

Germany's input to the Secretary-General's assessment report on the use of the reports of the Special Rapporteur on Human Rights Defenders by the United Nations System and on support for states in strengthening their work with human rights defenders

Support for human rights defenders worldwide is a long-established element of Germany's foreign policy. We therefore greatly appreciate the work of the Special Rapporteur on Human Rights Defenders, Mr. Michel Forst.

Our work on and with human rights defenders is based on the **“The UN Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms”** as well as on the **EU Guidelines on Human Rights Defenders**. Our embassies play an important role in ensuring regular contact with and protection of human rights defenders worldwide.

Germany has developed tools and best practices on protecting human rights defenders. We have shared these best practices with the Special Rapporteur on Human Rights Defenders in 2016 and would therefore like to reference this document (attached) in order to respond to the questions relating to the Secretary-General's Assessment Report.

Germany welcomes the initiative to use the twentieth anniversary of the Declaration to raise awareness for the need to protect human rights defenders and is looking forward to the results of the Secretary-General's assessment report.

SECTION C

Please give a specific example of a law, policy, or administrative practice that you consider to be effective in the protection of human rights defenders.

The German government actively supports human rights defenders. Special attention is given to persons that are under imminent threat, have disappeared, have been convicted for their work promoting human rights or put in jail on the basis of an unfair trial or even without trial. The Chancellor, the Foreign Minister and other high-level political representatives as well as German Ambassadors and Embassy staff meet with human rights defenders and demonstrate support for their work. The German government on a regular basis raises individual cases of human rights defenders with foreign governments. Raising cases of human rights defenders is on the agenda of high-level visits, political dialogue and meetings with foreign leaders.

German diplomatic missions may formally bring individual cases or issues to the attention of the government in their host country and urge the government to take immediate action by way of a demarche. Demarches are often undertaken jointly with other EU member states.

If publicity is deemed helpful to the overall situation of human rights defenders in a country or individual cases, public statements by German government representatives can help put a focus on certain issues or cases. In other circumstances, addressing the issue behind closed doors can be more effective. Hence, it is a case-by-case decision which is often taken in consultation with the human rights defender or her/his relatives or contact persons.

Measures undertaken within the framework of German development cooperation aim to strengthen the capacity of civil society and their dialogue capacity with the government. Specific human rights programs strengthen human rights institutions such as National Human Rights Institutions and their regional networks as well as regional judicial human rights institutions in Africa and the Americas. These in turn work to protect and promote a safe and enabling environment for civil society and human rights defenders in particular.

Why is it particularly effective?

High-level attention or intervention on behalf of human rights defenders puts pressure and sends a clear signal on decision makers of the state authorities concerned. When paired with media attention these interventions can in certain cases bring authorities to deliberate whether the case of a human rights defender is paramount to the overall functioning of bilateral relations. This practice can add additional pressure. However, in other circumstances, diplomacy behind closed doors is deemed more effective.

Who are the actors involved in this practice?

High-level representatives of the German government or diplomatic staff in host countries are involved.

Under what conditions do you think this practice would be successful elsewhere?

Whether or not this practice is successful depends on a plethora of factors that must be weighed with regard to the interest of the human rights defender or the issue concerned.

Do you have suggestions of how this practice could be made more effective?

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Please give a specific example of a law, policy, or administrative practice that you consider to be effective in the protection of human rights defenders.

In 1998 the post of Federal Government Commissioner for Human Rights Policy and Humanitarian Aid at the Federal Foreign Office was established. The Commissioner is contact point for all issues relating to human rights policy and humanitarian aid. His or her brief includes following political developments in these areas and submitting proposals to the Federal Foreign Minister on German policy in this connection.

The Commissioner liaises closely with many other national, international and non-governmental institutions active in the area of human rights and humanitarian aid. He or she maintains regular contact with EU, OSCE, Council of Europe and UN bodies concerned with human rights protection or humanitarian aid issues. The Commissioner may head the German delegation during the meetings of the UN's Human Rights Council in Geneva.

In urgent cases the Commissioner will issue public statements on behalf of human rights defenders under imminent threat. He or she regularly meets with human rights defenders or NGOs from the field of human rights during his or her trips abroad and raises individual cases with state authorities.

Why is it particularly effective?

More than in any other policy area, human rights policy requires the active and ongoing participation of civil society. The Commissioner serves as a link between government, civil society and individual human rights defenders. Unlike the rest of the administration, who speak as formally defined officials, the Commissioner serves a double role: He or she holds a formally defined office, but also speaks as a person.

This is assured by the fact that the Commissioner is appointed in personal capacity and, while he or she has an office in the Foreign Ministry and uses Foreign Ministry infrastructure, is not subject to instructions and not part of the Foreign Ministry's hierarchy. Furthermore, he or she cannot give instructions to units or embassies. For his or her statements, the ministry can make suggestions and recommendations, but the final decision on how to go public is the Commissioner's, unless he uses the ministry's website. Interviews with the press do not need to be cleared by the ministry.

Up to now, although this is not a condition, all Commissioners have been active or former Member of Parliament, which means they have been mandated by democratic vote to control executive power. At the same time, they are familiar with the realities of politics and the necessity to compromise, when bearing the responsibility for political decisions. In this way, they enjoy the confidence of both the government institutions and civil society.

Who are the actors involved in this practice?

The Federal Government Commissioner for Human Rights Policy and Humanitarian Aid is appointed by cabinet decision. Since Germany usually has a coalition government, the position is part of the coalition negotiations. However, the cabinet is aware of the fact that the most important asset of a Commissioner is his or her personal credibility. For this reason, they will only choose from among a group of people with a long standing record in engagement for human rights.

Under what conditions do you think this practice would be successful elsewhere?

The most important prerequisite for an effective Commissioner is true independence from the government while at the same time being able to have full access to the government's infrastructure, i.e. support by the ministry's unit and by the embassies abroad. The Commissioner should also have complete liberty to publish his or her opinion in social or other media.

Do you have suggestions of how this practice could be made more effective?

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Please give a specific example of a law, policy, or administrative practice that you consider to be effective in the protection of human rights defenders.

The German government regularly uses the United Nations Human Rights Council, in the framework of the EU or on a national basis, as a forum to address the situation of human rights defenders in different countries. In addition, the German government actively participates in the Universal Periodic Review and has made recommendations to states regarding the protection of human rights defenders.

Germany has strongly supported the resolutions introduced in the Human Rights Council and the United Nations General Assembly by Norway on the protection of human rights defenders. In this regard the German government has been committed to precise and strong language that reflects the needs of human rights defenders.

Why is it particularly effective?

The United Nations are the central forum for multilateral action on human rights issues at global level. Emphasizing specific human rights issues or country situations in the UN institutions also allows for strong media and public attention.

Who are the actors involved in this practice?

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Under what conditions do you think this practice would be successful elsewhere?

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Do you have suggestions of how this practice could be made more effective?

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Please give a specific example of a law, policy, or administrative practice that you consider to be effective in the protection of human rights defenders.

An effective practice is the creation of guidelines on how to deal with the difficult situation of human rights defenders, including their protection. The EU issued such guidelines in 2008. They are addressed to the EU in general but also to the Member States, and “provide for interventions by the Union for human rights defenders at risk and suggest practical means to support and assist human rights defenders”. Thus, they can help reduce the risks human rights defenders may face as a result of their work. The Human Rights Working Group (COHOM) of the Council of the European Union regularly evaluates implementation of the EU guidelines on human rights defenders.

Based on the EU Guidelines, Germany has provided further guidance to its diplomatic missions working on human rights issues. Depending on the situation of human rights in the host countries and the size of the German representation every diplomatic mission has one staff member responsible (exclusively or as part of a set of responsibilities) for human rights. This person serves as a focal point for human rights defenders and is their main contact person. Diplomatic staff is required to be in touch with human rights defenders on a regular basis as well as to actively support and assist those at risk, for example by monitoring and attending trials against human rights defenders. At the same time, they shall make sure that their actions and activities do not endanger human rights defenders. Diplomatic staff is also trained in the implementation of the EU Guidelines as part of the general training of diplomatic staff as well as in preparatory seminars for their assignment abroad and advanced training for persons specifically working on human rights issues.

Why is it particularly effective?

The EU guidelines are an effective tool to support, assist and protect human rights defenders. They give guidance to diplomatic staff dealing with human rights defenders. EU guidelines also serve as a reference for the help human rights defenders can seek from the EU or member states diplomatic missions.

The guidance provided to German diplomatic staff is designed to assist them in their day-to-day work with human rights defenders as well as to create awareness of the work and risks for human rights defenders.

Who are the actors involved in this practice?

The practice involves the relevant State authorities who are dealing with human rights defenders. The person in charge of human rights issues within diplomatic missions stays in close contact with human rights defenders and is known to them.

Under what conditions do you think this practice would be successful elsewhere?

Guidelines can be effective everywhere, as long as they contain a precise elaboration of their goals, concrete steps, and are properly distributed, translated and prioritized.

Do you have suggestions of how this practice could be made more effective?

EU Guidelines could be made more widely available and known by means of distribution through online and social media. Further translations might also be helpful for their reception among human rights defenders worldwide.

Please give a specific example of a law, policy, or administrative practice that you consider to be effective in the protection of human rights defenders.

The Federal Republic of Germany each year provides financial support for projects and development programmes that promote human rights in general and support the work of human rights defenders in particular.

The projects include the entire spectrum of human rights protection and also reflect the current areas in which German human rights policy is active. They must be goal-oriented and their intended results must be verifiable. All projects are carefully selected and monitored in conjunction with the German missions abroad. After completion, each individual project is evaluated and its effects are tracked.

To ensure the systematic mainstreaming of human rights in German development policy, the Federal Ministry for Economic Cooperation and Development published its "Human Rights in German Development Policy" strategy paper. To enable state actors and civil society groups to perform their respective roles, German development cooperation strengthens structures for civil society, and supports human rights education as well as public information and lobbying/advocacy work on human right standards and principles.

To that end, German development programmes directly or indirectly promote human rights issues and the protection of human rights defenders. The program "Ziviler Friedensdienst" (ZFD) funded by the Federal Ministry for Economic Cooperation and Development provides support and funding for human rights organizations that help protect human rights defenders.

The EU also supports human rights projects within the framework of the European Instrument of Democracy and Human Rights (EIDHR). For the period from 2014 to 2017 roughly 150 million € will be spend on projects involving human rights defenders. The German government is committed to further strengthening and advancing funding of the EIDHR.

Why is it particularly effective?

Local projects funded by the German Foreign Office and programs involving and strengthening human rights defender funded by the Federal Ministry for Economic

Cooperation and Development are an important instrument for the promotion of human rights in the respective countries. Though different in fields of work, goals and nature they help increase awareness and respect for the work of human rights defenders, thus mitigating the risk of persecution.

Who are the actors involved in this practice?

The Federal Foreign Office and the Ministry for Economic Cooperation and Development of the Federal Republic of Germany regularly support projects for human rights defenders as envisaged by the National Action Plan for Human Rights.

Under what conditions do you think this practice would be successful elsewhere?

Do you have suggestions of how this practice could be made more effective?

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Please give a specific example of a law, policy, or administrative practice that you consider to be effective in the protection of human rights defenders.

An effective legal regime is the international protection of human rights defenders by way of granting refugee status or residence permits. In addition Germany may offer protection by issuing visas on political or humanitarian grounds to human rights defenders. These visas target human rights defenders who are under pressure in their home country. Even if no immediate and imminent danger exists, these visas can be granted as a precaution. Germany has repeatedly made use of the tool of such visas to protect individual human rights defenders. All human rights defenders may apply for asylum as soon as they have reached Germany.

Why is it particularly effective?

Human rights defenders who face an imminent threat to their lives can be given protection in a safe country as long as this threat exists. Refugee status and asylum are tested and proven instruments of international protection to persons at risk of harm. Additional policies that go beyond international refugee law expand the scope of international protection. They offer human rights defenders a possibility to leave dangerous circumstances without time-consuming bureaucratic procedures. This “exit option” gives them more leeway in their human rights activities on the ground.

Who are the actors involved in this practice?

The practice involves the relevant State authorities who determine whether international protection according to international and domestic law may be granted. Embassies and relevant organizations (such as UNHCR) contribute information on the particular person/case.

Under what conditions do you think this practice would be successful elsewhere?

States offering international protection should comply with international law, in particular human rights and refugee law and including the principle of non-refoulement.

Do you have suggestions of how this practice could be made more effective?

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Please give a specific example of a law, policy, or administrative practice that you consider to be effective in the protection of human rights defenders.

The Federal Government Commissioner for Cultural and Media Affairs has provided financial support to human rights defenders in the framework of the “Writers in Exile” program that is run together with the PEN organization since 2009. Scholarship recipients are being housed in Berlin, Cologne, Hamburg, and Munich in apartments rented and furnished by PEN and are provided with living expenses as well as health and other insurance from the funds received. Scholarships run for a year at a time and may be extended.

Germany’s international broadcaster Deutsche Welle (DW) in various ways supports persons that promote human rights: Through its broadcasting program in over 30 languages and activities of the DW academy. As a media corporation DW focusses on the issues of freedom of information, media and opinion.

Examples for DW activities in the field of human rights promotion and protection:

International online award „The Bobs“ (Best of Online Activism): Since 2004 DW awards a prize to outstanding online activists or projects. 2015 the “Freedom of Speech Award” was introduced for activists or initiatives that signify the struggle for the human right to freedom of opinion (winner 2015: Raif Badawi). There are further awards in the categories “social change”, “privacy and security” and “arts and media”.

Special programs: This year DW has started the program “Journalist Under Pressure” on the occasion of the international day of press freedom (3rd May). The website provides background information on the state of press freedom with contributions by international guest authors.

Why is it particularly effective?

Human rights defenders may need assistance so that they can continue their work from outside their home countries. This is especially true for writers and journalists who have come under threat in their home countries for their writings.

The activities of DW in the field of human rights promotion help to raise awareness. They also support the work of human rights defenders (especially journalists, online activists and bloggers) in the fields of freedom of information, media and opinion.

Who are the actors involved in this practice?

German PEN, the Federal Government Commissioner for Cultural and Media Affairs and the authorities of German municipalities.

Deutsche Welle, Germany's international broadcaster.

Under what conditions do you think this practice would be successful elsewhere?

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Do you have suggestions of how this practice could be made more effective?

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Please give a specific example of a national or regional network that you consider as effective in the promotion and protection of the rights of human rights defenders.

Regional conferences with human rights defenders have been organized by the Federal Foreign Office since 2011. They are aimed at connecting human rights defenders in a specific region with each other and with officials from German diplomatic missions. In addition, these conferences help to coordinate the work of human rights defenders, diplomatic missions and the Foreign Office. They also help to establish a lasting exchange on issues of regional importance. This approach works on several levels: Among human rights defenders, between human rights defenders and German diplomatic staff and between German diplomatic staff from the region and from the ministry. To date conferences have been organized in Kyrgyzstan, Hong Kong, Malaysia, Panama, Zambia, Togo, Argentina and Tunisia.

Why is it particularly effective?

Regional conferences promote exchange between regional human rights defenders and with the diplomatic community. They are an important tool to highlight issues of regional concern and to make support for human rights defenders more effective.

Who are the actors involved in this practice?

Regional conferences bring together a circle of local and regional human rights NGOs and human rights defenders with German diplomatic staff from the Foreign Office and the respective missions concerned with human rights. The German government's Commissioner for Human Rights Policy and Humanitarian Aid also participates in these regional dialogues.

Under what conditions do you think this practice would be successful elsewhere?

These conferences highlight the human rights situation and particular cases and working conditions of human rights defenders in a certain country or region. As such, they can be an effective practice to put emphasis and provide support to human rights defenders anywhere in the world.

Do you have suggestions of how this practice could be made more effective?

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Please give a specific example of a national or regional network that you consider as effective in the promotion and protection of the rights of human rights defenders.

Germany actively promotes the exchange of information among EU Member States regarding best practices for the protection of human rights defenders. Sharing experiences is crucial for the evaluation and improvement of the protection of human rights defenders. EU member states coordinate their national efforts to protect human rights defenders through the Human Rights Working Group (COHOM) of the Council of the European Union.

On the local level German diplomatic staff (ambassadors, diplomatic officers responsible for human rights) actively participates in EU coordination on human rights issues in third countries with the purpose of collective action on individual human rights issues or cases of human rights defenders that need protection. The German government advocates coordination among EU member states.

Why is it particularly effective?

Joint action on human rights issues or support for human rights defenders gives additional weight to concerns shared by all member states vis-a-vis the authorities of the host countries.

Who are the actors involved in this practice?

This involves the relevant units within the German Foreign Office as well as staff responsible for human rights issues in diplomatic missions abroad and their counterparts within the EU member states or embassies.

Under what conditions do you think this practice would be successful elsewhere?

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Do you have suggestions of how this practice could be made more effective?

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