



Brussels, September 2012

To:

- Engelbert Theuermann, chair of the Council working party on human rights (COHOM)
- Member states representatives to COHOM
- Cc: Veronique Arnault, Director of EEAS Human rights and democracy division

EU POLICY TOWARDS THIRD COUNTRIES ON TORTURE, AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT – REVIEW OF THE GUIDELINES

Dear Sir/Madam,

Amnesty International's EU office, the Association for the Prevention of Torture, the International Rehabilitation Council for Torture Victims, FIACAT and the World Organization Against Torture welcome the updated version of the Guidelines to European Union (EU) policy towards third countries on torture, and other cruel, inhuman or degrading treatment or punishment as of 15th of March this year (hereafter 'Torture Guidelines' and 'torture and ill-treatment'), and would like to present our views on the review.

Before the revision, in our letter of 9 June 2011 to the Council Working Group on Human Rights (COHOM), we expressed our concerns and recommendations about the Torture Guidelines, which are an essential component of the EU's foreign policy for a comprehensive response to torture and other ill-treatment.

We are indeed glad to see that many of our recommendations have been reflected in the updated Torture Guidelines. The link between the Torture Guidelines and the EU's

other human rights guidelines is emphasised; support for relevant international and regional mechanisms is repeatedly stressed, including 'proper' follow-up of their recommendations, and it encompasses all essential elements: prevention, rehabilitation and combating impunity. Other important additions are the emphasis on the prohibition of torture and ill-treatment while countering terrorism as well as increased efforts to address discrimination in the fight against torture and ill-treatment. The thorough update of the list of international and regional legal instruments and texts is another welcome addition. In short, these changes bring the Torture Guidelines more into line with current challenges to the fight against torture and ill-treatment worldwide.

However, although we welcomed the opportunity to provide written input ahead of the review of the Torture Guidelines, we feel there is also scope for a more transparent, structured and interactive process involving a face-to-face meeting with the relevant representatives from EU institutions with the mandate to implement and assess the Torture guidelines, giving civil society organisations proper time and opportunity to explain the rationale behind the proposals. We understand that this has been possible in the review process for other EU human rights guidelines, and believe it could benefit the review's efficiency and the final outcome. Indeed, comparing different approaches to reviewing the various EU human rights guidelines might highlight lessons learnt in implementing different guidelines and help create minimum standards for the review process. We also believe that guidelines should be revised on the basis of an assessment of their on-the-ground implementation to ensure they address any existing gaps and build on best practice.

Some of our concerns about EU policy to third countries on torture and other ill-treatment are not reflected in the new Torture Guidelines. We believe these recommendations remain relevant, and we wish to reiterate them (see annex).

Now that the revision has taken place, we ask the EU to focus on implementing the Torture Guidelines on the ground to effectively "*prevent and eradicate torture and other ill-treatment in all parts of the world*". The revision cannot be a "tick-the-box" exercise and must produce tangible results. The EU indeed faces major challenges. First, although the fight against torture and ill-treatment is a priority for the EU's human rights policy, we remain concerned that **the Torture Guidelines, which are technical and contain an extensive and legal annex, are often insufficiently known by EU staff abroad** (EU delegations and member state embassies), including those responsible for drawing up a country human rights strategy. Second, we are also concerned that **local civil society** is not always aware of the Torture Guidelines' existence and is thus unable to engage with the EU on the desired basis although there are notable exceptions. It is therefore critical to improve such knowledge to ensure the Torture Guidelines are properly implemented. Third, we again stress the importance of the **internal-external policy coherence**, which touches on the EU's credibility in political dialogues with third countries. Lastly, we must insist that implementation of the Torture Guidelines are a true part of the EU's action plan as part of its Human Rights Strategy Package adopted by the Foreign Affairs Council on 25 June.

We have also emphasised the **complementary nature of the Torture Guidelines with the new Human Rights Country Strategies**, since they offer the opportunity systematically to integrate work on preventing and eradicating all forms of torture and other ill-treatment and on providing rehabilitation to torture victims worldwide. We therefore welcome the fact that updated Torture Guidelines stress the need for the fight against torture and other ill-treatment to be adequately addressed in the Human Rights Country Strategies. We remain convinced that regardless of whether the issue was retained as a priority in Human Rights Country Strategies, EU delegations should report regularly on implementation of the Torture Guidelines and maintain a dialogue with civil society organisations working on torture prevention and rehabilitation. This way, a coherent and consistent global policy on torture will be developed. We also urge the EU to **carry out regular independent assessments on the local and overall impact EU actions may have**. We are concerned that the Council working party on human rights (COHOM) has no formal role in the assessment of the instrument in the updated version of the Torture Guidelines.

We believe the updated version of the Torture Guidelines can contribute to true changes on the ground, and we urge COHOM and the EEAS to:

- Maintain a Brussels-based, global monitoring and assessment of implementation of the Torture Guidelines
- Ensure a transparent assessment procedure accessible to all relevant players
- Engage with civil society organisations on implementation of the Torture Guidelines and their place in the Human Rights Country Strategies, both at national and global level
- Addressing torture and ill-treatment in Council conclusions and statements strategically, and continuing to raise individual cases
- Ensure the EU continues to support civil society organisations and eradication of torture and ill-treatment through the European Instrument for Democracy and Human Rights (EIDHR)

Yours faithfully,

Amnesty Internationals EU office
Association for the Prevention of Torture
International Rehabilitation Council for Torture Victims
FIACAT
World Organization Against Torture