



REPORT ON EUROPEAN UNION SECURITY AND JUSTICE COOPERATION PROGRAMMES IN GUATEMALA AND HONDURAS

EXECUTIVE SUMMARY

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Analysis of the 2007-2013 eu programmes on Justice
and Security in Guatemala and Honduras and their
contributions to the Independence of the Judiciary, the
fight against impunity and access to Justice for Women

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Executive summary

This report is commissioned by HIVOS, ACT ALLIANCE EU (previously APRODEV) and CIFCA, and addressing European Union cooperation programmes for 2007-2013 which support the strengthening of the justice and security system in Guatemala and Honduras, placing special emphasis on the fight against impunity, strengthening the independence of the justice system and helping women access the justice system. In terms of timescale and scope, the study examines the Programme for Security and Justice in Guatemala (SEJUST) as well as the Honduran programmes Support for the Security Sector (PASS) and Support for Human Rights (PADH).

The report was put together following document research and was based on the perceptions and assessments of key actors. Official EU documents on the programmes that were accessible were used as well as official documents from governments, reports from individuals and related press releases. 51 people were interviewed, 24 of whom in Guatemala¹ and 27 of whom in Honduras². Those interviewed were linked to or involved in the programmes: members of staff of recipient institutions, EU staff, and individuals from the Management Units, International Technical Support and civil society.

The aim of **SEJUST** in Guatemala is to support the implementation of country policies which seek to promote and consolidate the structural reform process of the Security and Justice Sector and to contribute to reducing the high rates of impunity. It runs over a period of 66 months and benefits from a European Union contribution of €20,000,000 as well as two million contributed by the Guatemalan government. The highest national authorities in charge of justice and security in Guatemala are participants: the Judicial Body, the Institute of Public Criminal Defense, the Public Ministry, the National Institute for Forensic Sciences, the Ministry of Interior, the National Police, the Unit for Community Prevention of Violence and the Presidential Secretariat of Social Welfare. The programme began in 2012 under the government of Álvaro Colom.

PASS was set up in order to strengthen the institutions of the security and justice sector in Honduras and involves the main stakeholders in this field: the Secretary for Security, the Supreme Court of Justice and the Public Prosecution Service. The original timescale for carrying out the programme was set for 66 months, starting from the signing of the Financing Agreement, which outlined that the activities would be implemented from 3 July 2008, with €44,000,000 of funding. The termination date of the programme was extended until September 2015 through an addendum. Nevertheless, the programme came to an end early in December 2014. PASS was mainly centred on the police force and the Public Prosecution Service, with a view to

¹ Interviews in Guatemala were carried out from 24 to 28 August 2015.

² Interviews in Guatemala were carried out from 24 to 28 August 2015.

improving investigation techniques and procedures, however it was considered too ambitious and its outcomes were not suited to the reality in Honduras, above all because links between the institutions would have been necessary for correct implementation and the political context, above all during and after the coup d'état, did not allow this. The programme was brought in to a backdrop of damaged institutions, a lack of respect for human rights and the lack of political will on the part of the government in bringing in reforms to the justice system and police force.

Regarding the **PADH** programme, its main aim is to support the institutions of the government of Honduras in guaranteeing respect for human rights. It was signed in 2012 for a period of 4 years. It has €5,000,000 of funding provided by the European Union with an additional contribution of €500,000 from the government of Honduras. The recipient institutions are the Ministry of Justice and Human Rights, the Special Prosecutor for Human Rights at the Public Prosecution Service and the National Committee for Prevention of Torture and Other Cruel, Inhumane or Degrading Treatment (CONAPREV). The programme will aim to pay special attention to addressing the problem of vulnerable groups (the LGTBI community, women, children and adolescents, the disabled, the elderly, indigenous and afro-descendant groups, HIV-AIDS sufferers and human rights defenders among others). Currently, there is a concern over the under implementation of PADH, since only 24% of its budget had been used by 2014, leaving €3.8 million still available for carrying out programme activities, in accordance with the original agreement. This could mean that in the last 2 years of the programme excessive pressure would accumulate to comply with the commitments made. Some representatives of recipient institutions have claimed that PADH is a programme that distributes funds between three institutions without a coordination strategy. There has been no agenda for human rights that involves joint action, but rather each institution has led its own activities, some of them doubling up on work previously done. There has been no holistic approach to actions in the field of human rights. Furthermore, there have been changes to government structure: the Ministry for Justice and Human Rights has become part of the Ministry for Human Rights, Justice, Internal Affairs and Decentralisation. This change means that some of the commitments planned in the programme did not come into effect and were replaced by others.

SEJUST, PASS and PADH were designed under one government and implemented under another, resulting in changes in hierarchy and recipient institutions staff which meant that a renegotiation of the programme was necessary. Furthermore, there have been changes in programme administration, international technical assistance staff and at the EU and all of this has resulted in a change in direction regarding focus and priorities as well as causing administrative and financial problems, a delay in paying out funding and other issues. Another hindrance common to all 3 programmes has been the lack of activity on behalf of the Steering Committee. The result of this is that inter-institutional coordination was not at the forefront of the programmes. The programmes were also characterised by little or no coordination with other programmes dealing with similar topics and few links being drawn up with civil society organisations with similar strategies. This has prevented the sector from following up on the government commitments made in the agreements and nor has it been possible to measure the impact of EU cooperation. What's more, a lack of awareness of the programmes within these organisations prevented them linking their efforts with those of the programme itself with a view to creating areas of complementarity and greater effectiveness.

Contributions from programmes in improving the independence of the justice system, the fight against impunity and women's access to justice: in order to contribute to the fight against impunity, SEJUST led the implementation of a new organisational model within the public prosecution service which takes into account all of the unique aspects of the public prosecutor, its staff and also the characteristics of local crime. This led to a rise in the number of indictments, alternative punishments and sentences issued. Furthermore, the support provided by the programme to the CICIG has had an incredible impact, leading to the approval of significant legal reforms led by the CICIG and greater investigation into high-impact cases. The services of high-risk legal bodies within the judiciary have been optimised, interventions in trials have been

made in order to reduce delays in the dispensation of justice and Criminal Law Management Administration Centres have been set up, among other measures. The programme has not achieved effective political dialogue with the aim of following up on and implementing the recommendations from these and other studies despite interventions which have sought to strengthen the independence of the justice system with a view to separating administrative activities from legal ones and despite restructuring disciplinary authorities.

In the area of women's access to justice, SEJUST evaluated the success of the call centre and system for reporting cases of violence against women. The public prosecution service supported the model of holistic support for women. SEJUST funding was used for the Guatemalan Institute of Public Legal Defence (IDPP) to draft the protocol of Action for Care for Female Victims of Violence in its different forms. Similarly, the IDPP supports the System of Holistic Care (SAI) which is used in Femicide Courts, thus providing tools to strengthen access to justice for women who are victims through crisis management techniques, active listening, self-care and other means.

Although these contributions are of great value, there are significant shortcomings when it comes to the implementation of the law against femicide, criminal investigations and professional psychological care for female victims. There is also discrimination, a lack of awareness and it is common for women to fall victim a second time. Currently, SEJUST is getting behind a model which would unify SAI with the Model for Holistic Care (MAI) which operates within the Public Prosecution Service and the care model used by the IDPP. This unique model could be integrated into the new rotor courts that will be set up thanks to the programme.

Broadly speaking, in Honduras the main achievement of EU cooperation through PASS has been the contribution towards creating a national police force for the Security and Justice Sector. PADH served to design and implement the Public Policy for Human Rights and its National Plan of Action for 2013-2022, while also helping to create the draft law for human rights defenders.

It is important to point out that PAS provided key support in the area of human smuggling and strengthened human resources for the security and justice sector through courses, training and workshops for Justice staff (prosecutors, judges, legal aid lawyers, attorneys, police officers and others). It provided specialised teams to the Forensic Medicine Service of the Public Prosecution Service, the Ministry for Security and the National Police Force. A basic criminal investigation course can be highlighted as a key contribution in the fight against impunity, addressed to those at the Police Force Directorate for Investigation and Evaluation (DIECP), along with other activities which seek to create specialised technical studies for criminal investigations and other activities relevant to building capacity. It could be said that PASS has brought about improvements in resources for equipment, training and technical issues for justice operators (including police officers, prosecutors and judges), and this should have an impact on the fight against impunity in Honduras.

Nevertheless, given the incredibly high rates of crime and impunity in Honduras and the ineffective response of institutions in charge of security and justice, it is believed that initiatives such as PASS have only achieved minor improvements without having an impact on the day-to-day practices of institutions.

In the case of PADH, the support provided by this programme to the Special Prosecutor for Human Rights (FEDH) had the aim of strengthening this body while also organising and managing its actions. For this reason it was provided with internal regulations which would allow it to set up specialised units such as the unit for speeding up investigation into cases of violations of human rights that had occurred in the 1980s, the unit for human rights defenders and the unit for agrarian crimes. The early alert unit was also set up thus allowing for almost immediate intervention in the case of human rights conflicts. In addition to this, PADH will pay for 10 prosecutor assistance for the period of a year and will look after their training, thus allowing the goal to be reached of documenting and bringing to trial 10 key cases. Nevertheless,

the authorisation for hiring these assistants is still being processed and their training contract will be under the Universidad para la Paz (University for Peace).

PASS and PADH were not designed to contribute to the independence of the judiciary and women's access to justice but were designed for the fight against impunity. It is however important to acknowledge the fact that PASS made a significant contribution to approving the law of the Judiciary Council which separates the administrative judicial functions from the CSJ, a key element in fostering the independence of the judiciary. As for gender, the SDHJGD was designed as a strategy to guarantee human rights for women and gender equality in Honduras. It includes a strategy for advocating for the approval of the optional protocol of CEDAW and United Nations Resolution 1325 and a strategy for strengthening the powers of the National Women's Institute in its role of providing guidance to the government on policies for Gender Equality and Equity.

Despite PADH efforts, the current government, similarly to the previous one, has been strongly criticised by civil society for falling behind on the topic of citizen security and showing an ongoing lack of respect for human rights. The government is accused of weakening institutions that have the aim of promoting and defending human rights, particularly as a result of the fact that it transformed the Ministry for Justice and Human Rights into the Ministry for human rights, Justice, Internal Affairs and Decentralisation.



Credits: Aron Lindblom.

Representatives of the Indigenous Mayoralty of the Ixil region and human rights organizations in Santa María Nebaj, Ixil region, commemorate the second anniversary of the sentence for genocide and crimes against humanity against former dictator José Efraín Ríos Montt.

Conclusions

1. SEJUST, PASS and PADH are considerable initiatives in the EU's commitment to promoting security and justice in Guatemala and Honduras. The thinking behind these programmes was to bring about a transformation in the security and justice sector and to promote respect for human rights, supporting public policy to consolidate structural reform processes in these fields.
2. The thematic axes prioritised by HIVOS, ACT ALLIANCE EU (previously APRODEV) and CIFCA were impunity, women's access to justice and the independence of the judiciary and these were identified as important topics for Central American civil society. Nevertheless, these priorities have not necessarily been key axes in the EU programmes in Honduras and Guatemala, and this is particularly true of PASS, PADH and SEJUST. What can be seen is that the outcomes of the programmes and activities organised have placed a direct focus on the fight against impunity. Regarding the other two topics, although they were not priorities within the programmes, significant interventions were indeed made and important outcomes achieved especially regarding women's access to justice. As for the independence of the judiciary, significantly less progress was made and in addition to the actions in the programmes, strong political dialogue is needed among the stakeholders involved, including the EU.
3. The programmes were designed and implemented at different moments in time under different governments, in different contexts and under different circumstances and did not prove sufficiently flexible so as to adapt to change and this brought about a disconnect in implementation and maximising outcomes and impact. Furthermore, the lack of political will on behalf of government in making the most of EU cooperation substantially reduced the capacity for these programmes to have an impact. To a large degree, the programmes were reduced to conventional cooperation activities such as training, capacity building and providing equipment.
4. The scope of the programmes is centred on specialised technical support which is or was provided to the institutions involved as well as justice operators in order to improve their capacities at a different level. It was to be hoped that this would have an impact on strengthening institutions and in improving the efficiency and effectiveness of the justice and security services, this being an ongoing request from citizens.
5. In the case of SEJUST, support provided to CICIG represented a significant contribution to fighting impunity in Guatemala given that transferring powers to the Public Prosecution Service was the right choice. Clearly, the alliance between the Public Prosecution Service and the CICIG has been successful.

6. The few interventions made by the programmes on the issues of the independence of the judiciary and women's access to justice were timely and beneficial but have not had a lasting impact and are unlikely to have an impact in the future.
7. The bodies in charge of the programmes, within which the recipient institutions have some participation, have not fulfilled their role in political decision-making and nor have they had an impact on programme and into institutional coordination; nor have they brought about the adoption of the programmes by the institutions in question, thus depriving these institutions of the benefits of the programmes.
8. The programmes have lacked a fluid internal communication strategy among the different bodies taking part, particularly: the EU, the Steering Committee, the Managing Unit, ATI and recipient institutions. There has also been a lack of clarity in the mandates of each of these bodies, thus causing friction and bringing about a negative impact on implementation.
9. The SEJUST, PASS and PADH programmes were not linked up with other similar programmes that shared common goals. This goes against the Declaration of Paris on Improving the Effectiveness of Development Aid (2005) and the Accra action plan (2008), both of which promote harmonisation in order to work in cooperation, linking up efforts in a coordinated manner. There have even been divisions arising among the different EU programmes. What's more, given poor team management, a lack of political will, changes in government and changing circumstances, the programmes did not manage to act in accordance with one strategic focus based on results, which is why they were unable to go beyond simply organising workshops in order to have an impact on processes.
10. The initiatives that came into being through PASS should be taken up by EuroJusticia in order for them to be implemented, such as the reconciliation centres, the digital records and flagrancy trials, among others.
11. With the exception of subsidies that were part of PASS, civil society organisations have been absent from the programmes both with regards the linking up of complementary actions and with regards close monitoring on steps being achieved towards reaching aims, outcomes and goals.



Credits: Aron Lindblom.

Families, persons affected and members of social organizations in the former military detachment in San Juan Cotzal, Ixil region which operated as a clandestine cemetery, commemorate victims of the genocide.

Recommendations

Regarding prioritised thematic axes, the following is recommended:

1. In politic dialogue matter

- i. That the EU maintain greater political dialogue with states and beneficiary institutions surrounding the strategic lines of programmes, validating its commitment.
- ii. Greater consistency and fluidity in political dialogue between the EU and the Steering Committee of the Programmes in question. In turn, the Programme Steering Committee must effectively fulfil its role and carry out high-level dialogue.
- iii. The programme administrator must maintain political dialogue with the Steering Committee, with the EU, with beneficiary institutions and with other government bodies related to the programmes.

2. Areas of focus that guarantee respect for human rights

- i. That the EU centre its actions on a methodology based on the theory of change, which includes reflections on the way in which its programmes envisage planned activities promoting change and positive steps forward in the field of human rights.
- ii. That management be based on results, focused on bringing about change and obtaining concrete outcomes.
- iii. That it be embedded within a focus centred on human rights in order to guarantee that EU cooperation strengthens states, thus helping them to meet their human rights obligations.
- iv. That an interculturality focus be integrated as an essential component of the programmes, in such a way that they are directed towards bringing cultures together on the basis of acknowledging diversity and introducing a national and international legal framework that sets these individual and collective differences as rights, particularly in countries such as Guatemala and Honduras where the indigenous population suffers severely from discrimination³.

3 This focus is of special importance regarding programs that seek to bring about change in the relations between right holders and the state, population groups that are more vulnerable such as indigenous groups.

3. The gender perspective and how to make it a reality

- i. Women's rights should be expressly considered during the planning, the logical framework, the outcomes and the goals of the programmes.
- ii. Other examples of comprehensive attention should be considered with a view to creating a model which integrates SAI, MAI and the IDPP model in Guatemala.
- iii. Strategies to coordinate justice bodies should be considered so as to guarantee an effective implementation of the sectoral policy on interinstitutional coordination for improving the way in which cases of violence against women are treated in the Guatemalan justice system. This policy was signed in September 2014 by the Public Prosecution Service, the IDPP, the Ministry of the Interior and the National Commission for Follow-up and Support for the Strengthening of the Justice System.
- iv. Support should be provided for the setting up of legal infrastructure which is centred on creating new legal bodies specialised in femicide and other forms of violence against women and this should be coupled with support for the setting up of prosecution services for women within the Public Prosecution Service.
- v. Women's access to justice should not be solely focused on criminal law but should also account for family issues.
- vi. EU cooperation should expressly include Gender Units from the Supreme Court of Justice so as to strengthen their impact within justice administration.

4. Decision Making within Programmes

In order to improve the effectiveness of the work of the Steering Committee, it is recommended that:

- i. Its meetings are accounted for in the calendar of the yearly planning.
- ii. The calling up of the Committee be done by the EU in accordance with the approved timescale.
- iii. That a replacement be nominated in advance who has the capacity for moderated decision making and who would attend the meeting when the main nominee is unable to.
- iv. A sub-steering committee be created, made up of two technicians from each beneficiary institution who meeting up regularly in order to prepare topics to be addressed by the Steering Committee and apply flexibility to them.

5. The necessary coordination and links to be drawn up between beneficiary institutions

- i. Programmes should be more strategic on a political level in order for beneficiaries to put together strategies that have a strategic vision rather than limiting themselves to simply implementing the technical and budgetary aspects.
- ii. A common agenda should be created which includes shared, linked up and complementary action so as to ensure that the programmes are not only the sum of isolated activities.

- iii. Institutions should be provided with a panoramic overview of the whole programme and not just their own project in order to do away with duplicity and in order to optimise resources.
- iv. Meetings between the sub-steering committee, ATI and programme management should be promoted in order to provide closer follow-up on the processes and so as to coordinate actions among beneficiary institutions.
- v. Equality among beneficiary institutions should be a starting point so as to avoid tension and the mistaken view of some seeing themselves as being superior to others in order to lay the foundations of equality and institutional dialogue.
- vi. Programmes should be made more visible and transparent.
- vii. Links should be established between programmes, civil society organisations, other donors and programmes focused on similar topics in order to bring about complementary work and a complementary social outlook.
- viii. Operative spaces of interaction should be set up with civil society organisations with a view to consolidating consultations on important topics such as security, justice and human rights.
- ix. Improve linkages between EU programmes by promoting a coming together of programmes in order for lessons learnt and best practice to be shared, thus helping to improved budgetary and financial management while also improving programme implementation. A report on the systematisation of experiences would be a significant contribution to cooperation and would contribute for future EU programmes.

6. Adaptability and operability for changing circumstances and contexts

- i. Programme planning and implementation should coincide with the government currently in power. If this is not possible, a fragmented form of planning should be designed, so that one part of the programme is implemented with the government in power and the other part negotiated and agreed upon by the incoming government.
- ii. Programmes and policies that are similar in topic should be linked up with public policy acting as the central link.
- iii. Management models for programmes should be more agile, flexible and adaptable to the changes in circumstances.
- iv. Processes for bidding and hiring should be included in protocol and ratification by the right institution should take place so as to ensure certainty and agility in hiring for technical aspects and services.
- v. All short-term technical assistance required by each partner up until the end of the contract should have a timescale attributed to it and this timescale should be shared with beneficiary institutions.
- vi. A manual or protocol should be drawn up for selecting consultants and in order to review results, with the compulsory participation of the national authority.
- vii. A plan for transferring capacities with a view to strengthening institutions should be incorporated in order to achieve the sustainability of processes, as outlined by SEJUST regarding CICIG and the Public Prosecution Service.

7. Defining tasks

- i. A functions manual for each programme should be developed, which clearly defines responsibilities and which describes functions.
- ii. Provide the administrator or director with technical and programme functions in order to drive steps towards results being achieved, thus ensuring that the administrator or director has a technical reference role with the ATI.
- iii. An ad-hoc conflict resolution mechanism should be set up within the programme, with the participation of the EU and beneficiary bodies in order to raise awareness, take decisions and resolve the conflicts that may arise.
- iv. Certain stability should be guaranteed for staff hired for the programme and if dismissals are necessary, the process used should avoid arbitration where possible.

8. Programme follow-up

- i. An immediate mid-term reform process is to be used for SEJUST and PADH and a plan for implementing the recommendations put forward by this review should be prepared.
- ii. Follow-up and monitoring on planning should be used, focusing on highlighting the potential for the programmes to bring about change.
- iii. The sub-steering committee, along with the administrative group and the ATI should assess and raise awareness on the obstacles of the programme and its progress.
- iv. Mechanisms should be promoted that guarantee programme ownership on behalf of institutions.



Credits: Sean HAWKEY.

Police and army patrol the area in an attempt to restore peace to Chamelecón area, San Pedro Sula.



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