeas.europa.eu/delegations/kyrgyzstan/index_en.htm

4. THAILAND

Thailand (Kingdom of Thailand) is a large Southeast Asian country with a population of 67 million. Thailand is a constitutional monarchy with a highly revered king who exerts strong influence. Thailand has a well-developed infrastructure, pro-economic investment policies and heavy reliance on its export economy.⁴⁷

Thailand's coalition government came to power in 2011 with elections generally viewed as free and fair. The transition to the new government was preceded by mass demonstrations led by the *United Front of Democracy Against Dictatorship* (known as *red shirts*) which resulted in a bloody crackdown by security forces using unnecessary lethal force, leaving over ninety people dead and thousands injured.⁴⁸

Although the new government has made promises to make human rights a priority, state violence and official impunity remains a serious problem, particularly in provinces where martial law, emergency decree and the Internal Security Act of 2008 remain enforced. The Muslim separatist insurgency and counter-insurgency in Thailand's Deep South region remains one of Thailand's most troubled regions.

Thailand's civil society has a relatively open space to work in. But there are limitations to these open spaces for HRD practice. For example, of serious concern are the Computer Crimes Act and the *lèse-majesté* law (Article 112 of the Thai Criminal Code - an offense of *insulting the monarchy*), which cause self-censorship and impede freedom of expression.⁴⁹ All participants in this study raised this as a concern for HRDs in Thailand, and many referred to the case of Somyot Pruksakasemsuk.

4.1 The case of Somyot Pruksakasemsuk

Somyot Pruksakasemsuk is a magazine editor and Chair of the Union of Democratic Labour Alliance and leader of *24th of June Democracy Group*, formed in the aftermath of military coup of September 2006. He had been in detention since April 2011, awaiting trial under the *lèse-majesté* law for the publication of two articles which were deemed to insult the Monarchy. His court hearings were postponed in 2012, the Criminal Court deciding to wait for the Constitutional Court judgment regarding the constitutionality of Article 112 or the *lèse-majesté* law.

In October 2012 the Constitutional Court unanimously found that Article 112 was not in contradiction with the Constitution. After 21 months' detention and after being denied bail 12 times, the Bangkok Criminal Court found Somyot guilty of violating Section 112 of the Penal Code of Thailand. He was sentenced to 10-year jail term for publishing the articles (the writer of the articles was not charged). After the sentence was pronounced on January 24th 2013, Somyot's lawyer stated that he would appeal against the ruling and seek bail. The Bangkok Post quoted the chief judge of the Criminal Court Thawee Prachuablarb, as saying:

There have been criticisms, rather one-sided, that the court was too harsh in its judgement but... It is mid-way between the minimum sentence under this law, which is three years, and the maximum punishment of 15 years. The court made its ruling in accordance with the law. The

⁴⁷ Thailand's ethnic population breakdown is 75% Thai, 11% Chinese and 14% ethnic Malay, Mons, Khmers, highlander tribes and others. See CIA World Fact book, Thailand, 2013: <https://www.cia.gov/library/publications/the-world-factbook/geos/th.html>

⁴⁸ Human Rights Watch documented violations of the 2010 crackdown in an excellent report 'Descent into Chaos': <http://www.hrw.org/reports/2011/05/03/descent-chaos-0>

⁴⁹ There is a public campaign in Thailand challenging *lèse-majesté* law, see *Campaign for the Amendment of Article 112* website: <http://www.ccaa112.org/Schedule-Eng.html>

court's procedure showed the articles which Mr Somyot published did not contain any academic views of the monarchy. The articles were insulting in their nature and caused damage to the King (Bangkok Post, January 24, 2013).

In late August 2012, the UN's Working Group on Arbitrary Detention delivered its opinion stating that the deprivation of liberty of Mr Prueksakasemsuk is arbitrary UN (FIDH, 2012). The Working Group requested the Government to take the necessary steps to remedy the situation as soon as possible and bring it into conformity with the standards and principles set out in the ICCPR. The Working Group said that the adequate remedy would be to release Somyot and give him an enforceable right to compensation.⁵⁰

The Foreign Ministers of Dutch, Italian, Swiss and EU all made public statements that they were following the case and would continue raising issues with the Thai government. The EU encouraged the Royal Thai Government to invite Frank La Rue, UN Special Rapporteur for Freedom of Expression to Thailand.

Reporters Without Borders stated, 'We... urge the entire international community to react to this trial, which is a direct attack on media freedom in Thailand. The lèse-majesté law and article 112 of the criminal code must be repealed.'⁵¹

On January 23rd, 2013 the EUD issued the following statement in agreement with the EU Heads of Mission in Thailand on the sentencing of Somyot Pruksakasemsuk:

The EU Delegation to Thailand is deeply concerned by the court's decision to sentence Mr. Somyot Pruksakasemsuk for 10 years imprisonment for violating the Article 112 of the Criminal Code. The verdict seriously undermines the right to freedom of expression and press freedom. At the same time, it affects Thailand's image as a free and democratic society. The EU urges the Thai authorities to ensure that any limitation of fundamental rights is applied in a proportional manner consistent with upholding universal human rights.

The public is generally quiet on this issue, though there has been more opening-up of public response in the last year, seen in the recent showing of support of more than 8,000 people signing a petition to the Prime Minister of Thailand for Somyot's release. The *Network for Protection of the Monarchy* also voiced their opinion in support of Article 112, with recent protests outside the EUD Office in Thailand, stating the status of the Thai Monarchy was special and unlike that found in European countries.⁵²

⁵⁰ Multiple UN appeals have been made to the Thai government regarding lèse-majesté law and its enforcement. In June 2011, the UN Special Rapporteur on the Situation of Human Rights Defenders, Ms. Margaret Sekaggya, and the UN Special Rapporteur on Freedom of Expression, Mr. Frank La Rue, sent a joint urgent appeal to the Thai government raising several *lèse-majesté* cases against human rights defenders, including Somyot. In October 2011, Mr. Frank La Rue urged Thailand to amend the Computer Crimes Act and Article 112 of the Criminal Code, stating that the laws 'are vague and overly broad, and the harsh criminal sanctions are neither necessary nor proportionate to protect the monarchy or national security.'

⁵¹ Many international human rights organisations and media institutions issued strong condemnation of the Court's decision against Somyot and use of Article 112. The Foreign Correspondents Club of Thailand gathered prominent speakers after the sentencing of Somyot to discuss 'Royal defamation in Thailand: The Somyot case and its implications'. Their website states: 'FCCT's Board has come under pressure to condemn the sentence given to Somyot Pruksakasemsuk. While we were not unanimous in regards to commenting on particular legal cases, we see Article 112 of the Criminal Code, and the Computer Crimes Act, as constraints to freedom of expression, and oppose the application of these laws in a way that intimidates both local and foreign press to refrain from publishing dissenting political views. The Board is unanimous in this regard; See <http://www.fccthai.com/>

⁵² Prachatai News, *Monarchy Protection Network Protests EU Concern About Somyot* : <http://prachatai.com/english/node/3504>

4.2 Views of human rights defenders in Bangkok

The HRDs participating in the study are based in Bangkok, but their work frequently relates to other areas of the country. Their work priorities include focus on: freedom of expression, rights of minorities, ethnic groups and women in remote areas, and civil and political rights including torture, enforced disappearances, and witness protection in the Deep South of Thailand.

HRDs described civil society and the human rights community as active, but very fragmented. HRDs work in thematic silos for the most part, and even within their thematic areas, HRDs do not regularly work together in Bangkok. The coordination of networks across the country was possible for some larger NGOs, but otherwise country-wide networks amongst the HRD community were lacking.

One participant described international advocacy by HRDs to be limited to a very small group of HRDs in Bangkok, noting the lack of English and advocacy skills to be major obstacles for most HRDs.

Public attitudes towards HRD work was described as 'less trustworthy' in Thai society, than in many other parts of Southeast Asia. Some participants noted there was a general scepticism in Thai society about human rights in general, and civil society work has not really established a strong following from many of the established media outlets. It also was noted that political divisions in society are also reflected within the HRD community, which can have a divisive impact on creating a culture of human rights in Thailand.

Participants felt HRDs are most in need of capacity building and human rights education outside of Bangkok, noting that many HRD groups working on human rights problems, particularly those on remote areas, are unaware of the human rights framework that supports them. Thailand also has many community associations, rights groups and individuals working without legal documents or registration, making these HRDs less accessible to networks who can provide support for their protection.

There are multiple UN agencies active in Thailand. The UN OHCHR was mentioned by both HRDs and diplomats as being a significant partner and interlocutor between HRDs and the diplomatic community. The International Commission of Jurists (ICJ) has made significant impact in working with Thailand's legal community, including judges, lawyers and legal NGOs. ICJ implements EU projects to strengthening capacity and providing support to HRD groups working outside of the capital, including HRD work in Thailand's Deep South region.

Relations between the HRD community and EU diplomats was described by one HRD as follows, 'very good connections amongst the few big (HRD) names, with younger generations of HRDs not being engaged... though some (young HRDs) are building relations with the UN through their work on the UPR process.'

All HRDs participating in the study were aware of the tools referred to within the Guidelines for their support and protection, but many did not understand how the EU or MSMs were working on behalf of HRDs, or how best to engage with them. A few individual HRDs have developed good relationships with individual MSMs, noting personal relationship building to be an important factor for them. Other HRDs have developed their relationships with specific MSMs through funding support for their projects.

HRD participants said that there were few human rights oriented EU countries that showed consistency in their support to HRDs, highlighting the missions of Sweden and the Netherlands as most consistently showing support and concern for their security. HRDs did not describe strong support or engagement from a 'united' group of MSMs. HRDs felt there needed to be more 'buy-in' from the majority of MSMs toward the implementation of the Guidelines. One participant said 'we would like to see more EU members taking an approach to human rights, we see very few countries interested.'

Some HRDs participated in consultation meetings for the EU local implementation strategies of the Guidelines in 2009. They have noticed a cooling of EU engagement with HRDs in the last few years. All HRDs had met with diplomats when requested for consultation on particular human rights problems, though in the last two years none had taken part in, or were aware of, an EU consultation process for local human rights implementation strategies, or the current HRCS process.

One INGO explained the importance of the EU and MSMs taking a position on *lèse-majesté* cases, and praised the EUD attention to trial observations in this area. Another INGO felt the EU collectively with MSMs could make a strong impact on hearings and trials outside Bangkok, where no trial monitors were ever present. HRDs working in press and media freedom explained the climate of fear around *lèse-majesté* laws, and political divisions amongst many HRDs and media groups, makes presence and concern of the EUD and MSMs on *lèse-majesté* cases most urgent.

Some INGOs found the EU reluctant to use public statements or declarations as a tool to protect HRDs. Others questioned whether public declarations were a constructive tool for influencing the Thai government. There was concern from one participant about how to implement preventive security measures for HRDs, suggesting a change in strategy with EU public declarations could make a difference:

They [the EU] only issue statements after people have been either released, which is very rare, or convicted...What's the point of having a statement after people have been convicted, because we are supposed to take action which prevents that. NGOs can release a statement, take action after, but [NGOs] usually do that before, e.g. 'do not convict him otherwise he will be a political prisoner or it will be in the violation of international law', which is the perfect position to take, in our opinion, for diplomats. But, I have never seen...that the EU issues a pre-emptive statement. Of course, what they do privately, we do not know, and that's the problem. We want to commend the EU for the actions taken, but if they do not tell us...

Some HRDs were concerned that the EU has given too little attention to HRD problems outside of *lèse majesté* cases, one participant commented:

I have looked at the EU Human Rights Annual Report for 2011, they separate it into countries. Thailand is very short, ½ page A4. The matter [Article] 112 has *outed* everything. They mention a famous journalist case and another, both 112. These are only 2 names on our human rights situation, cases that are very famous...

HRDs working in the Deep South reported serious harassment, intimidation, and physical violence against HRDs. There have been cases of arbitrary arrest, torture, and extra-judicial killings of HRDs in the region. They felt their work would benefit from a deeper understanding of the Guidelines as a mechanism for their support and security.

HRDs working in the Deep South report good coordination with the Office of the UN OHCHR, and believe the UN shares information with the diplomatic community, but they were not sure how or if the EUD and MSMs take part in responding to reported threats against HRDs. HRDs have submitted case information to the EUD, but have not heard response from them, so they are unaware of whether their cases are taken notice. There were some concerns that HRDs working in the Deep South have fallen off the radar of the EUD.

One HRD commented:

There was activity... the visiting of the EU diplomat of the past 3 or 4 years. We did have a good experience with visits that gave a type of protection... we distribute more information of our activity and EUD were sharing with us, as HRDs in the Deep South, giving feedback and

protection... the EU in the past would come to us to get information and give us support, this was visible and very helpful. But we have not had this type of support for the last years, no visits in the last 3 years. We need a big team to come to visit CSOs here... they can bring a diplomat to visit us, we could facilitate it.

Another HRD mentioned:

They came to the Deep South about the issue of WHRDs and we briefed them about that in 2005. The EU member was quite active in 2004 and 2005 when they were monitoring the Deep South. Then they launched the revised Guidelines in 2008 - 2009 in Bangkok to civil society and state authorities. People working in the Deep South with victims of HR violations, it is a positive symbol for Thai society and the government to know and be concerned about the protection of HRDs and to know the outsiders monitor the situation of HRDs. There were annual meetings with CSOs, but this stopped in 2010.

Another HRD shared this observation:

...maybe in the last 4 or 5 years the EU had a launch of the Guidelines on HRDs in Bangkok and one of the speakers they translated the Guidelines in Jawi language that the people in south Thailand use, and I think that the EU tried to encourage the Thai government to use these Guidelines to approach the HRDs, especially WHRDs and defenders on the ground. After that I heard that our Permanent Secretary under the Ministry of Justice took to this idea, she set up a committee to see how the Ministry of Justice can have Declaration for Thai HRDs, but after that I don't know what happened, nobody followed, they stopped, we never heard anything again, and the HRDs are still threatened.

HRDs had requested the EUD visit the Deep South region to meet with HRD groups in 2011 and the EUD initially agreed, but, 'then they gave a reason, something about security issue...and cancelled the trip.'

Some HRDs are eager to build their dialogue with the EUD and MSMs. HRDs would like to know (from those implementing the Guidelines) what has changed or improved since the Guidelines were revised in 2008, 'It would be good for us to have a meeting with the person responsible for the EU Guidelines to understand how to access certain help. After that launch (2009) we tried to understand the role of the EU to help HRDs, but we don't know the mechanism to reach them.'

Many HRDs mentioned the case of Somchai Neelaphajit, a human rights lawyer who defended a number of torture cases perpetrated by police in the Deep South, and was abducted from his car in March 2004. His case remains unsolved and his whereabouts are unknown.⁵³ For HRDs working on access to justice issues for vulnerable groups and women, and those investigating torture, extra-judicial killings and enforced disappearances, HRDs noted they often work in isolation. HRDs working on these issues were interested to learn how implementation of the Guidelines could strengthen their security.

HRDs were also concerned about the lack of attention to mechanisms for protection of HRDs working in the north of the country. One HRD working with refugees, stateless and trafficked persons felt exposed to dangers from non-state actors, particular concern was noted in the drug trafficking regions of the northeast triangle of Thailand.

There was a growing concern about the security of environmentalist HRDs, many being community activists, untrained as HRDs and often unregistered. Those challenging development projects or

⁵³ For information on the security impact and the judicial process of Somchai's case, see the open letter from the Asian Human Rights Commission to the Thai Minister of Justice, 2011: <http://www.prachatai.com/english/node/2476>

polluting companies that threaten livelihoods and land rights of individuals were noted as at particular risk. Their work as undocumented activists makes them particularly vulnerable, as they have no access to outside networks for protection.⁵⁴ The NGO Frontline briefed the EUD at an EU consultative meeting on HRDs in February 2012, stating environmental HRDs one the most vulnerable groups of HRDs in Thailand.⁵⁵

One participant commented on environmental HRDs:

People protecting land rights or protesting against projects [are vulnerable]. They can be targeted because the owner will hire assassins to kill those protesters... European companies when they invest in these kinds of projects, [it is important] to let them know the risks, and that they work with the mechanisms 'due diligence' process, to anticipate, address and redress, in case something like that happens.

In terms of registration, there is another challenge. A lot of NGOs, especially international-regional, or maybe even local, operate in a very grey area because for some reasons they may not want to register, because, for example, if you are working in the south, it is a very sensitive issue and once you engage in a registration issue, you will announce your presence. In that case they may not give you your registration or delay it. And if they delay it and you continue to work, then, of course, you are technically working illegally and you can be arrested or deported. A lot of NGOs are working in these grey areas and they are subjected to 'rates' by the immigration authorities regularly. There are practical obstacles to being able to work, the fear of reprisals or the fear of having been labelled as illegal.

Some HRDs voiced a need to understanding how EUD and/or MSMs work to protect HRDs and protect their families. They noted the Guidelines do not adequately provide information on how mechanisms of protection should work in practice, and there was a call from HRDs working outside of the capital for trainings or meetings on the implementation of the Guidelines, as information needs to be available to the most vulnerable HRDs (outside Bangkok). HRDs were not aware how to access a particular mechanism for assistance if their lives were at risk.

4.3 Views of EU diplomats and INGOs in Bangkok

Thailand has 19 EU embassies and a fully-fledged EUD. Diplomats taking part in this study stated that most EU embassies had small political sections with relatively little capacity to work on human rights issues. The MSMs interviewed for this study all have active political sections with human rights in their portfolio. All diplomats reported working together with the EUD on the current HRCS.

Diplomats described civil society as being open, but fragmented. Most diplomats agreed that supporting human rights defenders against the criminalisation of freedom of expression was of priority, and the northeast and Deep South regions of the country were mentioned as regional areas of concern. Two MSMs actively monitored and visit HRDs in the Deep South, and one MSM regularly visits civil society groups working in refugee camps along the Burmese border.

All MSM diplomats said they had very little knowledge or access to other geographic areas where HRDs work may be at risk, but recognised a need to strengthen HRD capacity, legitimacy and protection

⁵⁴ HRW has reported 'since 2001 more than 20 environmentalists and human rights defenders have been killed in Thailand. Investigations into the killings have frequently suffered from inconsistent and shoddy detective work, the failure of the Justice Ministry to provide adequate protection for witnesses, and political interference in law enforcement efforts.' (HRW Annual Report, 2012)

⁵⁵ For Frontline reports on the situation of HRDs, see: <http://www.frontlinedefenders.org>

outside the capital, particular in regions of concern where there is no network of support to HRDs to mitigate risks. Many diplomats had been informed of cases and risks to environmental and unregistered HRDs, but only a few diplomats understood the situation well, and most felt this was an area the EUD would be best positioned to take up.

The EUD voiced concern about vulnerable HRDs:

Through extensive consultations with HRDs and CSO we too have been informed of a rise in the use of legal intimidation by both local governmental agencies and the private sector. We have found this particularly in land right cases involving rural communities and indigenous populations. Acts passed by Parliament have seen the steady increase of land marked as 'protected' which has led to forced evictions of indigenous populations relying on a legal basis. This issue can also be turned on its head, with land grabs receiving at times limited remedy due to a lack of awareness amongst those affected about their rights. Often even HRDs rely on very rudimentary knowledge and tools which prevent them from seeking recourse via the legal system.

WHRDs in remote areas of the country were also considered vulnerable by some diplomats. For example, one diplomat stated, 'women working on family law in the South, trying to do something about it in the South, they are particularly vulnerable, and not only those in the Muslim minority.'

Whereas one embassy indicated visiting HRDs outside of the capital was prohibitive due to travel distances, time and available resources to do so, other MSM political offices do travel outside of the capital to meet with HRDs, particularly in areas where they gave bilateral support to projects. The EUD noted they have a security ban on their travel to the Deep South.

Some diplomats were aware of the Guidelines, but were not familiar with their content. Other diplomats were well aware of the content, and felt the concerns of HRDs were taken up by too few diplomats. One diplomat raised the importance of understanding the particular tools available to them to work on behalf of HRDs, stating the Guidelines are always in 'the back of my head,' allowing implementation of the Guidelines to be mainstreamed and considered in other areas of work.

However, trade and investment, security and other diplomatic priorities pushed consideration of HRD work and the Guidelines on the back burner for many - with resources scarce, human rights were, as one diplomat described 'quite a small focus here.' The British indicated their embassy was currently looking for more resources to invest in their human rights focus, so priority areas for them may shift toward more attention devoted to human rights and HRDs.

Although the EUD reported excellent trainings in Brussels, of MSMs interviewed, only one diplomat had been trained on implementation of the Guidelines, and their own human rights strategy. Only one MSM diplomat was knowledgeable of how to access EU funds available to shelter HRDs at risk. One MSM diplomat was concerned about the lack of training amongst EU diplomatic missions on procedures for providing protection to HRDs at risk.

The EUD and MSMs reported working well together, meeting at HoMs and political counsellor meetings 'about once a month'. Diplomats recently worked together on HRCS, and specific case strategies for HRD cases. They have visited HRDs in detention centres and have made a number of prison visits to HRDs, though a recent prison visit request has been postponed by Thai authorities.

EU diplomats are involved in regular trial observation of cases involving HRDs and the politicisation of Article 112, the *lèse-majesté* law. This was seen by diplomats as a clear example of HRDs being criminalised. The monitoring of HRDs' hearings and trials has been a coordinated effort amongst MSMs

and the EUD, and one diplomat commented, 'the most systematic thing around HRDs is trial monitoring - the EUD works well to keep us informed of upcoming trials.'

One diplomat stated MSMs tend to work on their own priority human rights areas with particular groups of HRDs, and there was no real coordination between EU member states on sharing information. This diplomat explained that each MSM had priority areas that they were interested in, and each embassy created their own networks within civil society – and only serious individual HRD cases were focused on collectively by the EU members, when there was a high profile case brought to their attention. All diplomats mentioned their collective attention to *lèse-majesté* high profile cases involving HRDs, though they were less aware of activists regularly working to reform the law or campaigns against Article 112.

The UPR process was mentioned as a particularly good example in which the UN OHCHR supported civil society engagement with NHRIs and state authorities. Some diplomats had had the opportunity to meet with civil society in support of the UPR process. A number of MSMs noted the importance of working closely with the UN OHCHR in Thailand, who had better relationships on the ground with HRDs. Diplomats viewed HRD engagement with government ministries as active and good in some areas, and only cosmetic in others.

One MSM diplomat mentioned their support to HRDs working on LGBTI rights, and felt there was a high level of vulnerability for HRDs working in this area.

Although diplomats believed some civil society networks were working across the country with HRD groups and community activists, many responded that effective implementation of the Guidelines in Thailand meant doing more to minimise the 'Bangkok vs. (the rest of) Thailand' HRD divide.

One diplomat commented on this divide:

Bangkok HRDs are well connected and understand what the EUD and MSMs can do and what our limitations are. The rest of Thailand, the remote areas, they do not know about the potential of the Guidelines. And we are unaware of what is going on there, it is hard to know who is doing what. This is true of the Deep South...'

One diplomat stated HRDs working outside of Bangkok with minority groups, refugees and stateless persons, victims of slavery, torture cases and violence against women cases, may be most in need of protection. Non-state actors are a threat to HRDs, 'extra-judicial killings happen, we read about it in the press, but then it is too late for us to assist.'

Another diplomat addressed the problem of lack of communication with HRDs:

...when it comes to implementation, generally HRDs look to the EU for a leading role, we have an obligation to react, and if we don't react and we don't follow up it sends a message we are in fact not supportive... there is an obligation of MSMs to make [HRDs] aware of the importance of the implementation of the Guidelines, keeping them alive, and our local guidelines which have been developed, keeping them alive...

The EUD recognised further support is needed to HRDs working outside Bangkok, stating:

... (a) role we play, particularly with regard to grass-root HRDs operating in Thailand is capacity building. The gulf between the Bangkok-based NGO scene and those operating in the provinces is considerable; our engagement with the latter type of HRDs therefore is focused on improving their capacity to deliver their objectives, notably through the European Instrument for Democracy and Human Rights (EIDHR) funded projects.

...extensive and regular consultations with Bangkok-based NGOs and other trusted sources have allowed us to build up a solid network of HRDs in the provinces that we are able to consult with. Consultations and engagement generally takes place around prominent issues that require extra attention.

...The EU has dedicated Human Rights Working Group meetings on the South and will start a new series of meetings on Community based HRDs in the North and North East.

Most MSMs interviewed provide some funding support for HRDs. One INGO welcomed the EU funding mechanism around non-state actors as offering a new important grant making tool in response to problems in the country. This INGO found the consultation process very thorough by the EUD and EU efforts were effective in visiting pressure groups around the country.

The EU and the German government are currently funding a project to enhance access to justice for persons in the Deep South, implemented by the Konrad Adenauer Stiftung (KAS). This project supports two local NGOs, the Cross-Cultural Foundation (CrCF) and the Muslim Attorney Center (MAC), providing legal aid to people in the Deep South and legal defence to civilian victims of alleged human rights violations.⁵⁶

The Swedish embassy is actively working to support HRDs through their Southeast Asian Regional Development and Cooperation Programme, with one stream of funding support for human rights and democracy projects. These funds include support for capacity building of HRDs in Thailand implemented by regional NGO partners such as Asia Forum, SEAPA and APWLD. Recent areas of HRD concern influence their directions of support and they have identified WHRDs as a group specifically vulnerable and exposed - WHRDs from indigenous minority groups (often undocumented) are of particular concern in Thailand. The Swedish government also sponsors small groups of Thai HRDs to visit Sweden annually to attend conferences on current human rights challenges; the past year focused on internet freedoms.

The French government provides some bilateral support for human rights initiatives and recently led a conference on good governance including HRD and civil society participants.

The drafting of the HRCS for Thailand engaged all of the MSMs that participated in this study. The EUD commented on the drafting of the HRCS, 'we liaised very closely with HRDs and CSOs operating and consult closely the CSO submissions for the UPR, which coincided with the drafting of the EU document. Several CSO recommendations were reflected in the final document.'

The EUD stated they intend to revise the HRCS annually, to reflect changes in human rights concerns: 'the 2011 Human Rights Country Strategy has a validity of three years; however, we envisage updating it annually in order to reflect changing concerns and priorities as well as updating it to include emerging issues.'

One MSM has a 4-year country business plan that includes 'human rights and democracy', the Plan is reviewed annually, but HRDs are not specified in it. Another MSM has their own human rights local implementation strategy and human rights defenders are of priority for them. They work according to their strategy, and the EU strategy, publishing a report on human rights in Thailand and the region.

⁵⁶ For information on the project "Improvement of Access to Justice for Civilians in the Deep-South Provinces of Thailand" see links for KAS website <http://www.kas.de/thailand/en/pages/10084/> and CrCF website <http://www.crcf.or.th> and MAC website <http://th.macmuslim.com>

One diplomat stated, 'we all know what to do, we are supposed to identify HRDs and we are supposed to help them, give them political and diplomatic backing... it is the action rather the document as a starting point, it's much more important to move from the document into the actual work...'

Another diplomat said, '(HRDs) are not part of our portfolio as such, we just have them as contacts, it's not an area I work on to protect them or any of that, it is all done by the EU.'

No HRDs in this study were aware of, or participating in, consultation for the current drafting of the HRCS. All HRDs mentioned participating in the local implementation strategy in 2009, but none had been invited to participate in consultations for EU human rights strategies since that time.

One INGO was part of the recent EU consultation process for the HRCS, together with local HRDs, but observed that the HRDs present were limited in representation, and coordination of HRDs is a challenge:

There are bodies of coordination, but they do not coordinate very widely. There are typically groups of NGOs and they coordinate among themselves, but it does not really expand to other areas. This is perhaps something which can be done better. If we have a consultation with the EU we can get together beforehand to decide who says what, and also to make sure that it is coherent, and we do not go into too much detail. Maybe we can also submit written documents beforehand, but during the consultation to save time, (its best) to give them the main issue, the trends and, most importantly, what we want them to do – not just to elaborate on the problems.

One INGO credited the EUD consultation process on the HRCS to include HRDs working on LGBTI issues, which was a new group at the table.

There was concern from some INGOs that civil society cannot be sure to what extent, or how, HRDs are considered in the new three year EU human rights strategy for Thailand. HRDs also voiced concern that 'providing information only' to the EUD and MSMs limits them from engaging in a strategy that supports and protects HRDs.

Although one INGO was aware of general areas included in the HRCS, they did not know of any actual benchmarks or agreed strategies around HRDs, commenting, 'there is no mutual feedback between the EU and the organisations (on the HRCS).'

One participant questioned the aims of the EU in communicating the intentions of the Guidelines to HRDs:

HRDs know vaguely about the existence of the Guidelines. And this is one of the problems – the communication strategy, and the EU should be actively telling people their strategy and how we can use it. I do not know why they have not yet done it - maybe this is also part of their strategy? So, there is a Guideline for HRDs, which they do not want to be used, actually. I get that impression. But even for people who know the Guidelines very well, maybe there are Thai HRDs who do not see the value in it, simply because the EU does not communicate the impact. When they look at it – there is another international mechanism which requires a lot of effort, but then – there is no impact. There is, thus, the cost-benefit analysis. 'Yes, I know it exists and I can use it, but should I, because I have so many things to do?' 'Should I provide them feedback?' So, it all has to do also with the expectation – and prioritising your international advocacy.

One INGO felt the European diplomatic community to be less engaged with HRDs in Thailand than in other SE Asian countries. They expressed concern that other diplomatic priorities leave commitments to implementing the Guidelines a lower priority in Thailand. They felt the lack of impact in protection of HRDs could be remedied by creative strategic thinking together with HRDs

4.4 The ASEAN Human Rights Declaration

On November 19, 2012 the Association of Southeast Asian Nations (ASEAN) signed a joint human rights declaration (AHRD) putting forwards the first steps in creating a regional human rights mechanism for Southeast Asia that would enshrine human rights for Southeast Asia region's 600 million citizens.⁵⁷

There had been deep concern by the INGO and HRD communities of Southeast Asia of a flawed and non-inclusive consultation process with civil society in the adoption of the text for the Declaration.⁵⁸ Adoption of the Declaration proceeded in spite of major concerns voiced by many human rights groups.

The resulting Declaration was highly criticised by Human Rights Watch and denounced in a statement by 60 HRD groups, which stated: '... rather than meeting international standards, this declaration lowers them by creating new loopholes and justifications that ASEAN member states can use to justify abusing the rights of their people.'

Some participants noted the HRD community in Thailand is divided in their intention to work within the framework of the Declaration. Some groups condemned it and refused to work within the proposed structure, while other HRDs, though disappointed with aspects of the Declaration, felt it was best to work within the challenges posed, to try and strengthen human rights from continuing to work with the regional mechanism, recognising the importance of finally establishing a human rights regional mechanism for Southeast Asia.

Baroness Ashton issued a press statement on the formal adoption of the AHRD:

I welcome the formal adoption of the ASEAN Human Rights Declaration as an important step towards strengthening the protection of human rights in Asia.

I emphasise the need to ensure that implementation addresses adequately any problems of compatibility with international standards, notably the Universal Declaration of Human Rights and the relevant United Nations human rights treaties. I welcome the accompanying Phnom Penh Statement of Heads of States and Governments on adoption of the Declaration, which reaffirms their commitment to the universality of Human Rights. I will continue to work with ASEAN and its Member States as well as civil society organisations to promote human rights nationally, regionally and globally on the basis of internationally-agreed human rights standards. (European Union November 22, 2012).

Some participants in this study described the EU statement as a disappointingly weak response from the EU. Some HRD participants commented that the US government press statement on the AHRD better addressed their own concerns and their positioning:

The Universal Declaration of Human Rights (UDHR) lays out universal principles of human rights that are the entitlement of all persons everywhere, establishing a minimum baseline for the protection of human rights. Regional declarations are a useful way to reinforce the human rights commitments and obligations of states as articulated in the UDHR and in the

⁵⁷ASEAN Human Rights Declaration (19.11.2012): <http://www.asean.org/news/asean-statement-communicues/item/asean-human-rights-declaration>

⁵⁸ See Forum Asia's website for civil society letters to ASEAN prior to the adoption of the Declaration, including: Calling AICHR to release ASEAN Human Rights Declaration, April 8, 2012: <http://www.forum-asia.org/?p=12451> and ASEAN Human Rights Declaration must not provide protections lower than international human rights law and standards, September 13, 2012: <http://www.forum-asia.org/?p=15320>

International Covenant on Civil and Political Rights (ICCPR). For this reason, in principle, we support ASEAN's efforts to develop a regional human rights declaration.

While part of the ASEAN Declaration adopted November 18 tracks the UDHR, we are deeply concerned that many of the ASEAN Declaration's principles and articles could weaken and erode universal human rights and fundamental freedoms as contained in the UDHR. Concerning aspects include: the use of the concept of "cultural relativism" to suggest that rights in the UDHR do not apply everywhere; stipulating that domestic laws can trump universal human rights; incomplete descriptions of rights that are memorialized elsewhere; introducing novel limits to rights; and language that could be read to suggest that individual rights are subject to group veto... (US State Department November 20, 2012).

One participant in the study was aware the EU and MSMs raised specific concerns to ASEAN about the draft of the Declaration over the summer months of 2012, and commented, 'but why didn't they say so publicly? It would have been perfectly legitimate. No matter how much private communication there was, if it's not public, there is no pressure. I don't understand why they won't do it public, because it is such a principled issue. It could have made a difference.'

5. TUNISIA

Tunisia is a North African country with a population of nearly 11 million people (98% Arabic). Tunisia has a transitional government currently mandated with the drafting of a new constitution. Demonstrations in Tunisia initiated the 'Arab Spring' uprisings, following the self-emulation of a 26-year-old street vendor protesting against the confiscation of his wares by municipal authorities in December 2010. This act became the catalyst for mass demonstrations and riots throughout Tunisia in protest to social and political problems country-wide. Through the popular revolution Tunisia peacefully deposed of President Zine El Abidine Ben Ali, whose dictatorship lasted for over two decades.

Tunisia held elections for a constitutional assembly in October 2011, which were generally considered to be free and fair, and the society enjoyed new liberties previously unknown under the old regime, in terms of freedom of the press, freedom of expression, freedom of assembly, and freedom of association. Exiled political and human rights activists returned to Tunisia, imprisoned political prisoners were released, and civil society and human rights activists pursued their work without government disruption or intimidation (US State Department Human Rights Report Tunisia, 2012).

Tunisia's coalition government made slow progress in drafting of a new Constitution throughout 2012. The transitional government showed serious schisms with political divisions widening, fueled by a growing movement of Islamic Salafists challenging the opening up of newly won liberties in the country. HRDs participating in this study were particularly concerned about how the Constitution will uphold UDHR principles and protecting the equal rights of women, and expressed concern about the rise of extremist Salafist movements throughout the country.

5.1 Views of human rights defenders in Tunis

HRDs taking part in the study described civil society as active, but scattered and loosely connected, with well-known HRD lawyers and NGO groups in Tunis being few, well-linked with the diplomatic community. Some of these well-established HRD groups, such as the Tunisian Association of Democratic Women (ATFD) established in 1989, and the Tunisian Human Rights League (LTDH) established in 1977, worked throughout the Ben Ali period, and have established networks and offices throughout the Tunisia provinces.

Although civil society networks exist, HRDs described the country as split between a small network of actors in Tunis, and the large number of new HRD groups also active in Tunis, other cities and remote rural areas of Tunisia. While some of the well-established HRDs had been working for many years openly under the Ben Ali regime, there are some NGOs that necessarily established themselves underground during the pre-revolution period, and arose post-revolution with structures in place for expanding their work remit. New HRD groups are also quickly establishing themselves and there were no reported problems with registration of organisations in post-revolution Tunisia, according to the HRDs interviewed.

Some HRDs described civil society groups in the outer regions of Tunisia as strongly linked to political parties, where other HRDs recognised many new NGOs organising with no political links. There was unanimous concern amongst participants that WHRDs working in remote areas were particularly vulnerable, recognising more WHRDs are actively taking up social and economic rights, responding to problems escalating in Tunisia's outlying areas.

All HRDs interviewed saw a rise of violence against HRDs, with most highlighting concern that individuals identifying with the Salafist movement have been intimidating, harassing and threatening HRDs groups and individuals. They recognised Salafist-identified associations, thought mainly to be funded by the Gulf States, as forming a new civil society dimension, with their human rights framework based on Islamic law and not universal human rights conventions. The UNSR on HRDs and the African SR on HRDs visited Tunisia together in September – October 2012 and voiced their concern about Salafists' threats to HRDs:

We are concerned that women human rights defenders, journalists, artists, academics, trade unionists and members of non-governmental organisations have faced physical attacks, murder attempts, harassment and threats since the Revolution in different parts of the country. The perpetrators are in many cases conservative Islamists, commonly known in the region as Salafists. There is a reported lack of responsiveness from the police in these cases, which is underlined by the fact that citizens appear to have little confidence in the police and its ability to protect them from violations.⁵⁹

Police abuse was recognised as greatly reduced since the pre-revolutionary period by HRD participants, however, attacks and intimidation by non-state actors was significantly on the rise and police investigations were lax or unresponsive. There was concern that police only take up cases against critics of the government. There was also concern that WHRDs working in the South of Tunisia were particularly at risk.

One HRD felt that well-known and established HRDs are most at risk, but recognised new groups establishing themselves will need better links to means of protection:

In Tunisia when we talk about civil society and HRDs we might have a holistic approach: it is civil society, it is associations, it is lawyers, and media, and sometimes the labour unions, I think you are following that labour unions are politicized here. So all of these (groups) are potential victims of abuse as HRDs, because media people protecting our rights of freedom of information, associations are protecting freedom of assembly and beyond, and lawyers, they

⁵⁹ See the joint statement by the United Nations Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya and the Special Rapporteur on human rights defenders of the African Commission on Human and People's rights, Reine Alapini-Gansou, at the end of their visit to Tunisia (27 September - 5 October 2012), and UN Human Rights Council, Report of the Special Rapporteur on the situation of human rights defenders: Addendum, Mission to Tunisia , 25 January 2013; both available at: www.ohchr.org

have always been at the first front here in Tunisia, these are the people, since they are at the first front of human rights, they are at the first front of abuse. But you also have some other people that are less structured, for example the victims of the revolution, some of them are organized into groups, but this is not the regular civil society that is connected to the outside world, to EU institutions, these are just groups of people working close to the victims, before the revolution they had no connection with the public sphere and these [HRDs] now face the repression.

Only one HRD interviewed had knowledge of the Guidelines' content. There was an interest to have the Guidelines disseminated to HRDs outside Tunis, to give HRDs an understanding of the EU's commitment to provide support and protection to them. One participant felt strongly that EU diplomats should be visiting remote areas more, stating there is not any real understanding of the wider HRD community (and their needs) by most EU diplomats. This HRD felt greater breadth of understanding of HRD problems would give a much better understanding of the political stakes involved in Tunisia's transition to democracy. There was concern that knowing how to manage the democratic process was the biggest challenge to Tunisia, and HRD communities throughout Tunisia should be included in the democracy building process. The diplomatic community needed to see the link of HRDs to the political process.

Some HRDs working in Tunis felt the civil society community had a privileged class, and not all had access to contribute meaningfully to the democratic process. There was concern on the part of those not as engaged that the HRD community was narrowly represented and limited in giving consultation to the government, the EUD and MSM diplomats.

Most HRDs felt the EUD could do more to support their work and legitimate standing with the current institution building process. One HRD felt different standards were applied to HRDs by different MSMs, 'there is a problem, I think that the EU is not homogenous on human rights here, they do not all have the same position, there are some countries that support HRDs and some others that don't support us...'

One HRD gave specific reference to their work toward strengthening Tunisian CEDAW commitments, and their call for EU support to voice their concerns with both the government and the UN:

...the Tunisian government commits itself to respect human rights and fundamental liberties and now Tunisia is going to have the status of an advanced state despite the fact that we have massive violations of human rights and particularly women's rights. If you have a look at the project of the new constitution, you will see there are a lot of backward steps concerning women's rights, we had to demonstrate against concepts like *complementarity* that they wanted to integrate in the constitution...but I am not sure that we have won the battles.

In our association at least, we are really working a lot, making a lot of efforts concerning the reservations of Tunisia against CEDAW, and we have demonstrated and protested in front of the Prime Ministry after the revolution to ask to lift these reservations, but they lifted specific reservations and maintained the general reservations, which says that the Tunisian state will not make any decisions that will oppose Article 1 of the Constitution which is actually about religion. Normally, when they lift reservations they must notify the General Secretariat of the UN but they haven't done it. We asked people from EU when attending a meeting with our association, with members of the EU who are in charge of Tunisia in Brussels, we asked them to ask the Tunisian government to at least notify the General Secretariat of the UN, but nothing has been done so far. And I think there is a lot of re-questioning of women's rights.

There is a strong link to the Guidelines here, because when there is a violation of human rights we are going to have problems, because in the field this is how things happen. This is why I am

talking about our status as HRDs which is linked to the whole spirit...when there are cases of violations of human rights, the first people to be attacked are the defenders of those rights.

Some HRD participants took part in the EUD consultation for the recent drafting of the HRCS in Tunisia. One HRD was particularly concerned that the EUD did not have a committed interest in civil society contributions to a human rights strategy:

The consultation with civil society has been absent on the part of the Tunisian government and very delayed on the part of the EU. The EU (human rights) strategy, two or three days before finalising they have started inviting people, to ask them to come forward and participate in this session, so we understood that that was not really serious, they prepared everything already and then they invited people at the last minute to ask them what they thought about that. There are many aspects that we can discuss, aspects of financial support and political support, personally I prefer to have a more global look, if there is a real strategy of collaboration, of cooperation with the civil society components...sincerely I don't see a strategy.

Another HRD taking part in the HRCS consultation stated that it was a positive thing to bring civil society representatives together at the table, although it was a small group of HRDs. They felt it would be difficult to make it more inclusive due to the vast numbers of CSO groups in Tunisia.

All HRDs participating in the study received partial EU or MSM funding. One HRD found that EU and MSM collaborating to improve the outreach of funding to HRDs in outlying regions, but more efforts were needed. Many HRD participants structured their funding support to receive only small contributions from a number of different funders. Some HRDs mentioned this is a practice that came from working in the pre-revolution times, and felt it important not to be too closely aligned with any particular country or donor (some commented on their pre-revolution experiences of being targeted by the former regime for being 'in the pockets of western countries').

EIDHR funding procedures were criticised on the bases that under-staffed HRD groups do not have equal access to EU funding, due to the amount of time and work needed in the application process. One HRD commented, 'the EU delegation is doing what they can but the EU is a huge machine, the machine is bigger than the capacity of NGOs. Here in this office we decided not to run for EU funding. It takes too much effort and resources, compared to any other funder, this is too heavy.'

Many of the HRD participants had little interaction with specific MSM diplomats in embassies, but work through EU countries cooperative assistance or with particular development organisations.

General comments on MSM support to HRDs noted the long-established relationship with French institutions supporting HRDs. There was also mention that the Netherlands and Spain had been very supportive, the German government was a significant funder of HRD activities, and the Finnish and other Scandinavian countries were recently trying to help HRDs in Tunisia (both through funding and in supporting their 'fought for' human rights principles). The British government was mentioned as recently opening up its support to HRD activities and the Italian government was also mentioned as taking recent notice to assist HRDs. Of Eastern European countries, Poland and Romania were mentioned, and were described as 'new to their roles' as EU partners and did not have funding streams as donors, but have shown their support to HRDs through direct consultations and other activities.

Protection measures or mechanisms for protection were not considered by most HRDs. Most HRDs said they confided feelings of risk to friends and/or family members. Some said they would report serious aggression to the police, or perhaps raise problems through NGOs or report to the media. EUD or MSM specific actions toward HRD security were not known of by HRDs interviewed.

Some Tunis-based HRDs knew of other mechanisms for their protection, mostly by way of relationship with INGOs they work with, such as EUROMED⁶⁰ and FIDH. Only one HRD knew of the protection measures suggested in the Guidelines, or of EU funding assistance in this area, and most HRDs said they had not considered consulting an EU embassy or the EUD for protection.

One HRD was concerned that HRDs working in remote areas may be in a more vulnerable situation than the ones in Tunis:

...because being in the capital even when there are violations or aggressions the reaction is more immediate, is very quick, we can react, because of the network and because of the media. Being close, in hold of many mechanisms to react back, whereas those in remote areas things are slow and the risk is higher, to guarantee media attention of the aggression and of the violation, or to be able to face the aggression, you need to be in close contact with the capital.

Some HRDs were aware of the EU and MSMs monitoring trials and making prison visits to HRDs in the past, but were not in a position to comment on the impact.

All HRDs were concerned about the deteriorating security environment for HRDs and many had experienced harassment since Arab Spring. The current concerns were linked to a notable increase of violence in society and increased attacks by non-state actors against HRDs. One HRD explained why they felt targeted:

All the defamation, complaints against HRDs are based mainly on three or four major points: we are immoral, because we are defending homosexual liberties, we are pro-homosexual marriages and unions; we are said to be atheist because we are against the implementation of Sharia in the laws; and we are looking forward to the implementation of universal human rights, whereas these human rights are not adapted to our religion and to our Sharia; and we are even said to be pro-colonialism, as we are westernizing the Tunisian society...

HRDs are concerned that aggression from political factions against HRDs will continue with impunity, one HRD stated:

...because of this, mainly in the regions afterwards, when we started organizing the first demonstrations to protect our rights we were also aggressed by the Islamists themselves, and even though this happens the government doesn't say anything, they do not directly aggress us or intervene directly, there are *committees of the protection of the revolution* that sprung up from nowhere and through the Salafists they get to us, these are practices on a daily basis.

A press conference was held by civil society representatives in Tunisia on November 27, 2012 to address their concerns about 'politically-motivated aggressions and the rise in radicalism.' In the press conference, HRDs discussed the dangers of violence becoming institutionalised through the 'practices of the so-called Revolution Protection Committees that have turned into a parallel security and judicial structure that selects offenders, passes judgments against them, and then moves on to punish and cleanse them.' The CSOs called for 'Tunisian authorities to take the necessary measures to stop these practices and facilitate the work of independent and neutral investigation committees, when and if

⁶⁰ Euro-Mediterranean Foundation of Support to Human Rights Defenders (EMHRF) was referred to as EUROMED by a number of Tunisian HRDs. This is a regional NGO based in Tunis that offers support and protection to HRDs. For more information see: <http://www.euromedalex.org/funding/euro-mediterranean-foundation-support-human-rights-defenders-emhrf>

necessary, to highlight these violations, determine who is responsible, and punish them' (Magharebia, 2012).⁶¹

WHRD participants were concerned that women new to HRD work are a particular target, 'this is a patriarchal society, don't forget that, there are women activists in the field of human rights who are aggressed, they work a lot, they never let go of their work, but in general the Tunisian society is very conservative type of society, we do not have many women who react against such violations...this is dangerous.'

One WHRD spoke of her past experiences of aggression and how she copes:

Sometimes I personally inform associations, my friends, but not necessarily the EU itself, but yes, they (the EU) were informed about the attacks... what I want to say is that before I never felt obliged to carry...to take measures...I was never obliged to carry gas in my bag, now I have to carry such things with me in my bag, this is what I was talking about 'the management of fear,'...so this feeling has started really getting deeper in me, I refuse to admit but this feeling is there is deep inside, nowadays the difference with whatever was happening in the former regime is that, we are no longer able to identify the type of aggression and the perpetrator whereas in the past we knew...but we are learning to live like this... it is becoming systematic, and I am not talking only about myself, I am sharing this because there are people who are like me, in my position.

As mentioned previously in this chapter, not all HRD participants had strong links with the EUD or MSMs, and some of these HRDs suggested how the EU missions might strengthen their support to HRDs. They advocated for more information about the Guidelines, and gave reasons why it must be widely circulated. These are their comments:

- 'if there are European Guidelines ...people should know about them, I consider myself as not very informed, but I am aware of these dynamics and I am not aware of everything specific, maybe do something and spread the word, EU or countries individually do things to protect HRDs...let's spread the word, let's advertise it';
- '...in this case the EU should organize something to explain and to inform, to disseminate the information...this is only a proposition, disseminate the information and organize something to tell people about their support to defenders';
- 'maybe some people would see it not very much relevant in today's Tunisia, because they think maybe we do not encounter these risks, but to my opinion the risk is there, as long as we don't have the institutional framework that helps us facing the machine, the risk is there';
- 'if the EU has some common strategies with the missions or whatever, is maybe some form of coordination in supporting HR groups...because the better coordination you have the less, I don't want to use the word but, the less *kinship* gets into this dynamic';
- 'all HRD organisations and the associations have to be informed about all this existing directly, what we are talking about... to try to disseminate in maximum ways, I mean, the (Guidelines) information, this is very important because presently the human rights activists of Tunisia in general do have some sort of access to internet, they try to follow what is happening';

⁶¹ Civil society in Tunisia discuss politically-motivated aggressions and the rise in radicalism at a press conference in Tunis 27 November 2012, see: http://magharebia.com/cocoon/awi/xhtml1/en_GB/features/awi/features/2012/11/27/feature-03

- ‘embassies should foster somehow or help foster better dialogue between different actors, civil society and political society, that would help us’;
- ‘yes, the role they can play, the embassies and the EU... not they can, but they must have a role - but with the government, instead of giving them the status of privileged member, let’s oblige them at least to respect their commitments’.

5.2 Views of EU diplomats in Tunis

There are 17 fully-fledged EU embassies in Tunisia. The EUD in Tunisia is staffed with 50 people, of whom 23 are expatriate diplomats. The EUD has a Focal Point for Human Rights and Civil Society who is responsible as the EU liaison with HRDs.

Many diplomats taking part in this study have been working in Tunisia before the political transition in 2011. The EU had a specific strategy for HRDs in pre-revolution Tunisia, and many diplomats described MSM engagement with HRDs during the pre-revolution period as frequent and of a much higher priority than in the current situation. Diplomats felt attention to HRDs was critical under the Ben Ali regime, and some diplomats had weekly meetings with members of long-standing human rights groups. These meetings needed authorisation by the Ben Ali Government and diplomatic activities with HRDs were under close scrutiny at that time.

Since 2011, both the nature of HRD meetings and diplomatic focus on HRDs has changed. Many diplomats described the civil society of Tunisia today as being open and free, and did not feel there was a need to give the same attention to HRDs as in pre-revolution times. The EUD and MSMs participating in the study described their missions as having ‘open-door’ policies for engaging with HRDs.

Most MSMs were focused on instability in the current political process, and some were concerned about the impact on HRDs. HRDs working in regions outside Tunis were not well known by diplomats in the capital, and it was recognised that civil society networks were loosely woven between Tunis and the outlying areas. Some diplomats did not know of specific risks to HRDs working in post-revolution Tunis, but did perceive there could be risks to HRDs working in the outlying regions. Some diplomats noted journalists, lawyers and trade union representatives as the most predominant HRD groups in Tunis, with smaller associations working outside of the capital, and large numbers of new NGOs registering throughout the country.

Diplomats recognised a few long-standing human rights organisations (from the pre-revolution period) based in Tunis as leading the human rights debate for the drafting of the Constitution, and described these HRDs as having popular support from a majority of the public. It was noted by some diplomats that some HRDs are working in consultation with the transitional government, but their positions are at odds with the Islamic-leaning members of the coalition government, ‘they are at the table, but that does not mean their concerns are being acted on.’

There were no HRD specific cases of concern mentioned by diplomats. No current cases of HRDs in prison were mentioned. Torture used in places of detention is still reported to be a common practice in Tunisia and an area of current concern to the UN (UNSR on Torture, 2012).⁶²

One diplomat interviewed did not see HRDs in any danger in their practice or in need of security considerations since the revolution. However, this diplomat did note the situation outside Tunis may be different. Another MSM diplomat made frequent trips outside the capital, and had particular concerns

⁶² See report of the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment: mission to Tunisia, UN Human Rights Council: 2 February 2012

for women, and WHRDs, who have reported intimidation, harassment and attacks from unidentified non-state actors in the smaller towns of Tunisia. The rise of Salafist extremism was mentioned by a number of diplomats as of concern, with patriarchal controls toward women in the outer regions of Tunisia considered most threatening to WHRDs.

One diplomat commented:

We should not be happy with the situation, we are happy the freedom is there, especially the freedom of expression, but on the other hand we see these Salafists and maybe police forces behaving in the old way, so I think we should continue to follow the situation and if need be take up these issues with the authorities. I don't think we should come out with declarations I think it should be very settled and handled in a careful way, we have these instruments of dialogues we are here as privileged observers.

For those diplomats that had relations and engaged with HRDs during the Ben Ali regime, there was some concern that the new emerging HRD groups and individuals were less known to them, and although many groups are coming forward through project partnerships, it was felt by some diplomats that HRDs could also make themselves known to diplomats and request to meet with MSMs, if they feel comfortable to do so, 'they are visible in the newspapers, but they are not visible to us in reaching out and asking for anything. So it would help if they did do that, because then maybe on our side there would be more awareness, if they need some kind of help.'

The EUD shared information on a new programme expected to start in December 2012 on the enhancement of civil society work with Tunisian authorities, with an investment of seven million Euros to finance a programme for CSO capacity building. Bi-lateral funding streams from some MSMs have increased support civil society activities since the Arab Spring. Diplomats identified the Netherlands, Nordic countries, France, Germany, Spain and the UK as being consistent supporters of CSO projects. Finland has prioritised women's rights and support to WHRDs in its bilateral project funding, and as the only fully-fledged Nordic embassy in Tunisia, Finland also represents other Nordic countries' support for civil society project initiatives.

One MSM diplomat was concerned that EIDHR funding streams are not having the impact intended due to the complicated nature of the application and funding process. They observed more NGOs dropping out of responding to EDIHR calls for projects due to the heavy process involved. One suggestion to change the current approach was to have bilateral MSM funding for start-up of projects, and then hand over the continuation of funding to the EIDHR, implementing this method through a more systematic approach. This would 'lighten' the process for HRDs and civil society in their initial application and work with MSMs, making the process more available and inclusive to HRDs, and providing the EIDHR with a means to monitoring the project together with MSMs.

Another suggestion from diplomats for a more cohesive EU approach was to consider thematic areas where a number of countries in the Arab region could be sharing best (and problematic) practices toward achieving shared human rights aims. It was noted that Turkey, Egypt and Tunisia are all wrestling with similar problems around political transition, human rights approaches and constitution-building, and the EU could be better involved in supporting regional meeting amongst HRDs to ensure shared learning.

A number of diplomats referred to the importance of parliamentarians taking a greater role in the EUD country strategy. EUP and MS parliamentary visits were noted as a very successful way of engaging with HRDs and asking tough questions that brings the issues of civil society to the forefront. Bringing Tunisian and European parliamentarians together to reflect and discuss constructive ways toward a human rights based approach to parliamentary work was advocated by the Romanian embassy, and

the Finnish embassy described a programme they are implementing with the Netherlands to engage young Tunisian politicians/parliamentarians through visits between the countries. One example from this project was young Tunisian politicians observing elections in Finland. A number of diplomats suggested that European states could do more to strengthen parliamentary relationships and exchanges between the EU and third countries.

Whereas it was clear that some EU countries mainstreamed HRD concerns in their work and incorporated the Guidelines and their own more elaborated MoFA human rights action plans into their political requirements and practices, others did not find HRDs factoring very highly in their diplomatic mission work. One diplomat had noted the EUD had a human rights working group following the regular political counsellor meetings, but the human rights meetings had been dropped off the agenda during the summer of 2012. Most MSMs attended monthly political meetings with the EUD, and some diplomats attended less frequently.

The EUD reports scheduling human rights meetings twice a year with all MSMs, and has regular monthly meetings with political sections of MSMs that include discussion human rights and HRD-related issues.

Collaboration between MSMs and the EUD on drafting the HRCS and holding HRD consultations was described as a disjointed exercise by a number of participants. One diplomat described their participation in the drafting of the HRCS as 'being called on too late in the drafting process,' another knew of the process but was not aware of the content, another found the section on HRDs to be surprisingly minimal, and another found the organisation of bringing MSMs together to discuss strategy needed improvements, stating, 'I think it is more a question of organisation and a difficulty to really put in action and in place the right kind of approach, and of course we can help...MS delegations...'

There was concern that the HRCS was not a genuine EU commitment and was tasked as more of a box-ticking exercise, but it was also noted that the EU was under-resourced and had lately been involved in large projects taking up time and resources of the small delegation. Other diplomats saw the human rights capacity as relatively large at the EUD, and relied on the EUD for directing such human rights joint actions.

The Guidelines were not elaborated on in discussion of the HRCS, but the EUD noted there was a chapter given to HRDs in the strategy. There was openness by the EUD to train or discuss the Guidelines with HRDs, though most EU trainings thus far with HRDs had been focused on capacity building and education in thematic human rights areas. There was a perception by the EUD that many HRDs were aware of the Guidelines.

The EUD discussed the criticism HRDs voiced of the HRCS consultation process, recognising civil society should have been brought into the discussions sooner, as there was not much space given for their engagement with the strategy process. The EUD stated that although the delegation was working hard on HRD issues, they could do better.

Human rights concerns were raised regularly by the EUD in meetings with the Tunisian Government. The EUD felt some Government Ministries were listening and responding to civil society statements. The EUD noted the Ministry of Human Rights consults with civil society and has dedicated rooms in the Ministry to CSO consultations.

The EUD are not engaging in prison visits and there was not a present need for trial monitoring (no HRD cases were reported). There had not been a request from any HRDs for the small grant initiative emergency funding.

The EUD reported on a recent consultation meeting with over 100 CSOs contributing to a '5-year political plan for EU-Tunisia.' The EUD did feel more could be done on their part to coordinate efforts between HRDs and the Tunisian Government – and the EUD could, in the future, possibly facilitate this engagement.

5.3 Note on the assassination of Chokri Belaid

On February 6, 2013 Chokri Belaid, a prominent opposition party secularist and human rights lawyer was killed by gunmen outside his home, placing Tunisia's political direction in turmoil. Before his death, Chokri reported his house was broken into and his wife and a number of his friends and associates confirmed that he had previously received death threats. The week before his death, Tunisian news reports circulated about a group of Salafists calling for his assassination. The day before his assassination, Chokri Belaid called for a national dialogue to discuss violence, urging the government to take action against outlawed groups, which were targeting freedoms in the country (Cafe Thawra, 2013).⁶³

Chokri Belaid's assassination is a significant turning point in Tunisia's transition to democracy, and draws attention to the need for HRDs in Tunisia to reassess the inherent security risks of their work. Diplomats in Tunisia may reassess the need for stepped up support to HRDs in Tunisia, and whether an EU concerted effort has been made toward effective implementation of the Guidelines, and where those efforts may need to be elaborated.

The inclusion of information in this report on the assassination of Chokri Belaid is a tragedy that followed this research study, as the gathering of information from the research participants was completed seven weeks prior to Chokri's assassination. Chokri Belaid's death is noted here and in the acknowledgement, as Tunisian political and human rights commentators have marked this event as deeply crippling to the political process taking place in Tunisia.⁶⁴

6. CONCLUSIONS

Participants in this study have shared their views and given examples of good practice and gaps in the support and protection of HRDs. A number of suggestions have been made throughout this study to improve awareness of, and the effective implementation of, the Guidelines. This chapter of the study draws on evidence and insights from the research, in order to propose ways of advancing effective implementation of the Guidelines further. The points raised in the conclusions may be relevant to a wide range of stakeholders. This chapter includes areas of broad consensus, suggestions for integrating the Guidelines in HRCs, updating the Guidelines to secure HRD commitments and areas to consider for future research.

⁶³ See Cafe Thawra web publications for this story and other political news from Tunisia:

<http://cafethawrarevolution.wordpress.com/2013/02/08/tunisia-what-next-after-choukri-belaid-assassination/>

⁶⁴ For brief description of Chokri Belaid, see article by Mohamed Salah-Omri, February 7, 2013: 'The Poet and Politician: Who was Chokri Belaid?' <http://thinkafricapress.com/tunisia/poet-and-politician-who-was-chokri-belaid> and for thoughts on the impact of Chokri Belaid's death, see article by Rom Bhandari, February 15, 2013: 'Experts Weekly: What Next for Tunisia?' <http://thinkafricapress.com/tunisia/experts-weekly-what-next-after-belaid-assassination> in Think African Press.

6.1 Areas of broad consensus

The following highlights persistent themes emerging in the research study.

6.1.1 A more considered and supported approach to HRD engagement is needed

HRD engagement varies across the countries studied. EU Member State missions (MSMs) work closely with EUDs to share responsibilities for engaging with HRDs in the capital of Kyrgyzstan, but evidence from the study indicates further support and consideration of approach is needed in Thailand, Tunisia, and outside of Bishkek.

While the appointment of focal points for human rights in EUDs has been a success, engagement with civil society in their work (from the perspective of some HRDs in this study) remains a work in progress. The appointment of HRD liaison officers in EUDs is a welcome and important commitment toward supporting HRDs. However, the time allowed for actually 'liaising with HRDs' in this newly appointed position appears to be undefined, and many HRDs did not know how to engage with their EU Liaison.

It is not clear how decisions are made about dedicating 'HRD liaison work' in each country, or what the job descriptions entail. Slotting HRD responsibilities in with a number of other responsibilities the diplomat has in their role in the delegation may leave 'HRD liaison work' minimised.

If only a small percentage of the diplomat's portfolio is devoted to work as an HRD liaison officer, there is the danger this role will be ineffective. The EU commitments to enhance engagement and actions with HRDs need to be realistic, and responsibilities for working with HRDs must be shared throughout missions. Although there are shared responsibilities across MSMs and the EUD political sections to actively engage with HRDs, many MSMs rely on the EUD to lead their HRD interventions, and for some, to provide their mission with information on HRDs. To be effective the HRD liaison officer position needs sufficient structure and support from colleagues and across MSMs.

Sharing time devoted to HRD engagement amongst diplomats in EUD and MSMs may be one way in which to expand the activities and achieve more effective implementation of the Guidelines. In Kyrgyzstan, the human rights focal point is situated at the EU delegation and the HRD liaison officer position is situated at the German Embassy. Both positions/missions are very active in leading activities with HRDs, and coordinate HRD actions with other colleagues across MSMs. Kyrgyzstan, a relatively small country with few MSMs on the ground, proved to be a best practice example of the effective sharing of work amongst EU Missions for support and protection to HRDs (primarily in the capital).

Many MSMs taking part in this study have their own Action Plans for interaction with HRDs. However some diplomats participating in the study are not aware of, or actively working with, these instruments or with the Guidelines. Although the Action Plans may, for example, be available on intranets of the Foreign Ministries, this does not guarantee they will be accessed by relevant staff. If diplomats are not aware of the existence of human rights guidelines, or are not particularly interested in human rights, they will not look for them. Institutional structures should consider making implementation of the Action Plans, and the Guidelines, more effective by creating mandatory trainings, or other internal actions, that increasing attention on and support and protection for HRDs.

Suggestions have been made to prioritise support to HRDs as a mandatory requirement in field missions – one proposal put forward by a Senior EU diplomat at the 2009 Conference for Support and Protection of HRDs is to make implementation of the Guidelines part of foreign-service job descriptions and criteria for career advancement. Such actions should be seriously considered as part of the new EU external relations policy and in MSM commitments to implementation of the Guidelines.

Some diplomats minimised the need for engagement with HRDs, stating HRDs no longer need protection or support for their empowerment in a country that has 'democratised,' in other words, that

HRD support and protection has been achieved through the democratisation process. Some participants in Thailand, Tunisia, and Kyrgyzstan described the situation for HRDs as 'comparatively' better in these countries than in the neighbouring countries of these regions. A comparatively better situation should not justify any less vigilance to the commitment to engage and support HRDs in these countries. As the case studies and testimonies from HRDs reveal in this study, there are HRDs in these countries who are victims of criminalisation, harassment, threats and fear of reprisals, arbitrary detention, torture, unfair trials, and even death. There are a number of statements from HRDs that indicated their security would benefit from improved relations with EUDs and MSMs.

Most diplomats expressed a clear commitment, need, and interest to work with HRDs in the existing political transition processes. Where diplomats had opinions to the contrary, this could impact on the missions' support for civil society engagement in the host country, and with the EU's work with HRDs, including the role of HRDs in the HRCS process. A more considered approach is needed across MSMs to seek a united European position that HRDs are an integral part of democracy building.

6.1.2 Many HRDs do not understand how to engage with the EU

European diplomats do acknowledged their openness to engage with HRDs and most emphasise having an 'open door' policy to the HRD community. In spite of this opportunity, engagement was limited in all three countries to 'well-networked' HRDs, mostly based in capitals. The 'open door' policy is a very positive aspect of the EU potential for HRD engagement, but in practice it is not used by a significant number of HRDs contributing to this study. This 'open door' policy should be consistent and made known to all HRDs, not to 'open up the flood gates', but to allow HRDs opportunities to raise important human rights problems or security concerns with EU diplomats.

The limited dissemination of the Guidelines to HRDs has hindered progress with HRD engagement. Of HRDs that have read the Guidelines, some have questions as to how to engage with the type of support envisaged for them in the Guidelines. For example, many HRDs do not know of the EU Liaison Officer to HRDs, and many do not know they can call on EU embassies for support or protection (other than for project funding support).

HRDs have a responsibility for their own welfare and to voice their security/protection needs. 'Open doors' do not mean that HRDs will regularly call on EU missions or visit embassies, but this is an important message from EU countries of their intention to engage and receive HRDs. HRDs have their own travel and time restrictions that inhibit opportunities to 'call on' embassies or EUDs. HRDs may have fear of reprisals if they are seen visiting embassies, and they may have inhibitions to make contacts with diplomats, in a 'world' they are unfamiliar with or uncomfortable in. There may also be language barriers.

HRDs need to take initiatives and communicate their needs to trusted networks. Many organisations in these networks may already liaise with EU counterparts. Some HRDs are better connected with INGOs and the UN, and this may be the best means for them to access EU diplomats. However, understanding the level of EU commitment to the welfare and security of HRDs may be essential knowledge and gives support to many HRDs working in fear or isolation.

The EU should consider a systemised means to disseminate the Guidelines including pro-active dissemination of EU Liaison Officer's contact details to a wider circle of HRDs (this information could be disseminated with the Guidelines).

HRDs also need to take initiative, and should consider organising a meeting with EU representatives to understand what effective measures could be taken through implementation of the Guidelines to provide support in their areas of concern.

6.1.3 Strategies toward HRD security show both good practice and need for improvement

The research has revealed that there are effective preventive strategies and actions taken by the EU and MSMs toward the security of HRDs. Good practices include:

- Accompanying HRDs to airports to ensure security;
- Monitoring HRD hearings and trials;
- Support to HRDs in emergency situations;
- Support to HRDs needing respite;
- Developing HRD legitimacy with NHRIs and state bodies;
- Challenging laws that criminalise HRDs;
- Developing European diplomats outreach to HRDs;
- Support for HRD protection networks;
- Requests to state authorities for information on HRD cases of serious concern;
- ‘Quiet diplomacy.’

All of these practices contribute to the well-being and security of HRDs. Measuring the impact of these strategies is easier in some situations, and more difficult in others. The HRD community in all three countries covered by this study see these interventions and processes as important and often life-saving. Participants also recognise that specific actions are not always favourable for the protection of HRDs in all cases.

From data collected in this study, the monitoring of HRD hearings and trials was well coordinated by EUDs and MSMs in Thailand and Kyrgyzstan. Participants in the study noted best practices important to the trial monitoring process, and would like to see these practiced on a systematic basis:

- Diplomatic missions registering official notification to attend a hearing or trial;
- Senior diplomats should attend, as this shows a level of concern about a case;
- Consistency in diplomats monitoring hearings/trials throughout the process (sharing this responsibility across missions has proven to be successful);
- Increased numbers of diplomats attending the most important trials shows greater level of concern;
- Trials in outlying areas to be monitored by diplomats. Even if the above attention cannot be given, participants believe diplomats attending hearings in remote areas would give a message that the position of HRDs in outlying areas is also being monitored, and that they must have a fair trial;
- Diplomatic missions taking action when abuses, security risks, irregularities or human rights violations are evident against HRDs, or their families.

There were suggestions for improvement of actions noted by participants in the study. The use of public declarations was criticised in some instances as being reactive rather than pre-emptive. There was concern that diplomats often respond after HRDs are sentenced - that interventions do not often happen prior to a *fait accompli* situation. There was also criticism of a ‘weak’ EU public declaration response to what could strengthen the ASEAN Human Rights Declaration. There was concern noted from a few participants that the issuing of ‘weak’ statements may send a message that the EU is either

too pressured to respond, or does not care. Participants stressed that EU public declarations should articulate concerns about violations with more detailed reference to the law or specific human rights framework.

A participant in the study recognised the complexity of the EU public declaration process needing all Member State signatures, which is a difficult process that can result in watering down the message. It was suggested in some situations the EU may be best to refrain from making a statement where Member State 'buy-in' is weak, and choose a different means of intervention. When *démarches* and declarations fail, other tactics should be considered to prevent further human rights violations or worsening of a situation.

One participant in the study suggested diplomatic public statements in some situations may be more effective if the EUD in-country takes the lead, or that perhaps a non-EU member country should take the lead. Non-EU countries might be consulted by EUD and MSMs on the appropriateness and usefulness of their issuing public statements in a given situation, with consideration of regional and cultural ties to the mission country. Non-EU countries may have equal concerns to take an urgent stand, and may be better positioned within the host country to make a difference through a *démarche* or public statement.

Risk prevention strategies for HRDs and providing HRDs support for managing their security is an area where the EU has committed attention. Tools and actions for mitigating risks for HRDs should be flexible and creative, and HRDs may have ideas and contributions to make on this, which could be incorporated the HRCS process.

6.1.4 There are challenges in effective outreach to HRDs in remote areas

European funding streams have been effective in supporting the work of HRDs in each of the three countries studied. However, diplomats and HRDs have identified a number of factors impeding projects being submitted or supported in remote areas. These include: language barriers and knowledge skills needed for the complex project application process; lack of networks links to diplomats, INGOs and other HRD partnerships; limited information access and technology available; and the management of large grants is not possible or appropriate for many smaller organisations working in remote areas.

Many HRDs would like to consult diplomats and see them make more effort to visit remote areas and show their interest in the work of HRDs outside capitals. HRDs are concerned that those working in remote areas often do not know of funding available to support their human rights work from small funding streams available through MSMs or EUDs. Some HRDs thought diplomats pick and choose 'tried and trusted' HRDs to fund, and one HRD noted 'no new, creative voices will come from this process.'

Some HRDs in remote areas already receiving funding as recipients of larger projects, and suggested the local management of projects could be improved to have more impact. Project funding is often managed at the 'central' level by well-known or established NGOs or INGOs, and partnerships are then made with HRDs to implement projects in remote areas. There may be projects where impact and value for money can be better achieved in remote areas if efforts are made to identify leadership capacity in those remote areas. Other HRDs in remote areas have suggested more EU investment be made in training and skills building by 'central' partners and international educators to teach those working in remote areas how to meet European standards expected in project management.

Another suggestion to enable EU funding to reach remote areas was for MSM bi-lateral funding streams to initiate smaller projects that could later be matched with EIDHR funds, allowing an easier initial project application process for HRDs to be negotiated with an MSM on the ground. The EUD could

monitor the start-up of the project with the MSM, with the EU providing further funding for sustaining the activities beyond the initial start-up period.

HRDs in remote areas can gain from diplomatic visits. HRDs in remote areas often are taking great risks in their work due to isolation, with harassment and serious threats often not falling within the radar of supportive networks. EU representative visits offer HRDs personal engagement which can impact recognition of their work and legitimise their activities in what may be a hostile environment for human rights practice. This engagement can initiate supportive steps that help HRDs feel part of a larger network concerned for their wellbeing. Diplomatic visits need to be carefully planned for security reasons, and visits should be considered on a case by case basis. Monitoring trials of HRDs in areas outside of capital cities was a particular request from HRDs and INGOs, as this rarely happens and could make an impact on fair trial practice.

Best practice examples from other countries are useful in considering wider HRD outreach. One strategy introduced by a participant in this study is the 'parcelling out' of geographic areas by EU missions for engaging with HRDs and human rights situations outside of the capital. It was noted that Mexico and the Democratic Republic of Congo have engaged this strategy. Diplomats' outreach to HRDs can be achieved by designating each participating MSM to a specific geographic area, to increase the understanding of human rights situations across the country. This is a practical example of how the limited resources of diplomatic missions (see 6.1.1.) can be managed to effectively implement outreach to HRDs in remote areas through sharing responsibilities and actions. There is a danger of geographic information remaining in 'silos' of each specific mission or with individual diplomats, if not documented and shared with colleagues (across thematic sections, the larger diplomatic community and with other relevant inter-locators). This 'bringing together' of information from each MSM to form a coherent understanding of HRDs (and to consider appropriate strategies based on this collective knowledge) could be led by the Human Rights Focal Point/HRD Liaison Officer in the mission country.

These best practices indicate diplomats do find value in understanding HRD situations first hand. Most participants in this study found direct contact with HRDs important, in addition to relying on INGOs and the UN OHCHR, which have more day to day interaction and breadth of knowledge of HRD situations in remote areas.

It is also useful for parliamentarians to understand the effectiveness of EU missions work with HRDs by hearing from HRDs directly. Most diplomats and some HRDs referred to parliamentary visits as a means of further facilitating EU diplomats' engagement with HRDs in remote areas. When visiting parliamentarians (and also MOFA diplomats) request to meet HRDs outside the capital, EUD and MSMs make the time to travel to remote areas to engage with HRDs. EU and Member State parliamentarians often request to meet with HRDs, and although this should not be the only vehicle driving diplomats to take time to make such visits, it can be a very useful means for encouraging missions to encourage diplomats to engage outside of the capital and meet HRDs unknown to them.

6.1.5 Attention is needed to HRDs in countries with limited EU presence

Kyrgyzstan is a small country where many of the European embassies responsible for diplomatic relations with Kyrgyzstan reside in Kazakhstan and have limited engagement with implementation of the Guidelines in the country. The role of the EUD in Kyrgyzstan, in this context, provides an important point of contact for EU member states residing outside of the country. There are a number of third countries that do not have EUDs, and many that have limited EU MSM representation. HRDs in these countries, such as those in Bahrain and Iran, have little access to EU mechanisms inside the country. In such countries where critical human rights crisis situations continue to unfold, EU support and protection to HRDs is very important. The EU should consider a mechanism for outreach to civil society

and HRDs through its EU Member State missions, non-EU partnerships, UN and other interlocutors working in countries where there is no EUD presence.

6.1.6 Mainstreaming an HRBA approach is needed across mission sections

Few diplomats talked about taking a human rights-based approach (HRBA) to their work as an effective means of implementation of the Guidelines.⁶⁵ This is a missed opportunity for diplomatic missions when human rights defenders concerns cut across thematic areas of work. In this study, cross-cutting areas where HRDs were of concern were, for example, positions on legal and political reforms; business, trade and investment policies; security and defence contracting; development planning; and consular services for visas.

There were a number of human rights thematic areas that were not necessarily led by the political sections of missions, for example, trafficking in persons, migration issues and security and defence work was managed in other sections or departments of embassies. These embassy sections may not have as much interface with HRDs, however the work involved in these departments may often have cross-cutting impact or concerns for HRDs. The interaction between departments or sections, and the level of shared information on the Guidelines, was not researched in this study. However, participants did raise the issue of mainstreaming the Guidelines and HRBA approaches across sections, and how best to achieve this internally within missions.

Of those diplomats that were well-informed about the tools available for use within the Guidelines, many had also integrated their own MOFA human rights guidelines into their work. These diplomats appeared to have a good understanding of how to effectively manage approaches to support HRDs in their work, in spite of the inherent difficulties posed by the human rights challenges in the country, or challenges in specific situations relating to HRDs.

Diplomats who said they had prior knowledge of HRBA and/or prior experience in countries that more strictly implemented the Guidelines, felt more empowered through this knowledge and experience, which in turn helped them make better decisions in the interests of HRDs. They also felt knowledge of the Guidelines to be useful in a number of areas of work not typically considered human rights related areas, exercising the knowledge and the ability to analyse the cross-cutting impact of other diplomatic areas of concern on HRDs was viewed as helpful in their decision making.

Diplomats in this study were asked how their mission balanced support to HRDs and promoting human rights with other policy or project priorities. A number of diplomats considered balancing support to HRDs and promotion of human rights with their work in trade and investment. One participant stressed there needs to be an assumption, a mind-set in favour of supporting HRDs to see if, for instance, the corporate social responsibility (CSR) frameworks are helping. However, broad commitments to CSR should not be used as an excuse for avoiding more specific human rights commitments and the consideration of HRDs work in trade and investment policy.

In Thailand, diplomats and HRDs participants raised concerns about the security of environmental HRDs. One diplomat noted the balancing of HRD concerns for social, economic and cultural rights with local trade interests: 'it is very important to us, our companies are very much concerned about their corporate and social responsibility, they have actually been very instrumental in thinking and building up some sort of system and introducing this concept in Thailand...but of course there might be conflicts...you can think of the local contingencies...jobs versus environmental effects...we know that

⁶⁵ There are a number of UN publications on human rights based approaches to different thematic sectors. The UN Office of the High Commissioner for Human Rights has published a guidance on frequently asked questions to HRBA to development, available at: <http://www.ohchr.org/Documents/Publications/FAQen.pdf>

from here very well, I guess this is entirely normal. The big question is always how the local authorities react to the HRDs, and to dissent towards the decisions they are taking.'

On the fringes of discussions with participants was consideration of what actions can collectively be taken by diplomats to better integrate human rights and HRDs protection in the balancing of these other priorities. The difficulties in taking a collective EU approach was raised by one participant: 'Each embassy has a country plan which forms its mandate. This is the moment where support for HRDs has to be enshrined. Sometimes embassies have a strong economic focus and human rights disappear. Others lack capacity. This is hard to answer in the abstract. We resist the idea of 'balancing' – partly because I think human rights policy advances other areas of policy. But yes, there can be a perception that local support for HRDs can undermine other policy objectives. But I can't recall a 'hard' case where support for a HRD was balanced against other priorities. This would not usually be the case.'

Education (HRBA and ways of measuring impact) and coordination (sharing responsibilities) are key drivers toward better implementation of the Guidelines. Relying on diplomat's personal commitments to human rights and the 'balancing of priorities' with human rights agendas can be lessened when human rights-mainstreaming is systematically developed. One MoFA in this study suggests the creation and use indicators that are time bound in order to realise results. Good practices have the potential to be replicated and templates providing guidance on 'how to measure' specific good practice can be adapted across missions.

6.1.7 Mainstreaming human rights in training should include the Guidelines' recommendations

Mainstreaming human rights through mandatory trainings is an important component of EEAS human rights aims.⁶⁶ The longer term human rights strategic plan of the EU should give attention to appropriately-designed training to include the policy objectives of the Guidelines, as integral 'to have human rights running as a silver thread through a truly integrated range of external policies.'⁶⁷ This should also integrate UN development aims, which see the EU as a committed partner in the mainstreaming of human rights internally and externally (see COST Action recommendations, 2012)⁶⁸.

The mainstreaming of human rights and HRD-targeted approaches need to be complementary. Targeting HRD actions without mainstreaming human rights leads to short-term gains, and longer-term strategies may lack an underlying direction for real effective change, without deeper commitments that are sustainable. Mainstreaming of human rights may not be well understood or may be considered unnecessary by diplomats if it is not clear why it is important to the immediate work they are doing. Commitment to training is one means of discussing the intersections of human rights with other diplomatic priorities in the short and long term.

Current trainings available to diplomats on mainstreaming of human rights in their work are not inclusive of targeted approaches toward effective implementation of the Guidelines, according to evidence from the study. The EEAS should call on EU human rights focal points and liaison officers on HRDs to share their experiences, offering examples of practical approaches to mainstreaming human rights and practices that effectively impact HRDs.

⁶⁶ European Parliament (2009), 'Report on Human Rights Mainstreaming in the EU's External Relations.'

⁶⁷ EEAS, Catherine Ashton's communication, *Human Rights: the "silver thread" in Europe's foreign policy*, January 6, 2012: http://eeas.europa.eu/top_stories/2012/060112_hr_silverthread_en.htm

⁶⁸ COST Action IS0702 'The Role of the EU in UN Human Rights Reform' addresses the EU need for HRBA mainstreaming in development, which includes actions in outreach to CSOs. Recommendations 60 -64 are specifically to the EU, including the need for inward looking change to impact external human rights work.

Training by MOFAs that support both EU and internal human rights action plans were optional in some EU countries participating in this study. Even where EU Member States provide mandatory human rights training, it appears some diplomats have been left out, or personally are not committed, based on the responses given in this research. There needs to be fresh ideas and considered strategies for real mainstreaming of human rights approaches to foreign service work that includes an understanding of the Guidelines and diplomats role to support and protect HRDs as partners in democracy-building.

The content of the trainings proposed by EU and MOFAs should include an understanding of HRBA principles and how these can be applied to practical situations. HRDs should be considered in this process. In trainings, diplomats might be asked to incorporate the concepts into practical aspects of their work, addressing questions such as: What is a gendered approach to assessing the impact of a business plan? What indicators will help to assess this? At what stage in the project planning does this need to be considered? What is the impact on W/HRDs working within this area, and to what extent does this project need to be altered to protect human rights defenders? What are my responsibilities to apply this approach, and what are the responsibilities of the host country and non-state actors involved? HRBA principles must be understood, as well as the practical ways to engage with human rights problems, and should include consideration of those that impact on HRDs.

Practical and theory-based approaches also need to be incorporated in the planning and consultations of the new HRCSs. Training and guidance should be provided for ways in which to create HRBA approaches and indicators to measure impact in the HRCS process.

6.1.8 Gender-specific protection for HRDs needs more attention

The UN Special Rapporteur on Human Rights Defenders defines WHRDs as ‘everyone working for the protection and promotion of women’s rights, regardless of their sex.’⁶⁹ For the purposes of this study, however, WHRDs refers to women practising as defenders, who are working on women’s rights issues and other human rights problems.

Most participants were concerned WHRDs working in remote areas or working unregistered or outside established networks may not have access to security measures when needed. Patriarchal cultures in remote areas of all three countries posed specific risks to WHRDs, where they were often described as vulnerable, standing up to challenge power held predominantly by males in leadership positions.

There were concerns about sexual violence against women and intimidation of WHRDs by both state and non-state actors. Cultural stigma and clashes with Muslim-extremist attitudes posed threats to women in all three countries, including WHRDs working in isolated areas. LGBTI defenders were also highlighted in all three countries as a potentially vulnerable group at risk from many of the same actors.

Amnesty International and Peace Brigades International (PBI) held an international conference in London on the situation of WHRDs in October 2012, bringing HRDs, INGOs, academics, EEAS and UN OHCHR representatives together for discussion about effective strategies to support WHRD work. In Kyrgyzstan, LGBTI and women’s rights groups organised a conference to discuss their strategies for work on Women’s Human Right Defender Day, on November 30th. These actions addressed a number of important issues around WHRD issues, but did not engage mission diplomats in the meetings.

EUDs in each of the countries of the study are encouraged to organise a conference or roundtable with a wide number of representatives from the diplomatic and HRD communities to consider gender-specific protection for WHRDs and what the specific needs are in their mission countries. There are

⁶⁹ The UNSR on HRDs definition of WHRDs is noted in the UNSR on HRDs mission to Tunisia Report, 25 January 2013 (see section on situation of women human rights defenders in Tunisia).

recommendations available for gender-specific implementation of the Guidelines, produced by OMCT and endorsed by eleven INGO groups.⁷⁰

6.1.9 Emergency protection measures need to be better understood and more accessible

EU countries have in many instances provided emergency visas that have saved the lives of HRDs. Financial assistance for HRDs at high risk is made available through the EIDHR mechanism. There is a current EU initiative to create a more coordinated effort to provide emergency temporary relocation assistance to HRDs in need. The process for accessing emergency protection for HRDs is not well known or understood by a majority of diplomats and HRD participants in this study. Some HRDs are aware of access and assistance through their partnerships with the UN or INGOs on the ground. But as emphasised throughout this report, there remain many more HRDs, particularly in remote areas, who are not linked to support mechanisms or real protection networks to assist them when they are in trouble. There are assumptions that HRDs 'know what to do or who to call,' but in many instances HRDs do not know how to take appropriate security precautions. Diplomats should understand the process for accessing emergency visas when HRDs are at high risk.

Dissemination of the Guidelines, in a language understandable to HRDs, is one important way of disseminating knowledge about EU commitments to HRD protection. The creation of protection networks should also be considered in countries where HRDs are at high risk and are working in isolated areas. This has been successfully implemented in a number of regions with EIDHR funding, including the Horn of Africa and the South Caucasus. Training HRDs to better understand how to manage risk, and how to access emergency support if needed, is also necessary. The EIDHR funding mechanism can be applied to give assistance of this kind.

Many diplomats in this study were not aware of EU funding for HRDs at risk. EUDs should convene a briefing session annually to all MSMs in country to discuss the tools and processes available to protect HRDs, and how these mechanisms can be accessed by HRDs. When finalised, the details of the EU's 'temporary relocation initiative for HRDs' report should be disseminated in missions. EUDs should consider the utility of this scheme in their particular host country situations and discuss with their MSM counterparts.

6.1.10 Respite from human rights defence work should be supported by EU countries

When pressures are high, HRDs may temporarily discontinue their work on the ground to lessen their exposure to risk. Providing space for a 'cooling off period' can help an HRD avoid risk, and can also be a useful time for HRDs to reflect on directions in their work. Respite can be short breaks taken outside of one's town or village, or in another country.

There are a number of excellent ways in which EU states have supported HRDs taking time off for respite. There are visiting scholar programmes for professional HRDs, journalists, lawyers and NGO activists, and short visit opportunities to attend conferences and seminars in EU countries.

These initiatives could be encouraged in more institutions across Europe. HRDs should be actively supported in attending conferences and professional trainings, allowing for their professional development while taking a much needed break. The opportunity to meet with other HRDs, and UN and European Foreign Ministries, provides important information exchanges around mutual issues of human rights concern.

⁷⁰ See gender-specific implementation of the Guidelines at:

http://www.omct.org/files/2006/11/3790/gender_specific_recomm_for_eu_hrd_241106_eng.pdf

More universities could consider bespoke programmes for HRD study, such as the excellent HRD fellowship programme at the University of York in the UK. For HRDs who do not speak European languages, charities and other institutions might support work-study projects in the HRD's own language, and during this time they could also improve their skills in a European language.

One initiative could be to sponsor an HRD to work on a specific project with the institution, or focus on work important to their own (and their HRD colleagues') support and security. One HRD in this study took time out to write and publish a bespoke protection manual for HRDs in local languages in the situation of a specific locale. Creative ways to support the education of HRDs will strengthen the practice of human rights defence work, and can also encourage youth and young HRDs to build on their practice.

Parliamentarians have been very good advocates in supporting academic and learning opportunities in Europe for HRDs in need of respite. Many diplomats and HRDs in the study commented that parliamentary visits to the field gave them important opportunities to share information and to consider creative initiatives for work with their European counterparts.

One proposal from an HRD in this study is to make 2014, the 10th anniversary of the Guidelines, 'The Decade of HRDs' that could be endorsed by the EU and UN. It was suggested that this initiative could provide a framework for creating 'sister cities' internationally to support opportunities for HRD protection and the furthering of educational opportunities through short exchanges or visits.

6.2 Integrating the guidelines into human rights country strategies

The EU Human Rights Guidelines on HRDs have been revised in order to ensure more robust implementation. Yet four years after the revision of the Guidelines, knowledge of the Guidelines is still limited.

A number of participants interviewed were asked about their knowledge of the other seven EU human rights guidelines. The majority of participants had not read the other guidelines, of those that had read other EU human rights guidelines, the guidelines on torture and the death penalty were most frequently mentioned.

Knowledge of the HRD Guidelines varied greatly amongst the 41 field participants in this study.⁷¹ Of these 41 participants: 16 reported some knowledge of the contents of the Guidelines; 8 reported some familiarity with the Guidelines; 13 reported no prior knowledge of the Guidelines; and 4 did not comment (or information was not available from data).

⁷¹ Participants from Europe (EEAS, MoFA) were not included in this analysis. These figures have limited significance, but do demonstrate the knowledge of the Guidelines is very uneven amongst the research participants in Kyrgyzstan, Thailand and Tunisia.

Table 1: Participants' knowledge of the Guidelines in Kyrgyzstan, Thailand and Tunisia

Participants	knowledge of contents	some familiarity	no knowledge	no comment
Diplomats	5	6	5	3
HRDs	7	2	8	1
Other	4	0	0	0
Total	16	8	13	4

Diplomats (in MoFAs and missions), INGOs, and HRDs recognised there was little awareness of the specific content of the Guidelines amongst many diplomats. Diplomats in the study had no specific training provided in order to implement the Guidelines. A number of the missions reported that they were not necessarily following the specific recommendations in the Guidelines, but were 'doing these things anyway.'

This research indicates that some aspects of the Guidelines are being taken up by EU missions, and other areas remain less successfully implemented. Many diplomats in this study demonstrated an in-depth knowledge of the human rights situation in their respective missions. They spoke about examples of appropriate responses being taken, often with other MSMs and institutions, to improve the situation of HRDs in specific situations. Participants agreed, when made aware of the Guidelines and after reflecting on the policy document, the Guidelines do provide useful direction to improve their actions to support and protect HRDs, and recognised more could be done. Participants believed that for some diplomats, if they are not tasked to consider the Guidelines in their local missions, their attention is likely to be focused elsewhere.

HRDs and other participants were concerned that some of the work to support and protect HRDs often appears to be driven by particular individuals or small groups of 'rights friendly' missions, and in some cases, a single individual in a mission may be tasked with most of the human rights related work with little back up or systemised sharing of actions taken toward HRDs across EU missions.

Responses from participants in the study suggest that the policy strategies in the Guidelines are not included in the new HRCS. There is the option to include a chapter in the HRCS dedicated to HRDs. HRDs can also be included as cross-cutting in all areas of the HRCS, but it was not clear if this is left to individual missions to decide, or if the potential for this is to be directed by the EEAS. It was noted by one participant that the HRCS for Tunisia had a chapter on HRDs, but it was 'surprisingly small.' It appears that there is no requirement or even expectation to consider the Guidelines in the drafting of the HRCS. As the strategies are internal documents, the author did not have access to the strategies, and did not find any published guidance on implementing the strategies.

It is not clear why the HRCS process has yet to seize the opportunity to systematically improve knowledge of and dissemination of the Guidelines. As HRCSs are requested from EUDs and MSMs world-wide, it could be a great opportunity to improve knowledge of the Guidelines, and bring attention to HRDs into the HRCS process. The HRCS is now the new vehicle for ensuring human rights (and potentially HRD) planning is systematically taken up by all missions. By leaving the Guidelines out of the HRCS process, there is a danger that attention to HRDs will lessen, and the Guidelines as a policy tool may eventually become obsolete. The new HRCS process, by not integrating the Guidelines, and by not requesting a specific action be taken on strategies toward HRDs with reference to the Guidelines, puts consistent attention to implementation of the Guidelines at risk.

By imbedding the Guidelines into the HRSC process, the EEAS could:

- Strengthen knowledge and use of the Guidelines;
- Improve accountability of actions taken to implement the Guidelines;
- Improve diplomat’s EU human rights policy knowledge;
- Improve communications and task sharing between EU and MSMs on HRD issues;
- Coordinate monitoring of cases and engagement with HRDs;
- Improve assessment of need for project support to HRDs;
- Create opportunities for improving cohesive HRBA actions across EU missions.

In addition, the evidence in this study suggests that HRDs would benefit from enhanced engagement in the HRCS process. Most participants agreed many HRDs are human rights experts in their country, and HRDs should consider strategies for their own support and safety.

In order to bring HRDs into the HRCS process, consultations with HRDs should be better organised over a dedicated period of time. EUDs, with their UN and INGO networks, should identify voices and representatives of HRDs across professions, themes, and geographic areas of concern. EUD invitations to consultation meetings should be given to HRDs with plenty of advance notice. HRDs should be given proposed strategies or points to consider, prior to the final drafting of the strategies, with ample time to prepare their responses.

This would ensure HRDs are included in the strategic thinking and not just included for information gathering or as a courtesy. HRDs should organise their presentations to diplomats ahead of time, perhaps supported by INGO partners, to ensure breadth of issues are included and presented in the most efficient way possible. There should be ample time given at the consultation meeting to allow discussion around focused strategies.

Some MSMs participating in the study did not contribute to drafting the HRCS. In a few cases, diplomats said there was not enough time for them to give a considered response to the HRCS draft. EUDs should be flexible to reframe strategies as necessary, providing ample time prior to the deadline for submitting their drafts.

The HRD consultation process should occur annually as noted in the Action Plan, or more frequently if needed. It may be useful to reflect on what strategies were successful in the past year and to see how the work and situation of HRDs may impact future HRCS planning. Creating useful indicators and setting appropriate benchmarks could be considered for planning and assessing effective impact on HRDs, as part of the HRCS approach.

6.3 Updating the guidelines to secure human rights defender commitments

Since the revision of the Guidelines in 2008, there have been concerted efforts by a number of EU countries, international NGOs and HRDs, to better incorporate the Guidelines into genuine action plans that are an integral part of the EU and MSMs external relations policy, but this has not yet been fully realised.

The Guidelines were not used consistently as a policy tool by diplomats in this study. Some diplomats praised the points raised in the Guidelines as areas of concern and importance in their mission work, but as shown in Table 1 (section 6.2), a number of diplomats had not read or engaged with the policy document. HoMs and the EEAS in this study did not address how best to systematise or strengthen the

use of the Guidelines across mission to improve HRD support, protection or HRD engagement, beyond ad hoc consideration in the HRCSs.

As discussed in section 6.2, there is a danger that attention to HRDs will be side-lined if EUDs and MSMs are not committed to give explicit consideration to HRDs in the HRCS process. Although there is reference to the Guidelines to the 2012 EU Strategic Framework, this falls short of any real encouragement for implementation. HoMs and EUDs are now encouraged to work within the HRCS process, and will likely give less attention to the Guidelines for direction or following the recommendations put forth if the Guidelines are not explicitly joined up with the HRCS process.

There is an opportunity to strengthen attention given to HRDs in the new Strategic Framework by updating the Guidelines, and referencing the need for effective implementation of the Guidelines in concert with the new Strategic Framework. As there is not infinite time and resources for diplomats to devote to work with HRDs, the EU and Member States should consider joining up their human rights commitments to HRDs by revising the Guidelines' operational recommendations to fit within the new HRCS context. The presumption is implementation of the Guidelines will improve when joined up and consistently considered by missions in the HRCS process.

The Guidelines provide excellent recommendations, however they should be consistent with current policy developments and the changing HRD landscape. Some points to consider in updating the Guidelines follow.

6.3.1 [Listening to HRDs and creating the opportunity for learning from Human Rights Focal Points and Liaison Officers to HRDs](#)

In preparation for any revisions to the Guidelines, the EU should first listen to the voices of HRDs and their advocates to understand what are the current needs and critical areas of concern for HRDs. The EU should review best practices and lessons learnt from EU countries and non-EU countries practices, HRD platforms, and MSM Action Plans, to create a more enabling environments for HRDs.

The EEAS should take lessons learnt from those liaising regularly with HRDs. In considering how to strengthen their policy tools toward sustained support to HRDs, the EEAS might benefit from gathering (via conference or workshop) EU human rights focal points and liaison officers to HRDs to reflect on their work in support and protection of HRDs and share their experiences with one another. The outcome of such meetings could be documented and reported across desks in Brussels, to MoFAs, and to HoMs and EUDs in the field. Such an exercise might inform whether there are new areas of concern that should be considered in revising the Guidelines. The gathering of EU human rights focal points and liaison officers to HRDs to share their experiences might be beneficial for the longer term if such meetings are organised on a systemic basis.

6.3.2 [Complementarity with the 2012 Strategic Framework and Action Plan](#)

The 2012 Strategic Framework puts forth three Actions to be implemented by HoMs and HODs that directly impact support to HRDs. These are the monitoring of trials (including trials of HRDs), support for EU human rights focal points and EU Liaison Officers for human rights defenders, and the drafting and updating of the HRCS. Updating the Guidelines should reinforce sustained actions in these areas, and review other Actions in the Strategic Framework. The EEAS should ensure the Guidelines' recommendations are reflecting EUD and MSMs' best practices toward HRDs and address significant gaps in support and protection, and update the Guidelines accordingly. By benchmarking a time for attention to the planning of strategies for effective implementation of the Guidelines, the Guidelines could be joined up and consistently considered by missions when they are engaging in the HRCS drafting process.

6.3.3 Practical steps needed for burden sharing amongst EUD and MSM staff

The updating of the Guidelines should draw attention to practical means of how to further impact and ensure implementation of the recommendations. Many participants in this study recognised mainstreaming attention to HRDs across diplomatic thematic sections as necessary for assessing impact on HRDs and bringing more attention to human rights. The need for better coordinated and shared actions and pooling limited resources across diplomatic missions (and with UN missions and regional organisations) are some practical examples from this study. The creation and use of indicators and benchmarks can help in planning, documenting actions and in evaluating impact of actions taken. A revision of the Guidelines could suggest some practical steps to take based on best practices and areas needing more attention.

6.3.4 Incorporating reflection on new technology impacting the HRD landscape

Since the 2008 Guidelines were drafted, there have been changes in how HRDs work, including the new communication tools and technologies available and used by most HRDs. Human rights work has been transformed through the use of technology since the past revision of the Guidelines in 2008, with most impressive examples coming from the successes of the Arab Spring countries use of social media for mobilising the oppressed to challenge authoritarian political structures. The role of technology is advancing human rights and democracy. However, an update of the Guidelines should also consider the EU's position on political and legal frameworks that violate HRD freedoms and inhibit free space for the use of technology. Representatives from EU countries in this study have indicated interest (through support for projects and conferences) dedicated to deeper reflection around the use of technology, including threats posed to HRDs through surveillance, censorship, and acts of criminalisation through unjust laws used against HRDs.

6.3.5 More emphasis on facilitating partnerships between state actors and HRDs

The relationship of the EU to support civil society in external relations strategies should be consistent and clear in policy instruments that address HRDs. The Guidelines should be revised to bring more emphasis to how the EU could support the role of HRDs in a participatory democracy, in line with other EU positions toward civil society engagement with state and Government actors, and to seriously consider taking strong measures to violations against HRDs.

In assessing the implementation of the Guidelines for this study, many diplomats did not see their role as a facilitator of partnerships between government and civil society. Most HRDs reported that they were consulted for information, but, with the exception of HRDs in Bishkek Kyrgyzstan, few reported being brought into a multi-actor partnership, or having EU or MSM support encouraging their engagement with government ministries and public authorities. Some diplomats interviewed indicated they did not see facilitating such engagement as part of their diplomatic work.

In September 2012, the European Commission published a communication entitled, 'The roots of democracy and sustainable development: Europe's engagement with Civil Society in external relations (European Commission 2012).' The communication was firmly stating EU intentions to strengthen support to civil society in the development process, inclusive of the EU actions: 'in its cooperation with partner governments, the EU will seek to scale up public authorities' capacity to work constructively with civil society, increasing trust and competencies to build up dialogue and opportunities for partnerships...'

The EU communication also stated, the 'EU will continue to take action and measures in countries where the government fails to recognise civil society with consequences of human rights violations. When countries loosen their commitment to human rights and fundamental values, the EU can

suspend cooperation with national authorities and strengthen its support to local populations through CSOs.' These policy positions should be consistent and coherent with an updating of the Guidelines, as should consideration of other relevant EU policy positions.

6.3.6 Human Rights Working Groups with non-EU countries and non-state actors

Human rights working groups (HRWG) could be organised on a systematic basis (e.g. quarterly in less afflicted countries, more often in others) by HoMs and EUDs, including members from non-EU countries that have had consistent track records to integrate support for HRDs in their foreign policy agendas, such as Switzerland, Norway, and the United States. This would provide the means for pooling resources within a larger group of diplomatic missions to consider approaches for interventions as needed and increase potential for improved outreach and attention to HRDs and related human rights problems.

HRWG should invite other relevant diplomatic missions and non-state actors to this forum, to discuss areas of shared concern, for example, attention to human rights and HRDs in trade and investment plans. The revised Guidelines could bring renewed attention to the value of structured forums for enhancing non-EU and non-state actor communication, and the importance of considering impact across sectors in creating enabling environment for HRDs.

6.3.7 Inaugurate the updated Guidelines to encourage genuine commitment

The 10th anniversary of the Guidelines, June 14, 2014, could be an appropriate target date for updating the Guidelines. Regardless of exact date, the revised Guidelines should be launched with wide dissemination and publicity. EU countries, EUDs and MSMs could hold events that inaugurate renewed and on-going commitments to support and protect HRDs. The launching of the updated Guidelines could be to acknowledge achievements made through the EU Strategic Framework initiative to bring HRDs more coherently into the EU human rights policy process.

6.4 Future research

This study considered EU mission approaches to support and protect HRDs primarily in three countries across different geographic regions. The research findings serve as a pilot for further research needed in this area. The evidence base relating to the effective implementation of the EU Guidelines on HRDs is indicative, but incomplete. The following suggestions are given to improve the evidence base, with some of the suggestions having emerged as a result of this study and from the opinions of experts that have shared their views at recent conferences that address HRDs.

These suggestions include:

- Further research to explore the views of a larger number and wider range of diplomats and HRDs to document the effective (or non-effective) implementation of the Guidelines across countries of a specific geographic region. Evidence from this study shows best practices and gaps in support and protection of HRDs may have significant relevance to countries with similar cultural and political environments. This research might consist of interviews with focus groups of HRDs in countries across geographic region, and interviews with diplomats having responsibilities for each targeted country or multiple countries in a region. This study could include a research action component that brings HRDs and EU diplomats together in focus groups to consider and document methodologies used in the field as best practice actions or areas needing attention in support and protection of HRDs.
- Further research to explore the needs of HRDs in remote areas. This research could follow on the work that was done in these three countries, dedicating further research activities in areas where

- HRDs are most vulnerable (in Kyrgyzstan, Thailand and Tunisia). This research would involve visits to these areas and careful consideration of how best to conduct interviews with HRDs from these regions. This research should include the views of WHRDs and HRDs that work in isolation or 'high risk' areas.
- An in-depth research study that focuses on the impact of one particular 'tool' or action in the Guidelines that has resulted in good practice examples that can be widely applied across missions. This could, for example, consider best and worst practices in trial monitoring, and investigate how best practices can be applicable in other country contexts.
 - Research on the accessibility and availability of EU funding streams to different HRD groups. This research would consider how obstacles can be overcome to ensure funding access to a wider range of HRDs. The research would identify gaps in funding support based on the views of HRDs across different professions, thematic areas, and geographic areas.
 - Research designed to examine the perception of geographic desks of EU MoFAs to understand how visible (or invisible) HRDs are in the work that they do. This research would seek to explore experience with, and attitudes toward, the place of HRDs as a cross-cutting area of concern in the work they do, and assess their interest to understand HRDs as an actor of consequence in the diplomatic work of field missions.
 - Socio-legal research on the concept of 'protection' and 'risk.' The prospects for HRD empowerment and safe practice, and creating a 'human rights culture' inclusive of HRDs working in open and free spaces, must factor in HRDs' perception of risk and their perceived need for protection. This research would be concerned with HRDs, and specific issues for WHRDs' level of agency, autonomy and choice, how they perceive this and if there are other impediments affecting their disclosure of risk.
 - Research designed to examine the current HRCS mechanism, and how the process of the HRCS can most efficiently achieve its aims. The research would explore directions for a systemised means of including the policy concerns and actions suggested in the EU Guidelines on HRDs in the HRCS planning process, and would look to other human rights policy instruments to consider the coherency and consistency in application to the HRCS process.
 - Research investigating the effective implementation of the Guidelines within closed societies of HRD practice. This research would look at how HRDs can be supported and protected in countries where they cannot freely practice. This research would be conducted through interviews with diplomats and HRDs who have expertise and experience in these regions.
 - Research comparing the effective implementation of the Guidelines in conflict areas. This research design would arrange focus group interviews with diplomats and HRDs across targeted countries to share best practices and gaps in support and protection to HRDs with attention to the specific support and protection needs of HRDs working in conflict zones.
 - Research that focuses on the complementarity of the EU and the UN support in field missions as recommended in the Guidelines. This work would look at a cross-section of targeted countries, and focus on actions of how the EU is working with the UN Universal Periodic Review process, how the EU supports the UN Special Procedures mechanisms, and notably the work of the UN Special Representative on the Situation of HRDs, as per the Guidelines recommendations. The research would include exploring the views and roles of HRDs in concert with work of international and diplomatic bodies in these areas.

- Research that investigates the impact of EU development policies aims to harmonise with policy initiatives to effectively implement the Guidelines. This research would explore targeted EU development policies to see if they adequately take into account the positions and roles of HRDs as central actors in their own development, and if specific aims of the Guidelines are integrated and implemented in EU development initiatives. Country case studies would provide evidence of how specific EU initiatives intersect and complement, and how interaction with international and regional bodies and EU external actions consider HRDs in the process. This research would be a combination of desktop research, interviews in Europe, and research in targeted country(s).

ANNEX 1 – EU GUIDELINES ON HUMAN RIGHTS DEFENDERS

Ensuring protection – European Union Guidelines on Human Rights Defenders

I. PURPOSE

1. 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 on-going 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

2. 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 1), 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".
3. 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

4. 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.
5. 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.
 6. 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

7. 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

8. 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 contexts 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.
9. 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.

10. 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

11. 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

12. 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

13. 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

14. 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

15. 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.

ANNEX 2 – INTERVIEWEES

		Interviews carried out from October 2012 – January 2013	
In Europe:			
European Union External Action Service and Foreign Ministries of Countries in the European Union			
1	European External Action Service, Human Rights Policy Guidelines Division	Telephone interview	
2	European External Action Service, Human Rights and Democracy Unit, Gender Policy	Face to face interview	
3	European External Action Service, DEVCO, European Instrument for Democracy and Human Rights	Telephone interview	
4	British Foreign and Commonwealth Office, Desk to ASEAN Countries	Face to face interview	
5	British Foreign and Commonwealth Office, Human Rights and Democracy Unit	Face to face interview	
6	German Federal Foreign Office, Human Rights Department	Telephone interview	
7	The Netherlands Foreign Ministry	Telephone interview	
8	French Ministry of Foreign Affairs, Human Rights Department	Written response to questionnaire	
In Kyrgyzstan:			
EU and Member State Embassies, Human Rights Defenders, Other Organisations on the Ground			
9	British Embassy to Kyrgyzstan, Head of Mission	Face to face interview	
10	Dutch Embassy to Kyrgyzstan (based in Kazakhstan), Head of Mission	Written response to questionnaire	
11	Finnish Embassy to Kyrgyzstan (based in Kazakhstan), Political Section	Telephone interview	
12	French Embassy to Kyrgyzstan, Head of Mission	Face to face interview	
13	German Embassy to Kyrgyzstan, Political Section	Face to face interview	
14	Polish Embassy to Kyrgyzstan (based in Kazakhstan), Political-Economic Section	Face to face interview	
15	EU Delegation to Kyrgyzstan, Political Section	Face to face interview	
16	HRD, Southern Kyrgyzstan	Telephone interview	
17	HRD, Southern Kyrgyzstan	Telephone interview	
18	HRD, Southern Kyrgyzstan	Telephone interview	
19	HRD, Bishkek, Kyrgyzstan	Face to face interview	
20	HRD, Bishkek, Kyrgyzstan	Face to face interview	
21	HRD, Bishkek, Kyrgyzstan	Face to face interview	

22	HRD, Bishkek, Kyrgyzstan	Face to face interview
23	Organisation for Security and Cooperation in Europe, Mission to Kyrgyzstan	Face to face interview
In Tunisia:		
EU and Member State Embassies, Human Rights Defenders, Other Organisations on the Ground		
24	Belgian Embassy to Tunisia, Political Section	Face to face interview
25	Dutch Embassy to Tunisia, Head of Mission	Face to face interview
26	Finnish Embassy to Tunisia, Head of Mission	Face to face interview
27	German Embassy to Tunisia, Political Section	Face to face interview
28	Romanian Embassy to Tunisia, Political Section	Face to face interview (background information)
29	EU Delegation to Tunisia, Political Section	Face to face interview
30	HRD, Tunis, Tunisia	Face to face interview
31	HRD, Tunis, Tunisia	Face to face interview
32	HRD, Tunis, Tunisia	Face to face interview
33	HRD, Maghreb region, based in Tunis	Face to face interview
34	HRD, Maghreb region, based in Tunis	Face to face interview
35	UN Office of the High Commissioner for Human Rights (UNOHCHR) to Tunisia	Face to face interview (background information)
In Thailand:		
EU and Member State Embassies, Human Rights Defenders, Other Organisations on the Ground		
36	British Embassy to Thailand, Political Section	Face to face interview
37	French Embassy to Thailand, Head of Mission	Face to face interview
38	Germany Embassy to Thailand, Political Section	Face to face interview
39	Swedish Embassy to Thailand, Human Rights and Democracy/Regional Section	Telephone interview
40	Swedish Embassy to Thailand, Political Section	Telephone interview
41	EU Delegation to Thailand, Political Section	Written Response to questionnaire
42	Group of HRDs, Deep South, Thailand	Face to face interview
43	HRD, Bangkok, South and Northeast regions, Thailand	Face to face interview
44	HRDs, SE Asia region including Thailand (based in Bangkok)	Face to face interview
45	HRD, Bangkok, Thailand	Face to face interview
46	Fédération Internationale des Ligues des Droits de l'Homme (FIDH), International NGO, Bangkok	Face to face interview
47	Frontline, International NGO, Bangkok	Face to face interview
48	International Commission of Jurists, International NGO, Bangkok	Face to face interview

49	Konrad Adenauer Stiftung, Political Foundation, Thailand	Face to face interview
Other interviews/background discussions for the study		
50	HRD, Sri Lanka (on visit to London)	Face to face interview
51	HRD, Kenya (on visit to London)	Face to face interview
	UN Office of the Special Rapporteur on Human Rights Defenders, Geneva	Telephone discussion (background information)
	Multiple academics and INGO human rights experts	Telephone discussions (background information)
Conferences attended, October - December 2012		
	<i>Conference on Women Human Rights Defenders, Parliament Roundtable on WHRDs, London, UK</i>	Attended and noted by author
	<i>Women Human Rights Defender Day Conference, Bishkek, Kyrgyzstan</i>	Attended and noted by author
	<i>Insurgency, Violence and Peace: Southern Philippines and Thailand's Deep South Conference, Bangkok, Thailand</i>	Attended and noted by author

ANNEX 3 – QUESTIONNAIRE AND STUDY INFORMATION SHEET

QUESTIONNAIRE

Study: Assessing the Implementation of the EU Guidelines on Human Rights Defenders

This questionnaire covers the broad areas of interest to this research project. Although the questions are framed for those implementing policy, we are seeking responses to these questions from a variety of key stakeholders, including the experiences of human rights defenders, policy makers, and organisations working with human rights defenders. We recognise that not all interviewees will be able to answer all questions given the diversity of their experience and expertise. We are keen to explore with you those areas that you or your organisation are familiar with and feel confident to discuss. Please see 'the Guidelines' document attached for reference to the questions.

1. Generally what role do you believe the EU and EU member state missions in third countries should play in supporting the work and protection of human rights defenders (HRDs)?
2. How do EU missions in your country/your mission define HRDs? How does your institution determine which group/s to engage or consult with?
3. Who (if anyone) in your institution has specific responsibility to provide support for or interact with human rights defenders?
4. Do EU missions/your mission have established policies and procedures for providing support for or interacting with human rights defenders?
5. Do you think the operational guidance and/or practical suggestions in the EUGHRD have been of use to your mission/you in your engagement with HRDs? If possible, please give specific examples.
6. How do EU missions/your mission balance support to HRDs and promoting human rights with other policy or project priorities?
7. What (if any) are the obstacles that EU missions/your mission (or you personally) face in working with human rights defenders?
8. The UN Special Rapporteur on HRDs Margaret Sekaggya recognises that in many countries 'most of the risks run by human rights defenders include the abuse of legal frameworks against them and the criminalization of their work.' What (if anything) do EU missions/your mission do to combat criminalization of HRDs?
9. To what extent (if at all) are HRDs recognised as a source of expertise by their government? Do they have opportunities to engage with officials? Do EU missions/your mission seek to strengthen such engagement?
10. Regional and UN mechanisms are important to the promotion and protection of human rights defenders and their work, for example, the UN Special Procedures provides a mechanism for urgent actions when HRDs are at risk. Have EU missions/your mission engaged with HRDs to strengthen their understanding and interaction with regional or international human rights mechanisms?
11. Has there been training received by officials in your institution, HRDs and others regarding HRD support and protection? If you have received specific training in this area, did you find it useful, and if you have not received training, would you like to? Do you have thoughts as to who would be best placed to organise and deliver this?

12. Preparation of human rights country strategies for each EU member state is now a commitment made within the new EEAS structure. Are you engaged yet in this process? If so, could you describe the level of HRD involvement in the preparation of these reports and is it useful?
13. Have EU missions/your mission received requests from HRDs for emergency visas or temporary shelter? What was the response?
14. Do EU missions/your mission monitor trials of HRDs or visit HRDs in custody or prisons?
15. Are EU missions/your mission providing grants/financial resources/in kind support to HRDs?
16. Do EU missions/your mission have special policies or procedures in place for particular groups of HRDs or specific thematic areas of difficulty (e.g. women HRDs, journalists, HRDs in remote areas, HRDs working on specific issues in troubled geographic regions)?
17. There are a number of European Union Guidelines concerned with human rights policy, such as the EU Guidelines on Torture, relevant to the protection of HRDs. Can you discuss the interrelated use of these other Guidelines toward strengthening protection and/or support to HRDs?

Additional concerns and follow-up

Is there anything that we haven't discussed during this interview that you feel is of importance to this research?

Is there any literature that will give us further information or insights about what we have discussed (e.g. published or unpublished documents, guidance, surveys etc.).

Can we follow up with you if any further questions arise during the course of our research?

Would you prefer to remain anonymous or would you agree to your comments being attributed by name? (please see information below for an explanation of our approach to confidentiality and consent)

Information for interviewees about consent and confidentiality:

Interviews will be recorded for transcription purposes; these recordings and transcriptions will be securely stored and will not be shared with any third parties. The research team alone will have access to them.

If you consent to an interview, you have the option of remaining anonymous in the final research report and in any other published version of the research. However, if you agree that we can attribute comments to you, any attributions will be checked with you before publication and you will have the option of rephrasing specific comments or of withdrawing consent for them to be attributed to you.

If you consent to an interview, you may withdraw from it at any time without having to give a reason. The research team will not be required to disclose to any third party the source of particular remarks by contributors who do not wish their comments to be attributed.

Information about the research study:

Assessing the implementation of the EU Guidelines on Human Rights Defenders

This research project has been commissioned by the European Parliament and is being led by Karen Bennett, Senior Research Fellow at the HRSJ Research Institute, with support from other HRSJ Research Institute staff members including Professor Philip Leach, Senior Research Fellow Alice Donald, HRSJ Administration Manager Aruna Dudhia and HRSJ Research Intern Claudia Candelmo.

The purpose of this study is to assess to what extent, and by what means, European Union (EU) delegations and EU Member States are effectively implementing the 2008 revised *European Union Guidelines on Human Rights Defenders* (the Guidelines) as an integrated part of their diplomatic mission work in different geographic regions. The study is being piloted in three countries: Kyrgyzstan, Tunisia and Thailand.

Support to human rights defenders is one of the major priorities of the European Union external policy in the field of human rights. Human rights defenders – who by peaceful means advocate, mobilise and often put their lives at risk to defend the most fundamental freedoms of their fellow citizens - are key agents of change in their own society and make a significant contribution to the international community's efforts to support democracy and human rights, as recognised by the EU.

In order to streamline EU actions in this field, in 2004 the Council of the European Union adopted the *European Union Guidelines on Human Rights Defenders*. The Guidelines were revised in 2008 to serve as an important tool for EU Member States in addressing EU engagement with, and support for HRDs, carried out by their missions in third countries. By providing operational guidance and making practical suggestions, the Guidelines are intended to identify ways and means to work towards the promotion and protection of HRDs. Implementation of the Guidelines relies on practical steps being taken, guided by the interests of the EU, and its Member States, to adhere with its normative (human rights) foreign policy.

The Guidelines were revised in 2008 to better provide operational guidance within the context of the EU Common Foreign and Security Policy relating to:

- the monitoring and reporting on the situation of HRDs;
- the coordination and preparation of local strategies to implement the Guidelines, together with HRDs;
- the promotion of respect for HRDs within mission countries, including support for HRDs' activities in conjunction with state bodies;
- support for regional protection mechanisms and the UN special procedures, including the UN Special Rapporteur on Human Rights Defenders;
- and the provision of practical support to HRDs, which includes identifying urgent actions for HRD protection and activities that promote and further human rights defence work in EU mission countries where human rights are most at risk.

This research will help identify practices of effective implementation of EU human rights policy objectives which support and protect human rights defenders as identified since the Guidelines were revised in 2008. The research will also identify, where possible, solutions to gaps in support and protection of HRDs that may be replicable in other countries and regions of the world. The study will also assess where possible the impact implementation of the Guidelines has had in specific areas of concern within the Guidelines. The study will inform the European Parliament and those concerned with the security of human rights defenders and the promotion of human rights.

The Human Rights and Social Justice Research Institute (HRSJ)

HRSJ was created in 2003 to facilitate multidisciplinary research, policy analysis, training, teaching and consultancy. The Institute supports a focused network of academics, students and practitioners, seeking to explore and substantiate connections between human rights, equality and social justice within the UK and internationally. HRSJ is part of the Faculty of Applied Social Sciences at London Metropolitan University (<http://www.londonmet.ac.uk/research-units/hrsj>) and HRSJ is a member of the Association of Human Rights Institutes (<http://www.ahri-network.org>).

ANNEX 4 - BIBLIOGRAPHY

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ANNEX 5 – ABOUT THE AUTHOR

Karen Bennett is Senior Research Fellow in Human Rights at the Human Rights and Social Justice Research Institute (HRSJ) at London Metropolitan University. Karen carries out academic research, training and international consultancy work in the field of human rights and designs, delivers and evaluates human rights capacity building projects internationally. Karen has led HRSJ Institute activities in support of human rights defenders at risk since 2006, with focus on supporting human rights defenders from Central Asia and Darfur, Sudan.

Karen has 23 years of professional experience in the field of human rights. She has extensive international work experience as a human rights monitor and researcher, working for the Organisation for Security and Cooperation in Europe (OSCE), United Nations Office of the High Commissioner for Human Rights (UN OHCHR), United Nations Development Programme (UNDP), US State Department and international NGOs and carries out consultancy work internationally with a number of other organisations.

Karen worked in Bosnia Herzegovina over six years (1997 - 2003) with the OSCE and UN. She headed the UN OHCHR field office in north-eastern Bosnia, where she designed a large scale research project for the UN in 2001 - 2002, the 'Municipal Assessment Programme' for Bosnia and Herzegovina, a human rights monitoring and benchmarking exercise that was carried out over nine years in collaboration with the Bosnia and Herzegovina State Ministry of Human Rights and Refugees.

Karen was previously Adjunct Professor in Human Rights at Webster University, where she was awarded a fellowship to strengthen academic focus on international human rights practice, culminating in the design of the first Bachelor's Degree in International Human Rights offered by a US university. Karen holds a Masters of Arts Degree in International Relations (International Communication and International Development) from the American University School of International Service in Washington, DC.

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