The Death Penalty in the OSCE Area

Background Paper 2014

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This paper updates *The Death Penalty in the OSCE Area: Background Paper 2013*. It is intended to provide a concise update to highlight changes in the status of the death penalty in OSCE participating States since the previous publication and to promote constructive discussion of this issue. It covers the period from 1 July 2013 to 30 June 2014.

All comments or suggestions should be addressed to ODIHR's Human Rights Department at office@odihr.pl.

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Miodowa 10
00-557 Warsaw
Poland
www.osce.org/odihr

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Designed by Nona Reuter

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Overview

This year's edition of the *Background Paper on the Death Penalty in the OSCE Area* marks the 25th Anniversary of the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR), aiming at the abolition of the death penalty,[1] and notes the increase of international discussion on the death penalty within the context of the right to life, the concept of human dignity and the absolute prohibition of torture and cruel, inhuman or degrading treatment or punishment. Many OSCE participating States actively engage in this debate at the international level and take steps to support the global trend towards abolition.[2]

Although there are no OSCE commitments requiring the abolition of the death penalty, participating States have committed themselves to limiting the use of capital punishment to only the most serious crimes and in a manner not contrary to their international commitments[3] and to keeping the question of eliminating capital punishment under consideration.[4] In addition, participating States that retain the death penalty in practice and/or law have pledged to ensure transparency regarding the application of the death penalty by making relevant information available to the public and to other participating States.[5]

To facilitate the exchange of information and compliance with these commitments, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) reports on developments relevant to the status of the death penalty in the OSCE area through its B*ackground Paper* at the annual OSCE Human Dimension Implementation Meeting (HDIM). The background paper is compiled on the basis of information provided by participating States in response to ODIHR's questionnaire on the death

1 Fifty of the 57 OSCE participating States have ratified the Second Optional Protocol to the ICCPR, as of 15 August 2014, UN Treaty Collection, *Status of Ratification, Reservations and Declarations,* <https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-12&chapter=4&lang=en>.

2 According to the Report of the UN Secretary General on the question of the death penalty of 30 June 2014, some 160 of the 193 Member States of the United Nations have abolished the death penalty or introduced a moratorium either in law or in practice, or have suspended executions. See UN Human Rights Council, *Question of the death penalty: Report of the Secretary-General*, 30 June 2014, A/HRC/27/23, <http://www.refworld.org/docid/53eb28464.html>.

3 Concluding Document of the Vienna 1989 Follow-up Meeting, paragraph 24, <http://www.osce.org/mc/16262>.

4 Document of the 1990 Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, paragraph 17.7, <http://www.osce.org/odihr/elections/14304>.

5 *Ibid.* paragraphs 17.7 and 17.8.

penalty. This information is supplemented with desk research and information generated by intergovernmental and nongovernmental organizations, as well as with media reports.

This year's questionnaire was revised and updated to reflect important international developments relating to the issue of the death penalty and in line with recommendations made at the HDIM in October 2013.[6] In addition to information on the legal framework and statistics on death sentences and executions in relevant OSCE participating States, the updated questionnaire seeks to gain information about cases before domestic or international courts or quasi-judicial bodies that touch upon the issue of the death penalty. Furthermore, in the Safeguards section, new questions have been included on the cases of citizens of participating States who face the death penalty abroad, as well as on safeguards that are in place to protect children who have a parent facing the death penalty or executed in a given participating State or abroad. This year, the questionnaire was sent to all 57 participating States.[7]

The 2014 Background Paper covers the period from 1 July 2013 to 30 June 2014. It highlights changes in the status of the death penalty in the OSCE area that have taken place since the publication of the 2013 Background Paper.[8] As in previous years, the background paper provides information on two participating States – Belarus and the United States of America – that continue to impose the death penalty, and on four participating States – Kazakhstan, Mongolia, Russia and Tajikistan – that are de facto abolitionist, but retain the death penalty in law. It also provides an overview of relevant developments in some of the 51 OSCE participating States that have an abolitionist status.

The reporting period was marked by a number of developments that reinforce the worldwide trend towards the abolition of the death penalty. In the United States of America, on 11 February 2014, the State of Washington introduced a moratorium on executions.[9] On 25 April 2014 and 23 May 2014, respectively, Poland ratified the Second Optional Protocol to the ICCPR and Protocol 13 to the Convention for the

6 On 21 March 2013, the UN Human Rights Council adopted without a vote a resolution A/HRC/RES/22/11 on the human rights of children with a parent sentenced to death penalty or executed. The resolution acknowledges the negative impact of a parent's death sentence and execution on their children and urges states to provide those children with the required protection and assistance. Furthermore, at the HDIM held in Warsaw from 23 September to 4 October 2013, participants made a recommendation to OSCE participating States to pay particular attention to the impact of the death penalty on children and to the issue of their citizens facing the death penalty abroad.

7 See Annex 8 for the three versions of the questionnaire tailored for retentionist, de-facto abolitionist and abolitionist participating States.

8 For earlier developments, see The Death Penalty in the OSCE Area – Background Paper 2013, OSCE/ODIHR, September 2013, <http://www.osce.org/odihr/106321?download=true>.

9 "Washington Governor Announces Moratorium on Executions", Death Penalty Information Centre, 11 February 2014, <http://www.deathpenaltyinfo.org/washington-governor-announces-moratorium-executions>.

Protection of Human Rights and Fundamental Freedoms (ECHR). The protocols entered into force in September 2014, abolishing the death penalty in Poland in all circumstances.[10] On 19 July 2013, Latvia's accession to the Second Optional Protocol to the ICCPR entered into force.[11]

Many OSCE participating States continued their initiatives aimed at supporting and strengthening the international campaign against the death penalty. In responses to the ODIHR questionnaire on the death penalty, Andorra, Belgium, the Czech Republic, France, Greece, Hungary, Italy, Latvia, Lithuania, Montenegro, the Netherlands, Romania, San Marino, the Slovak Republic, Slovenia, Sweden, Switzerland and the United Kingdom indicated their firm support for resolutions calling for a global moratorium and abolition of the death penalty, and detailed their active engagement in outreach activities aimed at specific retentionist countries and in organizing conferences and seminars on the subject.[12]

On 2 October 2013, as part of the OSCE HDIM, representatives of participating States and civil society, among others, exchanged views on the question of the abolition of the death penalty. While some participating States noted that the application of the death penalty does not contradict international human rights norms, the overwhelming majority of participants called for the complete abolition of the death penalty in the OSCE region and stressed the importance of the continued debate with retentionist states and the public on the issue. The role of civil society and intergovernmental organizations in this debate was further discussed at an HDIM side event co-sponsored by Andorra, Norway, Serbia, Switzerland, San Marino and the EU.[13] On 10-11 April 2014 in Vienna, at the Supplementary Human Dimension Meeting (SHDM) on the prevention of torture, some participants pointed at the linkages between torture and the death penalty, and underlined that there is no proven correlation between the death penalty and the deterrence of crime. The SHDM side event "Combating torture and abolishing the death penalty in the OSCE region: two sides of the same coin?", organized by Andorra, Norway, Serbia, Kazakhstan, San Marino and the EU on 11 April 2014, provided a forum for a more focused discussion of the death row phenomenon and methods of execution, among other relevant issues, in the context of international commitments concerning the right to life and the absolute prohibition of torture. In his video statement at the side

10 UN Treaty Collection, *op. cit.,* note 1, and Council of Europe Treaty Office, Chart of Signatures and Ratifications, as of 16 August 2014, <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=187&CM=&DF=&CL=ENG>.

11 Response to the ODIHR questionnaire on the death penalty from the Republic of Latvia, received on 23 July 2014.

12 See section on *Abolitionist States* for more information.

13 A side event "Abolishing the death penalty in the OSCE region: the role of civil society and intergovernmental organizations" was held in Warsaw on 2 October 2013, during the HDIM.

event, the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan Mendez, highlighted that regional and international jurisprudence and state practice increasingly consider the death penalty to amount to inhuman and degrading treatment or torture, specifically referring to the death row phenomenon and methods of execution.[14] He further stressed that international law already expressly considers the death penalty to be a violation per se of the prohibition of torture or ill-treatment when carried out against juveniles, persons with mental disabilities, pregnant women, elderly persons and persons sentenced after an unfair trial. The Special Rapporteur stated that the evolving understanding of the prohibition of torture may render the death penalty illegal under international law and noted, in this context, that international conventions were living instruments that needed to be read in light of present-day conditions.

The OSCE Parliamentary Assembly (PA), through its resolutions adopted at the 22nd annual OSCE PA session held in Istanbul from 29 June to 3 July 2013, and at its 23rd annual session in Baku from 28 June to 2 July 2014, has called on the two OSCE participating States that still retain the death penalty in practice, Belarus and the United States of America, to adopt a moratorium on all executions, followed by the complete abolition of the death penalty. The OSCE PA also expressed its concern about informal extraditions of foreign citizens to countries where they are at risk of the death penalty.[15]

The question of capital punishment also featured in other international fora involving OSCE participating States. On 11 September 2013 in Geneva, the UN Human Rights Council held a panel discussion on the human rights of children of parents sentenced to the death penalty or executed.[16] The Special Representative of the Secretary General on Violence against Children, Marta Santos Pais, noted in her statement that children affected by the death sentence or execution of their parents have not been included in statistics, policies and programmes. At the same time, such children are often traumatized and stigmatized and face a "heightened risk of homelessness and exposure to violence and to being manipulated into a

14 "Human Dimension: Side event on combating torture and abolishing the death penalty", 11 April 2014, the Permanent Delegation of Norway to the OSCE; the video statement of the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan Mendez is available at: <http://www.norway-osce.org/Latest-news/Human-dimension-side-event-torture-death-penalty/#.U_CiyfmSzHU>.

15 Istanbul Declaration and Resolutions adopted by the OSCE Parliamentary Assembly at the twenty-second annual session, AS (13) DE, Istanbul, 29 June – 3 July 2013, <http://www.oscepa.org/publications/declarations/2013-istanbul-declaration/1826-istanbul-declaration-eng/file>; and Baku Declaration and Resolutions adopted by the OSCE Parliamentary Assembly at the twenty-third annual session, AS (14) DE, Baku, 28 June – 2 July 2014, <http://www.oscepa.org/publications/all-documents/annual-sessions/2014-baku/declaration-2/2540-2014-baku-declaration-eng/file>.

16 "Summary of the panel discussion on the human rights of children of parents sentenced to the death penalty or executed", Report of the United Nations High Commissioner for Human Rights, A/HRC/25/33, 18 December 2013.

criminal path."[17] The Special Representative emphasized the critical importance of urgent attention and action in this regard. A number of OSCE participating States, including Austria, Belgium, Ireland, Italy, Moldova, Montenegro, Norway, Poland, Portugal, Spain, Sweden, Switzerland and the United Kingdom, contributed to the plenary discussion.

On 5 March 2014 in Geneva, the UN Human Rights Council held a high-level panel discussion on the question of the death penalty to exchange views on advances, best practices and challenges relating to the abolition of the death penalty and to the introduction of a moratorium on executions. In his video message, the UN Secretary General Ban Ki-Moon expressed concern about the alarming number of cases of people being put to death in hasty circumstances that failed to adhere to international standards regarding due process. He called upon states to do their utmost to put a final stop to the death penalty, a practice that he considered unjust and incompatible with fundamental human rights.[18] France, Mongolia and Slovenia were among the OSCE participating States that welcomed the convening and organization of this panel discussion.

On 24 April 2014 in New York, the Office of the UN High Commissioner for Human Rights (OHCHR), with the support of Chile and Italy, held a panel discussion on *"Moving Away from the Death penalty – Discrimination against marginalized groups"*. The discussion focused on the impact of the death penalty on marginalized and disadvantaged groups, such as minorities, persons with mental or intellectual disabilities, LGBT persons and foreign nationals.[19]

On 18 June 2014, during the 26th Session of the UN Human Rights Council in Geneva, the International Commission against the Death Penalty (ICDP) organized a side event on the 25th anniversary of the adoption of the Second Optional Protocol to the ICCPR.[20] The former UN Special Rapporteur for drafting the Second Optional Protocol, Marc Bossuyt, stated that ratification of the Protocol was the best way to abolish the death penalty, as it contained three obligations: not to apply

17 *Ibid.*, paragraph 8, p. 5.

18 "Summary of the high-level panel discussion on the question of the death penalty", Report of the United Nations High Commissioner for Human Rights, A/HRC/27/26, 30 June 2014, p.3.

19 OHCHR Global Panel: "Moving Away from the Death Penalty – Discrimination against marginalized groups", United Nations High Commissioner for Human Rights, 24 April 2014, <http://www.un.org/webcast/pdfs/140424am-ohchr.pdf>.

20 The side event was co-sponsored by Argentina, Belgium, France, Italy, Mexico, Norway, Spain, Switzerland, Turkey and the United Kingdom, who are members of ICDP's Support Group, as well as Moldova and the World Coalition against the Death Penalty.

the death penalty, to suppress capital punishment from the criminal code and not to reintroduce the death penalty.[21]

On 26 June 2014, the UN Human Rights Council adopted a new resolution on the question of the death penalty.[22] The resolution, which was tabled by Belgium, France, Mongolia, Switzerland and Moldova, among other states, requests the UN Secretary General to report on the consequences of capital punishment at various stages of its imposition and application on the enjoyment of the human rights of people sentenced to death and other affected persons, and to convene biennial high-level panel discussions on capital punishment. "With this step the abolition of the death penalty becomes a fixed, long-term item on the Human Rights Council's work programme."[23]

The effects of the death penalty system, including the social, economic and psychological impact on children who have a parent sentenced to death or executed, was also brought into focus by the UN Secretary General in his recent report.[24] Emphasizing that children of parents facing the death penalty or executed are confronted with multiple challenges of a social, practical, financial and psychological nature, the Secretary General called upon states to recognize the urgency of ensuring a protective environment for affected children, preventing their discrimination and stigma and providing them with the required assistance for their recovery and reintegration.[25] In this context, the Secretary General referred to a number of concrete areas that require further examination and the adoption of measures, including children's access to information and communications with their parents on death row. He noted that, in general, the lack of access to data associated with the application of the death penalty seriously impedes the debate on the abolition of capital punishment.[26]

On 10 October 2013, the Council of Europe and the European Union marked the World Day against the Death Penalty with a joint declaration calling for *de jure* and

21 Statement by the International Commission against the Death Penalty: Side-Event on the 25th anniversary of the adoption of the Second Optional Protocol to the International Covenant on Civil and Political Rights, 19 June 2014, Geneva, <http://www.icomdp.org/cms/wp-content/uploads/2014/06/19-ICDP-Statement-on-the-18-June-event-on-25th-anniv-of-OP2.pdf>.

22 A/HRC/26/L.8/Rev.1.The resolution was tabled by Belgium, Benin, Costa Rica, France, Mexico, Moldova, Mongolia and Switzerland, and adopted by a recorded vote (29 to 10, with 8 abstentions). At the time of writing, the final edited version of the resolution was not yet available. The draft text of the resolution, as adopted, is available at: <http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/26/L.8/Rev.1>.

23 "UN Human Rights Council adopts Swiss resolution on the death penalty", the Swiss Federal Authorities website, 26 June 2014, <http://www.admin.ch/aktuell/00089/index.html?lang=en&msg-id=53546>.

24 Report of the Secretary-General on the question of the death penalty, A/HRC/27/23, 30 June 2014.

25 *Ibid.*, paragraphs 65 – 71 and 75.

26 *Ibid.,* paragraph 73.

de facto abolition of the death penalty in Europe and reiterating their commitment to continue working towards universal abolition.[27]

On 25 March 2014, the Inter-American Commission on Human Rights held a hearing on the human rights situation and the death penalty in the Americas. At this hearing, participants noted the lack of observance by some Member States of precautionary measures, including those dealing with death penalty cases, and stressed the need to identify and implement new strategies and proactive measures in addressing the death penalty in the region.[28] Participants called on the United States, one of the few Member States of the Organization of American States to carry out executions, to address a number of issues with regards to the implementation of the death penalty, including the violation of the 1963 Vienna Convention on Consular Relations.[29]

27 "Joint Declaration by Thorbjørn Jagland, Secretary General of the Council of Europe, and Catherine Ashton, European Union High Representative for Foreign Affairs and Security Policy, on the European and World Day against the Death Penalty", Brussels, 10 October 2013, <http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/cfsp/138947.pdf>.

28 "Human Rights Situation and the Death Penalty in the Americas", Organization of American States, 25 March 2014, <http://www.oas.org/es/cidh/audiencias/TopicsList.aspx?Lang=en&Topic=47>.

29 "Inter-American Commission on Human Rights Focuses on the Death Penalty", National Coalition to Abolish the Death Penalty, 28 March 2014, <http://www.ncadp.org/blog/entry/inter-american-commission-on-human-rights-focuses-on-the-death-penalty>.

The Status of the Death Penalty in the OSCE Area

For the purpose of this paper, each participating State has been classified as abolitionist, *de facto* abolitionist or retentionist, according to the status of the death penalty in the relevant state's law and practice.

Abolitionist: The death penalty has been abolished for all crimes.
Fifty one OSCE participating States are abolitionist:

- Albania
- Andorra
- Armenia
- Austria
- Azerbaijan
- Belgium
- Bosnia and Herzegovina
- Bulgaria
- Canada
- Croatia
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Georgia
- Germany
- Greece
- Holy See
- Hungary
- Iceland
- Ireland
- Italy
- Kyrgyzstan
- Latvia
- Liechtenstein
- Lithuania
- Luxembourg
- Former Yugoslav Republic of Macedonia
- Malta
- Moldova
- Monaco
- Montenegro
- Netherlands
- Norway
- Poland
- Portugal
- Romania
- San Marino
- Serbia
- Slovak Republic
- Slovenia
- Spain
- Sweden
- Switzerland
- Turkey
- Turkmenistan
- Ukraine
- United Kingdom
- Uzbekistan

***De facto* Abolitionist:** The death penalty is retained for crimes committed in peacetime, but executions are not carried out.

Four OSCE participating States are *de facto* abolitionist:

- Kazakhstan
- Mongolia
- Russian Federation
- Tajikistan

Retentionist: The death penalty is retained for crimes committed in peacetime, and executions are carried out.

Two OSCE participating States are retentionist:

- Belarus
- United States of America

Abolitionist States

Nineteen of the 51 abolitionist participating States responded to the ODIHR questionnaire on the death penalty.[30] The responses reveal a high level of support among these states for the global abolitionist movement. This support is manifested through various initiatives undertaken at the national level and in the framework of various international fora, including the UN, the OSCE, the EU and others.

A number of OSCE participating States, including Belgium, the Czech Republic, France, Hungary, Latvia, Lithuania, Montenegro, Slovenia and Switzerland, reported in their responses that they supported and welcomed the adoption of the UN Human Rights Council resolution of 26 June 2014 on the question of the death penalty.[31] Some participating States, namely Belgium, the Czech Republic, Hungary, the Netherlands, the Slovak Republic and Sweden, also noted their role in implementing the EU Guidelines on the Death Penalty. Italy reported that active support of the global moratorium on the death penalty was a top priority of its current Presidency of the Council of the European Union.[32]

In their responses to the ODIHR questionnaire on the death penalty, Belgium, France, Italy, Switzerland and the United Kingdom stated that combating capital punishment was one of the main priorities of their human rights policy towards third countries. In New York on 27 September 2013, France and Mongolia, together with Benin and Costa Rica, co-organized a high-level ministerial meeting on the role of regional organizations in the progressive restriction of the death penalty.[33] The meeting gathered representatives of over 40 states and regional organizations, who underlined the need to further strengthen co-operation among various stakeholders with a view to universal abolition. During the reporting period, France was also active in promoting international debate among youth from abolitionist and retentionist countries on the question of capital punishment by hosting a number of seminars and other educational activities.[34]

On 10 December 2014, the Netherlands Embassy in Vilnius together with the Belarussian Human Rights House organized a conference titled *"The Question of the*

30 Andorra, Belgium, the Czech Republic, France, Greece, Hungary, Italy, Kyrgyzstan, Latvia, Lithuania, Montenegro, Romania, San Marino, the Slovak Republic, Slovenia, Sweden, Switzerland and the United Kingdom provided responses to the 2014 ODIHR questionnaire on the death penalty.

31 A/HRC/26/L.8/Rev.1, *op. cit.,* note 21.

32 Response to the ODIHR questionnaire on the death penalty from Italy, received on 22 July 2014.

33 International Campaign to Abolish the Death Penalty, Permanent Mission of France to the United Nations in New York, 27 September 2013.

34 Response to the ODIHR questionnaire on the death penalty from France, received on 28 July 2014.

Criminal Justice System and the Death Penalty in Belarus". Representatives of other embassies, the Lithuanian Ministry of Foreign Affairs, the European Humanities University and human rights organizations took part in the conference.[35]

On 9 October 2013, Switzerland launched its *Strategy on the Universal Abolition of the Death Penalty for 2013-2016.*[36] The document underscores the country's commitment to the complete and universal abolition of the death penalty by 2025, and translates this objective into specific policies and activities. Likewise, the United Kingdom's *Strategy for the Abolition of the Death Penalty for 2010-2015* aims at increasing the number of abolitionist states, reducing the number of executions and at ensuring that universal minimum standards on the application of the death penalty are met.[37]

The reporting period was also marked by political debates and statements in favour of reinstating capital punishment in a number of abolitionist participating States. In September 2013, a member of the Lithuanian Parliament stated that he had registered amendments to the national Criminal Code that envisage reinstating capital punishment for aggravated murder.[38] In May 2014 in Turkey, triggered by public outrage about the brutal murders of children, the deputy leader of the Islamic Saadet Party called for reinstating the death penalty.[39] The Turkish prime minister stressed that restoration of capital punishment was not possible due to Turkey's candidacy for EU membership, but stated that murderers of children should face the harshest alternative punishment: life imprisonment.[40] In February 2014 in Ukraine, a legal draft recommending that the death penalty be reinstated for murder, robbery, banditry, assassination and drug trafficking[41] was included on the agenda of the parliament. In May 2014, another draft resolution, proposing the imposition of capital punishment for crimes "against national security", was registered in the

35 Response to the ODIHR questionnaire on the death penalty from the Netherlands, received on 4 September 2014.

36 Response to the ODIHR questionnaire on the death penalty from Switzerland, received on 19 August 2014.

37 Response to the ODIHR questionnaire on the death penalty from the United Kingdom, received on 22 July 2014.

38 "Petras Grazulis suggests to reinstate death penalty", News Portal News TTS.LT, 29 September 2013, <http://www.visaginas.com/oldie/ru/Kriminal/21249-Pjatras_Grazhulis_predlagaet_vernut_smertnuju_kazn.htm>.

39 "Child murders cause outrage in Turkey", IOL News, 5 May 2014, <http://www.iol.co.za/news/world/child-murders-cause-outrage-in-turkey-1.1683463#.VACuYfm1a-0>.

40 *Ibid.*

41 Legal draft of Ukraine #2128 "On Establishing Death Penalty as One of the Types of Punishment", Official website of Verhovna Rada of Ukraine, 30 January 2013, <http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=45589>.

parliament of Ukraine.[42] Both drafts are currently under review by a parliamentary expert committee.[43]

In response to the ODIHR questionnaire on the death penalty, Greece, Hungary, Italy, Lithuania and Romania reported on their nationals, some of whom are also citizens of the United States, who face the death penalty in the United States. The Netherlands also provided information on two Dutch citizens facing the death sentence in Indonesia.[44] According to media reports, nationals of Austria, Denmark and Uzbekistan face capital punishment outside the OSCE area.[45] The majority of the 19 abolitionist participating States who responded to the questionnaire stated that general safeguards governing the protection of children's rights also apply to those children with parents facing the death penalty or executed abroad.

POLAND

Abd al-Rahim al-Nashiri, a Saudi Arabian national, is currently detained at the United States detention camp at Guantanamo Bay. He faces capital charges before a military commission relating to his alleged involvement in terrorist activities. In his application submitted to the European Court of Human Rights (ECtHR), al-Nashiri claimed that he was kept and tortured in a secret CIA detention facility in Poland before he was transferred to the detention camp at Guantanamo Bay, despite substantial risk of him being subjected to the death penalty.[46] The applicant claims that Poland violated Articles 2 (right to life) and 3 (prohibition of torture) of the ECHR and Protocol 6 to the Convention concerning the abolition of the death penalty. In December 2013, the ECtHR held a Chamber hearing concerning the case.[47]

42 Draft resolution of Ukraine #4803 "On National Antiterrorist Doctrine of Ukraine", Official website of Verhovna Rada of Ukraine, 5 May 2014, <http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=50816>.

43 Official website of Verhovna Rada of Ukraine, *op. cit.,* note 41 and 42.

44 Netherlands Response, *op. cit.,* note 35.

45 "Austrian dancer facing death penalty in Indonesia", Austrian Times, 7 January 2014, <http://austriantimes.at/news/General_News/2014-01-07/50300/Austrian_Dancer_Facing_Death_Penalty_in_Indonesia>; "Dane faces death penalty in Indonesia for alleged drug trafficking", Snadasia.com, 24 June 2014, <http://scandasia.com/dane-faces-death-penalty-in-indonesia-for-alleged-drug-trafficking/>; "Гражданину Узбекистана грозит смертная казнь в Малайзии – за попытку ввоза наркотиков" ["Uzbek national is at risk of being executed for drug offences in Malaysia"], Fergana News, 4 June 2014, <http://www.fergananews.com/news/22265>.

46 European Court of Human Rights, Application No. 28761/11, Abd Al Rahim Hussayn Muhammad Al Nashiri v. Poland, the judgement delivered on 24 July 2014, <http://hudoc.echr.coe.int/sites/fra/pages/search.aspx?i=001-112302>.

47 "Chamber hearing concerning the secret 'rendition' of two men suspected of terrorist acts", Press release issued by the Registrar of the ECtHR, 3 December 2013.

ROMANIA

The case filed by Abd al-Rahim al-Nashiri to the ECtHR against Romania has been communicated and is still pending before the Court.[48] As in his application against Poland (see the entry on Poland), the applicant claims that he was kept in a secret CIA detention facility in Romania before he was transferred to the United Stated detention camp at Guantanamo Bay, despite substantial risk of him being subjected to the death penalty.[49] There has been no investigation in Romania relevant to this case. The Romanian authorities have claimed that any allegations of secret detention in Romania are groundless.[50]

SWEDEN

Sweden reported on two cases against Sweden before the ECtHR that touch upon the issue of capital punishment.[51]

In the case of F.G. v. Sweden,[52] the applicant, an Iranian national, applied for asylum in Sweden stating, *inter alia,* that he has been active in the Iranian opposition movement and, therefore, risked persecution if returned to Iran. The Swedish migration authorities rejected his asylum application. The applicant filed a case to the ECtHR claiming that, if expelled to Iran, he would be at risk of being persecuted and punished or sentenced to death, in contravention of Articles 2 and 3 of the ECHR. In January 2014, the Court held in its Chamber judgement that the applicant had failed to substantiate his claims, and that the implementation by Sweden of the expulsion order against the applicant would not give rise to a violation of the aforementioned provisions. In June 2014, at the request of the applicant, the case was referred to the Grand Chamber of the ECtHR, where it is currently pending.[53]

48 European Court of Human Rights, Application No. 33234/12, Abd Al Rahim Hussayn Muhammad Al Nashiri v. Romania, lodged on 1 June 2012, <http://hudoc.echr.coe.int/sites/fra/pages/search.aspx?i=001-112302>.

49 The applicant claims that Romania violated Articles 2 and 3 of the ECHR and Protocol 6 to the Convention. The applicant also alleges the violation of Article 13 of the Convention due to Romania's refusal to investigate his claims.

50 "Lithuania Opens CIA Rendition Investigation", Amnesty International, 21 February 2014, <http://www.amnesty.org/en/library/asset/EUR53/001/2014/en/52b2f329-76f1-472f-a649-e05dbfc595af/eur530012014en.pdf>.

51 Response to the ODIHR questionnaire on the death penalty from the Permanent Delegation of Sweden to the OSCE, received on 21 July 2014.

52 European Court of Human Rights, Application No. 43611/11, F.G. v. Sweden, lodged on 12 July 2011,ECtHR Judgment, 16 January 2014, <http://hudoc.echr.coe.int/sites/fra/pages/search.aspx?i=001-140020>.

53 Sweden Response, *op. cit.,* note 51.

In the case of A.A.M. v. Sweden,[54] the applicant, an Iraqi national, applied for asylum in Sweden stating, *inter alia,* that he was at risk of persecution by al-Qaeda for having voiced "unacceptable" religious opinions, and by the Iraqi authorities for unfounded allegations of aiding terrorists. His asylum application was rejected by the Swedish migration authorities. The applicant submitted an application to the ECtHR claiming that, if expelled to Iraq, he would be at real risk of being persecuted and punished or sentenced to death, in contravention of Article 3 of the ECHR. In April 2014, the ECtHR held in its Chamber judgement that the implementation by Sweden of the expulsion order against the applicant would not give rise to a violation of the aforementioned provision, in particular because the applicant could relocate to another part of Iraq.[55]

54 The European Court of Human Rights, Application 68519/10, A.A.M. v. Sweden, lodged on 15 November 2010, ECtHR Judgment, 3 April 2014, <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-142085>.

55 *Ibid.*

De Facto Abolitionist States

KAZAKHSTAN*

In Kazakhstan, an indefinite moratorium on executions, issued by presidential decree in 2003, remains in place.[56] Under the Constitution of the Republic of Kazakhstan, the application of capital punishment is allowed for two types of crimes: acts of terrorism resulting in death, and grave crimes committed in wartime.[57] In addition, the Criminal Code provides for the application of the death penalty for a number of other crimes. During the reporting period, Kazakhstan introduced amendments to its Criminal Code regulating the scope of application of the death penalty. On 11 June 2014, after the approval of the new Criminal Code by the Parliament of Kazakhstan, the number of crimes punishable by the death penalty increased from 18 to 19. Three additional articles authorizing the application of capital punishment were added (Article 164 on the application of prohibited means and methods of conducting a war; Article 165 on the violation of laws or customs of war; and Article 253 on international terrorism). The death penalty was removed as a possible punishment for two crimes, namely the abuse of authority and the excess of official power by public officials in wartime (Article 380 in the old Criminal Code, now Articles 448 and 449 in the new Criminal Code).[58]

The Concept of Legal Policy of the Republic of Kazakhstan for 2010-2020 outlines a gradual decrease of the scope of application of the death penalty as one of the objectives of the state's criminal policy.[59] According to civil society organizations promoting the abolition of capital punishment, although Kazakhstan has been

* Permanent Delegation of the Republic of Kazakhstan to the OSCE did not provide a response to the 2014 ODIHR questionnaire on the death penalty.

56 Kazakhstan Presidential Decree No. 1251 "On the introduction of a moratorium on the death penalty in the Republic of Kazakhstan", 17 December 2003.

57 Article 15 (2) of the Constitution of the Republic of Kazakhstan, amended on 21 May 2007.

58 The Criminal Code of the Republic of Kazakhstan, amended on 11 June 2014, provides for the application of the death penalty for the following crimes: planning, preparation, starting, or waging a war; the application of prohibited means and methods of conducting a war; the violation of laws and customs of war; genocide; employing mercenaries in armed conflict; high treason; an attempt on the life of the First President of the Republic of Kazakhstan (the leader of the nation); an attempt on the life of the President of the Republic of Kazakhstan; subversion; terrorism; international terrorism; the promotion of terrorism or public appeals for the commission of an act of terrorism; disobedience or other non-execution of an order (military); resistance to a superior or coercion of him to violate service duties; violent actions with regard to a superior; desertion; evasion of military service by way of self-mutilation or other method; violation of the rules for being on active duty; and the surrendering or leaving to the enemy of material for waging war.

59 "Kazakhstan: The Concept of Legal Policy for 2010-2020", endorsed by the Presidential Decree No. 858 of 24 August 2009.

moving away from the death penalty for a number of years,[60] the recent Criminal Code reform runs counter to the abolitionist trend.[61] In its recent report "Counter-terrorism in Kazakhstan: Why the death penalty is no solution", Penal Reform International (PRI) found that since the introduction of a moratorium on executions, there has been no rise in the number of violent crimes in Kazakhstan, which suggests that the death penalty is not more effective in deterring crime than other sentences.[62] Based on this and other relevant findings, PRI recommended Kazakhstan to expedite its efforts in abolishing capital punishment.[63] On 10 October 2013 in Geneva, members of the parliament of Kazakhstan participated in a roundtable discussion entitled "Parliamentarians, a crucial force in promoting the abolition of the death penalty".[64] The parliamentarians informed participants of the ongoing discussions in Kazakhstan on the issue of the death penalty and reiterated the country's dedication to moving towards abolition.

MONGOLIA**

In Mongolia, a moratorium on the death penalty, declared in January 2010 by President Tsakhiagiin Elbegdorj, remains in place.[65] Death sentences issued prior to the introduction of the moratorium have been commuted to 30 years of imprisonment.[66]

Although not applied in practice, the death penalty is retained in the national law of Mongolia. Article 16 (1) of the Constitution provides for the imposition of

60 "Counter-terrorism in Kazakhstan: Why the death penalty is no solution", Penal Reform International, 2013, <http://www.penalreform.org/wp-content/uploads/2013/10/New-Counter-terrorism-in-Kazakhstan-final.pdf>. According to Penal Reform International, the last execution in Kazakhstan took place in May 2003 and the last death sentence was passed in 2003. In December 2007, 31 prisoners sentenced to death had their sentences commuted to life imprisonment by presidential decree. Currently, there are no death row inmates in Kazakhstan.

61 "Kazakhstan Penal Reform runs counter to abolitionist trend", World Coalition against the Death Penalty, 22 July 2014, <http://www.worldcoalition.org/kazakhstan-capital-crimes-penal-code-reform-death-penalty.html>.

62 "Counter-terrorism in Kazakhstan: Why the death penalty is no solution", *op. cit.,* note 60.

63 *Ibid.*

64 "Celebrating the World Day against the Death Penalty, 10 October: Parliamentarians, a critical force in promoting the abolition of the death penalty", International Commission against Death Penalty, 15 October 2013, <http://www.icomdp.org/2013/10/celebrating-world-day-against-the-death-penalty-10-october-parliamentarians-a-critical-force-in-promoting-the-abolition-of-the-death-penalty/>.

** The Permanent Mission of Mongolia to the OSCE did not provide a response to the 2014 ODIHR questionnaire on the death penalty.

65 "Mongolia leader calls for end to death penalty", BBC, 14 January 2010, <http://news.bbc.co.uk/2/hi/asia-pacific/8458717.stm>.

66 "Mongolia moratorium on executions", Al Jazeera, 14 January 2010, <http://www.aljazeera.com/news/asia-pacific/2010/01/201011464935383 58.html>. According to Article 53 (3) of the Criminal Code, in case of pardon, the death penalty should be commuted to imprisonment for a term of 30 years.

capital punishment by due judgment of the court for the most serious crimes, as constituted by the penal law of Mongolia.[67] Under the Criminal Code of Mongolia, the death penalty can be applied for aggravated murder, assassination of a state or public figure, rape of a child under the age of 14, rape entailing the death of the victim or causing other grave harm, terrorism and genocide.[68] It cannot be imposed on women, men under the age of 16 at the time of committing the crime or men over 60 years of age.[69] Pardons may be granted only by the President of Mongolia.[70] According to Mongolia's Law on State Secrets and Law on the List of State Secrets, information related to the carrying out of death sentences is confidential.[71] The last known execution took place in 2008.[72]

On 5 March 2014 in Geneva, during a high-level panel discussion on the question of the death penalty held by the UN Human Rights Council, Mongolia confirmed its commitment to the abolition of the death penalty in practice and in law, and provided information on the ongoing work on legislative amendments seeking to remove the death penalty from Mongolia's national law.[73]

RUSSIAN FEDERATION***

A moratorium on the application of the death penalty has been in place in Russia since April 1997, when the country, upon its accession to the Council of Europe, signed Protocol 6 to the ECHR and made a commitment to fully abolish capital punishment.[74] In November 2009, the moratorium was extended by the Constitutional Court for an indefinite period of time until Russia's ratification of the Protocol.[75]

67 Article 16 (1) of the Constitution of Mongolia, 13 January 1992.

68 Article 91 (2), Article 81 (2), Article 126 (2.3), Article 177 (2) and Article 302 of the Criminal Code of Mongolia, 1 September 2002.

69 Criminal Code of Mongolia, *op. cit.,* note 68, Article 53 (4).

70 Criminal Code of Mongolia, *op. cit.,* note 68, Article 53 (3).

71 The Law on the State Secrets of Mongolia, 18 April 1995, and the Law on the List of State Secrets, 2 January 2014.

72 " Mongolia leader calls for end to death penalty", BBC, 14 January 2010, <http://news.bbc.co.uk/2/hi/asia-pacific/8458717.stm>.

73 "Human Rights Council holds high-level panel discussion on the question of the death penalty", Office of the High Commissioner for Human Rights, 5 March 2014, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14317&LangID=E>.

*** The Permanent Mission of the Russian Federation to the OSCE did not provide a response to the 2014 ODIHR questionnaire on the death penalty.

74 "Выход из ПАСЕ не вернет в РФ смертную казнь", Российская газета [Leaving PACE will not return death penalty to Russian Federation, Rosiskaja gazeta], 8 April 2014, <http://www.rg.ru/2014/04/08/kazn-site.html>.

75 *Ibid.*

National legislation of Russia provides for the application of the death penalty. The Constitution retains it as an exclusive form of punishment for exceptionally grave crimes against life.[76] Under the Criminal Code, the death penalty can be applied for five types of offences: aggravated murder; assassination attempts against a state or public figure; attempts on the life of a person administering justice or preliminary investigations; attempts on the life of a law-enforcement official; and genocide.[77] Pardons are granted that commute the death penalty for the deprivation of liberty for life or for a term of 25 years.[78]

The debate on reinstating capital punishment in Russia continued during the reporting period. On 30 December 2013, Roman Hudyakov, a member of the Russian Parliament from the Liberal-Democratic Party, suggested restoring the death penalty for certain grave crimes, such as pedophilia, serial killings and terrorism.[79] This suggestion came after two suicide bombers killed dozens of civilians at the train station and on a bus in Volgograd on 29 and 30 December 2013.[80]

On 5 April 2014, Igor Morozov, a member of the Federation Council Committee for Foreign Affairs, claimed that the moratorium on the death penalty could be lifted if Russia is excluded from participation in the Parliamentary Assembly of the Council of Europe.[81] However, on 8 April 2014, the press service of the Ministry of Justice stated that the death penalty cannot be reinstated due to the country's international obligations pursuant to Protocol 6 to the ECHR and the Constitutional Court ruling, which placed a moratorium on executions until the ratification by Russia of this document.[82]

76 Article 20 of the Constitution of the Russian Federation, adopted on 12 December 1993.

77 Article 105 (2), Article 277, Article 295, Article 317 and Article 357 of the Criminal Code of the Russian Federation, adopted on13 June 1996, amended on 29 June 2009.

78 Criminal Code of the Russian Federation, *op. cit.,* note 77, Article 59 (3).

79 "Депутат ЛДПР предложил отменить мораторий на смертную казнь", Российская газета [LDPR member suggests repeal of death penalty moratorium, Rossiskaya gazeta], 30 December 2013, <http://www.rg.ru/2013/12/30/motatoriy-anons.html>.

80 "Second suicide bomber in Russia's Volgograd kills 14 on bus", Reuters, 30 December 2013, <http://www.reuters.com/article/2013/12/30/us-russia-blast-trolley-idUSBRE9BT03N20131230>.

81 "В России может быть снят мораторий на смертную казнь", Российская газета, [Death penalty moratorium might be lifted in Russia, Rosisskaya Gazeta], 5 April 2014, http://www.rg.ru/2014/04/05/kazn-anons.html. On 10 April 2014, the Parliamentary Assembly of the Council of Europe suspended voting rights of the delegation of the Russian Federation, including their right to be represented in the Assembly's leading bodies and to participate in election observation missions. The decision is effective until the end of the 2014 session (26 January 2015). See "Citing Crimea, PACE suspends voting rights of Russian delegation and excludes it from leading bodies", Official Website of the Parliamentary Assembly of the Council of Europe, 10 April 2014, <http://assembly.coe.int/nw/xml/News/News-View-en.asp?newsid=4981&lang=2>.

82 *Ibid.*

In September 2013, an opinion poll carried out by the Public Opinion Foundation found that, among 1,000 respondents in Russia, 68 per cent think that the death penalty is acceptable, while 24 per cent believe it to be inadmissible.[83]

TAJIKISTAN

An indefinite moratorium on death sentences and executions has been in place in Tajikistan since 15 July 2004. Death sentences issued before this date have been commuted to 25 years of imprisonment,[84] and capital punishment has been replaced with long-term imprisonment or life sentences without parole for all future cases. Nevertheless, national legislation continues to retain the death penalty as a possible punishment for particularly grave offences. The Constitution of the Republic of Tajikistan states that no person may be deprived of life "except by the verdict of a court for a particularly serious crime".[85] Under the Criminal Code, the death penalty can be imposed for aggravated murder, acts of terrorism that result in death, the rape of a minor (under 14 years of age), genocide and biocide.[86] During the reporting period, a Working Group to revise the Criminal Code was established.[87] The Group, which is comprised of representatives of the relevant ministries and other state institutions, aims at "humanizing the criminal legislation of Tajikistan and commuting penalties for certain particularly grave offences".[88]

The Working Group on the study of social and legal aspects of the abolition of the death penalty, active since 2010, continued its work. According to the Permanent Mission of the Republic of Tajikistan to the OSCE, the Working Group is currently implementing activities in line with its action plan. These include studying international practice and the national laws of abolitionist countries, analyzing

83 "Этические нормы в современной России", Фонд Общественное Мнение [Ethical norms in modern Russia, Public Opinion Foundation], 6 September2013, <http://fom.ru/TSennosti/11069>.

84 Response to the ODIHR questionnaire on the death penalty from the Permanent Mission of the Republic of Tajikistan to the OSCE, received on 14 August 2014.

85 Article 18 of the Constitution of the Republic of Tajikistan, 6 November 1994, amended on 26 September 1999 and 22 June 2003.

86 Article 104 (2), Article 179 (3), Article 138 (3), Article 398, Article 399 of the Criminal Code of the Republic of Tajikistan, 21 May 1998, amended on 3 July 2012. In its response to the ODIHR questionnaire on the death penalty, the Permanent Mission of the Republic of Tajikistan to the OSCE stated that the Criminal Code of 1961 provided for the imposition of the death penalty for 52 crimes. In the country's Criminal Code adopted in 1998, the number of crimes carrying the death penalty was reduced to 15. With the introduction of a moratorium on the death penalty, the law number 35 "About amendments and additions to the Criminal Code of the Republic of Tajikistan" was adopted on 17 May 2004, further reducing the number of crimes that carry the death penalty to five.

87 Tajikistan Response, *op. cit.,* note 84.

88 *Ibid.*

crime trends before and after the moratorium, conducting sociological studies and considering the possible ratification by Tajikistan of the Second Optional Protocol to the ICCPR.[89] According to the Dushanbe-based public foundation "Nota Bene",[90] the Working Group, which consists of key officials from the executive, the judiciary and the Ombuds Institution of Tajikistan, has been active in co-operating with civil society to raise public awareness of the issue of the death penalty.[91] However, the Working Group has not reported on the results of its work or findings since its establishment in 2010.[92]

On 9 and 10 July 2013 in Geneva, the UN Human Rights Committee considered the second periodic report of Tajikistan on its implementation of the ICCPR. On 23 July 2013, the Committee adopted its Concluding Observations, which recommend Tajikistan "expedite its efforts to abolish the death penalty from its Criminal Code and […] ratify the Second Optional Protocol to the Covenant […]".[93]

In its response to the ODIHR questionnaire on the death penalty, the Permanent Mission of the Republic of Tajikistan to the OSCE highlighted that public support for the death penalty is one of the issues that needs to be addressed before the adoption of a law providing for its complete abolition.[94] According to a sociological survey conducted by the public foundation "Nota Bene" between June and August 2013, out of 2,074 respondents aged 18 and older, 67 per cent supported the abolition of the death penalty.[95] The result shows a 6 per cent increase in respondents favouring the complete elimination of capital punishment, and a decrease of almost 10 per cent of respondents in favour of retaining the death penalty, as compared to a similar public opinion survey conducted between November and December 2010.[96]

The experiences of Kazakhstan, Kyrgyzstan and Tajikistan in working towards the full abolition of the death penalty was the focus of a regional conference held on

89 *Ibid.*

90 "Nota Bene" is a human rights and democracy think tank that works to promote human rights and the development of civil society in Tajikistan. For more information, see the official website: <http://www.notabene.tj/>.

91 "Death Penalty: Sociological Survey of Public Opinion on the Abolition of the Death Penalty in the Republic of Tajikistan", Public Foundation "Nota Bene", Dushanbe 2013, <http://notabene.tj/documents/New2014_02/SDC_2013__Rus.pdf>.

92 *Ibid.*

93 "Concluding observations on the second periodic report of Tajikistan", UN Human Rights Committee, 26 July 2013,<http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fTJK%2fCO%2f2&Lang=en>.

94 Tajikistan Response, *op. cit.,* note 84.

95 The respondents were interviewed across 34 districts of Tajikistan; 60.9 per cent were men and 39.1 per cent were women. Public opinion survey on the death penalty, *op. cit.,* note 91.

96 "Death Penalty: Public Opinion in the Republic of Tajikistan", Public Foundation "Nota Bene", Dushanbe 2010, <http://www.notabene.tj/documents/publication/Smertnaya_kazn_issledovanie.pdf>.

15 April 2014 in Dushanbe.[97] The conference brought together various stakeholders, including representatives of state structures, Ombuds institutions, civil society, international organizations and independent experts. Following a discussion of the experiences of Kazakhstan and Kyrgyzstan in this field, participants developed a number of recommendations to facilitate Tajikistan's efforts to abolish the death penalty from its legislation.[98]

97 The conference was organized by the NGO "League of Women Lawyers of Tajikistan", in co-operation with Penal Reform International, the Swiss Cooperation Office, the Open Society Institute and the Presidential Administration of the Republic of Tajikistan. "Experts discussed Tajikistani approach towards complete abolition of the death penalty", Penal Reform International, 16 April 2014, <http://www.penalreform.org/blog/experts-discussed-tajikistani-approach-complete-abolition-death-penalty/>.

98 *Ibid.*

Retentionist States

BELARUS

The Republic of Belarus continues to retain the death penalty in law and in practice. The country's Constitution and Criminal Code provide for the application of the death penalty as an exceptional punishment for particularly grave crimes. During the reporting period, two death sentences were handed down for premeditated murder, and two executions were carried out.[99]

On 25 April 2014, after the reported execution of Pavel Selyun and the Supreme Court ruling upholding the death sentence against Eduard Lykov, the UN Special Rapporteur on the situation of human rights in Belarus, Miklós Haraszti, urged the Belarusian authorities to impose an immediate moratorium on capital punishment and refrain from carrying out further executions.[100] On 2 June 2014, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, called on Belarus to take all necessary steps to ensure full transparency in regards to the application of the death penalty and to move towards imposing a moratorium on capital punishment, with the view to abolishing it.[101]

The Belarusian parliamentary working group on the death penalty has continued its work. As reported by the Permanent Delegation of the Republic of Belarus to the OSCE, the working group seeks to inform the public about various aspects of capital punishment and to monitor the situation in this respect; it is not guided by a conviction that the death penalty should be abolished or retained.[102] On 25 June 2014, the UN Human Rights Council adopted a resolution encouraging the Belarusian working group on the death penalty to expedite its work.[103]

99 Response to the ODIHR questionnaire on the death penalty from the Permanent Delegation of the Republic of Belarus to the OSCE, received on 8 August 2014.

100 "UN rights expert calls on Belarus to impose death penalty moratorium, halt executions", UN News Centre, 25 April 2014, <http://www.un.org/apps/news/story.asp?NewsID=47653#.U_XEqfmSzHU>.

101 Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, Addendum, Observations on communications transmitted to Governments and replies received, A/HRC/26/36/Add.2, p. 27.

102 Response to the 2013 ODIHR questionnaire on the death penalty from the Permanent Delegation of the Republic of Belarus to the OSCE, received on 6 August 2013.

103 A/HRC/26/L.14/Rev.1, 25 June 2014.

Legal Framework

During the reporting period, no changes were introduced in national legislation regulating the scope of application or execution of capital punishment in Belarus.[104] The Constitution of the Republic of Belarus provides for the imposition of the death penalty as an exceptional punishment for particularly grave crimes and only in accordance with the law.[105] Under the Criminal Code, the death penalty may be applied for severe crimes connected with the deliberate deprivation of life with aggravating circumstances.[106] In particular, capital punishment may be imposed for 12 crimes in peacetime and two crimes in times of war.[107] It is not a mandatory sentence for any of these crimes and, by means of a pardon by the president, may be commuted to life imprisonment.[108] The law prohibits the imposition of the death penalty on women, men under the age of 18 at the time of committing the crime or men over 65 at the time of sentencing.[109]

Under the Criminal Executive Code of the Republic of Belarus, executions are carried out secretly; bodies of executed persons are not handed over to families and the place of burial is kept secret.[110]

Moratorium

There is no moratorium on death sentences or executions in Belarus. The state did not report on any measures to introduce a moratorium on the death penalty.

104 Belarus response, *op. cit.,* note 99.

105 Constitution of the Republic of Belarus, Article 24, 27 November 1996.

106 Criminal Code of the Republic of Belarus, Article 59 (1), 9 July 1999, amended on 17 July 2006.

107 The Criminal Code of the Republic of Belarus provides for the application of the death penalty for the following crimes: unleashing or conducting a war of aggression (Article 122 (2)); murder of a representative of a foreign state or international organization, with the intention to provoke international tension or war (Article 124(2)); international terrorism (Article 126); genocide (Article 127); crimes against humanity (Article 128); premeditated, aggravated murder (Article 139 (2)); terrorism (Article 289 (3)); terrorist acts (Article 359); treason accompanied by murder (Article 356 (2)); conspiracy to seize power (Article 357(3)), sabotage (Article 360 (2)), murder of a police officer (Article 362); use of weapons of mass destruction (Article 134); murder of a person in violation of the laws and customs of war (Article 135 (3)).

108 Criminal Code of the Republic of Belarus, *op. cit.,* note 106, para. 3; and Constitution of the Republic of Belarus, *op. cit.* note 105, Article 84 (19).

109 Criminal Code of the Republic of Belarus, *op. cit.,* note 106, para 2.

110 Article 175 of the Criminal Executive Code of the Republic of Belarus, 16 July 1999, amended on 25 July 2012.

Method of Execution

The death penalty is carried out by firing squad.[111]

Statistics on Death Sentences

According to the statistics provided by the Permanent Delegation of the Republic of Belarus to the OSCE, two individuals were sentenced to death during the reporting period.[112]

Eduard Evgenevich Lykov (Lykau) (born on 15 March 1960, a resident of Moscow, Russia, and a citizen of the Republic of Belarus) was sentenced to death by the Minsk Regional Court on 23 November 2013 for the murder of an elderly person, among other criminal acts.[113] The verdict entered into force on 15 April 2014. At the time of writing, Eduard Lykov's application for clemency was under consideration by the Administration of the President of the Republic of Belarus.

Aleksandr Maratovich Grunov (Alyaksandr Haryunou)[114] (born on 20 February 1988, a resident of Homel, Belarus, and a citizen of the Republic of Belarus) was sentenced to death by the Homel Regional Court on 24 December 2013 for premeditated murder. At the time of writing, Aleksandr Grunov's application for clemency was under consideration by the Administration of the President of the Republic of Belarus.[115]

The Permanent Delegation of the Republic of Belarus to the OSCE did not report on the number of death row inmates.

111 Criminal Code of the Republic of Belarus, *op. cit.,* note 106.

112 Belarus response, *op. cit.,* note 99.

113 According to the response of Belarus to the ODIHR questionnaire on the death penalty, Eduard Evgenevich Lykov was sentenced to death for committing offences under "part 2, 6, 8, 10, 16 of paragraph 2 of Article 139 and paragraph 2 of Article 205 of the Criminal Code of the Republic of Belarus".

114 The Permanent Delegation of the Republic of Belarus to the OSCE, in its response to the 2013 ODIHR questionnaire on the death penalty, received on 6 August 2013, reported that Aleksandr Grunov (Alyaksandr Haryunou) Maratovich was sentenced to death by Homel Regional Court for committing an offence under part 6 of paragraph 2 of Article 139 of the Criminal Code of the Republic of Belarus, on 14 June 2013. According to Amnesty International, on 22 October 2013, the Supreme Court of the Republic of Belarus overturned the death sentence by the Homel Regional Court against Aleksandr Grunov and returned the case for reconsideration to the court of first instance. On 24 December 2013, the regional court again sentenced him to death (see "Urgent Action, Man sentenced to death in Belarus, http://www.amnesty.org/en/library/asset/EUR49/001/2014/en/fa0960a3-9739-4c17-bdc7-4b135931f6fc/eur490012014en.pdf).

115 The UN Special Rapporteur on extrajudicial, summary or arbitrary executions requested the government of Belarus to provide information on the allegations regarding the mental illness of Mr. Aleksandr Grunov. The Special Rapporteur noted that international human rights law prohibits the imposition of the death penalty against persons with mental illness (A/HRC/26/36/Add.2).

Statistics on Executions

According to the response of Belarus to the ODIHR questionnaire on the death penalty, two individuals were executed during the reporting period.

Grigory Antonovich Yuzepchuk (born on 7 June 1969, a resident of the Zhytomyr region of Ukraine and a citizen of the Republic of Belarus) was sentenced to death by the Mogilevskiy Regional Court on 23 April 2013 for killing a cellmate in prison No.4 in Mahiliou, where he was serving a 25-year sentence for murder.[116] He has appealed the sentence to the Supreme Court.[117] On 12 July 2013, the Court upheld the death sentence. Grigory Yuzepchuk's application for clemency was denied by the president.[118]

Pavel Nikolaevich Selyun (born on 20 July 1990, a resident of the Minsk region and a citizen of the Republic of Belarus) was sentenced to death by the Hrodna Regional Court on 12 June 2013 for the murder of two persons, among other criminal acts.[119] He had appealed the sentence to the Supreme Court.[120] On 17 September 2013, the Court upheld the death sentence. Pavel Selyun's application for clemency was denied by the president.[121]

The Permanent Delegation of the Republic of Belarus to the OSCE did not provide information about the dates of execution of Grigory Yuzepchuk and Pavel Selyun.

International Safeguards

According to the response of Belarus to the ODIHR questionnaire on the death penalty, the UN Human Rights Committee registered individual communications on behalf of Pavel Selyun on 27 September 2013, and on behalf of Aleksandr

116 "Urgent Action: Prisoner Kills Cellmate, Sentenced to Death", Amnesty International, 13 June 2013, <http://www.amnesty.org/en/library/asset/EUR49/007/2013/en/f3801275-3750-4496-9c31-330fe5c8e15c/eur490072013en.pdf>. According to the response of Belarus to the ODIHR questionnaire on the death penalty, Grigory Yuzepchuk was sentenced to death for committing offences under "parts 15, 16 of paragraph 2 of Article 139 of the Criminal Code of Belarus".

117 "Смертный приговор Григорию Юзепчуку оставлен в силе", правозащитный центр "Вясна", 18 July 2013, <https://spring96.org/ru/news/64496>.

118 Belarus response, *op. cit.,* note 99.

119 According to the response of Belarus to the ODIHR questionnaire on the death penalty, Pavel Selyun was sentenced to death for committing offences under "parts 1,6 of paragraph 2 of Article 139, paragraph 1 of Article 205, paragraph 1 of Article 347 and Article 378 of the Criminal Code of the Republic of Belarus".

120 "Urgent Action: A 23 year-old man has been sentenced to death in Western Belarus on 12 June for a double murder", Amnesty International, 27 June 2013, <http://www.amnesty.org/en/library/asset/EUR49/009/2013/en/32c764c8-8c46-4885-833f-1d11056d2d03/eur490092013en.pdf>.

121 Belarus response, *op. cit.,* note 99.

Grunov on 4 April 2014.[122] In line with its internal regulations, the Human Rights Committee issued interim measures of protection, requesting Belarus to stay the executions for the time of consideration of the communications. The Republic of Belarus considers this procedure to contradict its national law.[123]

The UN Special Rapporteur on the situation of human rights in Belarus stated that "concern remains regarding due process in death penalty cases heard before closed doors and prejudice towards defendants publicized by the highest level of power".[124] The Special Rapporteur on extrajudicial, summary or arbitrary executions underlined that the proceedings in death penalty cases should meet the highest level of respect of fair trial and due process safeguards and urged Belarus to ensure these safeguards.[125] He also recalled "that executions in secret violate international human rights law standards regarding the imposition of the death penalty", and that the provision of information about executions in advance to the convicted persons, their families and lawyers is a crucial requirement of due process.[126]

UNITED STATES OF AMERICA****

In the United States, 20 states: Alaska, Connecticut, Hawaii, Illinois, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New Mexico, New York, North Dakota, Ohio, Rhode Island, Vermont, Washington, West Virginia and Wisconsin, as well as the District of Columbia, have abolished the death penalty, or introduced a moratorium either in law or in practice, or have suspended executions. The abolition of capital punishment in New Mexico, Connecticut and Maryland is not retroactive; therefore, inmates still remain on death row in these states. During the reporting period, two states introduced temporary moratoria on executions. On 11 February 2014, the Governor of the State of Washington proclaimed a moratorium on carrying out the death penalty in the state, saying that capital punishment was

122 *Ibid.*

123 *Ibid.*

124 Report of the Special Rapporteur on the situation of human rights in Belarus, A/HRC/26/44, 22 April 2014. On 14 October 2013, following calls on Belarus to abolish the death penalty issued on the World Day against the Death Penalty, President Alexander Lukashenko publicly justified the use of the death penalty in Belarus. He stated that some crimes were so grave that they could not be forgiven. "Offenders understand it only when you talk to them in their language," he explained. ("Belarus: Lukashenko fully justifies death penalty", Against Death Penalty in the World, 14 October 2013, <http://english.nessunotocchicaino.it/archivio_news/201310.php?iddocumento=17311161&mover=0>).

125 A/HRC/26/36/Add.2, *op. cit.,* note 101.

126 *Ibid.*

being used inconsistently and unequally.[127] On 27 May 2014 in Ohio, the United States District Judge Gregory L. Frost ordered a temporary moratorium due to recurring problems in several recent executions[128] connected to the use of a new lethal injection cocktail of midazolam, a sedative and hydromorphone, a narcotic painkiller.[129]

According to a survey conducted by Gallup in May 2014, among 1,028 respondents aged 18 and older interviewed across 50 states and the District of Columbia, 61 per cent of Americans found the death penalty morally acceptable.[130] The result shows a one per cent decrease in respondents supporting capital punishment in comparison to a similar opinion poll conducted in May 2013.[131] Another survey conducted by the Washington Post and ABC News in June 2014 found that, of 1,002 randomly selected adults from across the United States, 52 per cent preferred life sentence without parole over the death penalty for convicted murderers, while 42 per cent of respondents said that those convicted of murder should face capital punishment.[132]

During the reporting period, several states discussed the possibility of repealing capital punishment. On 15 September 2013, the Senate of the State of Kansas stated that it would open a parliamentary debate in 2014 on repealing the death penalty.[133] In October 2013, the State of New Hampshire considered a repeal law for future offenses,[134] but retained the death penalty after a tie vote (12-12) in the Senate on 17 April 2014.[135] In the State of Ohio, the Commission appointed by the state's Supreme Court to advise on revising the death penalty law released its recommendations on 10

**** The United States Mission to the OSCE did not provide a response to the 2014 ODIHR questionnaire on the death penalty.

127 "Gov. Jay Inslee announces capital punishment moratorium", Official website of the Washington Governor Jay Inslee, 11 February 2014, <http://www.governor.wa.gov/news/releases/article.aspx?id=197>.

128 Tabak, Ronald J., "Chapter 20: Capital Punishment", in *The State of Criminal Justice 2014*, American Bar Association, 2014.

129 "Ohio's death penalty moratorium extended until next January", Cleveland.com, 11 August 2014, <http://www.cleveland.com/open/index.ssf/2014/08/ohios_execution_moratorium_ext.html>.

130 "View of Death Penalty as Morally OK Unchanged in U.S.", Gallup, 15 May 2014, <http://www.gallup.com/poll/169085/view-death-penalty-morally-unchanged.aspx>.

131 "In U.S., Record-High Say Gay, Lesbian Relations Morally OK", Gallup, 20 May 2013, <http://www.gallup.com/poll/162689/record-high-say-gay-lesbian-relations-morally.aspx>.

132 "New Low in Preference for the Death Penalty", ABC News, 5 June 2014, <http://abcnews.go.com/blogs/politics/2014/06/new-low-in-preference-for-the-death-penalty/>

133 "Kansas lawmakers could debate death penalty in 2014", CJOnline, 15 September 2013, <http://cjonline.com/news/2013-09-15/kansas-lawmakers-could-debate-death-penalty-2014>.

134 "New Hampshire Supreme Court Upholds State's Only Death Sentence Pending Additional Review", Death Penalty Information Center, 6 November 2013, <http://www.deathpenaltyinfo.org/new-hampshire-supreme-court-upholds-states-only-death-sentence-pending-additional-review.>

135 "Measure to Repeal Death Penalty Fails by a Single Vote in New Hampshire Senate", the New York Times, 17 April 2014, <http://www.nytimes.com/2014/04/18/us/in-new-hampshire-measure-to-repeal-death-penalty-fails-by-a-single-vote.html?hpw&rref=us&_r=0>.

April 2014. Recommendations were made to establish higher standards for proving guilt if a death sentence is sought, to bar the use of the death penalty for defendants suffering from "serious mental illness", to lessen the number of crimes carrying the death penalty and to adopt a Racial Justice Act, which would be used to monitor the likelihood of racial discrimination during the prosecution, trials, the application of capital punishment and at other stages of the legal process.[136]

Legal Framework

The statutes of 32 states provide for the death penalty: Alabama, Arizona, Arkansas, California, Colorado, Delaware, Florida, Georgia, Idaho, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington and Wyoming.[137] The Federal Government, including the military justice system, also allows this form of punishment.

Methods of Execution

Lethal injection was the only method used in all executions that took place during the reporting period.[138] Owing to a shortage of drugs used for lethal injections, Indiana,[139] Missouri,[140] Texas[141] and Ohio[142] turned to alternative ways of carrying out lethal injection executions, and introduced new combinations of drugs, new suppliers and new laws dealing with the secrecy of drug suppliers. On 1 August 2013, the State of Texas announced that the remaining supplies of pentobarbital,

136 "Recommendations from the Ohio Supreme Court Joint Task Force to Review the Administration of Ohio's Death Penalty", Ohioans to Stop Executions, April 2014, <http://www.otse.org/the-death-penalty-in-ohio/task-force-recommendations/>.

137 In the reporting period, Ohio and Washington temporarily suspended executions.

138 "Execution List 2013, Death Penalty Information Centre, <http://www.deathpenaltyinfo.org/execution-list-2013>, "Execution list 2014", Death Penalty Information Center, <http://www.deathpenaltyinfo.org/execution-list-2014>.

139 "Indiana use of new execution drug draws opposition", CBS News, 31 May 2014, <http://www.cbsnews.com/news/indiana-use-of-new-execution-drug-draws-opposition/>.

140 "Missouri attorney general wants the state to produce its own lethal injection drugs", The Washington Post, 29 May 2014, <http://www.washingtonpost.com/news/post-nation/wp/2014/05/29/missouri-attorney-general-wants-the-state-to-produce-its-own-lethal-injection-drugs/>.

141 "AG: Texas can keep execution drug source secret", Dallas News, 29 May 2014, <http://www.dallasnews.com/news/local-news/20140529-ag-texas-can-keep-execution-drug-source-secret.ece>.

142 "States search for alternatives to lethal injection", The Washington Post, 30 January 2014, <http://www.washingtonpost.com/blogs/govbeat/wp/2014/01/30/states-search-for-alternatives-to-lethal-injection/>.

which was used as an execution drug, were about to expire, emphasizing the need to review its execution protocols.[143] On 4 October 2013, the State of Ohio reported that it would obtain drugs from a compounding pharmacy that is a local company not regulated by the Federal Food and Drug Administration.[144] During the reporting period, the State of Florida fueled controversies over its method of execution using a newly introduced mix of three drugs in its lethal injections that causes a prolonged period of dying.[145]

On 29 April 2014, Clayton Lockett, an inmate in Oklahoma, died due to a massive heart attack approximately 40 minutes after receiving a lethal injection, raising questions as to the suffering caused and the effectiveness of the new execution protocol.[146] On 2 May 2013, after the "botched" execution of Clayton Lockett, President Barack Obama gave an order to Attorney General Eric Holder to review the implementation of capital punishment in the United States, raising broader issues related to the imposition of capital punishment, such as racial bias and the uneven application of the death penalty.[147]

On 22 May 2014, the State of Tennessee introduced a law allowing the use of electrocution when the drugs necessary for a lethal injection are not available. This law has made Tennessee the only state in which inmates may be subjected to execution by electric chair.[148]

There are 12 states: Alabama, Arizona, Arkansas, Florida, Kentucky, South Carolina, Tennessee, Virginia, Missouri, Delaware, New Hampshire and Washington, which allow alternative methods of execution[149] upon request from an inmate.[150] The federal government also uses lethal injections when carrying out death sentences.[151]

143 "Texas running short of execution drugs - again", Austin American-Statesman, 1 August 2013, <http://www.mystatesman.com/news/news/state-regional-govt-politics/texas-running-short-of-execution-drugs-again/nZBdT/>.

144 "Many states changing lethal injection process", Death Penalty Information Center, <http://www.deathpenaltyinfo.org/lethal-injection-many-states-changing-lethal-injection-process>.

145 Tabak, Ronald J., "Chapter 20: Capital Punishment", *op. cit.,* note 128. In October 2013, inmate William Happ stayed conscious longer than he was supposed to after receiving a lethal injection shot.

146 *Ibid.*

147 "Obama Orders Policy Review on Executions", The New York Times, 2 May 2014, <http://www.nytimes.com/2014/05/03/us/flawed-oklahoma-execution-deeply-troubling-obama-says.html?hpw&rref=us&_r=0>.

148 "Tennessee ready to bring back electric chair", USA Today, 23 May 2014, <http://www.usatoday.com/story/news/nation/2014/05/22/tennessee-electric-chair/9474435/>.

149 Alternative methods of execution include electrocution, gas chamber, firing squad and hanging.

150 "Methods of Execution", Death Penalty Information Center, <http://www.deathpenaltyinfo.org/methods-execution>

151 "Federal Executions 1927 – 2003", Death Penalty Information Center, <http://www.deathpenaltyinfo.org/federal-executions-1927-2003>.

Statistics on Death Sentences

No official statistical data on death sentences and executions were provided by the United States Mission to the OSCE. According to the Death Penalty Information Center, in 2013, 79 new death sentences were passed in the United States.[152] As of 1 January 2014, there were 3,070 death row inmates in the United States. The greatest number of inmates awaiting execution was in California (742), followed by Florida (410), Texas (278), Alabama (198) and Pennsylvania (193).[153]

Currently, 61 people are on death row at the federal level. In 2013, one individual, Kaboni Savage, was sentenced to death and two other individuals received death sentences in the first half of 2014.[154] There are five people sentenced to death by military commissions on death row.[155]

Statistics on Executions

During the reporting period, 44 executions took place.[156] Among those executed, 20 were "White", 17 were 'Black", and 7 were "Latino".[157] The executions were carried out in eight states, namely Texas, Florida, Missouri, Oklahoma, Ohio, Arizona, Alabama and Georgia. Texas executed the most death row inmates, with a total

152 "Death Sentences in 2013", Death Penalty Information Center, <http://www.deathpenaltyinfo.org/2013-sentencing>.

153 "Death Row Inmates by State", Death Penalty Information Center , <http://www.deathpenaltyinfo.org/death-row-inmates-state-and-size-death-row-year?scid=9&did=188>.

154 "Federal Death Row Prisoners", Death Penalty Information Center, <http://www.deathpenaltyinfo.org/federal-death-row-prisoners>.

155 "The US Military Death Penalty", Death Penalty Information Center, < http://www.deathpenaltyinfo.org/us-military-death-penalty>.

156 According to the Death Penalty Information Center, the following individuals were executed during the reporting period. In **2013** (reporting period only): John Quintanilla (male, Latino, 36, Texas); Vaugn Ross (male, black, 41, Texas); Andrew Lackey (male, white, 29, Alabama); Douglas Feldman (male, white, 55, Texas); John Ferguson (male, black, 65, Florida); Anthony Banks (male, black, 60, Oklahoma); Robert Garza (male, Latino, 30, Texas); Harry Mitts (male, white, 61, Ohio); Arturo Diaz (male, Latino, 37, Texas); Marshall Gore (male, white, 50, Florida); Michael Yowell (white, male, 43, Texas); Edward Schad (male, white, 71, Arizona); William Happ (male, white, 51, Florida); Robert Jones (male, white, 43, Arizona); Darius Kimbrough (male, black, 40, Florida); Jamie McCoskey (male, white, 49, Texas); Joseph Franklin (male, white, 63, Missouri); Jerry Martin (male, white, 43, Texas); Ronald Lott (male, black, 53, Oklahoma),;Allen Nicklasson (male, white, 41, Missouri); and Johnny Black (male, white, 48, Oklahoma). In **2014** (reporting period only): Askari Muhammad (male, black, 62, Florida); Michael Wilson (male, black, 38, Oklahoma); Dennis McGuire (male, white, 53, Ohio); Edgar Tamayo (male, Latino, 46, Texas); Kenneth Hogan (male, white, 52, Oklahoma); Herbert Smulls (male, black, 56, Missouri); Suzanne Basso (female, white, 59, Texas); Juan Chavez (male, Latino, 46, Florida); Michael Taylor (male, black, 47, Missouri); Paul Howell (male, black, 48, Florida); Ray Jasper (male, black, 33, Texas); Robert Henry (male, black, 55, Florida); Jeffrey Ferguson (male, white, 59, Missouri); Anthony Doyle (male, black, 29, Texas); Tommy Sells (male, white, 49, Texas); Ramiro Hernandez (male, Latino, 44, Texas); Jose Villegas (male, Latino, 39, Texas); William Rousan (male, white, 57, Missouri); Robert Hendrix (male, white, 47, Florida); Clayton Lockett (male, black, 38, Oklahoma); Marcus Wellons (male, black, 58, Georgia); John Henry (male, black, 63, Florida); and John Winfield (male, black, 46, Missouri).

157 *Ibid.*

of 15 executions. Florida executed ten inmates, Missouri seven and Oklahoma six. Two inmates were executed in both Ohio and Arizona, while Alabama and Georgia executed one inmate each.[158] All executed inmates were males, with the exception of one female inmate executed in Texas.[159]

Although federal courts and military commissions may impose the death penalty, actual executions of those sentenced to death are not as common at the federal level as at the state level. The last federal execution was in 2003. Thirty-seven people have been put to death in the federal system since 1927.[160] The military has not carried out an execution since 1961.[161]

International Safeguards

Amnesty, Pardon and Commutation

On 30 April 2014, the Governor of Ohio, John Kasich, granted a commutation to Arthur Tyler, changing his death sentence to life in prison without possibility of parole. The commutation was previously recommended by the Ohio Parole Board. In his statement, Governor Kasich stated that there were troubling questions surrounding the case, as well as irregularities in the court proceedings.[162] Due to new evidence, the Cuyahoga County Prosecuting Attorney is no longer supporting Tyler's execution.[163]

Fair Trial Guarantees

In August 2013, the State of Texas passed a bill that requires DNA analysis of all biological evidence before seeking the death penalty. The legislative initiative received

158 "Execution Lists 2013 and 2014, *op. cit.,* note 138.

159 *Ibid.*

160 Louis Jones Jr. was the last person to be executed at the federal level.

161 "The US Military Death Penalty", Death Penalty Information Center, <http://www.deathpenaltyinfo.org/us-military-death-penalty>.

162 "Kasich commutes sentence of Arthur Tyler", Official Website of Governor of Ohio, 30 April 2014, <http://www.governor.ohio.gov/Portals/0/04.30.14%20Kasich%20Commutes%20Sentence%20of%20Arthur%20Tyler.pdf>.

163 "IN RE: Arthur Tyler, A175-637", State of Ohio Adult Parole Authority, 24 April 2014, <http://www.dispatch.com/content/downloads/2014/04/Arthur_Tyler_clemency_report.pdf>.

support from the Texas Attorney General, who claimed that the law would save time and resources due to the fact that all the required analyses must be done upfront.[164]

In June 2014, the Texas Court of Criminal Appeals ordered a retrial for Jerry Hartfield, who was sentenced to death in 1977. The conviction was overturned in 1980, but Hartfield has remained imprisoned for more than three decades.[165] His lawyers claim that his right to due process has been violated and also referred to a statement made by the district attorney who argued that Hartfield failed to present proof that he wanted a speedy trial.[166]

On 26 June 2014, the Supreme Court of the State of Florida overturned the conviction of Paul Hildwin, who was charged with sexual assault and murder in 1985. The Court ordered a retrial due to new DNA evidence that emerged in 2003 and that showed that DNA samples found on the victim's underwear did not belong to Hildwin but to her former boyfriend, who has been serving a sentence for attempted sexual assault of a child.[167]

Foreign Nationals

As of 11 April 2014, there were 138 foreign nationals on death row in the United States.[168] The states with the highest numbers of foreign nationals on death row are California (59), Texas (22) and Florida (21). The majority of foreign nationals on death row are from Mexico.[169]

On 22 January 2014, Edgar Arias Tamayo was executed in Texas, despite the fact that the United States Department of State, the government of Mexico and international actors, such as the Inter-American Commission on Human Rights,

164 "Law could curb death penalty cases in Texas", News Journal, 22 August 2013, <http://www.news-journal.com/news/local/law-could-curb-death-penalty-cases-in-texas/article_7924d503-b863-5a2d-a12c-6c8af53d1ef3.html>.

165 "Another incredible case, courtesy of Texas' shaky legal system", Los Angeles Times, 25 June 2014, <http://www.latimes.com/opinion/opinion-la/la-ol-prison-texas-murderer-no-conviction-20140625-story.html>.

166 "Texas attorneys ask court to free man locked up for decades awaiting retrial", the Guardian, 14 February 2014,<http://www.theguardian.com/world/2014/feb/14/texas-attorney-court-free-man-locked-up-decades-retrial>.

167 "Florida Court Overturns Death Sentence for 1985 Killing", New York Times, 26 June 2014, <http://www.nytimes.com/2014/06/27/us/florida-court-overturns-death-sentence-for-1985-killing.html?_r=2>.

168 "Foreign Nationals and the Death Penalty in the US", Death Penalty Information Center, 2014, <http://www.deathpenaltyinfo.org/foreign-nationals-and-death-penalty-us#Reported-DROW>.

169 *Ibid.*

raised concerns regarding due process safeguards in this case.[170] There are concerns that the death sentence handed down to Tamayo may have contravened the 1963 Vienna Convention on Consular Relations because he was not informed of the right to notify the Consulate of his country about his situation and to seek help from it.[171] In 2004, the International Court of Justice (ICJ) held in the case "Avena and Other Mexican Nationals" that the United States had violated Article 36(1)(b) of the Vienna Convention. The breach of law occurred because the United States did not inform 51 Mexican nationals, including Tamayo, who were imprisoned in correction facilities in the United of their rights as guaranteed by the Vienna Convention.[172]

Individuals with Mental Illness or Disability

According to the United States Supreme Court's opinion in *Atkins v. Virginia*, executing individuals with "mental retardation" represents a violation of the Eight Amendment of the Constitution of the United States, which bans cruel and unusual punishment.[173]

On 11 September 2013, the Texas Court of Criminal Appeals ruled that a trial court had issued an improper decision when it ordered the forcible medication of Steven Staley, a death row inmate who was previously diagnosed with paranoid schizophrenia.[174] The Court held that, under Texas law, the only decision the trial court could take after Staley was found to be incompetent for execution was to periodically consider his competency.[175]

On 26 September 2103, the task force to review the administration of the death penalty in Ohio recommended the imposition of a ban on capital punishment for individuals suffering from severe mental illnesses at the time of committing the

170 On 19 December 2013, the EU raised concern regarding the case and urged the Governor of Texas, Rick Perry, and Chairperson of the Texas Board of Pardons and Paroles, Rissie Owens, to grant Tamayo a reprieve, which would allow sufficient time to pass legislation on the implementation of the Avena judgment of the International Court of Justice. Letter of Joao Vale de Almeida, EU Ambassador to the United States is available at: <http://www.euintheus.org/wp-content/uploads/2013/12/1219-Letter-to-Ms-Rissie-Owens-TX-Death-Penalty-Edgar-Tamayo-Arias.pdf>. The Inter-American Commission on Human Rights stated that if Texas were to carry out the execution of Tamayo, it would seriously violate the United States' international legal obligations. See "Texas Prepares to Execute Mexican Despite Concerns That His Arrest Violated Law", New York Times, 21 January 2014, <http://www.nytimes.com/2014/01/22/us/texas-prepares-to-execute-mexican-despite-concerns-that-his-arrest-violated-law.html>.

171 Tabak, Ronald J., "Chapter 20: Capital Punishment", *op. cit.,* note 128.

172 International Court of Justice, "Case concerning Avena and other Mexican Nationals (Mexico v. United States of America)", Summary of the Judgement of 31 March 2004, <http://www.icj-cij.org/docket/files/128/8190.pdf>.

173 "Atkins v. Virginia", Cornell University Law School, 20 June 2002, <http://www.law.cornell.edu/supct/html/00-8452.ZO.html>.

174 Tabak, Ronald J., "Chapter 20: Capital Punishment", *op. cit.,* note 128.

175 *Ibid.*

crime. It is expected that this proposal will be submitted for consideration to the Governor and the General Assembly of Ohio in 2014.[176]

On 21 October 2013, the United States Supreme Court accepted for review the case of *Hall v. Florida*. In an earlier decision, the Supreme Court of the State of Florida had upheld the death sentence for Freddie Hall, because Hall's IQ (measured variously at 71, 73 and 80) was slightly higher than the "inflexible bright-line cutoff", which requires proof of an IQ of 70 or below to be considered "mentally retarded" under Florida law.[177] The United States Supreme Court will now re-examine this decision.

On 24 October 2013, the House Judiciary Non-Civil Committee of the State of Georgia held a public hearing to discuss the "beyond-a-reasonable-doubt" burden of proof of "mental retardation" that is imposed on defendants facing the death sentence who claim to be mentally ill.[178] Despite being the first state to prohibit the execution of individuals with mental illnesses, Georgia applies the strictest burden of proof of "mental retardation" in the United States.[179]

Non-Discrimination

Among the 3,070 death row inmates in the United States, 43.1 per cent are "white", 41.8 per cent are "black" and 12.6 per cent are "latino". Other ethnicities, including "asian", "native american" and "unknown", make up about 2 per cent of death row inmates.[180] A recent study by the Center for Constitutional Rights and the International Federation for Human Rights showed that, in the State of California, while 36 per cent of death row inmates were "black", they made up less than 7 per cent of the overall population of California. In the State of Louisiana, 65 per cent of death row inmates were black, but constituted only 32 per cent of the population in the state.[181]

176 "Group wants to exclude severely mentally ill from death penalty", The Columbus Dispatch, 27 September 2013, <http://www.dispatch.com/content/stories/local/2013/09/26/Death-penalty-Ohio-mental-illness.html>.

177 "Justices Return to a Death Penalty Issue", the New York Times, 21 October 2013, <http://www.nytimes.com/2013/10/22/us/justices-agree-to-clarify-mental-disability-in-capital-cases.html>.

178 Tabak, Ronald J., "Chapter 20 Capital Punishment", *op. cit.,* note 128.

179 *Ibid.*

180 "Death Row U.S.A. Winter 2014", the Criminal Justice Project of the NAACP Legal Defense and Educational Fund, Inc., Winter 2014, <http://www.naacpldf.org/files/publications/DRUSA_Winter_2014.pdf>.

181 "Discrimination, Torture, and Execution: A Human Rights Analysis of the Death Penalty in California and Louisiana", Center for Constitutional Rights and International Federation for Human Rights, October 2013, <http://ccrjustice.org/files/2013-Death-Penalty-Report.pdf>.

On 21 November 2013, the Board of Pardons and Paroles of Alabama unanimously decided to posthumously pardon the three "Scottsboro Boys",[182] who were, along with six other African American boys, sentenced to death for raping two white women in 1931. The decision was made after legislation was passed in Alabama allowing the Board to posthumously grant pardons in cases where racial or social injustice was involved. [183]

According to a study conducted by the University of Washington, "juries were three times more likely to impose a sentence of death when the defendant was black than in cases involving similarly situated white defendants."[184] However, the study also showed that neither the race of the victim(s) nor that of the defendant influenced the decision of the prosecutor to seek the death penalty.[185]

182 "Scottsboro Boys" was the name of group of nine African American teenagers who were accused of raping two white women in Alabama on 25 March 1931. The trial received a lot of publicity and was characterized by many irregularities, including an all-white jury, the poor legal representation given to defendants and disparities in witness statements. The three men who were recently exonerated were the last of the group who had not been pardoned or had charges against them dropped.

183 "Alabama Pardons Scottsboro Boys - Former Death Row Inmates", 21 November 2013, <http://www.deathpenaltyinfo.org/alabama-pardons-scottsboro-boys-former-death-row-inmates>.

184 Beckett K. and H. Evans, "The Role of Race in Washington State Capital Sentencing 1981-2012", p. 2, <http://www.deathpenaltyinfo.org/documents/WashRaceStudy2014.pdf>.

185 *Ibid*, p. 17.

Annexes

Annex 1

OSCE Commitments

Document of the Sixteenth Meeting of the Ministerial Council (Helsinki 2008)

We stress that everyone has the right to life, liberty and security of person; no one shall be held in slavery, and no one shall be subjected to torture or cruel inhuman or degrading treatment or punishment.

Budapest Document: Towards a Genuine Partnership in a New Era (Budapest 1994)

Capital Punishment

19. The participating States reconfirm their commitments in the Copenhagen and Moscow Documents concerning the question of capital punishment.

Helsinki Document: The Challenges of Change (Helsinki 1992)

The participating States

(58) Confirm their commitments in the Copenhagen and Moscow Documents concerning the question of capital punishment.

Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE (Moscow 1991)

(36) The participating States recall their commitment in the Vienna Concluding Document to keep the question of capital punishment under consideration and reaffirm their undertakings in the Document of the Copenhagen Meeting to exchange information on the question of the abolition of the death penalty and to make available to the public information regarding the use of the death penalty.
(36.1) They note

(i) that the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty entered into force on 11 July 1991;

(ii) that a number of participating States have recently taken steps towards the abolition of capital punishment;

(iii) the activities of several non-governmental organizations concerning the question of the death penalty.

Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE (Copenhagen 1990)

17. The participating States

17.1 recall the commitments undertaken in the Vienna Concluding Document to keep the question of capital punishment under consideration and to co-operate within relevant international organizations;

17.2 recall, in this context, the adoption by the General Assembly of the United Nations, on 15 December 1989, of the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty;

17.3 note the restrictions and safeguards regarding the use of the death penalty which have been adopted by the international community, in particular Article 6 of the International Covenant on Civil and Political Rights;

17.4 note the provisions of the Sixth Protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty;

17.5 note recent measures taken by a number of participating States towards the abolition of capital punishment;

17.6 note the activities of several non-governmental organizations on the question of the death penalty;

17.7 will exchange information within the framework of the Conference on the Human Dimension on the question of the abolition of the death penalty and keep that question under consideration;

17.8 will make available to the public information regarding the use of the death penalty.

Concluding Document of the Vienna Meeting
(Vienna 1989)

Questions relating to security in Europe

(24) With regard to the question of capital punishment, the participating States note that capital punishment has been abolished in a number of them. In participating States where capital punishment has not been abolished, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to their international commitments. This question will be kept under consideration. In this context, the participating States will co-operate within relevant international organizations.

Annex 2

OSCE Parliamentary Assembly

OSCE Parliamentary Assembly Annual Session,
Oslo, 6 – 10 July 2010,

Resolution on the Death Penalty
(…)

The OSCE Parliamentary Assembly:

45. *Condemns* all executions wherever they take place;

46. *Calls upon* participating States applying the death penalty to declare an immediate moratorium on executions;

47. *Encourages* the participating States that have not abolished the death penalty to respect safeguards protecting the rights of those facing the death penalty, as laid down in the United Nations Economic and Social Council Safeguards;

48. *Condemns* in particular the resumption of executions in Belarus, despite the political initiatives of the European Union towards the Government, made also with a view to encouraging reforms in the field of human rights;

49. *Calls on* Belarus to take immediate steps towards abolition of the death penalty by promptly establishing a moratorium on all death sentences and executions with a view to abolishing the death penalty, as provided by United Nations General Assembly resolution 62/149, adopted on 18 December 2007, and resolution 63/168, adopted on 18 December 2008;

50. *Calls upon* the Government of the United States of America to adopt a moratorium on executions leading to the complete abolition of the death penalty in federal legislation and to withdraw its reservation to Article 6(5) of the International Covenant on Civil and Political Rights;

[…]

52. *Calls upon* the retentionist participating States to encourage the Office for Democratic Institutions and Human Rights and OSCE Missions, in co-operation with the Council of Europe, to conduct awareness-raising activities against recourse to the death penalty, particularly with the media, law enforcement officials, policy-makers and the general public;

53. Further *encourages* the activities of non-governmental organizations working for the abolition of the death penalty;

54. *Commits* to monitoring the issue of the death penalty and to considering possible initiatives and ad hoc missions in retentionist countries, so as to urge government authorities to adopt a moratorium on executions with a view to completely abolishing them.

Annex 3

United Nations Standards

Extract from the International Covenant on Civil and Political Rights (1966)

Article 6

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.

3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.

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

5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.

6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

7. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, on one shall be subjected without his free consent to medical or scientific experimentation.

Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (1989)

Article 1

1. No one within the jurisdiction of a State Party to the present Protocol shall be executed.

2. Each State Party shall take all necessary measures to abolish the death penalty within its jurisdiction.

Article 2

1. No reservation is admissible to the present Protocol, except for a reservation made at the time of ratification or accession that provides for the application of the death penalty in time of war pursuant to a conviction for a most serious crime of a military nature committed during wartime.

2. The State Party making such a reservation shall at the time of ratification or accession communicate to the Secretary-General of the United Nations the relevant provisions of its national legislation applicable during wartime.

3. The State Party having made such a reservation shall notify the Secretary-General of the United Nations of any beginning or ending of a state of war applicable to its territory.

Article 3

The States Parties to the present Protocol shall include in the reports they submit to the Human Rights Committee, in accordance with article 40 of the Covenant, information on the measures that they have adopted to give effect to the present Protocol.

Article 4

With respect to the States Parties to the Covenant that have made a declaration under article 41, the competence of the Human Rights Committee to receive and consider communications when a State Party claims that another State Party is not fulfilling its obligations shall extend to the provisions of the present Protocol, unless the State Party concerned has made a statement to the contrary at the moment of ratification or accession.

Article 5

With respect to the States Parties to the first Optional Protocol to the International Covenant on Civil and Political Rights adopted on 16 December 1966, the competence of the Human Rights Committee to receive and consider communications from individuals subject to its jurisdiction shall extend to the provisions of the present Protocol, unless the State Party concerned has made a statement to the contrary at the moment of ratification or accession.

Article 6

1. The provisions of the present Protocol shall apply as additional provisions to the Covenant.

2. Without prejudice to the possibility of a reservation under article 2 of the present Protocol, the right guaranteed in article 1, paragraph 1, of the present Protocol shall not be subject to any derogation under article 4 of the Covenant.

Extract from the Convention on the Rights of the Child (1989)

Article 37

States Parties shall ensure that:

(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age.

Economic and Social Council Resolution 1989/64 of 24 May 1989: Implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty

The Economic and Social Council,

1. Recommends that Member States take steps to implement the safeguards and strengthen further the protection of the rights of those facing the death penalty, where applicable, by:

a) Affording special protection to persons facing charges for which the death penalty is provided by allowing time and facilities for the preparation of their defence, including the adequate assistance of counsel at every stage of the proceedings, above and beyond the protection afforded in non-capital cases;

b) 0Providing for mandatory appeals or review with provisions for clemency or pardon in all cases of capital offence;

c) Establishing a maximum age beyond which a person may not be sentenced to death or executed;

d) Eliminating the death penalty for persons suffering from mental retardation or extremely limited mental competence, whether at the stage of sentence or execution;

2. Invites Member States to co-operate with specialized bodies, non-governmental organizations, academic institutions and specialists in the field in efforts to conduct research on the use of the death penalty in every region of the world;

3. Also invites Member States to facilitate the efforts of the Secretary-General to gather comprehensive, timely and accurate information about the implementation of the safeguards and the death penalty in general;

4. Invites Member States that have not yet done so to review the extent to which their legislation provides for the safeguards guaranteeing protection of the rights of those facing the death penalty as set out in the annex to Economic and Social Council resolution 1984/50;

5. Urges Member States to publish, for each category of offence for which the death penalty is authorized, and if possible on an annual basis, information about the use of the death penalty, including the number of persons sentenced to death, the number of executions actually carried out, the number of persons under sentence of death, the number of death sentences reversed or commuted on appeal and the number of instances in which clemency has been granted, and to include information on the extent to which the safeguards referred to above are incorporated in national law.

Economic and Social Council Resolution 1984/50 of 25 May 1984: Safeguards guaranteeing protection of the rights of those facing the death penalty

1. In countries which have not abolished the death penalty, capital punishment may be imposed only for the most serious crimes, it being understood that their scope should not go beyond intentional crimes with lethal or other extremely grave consequences.

2. Capital punishment may be imposed only for a crime for which the death penalty is prescribed by law at the time of its commission, it being understood that if, subsequent to the commission of the crime, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby.

3. Persons below 18 years of age at the time of the commission of the crime shall not be sentenced to death, nor shall the death sentence be carried out on pregnant women, or on new mothers, or on persons who have become insane.

4. Capital punishment may be imposed only when the guilt of the person charged is based upon clear and convincing evidence leaving no room for an alternative explanation of the facts.

5. Capital punishment may only be carried out pursuant to a final judgement rendered by a competent court after legal process which gives all possible safeguards to ensure a fair trial, at least equal to those contained in article 14 of the International Covenant on Civil and Political Rights, including the right of anyone suspected of or charged with a crime for which capital punishment may be imposed to adequate legal assistance at all stages of the proceedings.

6. Anyone sentenced to death shall have the right to appeal to a court of higher jurisdiction, and steps should be taken to ensure that such appeals shall become mandatory.

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

8. Capital punishment shall not be carried out pending any appeal or other recourse procedure or other proceeding relating to pardon or commutation of the sentence.

9. Where capital punishment occurs, it shall be carried out so as to inflict the minimum possible suffering.

United Nations General Assembly Resolution A/RES/67/176 of 20 December 2012 Moratorium on the use of the death penalty

The General Assembly,

Guided by the purposes and principles contained in the Charter of the United Nations,

[…]

4. *Calls upon* all States:

a) To respect international standards that provide safeguards guaranteeing protection of the rights of those facing the death penalty, in particular the minimum standards, as set out in the annex to Economic and Social Council resolution 1984/50 of 25 May 1984, as well as to provide the Secretary-General with information in this regard;

b) To make available relevant information with regard to their use of the death penalty, inter alia, the number of persons sentenced to death, the number of persons on death row and the number of executions carried out, which can contribute to possible informed and transparent national and international debates, including on the obligations of States pertaining to the use of the death penalty;

c) To progressively restrict the use of the death penalty and not to impose capital punishment for offences committed by persons below 18 years of age and on pregnant women;

d) To reduce the number of offences for which the death penalty may be imposed;

e) To establish a moratorium on executions with a view to abolishing the death penalty;

5. *Calls upon* States which have abolished the death penalty not to reintroduce it, and encourages them to share their experience in this regard;

6. *Calls upon* States that have not yet done so to consider acceding to or ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty;

7. *Requests* the Secretary-General to report to the General Assembly at its sixty-ninth session on the implementation of the present resolution;

8. *Decides* to continue consideration of the matter at its sixty-ninth session under the item entitled "Promotion and protection of human rights".

General Comment No. 06: The right to life (art. 6) of 20 April 1982 by the Human Rights Committee

1. The right to life enunciated in article 6 of the Covenant has been dealt with in all State reports. It is the supreme right from which no derogation is permitted even in time of public emergency which threatens the life of the nation (art. 4). However, the Committee has noted that quite often the information given concerning article 6 was limited to only one or other aspect of this right. It is a right which should not be interpreted narrowly

(…)

6. While it follows from article 6 (2) to (6) that States parties are not obliged to abolish the death penalty totally they are obliged to limit its use and, in particular, to abolish it for other than the "most serious crimes". Accordingly, they ought to consider reviewing their criminal laws in this light and, in any event, are obliged to restrict the application of the death penalty to the "most serious crimes". The article also refers generally to abolition in terms which strongly suggest (paras. 2 (2) and (6)) that abolition is desirable. The Committee concludes that all measures of abolition should be considered as progress in the enjoyment of the right to life within the meaning of article 40, and should as such be reported to the Committee. The Committee notes that a number of States have already abolished the death penalty or suspended its application. Nevertheless, States' reports show that progress made towards abolishing or limiting the application of the death penalty is quite inadequate.

7. The Committee is of the opinion that the expression "most serious crimes" must be read restrictively to mean that the death penalty should be a quite exceptional measure. It also follows from the express terms of article 6 that it can only be imposed in accordance with the law in force at the time of the commission of the crime and not contrary to the Covenant. The procedural guarantees therein prescribed must be observed, including the right to a fair hearing by an independent tribunal, the presumption of innocence, the minimum guarantees for the defence, and the right to review by a higher tribunal. These rights are applicable in addition to the particular right to seek pardon or commutation of the sentence.

United Nations Commission on Human Rights Resolution 2005/59 on the question of the death penalty

The Commission on Human Rights,

1. Expresses its concern at the continuing use of the death penalty around the world, alarmed in particular at its application after trials that do not conform to international standards of fairness and that several countries impose the death penalty in disregard of the limitations set out in the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child and of the safeguards guaranteeing protection of the rights of those facing the death penalty;

2. *Condemns* the continuing application of the death penalty on the basis of any discriminatory legislation, policies or practices;

3. *Condemns also* cases in which women are subjected to the death penalty on the basis of gender-discriminatory legislation, policies or practices and the disproportionate use of the death penalty against persons belonging to national or ethnic, religious and linguistic minorities;

4. *Welcomes* the seventh quinquennial report of the Secretary-General on capital punishment and implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty (E/2005/3), submitted in accordance with Economic and Social Council resolutions 1745 (LIV) of 16 May 1973, 1995/57 of 28 July 1995 and Council decision 2004/242 of 21 July 2004, which concludes that there is an encouraging trend towards the abolition and restriction of the use of the death

penalty in most countries, but that much remains to be done in the implementation of the aforementioned safeguards in those countries that retain it;

5. *Calls upon* all States that still maintain the death penalty:

(*a*) To abolish the death penalty completely and, in the meantime, to establish a moratorium on executions;

(*b*) Progressively to restrict the number of offences for which the death penalty may be imposed and, at the least, not to extend its application to crimes to which it does not at present apply;

(*c*) To make available to the public information with regard to the imposition of the death penalty and to any scheduled execution;

(*d*) To provide to the Secretary-General and relevant United Nations bodies information relating to the use of capital punishment and the observance of the safeguards guaranteeing protection of the rights of those facing the death penalty;

6. *Calls upon* all States parties to the International Covenant on Civil and Political Rights that have not yet done so to consider acceding to or ratifying the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty;

7. *Urges* all States that still maintain the death penalty:

(*a*) Not to impose it for crimes committed by persons below 18 years of age;

(*b*) To exclude pregnant women and mothers with dependent infants from capital punishment;

(*c*) Not to impose the death penalty on a person suffering from any mental or intellectual disabilities or to execute any such person;

(*d*) Not to impose the death penalty for any but the most serious crimes and only pursuant to a final judgement rendered by an independent and impartial competent court, and to ensure the right to a fair trial and the right to seek pardon or commutation of sentence;

(*e*) To ensure that all legal proceedings, including those before special tribunals or jurisdictions, and particularly those related to capital offences, conform to the minimum procedural guarantees contained in article 14 of the International Covenant on Civil and Political Rights;

(*f*) To ensure also that the notion of "most serious crimes" does not go beyond inten-

tional crimes with lethal or extremely grave consequences and that the death penalty is not imposed for non-violent acts such as financial crimes, religious practice or expression of conscience and sexual relations between consenting adults nor as a mandatory sentence;

(*g*) To withdraw and/or not to enter any new reservations under article 6 of the Covenant that may be contrary to the object and purpose of the Covenant, given that article 6 enshrines the minimum rules for the protection of the right to life and the generally accepted standards in this area;

(*h*) To observe the safeguards guaranteeing protection of the rights of those facing the death penalty and to comply fully with their international obligations, in particular with those under article 36 of the Vienna Convention on Consular Relations, particularly the right to receive information on consular assistance within the context of a legal procedure, as affirmed by the jurisprudence of the International Court of Justice and confirmed in recent relevant judgements;

(*i*) To ensure that, where capital punishment occurs, it shall be carried out so as to inflict the minimum possible suffering and shall not be carried out in public or in any other degrading manner, and to ensure that any application of particularly cruel or inhuman means of execution, such as stoning, be stopped immediately;

(*j*) Not to execute any person as long as any related legal procedure, at the international or at the national level, is pending;

8. *Calls upon* States that no longer apply the death penalty but maintain it in their legislation to abolish it;

9. *Calls upon* States that have recently lifted or announced the lifting de facto or de jure of moratoriums on executions once again to commit themselves to suspend such executions;

10. *Requests* States that have received a request for extradition on a capital charge to reserve explicitly the right to refuse extradition in the absence of effective assurances from relevant authorities of the requesting State that the death penalty will not be carried out, and calls upon States to provide such effective assurances if requested to do so, and to respect them;

11. *Requests* the Secretary-General to submit to the Commission at its sixty-second session, in consultation with Governments, specialized agencies and intergovernmen-

tal and non-governmental organizations, a yearly supplement to his quinquennial report on capital punishment and implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty, paying special attention to the imposition of the death penalty on persons younger than 18 years of age at the time of the offence and on persons suffering from any mental or intellectual disabilities;

12. *Decides* to continue consideration of the matter at its sixty-second session under the same agenda item.

Annex 4

Council of Europe Standards

Extract from the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950

Article 2

1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

2. Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary:

a. in defence of any person from unlawful violence;
b. in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
c. in action lawfully taken for the purpose of quelling a riot or insurrection.

Protocol No. 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms, Concerning the Abolition of the Death Penalty of 28 April 1983

Article 1 – Abolition of the death penalty

The death penalty shall be abolished. No one shall be condemned to such penalty or executed.

Article 2 – Death penalty in time of war

A State may make provision in its law for the death penalty in respect of acts committed in time of war or of imminent threat of war; such penalty shall be applied only in the instances laid down in the law and in accordance with its provisions. The State shall communicate to the Secretary General of the Council of Europe the relevant provisions of that law.

Article 3 – Prohibition of derogations
No derogation from the provisions of this Protocol shall be made under Article 15 of the Convention.

Article 4 – Prohibition of reservations
No reservation may be made under Article 57 of the Convention in respect of the provisions of this Protocol.

Article 5 – Territorial application
1. Any State may at the time of signature or when depositing its instrument of ratification, acceptance or approval, specify the territory or territories to which this Protocol shall apply.

2. Any State may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Protocol to any other territory specified in the declaration. In respect of such territory the Protocol shall enter into force on the first day of the month following the date of receipt of such declaration by the Secretary General.

3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the first day of the month following the date of receipt of such notification by the Secretary General.

Article 6 – Relationship to the Convention
As between the States Parties the provisions of Articles 1 to 5 of this Protocol shall be regarded as additional articles to the Convention and all the provisions of the Convention shall apply accordingly.

Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms, Concerning the Abolition of the Death Penalty in All Circumstances of 3 May 2002

Article 1 – Abolition of the death penalty
The death penalty shall be abolished. No one shall be condemned to such penalty or executed.

Article 2 – Prohibition of derogations
No derogation from the provisions of this Protocol shall be made under Article 15 of the Convention.

Article 3 – Prohibition of reservations
No reservation may be made under Article 57 of the Convention in respect of the provisions of this Protocol.

Article 4 – Territorial application
1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance or approval, specify the territory or territories to which this Protocol shall apply.

2. Any State may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Protocol to any other territory specified in the declaration. In respect of such territory the Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.

3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn or modified by a notification addressed to the Secretary General. The withdrawal or modification shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.

Article 5 – Relationship to the Convention
As between the States Parties the provisions of Articles 1 to 4 of this Protocol shall be regarded as additional articles to the Convention, and all the provisions of the Convention shall apply accordingly.

Annex 5

European Union Standards

Extract from Charter of Fundamental Rights of the European Union (2010)

Article 2
Right to Life

1. Everyone has the right to life.

2. No one shall be condemned to the death penalty, or executed.

Extract from the European Union Guidelines on the Death Penalty: revised and updated version of 16 June 2008

III. Minimum standards paper

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

i) Capital punishment may be imposed only for the most serious crimes, it being understood that their scope should not go beyond intentional crimes with lethal or other extremely grave consequences. The death penalty should not be imposed for non-violent acts such as financial crimes, religious practice or expression of conscience and sexual relations between consenting adults nor as a mandatory sentence.

ii) Capital punishment may be imposed only for a crime for which the death penalty was prescribed at the time of its commission, it being understood that if, subsequent to the commission of the crime, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby.

iii) Capital punishment may not be imposed on:
- persons below 18 years of age at the time of the commission of their crime;
- pregnant women or new mothers;

- persons who have become insane.

iv) Capital punishment may be imposed only when the guilt of the person charged is based upon clear and convincing evidence leaving no room for alternative explanation of the facts.

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

vi) Anyone sentenced to death shall have an effective right to appeal to a court of higher jurisdiction, and steps should be taken to ensure that such appeals become mandatory.

vii) Where applicable, anyone sentenced to death shall have the right to submit an Individual complaint under International procedures; the death sentence will not be carried out while the complaint remains under consideration under those procedures; the death penalty will not be carried out as long as any related legal or formal procedure, at the international or at the national level, is pending.

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

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

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

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

xii) The death penalty should not be imposed as an act of political revenge in contravention of the minimum standards, e.g., against coup plotters.

Extract from European Parliament Resolution of 7 October 2010 on the World Day against the Death Penalty

The European Parliament,

…

1. *Reiterates* its long-standing opposition to the death penalty in all cases and under all circumstances and emphasises once again that abolition of the death penalty contributes to the enhancement of human dignity and the progressive development of human rights;

2. *Condemns* all executions wherever they take place; strongly calls on the EU and its Member States to enforce the implementation of the UN resolution on a universal moratorium on executions with a view to total abolition in all states which still practise the death penalty; calls on the Council and the Commission to take action in order to progressively restrict its use while insisting that it be carried out according to international minimum standards; expresses its deep concern regarding the imposition of the death penalty on minors and on persons with mental or intellectual disability and calls for their immediate and definitive ending;

3. *Urges* the EU to use all tools of diplomacy and cooperation assistance available to it to work towards the abolition of the death penalty;

4. *Calls upon* states applying the death penalty to declare an immediate moratorium on executions;
(…)

6. *Encourages* the states that have not abolished the death penalty to respect safeguards protecting the rights of those facing the death penalty, as laid down in the United Nations Economic and Social Council Safeguards; calls on the Council and the Commission to encourage those remaining countries which have not signed and ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights to do so, and those Member States that have not signed Protocol No 13 to the European Convention on Human Rights on the death penalty to do so;

7. *Calls on* OSCE member states, in particular the United States and Belarus, to adopt an immediate moratorium on executions;

8. *Calls on* Kazakhstan and Latvia to amend provisions in their national legislation that still allow for the imposition of the death penalty for certain crimes under exceptional circumstances;

9. *Strongly encourages* EU Member States and all co-sponsors of the 2007 and 2008 UNGA resolutions to introduce, in the framework of a reinforced cross-regional alliance, a third resolution on the death penalty at UNGA65 which should in priority address:

- the abolition of 'State secrets' regarding the death penalty;
- the position of a Special Envoy who would not only monitor the situation and apply pressure with a view to increased transparency within the systems of capital punishment, but also continue to persuade those who still maintain the death penalty to adopt the UN line for a moratorium on executions with a view to abolishing the death penalty;
- the 'most serious crimes' threshold for the lawful application of capital punishment;

10. *Calls on* the OSCE participating states to encourage the Office for Democratic Institutions and Human Rights and OSCE Missions, in cooperation with the Council of Europe, to conduct awareness-raising activities against recourse to the death penalty, particularly with the media, law enforcement officials, policy-makers and the general public;

11. *Calls on* retentionist OSCE states to treat information concerning the death penalty in a transparent manner, providing public information on the identity of individuals sentenced to death or executed and statistics on the use of the death penalty, in accordance with OSCE commitments;

12. *Urges* the Council and the Commission, notably in view of the setting-up of the EEAS, to provide guidance for a comprehensive and effective European death penalty policy with regard to dozens of confirmed European nationals facing execution in third countries, which should include strong and reinforced mechanisms in terms of the identification system, the delivery of legal assistance, EU legal interventions and diplomatic representations;

13. *Further encourages* the activities of non-governmental organisations working for the abolition of the death penalty, including Hands Off Cain, Amnesty International, Penal Reform International, the World Coalition Against the Death Penalty and the International Helsinki Federation for Human Rights, Sant'Egidio and Reprieve; welcomes and supports the recommendations on EU instruments in the fight against the death penalty made at the 12th EU-NGO Forum on Human Rights;

14. *Undertakes* to monitor the issue of the death penalty, to raise specific cases with the relevant national authorities and to consider possible initiatives and ad hoc missions in retentionist countries, so as to urge government authorities to adopt a moratorium on executions with a view to completely abolishing them;

15. *Requests* the Council and the Commission, when it comes to concluding agreements with countries that still apply the death penalty or with countries which have not signed the moratorium with a view to abolishing the death penalty to strongly encourage them to do so;

16. *Requests* the High Representative of the Union for Foreign Affairs and Security Policy/Vice-President of the Commission and the Members States to continue to speak with one voice and to keep in mind that the main political content of the resolution must be the adoption of a worldwide moratorium as a crucial step towards the abolition of the death penalty;

17. *Calls in particular on* the High Representative of the Union for Foreign Affairs and Security Policy/Vice-President of the Commission to demonstrate the political priority she attaches to the abolition of the death penalty by systematically raising the issue in political contacts with retentionist countries and through regular personal interventions on behalf of those at risk of imminent execution;

(…)

19. *Encourages* regional cooperation to this end; points out, for example, that Mongolia formally established a moratorium on executions in January 2010 and that, as a positive consequence of this, several retentionist countries have been considering the constitutionality of this form of punishment;

20. *Calls on* the Council and Commission to identify ways in which to improve the implementation and effectiveness of the EU Guidelines on the Death Penalty during the current review of the EU's human rights policy, in particular in view of the planned revision of the Guidelines in 2011;

Extract from European Parliament resolution of 1 February 2007 on the initiative in favour of a universal moratorium on the death penalty

The European Parliament,

…

1. *Reiterates* its long-standing position against the death penalty in all cases and under all circumstances and *expresses* once more its conviction that the abolition of the death penalty contributes to the enhancement of human dignity and to the progressive development of human rights;

2. *Calls for* a worldwide moratorium on executions to be established immediately and unconditionally with a view to the worldwide abolition of the death penalty, through a relevant resolution of the current UN General Assembly, whose actual implementation the UN Secretary-General should be able to monitor.

Annex 6

Organization of American States Standards

Extract from the American Convention on Human Rights "Pact of San Jose, Costa Rica" (B-32) of 22 November 1969

Chapter II – Civil and Political Rights

Article 4. Right to Life

1. Every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life.

2. In countries that have not abolished the death penalty, it may be imposed only for the most serious crimes and pursuant to a final judgment rendered by a competent court and in accordance with a law establishing such punishment, enacted prior to the commission of the crime. The application of such punishment shall not be extended to crimes to which it does not presently apply.

3. The death penalty shall not be re-established in states that have abolished it.

4. In no case shall capital punishment be inflicted for political offenses or related common crimes.

5. Capital punishment shall not be imposed upon persons who, at the time the crime was committed, were under 18 years of age or over 70 years of age; nor shall it be applied to pregnant women.

6. Every person condemned to death shall have the right to apply for amnesty, pardon, or commutation of sentence, which may be granted in all cases. Capital punishment shall not be imposed while such a petition is pending decision by the competent authority.

Protocol to the American Convention on Human Rights to Abolish the Death Penalty of 1990 (A-53) (1990)

Preamble

The States Parties to this Protocol,

Considering

That Article 4 of the American Convention on Human Rights recognizes the right to life and restricts the application of the death penalty;

That everyone has the inalienable right to respect for his life, a right that cannot be suspended for any reason;

That the tendency among the American States is to be in favor of abolition of the death penalty;

That application of the death penalty has irrevocable consequences, forecloses the correction of judicial error, and precludes any possibility of changing or rehabilitating those convicted;

That the abolition of the death penalty helps to ensure more effective protection of the right to life;

That an international agreement must be arrived at that will entail a progressive development of the American Convention on Human Rights, and

That States Parties to the American Convention on Human Rights have expressed their intention to adopt an international agreement with a view to consolidating the practice of not applying the death penalty in the Americas,

Have agreed to sign the following protocol to the American Convention on Human Rights to Abolish the Death Penalty

Article 1

The States Parties to this Protocol shall not apply the death penalty in their territory to any person subject to their jurisdiction.

Article 2

1. No reservations may be made to this Protocol. However, at the time of ratification or accession, the States Parties to this instrument may declare that they reserve the right to apply the death penalty in wartime in accordance with international law, for extremely serious crimes of a military nature.

2. The State Party making this reservation shall, upon ratification or accession, inform the Secretary General of the Organization of American States of the pertinent provisions of its national legislation applicable in wartime, as referred to in the preceding paragraph.

3. Said State Party shall notify the Secretary General of the Organization of American States of the beginning or end of any state of war in effect in its territory.

Annex 7

HDIM Recommendations

Relevant Recommendations made at the 2013 OSCE Human Dimension Implementation Meeting

During the 2013 OSCE Human Dimension Implementation Meeting, held in Warsaw from 23 September to 4 October 2013, issues of the abolition of capital punishment, prevention of torture and the protection of human rights in the fight against terrorism were discussed at the *Working Session 15: Rule of Law II.*

Participants made the following recommendations:

- For OSCE participating States that still retain the death penalty, to take steps towards its abolition by promptly establishing a moratorium on death sentences and executions;
- For OSCE participating States that have in place a moratorium on the death penalty, to amend their legislation to fully abolish the death penalty;
- For all OSCE participating States, to ratify relevant international legal instruments to abolish the death penalty, including the Second Optional Protocol to the International Covenant on Civil and Political Rights and Protocol 13 to the European Convention on Human Rights, if they have not yet done so; and
- For all OSCE participating States, to encourage debate on the abolition of the death penalty both at the national and international levels.

Annex 8

ODIHR Questionnaire on the Death Penalty

To abolitionist OSCE participating States:

1) Is your country engaged in any activities relevant to the issue of the death penalty on a national or international level (e.g. organizing events, conferences, debates; conducting research and social surveys, engaging in advocacy against the death penalty, adopting resolutions, etc.)? If yes, please highlight the most important activities in the period from 1 July 2013 to 30 June 2014.

2) Are there any pending cases that touch upon in any way the issue of the death penalty before your domestic courts or in which your country is involved or associated before international courts or quasi-judicial bodies? If yes, please provide a description of each case.

3) Are any of your citizens facing the death penalty abroad? If yes, please provide us with their full name, age, gender and race/ ethnicity, indicating relevant countries.

4) What safeguards are in place in your country to protect children who have a parent facing the death penalty or executed abroad (relevant to nationals of your country)?

End of Questionnaire

To de-facto abolitionist OSCE participating States:

1) The attached paper is the entry related to your country in the 2013 Background Paper on the Death Penalty. It lists crimes that carry the death penalty in your country. Please check this list and inform us if any corrections or changes are needed.

2) Have any steps been taken to retain or remove a moratorium on the death penalty since the last publication?

3) Have any steps to fully remove the death penalty from national legislation been taken since the last publication?

4) Have any steps been taken towards the ratification of any of the following inter-

national instruments (if applicable):

- Second Optional protocol to the International Covenant on Civil and Political Rights;
- Protocol Six to the European Convention on Human Rights;
- Protocol Thirteen to the European Convention on Human Rights.

5) Please indicate ways in which you have co-operated with local and international organizations on this issue of the death penalty in the period from 1 July 2013 to 30 June 2014.

6) Are any of your citizens facing the death penalty abroad? If yes, please provide us with their full name, age, gender and race/ ethnicity, indicating relevant countries.

7) What safeguards are in place in your country to protect children who have a parent facing the death penalty or executed abroad (relevant to nationals of your country)?

End of Questionnaire

To retentionist OSCE participating States:

LEGAL FRAMEWORK

1) The attached paper is the entry related to your country in the 2013 Background Paper on the Death Penalty. It lists crimes that carry the death penalty and the methods of execution in your country, among other issues. Please inform us if any corrections or changes are needed.

2) Should your country's Code of Military Law carry the death penalty, have there been any changes to it?

3) Have any steps been taken to introduce, retain or remove a moratorium on the death penalty? If yes, please attach copies of relevant legislation.

4) If a moratorium is in place, have there been any changes since last year's publication in the specific procedure regulating the treatment and rights of persons subjected to the moratorium? If yes, please attach copies of relevant legislation.

5) Please provide details on any changes regarding the treatment of persons on death

row and attach copies of relevant legislation.

STATISTICS

6) If a moratorium is in place, please list the name and place of detention of all persons subjected to the moratorium.

7) Please provide us with statistics on the number, name, age, gender and race/ ethnicity of persons who have been sentenced to death in the period from 1 July 2013 to 30

8) June 2014, as well as the specific crime for which each of these persons was sentenced.

9) Please list which of these sentences have entered into force (i.e. all appeal stages have been exhausted), and which courts passed each of these sentences.

10) Please indicate if any of the persons sentenced to death in the period from 1 July 2013 to 30 June 2014 were:

    - Under age of 18 at the time the crime was committed;
    - Pregnant women or women with dependent infants;
    - Diagnosed as having any form of mental disorder;
    - Non-nationals; please indicate whether or not each of these persons received consular assistance.

11) Please provide us with the full name, age, gender and race/ethnicity of persons, who have been executed in the period from 1 July 2013 to 30 June 2014. Please also indicate the specific crime for which each of these persons was executed.

12) Please indicate if any persons executed in the period from 1 July 2013 to 30 June 2014 were:

    - Under age of 18 at the time the crime was committed;
    - Pregnant women or women with dependent infants;
    - Diagnosed as having any form of mental disorder;
    - Non-national; please indicate whether or not each of these persons received consular assistance.

13) Please provide us with the full name, age, gender, and race/ ethnicity of any persons sentenced to death penalty who have been granted clemency or had their sentences commuted since 1 July 2013.

14) Please provide us with the full name, age, gender and race/ ethnicity of your citizens facing the death penalty abroad, indicating relevant countries.

SAFEGUARDS

15) What safeguards are in place to protect children who have a parent facing the death penalty or executed in your country or abroad (relevant to nationals of your country)?

16) Please describe if there have been any changes in the procedure for informing all non-nationals who have been accused of committing a crime, for which the death penalty is a potential sentence, of their right to receive consular assistance. Is this procedure mandatory?

17) Please list all cases regarding the use of the death penalty that have been decided since last publication, or are currently ongoing, before international bodies (eg. UN Human Rights Committee, International Court of Justice).

18) Please describe procedures for complying with interim stays by the UN Human Rights Committee?

19) Please list the names, age, gender and race/ethnicity of any persons who have been executed whilst a procedure regarding their case was ongoing before an international body.

20) If there have been any changes since last year's publication, please describe the procedure for considering a request for clemency, including the factors that are taken into account when considering such a request.

21) If there have been changes since last year's publication, please indicate the procedure for informing relatives of the date of execution and the date that the execution has been carried out, as well as of the place of burial of executed persons.

MISCELLANEOUS

22) Which state body is responsible for keeping statistics on sentences, executions and commutations?

23) Please indicate ways in which you have co-operated with local and international organizations on this issue of the death penalty in the period from 1 July 2013 to 30 June 2014.

End of Questionnaire

Annex 9

Status of Ratifications of Relevant Treaties

Status of Ratifications as of: 1 August 2014

Participating State	Status	ICCPR	2nd Optional Protocol	ECHR	Protocol No. 6	Protocol No. 13
Albania	A	r	r	r	r	r
Andorra	A	r	r	r	r	r
Armenia	A	r	not ratified	r	r	signed
Austria	A	r	r	r	r	r
Azerbaijan	A	r	r	r	r	not ratified
Belarus	R	r	not ratified	n/a	n/a	n/a
Belgium	A	r	r	r	r	r
Bosnia and Herzegovina	A	r	r	r	r	r
Bulgaria	A	r	r	r	r	r
Canada	A	r	r	n/a	n/a	n/a
Croatia	A	r	r	r	r	r
Cyprus	A	r	r	r	r	r
Czech Republic	A	r	r	r	r	r
Denmark	A	r	r	r	r	r
Estonia	A	r	r	r	r	r
Finland	A	r	r	r	r	r
France	A	r	r	r	r	r
Georgia	A	r	r	r	r	r
Germany	A	r	r	r	r	r
Greece	A	r	r	r	r	r
Holy See	A	not ratified	not ratified	n/a	n/a	n/a
Hungary	A	r	r	r	r	r
Iceland	A	r	r	r	r	r
Ireland	A	r	r	r	r	r
Italy	A	r	r	r	r	r
Kazakhstan	DA	r	not ratified	n/a	n/a	n/a
Kyrgyzstan	A	r	r	n/a	n/a	n/a
Latvia	PA	r	r	r	r	r
Liechtenstein	A	r	r	r	r	r
Lithuania	A	r	r	r	r	r

Participating State	Status	ICCPR	2nd Optional Protocol	ECHR	Protocol No. 6	Protocol No. 13
Luxembourg	A	r	r	r	r	r
Malta	A	r	r	r	r	r
Moldova	A	r	r	r	r	r
Monaco	A	r	r	r	r	r
Mongolia	DA	r	r	n/a	n/a	n/a
Montenegro	A	r	r	r	r	r
Netherlands	A	r	r	r	r	r
Norway	A	r	r	r	r	r
Poland	A	r	r	r	r	r
Portugal	A	r	r	r	r	r
Romania	A	r	r	r	r	r
Russian Federation	DA	r	not ratified	r	signed	not ratified
San Marino	A	r	r	r	r	r
Serbia	A	r	r	r	r	r
Slovak Republic	A	r	r	r	r	r
Slovenia	A	r	r	r	r	r
Spain	A	r	r	r	r	r
Sweden	A	r	r	r	r	r
Switzerland	A	r	r	r	r	r
Tajikistan	DA	r	not ratified	n/a	n/a	n/a
Turkey	A	r	r	r	r	r
Turkmenistan	A	r	r	n/a	n/a	n/a
Ukraine	A	r	r	r	r	r
United Kingdom	A	r	r	r	r	r
United States of America	R	r	not ratified	n/a	n/a	n/a
Uzbekistan	A	r	r	n/a	n/a	n/a
Former Yugoslav Republic of Macedonia	A	r	r	r	r	r

Notes:
r = ratification or accession
signed = signature only
not ratified = neither singed not ratified
n/a = non-applicable as not member of the Council or Europe
A = abolitionist
DA = *de facto* abolitionist
R = retentionist