

The Death Penalty in the OSCE Area

BACKGROUND PAPER 2013

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This paper updates *The Death Penalty in the OSCE Area: Background Paper 2012*. 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 2012 to 30 June 2013.

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Overview

OSCE participating States have made a number of commitments relating to the issue of the death penalty. In 1989 in Vienna, participating States pledged to limit the use of capital punishment only to the most serious crimes and in a manner not contrary to their international commitments.¹ Moreover, at the 1990 Copenhagen Meeting, participating States agreed to make available to the public information regarding the use of the death penalty and keep the question of eliminating capital punishment under consideration.² These commitments were reaffirmed at the Moscow Meeting in 1991 and at the Budapest Summit in 1994.³

Based on these commitments and pursuant to its mandate, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) monitors developments relevant to the use of the death penalty in the OSCE region and reports on the issue through its annual publication — *Background Paper on the Status of the Death Penalty in the OSCE Area*. The Background Paper is based on information provided by participating States that have a de facto abolitionist or retentionist status in response to ODIHR's questionnaire. This information is supplemented with inputs from OSCE field operations, intergovernmental and nongovernmental organizations and media reports. Country entries on abolitionist States are compiled based on ODIHR's research only.

The 2013 Background Paper covers the period from 1 July 2012 to 30 June 2013. It highlights changes in the status of the death penalty in OSCE participating States and provides relevant statistical data. This background paper focuses on the two participating States — Belarus and the United States of America — that continue to impose the death penalty, and on four participating States — Kazakhstan, Mongolia, Russia and Tajikistan — that are de facto abolitionist, but retain the death penalty

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

2 Document of the 1990 Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, paragraphs 17.7 and 17.8, <<http://www.osce.org/odihr/elections/14304>>.

3 Document of the 1991 Moscow Meeting of the Conference on the Human Dimension of the CSCE, paragraph 36, <<http://www.osce.org/odihr/elections/14310>>; and OSCE Budapest Document 1994, "Enhancing Compliance with CSCE Commitments and Promoting Co-operation and Dialogue in the Human Dimension", paragraph 19, <<http://www.osce.org/mc/39554?download=true>>.

in law. A general outline of relevant developments in some participating States that are abolitionist is provided in the overview below.

The reporting period was marked by a number of developments that reiterate the trend towards worldwide abolition of the death penalty. In the United States, on 2 May 2013, the State of Maryland abolished the death penalty for all future cases and became the 18th state in that country to end capital punishment. On 13 March 2012, Mongolia, which became an OSCE participating State in November 2012, ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR), aiming at the abolition of the death penalty.⁴ On 9 October 2012, France launched a campaign for the universal abolition of the death penalty and marked it as a priority of its foreign policy.⁵ On 10 October 2012, Norway issued “Guidelines on Promoting Abolition of the Death Penalty” for the use of the Norwegian Foreign Service. The guidelines set combating the death penalty as one of the priority areas of Norway’s human rights policy.⁶

Calls for universal abolition of the death penalty featured in various fora involving OSCE participating States. On 11 March 2013, the Inter-American Commission on Human Rights held a hearing on the death penalty in the Americas to reflect the regional and international momentum to abolish the death penalty. At this hearing, the Member States sought to place the topic of the death penalty on the agenda of the Organization of American States and its specialized bodies.⁷ From 12 to 15 June 2013, the Fifth World Congress against the Death Penalty was held in Madrid. The Congress brought together representatives of states, international organizations and civil society, with the aim of outlining and discussing an international strategy on abolition of the death penalty worldwide. The governments of Spain, Norway, Switzerland, France, Sweden, Germany and Luxembourg were among co-organizers of the Congress.⁸

4 Because Mongolia became a participating State in November 2012 and, therefore, is mentioned for the first time in this background paper, some significant developments that occurred prior to the reporting period are also highlighted.

5 “Campaign for the abolition of the death penalty – The death penalty: from moratorium to abolition: meeting”, France Diplomatie, 27 September 2012, <<http://www.diplomatie.gouv.fr/en/global-issues/united-nations/unga-67th-session/article/campaign-for-the-abolition-of-the->>. According to the UN News Centre, the UN Secretary General Ban Ki-moon applauded the French initiative and expressed hope that “it would help reinforce the emerging consensus on abolition”; also see “UN chief applauds French Government for anti-death penalty initiative” UN News Centre, 9 October 2012, <<http://www.un.org/apps/news/story.asp?NewsID=43247&Cr=death+penalty&Cr1=#.Uf-dyZl3Cus>>.

6 “Promoting Abolition of the Death Penalty: Guidelines for the Norwegian Foreign Service”, Ministry of Foreign Affairs of Norway, 10 October 2012, <<http://www.regjeringen.no/en/dep/ud/documents/veiledninger/2012/promoting-abolition-of-the-death-penalty.html?id=704827>>.

7 “Inter-American Commission on Human Rights discusses death penalty”, World Coalition against the Death Penalty, 14 March 2013, <<http://www.worldcoalition.org/iachr-oas-americas-human-rights-caribbean-death-penalty-moratorium-abolition-debate.html>>

8 “5th World Congress against the Death Penalty”, congress.abolition.fr, June 2013, <<http://congres.abolition.fr/world-congress-in-madrid/partners/article/states-intergovernmental>>.

On 10 October 2012, the Council of Europe and the European Union marked the World Day against the Death Penalty with a joint declaration calling upon all countries that still retain the death penalty in law or practice to abolish it under all circumstances.⁹ On 15 March 2013, the United Nations Human Rights Council adopted resolution A/HRC/22/L.18 on the human rights of children with a parent sentenced to the death penalty or executed. The resolution calls upon states to provide such children with the required protection and assistance, and sets up a panel discussion on the issue at the Human Rights Council's 24th session, in September 2013. On 20 March 2013, the United Nations General Assembly adopted resolution A/RES/67/176 on the moratorium on the use of the death penalty. The resolution calls upon all states to ensure safeguards for those facing the death penalty, to make available information with regard to its use and to introduce a moratorium on executions with a view to abolishing capital punishment. On 6 June 2013 in Guatemala, at the General Assembly session of the Organization of American States, Costa Rica presented a statement on behalf of several states urging Member States to sign and ratify, as appropriate, the American Convention on Human Rights and its Protocol to Abolish the Death Penalty.¹⁰

The evolving international debate on “the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and cruel, inhuman or degrading treatment or punishment” was brought into focus by the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan Mendez.¹¹ In his report issued on 9 August 2012, the Special Rapporteur called upon all states to reconsider whether methods of execution, the death row phenomenon and the death penalty in general, either *per se* or as applied, constitute a violation of the absolute prohibition of torture or cruel, inhuman or degrading treatment. He called upon all states not to expel, return or extradite a person to another state, where that person may face a real risk of being sentenced to death and subsequently subjected to detention on death row or executed in a manner that could cause severe pain and suffering. The Special Rapporteur called upon retentionist states to strictly observe conditions imposed by

9 European Union, A449/12, “Joint Declaration by Thorbjørn Jagland, Secretary General of the Council of Europe, and Catherine Ashton, European Union High Representative for Foreign Affairs and Security Policy, on the European and World Day against the Death Penalty”, Brussels, 10 October 2012, <http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/132777.pdf>.

10 Forty-third regular session of the OAS General Assembly, AG/INF 503/13, “Statement urging Member States to sign and ratify the Protocol to the American Convention on Human Rights to abolish the death penalty”, 6 June 2013, <<http://www.oas.org/consejo/GENERAL%20ASSEMBLY/AG43regular.asp#Agenda>>.

11 United Nations General Assembly, A/67/279, “Interim Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment”, p. 20, 9 August 2012, <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N12/458/12/PDF/N1245812.pdf?OpenElement>>.

Article 7 of the ICCPR and Article 1 or Article 16 of the Convention against Torture (CAT). He stated that “a customary norm prohibiting the death penalty under all circumstances, if it has not already emerged, is at least in the process of formation,” and recommended a more comprehensive legal study of the topic.¹²

12 *Ibid.*

The Status of the Death Penalty in the OSCE Area

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

Abolitionist: The death penalty has been abolished for all crimes.

Fifty one OSCE participating States are abolitionist:

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

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

Four OSCE participating States are *de facto* abolitionist:

- Kazakhstan
- Mongolia
- Russian Federation
- Tajikistan

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

Two OSCE participating States are retentionist:

- Belarus
- United States of America

Abolitionist States

BOSNIA AND HERZEGOVINA

The Constitution of Bosnia and Herzegovina and the Constitution of the Federation of Bosnia and Herzegovina incorporate, among other international treaties, the 1989 Optional Protocol to the ICCPR (aiming at the abolition of the death penalty) and Protocols 6 (concerning the abolition of the death penalty) and 13 (concerning the abolition of the death penalty in all circumstances) to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), thereby prohibiting the death penalty.¹³ Although not operational in practice, Article 11 of the Constitution of Republika Srpska allows the death penalty to be pronounced for capital crimes. The Criminal Code of Republika Srpska does not provide for capital punishment. The European Commission noted this issue in its 2012 Progress Report for Bosnia and Herzegovina and stated that the relevant provision in the Constitution of Republika Srpska “has to be repealed in line with key principles of the EU human rights policy”.¹⁴

POLAND

The case of Abd al-Rahim al-Nashiri against Poland is pending before the European Court of Human Rights.¹⁵ The applicant, a Saudi Arabian national, is currently detained at the United States detention camp at Guantanamo Bay. He faces capital charges before a military commission relating to his alleged involvement in terrorist activities, among other acts. The applicant claims that he was kept and tortured in a secret CIA detention facility in Poland before he was transferred to the United States Naval Base at Guantanamo Bay, despite substantial risk of him being subjected to the death penalty. In the application submitted to the court, Poland is alleged to have violated Articles 2 and 3 of the ECHR and Protocol 6 to the Convention concerning the abolition of the death penalty. The applicant also alleges a violation of Article 13 of the Convention, with regard to Poland’s failure to conduct an

13 Bosnia and Herzegovina is composed of two semi-autonomous entities – the Federation of Bosnia and Herzegovina and the Republika Srpska. Bosnia and Herzegovina and each of the entities have their own constitutions. The legislation of Bosnia and Herzegovina and the entities is not fully harmonized.

14 “Bosnia and Herzegovina 2012 Progress Report” European Commission, 10 October 2012, p. 16, <http://ec.europa.eu/enlargement/pdf/key_documents/2012/package/ba_rapport_2012_en.pdf>.

15 “The Death Penalty in the OSCE Area: Background Paper 2012”, OSCE/ODIHR 2012, <<http://www.osce.org/odihr/94219>>.

effective investigation of the related claims. The case was communicated to Poland in July 2012.¹⁶ The applicant brought a similar case to the European Court of Human Rights against Romania (see the entry on Romania).

Poland initiated domestic pre-trial proceedings related to the case in March 2008.¹⁷ The proceedings have been extended several times, most recently until mid-October 2013.¹⁸ In September 2012, the Polish authorities requested that the court consider the application of al-Nashiri inadmissible on grounds that domestic remedies have not been exhausted.¹⁹

ROMANIA

A case against Romania is pending before the European Court of Human Rights. The case was filed by Abd al-Rahim al-Nashiri, who brought a similar case against Poland (see the entry on Poland). The applicant claims that he was kept in a secret CIA detention facility in Romania before he was transferred to the United States Guantanamo Bay Naval Base, despite substantial risk of him being subjected to the death penalty. Romania is accused of violating Articles 2 and 3 of the ECHR and Protocol 6 to the Convention concerning the abolition of the death penalty. The applicant also alleges a violation of Article 13 of the Convention, due to Romania's refusal to acknowledge or investigate any related claims. In September 2012, the case was communicated to Romania.²⁰

16 European Court of Human Rights, Application No. 28761/11, *Abd Al Rahim Hussayn Muhammad Al nashiri v. Poland*, lodged on 6 May 2011, <[http://hudoc.echr.coe.int/sites/fra/pages/search.aspx?i=001-112302#{"item-id":\["001-112302"\]}](http://hudoc.echr.coe.int/sites/fra/pages/search.aspx?i=001-112302#{)>.

17 "Śledztwo w sprawie tajnych więzień CIA znów przedłużone" ["The investigation on secret CIA prisons prolonged again"], Helsinki Foundation for Human Rights, 17 June 2013, <<http://www.hfhrpol.waw.pl/cia/sledztwo-w-sprawie-tajnych-wiezien-cia-znow-przedluzone>>.

18 *Ibid.*

19 Observations of the Polish Government on the admissibility and merits of *Al Nashiri v Poland* to the European Court of Human Rights, Helsinki Foundation for Human Rights, original source: Ministry of Foreign Affairs of Poland, 5 September 2012, <http://www.hfhrpol.waw.pl/cia/images/stories/file/odpowiedz_MSZ.pdf>.

20 European Court of Human Rights, Application No. 33234/12, *Abd Al Rahim Hussayn Muhammad Al Nashiri v. Romania*, lodged on 1 June 2012, <[http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-113814#{"item-id":\["001-113814"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-113814#{)>.

De Facto Abolitionist States

KAZAKHSTAN

In Kazakhstan, an indefinite moratorium on executions, issued by presidential decree in December 2003, remains in place.²¹ The death penalty is retained in the Constitution as an exceptional punishment for two types of crimes: acts of terrorism resulting in death and grave crimes committed in time of war. The Constitution grants the right to appeal for pardon to all persons sentenced to death.²² The Criminal Code of the Republic of Kazakhstan specifies 18 offences that fall into the two categories for which the Constitution allows the death penalty.²³ During the reporting period, no amendments were introduced in national legislation regulating the application of the death penalty or the status of the moratorium on executions. The authorities of Kazakhstan did not undertake any steps towards the full abolition of capital punishment during this time.²⁴

The Concept of Legal Policy of the Republic of Kazakhstan for 2010-2020 outlines a gradual decrease of the scope of application of the death penalty as one of the objectives of the state's criminal policy.²⁵ At the time of writing, a draft text of a new Criminal Code of Kazakhstan was being developed by the General Prosecutor's Office. According to information provided by the Permanent Delegation of the Republic of Kazakhstan to the OSCE, the Office of the General Prosecutor has proposed to remove the death penalty provision for military crimes specified under Article 380 of the Criminal Code (abuse of power, exceeding competence, or inaction), but introduce it for violating laws and customs of war coupled with

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

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

23 The Criminal Code of the Republic of Kazakhstan provides for application of the death penalty for the following crimes: Planning, preparation, starting, or waging a war (Article 156); Application of prohibited means and methods of conducting a war (Article 159), Genocide (Article 160); Employment of mercenaries (Article 162(4)), High treason (Article 165); Attempt upon the life of the First President of the Republic of Kazakhstan (leader of the nation) (Article 166(1)); Attempt upon the life of the President of the Republic of Kazakhstan (Article 167); Subversion (Article 171); Terrorism (Article 233); Promotion of terrorism or public appeals for commission of an act of terrorism (Article 233(1)); Disobedience or other non-execution of an order (military) (Article 367); Resistance to a superior or coercion of him to violate service duties (Article 368); Violent actions with regard to a superior (Article 369)); Desertion (Article 373); Evasion of military service by way of self-mutilation or other method (Article 374); Violation of the rules for being on active duty (Article 375); Abuse of power, exceeding competence or inaction (Article 380); The surrendering or leaving to the enemy of material for waging war (Article 383).

24 Response to the ODIHR questionnaire on the death penalty from the Permanent Delegation of the Republic of Kazakhstan to the OSCE, received on 24 July 2013.

25 "Kazakhstan: The Concept of Legal Policy for 2010-2020", Official Website of the General Prosecutor's Office of the Republic of Kazakhstan, <<http://prokuror.gov.kz/eng/prosecutors/standard-legal-acts/legal-policy-concept-2010-2020>>.

premeditated murder (Article 164 of the new Criminal Code). It is expected that the new Code will be reviewed by the Parliament by the end of 2013.²⁶ The roundtable on “The Death Penalty and Life Imprisonment as Forms of Punishment in the New Criminal Code”, held in Astana on 19 February 2013, offered a platform for various actors to discuss the scope of offences for which the death penalty is applicable in the new Criminal Code.²⁷

MONGOLIA

A moratorium on executions, announced by President Tsakhiagiin Elbegdorj in January 2010, is in place.²⁸ Mongolia has been a party to the Second Optional Protocol to the ICCPR since March 2012.²⁹

Although abolished in practice, the death penalty is retained in the national law of Mongolia. Along with a fine, forced labor, incarceration and imprisonment, it is considered one of the possible punishments for criminal offences.³⁰ The constitution provides for the imposition of capital punishment by due judgment of the court for the most serious crimes, as specified by Mongolian penal law.³¹ The Criminal Code currently provides for the application of the death penalty for assassination of a state or public figure, aggravated murder, rape, sabotage, terrorism, acts of banditry against state or public institutions or individuals, and genocide.³² Persons who have been sentenced to death are entitled to request a pardon from the President of Mongolia. If pardon is granted, the death penalty is substituted by an imprisonment term of 30 years.³³ Information related to the execution of capital punishment is

26 “Submission by Foundation for Human Rights Initiative and Penal Reform International to the UN Secretary General’s 2013 Report to the Human Rights Council on the Death Penalty”, Penal Reform International, 27 March 2013, <<http://www.penalreform.org/wp-content/uploads/2013/05/PRI-FHRI-submission-to-UN-SecGen-on-Death-Penalty-27March2013.pdf>>.

27 According to the response of Kazakhstan to the ODIHR questionnaire on the death penalty, the roundtable was organized by Penal Reform International, in co-operation with the Committee on Legislative and Judicial Reform of the lower house of the Parliament of Kazakhstan (Mazhilis) and the NGO “Charter for Human Rights”. Representatives from the judicial, executive and legislative branches, as well as journalists, diplomats and civil society representatives participated at the roundtable.

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

29 Depository Notification to the UN by Mongolia, 15 March 2012, <<http://treaties.un.org/doc/Publication/CN/2012/CN.148.2012-Eng.pdf>>.

30 Article 46 of the Criminal Code of Mongolia, 1 September 2002.

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

32 Article 81 (2), Article 91 (2), Article 126 (2.3), Article 84 (1), Article 178 (1.2), Article 177 (2), Article 302 (1) of the Criminal Code of Mongolia, 1 September 2002.

33 Article 53 (3) of the Criminal Code of Mongolia, 1 September 2002.

considered confidential, in accordance with Mongolia's Law on State Secrets and Law on the List of State Secrets.³⁴ The last known execution took place in Mongolia in 2008.³⁵

In September 2012, Mongolian President Elbegdorj, in a speech given at the United Nations General Assembly, stated that Mongolia is dedicated to abolishing the death penalty "once and for all" by legislative action in the near future.³⁶ The President's Policy and Action Plan for 2009-2013 sets as an objective the harmonization of Mongolia's policy on the death penalty with the provisions of international human rights treaties to which the country is a party.³⁷ According to the response of the Permanent Mission of Mongolia to the OSCE, a legal reform to abolish the death penalty in national law will be considered by relevant authorities during the autumn of 2013.³⁸

RUSSIAN FEDERATION

No changes took place with regard to the death penalty status in Russia during the reporting period.³⁹ A moratorium on executions has been in place since May 1996, when a commitment was made to abolish the death penalty upon Russia's accession to the Council of Europe.⁴⁰ In February 1999, the Constitutional Court of Russia issued a moratorium on death sentences.⁴¹ As the moratorium on the application of the death penalty was about to expire, in November 2009, a ruling of

34 The Law on the State Secrets of Mongolia, 18 April 1995, and the Law on the List of State Secrets, 2 January 2004.

35 Death Penalty in Mongolia, *Death Penalty Worldwide*, 28 March 2012, <<http://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Mongolia#f3-1>>.

36 "Statement by H.E. Tsakhia Elbegdorj, President of Mongolia, the Official Website of the President of Mongolia, 24 September 2012, <<http://www.president.mn/eng/newsCenter/viewNews.php?newsId=807>>; and "Statement by H.E. Mr. Tsakhia Elbegdorj, President of Mongolia, 67th Session of the United Nations General Assembly", the Official Website of the President of Mongolia, 27 September 2012, <<http://www.president.mn/eng/newsCenter/viewNews.php?newsId=814>>.

37 Policy and Action Program of the President of Mongolia for 2009-2013, the Official Website of the President of Mongolia, <<http://www.president.mn/eng/president/action-program.php>>.

38 Response to the ODIHR questionnaire on the death penalty from the Permanent Mission of Mongolia to the OSCE, received on 6 September 2013.

39 Response to the ODIHR questionnaire on the death penalty from the Permanent Mission of the Russian Federation to the OSCE, received on 11 June 2013.

40 Council of Europe Parliamentary Assembly, "Honouring of the Commitment entered into by Russia upon accession to the Council of Europe to put into place a moratorium on executions of the death penalty", 28 January 1997, <<http://assembly.coe.int/ASP/Doc/XrefViewHTML.asp?FileID=7677&Language=EN>>.

41 "К России разберется со смертной казнью" ["The Constitutional Court of Russia will deal with the death penalty"], *BBC News*, 30 October 2009, <http://www.bbc.co.uk/russian/russia/2009/10/091030_russia_death_penalty.shtml>.

the Constitutional Court extended it for an indefinite period of time, until Russia's ratification of Protocol 6 to the ECHR.⁴²

The death penalty continues to be a part of Russia's national legislation. The Constitution retains the death penalty as an exclusive form of punishment for exceptionally grave crimes against life and grants the accused the right to a jury trial.⁴³ The Criminal Code provides for capital punishment to be imposed for five types of offences: aggravated murder, assassination attempts against a state or public figure, attempts on the life of a person administering justice or preliminary investigations, attempts on the life of a law-enforcement official and genocide.⁴⁴ The death penalty may be replaced by life-imprisonment or deprivation of liberty for 25 years.⁴⁵

On 10 October 2012, Renate Wohlwend, the General Rapporteur of the Parliamentary Assembly of the Council of Europe on the death penalty, called on Russia to eliminate the death penalty in law, in line with commitments undertaken 16 years earlier, when the country became a member of Council of Europe.⁴⁶

The debate on reinstating capital punishment in Russia continued during the reporting period. In February 2013, Interior Minister Vladimir Kolokoltsev, in his private capacity, expressed support for the imposition of the death penalty for the most serious crimes. In response, several government officials stated their opposition to the death penalty, including Pavel Krashennnikov, head of the State Duma Legislative Committee, who said that "the state should not become a tool for revenge".⁴⁷ The press secretary of Russia's President, Vladimir Putin, stated that the President's position on the issue is established and consistent, and that the moratorium on the death penalty will be retained.⁴⁸

In June 2013, an opinion poll carried out by Levada Center found that, among 1,601 people in 45 Russian regions, 38 per cent of respondents support the re-

42 "О решении Конституционного Суда Российской Федерации о продлении моратория на высшую меру наказания", Официальный сайт Министерства Иностранных Дел Российской Федерации ["About the decision of the Constitutional Court of the Russian Federation to extend the moratorium on capital punishment", Official Website of the Ministry of Foreign Affairs of the Russian Federation], 19 November 2009, <<http://www.mid.ru/bdomp/ns-dgpch.nsf/4681a749b12257b3432569ea003614e4/432569ee00522d3cc32576730058cdb9!OpenDocument>>.

43 Article 20(2) of the Constitution of the Russian Federation, adopted on 12 December 1993.

44 Article 105 (2), Article 277, Article 295, Article 317, Article 357 of the Criminal Code of the Russian Federation, amended on 29 June 2009.

45 *Ibid*, Article 59 (3).

46 "Death penalty abolition worldwide: PACE rapporteur spells out the next steps", Council of Europe, 10 October 2012, <http://assembly.coe.int/ASP/NewsManager/EMB_NewsManagerView.asp?ID=8085>.

47 "Госдума высказалась против смертной казни", Комсомольская Правда ["The State Duma has expressed opposition to the death penalty", *Komsomolskaya Pravda*], 11 February 2013, <<http://www.kp.ru/online/news/1363715/>>.

48 "Песков: позиция Путина по мораторию на смертную казнь не меняется", РИА Новости ["Pescov: Putin's position on a moratorium on the death penalty has not changed", *RIA Novosti*] 11 February 2013, <<http://ria.ru/incidents/20130211/922292827.html>>.

introduction of the death penalty in the country, as opposed to 33 per cent in 2012. Twenty-three per cent of respondents supported the existing moratorium on the death penalty in 2013, while only 14 per cent did so in 2012. The support for full abolition of the death penalty had also grown to 13 per cent in 2013, from ten per cent in 2012.⁴⁹

TAJIKISTAN

An official moratorium on death sentences and executions, which was introduced in the Republic of Tajikistan on 15 July 2004, remains in place. Although not operational in practice, the death penalty is retained in the Criminal Code of Tajikistan for aggravated murder, acts of terrorism that result in death, the rape of a minor (under 14 years of age), genocide and biocide.⁵⁰ The amendments to the Criminal Code introduced in March 2005 provide for long-term imprisonment and life without parole as alternative sanctions to capital punishment. During the reporting period, no steps were taken by the Tajik authorities to increase or decrease the number of crimes that carry capital punishment or introduce legislation to change the current status of the death penalty in the country.⁵¹ A number of initiatives were undertaken to raise public awareness on the issue and promote full abolition of the death penalty.

The status of the death penalty in the country featured on the national political agenda as a subject for further discussion and action. On 3 April 2013, President Emomali Rahmon approved a National Plan of the Republic of Tajikistan to implement the 2011 Universal Periodic Review (UPR) Recommendations of the UN Human Rights Council.⁵² The National Action Plan provides for the ratification of the Second Optional Protocol to the ICCPR in 2013-2014. On 26 April 2013, in his annual address to the parliament and the nation, the President stressed the importance of defining the state's ultimate position in relation to the death penalty, taking into account public opinion and the expertise of relevant bodies. He stated that the non-application of the death penalty by a state is commonly acknowledged

49 "38% россиян поддержали смертную казнь", *Вечерняя Москва* [38% of Russians supported the death penalty", *Vechernyaya Moskva*], 1 July 2013, <<http://vmdaily.ru/news/2013/07/01/38-rossiyan-podderzhali-smertnyu-kazn-203056.html>>.

50 Article 104(2), Article 138(3), Article 179 (3), Article 398, Article 399 of the Criminal Code of the Republic of Tajikistan, 21 May 1998, amended on 3 July 2012.

51 Response to the ODIHR questionnaire on the death penalty from the Permanent Mission of the Republic of Tajikistan to the OSCE, received on 18 July 2013.

52 Ibid. Full title "National Plan of the Republic of Tajikistan to Implement the Recommendations of the Member States of the United Nations Council in connection with the Universal Periodic Review of the Republic of Tajikistan upon Human Rights in the years 2013-2015"

as a sign of humanism, mercy and progress.⁵³ As a follow-up to the President's speech, on 10 June 2013, the lower house of the parliament (Majlisi Namoyandagon) established a Working Group on the Study of Public Opinion on the Death Penalty.⁵⁴ The Working Group on the Study of Socio-Legal Aspects of the Abolition of the Death Penalty, active since April 2010, continued its work. No findings of the Working Group were published during the reporting period.⁵⁵

Co-operation between state institutions and international organizations and civil society on the issue of abolition of capital punishment continued to develop. From 13 to 15 May 2013, a member of the International Commission against the Death Penalty, former Swiss President Ruth Dreifuss, visited Tajikistan to advocate for full abolition of the death penalty in the national law.⁵⁶ On 21 June 2013, the lower house of the parliament in co-operation with Penal Reform International organized a roundtable "Death Penalty and Life Imprisonment as Types of Punishment in Tajikistan". The event was held in the framework of a European Union project aiming at the progressive abolition of the death penalty.⁵⁷ On 24 June 2013, the Tajik government and the NGO "League of Women Lawyers" co-organized a roundtable to discuss death penalty provisions in the legislative framework of the country. The two roundtables held in Dushanbe brought together various stakeholders, including members of the parliament, representatives of state institutions, NGOs, independent experts and experts of the Working Group on the Study of Socio-Legal Aspects of the Abolition of the Death Penalty.⁵⁸

53 "Полный текст послания президента Таджикистана парламенту" ["The complete text of the address of the President of Tajikistan to the parliament"], news.tj, 26 April 2013, <<http://news.tj/ru/node/142537>>.

54 Tajikistan Response, *op.cit.*, note 51.

55 Response to the ODIHR questionnaire on the death penalty from the OSCE Office in Tajikistan, received on 19 July 2013.

56 "Meeting of the President of Tajikistan with member of the International Commission against the Death Penalty", Embassy of Tajikistan to Belgium, the Netherlands, Luxembourg, Mission to the EU, NATO, UNESCO, 15 May 2013, <<http://www.tajikembassy.be/content/meeting-president-tajikistan-member-international-commission-against-death-penalty>>.

57 Tajikistan Response, *op.cit.*, note 51.

58 *Ibid.*

Retentionist States

BELARUS

In Belarus, the death penalty is retained in law and in practice. National legislation stipulates its application as an exceptional punishment for particularly serious crimes. During the reporting period, three death sentences were handed down for premeditated murder.⁵⁹

The OSCE Parliamentary Assembly, at its 22nd annual session in Istanbul from 29 June to 3 July 2013, adopted a resolution calling on Belarus to withdraw all current death sentences and abolish the death penalty.⁶⁰ In January 2013, the Chairman of the Constitutional Court, Petr Miklashevich, stressed that the question of a moratorium on the death penalty in Belarus remains open and that the Court is ready to consider the issue if relevant requests are made.⁶¹

The Belarusian authorities have stressed the importance of public opinion when considering the issue of the abolition of the death penalty. In its response to ODIHR's questionnaire, Belarus restated the outcome of a 1996 referendum, when approximately 80 per cent of the voters voted against the abolition of the death penalty.⁶² A recent opinion poll carried out by Penal Reform International and SATIO Group, a research and consulting company in Belarus, shows that public support for the death penalty is declining. Among 1,100 respondents aged between 18 and 75 interviewed across Belarus, 63.8 per cent supported the death penalty and 31 per cent opposed capital punishment.⁶³

59 Response to the ODIHR questionnaire on the death penalty from the Permanent Delegation of the Republic of Belarus to the OSCE, received on 6 August 2013. According to this response, in practice, from 1981 to 2010, the death penalty was imposed only for murder with aggravating circumstances. In 2011, for the first time in many years, capital punishment was applied for the crime of "terrorism".

60 "Istanbul Declaration and Resolutions adopted by the OSCE Parliamentary Assembly at the Twenty-Second Annual Session", OSCE Parliamentary Assembly, 29 June-3 July 2013, Istanbul, <<http://www.oscepa.org/meetings/annual-sessions/2013-istanbul-annual-session>>.

61 "Вопрос о введении моратория на смертную казнь в Беларуси остается открытым – Миклашевич", Белта ["The question of a moratorium on the death penalty in Belarus remains open", Belta], 23 January 2013, <http://www.belta.by/ru/all_news/society/Vopros-o-vvedenii-moratorija-na-smertnuju-kazn-v-Belarusi-ostaetsjaotkrytym---Miklashevich_i_621887.html>. According to the Belarus Response to the ODIHR questionnaire on the death penalty, in March 2004, the Constitutional Court considered compliance of the Criminal Code's provisions on the death penalty with the Constitution and the State's international commitments. The Court outlined the temporary character of capital punishment and stressed that the introduction of a moratorium or the full abolition of the death penalty are among the competencies of the President and the Parliament of the Republic of Belarus.

62 Belarus Response, *op.cit.*, note 59.

63 Социологическое Исследование на тему: "Преступление и Наказание: Восприятие, Оценки, Отношение Общества"; Группа Компаний САТИО, Департамент Социологических и Маркетинговых Исследований [Sociological Study on "Crime and Punishment: Perception, Assessment, Public Attitude", SATIO Group, Department of Sociological and Marketing Research], Minsk 2013.

The Belarusian parliamentary working group on the death penalty continues its activities. According to the Permanent Delegation of the Republic of Belarus to the OSCE, the working group temporarily suspended its activities in September 2012, due to parliamentary elections. The group is not guided by a conviction that the death penalty should be abolished or retained; its objectives are informing the public about various aspects of the death penalty and monitoring the situation in this respect.⁶⁴

On 21 June 2013 in Minsk, the working group on the death penalty, in cooperation with the Council of Europe, held a roundtable on “Belarus, Religion and the Death Penalty”. The roundtable sought to advance discussion of the death penalty in Belarus through the exchange of views among State authorities, civil society, clergy and international experts.⁶⁵

Legal Framework

Under the Constitution of the Republic of Belarus, the death penalty may be imposed as an exceptional punishment for particularly grave crimes and in accordance with the law.⁶⁶ The Criminal Code of Belarus provides for the application of the death penalty for severe crimes connected with the deliberate deprivation of life with aggravating circumstances.⁶⁷ As specified in the Criminal Code, capital punishment may be imposed for 12 crimes in peacetime and two crimes in times of war.⁶⁸ The death penalty is not a mandatory sentence for any of these crimes and may, by means of a pardon, be commuted to life imprisonment.⁶⁹ It may not be imposed on women, men under the age of 18 at the time of committing the crime or men over 65 at the time of sentencing.⁷⁰ During the reporting period, no changes were introduced

64 Belarus Response, *op.cit.*, note 59.

65 “Belarus, Religion and the Death Penalty”, Council of Europe, 21 June 2013 < http://hub.coe.int/en/web/coe-portal/press/newsroom?p_p_id=newsroom&_newsroom_articleId=1495569&_newsroom_groupId=10226&_newsroom_tabs=newsroom-topnews&pager.offset=10>.

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

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

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

69 Criminal Code, *op. cit.*, note 67, para. 3.

70 *Ibid.*, para. 2.

in national legislation regulating the scope or application of the death penalty in Belarus.⁷¹

Under the Criminal Executive Code of the Republic of Belarus, executions are carried out secretly; bodies of executed persons are not handed over to their families and the place of burial is kept secret.⁷²

Moratorium

There is no moratorium on death sentences or executions in Belarus. During the reporting period, the State did not take measures to introduce a moratorium on executions.⁷³

Method of Execution

The death penalty is carried out by firing squad.⁷⁴

Statistics on Death Sentences

According to statistics provided by the Permanent Delegation of the Republic of Belarus to the OSCE, three individuals were sentenced to death during the reporting period.⁷⁵

Grigory Antonovich Yuzepchuk (born on 7 June 1969 in the Zhytomyr region of Ukraine, a stateless person) was sentenced to death by the Mogilevskiy Regional Court on 23 April 2013 for killing a cellmate in prison No.4 in Mahiliou, where

71 Belarus Response, *op.cit.*, note 59.

72 Article 175 of the Criminal Executive Code of the Republic of Belarus, 16 July 1999, amended on 13 July 2012. The amendments introduced during the reporting period concern jurisdiction of inter-garrison military courts, see. “Закон Республики Беларусь от 13 июля 2012 года № 417-3”, Национальный правовой интернет портал Республики Беларусь [“The Law of the Republic of Belarus from 13 July 2012 # 417-3”, National Legal Internet Portal of the Republic of Belarus], 21 July 2012. <<http://www.pravo.by/main.aspx?guid=3871&p0=H11200417&p1=1>>

73 Belarus Response, *op.cit.*, note 59

74 Criminal Code, *op.cit.*, note 67.

75 Belarus Response, *op.cit.*, note 59.

he was serving a 25-year sentence for murder.⁷⁶ He has appealed the sentence to the Supreme Court.⁷⁷

Pavel Nikolaevich Selyun (born on 20 July 1990 in the Minsk region, a Belarusian citizen) was sentenced to death by the Hrodna Regional Court on 12 June 2013 for murdering his wife and her alleged lover, among other criminal acts.⁷⁸ He has appealed the sentence to the Supreme Court.⁷⁹

Aleksandr Maratovich Grunov (born on 20 February 1988 in Homel, Belarus, a Belarusian citizen) was sentenced to death by the Homel Regional Court on 14 June 2013 for murdering a young woman by stabbing.⁸⁰ He has appealed the death sentence to the Supreme Court.⁸¹

No information was reported on whether individuals sentenced to death have been granted clemency or had their sentence commuted during the reporting period.⁸² The number of death row inmates is unknown.

Statistics on Executions

No cases of execution have been reported during the reporting period.

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

77 “Смертный приговор Григорию Юзепчуку оставлен в силе”, правозащитный центр “Вясна” [“The death sentence of Grigory Yuzepchuk is upheld”, Human Rights Centre “Vyasna”], 18 July 2013, <<https://spring96.org/ru/news/64496>>.

78 According to Belarus Response to the ODIHR questionnaire on the death penalty, Pavel Nikolaevich Selyun was sentenced to death for committing offences under “parts 1, 6 of paragraph 2 of Article 139; paragraph 1 of Article 205; paragraph 1 of Article 347 and Article 378 of the Criminal Code of Belarus”.

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

80 “Man sentenced to death for murdering young woman by stabbing her 102 times”, Belapan News Agency, 14 June 2013, <http://en.belapan.by/archive/2013/06/14/en_media_prigovor/>. According to the Belarus Response to the ODIHR questionnaire on the death penalty, Aleksandr Maratovich Grunov was sentenced to death for committing a crime under “part 6 of paragraph 2 of Article 139 of the Criminal Code of Belarus”.

Note: Information about this person can be also found under name Alyaksandr Haryunou.

81 “Urgent Action: A 25-year-old man was sentenced to death in eastern Belarus on 14 June for the murder of a student on 20 September 2012”, Amnesty International, 19 June 2013, <<http://www.amnesty.org/en/library/asset/EUR49/008/2013/en/0731b453-ff82-45cb-ace0-683b1f2899b9/eur490082013en.pdf>>.

82 Belarus Response, *op.cit.*, note 59.

International Safeguards

On 18 April 2013, the United Nations Special Rapporteur on the situation on human rights in Belarus reported the lack of transparency about persons held on death row and those who have been executed.⁸³ He recommended that the government of Belarus release comprehensive information on those sentenced and executed and to advance the work of the parliamentary working group on the death penalty.⁸⁴ The Special Rapporteur also pointed out the inadequate procedures for appeals of death sentences.⁸⁵

UNITED STATES OF AMERICA*

In the United States, 32 states, as well as federal civilian and military courts, retain the death penalty as possible punishment for criminal offences. According to a survey conducted by Gallup in May 2013, among 1,535 respondents aged 18 and older interviewed across 50 states and the District of Columbia, 62 per cent found the death penalty morally acceptable, as opposed to 31 per cent finding it morally wrong.⁸⁶ The result represents a four per cent increase in respondents considering the death penalty morally acceptable and a three per cent decrease in respondents considering it morally wrong in comparison to the same opinion poll conducted in May 2012.⁸⁷

On 2 May 2013, the State of Maryland abolished the death penalty for all future cases.⁸⁸ The repeal replaced the death penalty with life imprisonment without parole.⁸⁹ For the five death row inmates who are not affected by the repeal, the

83 "Report of the Special Rapporteur on the situation on human rights in Belarus", UN Human Rights Council, 18 April 2013, <http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A-HRC-23-52_en.pdf>.

84 *Ibid.*

85 *Ibid.*

86 "Change over time in moral acceptability of 20 issues", GALLUP Politics, 20 May 2013, <<http://www.gallup.com/poll/162689/record-high-say-gay-lesbian-relations-morally.aspx>>.

87 *Ibid.*, follow the link at the bottom of the page: View methodology, full question results, and trend data.

88 "Maryland Governor makes death penalty repeal a priority", Death Penalty Information Center, 15 January 2013, <<http://www.deathpenaltyinfo.org/legislation-maryland-governor-makes-death-penalty-repeal-priority>>.

89 "Maryland Senate Votes to Repeal Death Penalty", Death Penalty Information Center, 6 March 2013, <<http://www.deathpenaltyinfo.org/recent-legislation-maryland-senate-votes-repeal-death-penalty>>.

* The United States Mission to the OSCE did not provide a response to the 2013 ODIHR questionnaire on the death penalty.

Governor will make a case-by-case decision as to their sentences.⁹⁰ A bill to impose a three-year moratorium on death sentences and executions was introduced in the State of Alabama. On 5 February 2013, the bill was referred for consideration to the Senate Committee on Judiciary.⁹¹ Currently, 17 states are considering death penalty repeal bills, including Alabama, Arizona, Arkansas, Colorado, Delaware, Florida, Indiana, Kansas, Kentucky, Maryland, Missouri, Montana, Nebraska, New Hampshire, Oregon, Texas and Washington.⁹²

Bills to reinstate the death penalty are currently being considered in Iowa, Massachusetts, New Jersey, New York and Washington.⁹³ Texas, Kansas and Georgia are taking steps to expand the scope of crimes that could carry the death penalty.⁹⁴ During the reporting period, a number of states passed bills expanding the scope of death penalty eligible offences. The Senate of the State of Alabama passed a bill that provides for the death penalty in cases where a protective order was issued to a murder victim against a defendant.⁹⁵ The State of Florida passed a bill making the use of the death penalty possible if a murder victim was a juvenile. The State of Mississippi passed a bill adding terrorist acts as an aggravating factor in potential capital cases.⁹⁶

Legal Framework

In the United States of America, the death penalty is retained in the statutes of 32 states. The Federal Government, including the military justice system, also allows this form of punishment. The death penalty is excluded in the jurisdictions of Alaska, Connecticut, Hawaii, Illinois, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New Mexico, New York, North Dakota, Rhode Island, Vermont, West Virginia, Wisconsin and the District of Columbia. In New Mexico, Connecticut and Maryland, repeals are not retroactive and, therefore, death row inmates still remain in these states.⁹⁷

90 “Statement from Governor Martin O’Malley on Passage of Death Penalty Repeal in Maryland”, the Office of Governor Martin O’Malley, 15 March 2013, <<http://www.governor.maryland.gov/blog/?p=8492>>.

91 Alabama Senate Bill 33, LegiScan, 5 February 2013, <<http://legiscan.com/AL/text/SB33/2013>>.

92 States considering death penalty repeal bills, Death Penalty Information Center, 2013, <<http://www.deathpenalty-info.org/recent-legislative-activity>>.

93 *Ibid.*

94 *Ibid.*

95 *Ibid.* See also Alabama Legislative Information System Online, follow: Bills – By Sponsor – Senator Scofield, <<http://alisondb.legislature.state.al.us/acas/ACASLoginie.asp>>.

96 States considering death penalty repeal bills, *op.cit.*, note 92.

97 “States with and without the death penalty”, Death Penalty Information Center, 2013, <<http://www.deathpenalty-info.org/states-and-without-death-penalty>>.

Methods of Execution

The primary method of execution in the United States is lethal injection. Out of the 38 executions that took place during the reporting period, 37 were carried out by lethal injection and one by electric chair, upon the inmate's own request.⁹⁸

In 2011, the only domestic manufacturer of the anesthetic used in lethal injection executions ceased its production. As a result, American authorities have sought foreign suppliers of the anesthetic. The European Union has taken actions to prevent the export of goods that could be used for the application of capital punishment.⁹⁹ Some American and European pharmaceutical companies also took actions to prevent their drugs from being used in lethal injections in United States prisons.¹⁰⁰

In the spring of 2013, Georgia, Arkansas, South Dakota and Tennessee passed laws enabling them to hide the identities of suppliers of drugs for lethal injection.¹⁰¹

Twelve states, including Alabama, Arkansas, Florida, Kentucky, South Carolina, Tennessee, Virginia, Arizona, Missouri, Delaware, New Hampshire and Washington, have authorized alternative methods of execution.¹⁰² In Oklahoma and Wyoming, such methods are used only if the primary method is found unconstitutional.¹⁰³ Firing squad as an authorized method of execution was abolished in Utah, but it may be applied for those death row inmates who requested this method of execution prior to its abolition in 2004.¹⁰⁴

98 "Execution List 2013", Death Penalty Information Center, 2013, <<http://www.deathpenaltyinfo.org/execution-list-2013>>; "Execution List 2012", Death Penalty Information Center, 2012, <<http://www.deathpenaltyinfo.org/execution-list-2012>>; "Virginia Inmate Robert Gleason dies by electric chair", BBC News, 17 January 2013, <<http://www.bbc.co.uk/news/world-us-canada-21047468>>.

99 "Commission implementing regulation (EU) No 1352/2011", Official Journal of the European Union, 21 December 2011, <<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:338:0031:0034:EN:PDF>>.

100 "Death Penalty: Stop Lethal Injection project timeline", Reprive.org, 18 June 2013, <<http://www.reprive.org.uk/publiceducation/executiondrugstimeline/>>.

101 "4 states pass laws hiding names of suppliers of death penalty drugs (Georgia, Arkansas, South Dakota and Tennessee)", Against Death Penalty in the World, 24 May 2013, <<http://www.handsoffcain.info/news/index.php?id-documento=17305516>>.

102 Alternative methods of execution include electrocution, lethal gas, hanging and firing squad.

103 "Authorized Methods", Death penalty Information Center, 2013, <<http://www.deathpenaltyinfo.org/methods-execution>>.

104 "Inmates Currently on Death Row", Utah Department of Corrections, 2013, <<http://news.corrections.utah.gov/press-media-information/inmates-currently-on-death-row/>>.

Statistics on Death Sentences

No official statistical data on death sentences and executions was provided by the United States Mission to the OSCE. According to the most recent data released by the Bureau of Justice Statistics, there were 3,082 inmates on death row as of 31 December 2011.¹⁰⁵ As reported by the NAACP Legal Defense and Educational Fund,¹⁰⁶ the number of known death row inmates on 1 January 2013 was 3,125.¹⁰⁷ Among them, 3,062 are men and 63 are women. Men make up 98 per cent of the total population on death row.¹⁰⁸ As of 1 January 2013, California was the state with the largest death row population (727 people), followed by Florida (413 people) and Texas (300 people).¹⁰⁹

In 2012, one death sentence was imposed by the Federal Government and 77 by states. Florida and California imposed the highest number of death sentences, with 22 and 13 death sentences, respectively.¹¹⁰

Statistics on Executions

During the reporting period, 38 executions took place.¹¹¹ Texas executed the most death row inmates, with a total of 18 executions. Oklahoma executed six inmates. Ohio and Florida both executed four inmates. Two inmates were executed in both

105 “Capital Punishment, 2011-Statistical Tables”, United States Department of Justice, Bureau of Justice Statistics, July 2013, <<http://www.bjs.gov/content/pub/pdf/cp11st.pdf>>.

106 Full title: National Association for the Advancement of Coloured People Legal defence and Educational Fund.

107 “Death Row USA, Winter 2013”, Criminal Justice project, NAACP Legal Defence and Educational Fund, Inc., 2013, <<http://deathpenaltyinfo.org/documents/DRUSAWinter2013.pdf>>.

108 *Ibid.*

109 “Death Row inmates by States”, Death Penalty Information Center, 2013, <<http://www.deathpenaltyinfo.org/death-row-inmates-state-and-size-death-row-year>>.

110 “Death Sentences in 2012”, Death Penalty Information Center, 2013, <<http://www.deathpenaltyinfo.org/2012-sentencing#States>>.

111 Execution Lists 2012 and 2013, *op. cit.*, note 98. According to the Death Penalty Information Center, the following individuals were executed during the reporting period: **in 2012** - Yokamon Hearn (black, 33, Texas); Marvin Wilson (black, 54, Texas); Daniel Cook (white, 51, Arizona); Michael Hooper (white, 40, Oklahoma); Donald Palmer (white, 47, Ohio); Robert Harris (black, 40, Texas); Cleve Foster (white, 47, Texas); Jonathan Green (black, 44, Texas); Eric Robert (white, 50, South Dakota); Bobby Hines (white, 40, Texas); Donald Moeller (white, 60, South Dakota); Donnie Roberts (white, 41, Texas); Garry Allen (black, 56, Oklahoma); Mario Swain (black, 33, Texas); Brett Hartman (white, 38, Ohio); Ramon Hernandez (Latino, 41, Texas); Preston Hughes (black, 46 Texas); George Ochoa (Latino, 38, Oklahoma); Richard Stokley (white, 60, Arizona); Manuel Pardo (white, 56, Florida). **In 2013** - Robert Gleason (white, 42, Virginia); Carl Blue (black, 48, Texas); Andrew Cook (white, 38, Georgia); Frederick Treesh (white, 48, Ohio); Ray Thacker (white, 42, Oklahoma); Rickey Lewis (black, 50, Texas); Larry Mann (white, 59, Florida); Ronnie Threadgill (black, 40, Texas); Richard Cobb (white, 29, Texas); Steve Smith (white, 46, Ohio); Caroll Parr (black, 35, Texas); Jeffrey Williams (black, 37, Texas); Elmer Caroll (white, 56, Florida); Elroy Chester (black, 44, Texas); William Van Poyck (white, 58, Florida); James DeRosa (white, 36, Oklahoma); Brian Davis (black, 39, Oklahoma); Kimberly McCarthy (black, 52, Texas).

Arizona and South Dakota. Finally, Georgia and Virginia executed one inmate each.¹¹²

International Safeguards

AMNESTY, PARDON AND COMMUTATION

The Governor of Ohio granted two commutations in the reporting period, one to John Jeffrey Eley, on 10 July 2012,¹¹³ and the other to Ronald Post, on 17 December 2012.¹¹⁴ The Governor cited ineffective legal counsel in both cases and, in his statement following Post's commutation, stated the necessity of effective defense, especially in death penalty cases. With regard to Eley, the Governor also cited his limited mental capacity and the fact that he acted under the direction of another person, and questioned whether Eley would have committed the act if those factors had not been involved.

FAIR TRIAL GUARANTEES

In June 2013, the Governor of Florida signed the Timely Justice Act.¹¹⁵ The Act requires the Governor to sign a death warrant within 30 days of the conclusion of clemency review and schedule the execution within 180 days of the issuance of the warrant. The Act is the first of its kind in the United States.¹¹⁶ On 26 June 2013, the Capital Collateral Regional Counsel, a state agency that represents death row inmates during post-conviction proceedings, filed a lawsuit with Florida's Supreme Court challenging the constitutionality of the Act. The petitioners claim that the

112 *Ibid.*

113 "Kasich Commutes Sentence Of John Jeffrey Eley", Official Website of Governor of Ohio, 10 July 2012, <<http://www.governor.ohio.gov/Portals/0/07.10.12.%20Kasich%20Commutes%20Sentence%20of%20John%20Jeffrey%20Eley.pdf>>.

114 "Kasich Commutes Sentence Of Ronald Post", Official Website of Governor of Ohio, 17 December 2012, <<http://www.governor.ohio.gov/Portals/0/pdf/12.17.12PostCommutation.pdf>>.

115 "Florida Accelerates Death Penalty Process with "Timely Justice Act", American Bar Association, 2013, <http://www.americanbar.org/publications/project_press/2013/summer/florida-accelerates-death-penalty-process-with-timely-justice-ac.html>.

116 *Ibid.*

Act constitutes a violation of prisoner's right to due process and equal protection, and also hold that the Act interferes with the court's judicial rulemaking authority.¹¹⁷

On 29 October 2012, a federal appeals court stated that the death sentence of Douglas Stankewitz, who has spent 34 years on death row in California, shall be reconsidered, due to ineffective legal counsel during the penalty phase of Stankewitz's murder trial.¹¹⁸ The court ruled that the death sentence shall be commuted to life without parole unless the State of California initiates proceeding to retry the sentence.¹¹⁹

On 28 May 2013, in *Trevino v. Thaler*, the United States Supreme Court ruled that death row inmates in Texas can raise a claim of ineffective counsel for the first time in a federal court, if they did not have a meaningful chance to raise it in state appeals. The Supreme Court stated that the structure and design of the Texas system in practice make it virtually impossible for such a claim to be raised in direct review.¹²⁰

FOREIGN NATIONALS

As of 2 July 2013, there were 143 foreign nationals on death row in the United States. The states with the highest numbers of foreign nationals on death row are California, Texas and Florida.¹²¹

In November 2012, the London-based NGO Reprieve published a report on the United States' compliance with the Vienna Convention on Consular Assistance in capital cases. Article 36 of the Convention obliges the detaining authorities to give a prisoner timely notification of their right to consular contact and to facilitate such contact if the prisoner so requests. The report found that, with regard to death row inmates in various states, there was only compliance with the Convention in 4.9 per cent of the cases. With regard to the inmates on federal death row, the report found compliance with the Convention in 25 per cent of the cases. In Florida and Texas the report found violations of the Convention in 96 per cent of the cases. In addition, the

117 "Emergency Petition To Invoke This Court's All Writs Jurisdiction, To Declare Unconstitutional Provisions Of The Timely Justice Act Of 2013, And For Immediate Temporary Injunctive Relief", Official Website of Florida Supreme Court, 26 June 2013, <http://www.floridasupremecourt.org/pub_info/summaries/briefs/13/13-1123/Filed_06-26-2013_Petition.pdf>.

118 *Stankewitz v Wong*, United States Court Of Appeals For The Ninth Circuit, 29 October 2012, <<http://cdn.ca9.uscourts.gov/datastore/opinions/2012/10/29/10-99001.pdf>>.

119 *Ibid*.

120 *Trevino v Thaler*, Official Website of Supreme Court of the United States, October 2012, <http://www.supremecourt.gov/opinions/12pdf/11-10189_6k47.pdf>.

121 "Foreign Nationals and the Death penalty in the US", Death Penalty Information Center, 2013, <<http://www.deathpenaltyinfo.org/foreign-nationals-and-death-penalty-us#Reported-DROW>>.

report noted that in many other states they had been unable to secure any evidence of Convention compliance at all.¹²²

INDIVIDUALS WITH MENTAL ILLNESS OR DISABILITY

In 2002, the Supreme Court of the United States ruled in *Atkins v. Virginia* that executing a mentally retarded person constitutes a violation of the Eight Amendment's ban on cruel and unusual punishment. The ruling left it to the discretion of the states to develop appropriate ways to enforce this constitutional restriction.¹²³

On 22 May 2013, lawyers of Georgian death row inmate Warren Hill filed a petition to the Supreme Court of the United States, due to new evidence related to his/her mental disability. In Georgia, the defendant must prove beyond a reasonable doubt that he/she is "mentally retarded". The petition stated that all seven mental health experts who have examined Hill now agree that he is "mentally retarded". Despite the unanimity, Hill has been denied a hearing to determine whether the new evidence precludes the application of the death penalty in his case by Courts of the State of Georgia, the Georgian Board of Pardons and Parole and the Eleventh Circuit Federal Court.¹²⁴

On 19 May 2013, the longest serving death row inmate in the United States died of natural causes, after almost 40 years on Florida's death row. Gary Alvord was sentenced to death in 1974 and had outlived two death warrants due to his severe mental illness. In 1984, Alvord was sent to a state hospital for mental-illness treatment. Doctors refused to treat him, however, due to the ethical dilemma of improving the conditions of a patient so that he could then be executed. Alvord's final appeal expired in 1998.¹²⁵

122 "The United States' Failure to Observe its Legal Obligations under the Vienna Convention on Consular Relations (VCCR) in Capital Cases", Reprive, November 2012, <http://www.reprive.org.uk/static/downloads/2013_02_26_PUB_VCCR_Report_Web.pdf>.

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

124 Petition For A Writ Of Habeas Corpus In A Capital Case, 22 May 2013 <http://www.deathpenaltyinfo.org/documents/HillPetitionMay2013.pdf>

125 "Nation's Longest Serving Death Row Inmate Dies 40 Years After Conviction", Death Penalty Information Center, 21 May 2013, <<http://www.deathpenaltyinfo.org/nations-longest-serving-death-row-inmate-dies-40-years-after-conviction>>.

NON-DISCRIMINATION

Among the 3,125 people currently on death row in the United States, “black” people make up 41.9 per cent, while less than 15 per cent of Americans are “black”.¹²⁶ Of the 78 death sentences imposed in 2012, 49 per cent involved “blacks”, 40 per cent “whites”, 9 per cent “Latino” and 1 per cent of others.¹²⁷

On 17 June 2013, the Center for Constitutional Rights and the International Federation for Human Rights reported that California and Louisiana are “... imposing the death penalty in racially discriminatory ways”.¹²⁸ These two NGOs stated that “African Americans” are over-represented on death row in both states, while juries in death penalty cases are overwhelmingly “white”.

On 10 June 2013, in North Carolina, the State’s Racial Justice Act from 2009, which allowed death row inmates to challenge their sentences on racial grounds, was repealed by the Governor.¹²⁹ He claimed that the Act “created a judicial loophole to avoid the death penalty and not a path to justice.”¹³⁰

126 Death Row USA, *op.cit.*, note 107; according to the 2010 Census 13.6 per cent of the United States population self-identifies as “Black”.

127 Death Sentences in 2012, *op.cit.*, note 110.

128 “Human Rights Groups Release Preliminary Death Penalty Findings: Missions to California, Louisiana find torture, discrimination”, FIDH.org, 17 June 2013, <<http://www.fidh.org/human-rights-groups-release-preliminary-death-penalty-findings-missions-to-13478>>.

129 “Racial Justice Act repealed in North Carolina, CNN News, 21 June 2013, <<http://edition.cnn.com/2013/06/20/justice/north-carolina-death-penalty>>.

130 *Ibid.*

Annexes

Annex 1

OSCE Commitments

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

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

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

Capital Punishment

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

Helsinki Document: The Challenges of Change (Helsinki 1992)

The participating States

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

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

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

(36.1) They note

- (i) that the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty entered into force on 11 July 1991;
- (ii) that a number of participating States have recently taken steps towards the abolition of capital punishment;
- (iii) the activities of several non-governmental organizations concerning the question of the death penalty.

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

17. The participating States

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

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

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

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

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

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

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

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

**Concluding Document of the Vienna Meeting
(Vienna 1989)**

Questions relating to security in Europe

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

Annex 2

OSCE Parliamentary Assembly

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

Resolution on the Death Penalty

(...)

The OSCE Parliamentary Assembly:

45. *Condemns* all executions wherever they take place;
46. *Calls upon* participating States applying the death penalty to declare an immediate moratorium on executions;
47. *Encourages* the participating States that have not abolished the death penalty to respect safeguards protecting the rights of those facing the death penalty, as laid down in the United Nations Economic and Social Council Safeguards;
48. *Condemns* in particular the resumption of executions in Belarus, despite the political initiatives of the European Union towards the Government, made also with a view to encouraging reforms in the field of human rights;
49. *Calls on* Belarus to take immediate steps towards abolition of the death penalty by promptly establishing a moratorium on all death sentences and executions with a view to abolishing the death penalty, as provided by United Nations General Assembly resolution 62/149, adopted on 18 December 2007, and resolution 63/168, adopted on 18 December 2008;
50. *Calls upon* the Government of the United States of America to adopt a moratorium on executions leading to the complete abolition of the death penalty in federal legislation and to withdraw its reservation to Article 6(5) of the International Covenant on Civil and Political Rights;

[...]

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

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

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

Annex 3

United Nations Standards

Extract from the International Covenant on Civil and Political Rights

Article 6

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

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

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

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

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

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

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

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

Article 1

1. No one within the jurisdiction of a State Party to the present Protocol shall be executed.
2. Each State Party shall take all necessary measures to abolish the death penalty within its jurisdiction.

Article 2

1. No reservation is admissible to the present Protocol, except for a reservation made at the time of ratification or accession that provides for the application of the death penalty in time of war pursuant to a conviction for a most serious crime of a military nature committed during wartime.
2. The State Party making such a reservation shall at the time of ratification or accession communicate to the Secretary-General of the United Nations the relevant provisions of its national legislation applicable during wartime.
3. The State Party having made such a reservation shall notify the Secretary-General of the United Nations of any beginning or ending of a state of war applicable to its territory.

Article 3

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

Article 4

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

Article 5

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

Article 6

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

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

Extract from the Convention on the Rights of the Child

Article 37

States Parties shall ensure that:

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

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

The Economic and Social Council,

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

(a) Affording special protection to persons facing charges for which the death penalty is provided by allowing time and facilities for the preparation of their defence, including the adequate assistance of counsel at every stage of the proceedings,

above and beyond the protection afforded in non-capital cases;

- (b) Providing for mandatory appeals or review with provisions for clemency or pardon in all cases of capital offence;
- (c) Establishing a maximum age beyond which a person may not be sentenced to death or executed;
- (d) Eliminating the death penalty for persons suffering from mental retardation or extremely limited mental competence, whether at the stage of sentence or execution;

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

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

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

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

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

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

2. Capital punishment may be imposed only for a crime for which the death penalty is prescribed by law at the time of its commission, it being understood that if, subsequent to the commission of the crime, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby.
3. Persons below 18 years of age at the time of the commission of the crime shall not be sentenced to death, nor shall the death sentence be carried out on pregnant women, or on new mothers, or on persons who have become insane.
4. Capital punishment may be imposed only when the guilt of the person charged is based upon clear and convincing evidence leaving no room for an alternative explanation of the facts.
5. Capital punishment may only be carried out pursuant to a final judgement rendered by a competent court after legal process which gives all possible safeguards to ensure a fair trial, at least equal to those contained in article 14 of the International Covenant on Civil and Political Rights, including the right of anyone suspected of or charged with a crime for which capital punishment may be imposed to adequate legal assistance at all stages of the proceedings.
6. Anyone sentenced to death shall have the right to appeal to a court of higher jurisdiction, and steps should be taken to ensure that such appeals shall become mandatory.
7. Anyone sentenced to death shall have the right to seek pardon, or commutation of sentence; pardon or commutation of sentence may be granted in all cases of capital punishment.
8. Capital punishment shall not be carried out pending any appeal or other recourse procedure or other proceeding relating to pardon or commutation of the sentence.
9. Where capital punishment occurs, it shall be carried out so as to inflict the minimum possible suffering.

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

The General Assembly,

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

[...]

4. *Calls upon* all States:

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

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

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

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

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

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

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

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

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

General Comment No. 06: The right to life (art. 6) of 30 April 1982 by the Human Rights Committee

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

(...)

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

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

UN Commission on Human Rights Resolution 2005/59

Question of the death penalty

The Commission on Human Rights,

1. *Expresses its concern* at the continuing use of the death penalty around the world, alarmed in particular at its application after trials that do not conform to international standards of fairness and that several countries impose the death penalty in disregard of the limitations set out in the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child and of the safeguards guaranteeing protection of the rights of those facing the death penalty;
2. *Condemns* the continuing application of the death penalty on the basis of any discriminatory legislation, policies or practices;
3. *Condemns also* cases in which women are subjected to the death penalty on the basis of gender-discriminatory legislation, policies or practices and the disproportionate use of the death penalty against persons belonging to national or ethnic, religious and linguistic minorities;
4. *Welcomes* the seventh quinquennial report of the Secretary-General on capital punishment and implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty (E/2005/3), submitted in accordance with Economic and Social Council resolutions 1745 (LIV) of 16 May 1973, 1995/57 of 28 July 1995 and Council decision 2004/242 of 21 July 2004, which concludes that there is an encouraging trend towards the abolition and restriction of the use of the death penalty in most countries, but that much remains to be done in the implementation of the aforementioned safeguards in those countries that retain it;
5. *Calls upon* all States that still maintain the death penalty:
 - (a) To abolish the death penalty completely and, in the meantime, to establish a moratorium on executions;
 - (b) Progressively to restrict the number of offences for which the death penalty may be imposed and, at the least, not to extend its application to crimes to which it does not at present apply;

- (c) To make available to the public information with regard to the imposition of the death penalty and to any scheduled execution;
- (d) To provide to the Secretary-General and relevant United Nations bodies information relating to the use of capital punishment and the observance of the safeguards guaranteeing protection of the rights of those facing the death penalty;

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

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

- (a) Not to impose it for crimes committed by persons below 18 years of age;
- (b) To exclude pregnant women and mothers with dependent infants from capital punishment;
- (c) Not to impose the death penalty on a person suffering from any mental or intellectual disabilities or to execute any such person;
- (d) Not to impose the death penalty for any but the most serious crimes and only pursuant to a final judgement rendered by an independent and impartial competent court, and to ensure the right to a fair trial and the right to seek pardon or commutation of sentence;
- (e) To ensure that all legal proceedings, including those before special tribunals or jurisdictions, and particularly those related to capital offences, conform to the minimum procedural guarantees contained in article 14 of the International Covenant on Civil and Political Rights;
- (f) To ensure also that the notion of “most serious crimes” does not go beyond 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 re-

port on capital punishment and implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty, paying special attention to the imposition of the death penalty on persons younger than 18 years of age at the time of the offence and on persons suffering from any mental or intellectual disabilities;

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

Annex 4

Council of Europe Standards

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

Article 2

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

2. Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary:
 - a. in defence of any person from unlawful violence;
 - b. in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
 - c. in action lawfully taken for the purpose of quelling a riot or insurrection.

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

Article 1 – Abolition of the death penalty

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

Article 2 – Death penalty in time of war

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

Article 3 – Prohibition of derogations

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

Article 4 – Prohibition of reservations

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

Article 5 – Territorial application

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

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

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

Article 6 – Relationship to the Convention

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

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

Article 1 – Abolition of the death penalty

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

Article 2 – Prohibition of derogations

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

Article 3 – Prohibition of reservations

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

Article 4 – Territorial application

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

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

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

Article 5 – Relationship to the Convention

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

Annex 5

European Union Standards

Extract from 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.

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

III. Minimum standards paper

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

- i) Capital punishment may be imposed only for the most serious crimes, it being understood that their scope should not go beyond intentional crimes with lethal or other extremely grave consequences. The death penalty should not be imposed for non-violent acts such as financial crimes, religious practice or expression of conscience and sexual relations between consenting adults nor as a mandatory sentence.
- ii) Capital punishment may be imposed only for a crime for which the death penalty was prescribed at the time of its commission, it being understood that if, subsequent to the commission of the crime, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby.
- iii) Capital punishment may not be imposed on:
 - persons below 18 years of age at the time of the commission of their crime;
 - pregnant women or new mothers;
 - persons who have become insane.

- iv) Capital punishment may be imposed only when the guilt of the person charged is based upon clear and convincing evidence leaving no room for alternative explanation of the facts.
- v) Capital punishment must only be carried out pursuant to a final judgement rendered by an independent and impartial competent court after legal proceedings, including those before special tribunals or jurisdictions, which gives all possible safeguards to ensure a fair trial, at least equal to those contained in Article 14 of the International Covenant on Civil and Political Rights, including the right of anyone suspected of or charged with a crime for which capital punishment may be imposed to adequate legal assistance at all stages of the proceedings, and where appropriate, the right to contact a consular representative.
- vi) Anyone sentenced to death shall have an effective right to appeal to a court of higher jurisdiction, and steps should be taken to ensure that such appeals become mandatory.
- vii) Where applicable, anyone sentenced to death shall have the right to submit an Individual complaint under International procedures; the death sentence will not be carried out while the complaint remains under consideration under those procedures; the death penalty will not be carried out as long as any related legal or formal procedure, at the international or at the national level, is pending.
- viii) Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases of capital punishment. ix) Capital punishment may not be carried out in contravention of a state's international commitments.
- x) The length of time spent after having been sentenced to death may also be a factor.

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

The European Parliament,

...

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

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

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

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

(...)

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

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

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

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

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

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

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

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

13. *Further encourages* the activities of non-governmental *organisations* working for the abolition of the death penalty, including Hands Off Cain, Amnesty International,

Penal Reform International, the World Coalition Against the Death Penalty and the International Helsinki Federation for Human Rights, Sant'Egidio and Reprieve; welcomes and supports the recommendations on EU instruments in the fight against the death penalty made at the 12th EU-NGO Forum on Human Rights;

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

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

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

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

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

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

Extract from European Parliament resolution of 26 April 2007 on the initiative for a universal moratorium on the death penalty

The European Parliament,

...

1. *Reiterates* its call to the EU Member States to gather third-country support for the statement;
2. *Encourages* the EU to seize the existing opportunities and press its case and calls on the EU Member States and the EU to immediately submit - seeking the co-sponsorship of countries in other continents - a resolution for a universal moratorium on the death penalty to the current UN General Assembly;
3. *Calls* on the EU Presidency to encourage those remaining countries which have not signed and ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights to do so, and those Member States that have not signed Protocol No 13 to the European Convention on Human Rights on the death penalty to do so;
4. *Fully endorses* the final declaration of the third World Congress and intends to follow up the Congress, notably by developing the parliamentary dimension of the global campaign against the death penalty and raising the matter through its interparliamentary delegations and participation in the ACP-EU Joint Parliamentary Assembly and the Euro-Mediterranean Parliamentary Assembly;
5. *Calls* on the Council and the Commission to take every possible opportunity to support the establishment of regional abolitionist coalitions;
6. *Calls* on all institutions of the European Union, together with the Council of Europe, to support the World Day against the Death Penalty by declaring 10 October a European Day against the Death Penalty, from 2007 onwards, and endorses the initiative of organising a high-profile European conference against the death penalty in connection with that day; mandates its President to represent the European Parliament, together with the relevant delegation, on that occasion;
7. *Instructs* its President to forward this resolution to the Council, the Commission, the EU Member States, the UN Secretary-General, the Chair of the UN General Assembly and the UN Member States.

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

The European Parliament,

...

1. *Reiterates* its long-standing position against the death penalty in all cases and under all circumstances and expresses once more its conviction that the abolition of the death penalty contributes to the enhancement of human dignity and to the progressive development of human rights;
2. *Calls for* a worldwide moratorium on executions to be established immediately and unconditionally with a view to the worldwide abolition of the death penalty, through a relevant resolution of the current UN General Assembly, whose actual implementation the UN Secretary-General should be able to monitor.

Annex 6

Organization of American States Standards

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

Chapter II – Civil and Political Rights

Article 4. Right to Life

1. Every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life.
2. In countries that have not abolished the death penalty, it may be imposed only for the most serious crimes and pursuant to a final judgment rendered by a competent court and in accordance with a law establishing such punishment, enacted prior to the commission of the crime. The application of such punishment shall not be extended to crimes to which it does not presently apply.
3. The death penalty shall not be 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.

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

Preamble

The States Parties to this Protocol,

Considering

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

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

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

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

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

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

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

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

Article 1

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

Article 2

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

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

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

Annex 7

Relevant Recommendations made at the 2012 OSCE Human Dimension Implementation Meeting

During the 2012 OSCE Human Dimension Implementation Meeting, held in Warsaw from 24 September to 5 October 2012 issues of the abolition of capital punishment, prevention of torture and the protection of human rights in the fight against terrorism were discussed at the *Working Session 5: Rule of Law II*.

Participants made the following recommendations:

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

Annex 8

ODIHR Questionnaire on the Death Penalty

- 1) Please inform us of any developments with regard to the death penalty in your country since 1 July 2012.

LEGAL FRAMEWORK

- 2) The attached paper is a copy of the entry related to your country in the publication of 2012. It lists crimes that carry the death penalty in your country. Please check this list and inform us if any corrections or changes are required. Has the number of crimes that carry the death penalty increased or decreased since the last publication?
- 3) Do any crimes under your country's Code of Military Law carry the death penalty? Have there been any changes since the last publication?
- 4) 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.
- 5) 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.
- 6) If a moratorium is in place, please list the name and place of detention of all persons currently subjected to the moratorium.

STATISTICS

- 7) Please provide us with statistics on the number of persons who have been sentenced to death in the period 1 July 2012 to 30 June 2013 disaggregated by gender, age, and ethnicity/ race.
- 8) Please provide us with the full name, age and gender of persons who have been sentenced to death in the period 1 July 2012 to 30 June 2013.
- 9) Please indicate the specific crime for which each of these persons was sentenced.

- 10) Please list which of these sentences has entered into force (i.e. all appeal stages have been exhausted).
- 11) Please list which court passed each of the sentences.
- 12) Please indicate if any of the persons sentenced to death in the period from 1 July 2012 to 30 June 2013 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.
- 13) 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.
- 14) Please provide us with the full name, age, gender, race/ethnicity of persons who have been executed in the period 1 July 2012 to 30 June 2013. Please also indicate the specific crime for which each of these persons was executed.
- 15) Please indicate if any of the persons executed in the period from 1 July 2012 to 30 June 2013 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.
- 16) Which state body is responsible for keeping statistics on sentences, executions and commutations?
- 17) Please provide us with the full name, age and gender of any persons sentenced to the death penalty who have been granted clemency or had their sentence commuted since 1 July 2012.

SAFEGUARDS

- 18) 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?

- 19) 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. (eg. UN Human Rights Committee, International Court of Justice, European Court of Human Rights).
- 20) 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?
- 21) Please list the names of any persons who have been executed whilst a procedure regarding their case was ongoing before an international body.
- 22) 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.
- 23) 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

- 24) Please indicate ways in which you have co-operated with other intergovernmental organisations on this issue in the period 1 July 2012 to 30 June 2013.
- 25) Have any official roundtables, seminars, conferences or any other events been organized/ held since the last publication?

End of Questionnaire

Annex 9

Status of Ratifications of Relevant Treaties

Status of Ratifications as of: 1 August 2013

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

THE DEATH PENALTY IN THE OSCE AREA

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

Notes:

r = ratification or accession

signed = signature only

not ratified = neither signed nor ratified

n/a = non-applicable as not member of
the Council of Europe

A = abolitionist

DA = *de facto* abolitionist

R = retentionist