

DO'S AND DON'TS



for EEAS, EU delegations
and Member State embassy
public statements or letters
on **human rights defenders**

WHO IS A HUMAN RIGHTS DEFENDER ?

To be a human rights defender, a person can act to address any human right (or rights) on behalf of individuals or groups. Human rights defenders defend the universality of human rights as laid out in the Universal Declaration of Human Rights¹, seeking the promotion and protection of civil and political rights as well as the promotion, protection and realization of economic, social and cultural rights. The actions taken by human rights defenders are always non-violent

AHEAD OF A TRIAL OR IN CASE OF OTHER TYPES OF ILLEGITIMATE ACTIONS AGAINST HRDS (harassment, threats, imprisonment, intimidation, physical assault, killings, etc.)

DO

- ✓ **Seek the informed consent** of the HRD about the aspects of the statement that concern them to minimise the security risk to them and ensure they support the calls included in the statement. If this is not possible, seek the informed consent of their representative, such as a lawyer or family member;
- ✓ **Describe the individual as a human rights defender (HRD)**: openly recognising them as such helps legitimise their work and can increase their protection; it further raises the issue of the state's obligation to protect them under the UN Declaration on HRDs;
- ✓ **Refer to relevant wording** within the UN Declaration on HRDs² as well as the EU Guidelines on HRDs in the statement;
- ✓ **Consult international or regional sources** that assess the legitimacy of the actions taken against the HRD (ICCPR commitments, UN Working Group on Arbitrary Detention, Council of Europe, African Commission on Human and People's Rights, Inter-American Commission on Human Rights, etc.) and cite them in the statement in order to increase its weight and legitimacy;
- ✓ **Explicitly point out the connection between the actions taken** (arrest, judicial action, harassment, intimidation, etc.) to the HRD's legitimate human rights work;
- ✓ **Ask for the immediate and unconditional release of the defender and the dropping of all charges** in case of arrest or detention; take advantage of your appeal to ask for the liberation of other HRDs;
- ✓ **Call for the violations against the HRD to cease** and use the opportunity of your appeal to call for the state to ensure that similar actions against other HRDs (only name them if you have their informed consent) cease as well;
- ✓ **Highlight the links between the individual case and the wider trends of HRD harassment** and denounce this trend; infer what the repercussions of this case could be on the wider human rights situation (silencing of other HRDs, the shrinking of civil society space, etc.); urge the government to repeal any harmful legislation restricting HRD work (freedom of association, expression, NGO financing...);
- ✓ **Imply what the repercussions of the case could be** on the international standing of the country and on relations with the EU and the Member State(s);
- ✓ **Ask for specific actions from the authorities**: ensuring the HRD's safety, an end to harassment, their release from detention, permission for the international community to visit them in detention, access to lawyers, medical care, etc;
- ✓ **Call for the adoption of policies, or to implement fully existing legislation** (if present) **for the protection of defenders**, including precautionary measures, and in pretrial detention, the respect of international Standard Minimum Rules for the Treatment of Prisoners;
- ✓ **Always issue a condemnation in the strongest possible terms in case of an HRD's killing**; call for an immediate investigation, protection of witnesses, the HRD's friends and colleagues, the implementation of necessary measures to prevent the recurrence of an HRD killing, and the guarantee for all HRDs in the country to carry out their legitimate human rights activities without fear of reprisals and free of all restrictions.

¹ <http://www.un.org/en/universal-declaration-human-rights/>

² The Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.

DO NOT

- ❖ Make vague or apologetic statements about raising the case and your concerns: states commit themselves to international scrutiny when ratifying international human rights agreements;
- ❖ Simply state your concern without calling for specific actions.

DO say

EXAMPLES OF BEST PRACTICE

- ✓ 'I urge your government to fulfil its obligations under international law and release all HRDs who have been arbitrarily detained in violation of their fundamental rights'
- ✓ 'We condemn the use of administrative detention by the authorities as an instrument aimed at creating pressure, fear and uncertainty'
- ✓ 'The detention of human rights defender [insert name of HRD] resulted directly from his/her exercise of [insert human right e.g. free expression or sexual and reproductive rights]'
- ✓ '[Such actions] curtail the exercise of freedom of expression and of assembly in country X. We therefore call on country X to honour its international human rights obligations.'
- ✓ 'We condemn in the strongest terms the killing of X, renowned human rights defender. We call for the swift reaction of the authorities to thoroughly investigate this murder and bring to justice those responsible. This crime cannot go unpunished.'
- ✓ 'We urge the government to guarantee by all means possible the protection of human rights defenders who legitimately defend the rights of their communities through peaceful means.'

WHEN AN HRD IS STANDING TRIAL

All of the above +

DO

- ✓ **Call for the trial to meet fair trial standards³**; mention that an official from the EU delegation, preferably from the highest level intends to **monitor it in person**;
- ✓ **Mention if there is clear evidence that the judiciary is not independent** or if there have been flaws in previous similar prosecutions (flawed trials, trumped-up charges, excessive sentences, etc.) that lead you to doubt the fairness of the trial;
- ✓ **Denounce laws or practices that criminalise legitimate human rights work** and are used to unfairly charge HRDs and ask for them to be repealed.

DO NOT

- ❖ Say that you will await the outcome of the legal process in countries where the judiciary is not independent, or where the legislation is flawed, without making reference to fair trial standards;
- ❖ Simply ask for national laws to be respected or ask for the sentence to be proportionate to the scale of the crime if the legislation on which charges are brought is known to fall short of international standards.

DO say

EXAMPLES OF BEST AND BAD PRACTICE

- ✓ 'The overly broad offences established by law X constitute an unjustified restriction on expression rights and on fair trial rights'.
- ✓ 'We call on you to ensure that the HRD, X, has full access to the assistance of legal counsel and that the proceedings related to this case are open to the public, the media, and members of the diplomatic community'.

DO NOT say

- ❖ 'La Délégation reste attentive à la poursuite de la procédure engagée et se veut convaincue qu'elle aboutira à un jugement juste et équitable.'

³ You can consult the reports of the [UN Special Rapporteur on the Independence of Judges and Lawyers](#), the [Amnesty International Fair Trial Manual](#), [Universal Periodic Review](#) recommendations, etc.

IF AN HRD IS CONVICTED IN AN UNFAIR TRIAL

All of the above +

DO

- ✓ **Describe the outcomes of your trial observations and enumerate the flaws of the trial**⁴ citing international and regional sources to reinforce your argument;
- ✓ **Appeal to the authorities to re-examine the case**; mention the rights of the HRD that have been violated and the state's international obligations; consult with the HRD and local civil society representatives for other case-specific calls – the HRD may not want you to appeal for a pardon on their behalf.

DO NOT

- ❖ Mention compassion, dignity or humanitarian concerns as the sole reasons for releasing an imprisoned HRD; only call for compassionate release if there is no other recourse for an HRD being liberated, and you have their explicit consent.

EXAMPLES OF BEST AND BAD PRACTICE

DO say

- ✓ 'While your office has asserted that the prosecution of these individuals is unrelated to their work as journalists, independent inquiries have found that this is not the case. For example, the United Nations Working Group on Arbitrary Detention held that the imprisonment of X, violated your country's obligations under international law, and requested his immediate release.'
- ✓ 'The EU condemns the life sentence for alleged "charge Z" handed out today to HRD X, which is completely unjustified. The EU deplors that the due process of law was not respected, in particular with regard to the right to a proper defence. We call for his immediate and unconditional release as well as the release of all his supporters detained in relation to his case.'

DO NOT say

- ❖ 'La Délégation de l'Union européenne ... souhaite que tout puisse être mis en œuvre pour que sa situation soit traitée avec humanisme et dans le respect des règles et procédures énoncées par les lois du pays X... Dans l'attente du prochain jugement...'
- ❖ '(l'UE) se félicite que la justice, dans le respect des lois et des engagements internationaux du pays X, ait fait prévaloir les principes d'humanité et de dignité dues aux personnes'.

IF AN HRD IS RELEASED

All of the above +

DO

- ✓ **Mention what remains to be done**: free other HRDs (only name them if you have their informed consent), amend legislation, reform the judiciary, end impunity, etc.
- ✓ **Highlight and express concern if the release is conditional upon restrictions** such as house arrest, ban on performing human rights work, loss of previously held positions (ex. teacher, public servant), etc.
- ✓ Call on the government to **guarantee in all circumstances** that all human rights defenders in country X are able to carry out their legitimate human rights activities without fear of reprisals and free of all restrictions.

EXAMPLES OF BEST PRACTICE

DO say

- ✓ 'We welcome the release of human rights defender X after almost X years of imprisonment motivated directly by their legitimate and peaceful human rights work. This should be followed without delay by the release of all the remaining detained human rights defenders and the reinstatement of their full civil and political rights.'
- ✓ 'We call on the government to guarantee in all circumstances that all human rights defenders in country X are able to carry out their legitimate human rights activities without fear of reprisals and free of all restrictions.'

⁴ As above

All of the above +

DO

- ✓ **Reference** the General Assembly resolution 68/181 of 18 December 2013, focusing specifically on women human rights defenders;
- ✓ **Acknowledge** women defenders are more at risk of certain forms of violence (including gender-based violence) and restrictions, and are more vulnerable to prejudices, exclusion and public repudiation by state forces and social actors especially when engaged in the defence of women's rights; when they are perceived to defy cultural norms and social constructs on gender, sexuality and femininity; or when they challenge social structures vested in economic interest or traditional practices;
- ✓ **Express** particular concern about systemic and structural discrimination and violence faced by women human rights defenders of all ages, and call upon the government to take all measures necessary to ensure their protection and to integrate a gender perspective into their efforts to create a safe and enabling environment for the defence of human rights;
- ✓ **Emphasize** the need for the participation of women human rights defenders in the development of effective policies and programmes related to their protection, recognizing their independence and expertise with regard to their own needs, and the need to create and strengthen mechanisms for consultation and dialogue with women human rights defenders.

DO NOT

- ❖ **Ignore or perpetuate** gender stereotypes, which stop women and girls from fully exercising their rights, and allow customs, traditions or religion to be used to justify discrimination or harmful practices which contravene international human rights standards.

EXAMPLES OF BEST PRACTICE

DO say

- ✓ 'The killing of Ms. X is a tragic reminder of dangers women face from the lack of justice in country Y.'

In all of these cases ensure that both EU and Member States also relay the message (i.e. do not rely only on EU) and take concerted action on the case of the HRD.

The Human Rights and Democracy Network (HRDN) is an informal grouping of NGOs operating at the EU level in the broader areas of human rights, democracy and peace.

HRDN's vision is that human rights and democracy are placed at the heart of the EU's internal and external policy agenda. This vision should manifest itself in an EU which effectively protects human rights at home and is a force for positive change in the world.

In pursuit of this vision, HRDN aims to influence EU and EU Member States' human rights policies and the programming of their funding instruments to promote democracy, human rights and peace.

<http://www.stand4humanrightsdefenders.eu>

<http://www.hrdn.eu/>

HRDN campaign Stand for HRDs



Defending the international interests of the EU and its member states cannot be dissociated from the defence of human rights in the world. Authoritarian governments are investing huge efforts and resources to close down, silence, restrict and discredit human rights defenders and independent civil society critical of government policies. This is a crucial political moment. We need a more consistent and credible political response from governments active in the defence of democracy and human rights, who must give the same priority and resources to enabling space that autocrats give to closing it down. The EU has made the protection of human rights defenders at risk one of its key priorities. It must renew and reinvigorate this commitment with: more high profile political leadership, a consistent strategy that integrates a serious priority for the protection of human rights defenders across a number of policy areas, and sustained practical support to those under attack on the front line.

<http://www.stand4humanrightsdefenders.eu>

<http://www.hrdn.eu/>