

# The Death Penalty in the OSCE Area

**BACKGROUND PAPER 2008**

HUMAN DIMENSION IMPLEMENTATION MEETING  
SEPTEMBER - OCTOBER 2008



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This paper was prepared by the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) in co-operation with OSCE field offices. Every effort has been made to ensure that the information contained in this paper is accurate and impartial.

This paper updates *The Death Penalty in the OSCE Area: Background Paper* of October 2007. 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 2007 to 30 June 2008. The content of this paper does not necessarily reflect the policy or position of the OSCE or ODIHR.

Any comments or suggestions should be addressed to ODIHR's Human Rights Department.

Published by the OSCE's Office for Democratic Institutions and Human Rights (ODIHR)  
Aleje Ujazdowskie 19  
00-557 Warsaw  
Poland  
[www.osce.org/odihr](http://www.osce.org/odihr)

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ISBN 978-92-9234-752-9

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Printed in Poland by Agencja Karo

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# Foreword

The death penalty is gradually disappearing from the OSCE region. With Uzbekistan abolishing capital punishment on 1 January 2008, there are only two OSCE participating States that still carry out executions.

OSCE commitments do not require the abolition of the death penalty. However, participating States have committed themselves to using the death penalty as punishment for only the most serious crimes and in a manner not contrary to their international commitments, and to keeping the question of capital punishment under consideration.<sup>1</sup> OSCE states have also committed themselves to making information on the use of the death penalty available to the public.<sup>2</sup>

It is with a view to assisting participating States' compliance with these commitments that ODIHR has, since 1999, published an annual background paper on the death penalty in the OSCE area for the Human Dimension Implementation Meeting (HDIM). This background paper provides a forum for participating States to make information on the use of the death penalty available. This year's paper offers a concise update that only highlights changes in the status of the death penalty since the last publication.

ODIHR collected information for this paper from participating States themselves,<sup>3</sup> as well as from OSCE field presences,<sup>4</sup> intergovernmental organizations, non-governmental organizations, and media reports.

This paper classifies the participating States according to the categories of abolitionist, partly abolitionist, *de facto* abolitionist, or retentionist, and outlines country developments, if any, in all four categories with a more in-depth analysis of developments in the retentionist countries.

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1 For a list of relevant OSCE commitments, see Annex 1.

2 Copenhagen Document 1990, para. 17.8.

3 A copy of the questionnaire that was sent to participating States requesting information on the use of the death penalty is attached as Annex 4. Of the seven recipients of the questionnaire, four participating States responded: Belarus, Kazakhstan, Latvia, and the United States of America.

4 ODIHR is grateful to the OSCE Office in Minsk and the OSCE Centre in Astana for responding to the questionnaire.

During the reporting period,<sup>5</sup> there were a number of developments regarding the death penalty in the international arena, namely in the framework of the United Nations, the Council of Europe, and the European Union.<sup>6</sup>

Several participants at the HDIM<sup>7</sup> in 2007 called for OSCE participating States to support a draft UN General Assembly resolution on a moratorium on the use of the death penalty, which was later presented to the General Assembly. After two failed attempts in 1994 and 1999 to pass similar resolutions and after two days of heated debates preceding the vote, the resolution was adopted on 1 November 2007. It calls on states that still allow capital punishment to progressively restrict the use of the death penalty and to reduce the number of offences for which it may be imposed. Those countries are also called on to respect international standards that safeguard the rights of inmates condemned to death. Fifty-three of the 104 countries that voted for the resolution are OSCE participating States.

In the period from 1 July 2007 to 30 June 2008, three OSCE participating States – Albania, France, and Ukraine<sup>8</sup> – ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR),<sup>9</sup> which abolishes the death penalty during peacetime.

In September 2007, the Council of Europe established a European Day against the Death Penalty to be held every year on 10 October,<sup>10</sup> to coincide with the World Day against the Death Penalty. The European Union joined this initiative in December 2007. On 9 October 2007, an international conference on “Europe against the Death Penalty” was organized in Lisbon by the Council of Europe, the Portuguese presidency of the European Union, and the European Commission to mark 10 years without the death penalty in the member states of the Council of Europe.

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5 The reporting period covered by this paper is from 1 July 2007 to 30 June 2008.

6 Unlike in previous years, this concise background paper does not provide an overview of international standards on the death penalty. Readers interested in an analysis of the relevant international standards should see *The Death Penalty in the OSCE Area: Background Paper 2007* (Warsaw: ODIHR, 2007), pp. 3-9, <[http://www.osce.org/publications/odihr/2007/09/26345\\_934\\_en.pdf](http://www.osce.org/publications/odihr/2007/09/26345_934_en.pdf)>. For a compilation of the relevant international standards, please see Annex 2 of this background paper.

7 For a list of relevant recommendations made at the 2007 HDIM, see Annex 3.

8 For the status of ratifications of relevant treaties, see Annex 5.

9 UN General Assembly Resolution 44/128 of 15 December 1989, entered into force on 11 July 1991. Article 2 of the Second Optional Protocol provides that no reservation is admissible except for reservations made at the time of ratification or accession that provide 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.

10 Council of Europe, Decision CM(2007)137 and GR-EXT(2007)CB8, “European Day against the Death Penalty”, 26 September 2007; Council of Europe, Committee of Ministers, Decision CM/Del/Dec(2007)1005/4.9, 12 December 2007.

The Council of Europe<sup>11</sup> has been a pioneer in the abolition process. There are two Council of Europe legal instruments outlawing the death penalty:

- Protocol No. 6 to the European Convention on Human Rights (ECHR),<sup>12</sup> the first legally binding instrument providing for the unconditional abolition of the death penalty in peacetime, has been ratified by 46 of the 47 member states of the Council of Europe; and
- Protocol No. 13 to the ECHR,<sup>13</sup> concerning the abolition of the death penalty in all circumstances, including in times of war, has been ratified by 40 member states, with the latest ratification by France on 10 October 2007.

I hope the time will soon come when ODIHR will no longer have to monitor the status of the death penalty in the OSCE area because it will have been abolished everywhere. Until then, I hope that this paper will be a useful resource for governments and civil society alike in the further debate on issues related to capital punishment and its abolition.

Ambassador Janez Lenarčič  
ODIHR Director

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11 Of the 56 OSCE participating States, 47 are member states of the Council of Europe.

12 ETS No. 114, entered into force on 1 March 1985. Article 2 provides that a state may make provision in its law for the death penalty in respect of acts committed in times of war or of imminent threat of war.

13 ETS No. 187, entered into force on 1 July 2003.





# The Status of the Death Penalty in the OSCE Area

For the purpose of this paper, each participating State has been classified as **abolitionist**, **partly 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** OSCE participating States are abolitionist:

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

**Partly abolitionist: The death penalty has been abolished for crimes committed in peacetime but is retained for crimes committed in wartime.**

Two participating States are partly abolitionist:

- Latvia
- Kazakhstan

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

Two participating States are *de facto* abolitionist:

- The Russian Federation
- Tajikistan

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

Two participating States are retentionist:

- Belarus
- The United States of America

Since the last year's publication, there have been a number of developments regarding the death penalty in the OSCE area.<sup>14</sup>

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14 For earlier developments, see *The Death Penalty in the OSCE Area*, ODIHR, *op. cit.*, note 6.

# 1. Abolitionist States

On 2 October 2007, **France** acceded to the Second Optional Protocol to the ICCPR. On 10 October, it ratified Protocol No. 13 to the ECHR concerning the abolition of the death penalty in all circumstances.<sup>15</sup>

On 17 October 2007, **Albania** and **Ukraine** acceded to the Second Optional Protocol.

In October 2007, **Canada** reversed a long-standing policy, stating that clemency would no longer be sought for Canadian citizens sentenced to death in democratic countries that adhere to the rule of law.<sup>16</sup>

Following amendments to **Kyrgyzstan's** Criminal Code in June 2007, on abolition of the death penalty, the cases of the 174 prisoners already sentenced to death were to be reviewed by the Supreme Court within six months. The outcome of these reviews was still pending at the end of 2007.<sup>17</sup>

**Uzbekistan** abolished the death penalty as of 1 January 2008.<sup>18</sup>

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15 See the chapter on France in *Amnesty International Report 2008: State of the World's Human Rights* (London: Amnesty International, 2008), <<http://thereport.amnesty.org/eng/regions/europe-and-central-asia/france>>.

16 See the chapter on Canada, *ibid.*, <<http://thereport.amnesty.org/eng/regions/americas/canada>>.

17 See the chapter on Kyrgyzstan, *ibid.*, <<http://thereport.amnesty.org/eng/regions/europe-and-central-asia/kyrgyzstan>>.

18 See pp. 14-16 for developments in Uzbekistan covering the period from 1 July 2007 to 1 January 2008.

## 2. Partly Abolitionist States

In **Latvia**, the process of ratifying Protocol No. 13 to the ECHR, concerning the abolition of the death penalty in all circumstances, is under way. Latvia signed Protocol No. 13 on 3 May 2002. On 19 May 2008, the Government of Latvia endorsed a draft law on the ratification of the Protocol, and parliamentary approval is being sought. Along with the draft law, corresponding amendments to the relevant legislation, i.e., criminal law and other related acts, were being prepared.<sup>19</sup>

On 6 December 2007, the president of **Kazakhstan** pardoned 31 men sentenced to death who had been subject to the moratorium on the death penalty decreed in December 2003.<sup>20</sup> Their sentences were commuted to life imprisonment. No death sentences have been handed down in Kazakhstan since then. There is a commission headed by the minister of justice that examines issues related to the abolition of the death penalty by analysing legislation and collecting relevant information. The commission consists of governmental and non-governmental actors.<sup>21</sup> A draft law on amendments to relevant legislative acts aimed at bringing current legislation into line with the 2007 constitutional amendments is being developed by the Justice Ministry. The draft law will later be introduced to the parliament.<sup>22</sup>

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19 Response of the Permanent Representation of Latvia to the OSCE to ODIHR's questionnaire on the death penalty, 7 July 2008.

20 Response of Kazakhstan's Foreign Ministry to ODIHR's questionnaire on the death penalty, 30 July 2008. The names of these men are on file with ODIHR.

21 *Ibid.*

22 Response of the OSCE Centre in Astana to ODIHR's questionnaire on the death penalty, 23 July 2008.

### 3. *De Facto* Abolitionist States

On 24 October 2007, the deputies of the Committee of Ministers of the Council of Europe reiterated their “strong and urgent call on the Russian Federation, as the only member state which has not yet abolished the death penalty, to take without delay all the necessary steps to transform the existing moratorium on executions into *de jure* abolition of the death penalty and to ratify Protocol 6”.<sup>23</sup> On 17 January 2008, during his visit to **Russia**, Council of Europe Parliamentary Assembly President René van der Linden welcomed the “moratorium on the death penalty and Mr Putin’s public position against capital punishment”. He further stressed that “this commitment should be formally confirmed by the Russian Federation by ratifying Protocol 6”.<sup>24</sup> On 20 February 2008, the State Duma’s Legislation Committee submitted a bill to the lower house of parliament on the abolition of the death penalty in the Russian Federation.<sup>25</sup>

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23 Council of Europe, Committee of Ministers, Decision CM/Del/Dec(2007)1009, “Abolition of the death penalty in all member states of the Council of Europe”, 26 October 2007.

24 “René van der Linden to President Putin: ‘our respect for common values should be reflected in concrete steps’”, Council of Europe, 17 January 2008, <<https://wcd.coe.int/ViewDoc.jsp?id=1234253&Site=COE&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864>>.

25 “Russia is committed to abolishing the death penalty as a member of the Council of Europe”, Hands Off Cain website, 1 January 2008, <<http://www.handsoffcain.info/news/index.php?iddocumento=10001778>>.

## 4. Retentionist States

### BELARUS

#### **Legal Framework**

The Constitution of the Republic of Belarus provides that, until the death penalty is abolished, it may be applied in accordance with the law as an exceptional penalty for particularly serious crimes and only in accordance with the verdict of a court of law.<sup>26</sup> The Criminal Code provides that the death penalty may be imposed for severe crimes connected with the deliberate deprivation of life with aggravating circumstances.<sup>27</sup> The death penalty is envisaged for 14 crimes.<sup>28</sup> Alternatives to the death penalty are provided.<sup>29</sup>

#### **Moratorium**

There is no moratorium on either the imposition or carrying out of death sentences.

#### **Method of execution**

Shooting<sup>30</sup>

#### **Statistics**

The Ministry of Justice is responsible for collecting and disseminating statistics.

#### **Death sentences**

According to official statistics, during the period from 1 July 2007 to 30 June 2008, one individual, Nikolai Nikolaevich Kaleda (21 years old at the time of sentencing), was sentenced to death on 5 December 2007 by the Minsk Regional Court for murder

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

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

28 Articles 122(2), 124(2), 126, 127, 128, 134, 135(3), 139(2), 289(3), 359, 356(2), 357(3), 359, 360(2), and 362 of the Criminal Code.

29 Response of the Permanent Delegation of the Republic of Belarus to the OSCE to ODIHR's questionnaire on the death penalty, 25 July 2008.

30 Article 59(1) of the Criminal Code.

with aggravating circumstances (Art. 139(2) of the Criminal Code).<sup>31</sup>

### **Executions**

Official statistics were not provided. It was reported that three men – Sergei Morozov, Valery Gorbaty and Igor Danilchenko – were executed on 5 February 2008.<sup>32</sup>

### **International Safeguards**

#### **Pardon or commutation**

The Constitution gives the president authority to grant clemency, and the death penalty may be commuted to life imprisonment.<sup>33</sup> Appeals are initially considered by the Clemency Commission. The cases of all individuals sentenced to death are automatically considered regardless of whether the sentenced person has submitted an appeal for clemency.<sup>34</sup> During the period from 1 July 2007 to 30 June 2008, no clemencies or commutations were granted.<sup>35</sup>

## **UNITED STATES OF AMERICA**

### **Legal Framework**

The death penalty is retained at the federal level and in 36 of the 50 states. Abolitionist states include Alaska, Hawaii, Iowa, Maine, Massachusetts, Michigan, Minnesota, New Jersey,<sup>36</sup> New York,<sup>37</sup> North Dakota, Rhode Island, Vermont, West Virginia, and

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31 Belarus response, *op. cit.*, note 29.

32 “Council of Europe Secretary General Terry Davis condemns executions in Belarus”, Council of Europe, 6 February 2008, <<https://wcd.coe.int/ViewDoc.jsp?id=1244875&Site=COE&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864>>.

33 Article 84 (19) of the Constitution.

34 Presidential Decree No. 250 “On confirmation of the regulation on the pardoning procedure in the Republic of Belarus”, 3 December 1994.

35 Belarus Response, *op. cit.*, note 29.

36 Following the final report of the New Jersey Death Penalty Study Commission, which recommended abolition of the death penalty, the New Jersey legislature abolished the death penalty on 17 December 2007. “New Jersey Death Penalty Commission: Overview of the Commission and its work”, website of the New Jersey legislature, <[http://www.njleg.state.nj.us/committees/njdeath\\_penalty.asp](http://www.njleg.state.nj.us/committees/njdeath_penalty.asp)>; also see the chapter on the United States in *Amnesty International Report 2008*, Amnesty International, *op. cit.*, note 15, <<http://thereport.amnesty.org/eng/regions/americas/usa>>.

37 In the state of New York, the last inmate was ordered off death row in October 2007 by the state’s highest court, effectively making the state abolitionist. See *People v. Taylor*, New York Court of Appeal, New York, 23 October 2007.



Wisconsin, as well as the District of Columbia.<sup>38</sup>

The United States Code identifies 42 crimes (38 homicide and four non-homicide) for which the death penalty may be used. The crimes that carry the death penalty vary from state to state. Capital punishment is generally permitted for the crimes of murder or felony murder, and generally only when aggravating circumstances are present in the commission of the crime, e.g., if there are multiple victims, if a victim was raped, or if a murder was a contract killing.<sup>39</sup> On 25 June 2008, the Supreme Court outlawed the use of the death penalty for people convicted of raping a child where the crime did not result, and was not intended to result, in the victim's death.<sup>40</sup> The case was a review of a 2007 Louisiana Supreme Court decision that upheld a death sentence for someone who had raped his stepdaughter.

The Uniform Code of Military Justice (UCMJ) provides for the death penalty as a possible punishment for 15 offences, many of which must occur during a time of war.

The death penalty may be imposed in accordance with the military order establishing military commissions to prosecute individuals currently detained at Guantanamo Bay.<sup>41</sup> On 29 June 2006, the Supreme Court ruled that the military commissions were illegal under both military law and the Geneva Conventions.<sup>42</sup> The US Government announced in February 2007 that it intended to seek the death penalty for five men on trial for crimes committed on 11 September 2001.<sup>43</sup>

Abolition bills remain under consideration in Arizona, Connecticut, Illinois, and Kentucky. California, Maryland, North Carolina, and Tennessee have initiated legislative death-penalty studies.<sup>44</sup> In 2007, South Dakota carried out its first execution since 1947.<sup>45</sup>

38 Response of the United States Mission to the OSCE to ODIHR's questionnaire on the death penalty, 28 July 2008.

39 A complete list of capital crimes can be found at <<http://www.deathpenaltyinfo.org>>.

40 US response, *op. cit.*, note 38; see *Kennedy v. Louisiana*, United States Supreme Court, 25 June 2008.

41 Military Commission Order No. 1, "Procedures for trials by military commissions of certain non-United States citizens in the war against terrorism", 21 March 2002, Part 6 (g).

42 See *Hamdan v. Rumsfeld*, United States Supreme Court, 29 June 2006.

43 "Guantánamo Military Commission Hearings Resume", Amnesty International, 9 July 2008, <<http://www.amnesty.org/en/news-and-updates/report/guant%C3%A1namo-military-commission-hearings-resume-20080709>>; "USA: Way of Life, Way of Death: Capital Charges Referred against Five Former Secret Detainees", Amnesty International, 20 May 2008 <<http://www.amnesty.org/en/library/info/AMR51/041/2008/en>>; "USA: Execution Sought for Six Detainees in 9/11 Attacks", Hands Off Cain website, 11 February 2008, <<http://www.handsoffcain.info/news/index.php?iddocumento=10302712>>.

44 "First Execution in Seven Months Raises Many Concerns", Death Penalty Information Center website, 6 May 2008, <<http://www.deathpenaltyinfo.org/newsanddev.php?scid=6>>.

45 See the chapter on the United States in *Amnesty International Report 2008*, Amnesty International, *op. cit.*, note 15, <<http://thereport.amnesty.org/eng/regions/americas/usa>>.

## **Moratorium**

There is no moratorium on executions in place at the federal level. In January 2006, the New Jersey state legislature passed a one-year moratorium on executions by the state. In December 2006, the one-year moratorium ended, and in January 2007 a report by the New Jersey Death Penalty Study Commission recommended abolishing the death penalty,<sup>46</sup> in response to which the New Jersey legislature abolished the death penalty on 17 December 2007.<sup>47</sup>

## **Method of execution**

Although methods of execution vary from state to state, they include lethal injection, electrocution, the gas chamber, hanging, and shooting. The most common method of execution is lethal injection, which is either the sole method or a possible method of execution in all states except Nebraska, where until 8 February 2008 the sole method of execution was electrocution.<sup>48</sup> Between 1 July 2007 and 30 June 2008, 20 people were executed by lethal injection, and two were executed by electrocution.<sup>49</sup>

Capital punishment by lethal injection has been suspended in several states amid concerns about both the constitutionality of currently used lethal-injection protocols and whether the process is operating properly.

On 16 April 2008, the US Supreme Court decided in *Baze v. Rees* that the use of lethal injection does not amount to cruel and unusual punishment.<sup>50</sup> The case was a challenge to the use of lethal injection in the state of Kentucky, a state that had only used lethal injection once. Therefore, the court had limited information on which to determine whether it constituted cruel and unusual punishment. In other states, including California, Missouri, and Tennessee, federal courts, with a different record before them, had found lethal-injection procedures to be unconstitutional.

In Nebraska, which used electrocution as the sole means of carrying out the death penalty, the state's Supreme Court stayed the execution of an inmate in May

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46 "New Jersey Death Penalty Commission", *op. cit.*, note 36.

47 An Act Abolishing the Death Penalty, State of New Jersey, <[http://www.njleg.state.nj.us/2006/Bills/A1000/773\\_I1.PDF](http://www.njleg.state.nj.us/2006/Bills/A1000/773_I1.PDF)>.

48 "Nebraska Supreme Court Rules Electrocution Unconstitutional", Death Penalty Information Center website, 8 February 2008, <<http://www.deathpenaltyinfo.org/newsanddev.php?scid=6>>; "Nebraska (USA). State Court Says Electric Chair Unconstitutional", Hands Off Cain website, 8 February 2008, <<http://www.handsoffcain.info/news/index.php?iddocumento=10302657>>.

49 US response, *op. cit.*, note 38.

50 "Lethal Injection: Moratorium on Executions Ends After Supreme Court Decision", Death Penalty Information Center website, <<http://www.deathpenaltyinfo.org/article.php?did=1686>>; see *Baze v. Rees*, United States Supreme Court, 16 April 2008.

2007 pending the Court's determination of whether death by electrocution constituted cruel and unusual punishment. On 8 February 2008, the Nebraska Supreme Court ruled that electrocution is cruel and unusual punishment because the evidence proved that electrocution inflicts "intense pain and agonizing suffering".<sup>51</sup> This decision recognized the right of the legislature to vote to retain the death penalty, but that the method selected must not violate individual rights under the state constitution.<sup>52</sup>

### **Statistics**

The Bureau of Justice Statistics is the unit of the US Department of Justice responsible for collecting, analysing, publishing, and disseminating information on crime, criminal offenders, victims of crime, and the operation of justice systems at all levels of government.<sup>53</sup>

### **Death sentences**

The total number of civilian death-row inmates in early 2008 was 3,262.<sup>54</sup>

### **Executions**

In recent practice, the death penalty has primarily been exercised at the state level; the federal government has not executed anyone since 2003. Similarly, under the UCMJ, no one has been put to death since 1961.<sup>55</sup>

Between 1 July 2007 and 30 June 2008, 21 inmates were executed. Of these, nine executions were carried out in Texas, two in Alabama, two in Georgia, two in Oklahoma, two in South Carolina, one in Mississippi, one in South Dakota, one in Tennessee, and one in Virginia.<sup>56</sup>

The number of executions in the United States decreased between July 2007 and June 2008, compared to the previous 12-month period. The number of inmates sentenced to death also decreased in 2007, consistent with a pattern of decreasing death sentences since 2000.<sup>57</sup>

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51 See *State v. Mata*, Nebraska Supreme Court, 9 February 2008.

52 "Nebraska Supreme Court Rules Electrocution Unconstitutional", Death Penalty Information Center, *op. cit.*, note 48; "State Court Says Electric Chair Unconstitutional", Hands Off Cain, *op. cit.*, note 48.

53 US response, *op. cit.*, note 38.

54 *Ibid.*

55 *Ibid.*

56 *Ibid.*

57 *Ibid.*

## **International Safeguards**

### **Minors**

At the federal level, individuals who were below the age of 18 at the time of the crime cannot be sentenced to death.

On 1 March 2005, in *Roper v. Simmons*, the United States Supreme Court decided to abolish the death penalty for defendants who were under the age of 18 when they committed their crimes.<sup>58</sup> In its concluding observations in response to the reports submitted by the United States on the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, the Committee on the Rights of the Child welcomed the application of the *Roper v. Simmons* case to the military-justice system.<sup>59</sup>

### **Individuals suffering from any form of mental disorder**

The United States Supreme Court has ruled that the execution of an insane person – somebody who is not aware of the impending execution or the reasons for it – violates the US Constitution.<sup>60</sup> Furthermore, the Supreme Court has also ruled that the execution of a mentally retarded person violates the Constitution.<sup>61</sup> In June 2007, the United States Supreme Court blocked the execution of an inmate because it was found that the Court of Appeal decision was too restrictive in its interpretation of what constitutes “insanity” as it was established in an earlier case, *Ford v. Wainwright*.<sup>62</sup> In March 2008, a federal court found the inmate competent to be executed despite his mental illness.<sup>63</sup>

### **Fair-trial guarantees**

By statute, Congress provides for the appointment of highly qualified counsel to represent federal capital defendants at all stages of a capital prosecution, from indictment through post-conviction review. In addition, the federal government provides counsel for state capital defendants when their convictions are reviewed

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58 See *Roper v. Simmons*, United States Supreme Court, 1 March 2005.

59 “Concluding observations of the Committee on the Rights of the Child: United States”, UN Doc. CRC/C/OPAC/USA/CO/1, 6 June 2008, para 4(b).

60 See *Ford v. Wainwright*, United States Supreme Court, 26 June 1986.

61 See *Atkins v. Virginia*, United States Supreme Court, 20 June 2002.

62 See *Panetti v. Quarterman*, United States Supreme Court, 28 June 2007.

63 See *Panetti v. Quarterman*, United States District Court for the Western District of Texas, 26 March 2008.

in federal court. All death-penalty states have adopted procedures of their own to provide experienced, competent counsel to represent indigent capital defendants in state court.

In its concluding observations in response to the periodic report by the United States, the Committee on the Elimination of Racial Discrimination reiterated its concerns about the “persistent and significant racial disparities with regard to the imposition of the death penalty”.<sup>64</sup> Furthermore, the Committee called for additional studies of the issue and recommended the imposition of a moratorium to ensure that the death penalty is not imposed as a result of racial bias.

In June 2008, following an official state visit, the United Nations special rapporteur on extrajudicial, summary or arbitrary executions noted again the issue of racism and the death penalty and further recommended a three-prong strategy to address the “rising number of innocent people being exonerated nationwide”:

- 1) Problems such as judicial independence and the absence of an adequate right to counsel should be addressed immediately;
- 2) Systematic inquiries into the workings of criminal-justice systems should be undertaken to identify needed reforms;
- 3) The federal courts should be able to review all substantive claims of injustice in capital cases.<sup>65</sup>

In November 2007, the special rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism concluded that “any imposition of the death penalty as a result of a conviction by a military commission is likely to be in violation of article 6 [of the ICCPR]”.<sup>66</sup> The special rapporteur therefore recommended that “the imposition of the death penalty be excluded for military tribunals or court martial”.<sup>67</sup>

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<sup>64</sup> “Concluding observations of the Committee on the Elimination of Racial Discrimination”, UN Doc. CERD/C/USA/CO/6, 8 May 2008, para 23.

<sup>65</sup> See UN press release, “UN Special Rapporteur Calls on the U.S. to Take Steps to Avoid Unlawful Killings”, and the press statement by Professor Philip Alston, United Nations Human Rights Council special rapporteur on extrajudicial, summary or arbitrary executions, 30 June 2008, <<http://www.unhchr.ch/hurricane/hurricane.nsf/view01/73409531EE29EEF8C12574780053EFC2?opendocument>>.

<sup>66</sup> “Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism”, UN Doc. A/HRC/6/17/Add.3, 22 November 2007.

<sup>67</sup> *Ibid.*

**Foreign nationals**

The Vienna Convention on Consular Relations provides that state authorities must inform foreign nationals without delay of their right to have their consulate notified of their detention.<sup>68</sup>

On 31 March 2004, the International Court of Justice (ICJ) ruled that the United States had violated its obligation to inform foreign nationals without delay of their right to have their consulate notified of their detention in 51 cases of Mexican nationals brought before it by Mexico.<sup>69</sup> On 28 February 2005, the US president issued a memorandum to the US attorney general affirming that the United States would comply with the ICJ judgement. As a result, a number of cases have gone before US courts for review and reconsideration of the imposition of the death penalty.

In its ruling in *Medellin v. Texas*,<sup>70</sup> a death-penalty case mentioned in the ICJ decision, the Supreme Court found that the president does not have the authority to order states to follow the decision of the ICJ to reconsider the cases it found to violate consular rights. The US position was that the Texas court must follow the president's memo, which told states to "give effect" to the ICJ's decision and thereby fulfil the United States' international obligation to comply with the ICJ decision.

The reliance of Texas on the *Medellin v. Texas* decision to continue to fail to authorize state courts to review cases of foreign nationals on death row who did not have the opportunity to contact their consulates was criticized by the special rapporteur on extrajudicial, summary or arbitrary executions. According to the special rapporteur, it would be extremely easy for the United States to fulfil its obligations under international law, as each state would simply need to pass "legislation permitting courts to review claims related to consular notification".<sup>71</sup>

As of 29 February 2008, there were 122 foreign nationals from 34 countries who had been sentenced to death in the United States.<sup>72</sup>

**Pardon or commutation**

For federal death-row inmates and death-row inmates under the UCMJ, the president alone has the power to grant clemency. The clemency process at the state level varies

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68 Article 36 of the Vienna Convention on Consular Relations, 1963.

69 Case concerning Avena and other Mexican nationals (*Mexico v. United States of America*), 31 March 2004. The International Court of Justice made a similar ruling in the LaGrand case (*Federal Republic of Germany v. United States of America*), 27 June 2001.

70 See *Medellin v. Texas*, United States Supreme Court, 25 March 2008.

71 See Alston's press statement, *op. cit.*, note 65.

72 US response, *op. cit.*, note 38.

from state to state, usually involving the governor or a board of advisers, or both. In all cases, a formal petition for clemency must be filed. Since 2004, 15 inmates have had their death sentences overturned and have been acquitted on re-trial or all charges have been dropped, including two in 2005, one in 2006, three in 2007, and three in 2008. In 2007, an additional 14 inmates from seven states had their sentences commuted to life in prison. Eight of these commutations resulted from New Jersey's repeal of its death-penalty statute in 2007.<sup>73</sup>

## UZBEKISTAN

### Legal Framework

Until 1 January 2008, the death penalty was envisaged for two crimes:<sup>74</sup> murder with aggravating circumstances and terrorism.<sup>75</sup> In August 2005, President Islam Karimov signed a decree on abolition of the death penalty,<sup>76</sup> and in June 2007 Uzbekistan's Senate adopted relevant amendments to the Criminal Code substituting capital punishment with life imprisonment.<sup>77</sup> Those serving life in prison are permitted to request parole after serving 25 years in prison, while those sentenced to long-term imprisonment can request parole after serving 20 years.<sup>78</sup>

### **Moratorium**

There is no moratorium on either the imposition or carrying out of death sentences.

### **Method of execution**

Shooting<sup>79</sup>

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73 *Ibid.*

74 Article 51 of the Criminal Code, 22 September 1994, with further amendments as of 29 September 2004.

75 Articles 97 (2) and 155 (3) of the Criminal Code.

76 Decree of the President of Uzbekistan "On abolition of the death penalty in the Republic of Uzbekistan", 1 August 2005, <<http://www.legislationline.org/legislation.php?lid=4241&tid=144>>.

77 Law on Changes and Amendments in Some Legislative Acts of the Republic of Uzbekistan in Connection with the Abolition of the Death Penalty, Art. 1, para. 1.

78 *Ibid.*, para. 11.

79 Article 51 of the Criminal Code. Article 140 of the Criminal Execution Code of 1 April 1995 provides that executions shall not be carried out in public.

## **Statistics**

### **Death sentences**

Official statistics were not provided.

### **Executions**

Official statistics were not provided.

## **International Safeguards**

### **Fair-trial guarantees**

In its concluding observations on the third periodic report submitted by Uzbekistan, the UN Committee against Torture expressed its concern about “numerous, ongoing and consistent allegations concerning routine use of torture and other cruel, inhuman or degrading treatment or punishment committed by law enforcement and investigative officials or with their instigation or consent, often to extract confessions or information to be used in criminal proceedings”.<sup>80</sup>

Uzbekistan has ratified the Optional Protocol to the ICCPR and thereby recognizes the competence of the UN Human Rights Committee to consider complaints from individuals claiming that their rights under the ICCPR have been violated.<sup>81</sup> In the reporting period, the UN Human Rights Committee examined several communications concerning the death penalty in 2002 and 2003,<sup>82</sup> where it found a number of violations of the ICCPR, including of Article 6 (right to life), Article 7 (prohibition against torture and other ill-treatment), and Article 14 (right to a fair trial). The Committee found that the death sentence had been pronounced without meeting the requirements of a fair trial and recalled that the initial imposition of the death penalty at the conclusion of a trial in which the provisions of the ICCPR have not been respected constitutes a violation of the right to life in Article 6 of the ICCPR.

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80 Conclusions and Recommendations of the Committee against Torture: Uzbekistan, UN Doc. CAT/C/UZB/CO/3, 26 February 2008, para. 6.

81 Uzbekistan acceded to the Optional Protocol to the ICCPR on 28 September 1995.

82 UN Doc. CCPR/C/90/D/1140/2002, 7 August 2007, Communication No. 1140/2002; UN Doc. CCPR/C/91/D/1150/2003, 13 November 2007, Communication No. 1150/2003.



### **Information to families**

Relatives are not informed in advance of the date of execution. The body is not returned, and the place of burial is not disclosed.<sup>83</sup> In its conclusions and recommendations regarding the third periodic report of Uzbekistan, the Committee against Torture expressed concern “about the past practice of the State party resulting in failure to inform families of persons sentenced to death about the time and place of executions and the location of the bodies, which causes them distress”.<sup>84</sup> The Committee said that Uzbekistan “should ensure that relatives of persons sentenced to death are treated in a humane manner to avoid further suffering due to the secrecy surrounding executions and that remedial measures are taken”.<sup>85</sup> This call was reiterated by the special rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.<sup>86</sup>

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83 This information is regarded as a state secret in accordance with Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 239-33 “On measures of protection of state secrets of the Republic of Uzbekistan”, 5 May 1994, and Article 140 of the Criminal Execution Code.

84 Conclusions and Recommendations of the Committee against Torture: Uzbekistan, *op. cit.*, note 80, para. 26.

85 *Ibid.*

86 See the report of the special rapporteur on torture and other cruel, inhuman, or degrading treatment or punishment, UN Doc. A/HRC/7/3/Add.2, 18 February 2008.

# Annexes



# Annex 1

## OSCE Commitments on the Death Penalty

### CONCLUDING DOCUMENT OF THE 1989 VIENNA FOLLOW-UP MEETING

#### **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.

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### DOCUMENT OF THE 1990 COPENHAGEN MEETING OF THE CONFERENCE ON THE HUMAN DIMENSION OF THE CSCE

#### 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.

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**DOCUMENT OF THE 1991 MOSCOW MEETING OF THE CONFERENCE  
ON THE HUMAN DIMENSION OF THE CSCE**

(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.

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**CONCLUDING DOCUMENT OF THE 1992 HELSINKI SUMMIT**

The participating States

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

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**CONCLUDING DOCUMENT OF THE 1994 BUDAPEST SUMMIT**

Capital Punishment

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

## Annex 2

# Other International Standards on the Death Penalty

### UNITED NATIONS

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EXTRACT FROM THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

#### **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.

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**SECOND OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON  
CIVIL AND POLITICAL RIGHTS**

**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.

### **Article 7**

1. The present Protocol is open for signature by any State that has signed the Covenant.
2. The present Protocol is subject to ratification by any State that has ratified the Covenant or acceded to it. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. The present Protocol shall be open to accession by any State that has ratified the Covenant or acceded to it.
4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.
5. The Secretary-General of the United Nations shall inform all States that have signed the present Protocol or acceded to it of the deposit of each instrument of ratification or accession.

### **Article 8**

1. The present Protocol shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the tenth instrument of ratification or accession.
2. For each State ratifying the present Protocol or acceding to it after the deposit of

the tenth instrument of ratification or accession, the present Protocol shall enter into force three months after the date of the deposit of its own instrument of ratification or accession.

**Article 9**

The provisions of the present Protocol shall extend to all parts of federal States without any limitations or exceptions.

**Article 10**

The Secretary-General of the United Nations shall inform all States referred to in article 48, paragraph 1, of the Covenant of the following particulars:

- (a) Reservations, communications and notifications under article 2 of the present Protocol;
- (b) Statements made under articles 4 or 5 of the present Protocol;
- (c) Signatures, ratifications and accessions under article 7 of the present Protocol;
- (d) The date of the entry into force of the present Protocol under article 8 thereof.

**Article 11**

- 1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
- 2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States referred to in article 48 of the Covenant.

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EXTRACT FROM THE CONVENTION ON THE RIGHTS OF THE CHILD

**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: 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.

EXTRACTS FROM GENERAL COMMENT 6 OF 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)... . 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.

UN COMMISSION ON HUMAN RIGHTS RESOLUTION 2005/59

**Question of the death penalty**

*The Commission on Human Rights,*

*Recalling* article 3 of the Universal Declaration of Human Rights, which affirms the right of everyone to life, convinced that the abolition of the death penalty is essential for the protection of this right and recalling article 6 of the International Covenant on Civil and Political Rights and articles 6 and 37 (a) of the Convention on the Rights of the Child,

*Taking note* that the Second Optional Protocol to the International Covenant on Civil and Political Rights provides that no one within the jurisdiction of a State party shall be executed and that each State party shall take all necessary measures to abolish the death penalty within its jurisdiction,

*Recalling* the entry into force, on 1 July 2003, of Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), concerning the abolition of the death penalty in all circumstances,

*Recalling also* its previous resolutions in which it expressed its conviction that the abolition of the death penalty contributes to the enhancement of human dignity and to the progressive development of human rights,

*Welcoming* the exclusion of capital punishment from the penalties that the International Criminal Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda and the International Criminal Court are authorized to impose,

*Welcoming also* the abolition of the death penalty in some States since the last session of the Commission and decisions taken in other States that restrict the use of the death penalty, inter alia through excluding certain categories of persons or offences from its application,

*Commending* States that have recently acceded to the Second Optional Protocol to the International Covenant on Civil and Political Rights,

*Welcoming* the fact that many countries that still retain the death penalty in their penal legislation are applying a moratorium on executions, and also welcoming the regional initiatives aimed at the establishment of a moratorium on executions and the abolition of the death penalty,

*Reaffirming* the safeguards guaranteeing protection of the rights of those facing the death penalty, set out in the annex to Economic and Social Council resolution 1984/50 of 25 May 1984, and the provisions regarding the implementation of the guidelines contained in Council resolutions 1989/64 of 24 May 1989 and 1996/15 of 23 July 1996,

*Reaffirming also* resolution 2000/17 of 17 August 2000 of the Sub-Commission on the Promotion and Protection of Human Rights on international law and the imposition of the death penalty on those aged under 18 at the time of the commission of the offence,

*Deeply concerned* about the recent lifting of moratoriums on executions in several countries,

*Noting* the consideration of issues relating to the question of the death penalty by the Human Rights Committee,

*Welcoming* the efforts of various sectors of civil society at the national and international levels to achieve the abolition of the death penalty,

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

intentional 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 intergovernmental 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.

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**MORATORIUM ON THE USE OF THE DEATH PENALTY<sup>87</sup>**

*The General Assembly,*

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

*Recalling* the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child,

*Recalling also* the resolutions on the question of the death penalty adopted over the past decade by the Commission on Human Rights in all consecutive sessions, the last being its resolution 2005/59, in which the Commission called upon States that still maintain the death penalty to abolish it completely and, in the meantime, to establish a moratorium on executions,

*Recalling further* the important results accomplished by the former Commission on Human Rights on the question of the death penalty, and envisaging that the Human Rights Council could continue to work on this issue,

*Considering* that the use of the death penalty undermines human dignity, and convinced that a moratorium on the use of the death penalty contributes to the enhancement and progressive development of human rights, that there is no conclusive evidence of the death penalty's deterrent value and that any miscarriage or failure of justice in the death penalty's implementation is irreversible and irreparable,

*Welcoming* the decisions taken by an increasing number of States to apply a moratorium on executions, followed in many cases by the abolition of the death penalty,

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87 UN Doc. A/C.3/62/L.29, 1 November 2007.

1. *Expresses its deep concern* about the continued application of the death penalty;
2. *Calls upon* all States that still maintain the death penalty to:
  - (a) Respect international standards that provide safeguards guaranteeing the 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;
  - (b) Provide the Secretary-General with information relating to the use of capital punishment and the observance of the safeguards guaranteeing the protection of the rights of those facing the death penalty;
  - (c) Progressively restrict the use of the death penalty and reduce the number of offences for which it may be imposed;
  - (d) Establish a moratorium on executions with a view to abolishing the death penalty;
3. *Calls upon* States which have abolished the death penalty not to reintroduce it;
4. *Requests* the Secretary-General to report to the General Assembly at its sixty-third session on the implementation of the present resolution;
5. *Decides* to continue consideration of the matter at its sixty-third session under the same agenda item.

## COUNCIL OF EUROPE

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### EXTRACT FROM THE EUROPEAN CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

#### **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**

**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.

#### **Article 7 – Signature and ratification**

The Protocol shall be open for signature by the member States of the Council of Europe, signatories to the Convention. It shall be subject to ratification, acceptance or approval. A member State of the Council of Europe may not ratify, accept or approve this Protocol unless it has, simultaneously or previously, ratified the Convention. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

#### **Article 8 – Entry into force**

1. This Protocol shall enter into force on the first day of the month following the date on which five member States of the Council of Europe have expressed their consent to be bound by the Protocol in accordance with the provisions of Article 7.
2. In respect of any member State which subsequently expresses its consent to be bound by it, the Protocol shall enter into force on the first day of the month following the date of the deposit of the instrument of ratification, acceptance or approval.

#### **Article 9 – Depositary functions**

The Secretary General of the Council of Europe shall notify the member States of the Council of:

- (a) any signature;
- (b) the deposit of any instrument of ratification, acceptance or approval;
- (c) any date of entry into force of this Protocol in accordance with Articles 5 and 8;
- (d) any other act, notification or communication relating to this Protocol.

**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**

**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.

#### **Article 6 – Signature and ratification**

This Protocol shall be open for signature by member States of the Council of Europe which have signed the Convention. It is subject to ratification, acceptance or approval. A member State of the Council of Europe may not ratify, accept or approve this Protocol without previously or simultaneously ratifying the Convention. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

#### **Article 7 – Entry into force**

1. This Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date on which ten member States of the Council of Europe have expressed their consent to be bound by the Protocol in accordance with the provisions of Article 6.
2. In respect of any member State which subsequently expresses its consent to be bound by it, 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 the deposit of the instrument of ratification, acceptance or approval.

#### **Article 8 – Depositary functions**

The Secretary General of the Council of Europe shall notify all the member States of the Council of Europe of:

- (a) any signature;
- (b) the deposit of any instrument of ratification, acceptance or approval;
- (c) any date of entry into force of this Protocol in accordance with Articles 4 and 7;
- (d) any other act, notification or communication relating to this Protocol.

## ORGANIZATION OF AMERICAN STATES

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### AMERICAN CONVENTION ON HUMAN 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 reestablished 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.

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### PROTOCOL TO THE AMERICAN CONVENTION ON HUMAN RIGHTS TO ABOLISH THE DEATH PENALTY

#### **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.

### **Article 3**

1. This Protocol shall be open for signature and ratification or accession by any State Party to the American Convention on Human Rights.



2. Ratification of this Protocol or accession thereto shall be made through the deposit of an instrument of ratification or accession with the General Secretariat of the Organization of American States.

#### **Article 4**

This Protocol shall enter into force among the States that ratify or accede to it when they deposit their respective instruments of ratification or accession with the General Secretariat of the Organization of American States.

### **EUROPEAN UNION**

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#### **EXTRACT FROM THE CHARTER OF THE FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION**

#### **Article 2**

Right to Life

1. Everyone has the right to life.
2. No one shall be condemned to the death penalty, or executed.

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#### **EXTRACT FROM THE GUIDELINES ON EU POLICY TOWARDS THIRD COUNTRIES ON THE DEATH PENALTY**

### **III. Minimum standards paper**

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

- (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 financial crimes or for non-violent religious practice or expression of conscience.

- (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 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, 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.
- (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.

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**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 3

# Relevant Recommendations Made at the OSCE Human Dimension Implementation Meeting in 2007

Views were exchanged on the question of the abolition of capital punishment during working session 9. Some participants expressed the view that death was a just punishment for those who showed no respect for human life, while others said that capital punishment might in itself violate the right to life. A number of interventions questioned whether capital punishment presented an effective deterrent, and expressed concern that any miscarriage of justice would be irreversible. Speakers noted that the trend in the OSCE region was towards abolition and that in some states where the death penalty remained, *de facto* moratoriums were either in place and/or the number of offences that carried the death penalty had been reduced. A few OSCE participating States repeated their commitment to removing the death penalty but explained that they first needed to build up the capacity of their prisons to house more prisoners serving life sentences. A majority of participating States called for universal abolition of the death penalty, not just in the OSCE region, and many interventions supported the initiative to adopt a resolution at the 67th UN General Assembly session calling for a global moratorium on the use of capital punishment.<sup>88</sup>

The following recommendations were made:<sup>89</sup>

- The death penalty should be abolished;
- Those OSCE participating States that have not yet done so should establish a moratorium on executions in the meantime;
- Those OSCE participating States that have not yet done so should ratify the Optional Protocol to the International Covenant on Civil and Political Rights; the Second Optional Protocol to the International Covenant on Civil and Political Rights; and the Optional Protocol to the Convention

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<sup>88</sup> "Human Dimension Implementation Meeting Consolidated Summary", OSCE/ODIHR, 24 September – 5 October 2007, p. 26.

<sup>89</sup> *Ibid.*, pp. 78-81.

against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

- Those OSCE participating States that are members of the Council of Europe and have not done so should ratify Protocol 6 and Protocol 13 to the European Convention for the Protection of Human Rights and Fundamental Freedoms;
- OSCE participating States should ensure the implementation of the UN Commission on Human Rights Resolution 2005/59 on the Question of the Death Penalty;
- OSCE participating States should fulfil recommendations of the UN Human Rights Committee in cases where it found violations of Article 6 of the ICCPR (right to life);
- OSCE participating States should support the draft resolution on a moratorium and the abolition of the death penalty to be presented at the UN General Assembly;
- Those OSCE participating States that have not yet done so should sign the Declaration Against the Death Penalty, which was read out on 19 December 2006 at the UN General Assembly and has so far been signed by nearly 100 UN member states, including 50 OSCE participating States;
- Those OSCE participating States that still apply capital punishment should abide by international laws and standards to guarantee due process and most notably to inform other participating States, as well as their own citizens, about any death sentence, any final judgement imposing or confirming the death penalty, and any execution, including dates and names of those convicted or executed, the grounds for their conviction, and any other relevant circumstances in full;
- The burial places of those executed should be disclosed;
- OSCE participating States should allow NGOs and other observers, including the International Committee of the Red Cross, to visit prisons, including death row and execution chambers;
- OSCE participating States should immediately investigate allegations of torture in pre-trial detention and in prisons and punish those responsible;
- OSCE participating States should improve their prison conditions, with particular regard to death-row facilities and facilities for those serving life terms.

## Annex 4

# Questionnaire on the Death Penalty

- 1) Please inform us of any developments with regard to the death penalty in your country since 30 June 2007.

### LEGAL FRAMEWORK

- 2) The attached paper is a copy of the entry related to your country in the publication of 2007. It should list all crimes that carry the death penalty. Please check this list and inform us if any corrections or changes are required.
- 3) Has the number of crimes that carry the death penalty increased or decreased since the last publication?
- 4) Do any crimes under your country's Code of Military Law carry the death penalty? Have there been any changes since the last publication?
- 5) Have any steps been taken to introduce, retain, or remove a moratorium on executions? If yes, please provide details and the legal basis for those changes and please attach copies of relevant legislation or presidential decrees.
- 6) 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 or presidential decrees.
- 7) If a moratorium is in place, please list the name and place of detention of all persons currently subjected to the moratorium.

### STATISTICS

- 8) Please provide us with statistics on the number of persons who have been sentenced to death in the period from 30 June 2007 to 30 June 2008.
- 9) Please provide us with the full name and age of persons who have been sentenced to death in the period from 30 June 2007 to 30 June 2008.

- 10) Please indicate the specific crime for which each of these persons was sentenced.
- 11) Please list which of these sentences has entered into force (i.e., all appeal stages have been exhausted).
- 12) Please list which court passed each of the sentences.
- 13) Please indicate if any of the persons sentenced to death in the period from 30 June 2007 to 30 June 2008 were:
  - Under the 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.
- 14) If there have been changes since the last year's publication, please detail the regulations in place regarding the treatment of persons on death row and attach copies of the relevant legislation and regulations.
- 15) Please provide us with the full name and age of persons who have been executed in the period from 30 June 2007 to 30 June 2008. Please also indicate the specific crime for which each of these persons was executed.
- 16) Please indicate if any of the persons executed in the period from 30 June 2007 to 30 June 2008 were:
  - Under the 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.
- 17) Which state body is responsible for keeping statistics on sentences, executions and commutations?
- 18) Please provide us with the full name and age of any persons sentenced to death who have been granted clemency or had their sentence commuted since 30 June 2007.

### **SAFEGUARDS**

- 19) 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?
- 20) Please list all cases regarding the use of the death penalty that have been decided since the last publication, or are currently ongoing, before international bodies (e.g., UN Human Rights Committee, International Court of Justice, European Court of Human Rights).
- 21) What system is in place to ensure that interim stays by the UN Human Rights Committee are complied with and transmitted to all the relevant actors at the national level? Have there been any changes in this system since last year's publication?
- 22) Please list the names of any persons who have been executed while a procedure regarding their case was ongoing before an international body.
- 23) If there have been changes since last year's publication, please describe the procedural process of considering a request for clemency, including the factors that are taken into account when considering such a request.
- 24) 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**

- 25) Please indicate ways in which you have co-operated with other intergovernmental organizations on this issue in the period from 30 June 2007 to 30 June 2008.



## Annex 5

### Status of Ratifications of Relevant Treaties

<b>Status of Ratification as of:</b>			ICCPR: 18 April 2008 2nd Optional Protocol: 4 April 2008			
			ECHR, Protocol No. 6, Protocol No. 13: 18 July 2008			
<b>Participating State</b>	<b>Status</b>	<b>ICCPR</b>	<b>2nd Optional Protocol</b>	<b>ECHR</b>	<b>Protocol No. 6</b>	<b>Protocol No. 13</b>
Albania	A	r	r	r	r	r
Andorra	A	r	r	r	r	r
Armenia	A	r		r	r	s
Austria	A	r	r	r	r	r
Azerbaijan	A	r	r	r	r	
Belarus	R	r		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
The 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
The Holy See	A			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	s
Kazakhstan	PA	r		n/a	n/a	n/a
Kyrgyzstan	A	r		n/a	n/a	n/a
Latvia	PA	r		r	r	s
Liechtenstein	A	r	r	r	r	r
Lithuania	A	r	r	r	r	r
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
Montenegro	A	r	r	r	r	r
The Netherlands	A	r	r	r	r	r
Norway	A	r	r	r	r	r
Poland	A	r	s	r	r	s
Portugal	A	r	r	r	r	r
Romania	A	r	r	r	r	r
The Russian Federation	DA	r		r	s	
San Marino	A	r	r	r	r	r
Serbia	A	r	r	r	r	r
The Slovak Republic	A	r	r	r	r	r
Slovenia	A	r	r	r	r	r
Spain	A	r	r	r	r	s
Sweden	A	r	r	r	r	r
Switzerland	A	r	r	r	r	r
Tajikistan	DA	r		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
The United Kingdom	A	r	r	r	r	r
The United States of America	R	r		n/a	n/a	n/a
Uzbekistan	A	r		n/a	n/a	n/a
The former Yugoslav Republic of Macedonia	A	r	r	r	r	r

**Notes:** r = ratification                      DA = *de facto* abolitionist  
s = signature only                      PA = partly abolitionist  
n/a = non-applicable                      R = retentionist  
A = abolitionist

# *Notes*

# *Notes*

