

The European Union and Transitional Justice

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Civil Society Dialogue Network

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Preface

In June 2012, High Representative Ashton launched the Strategic Framework for Human Rights and Democracy. The accompanying action plan states that a transitional justice policy will be developed in 2014. This paper was commissioned by the European Peacebuilding Liaison Office (EPLO) to inform discussions at the Civil Society Dialogue Network meeting entitled *Towards an EU Policy on Transitional Justice* on 3 April 2014 in Brussels, and to contribute to the drafting of a EU transitional justice policy.

The paper does not suggest that the EU will ‘do’ transitional justice, particularly beyond its own borders. Rather: if the EU engages in third countries, it should have a policy that maximizes the EU’s contribution to positive change, including through supporting transitional justice initiatives.

In the first section, the paper discusses “transitional justice”. It then presents an overview of the state of EU support to transitional justice to date and considers the potential role(s) the EU could play in supporting transitional justice before closing with policy recommendations.

I. Introduction¹

Transitional justice

Transitional justice refers to a set of judicial and non-judicial approaches that societies may use to deal with the legacy of massive and systematic human rights violations. The concept emerged in the late 1980s in response to the transitions from authoritarianism to democracy in Latin America. It aims to seek justice for individual human rights violations and to contribute to fairer, more democratic societies in which human rights are respected and protected, not violated.

Transitional justice can be a way to deal with the past through the search for truth, accountability, reparation and reconciliation. It can also be a way to contribute to social and political change and to address current political problems, particularly to developing a more just state and society, with legitimate laws and institutions. Transitional justice initiatives may also be (mis)used to legitimize a current regime and/or to whitewash the past. Understanding and identifying the multiple political – and politicized – objectives of transitional justice initiatives is therefore critical.

The core principles of transitional justice emerge from international human rights and humanitarian law, and now also international criminal law, particularly the obligation on states to investigate and prosecute human rights violations and to prevent abuse, the rights to remedy, truth and reparation. Some aspects of transitional justice – such as criminal prosecutions, particularly through the International Criminal Court – have clear parameters in international law. There is however no single blueprint in law or policy for whether, how and when to implement transitional justice. Navigating these potentially competing rights within the parameters of the political and social realities of each situation is known as ‘sequencing’. Transitional justice practice varies between countries. In Chile, for example, transitional justice initiatives are implemented in the context of amnesty. In the former Yugoslavia, criminal justice has been the dominant approach. States are not required to engage in transitional justice and some, such as Mozambique, have decided not to do so.

Transitional justice is usually applied in societies where the demand for justice is high but the ability of state institutions to deliver justice is low. This may be because the justice system is weak or absent, or because the justice and security services are repressive and/or part of the conflict and are not trusted by (part of) the population. Legitimacy of public institutions –

particularly in the justice and security sectors – is a critical element of transitional justice. The law and the institutions of the state play an important part in protecting human rights but norms are developed and upheld in many ways in society: power is not necessarily limited to the formal institutions of the state. Elites may wield power through informal networks operating within and beyond the state institutions. Civil society institutions, particularly religious institutions and faith-based organizations, often have considerable influence over how particular people, such as minorities, youth and women, are perceived and treated in society.

Historically, transitional justice tends to focus on the civil and political human rights of individuals ('first generation' human rights) but there is increasing pressure to also address social, economic and cultural rights (second generation), and people's or solidarity rights (third generation), particularly group and collective rights, and the right to economic and social development.

Transitional Justice Mechanisms

Transitional justice is not a special form of justice in itself, but a set of approaches or mechanisms that typically aim to hold those responsible for past abuse to account, to provide reparation for victims, to prevent repetition by reforming public institutions, and to increase civic trust in public institutions and in the rule of law. According to the UN Secretary General,

Transitional justice consists of both judicial and non-judicial mechanisms, including prosecution initiatives, facilitating initiatives in respect of the right to truth, delivering reparations, institutional reform and national consultations. Whatever combination is chosen must be in conformity with international legal standards and obligations.²

There is no fixed definition of what transitional justice does – and does not – entail, and new approaches are emerging all the time. The most common official transitional justice mechanisms are:

- ***Criminal justice:*** the prosecution of at least the most responsible through the International Criminal Court (ICC), a hybrid tribunal or the national courts. Amnesties may prevent the prosecution of certain individuals or groups.
- ***Truth seeking:*** Truth-seeking processes tend to be victim-centred (trials are by their nature focused on the perpetrator) and may engage thousands of people in their proceedings. The best-known form of truth-seeking is the official truth commission, which may be able to outline the full responsibility of the state and institutions in repression, and make recommendations on how to remedy the abuse and prevent recurrence in the future.
- ***Reparations:*** Reparations attempt to restore a situation to what it would have been if an illegal act had not occurred, or to compensate a person for her material loss. As this is impossible in relation to human rights abuse, reparation is understood more broadly. Reparations programmes for victims of human rights violations help repair the material and moral damage of past abuse, typically through a mix of material and symbolic benefits.
- ***Reform of public institutions,*** particularly in the justice and security sectors, may be important preconditions for other transitional justice initiatives, but is also crucial in itself for contributing to non-repetition of abuse and for longer-term reform. Reform may include vetting, the identification and removal from public office of individuals responsible for abuse, particularly within the security and justice systems. This may form part of broader reforms to increase the credibility and legitimacy of institutions, by increasing the representation of different ethnic/religious/regional groups and women within the institution, for example, and introducing effective disciplinary measures.

Society develops and protects standards in many ways, including and beyond the formal state institutions. Even when human rights are enshrined in law, these rights may be under-enforced for some parts of the population, such as marginalized groups and women. Arguably, activism aimed at social change to respect and protect human rights as ethical standards is as important as seeking protection through just institutions. Transitional justice therefore also includes initiatives that may be undertaken by civil society and ‘traditional’ approaches to transitional justice that promote social change to protect human rights, and seek accountability for violations.

Civil society organisations and human rights groups may play an important role in the design and implementation of transitional justice initiatives. They may also have specific roles, as human rights monitors (e.g. Afghan Independent Human Rights Commission), in unofficial truth-seeking initiatives, and in collecting and documenting evidence of abuse (e.g. Brazil, Northern Ireland, Brazil, Uruguay, former Yugoslavia). The media may have an important role in engaging the population in transitional justice debates and processes (e.g. Sierra Leone, South Africa).

In Sub-Saharan Africa, there is increasing use of so-called ‘**traditional**’ approaches to transitional justice. These are often in addition to more formal, ‘international’ or ‘Western’ initiatives and may complement and come into tension with them. These vary in objective and form as they often draw on and adapt traditional practices, examples include the *gacaca* courts in Rwanda, the *mato oput* rites in Uganda and the *bashingantahe* in Burundi.

Pitfalls and possibilities

Meeting the objectives of transitional justice requires using the different mechanisms described above in what is usually referred to in the transitional justice literature as a ‘holistic’ manner. A holistic approach addresses reforming abusive systems not just removing abusive individuals. The mechanisms should not be seen in isolation from or in competition with each other but are mutually reinforcing and much more effective together than apart. In EU terms, this roughly equates with ‘coherence’ or a ‘comprehensive approach’. A holistic approach to transitional justice does not necessarily mean that all mechanisms have to be applied simultaneously, as this may not be feasible. Rather, it suggests ensuring that options are kept open – as far as possible – for transitional justice initiatives in the future.

Transitional justice may also help identify structural causes of abuse, particularly against certain parts of the population (such as people from specific regions or rural areas, ethnic and/or religious groups, women and children) and may present an opportunity to address these and prevent recurrence. Transitional justice processes that fail to take into account the different experiences of women and men and of particular population groups risk reinforcing rather than reducing structural violence against these and may contribute to further division or violence in the future. Women’s and girls’ experience of abuse may be hidden, and/or there may be significant cultural or social taboos for discussing sexual violence (which is often most acute for male victims of sexual violence). Women and girls also suffer other forms of human rights violation, such as forced displacement, for example.

The pursuit of accountability through transitional justice initiatives may risk destabilisation, increased violence or even a return to conflict, however. The trials of powerful leaders may provoke instability if they or their supporters try to resist prosecution. In some cases, transitional justice initiatives may further reinforce divisions in society, they may be externally imposed or inappropriate, or have little or no basis in or traction with the customs and cultures of the people concerned.

Transitional justice is complex, sensitive, politicised and political. It can offer societies a way to deal with their past and contribute to long-term transformation of state and society,

towards a fairer and more just society in which state institutions protect the rights of the whole population. Alternatively, transitional justice endeavours may destabilize a fragile security situation, detract from longer-term state- and institution-building projects or be misused to legitimize the current regime.

The sensitive and complex nature of transitional justice has significant implications for external actors – such as the EU - contemplating engagement. Firstly, the EU needs to clarify how it understands transitional justice: why it should support transitional justice in general. Secondly, decisions to support specific initiatives should be based on a clear understanding of the stated and unstated goals of the proposed initiatives, the context of the transition in which they would be operating and the past that they seek to address.

II. EU Support to Transitional Justice to date

Although the EU does not yet have a definition, concept or guidelines for transitional justice, there are numerous references to the different transitional justice mechanisms, particularly the International Criminal Court (ICC), in policy documents from the European Commission (EC), Common Foreign and Security Policy (CFSP) and the European External Action Service (EEAS).

The EU treats transitional justice as part of its external action, and it is in this perspective that the transitional justice policy will be adopted. But it is important to remember that there is nothing intrinsically 'foreign' about transitional justice. Within the EU, the EU institutions have only a limited role in facilitating member states' efforts to deal with the legacy of their own pasts even if 'the memory of those crimes must be a collective memory, shared and promoted, where possible, by us all.'³ The Commission has supported non-judicial transitional justice initiatives in Northern Ireland, but this is an exceptional case and due to the desire of the UK and Ireland that the EC become involved. The main connection of the transitional justice policy to other EU internal policies is likely to be through support for the International Criminal Court, specifically bringing to justice suspected perpetrators of violations in third countries resident in the EU.

The EU's support to the ICC is the strongest of all the transitional justice mechanisms. It claims 'unwavering support to the Court;'⁴ political support is expressed in a range of documents, including the European Security Strategy (2003), and its implementation report (2008).⁵ The EU-Africa strategy (2008) reaffirmed African and EU leaders' commitment to the ICC.⁶ The EU is also a major financial supporter of the court: the European Initiative for Democracy and Human Rights (EIDHR) has contributed over €40 million to the ICC since 1995.⁷ However, member states are divided on key issues, particularly the relationship between the Court and the UN Security Council, and the EU does not necessarily put its support for the Court into practice as effectively as it could.⁸

The EU has also supported hybrid tribunals. Compliance with the International Criminal Tribunal for the former Yugoslavia conditioned relations between the countries of the region and the EU.⁹ The Special Court in Sierra Leone, for example, received around €5.5million from the EIDHR and European Development Fund (EDF).¹⁰ The Extraordinary Chambers in the Courts of Cambodia, the trial of the former Chadian president Hissène Habré in Senegal and the Special Tribunal for Lebanon have all received significant EU funding.¹¹

Beyond criminal justice, there are far fewer references in policy to the other transitional justice mechanisms. The Communication on Situations of Fragility discusses supporting transitional justice and reconciliation processes.¹² But even if there are few references in policy, the EU provides nonetheless considerable financial support to a wide range of initiatives. The EIDHR has supported the creation of a truth commission in Indonesia; the

gacaca process in Rwanda; the International Commission on Missing Persons in Bosnia-Herzegovina; projects promoting criminal prosecutions, gender justice and security sector reform in Eastern Africa, Peru and Haiti; monitoring war crimes trials in Croatia and a project to help trace the disappeared in Guatemala, amongst others.¹³ The transitional justice facility of the Instrument for Stability provided €12 million to a range of transitional justice efforts across the world.¹⁴ Geographical instruments have also contributed. The Liberian truth commission received technical assistance, equipment and operating costs from the 9th EDF; the EDF and European Neighbourhood Policy were used to support Morocco's Fairness and Reconciliation Commission and the Development Cooperation Instrument (DCI) funds the European-Philippines Justice Program is designed to build capacity to respond to the massive increase in enforced disappearances and extrajudicial killings in the Philippines even though the Instrument regulation makes no reference to transitional justice.¹⁵

The EU's financial support to judicial as well as non-judicial transitional justice mechanisms is therefore significant. But EU support to transitional justice should not be understood as only financial, however and the EU has a range of tools through which it could contribute directly to transitional justice initiatives. The EU guidelines on compliance with International Humanitarian Law, for example, (2005) state that crisis management missions could collect information useful for war crimes investigations.¹⁶ The guidelines for EU support for disarmament, demobilization and reintegration (DDR) processes call for the prosecution of the perpetrators of at least the most serious crimes and the exclusion of war criminals from public office.¹⁷ Yet to date, the only Common Security and Defence Policy (CSDP) mission that has been mandated to support war crimes investigations in EULEX Kosovo, despite the presence of numerous CSDP missions in countries where the ICC is active, for example. Similarly, despite the EU's support for the ICC, of all the EU Special Representatives appointed to crisis situations only those covering Sudan and Mali are mandated to support the ICC.

In conclusion, this brief overview suggests that the EU seems to consider transitional justice important, even though it does not (yet) have a definition for it. There are patchy provisions for supporting particular transitional justice mechanisms, especially criminal justice initiatives, but none that address transitional justice holistically. Despite this lack of policy, the EU has extended considerable financial support to mechanisms such as the ICTY and ICTR since the 1990s. In the absence of a policy framework, EU support to transitional justice appears ad hoc. This also creates a challenge for coherence, both internally for the EU and in relation to standards and norms developing elsewhere and particularly within the UN system.

Where there are policy provisions for implementing certain aspects of transitional justice, they are not uniformly put into practice. The claim made in the Staff working document accompanying the Annual Report on the Instrument for Stability that transitional justice and ad hoc tribunals have been integrated into broader EU crisis management approaches is not substantiated.¹⁸ Policy allows EUSRs to play an important role in promoting justice in peace mediation and in short-term crisis management, including SSR/DDR, but no EUSR has yet been mandated to fulfill this role. The guidelines on compliance with IHL explicitly include the possibility for CSDP missions to prevent or suppress violations of IHL or assist war crimes investigations. Yet to date, of the CSDP missions deployed to situations to which an EUSR was also engaged, only Althea (Bosnia) and EULEX Kosovo have any explicit reference to addressing serious human rights violations as part of their mandates. There is considerable potential in the policy framework to pursue transitional justice, but these policy provisions have not been put into practice.

III. Potential roles for EU support to transitional justice

Transitional justice is a field that encompasses peacebuilding, human rights protection, crisis management, state-building and development, areas in which the EU is heavily engaged across the world, and for which the EU has an impressive tool box ranging from more classical development assistance through to crisis management missions. In developing a comprehensive policy for EU support to holistic transitional justice, it is perhaps useful to consider the potential roles the EU could play.

The opening section of this paper highlighted the importance of analysis. This analysis would be an important base for developing country and/or regional plans, drawing in the EU's different policy areas and providing the link between different interventions (facilitating coherence). Meaningful consultation with national civil society organisations, including human rights defenders, should form part of this analysis.

The previous section has shown that the EU has the ability to support a wide range of transitional justice initiatives across the world. Funding is an important component of that support. The EIDHR, IFS, EDF, DCI and Neighbourhood policies have all been used to support efforts ranging from the International Criminal Court and internationalized courts through to civil society efforts to help victims access reparations programmes or trace the disappeared.

The challenge to the EU to date has not been the lack of instruments or even 'will' to support certain initiatives, but consistency. The references to transitional justice in the policy documents are patchy and inconsistent. A transitional justice policy should help clarify how the EU understands transitional justice. It should also spell out how the different (existing) instruments can contribute to it. EIDHR, IFS and geographic instruments remain the most likely source of funding for transitional justice initiatives. But the EU could maximize its approach by ensuring that other interventions contribute to transitional justice, particularly in the areas of rule of law, security sector reform, disarmament, demobilization, and reintegration and peace mediation.

The EU supports considerable **rule of law projects** across the world through different instruments (EDF, the Neighbourhood Policy, DCI, EIDHR). Rule of law reform and transitional justice intersect, but are also distinct policy areas. Nonetheless, many of the EU's rule of law project can be classified as transitional justice initiatives in their own right and/or they may enable future initiatives. Alternatively, they may run in parallel to other transitional justice initiatives, missing opportunities for a holistic transitional justice approach and undermining EU coherence. This could be avoided if the programming is based on analysis that includes a transitional justice perspective. Stronger analysis from the outset could identify how the EU should accompany reform, including through political engagement. A key criticism of the EU and other actors is the tendency to treat rule of law reform as a technical exercise, when it is highly political, with insufficient engagement from the EU delegation and member state embassies in-country.

Disarmament, demobilization and reintegration (DDR) and **security sector reform (SSR)** are also major areas of EU intervention and important for transitional justice. Security arrangements made as part of a transitional process may have more impact on human rights, justice and the durability of a peace agreement than any other transitional justice initiative. The DDR concept presents a potentially radical role for the EU, which has never been put into practice, and the SSR concepts do not mention transitional justice. DDR and SSR will also be important for the EU's engagement in transitional justice because it is in these policy areas (and rule of law) that the CSDP missions usually engage.

CSDP missions currently struggle to find a role beyond EU visibility and limited peacekeeping. They could bring added value to operations around the world by specialising in civilian and military interventions that put human rights and justice at the heart of crisis management – including through supporting transitional justice.

As the EU develops its *mediation capacity*, it should also develop justice guidelines and resources for its mediators, building on the expertise at its disposal within the institutions.

Transitional justice is a difficult and sensitive undertaking in complex contexts. There will be situations where the EU will be unable to support transitional justice. External reasons may mean that the EU should not engage, at least directly. If other actors, such as the UN or a regional organization, are closely involved the EU would do better to support rather than duplicate those efforts. Analysis, including the views of national civil society, may come to the conclusion that the initiatives are not in good faith, or too high risk and that the EU should not engage. The EU may be perceived as too partisan to support an inclusive and balanced process, or it may be seen as too weak and irrelevant to the situation.

The sensitivity of transitional justice also means that the EU is likely to meet resistance from powerful people who stand to lose wealth, influence and possibly their freedom if a transitional justice process is successful. This underscores the need for political engagement, in addition to technical assistance, and strong support for delegations from headquarters. Being seen to give in to strong vested interests would likely damage the EU's standing over time, especially if today's strongmen are toppled in the future.

There will be internal obstacles too. Geopolitics has a strong influence on the EU. Where member states are divided over an approach to a country, it is unlikely that the EU would take a high-profile position in favour of transitional justice. On the other hand, only expressing views on the 'easier' cases carries significant risk. The EU's support for the ICC is far stronger in Sub-Saharan Africa than in North Africa, this inconsistency feeds the perception of the ICC as a tool of European 'judicial imperialism' victimizing black Africans. However, transitional justice should not be equated with (higher-profile) international justice: even when trials may not be feasible, the EU can still support important undertakings through reforming the security system and other public institutions, documentation efforts, and civil society initiatives, to name but a few.

Away from high politics, falling through the cracks remains perhaps the single biggest obstacle to effective EU engagement in transitional justice. Many officials are not aware of transitional justice, or have different interpretations of what it means. To be successful, the transitional justice policy should de-mystify transitional justice and include concrete steps for officials to implement it rather than be seen as yet another box to be ticked. As with other policy areas in fragile situations, the ability of the delegation in particular to consult national actors (including from civil society), analyse the context and be able to engage the EU hierarchy in sensitive questions, both in-country and at headquarters, will contribute much to the success or failure of particular interventions.

IV. Policy recommendations

The Action Plan accompanying the EU Strategic Framework and Action Plan on Human Rights and Democracy states the High Representative's intention to:

- (c) Develop policy on transitional justice, so as to help societies to deal with the abuses of the past and fight impunity (truth and reconciliation commissions, reparations, criminal justice, link with ICC), recognising that such policy must allow for tailored approaches to specific circumstances¹⁹

This final section offers recommendations for the purpose and scope of the policy as well as proposals to enable implementation.

Purpose

Transitional justice is imprecise and contested as a field, and it is usually undertaken in complex contexts. The existing references to transitional justice are scattered across the different EU organs, and often inconsistent with each other and with international good practice. For these reasons, the EU's transitional justice policy should have a clear objective comprising two elements:

1. A *core definition* of how the EU understands transitional justice, which should draw on transitional justice practice and scholarship and policy developed by other organisations, particularly the UN, and
2. The EU's *aim* in supporting transitional justice; for example: that transitional justice should contribute to a peaceful, just and democratic society based on the rule of law that respects and protects the human rights of all.

Scope

The policy should address the *mechanisms* that may be used to achieve this aim: criminal prosecutions, whether international, national or hybrid, truth-seeking, reparations for victims and institutional reform, particularly of the security system. The reference in the action plan cited above on which the policy is to be based is inadequate – in reference to 'truth and reconciliation commissions, reparations, criminal justice, link with ICC' is fine as far as it goes, but is incomplete. The absence of institutional reform is of particular concern. The Joint Communication of 2011 explicitly included 'mechanisms for justice, truth, reparations and institutional reform';²⁰ institutional reform should be a key element of the transitional justice policy, which should also include links to traditionally- or community-based mechanisms as well as civil society initiatives. It should advocate for a holistic approach in which the mechanisms reinforce each other, and a process that is owned by the population generally and is designed through public consultation and engagement.

The policy should also outline the EU's parameters for engagement, from which it can take decisions based on analysis of the proposed initiatives and the country context. This should include the objective described above and a reflection on *how* the EU would engage as well as the ends it hopes to contribute to. This could include a preference that the UN and/or regional organization be supportive of the processes and that national civil society as well as the host government supports the proposed initiatives. The EU should commit to consult national civil society before deciding whether or not to support a proposed initiative and request the national authorities to do so if they have not.

The policy should also address how the range of EU instruments can be engaged to support holistic transitional justice initiatives, from political demarches, funding for and technical assistance to initiatives, monitoring. EUSRs and CSDP missions also have a potentially important role to play, which should be reflected in the policy. The EU also needs to analyze and learn from its own practice to date as we have seen how the EU has more experience in supporting transitional justice than the lack of policy should suggest. In considering how the EU may engage the EEAS should therefore learn from the EU's own experience, positive and negative, with previous transitional justice initiatives. The EUSR for human rights could be well-placed to manage this process.

Implementation

In many cases policy provisions for transitional justice exist, but are not put into practice. The concepts of SSR and DDR are cases in point: the EU has policy to further justice-sensitive SSR and DDR, but does not implement it.

The High Representative should ensure that transitional justice, along with other policies to promote human rights and democracy, are indeed integrated across the external actions of the EEAS and Commission. To do so, the policy should be accompanied by a clear action plan, with roles, responsibilities and timeframes assigned to specific functions within the institutions, and a clear monitoring mechanism. The action plan should be designed to help officials in headquarters and in delegations to put policy into practice, with clear guidelines for action.

The EUSR for human rights, the division for human rights policy instruments and bilateral cooperation and the conflict prevention, peace building, and mediation instruments division of the EEAS could contribute to implementation. The divisions can draw on a range of expertise, including on transitional justice, to deploy around the world and could distil EU practice to date. The EUSR for human rights could play an important role provide technical support from his team across the EEAS, Commission and delegations.

The European Parliament could also have an important role to play in scrutinising both aspects of this recommendation.

End notes

¹ The literature on transitional justice is extensive. This section draws on, for example, Ruti Teitel (2003). *Transitional Justice Genealogy*. *Harvard Human Rights Journal*, 16, 69-94; Jack Snyder & Leslie Vinjamuri (2004). *Trials and Errors: Principle and Pragmatism in Strategies of International Justice*. *International Security*, 28 (3). Chandra Lekha Sriram (2007). *Justice as Peace? Liberal Peacebuilding and Strategies of Transitional Justice*. *Global Society*, 21 (4), 579-591; Alexander Mayer-Rieckh & Pablo de Greiff, eds, (2007). *Justice as prevention: Vetting public employees in transitional societies*. New York: Social Research Council; Bronwyn Anne Leebaw (2008). *The Irreconcilable Goals of Transitional Justice*. *Human Rights Quarterly*, 30 (1); Luc Huyse and Mark Salter, eds, (2008). *Traditional Justice and Reconciliation after Violent Conflict: Learning from African Experiences*. Stockholm: International IDEA; Paige Arthur (2009). *How 'Transitions' Reshaped Human Rights: A Conceptual History of Transitional Justice*. *Human Rights Quarterly*, 31 (2), 321-367; New York: Routledge; Priscilla B. Hayner (2011). *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions* (2nd edition ed.); Stef Vandenginste & Chandra Lekha Sriram (2011). *Power-sharing and transitional justice: a clash of paradigms?* *Global Governance*, 17 (4), 489-505; Laura Davis (2014) *EU Foreign Policy, Transitional Justice and Mediation: Principle, Policy, Practice*. Abingdon: Routledge.

² United Nations. *Guidance Note of the Secretary-General 'United Nations Approach to Transitional Justice'*. New York: United Nations, 2010. p.2

³ Council of the EU (2009). *The Stockholm Programme*. p.12

⁴ European Council (2010). *Council Conclusions on the Review Conference of the Rome Statute of the International Criminal Court*. Brussels, 25 May 2010.

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⁹ General Affairs and External Relations Council (2003). *Extracts from successive General Affairs & External Relations Councils 16 June 2003*.

¹⁰ Sierra Leone – European Community (2007). *Country Strategy Paper and National Indicative Programme for the period 2008-2013*

¹¹ Extraordinary Chambers in the Courts of Cambodia website http://www.eccc.gov.kh/english/finances_pledging.aspx; European Commission (2008). *Commission staff working document Accompanying document to the Report from the Commission to the Council and the European Parliament Annual Report from the European Commission on the Instrument for Stability in 2007 COM (2008) 181 Final*. Brussels, 2008; European Commission (2009). *Commission Staff Working Document Accompanying the Communication from the Commission to the European Parliament and the Council Implementation of the European Neighbourhood Policy in 2008: Progress Report Lebanon COM(2009) 188*.

¹² European Commission (2007). *European Commission Communication: Towards an EU response to situations of fragility – engaging in difficult environments for sustainable development, stability and peace COM (2007) 643 Final*.

¹³ EuropeAid (undated). *List of projects financed under EIDHR 2009*; European Commission (2009). *The European Instrument for Democracy and Human Rights (EIDHR) Compendium January 2007*.

¹⁴ European Commission (2009). *Commission Staff Working Document SEC(2009) 932: Accompanying document to the Annual report from the European Commission on the Instrument for Stability in 2008* COM(2009) 341.

¹⁵ Republic of Liberia – European Community (2007). *Country Strategy Paper and Indicative Programme for the period 2008-2013* p.88; European Commission (2009). *Commission Staff Working Document Accompanying the Communication from the Commission to the European Parliament and the Council Implementation of the European Neighbourhood Policy in 2008: Progress Report Morocco SEC(2009)520/2*. 2009; Delegation of the European Union to the Philippines (2009). *EU News*. December 2009; European Parliament and Council (2006). *Regulation (EC) No 1905/2006 of the European Parliament and of the Council of 18 December 2006 establishing a financing instrument for development cooperation OJ 378/42*.

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¹⁸ European Commission (2009). *Commission Staff Working Document SEC(2009)*

¹⁹ Council of the European Union (2012). *EU Strategic Framework and Action Plan on Human Rights and Democracy Luxembourg 25 June 2012 11855/12*. Luxembourg, Art. 27

²⁰ European Commission and High Representative (2011). *Joint Communication to the European Parliament and Council 'Human Rights and Democracy at the Heart of EU External Action – towards a more effective approach' COM 211 (886)*. Brussels. p.16.