

Civil Society Dialogue Network

Towards an EU Policy on Transitional Justice

Key Recommendations

Thursday 3 April 2014, Brussels

This document gathers all of the key recommendations made by participants in the CSDN meeting, “Towards an EU Policy on Transitional Justice,” which took place on Thursday 3 April 2014 in Brussels. The recommendations, which were collated by meeting rapporteur Patricia Gossman, may not be attributed to any participating individual or institution, nor do they necessarily represent the views of the organizers. A full report of the meeting will follow soon.

1. The EU and transitional justice: state of play

Participants recommend that the EU:

- Develops a high-level policy document identifying the EU’s key guiding principles and objectives in supporting and promoting transitional justice; some participants stressed the need to go further and provide guidance on how the commitments should be implemented by EU officials based on lessons learned;
- Explains why there is a need for an EU policy and considers identifying a political champion within the EU to push for endorsement of the policy at the political level;
- Acknowledges the need to ensure internal-external coherence and geographical consistency to demonstrate the credibility of the EU as a transitional justice actor;
- Reiterates a common understanding of the definition of transitional justice based on the UN definition while retaining flexibility and creativity for those designing country-specific processes; some participants suggested that the EU could further develop the definition and scope of transitional justice;
- Stresses an inclusive approach with all relevant stakeholders to ensure broad-based support;
- Integrates the policy framework with institutional capacity by building on delegations’ expertise;
- Stresses the importance of basing transitional justice activities on analysis of context including actual and stated objectives of transitional justice initiatives; consultation with civil society, especially survivors; and analysis of other actors’ roles to determine the EU’s added value;
- Explores the role that different EU instruments, such as EU Special Representatives or Common Security and Defence Policy (CSDP) missions can play in transitional justice;
- Underscores mandatory international overarching obligations, even while acknowledging different country contexts.

2. Developing a Transitional Justice Policy – sharing experiences on policy vs. ad hoc decision making

Participants recommend that the EU:

- Provides practical guidance and start-up tools on transitional justice issues, such as amnesties, to EU officials in transition countries;
- Uses the policy document to advance understanding of transitional justice mechanisms beyond prosecutions and accountability, particularly restorative justice, while at the same time being wary of promoting transitional justice as an overly expansive concept;
- Builds on the successful trickle-down effects of the UN policy which combines the following elements: the simplicity of the definition, high level commitments, and variety of products which have been disseminated;
- Develops the institutional reform component of transitional justice beyond vetting;
- Frames its transitional justice work in relation to other initiatives in security sector reform (SSR), disarmament, demobilization and reintegration (DDR), human rights, judicial reform, peacebuilding and other policy interventions;

- Develops the policy in line with the 'whole of government' approach and considers establishing a task force that brings together representatives from the various EU institutions (EEAS and EC) to ensure implementation of the policy across the EU;
- Ensures that the responsibility for the implementation of the policy does not rest solely with a policy department but also involves operational departments;
- Supports national processes, the development of national strategies and local leadership;
- Avoids the depoliticisation of transitional justice which privileges the technical over the political, the general over the particular and the international over the local;
- Recommends that discussions on transitional justice occur early in a transition, while recognizing the necessary incrementality of processes;
- Links efforts to address the past with prevention of new abuses/ recurrence.

3. From Policy to Practice: roles international and national civil society can play in shaping, participating in and monitoring implementation.

Participants recommend that the EU:

- Explains in the policy why transitional justice is important and what the measures of success are to support EU officials working on transitional justice;
- Seizes opportunities after transition for long-term consultations to design transitional justice approach;
- Supports initiatives through long-term funding aimed at supporting processes, not just the initial effort;
- Clarifies the definition of victim-centered or survivor-centered approach, given the blurred distinction in some contexts between victims and perpetrators over time;
- Addresses the possible complicity of the EU caused by working with and in countries while human rights violations were being committed which may affect the credibility of the EU as a transitional justice actor;
- Recognizes the unique character of each country's needs, time-frame, and approach in order to determine the most effective support;
- Utilizes the variety of EU instruments to support transitional justice and to ensure that opportunities for transitional justice are seized;
- Recognizes that civil society mirrors weaknesses and rifts in country as a whole; consultation with civil society should happen alongside that with government and needs to go beyond civil society based in capitals;
- Refrains from overburdening survivor groups and civil society: empowerment is important but to advance reform, a robust dialogue with the government is needed;
- Pursues small-scale truth-telling, as national efforts may not succeed in all cases;
- Explicitly includes women's perspectives and assesses the different impacts transitional justice measures have on men and women when designing processes.

4. Final

Participants recommend that the EU:

- Sees its role as facilitating transitional justice processes and upholding fundamental principles;
- Promotes consistent standards while supporting creative and locally-led approaches;
- Links its efforts regarding prosecutions and other procedures to initiatives supported by EU Member States;
- Acknowledges the relation between peacebuilding, development and justice and includes a commitment in the policy to work across these policy areas in support of transitional justice;
- Supports a holistic approach that incorporates any number of a range of transitional justice instruments as appropriate to the specific country context;
- Supports documentation and historical archives as essential components of all other transitional justice mechanisms building on the experience and expertise inside the EU.