



Recommendations on the EU development cooperation with Guatemala in view of the visit to Guatemala of Jolita Butkeviciene, Director, Latin America and Caribbean, DG Development and Cooperation

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1. Impunity

High rates of violence and impunity in the country continued to be linked to the generalized weakness of public institutions and the lack of a comprehensive State policy to combat them. Investigations carried out by the Attorney General, head of the Public Prosecutor's Office, with the support of the International Commission against Impunity in Guatemala (CICIG) continued to reveal the expansion of organized criminal networks. Although advances in the criminal investigation and prosecution in emblematic cases were notable, necessary reforms of the justice sector to overcome impunity remain unaccomplished.¹ Considering the important contribution of the EU in the field of justice and security, the following recommendations have been made.

Recommendations:

- Within the framework of the programmes on justice and security, continue the support to the General Attorneys office.
- Maintain a strong political and financial support to the CICIG in order to *inter alia* strengthen and consolidate the political will established in the General Attorneys office and the support of the Interior Ministry, ensuring the independence and the impartiality of the judges and magistrates in view of factual powers and other interests.
- Include in the EU development cooperation programs training for national human rights institutions and institutes for legal defence aimed at strengthening the judicial system. In particular, improve training programs on economic, social and cultural rights for members of the judiciary and law enforcement officials
- Designate sufficient resources to monitor the proper and fair application of justice, ensuring respect for the presumption of innocence and the right to a fair trial before the competent authority;
- Strengthen the possibilities of supporting local lawyers' initiatives in cases in which legal advice and support to criminalized human rights defenders is needed.

2. Human Rights Defenders

¹ Annual report of the OHCHR for Guatemala 2012, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A.HRC.19.21.Add.1_en.pdf

Human rights defenders, including journalists and trade unionists, continued to be threatened, harassed, attacked and increasingly criminalized. Local organizations has documented 402 incidents in 2012 (as states Amnesty International 2012 annual report) and growing trend of criminalisation of human rights defence. In light of Article 6 of the Treaty of Lisbon of the EU; as well as the principle of the coherence of EU policies and international instruments ratified by the EU Member States and Latin American States, we believe that these growing trends and issues deserve priority attention by the EU, because they undermine the role of human rights defenders in the consolidation and protection of the Rule of Law and the strengthening of democracy.

Recommendations:

- Provide financial support to promote the implementation of the EU guidelines for human rights defenders including support to the work of organizations and persons defending economic, social and cultural rights such as peasants and indigenous peoples; especially in the rural regions where there are ongoing or planned investment projects.
- Dedicate efforts to strengthen the government office designed for the analysis of attacks against human rights defenders.
- Support the implementation of existing recommendations related to the criminalization of human rights defenders such as those issued by: i) the Inter-American Human Rights System; ii) Special Mechanisms of the United Nations (Committees and Rapporteurs) and iii) the United Nations Human Rights Council under the Universal Periodic Review.

3. Strengthen EU development cooperation to support the struggle to end violence against women/femicide in Guatemala

In relation to violence perpetrated against women, murder and in particular femicide are on the increase and have triggered international alert. According to the High Commissioner, in 2009 the NCP recorded 720 violent deaths of women. It also noted the appearance of bodies with obvious signs of mutilation, sexual violence and other forms of abuse which demonstrate that the victim was attacked because of their gender. Of the 30,873 complaints of violence against women registered in 2009, only 0.7% of cases went to trial, and only

The *Law against Femicide and other forms of violence against women* constitutes a significant advance in terms of justice for women in Guatemala. Nevertheless, the lack of continuity and coordination of public policies, the prevalence of impunity and the lack of an efficient response on the part of the justice system, allows the perpetuation of structural violence against women.

Recommendations:

- In a timely and appropriate manner, inform and consult civil society organizations on the Development of the new country strategy papers and the EU human rights strategies, Incorporating as a priority the fight against violence against women.
- Promote coordinated and complementary action between the EU and its Member States, in order to fight violence against women, and to ensure continuity and consistency with political dialogue and human rights dialogue.

- Pay special attention to the inclusion of the issue of violence against women in all existing funding instruments, particularly those which support civil society, such as the European Instrument for Democracy and Human Rights, in order to: a) seek access to justice for victims, and the appropriate legal assistance, b) ensure the protection of witnesses and, c) support psychological support for victims and their families, and social reintegration, d) support awareness campaigns, and training on this issue; and

In particular consider:

- Strengthen CONAPREVI's strategic plan, the implementation of PLANOVI and its comprehensive action plan for the prevention and eradication of violence against women,
- Support the creation and strengthening of CAIMUS,
- Support the development of harmonious and complementary coordination between different national and local public entities that deal with the issue.

4. Rights of Indigenous peoples

Considering article 45 on indigenous peoples and other ethnic groups; of the cooperation pillar of the Association Agreement ratified by the European Parliament, which states that:

“Special attention should be paid to poverty reduction, and to the fight against inequality, exclusion and discrimination. Relevant international documents and instruments addressing the rights of indigenous peoples such United Nations Resolution 59/174 on the Second Decade of the World's Indigenous Peoples, and, as ratified, the International Labour Organization 169 Convention concerning Indigenous And Tribal Peoples in Independent Countries should guide the development of cooperation activities, in line with the national and international obligations of the Parties.”

Considering that the CSP 2007-2013 for Guatemala included the support for indigenous peoples as a priority and as specific beneficiaries in the two priorities established for the national Indicative program 2011-2012; 1) Social cohesion and human security and 2) economic development and trade.

Recommendations:

- To **include** representative organisations of indigenous peoples from in the construction of the new *Country Strategy Papers 2014-2020*, in order to include the collective rights of indigenous peoples, particularly the right to prior consultation, in line with the articles of the UN Declaration on the Rights of Indigenous Peoples (2007).
- **Promote** within its programming, concrete actions in relation to the respect of *the right of indigenous peoples to choose their own models of development, which includes the right to oppose projects* which affect their way of life, biodiversity and the environment and which increase their vulnerability to natural disasters and social conflict;²
- Within the EU's support to the judicial system, **ensure** a follow up on legislative initiatives regulating consultations, when the creation of such initiatives includes the active participation and support of those indigenous peoples who will be subject to the proposed regulations, and when these respect international conventions, the Constitution of the Republic and the Agreement on Identity and Rights of Indigenous Peoples.

² Resolution of the Development Council of 30 November 1998 regarding indigenous peoples within the framework of development cooperation of the Community and Member States,

4. Right to Food

The prolonged food crisis continues to wreak severe havoc in Guatemala, and international indicators on prices of food and fuel as well as figures from the Secretary for Food and Nutritional Security (SESAN), suggest an increase in cases of acute malnutrition. The severity of the food crisis affects people unequally and is determined by factors such as ethnicity and the education level of mothers. This shows the persistence of tendencies perpetuating discrimination and social exclusion, as well as the violations of the right to food, health, land, water and labour rights.

The State continues to make significant efforts to alleviate the situation of malnutrition, for example via the National Food Safety and Nutrition (SINASAN), but these efforts have not been duly accompanied by changes in structural policies that address the causes of poverty and famine in the country. This is the case regarding policies for agriculture and rural development which are not allocated sufficient funds. Land conflicts have multiplied. The level of forced evictions has continued, as well as the expansion of biofuel production and the implementation of mega-projects which have serious and proven impacts on the right to food.

Recommendations:

- Ensure that all development cooperation programmes, and in particular the budget support on food security, tackle the root causes of hunger and poverty in the country from a human rights approach, particularly the right to food. Continue prioritizing this approach in the new definition of the Development Cooperation for Guatemala 2014 - 2020.
- Ensure that all the necessary measures are taken to implement the EU budget support program to the National Strategy for Food Security and Nutrition, encourage greater coordination between government agencies working on the issue of food security, and ensure the creation and implementation of monitoring mechanisms with increased participation from civil society.
- Include in future cooperation policies, budget lines for the promotion of small-scale agriculture for small farming communities, Afro-descendants and indigenous peoples.
- Support the implementation of the Integral Rural Development Law (Law once approved by the Guatemalan congress).
- Include the support of national implementation of the Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests, and the Global Strategic Framework for Food Security and Nutrition, both approved by the Committee on World Food Security in 2012.

Ensure consultation with and participation of civil society in the entire project management cycle, including programming, identification, formulation and evaluation.
