

The Death Penalty in the OSCE Area

BACKGROUND PAPER 2015

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This paper updates *The Death Penalty in the OSCE Area: Background Paper 2014*. It is intended to provide a concise update to highlight changes in the status of the death penalty in OSCE participating States since the previous publication and to promote constructive discussion of this issue. It covers the period from 1 July 2014 to 30 June 2015.

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Overview

OSCE participating States have made a number of commitments regarding the death penalty, although there are no specific OSCE commitments requiring the abolition of this type of sanction. In the Vienna Document,¹ participating States agreed that the death penalty could be imposed only for the most serious crimes and only in line with international commitments. Moreover, states agreed to consider the potential abolition of the death penalty, to exchange information toward that end, and to make information on the use of the death penalty available to the public.² In the light of these commitments and its mandate, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) monitors the trends and developments among OSCE participating States and their application of the death penalty. The findings are presented each year in ODIHR's publication, *Background Paper on the Status of the Death Penalty in the OSCE Area*. The background paper is based on the information provided by participating States in the form of responses to ODIHR questionnaires; the information from their responses is supplemented with information from international and non-governmental organizations and media reports.

This year ODIHR prepared three different questionnaires – for retentionist, *de facto* abolitionist and abolitionist participating States, respectively. The first questionnaire seeks to gather information on the relevant legal framework, the statistics on death sentences and executions, and the safeguards in those participating States that still impose the death penalty. *De-facto* abolitionist states were asked to provide information on developments regarding the moratoriums in place, ratification of different international instruments dealing with abolition of the death penalty, means of co-operation with local and/or international organizations in relation to the death penalty, statistics on nationals facing the death penalty abroad and safeguards for children of parents who are on death row. The third questionnaire, for abolitionist participating States, focused on activities that those states took part

1 Concluding Document of the Vienna Meeting (Third Follow-up Meeting to the Helsinki Conference, 15 January 1989, Vienna), paragraph 24, <<http://www.osce.org/mc/16262>>.

2 Document of the Copenhagen Meeting of the Conference on the Human Dimension of the OSCE, 29 June 1990, Copenhagen, paragraph, 17.7 and 17.8, <<http://www.osce.org/odihr/elections/14304>>.

in on the national or international levels regarding the death penalty, potential cases before international judicial or quasi-judicial bodies, nationals facing the death penalty abroad and safeguards for children.

This 2015 background paper covers the period from 1 July 2014 to 30 June 2015. In particular, it provides information on changes and developments with regard to the status of the death penalty in the OSCE area that have occurred since the publication of the 2014 background paper.³

ODIHR seeks to systematically cover death penalty related developments in all participating States, including those that have abolished it. Thus, the 2015 background paper provides information following the European Court of Human Rights' decision in the case of *Al Nashiri vs. Poland*.

In addition to providing an overview of trends in 51 abolitionist participating States, the background paper focuses on four de-facto abolitionist states – Kazakhstan, Mongolia, Russia and Tajikistan – and two that have retained the capital punishment: Belarus and the United States of America. As these two retentionist states are obligated under OSCE commitments to keep its abolition under consideration, the background paper seeks to present a comprehensive review of the status of the death penalty in both, with special attention given to topics pertinent to the public discussion of abolition in each country, where available.

The trend towards the abolition of the death penalty has continued during this reporting period as well. The Mongolian parliament has considered a revised penal code that would completely abolish the death penalty from national legislation.⁴ On 13 February 2015, in the United States, the governor of Pennsylvania introduced a moratorium on executions.⁵ On 27 May 2015, the state of Nebraska abolished the death penalty, becoming the 20th state within the United States to do so.⁶

A high-level event during the 69th Session of the United Nations (UN) General Assembly took place on 25 September 2014: *Moving Away from the Death Penalty: National Leadership*. The event served as an opportunity for discussion among Member States, with a special focus on political leadership and leaders' role in moving away from the death penalty. Moreover, the event saw the launch of the UN High Commissioner for Human Rights (OHCHR) publication *Moving Away from*

3 For earlier developments, see *The Death Penalty in the OSCE Area – Background Paper 2014*, (Warsaw:OSCE/ODIHR, September 2014), <<http://www.osce.org/odihr/124105>>.

4 “Death Penalty 2015: The Good and the Bad”, Amnesty International, 27 July 2015, <<http://www.amnestyusa.org/news/news-item/death-penalty-2015-the-good-and-the-bad>>.

5 “Pennsylvania’s governor suspends the death penalty”, The Washington Post, 13 February 2015, <<http://www.washingtonpost.com/news/post-nation/wp/2015/02/13/pennsylvania-suspends-the-death-penalty/>>.

6 “Nebraska Bans Death Penalty, Defying a Veto”, the New York Times, 27 May 2015, <http://www.nytimes.com/2015/05/28/us/nebraska-abolishes-death-penalty.html?_r=0>.

the Death Penalty: Arguments, Trends and Perspectives.⁷ In the preface, UN Secretary-General Ban Ki-Moon noted that there was no place for the death penalty in the 21st century and that leaders worldwide should work towards its abolition.⁸

On 9 October 2014 in Geneva, the European Union (EU) and Italy organized the event Justice that Kills – The Death Penalty in the 21st Century, as part of the World Day against the Death Penalty. The participants discussed and challenged justifications for the death penalty in today's society.⁹

On 10 October 2014, on the occasion of the 12th World Day against the Death Penalty, Swiss President Didier Burkhalter launched an international call to abolish the death penalty, which was signed by foreign ministers of 12 countries.¹⁰ The objective of the international call was to develop an open and respectful discussion among countries, and to encourage their efforts towards abolition. The initiative came as part of the Swiss government's 2013–2016 strategy for the worldwide abolition of the death penalty. The goal of the strategy is to promote the abolition of or a moratorium on executions at the global level by 2025.¹¹

On 4 March 2015, during its the 28th Session, the UN Human Rights Council held a biennial high-level panel on Regional efforts, aiming at the abolition of the death penalty and challenges faced in that regard, focused on efforts aiming at the abolition of the death penalty and challenges countries and organizations are facing in reaching that goal. The panel reiterated the importance of activities at the regional level, emphasizing the likelihood of success in the abolition of the death penalty when countries have similar historical, social and cultural ties.¹² Joachim Rucker, President of the Human Rights Council, stated that the death penalty was an extreme form of

7 Moving Away from the Death Penalty: National Leadership; High-level event of the 69th Session of the United Nations General Assembly, The Office of the High Commissioner for Human Rights, 25 September 2014, <<http://www.ohchr.org/EN/Issues/DeathPenalty/Pages/DPIIndex.aspx>>.

8 *Moving Away from the Death Penalty: Arguments, Trends and Perspectives* (New York: OHCHR, 2014), <<http://www.ohchr.org/Documents/Issues/DeathPenalty/MovingAwayDP.pdf>>.

9 "World Day against the Death Penalty 2014, Geneva: The EU delegation in Geneva is organizing a conference entitled 'Justice that kills – the death penalty in the 21st century'", International Commission against the Death Penalty, 1 October 2014, <<http://www.icomdp.org/2014/10/world-day-against-the-death-penalty-2014-geneva-the-eu-delegation-in-geneva-is-organizing-a-conference-entitled-justice-that-kills-%e2%80%93-the-death-penalty-in-the-21st-century/>>.

10 The response of Switzerland to the 2015 OSCE/ODIHR Questionnaire on the state of death penalty; "Swiss launch joint declaration against death penalty", Swiss Info, 10 October 2014, <http://www.swissinfo.ch/eng/executions_swiss-launch-joint-declaration-against-death-penalty/41053904>.

11 *Ibid.*

12 "The 28th regular session of the Human Rights Council (2 to 27 March 2015)", the UN Human Rights Council, <<http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session28/Pages/28RegularSession.aspx>>.

punishment that should be used, if at all, only for the most serious crimes and only if fair trial guarantees were provided.¹³

During the 29th Session of the Human Rights Council, on 17 June 2015, the OHCHR organized a side event, Moving Away from the Death Penalty: Protection of the Rights of Persons Facing Death Penalty Abroad, Including Migrants. The side event was a forum for the exchange of information, views and good practices in regards to people facing the death penalty around the world, including migrants and migrant workers, as well as an opportunity for discussion of how to overcome challenges in this area.¹⁴

13 “Human rights council holds high-level panel on the death penalty”, United Nations Office in Geneva, 4 March 2015, <[http://www.unog.ch/80256EDD006B9C2E/\(httpNewsByYear_en\)/B955182C2F9FE69CC1257DFE005F-643F?OpenDocument](http://www.unog.ch/80256EDD006B9C2E/(httpNewsByYear_en)/B955182C2F9FE69CC1257DFE005F-643F?OpenDocument)>.

14 “Moving away from the Death Penalty: Protection of the rights of persons facing death penalty abroad, including migrants”, OHCHR, 17 June 2015, <<http://www.ohchr.org/Documents/Issues/DeathPenalty/FlyerSideEvent17June2015.pdf>>.

The Status of the Death Penalty in the OSCE Area

For the purpose of this review, each participating State has been classified as abolitionist, *de facto* abolitionist, or retentionist, depending on the status of the death penalty in the relevant state's law and practice.

Abolitionist: The death penalty has been abolished for all crimes.

Fifty-one OSCE participating States are abolitionist:

- Albania
- Andorra
- Armenia
- Austria
- Azerbaijan
- Belgium
- Bosnia and Herzegovina
- Bulgaria
- Canada
- Croatia
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Georgia
- Germany
- Greece
- Holy See
- Hungary
- Iceland
- Ireland
- Italy
- Kyrgyzstan
- Latvia
- Liechtenstein
- Lithuania
- Luxembourg
- Former Yugoslav Republic of Macedonia
- Malta
- Moldova
- Monaco
- Montenegro
- Netherlands
- Norway
- Poland
- Portugal
- Romania
- San Marino
- Serbia
- Slovak Republic
- Slovenia
- Spain
- Sweden
- Switzerland
- Turkey
- Turkmenistan
- Ukraine
- United Kingdom
- Uzbekistan

De facto Abolitionist: The death penalty is retained for crimes committed in peacetime, but executions are not carried out.

Four OSCE participating States are *de facto* abolitionist: Kazakhstan, Mongolia, the Russian Federation and Tajikistan.

Retentionist: The death penalty is retained for crimes committed in peacetime, and executions are carried out.

Two OSCE participating States are retentionist: Belarus and the United States of America.

Abolitionist States

Twenty-one of the 51 abolitionist participating States responded to the ODIHR questionnaire on the death penalty.¹⁵ The majority of replies confirmed that the participating States from this group remained dedicated to international efforts towards the abolition of the death penalty through various initiatives, including different events and activities within and of the OSCE, the UN, the Council of Europe and the EU. They also undertook numerous initiatives at the national level.

Traditionally, many OSCE participating States have supported UN General Assembly Resolution No. 69/186, the moratorium on the use of the death penalty.¹⁶ The resolution calls upon those states that still maintain the death penalty to establish a moratorium on executions, with a view to abolishing it completely.

A number of OSCE participating States have continued to support other international efforts aimed at introducing moratoriums and abolishing the death penalty, as stated in their responses to the ODIHR questionnaire. The majority of the EU countries emphasized their activities to promote the EU Guidelines on the Death Penalty, which highlight possible instruments and steps to be taken as part of the process to abolish the death penalty in countries outside the EU that have retained it.¹⁷ These guidelines also provide direction on how to react in individual cases when international safeguards, such as the right to due process and the international prohibition of imposing the death penalty on people under the age of 18, have been breached.

Some participating States also noted that they funded projects in countries still practicing the death penalty, in order to support awareness-raising campaigns and capacity building of civil society organizations working towards the abolition of the death penalty.

Belgium, Hungary and Moldova replied that they systematically raise the issue of the death penalty within the framework of the Universal Periodical Review (UPR) in the UN Human Rights Council and make recommendations related to the introduction of a moratorium on the death penalty and accession to the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR).

15 The following abolitionist participating States submitted replies: Austria, Belgium, Cyprus, Denmark, Estonia, France, Germany, Greece, Hungary, Liechtenstein, Luxembourg, Moldova, Montenegro, Norway, Uzbekistan, San Marino, Slovakia, Sweden, Switzerland, Czech Republic and the United Kingdom.

16 See Annex 3.

17 EU Guidelines on the Death Penalty, European Union 30 September 2010, <<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:r10106>>.

Sweden and Germany reported on their bilateral activities with countries that have retained the death penalty, through raising the issue in dialogue with authorities and representatives of civil society.

On 11 and 12 June 2015, Belgium participated in the Asian Regional Congress on the death penalty,¹⁸ an international event sponsored by the Norwegian Ministry of Foreign Affairs¹⁹ that took place in Kuala Lumpur, Malaysia. Norway has also announced that it will host the World Congress against the Death Penalty in June 2016.²⁰

As in previous years, debates on re-introducing the death penalty in abolitionist States continued. In Serbia, following the murder of a teenaged girl, the Minister of Interior stated that, in certain instances, he regretted that Serbia had abolished the death penalty.²¹ However, the Minister of Justice confirmed that the possibility of re-introducing the death penalty had not been raised, reiterated that Serbia had abolished the death penalty, and asserted that the European Charter of Fundamental Rights prohibited that form of punishment.²² After the murder of a 21-old woman who was working as a shop assistant in the town of Kaposvar, which took place in April 2015,²³ the Prime Minister of Hungary stated that “the question of the death penalty should be put on the agenda in Hungary”.²⁴

In their responses to the ODIHR questionnaire, Estonia, Hungary, Greece and the United Kingdom reported that their nationals faced the death penalty in the United States. Norway provided information that two of its nationals were sentenced to the death penalty in countries outside the OSCE region (Pakistan and the Democratic Republic of Congo). There are currently 13 nationals of the United Kingdom who are facing the death penalty in countries besides the United States, specifically in: the Democratic Republic of Congo, Egypt, Ethiopia, Ghana, Kenya, Indonesia and Pakistan. Several countries did not provide any information about this issue due to privacy considerations and the sensitivity of the cases.

18 The response of Belgium to 2015 OSCE/ODIHR Questionnaire on the state of death penalty.

19 The response of Norway to 2015 OSCE/ODIHR Questionnaire on the state of death penalty.

20 *Ibid.*

21 “Savage Murder of Teen Shocks Serbia”, Balkan Insight, 7 August 2014, <<http://www.balkaninsight.com/en/article/teenage-girl-s-cruel-murder-shocks-serbia>>.

22 “Death penalty has been abolished, explains minister”, B92, 7 August 2014, <http://www.b92.net/eng/news/politics.php?yyyy=2014&mm=08&dd=07&nav_id=91229>.

23 “Hungary PM calls for death penalty debate with EU”, BBC, 30 April 2015, <<http://www.bbc.com/news/world-europe-32523384>>.

24 “Hungary PM: bring back death penalty and build work camps for immigrants”, The Guardian, 29 April 2015, <<http://www.theguardian.com/world/2015/apr/29/hungary-pm-death-penalty-work-camps-for-immigrants-viktor-orban>>.

With regard to safeguards in place to protect children who have a parent facing the death penalty abroad, the majority of countries indicated that there were no specific safeguards applicable in such situations. However, most of them replied that those children would be entitled to the same services and benefits as children whose parents or legal guardians were temporarily or permanently unable to provide care for them.

POLAND

On 24 July 2014, the European Court of Human Rights released a judgment in the case of *Al Nashiri vs. Poland*.²⁵ Abd Al Rahim Al Nashiri is a national of Saudi Arabia and detainee at the United States detention facilities in Guantanamo Bay, Cuba where he faces capital charges in proceedings before a military commission in relation to his alleged involvement in terrorist activities. In his application before the court, Al Nashiri claimed he was held and tortured in a secret detention facility in Poland, operated by the United States' Central Intelligence Agency, prior to his transfer to the Guantanamo Bay detention camp.²⁶ He also claimed that Poland had violated Articles 2 (right to life) and 3 (prohibition of torture) of the European Convention on Human Rights (ECHR), as well as Protocol 6 to the ECHR concerning the abolition of the death penalty. In its judgment, the court held that there were violations of Articles 2, 3, 5, 6, 8 and 13 of the ECHR and violation of Article 1 of Protocol 6 to the ECHR. It ordered Poland to pay 100,000 euro to Al Nashiri.²⁷ The deadline for the payment was set for 16 May 2015. In February 2015, Poland filed an appeal to the court, but the court dismissed the appeal.²⁸

25 "Case of Al Nashiri v. Poland", European Court of Human Rights, final 16 February 2015, <[http://hudoc.echr.coe.int/eng?i=001-146044#{"itemid":\["001-146044"\]}](http://hudoc.echr.coe.int/eng?i=001-146044#{)>.

26 *Ibid.*

27 *Ibid.*

28 "Poland pays \$250,000 to victims of CIA rendition and torture", The Guardian, 15 May 2015, <<http://www.theguardian.com/world/2015/may/15/poland-pays-250000-alleged-victims-cia-rendition-torture>>.

De Facto Abolitionist StatesKAZAKHSTAN²⁹

An indefinite moratorium on executions has remained in place in Kazakhstan since the issuance of a presidential decree in 2003.³⁰ Under the Constitution of the Republic of Kazakhstan, the application of capital punishment is allowed for two types of crimes: acts of terrorism resulting in death, and especially grave crimes committed in wartime.³¹ In addition to these constitutional provisions, the new Criminal Code of the Republic of Kazakhstan, which entered into force on 1 January 2015, expands the list of crimes punishable by the death penalty in the following categories:

- “crimes against the peace and security of mankind (planning, preparation, starting, or waging a war of aggression; application of prohibited means and methods of conducting a war; violation of the laws and customs of war; genocide; or employing a mercenary);
- crimes against the foundations of the constitutional order and the security of the state (high treason; attempt upon the life of the First President of the Republic of Kazakhstan – the Leader of the Nation; attempt upon the life of the President of the Republic of Kazakhstan; sabotage);
- crimes against public security and public order (terrorism); and
- military crimes (disobedience or other non-execution of an order; resistance to a superior or coercion to violate service duties; violent actions with regard to a superior; desertion; evasion or refusal to perform military service; violation of the rules of combat duty; surrender or abandonment to the enemy of means of warfare).”³²

According to the code, the death penalty cannot be applied to persons under the age of 18 or over the age of 63. The death penalty can be commuted, by way of pardon, to imprisonment for life or another term at a special-regime penal colony.³³

29 The Permanent Delegation of the Republic of Kazakhstan to the OSCE did not provide a response to the 2015 ODIHR questionnaire on the death penalty.

30 Kazakhstan Presidential Decree No. 1251 “On the introduction of a moratorium on the death penalty in the Republic of Kazakhstan”, 17 December 2003.

31 Article 15 (2) of the Constitution of the Republic of Kazakhstan, amended on 21 May 2007.

32 Criminal Code of the Republic of Kazakhstan, 03 July 2015, Articles 160 (2), 163 (2), 164 (2), 168 (2), 170 (4), 175 (3), 177, 178, 184, 255 (4), 437 (4), 438 (4), 439 (4), 442 (4), 443 (3), 444 (3), and 455.

33 *Ibid.*

The Concept of Legal Policy of the Republic of Kazakhstan for 2010–2020 foresees a gradual decrease in the scope of application of the death penalty as one of the objectives of the state’s criminal justice policy.³⁴

MONGOLIA³⁵

In January 2010, the President of Mongolia announced a moratorium on the death penalty and commuted the death sentences of those who appealed for clemency.³⁶ Mongolia ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights in 2012.³⁷ However, the death penalty is still a punishment provided for under Article 16(1) of the Constitution,³⁸ and is foreseen as a punishment for grave crimes under the Article 53 of the Criminal Code.³⁹ During the Universal Periodic Review, Mongolia stated that a revised draft of the Criminal Code excludes the death penalty.⁴⁰

RUSSIAN FEDERATION⁴¹

A moratorium on the application of the death penalty has been in place in the Russian Federation since May 1996, when the President of the Russian Federation committed to abolish the death penalty following the country’s accession to the

34 “Kazakhstan: The Concept of Legal Policy for 2010-2020”, endorsed by the Presidential Decree No. 858 of 24 August 2009.

35 The Permanent Mission of Mongolia did not provide the response to the 2015 OSCE/ODIHR Questionnaire on the state of death penalty.

36 Annual Report: Mongolia 2010, Amnesty International, <<http://www.amnestyusa.org/research/reports/annual-report-mongolia-2010?page=show>>.

37 Ratification Status for Mongolia, UN Office of the High Commissioner for Human Rights, <http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=115&Lang=EN>.

38 Constitution of Mongolia 1992 (rev. 2001), <https://www.constituteproject.org/constitution/Mongolia_2001?lang=en>.

39 Criminal Code of Mongolia (revised), <http://www.unodc.org/res/cld/document/mng/2001/criminal_code_of_mongolia_html/Mongolia_Criminal_Code_2002.pdf>.

40 Draft report of the Working Group on the Universal Periodic Review, A/HRC/WG.6/22/L.4, <http://www.upr-info.org/sites/default/files/document/mongolia/session_22_-_may_2015/a_hrc_wg.6_22_l_4.pdf>.

41 Permanent Mission of the Russian Federation to the OSCE did not provide a response to the 2015 ODIHR questionnaire on the death penalty.

Council of Europe.⁴² In 1997, Russia signed Protocol No. 6 to the ECHR, though it has not yet ratified it.⁴³

In February 1999, the Constitutional Court of Russia issued a decision, according to which the death penalty could not be applied until jury trials were established throughout the territory of Russia.⁴⁴ As the moratorium on the application of the death penalty was about to expire, in November 2009, a ruling of the Constitutional Court extended it for an indefinite period of time, until Russia's ratification of Protocol 6 to the ECHR.⁴⁵

Capital punishment remains part of Russian criminal law. The Constitution retains it as an exclusive form of punishment for especially grave crimes against life.⁴⁶ Under the Criminal Code, the death penalty can be applied for five types of offences: aggravated murder; assassination attempts against a state or public figure; attempts on the life of a person administering justice or preliminary investigations; attempts on the life of a law-enforcement official; and genocide.⁴⁷ The death penalty is not imposed against women or offenders under the age of 18 or over 65. Capital punishment is not imposed on extradited offenders when the crimes committed are not punishable by the death penalty under the legislation of the extraditing state, or when the offender is extradited on the condition of the non-application of capital punishment. A death sentence can be commuted, by way of pardon, to life imprisonment or imprisonment for a term of 25 years.⁴⁸

Debate on the issue of capital punishment in Russia continued during the reporting period. A resolution of the Parliamentary Assembly of the Council of Europe to suspend the voting rights of the Russian delegation, followed by the Russian

42 Presidential Decree No. 724 of May 16, 1996 "On the gradual reduction of the application of the death penalty in connection with Russia's accession to the Council of Europe"; however, according to Amnesty International, executions continued to be carried out in the Chechen Republic between 1996 and 1999. "Death penalty: Countries abolitionist in practice", Amnesty International, <<https://www.amnesty.org/en/what-we-do/death-penalty/>>

43 Protocol No. 6 status, Council of Europe Treaty Office, <<http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=114&CM=7&DF=17/08/2015&CL=ENG>>.

44 Decision of the Constitutional Court of the Russian Federation, 2 February 1999, <<http://pravo.gov.ru/proxy/ips/?docbody=&nd=102057956&intelsearch=%CF%EE%F1%F2%E0%ED%EE%E2%EB%E5%ED%E8%E5+%E%E%F2+02.02.1999+N+3-%CF>>.

45 Сообщение для СМИ о решении Конституционного Суда Российской Федерации о продлении моратория на высшую меру наказания, [Announcement of MFA on decision of the Constitutional Court of the Russian Federation about the extension of the moratorium on the death penalty], Ministry of Foreign Affairs of the Russian Federation, <<http://archive.mid.ru/bdomp/ns-dgpc/nsf/4681a749b12257b3432569ea003614e4%20%C2%B7%20/432569ee00522d3cc32576730058cdb9?OpenDocument>>.

46 Article 20 of the Constitution of the Russian Federation, adopted on 12 December 1993.

47 Criminal Code of the Russian Federation, adopted on 13 June 1996, amended on 29 June 2009, Article 105 (2), Article 277, Article 295, Article 317 and Article 357

48 *Ibid.*, Article 59

Federation's decision to boycott its sessions until the end of 2015,⁴⁹ brought about discussions on the possibility of reinstatement of capital punishment. In January 2015, the Deputy Speaker of the State Duma, Igor Lebedev, was quoted as saying that Russian Federation's possible withdrawal from the Council of Europe could lead to the cancellation of the moratorium on the death penalty, as the country would no longer be bound by the relevant international obligations.⁵⁰ Commenting on the issue, the press service of the Ministry of Justice of Russian Federation stated that "withdrawal of the Russian Federation from the Council of Europe does not mean automatic reinstatement of death penalty as the ultimate punishment in Russia."⁵¹ A similar statement was made by the Head of the Supreme Court of the Russian Federation, Vyacheslav Lebedev, who said that there was no way Russia would return to capital punishment.⁵²

In March 2015, the State Duma rejected a draft law⁵³ proposed by a member of the Russian Parliament from the Liberal-Democratic Party, which, *inter alia*, provided for the introduction of the death penalty for terrorism.⁵⁴ In April 2015, an opinion poll carried out by the Public Opinion Foundation showed that, among 1,500 respondents in Russia, 60 per cent considered the death penalty to be acceptable, 22 per cent thought it was unacceptable, and 17 per cent were uncertain.⁵⁵

49 "Ukraine conflict: Russia boycotts Europe rights body PACE", BBC News, 28 January 2015, <<http://www.bbc.com/news/world-europe-31032034>>.

50 Россия может вернуть смертную казнь, после выхода из Совета Европы, [Russian could reintroduce the death penalty upon leaving Council of Europe], Komsomolskaya Pravda, 29 January 2015, <<http://www.kp.ru/online/news/1961092/>>.

51 Минюст разъяснил ситуацию со смертной казнью в случае выхода России из Совета Европы, [Ministry of Justice explained the situation regarding death penalty in case Russia leaves Council of Europe], Interfax, 2 February 2015, <<http://www.interfax.ru/russia/421595>>.

52 Председатель ВС РФ: возврата в РФ смертной казни быть не может, [Chairperson of the Supreme Court of the Russian Federation: reinstatement of the death penalty cannot happen], Ria Novosti, 10 February 2015 <<http://ria.ru/society/20150210/1046886286.html>>.

53 Draft Law no. 437705-6, <[http://asozd2.duma.gov.ru/main.nsf/\(SpravkaNew\)?OpenAgent&RN=437705-6&02](http://asozd2.duma.gov.ru/main.nsf/(SpravkaNew)?OpenAgent&RN=437705-6&02)>.

54 Госдума отклонила законопроект о смертной казни за терроризм, [State Duma rejected the law on death penalty for terrorism acts], Interfax, 24 March 2015, <<http://www.interfax.ru/russia/431945>>.

55 Меняется ли отношение россиян к смертной казни, [Has the attitude of Russians towards death penalty been changing?], Public Opinion Foundation <<http://fom.ru/Bezopasnost-i-pravo/12128>>.

TAJIKISTAN⁵⁶

An indefinite moratorium on death sentences and executions has been in place in Tajikistan since July 2004, when the Tajik parliament adopted a law suspending the application of the death penalty.⁵⁷ Death sentences issued before this date were commuted to 25 years of imprisonment,⁵⁸ and capital punishment for all future cases was replaced with long-term imprisonment or life sentences without parole.

Nevertheless, national legislation continues to retain the death penalty as a possible punishment for particularly grave offences. The Constitution of the Republic of Tajikistan states that no person may be deprived of life “except by the verdict of a court for an especially grave crime.”⁵⁹ Under the Criminal Code, the death penalty can be imposed for aggravated murder, aggravated terrorism, aggravated rape, genocide and biocide.⁶⁰ Death sentences cannot be handed down against women or offenders under the age of 18.⁶¹

56 Permanent Delegation of the Republic of Tajikistan to the OSCE did not provide a response to the 2015 ODIHR questionnaire on the death penalty.

57 Law of the Republic of Tajikistan on the Suspension of Application of the Death Penalty, 15 July 2004

58 *Ibid.*

59 Constitution of the Republic of Tajikistan, 6 November, 1994, amended on 26 September 1999 and 22 June 2003, Article 18.

60 Criminal Code of the Republic of Tajikistan, 21 May 1998, Article 104 (2), Article 179 (3), Article 138 (3), Article 398, Article 399; according to the Criminal Code, biocide represents use of nuclear, neutron, chemical, biological (bacteriological), climatic or other weapons of mass destruction with the intent of destruction of people and the environment.

61 *Ibid.*

Retentionist States

BELARUS

The Republic of Belarus continues to retain the death penalty in law and in practice. The country's Constitution and its Criminal Code provide for the application of the death penalty as an exceptional punishment for especially grave crimes. During the reporting period, one death sentence was handed down and two executions were carried out.⁶²

After the reported execution of Alyaksandr Haryunou (Grunov) on 22 October 2014, the UN Human Rights Committee issued a statement on 14 November 2014, deploring his execution despite the Committee's request to stay the execution pending its consideration of the case. According to Sir Nigel Rodley, the Committee's Chairperson, the execution amounted to "a grave breach of its international legal obligations by Belarus".⁶³

The Parliamentary Assembly of the Council of Europe expressed deep concern with regard to the execution of Alyaksandr Haryunou, referring to it as being "the wrong signal to send if Belarus wishes to establish closer relations with the Parliamentary Assembly".⁶⁴

The UN Special Rapporteur on the situation of human rights in Belarus, Miklós Haraszti, called on the Government of Belarus to refrain from handing down death sentences and to establish an immediate moratorium on the use of the death penalty, with a view to its permanent abolition.⁶⁵

As reported by the Permanent Delegation of the Republic of Belarus to the OSCE, the issue of the death penalty was discussed at a number of events held in Belarus during the reporting period, including at a two-day conference in Minsk in November 2014, co-organized by Penal Reform International and the Belarus Helsinki Committee. Presenters at the conference included representatives of the Constitutional Court, the General Prosecutor's Office and the academic community of Belarus.⁶⁶

62 Response to the ODIHR questionnaire on the death penalty from the Permanent Delegation of the Republic of Belarus to the OSCE, received on 20 July 2015.

63 UN Human Rights Committee deplores Belarus execution, UN OHCHR, 14 November 2014, <<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15301&LangID=E>>.

64 "Rapporteurs deeply concerned at reports of execution in Belarus", Parliamentary Assembly of the Council of Europe, 5 November 2014, <<http://www.assembly.coe.int/nw/xml/News/News-View-EN.asp?newsid=5278&clang=2&cat=5>>.

65 "Report of the Special Rapporteur on the situation of human rights in Belarus", Miklós Haraszti, A/HRC/29/43, 29 April 2015, <<http://www.refworld.org/docid/5577ef0c4.html>>.

66 Belarus response *op.cit.*, note 62.

Legal Framework

The Constitution of the Republic of Belarus provides that, until its abolition, the death penalty may be applied in accordance with the law as an exceptional punishment for especially grave crimes, and only in accordance with the verdict of a court.⁶⁷

Under the Criminal Code, the death penalty may be applied for some especially grave crimes connected with the deliberate deprivation of life with aggravating circumstances.⁶⁸ In particular, capital punishment may be imposed for 12 crimes in peacetime and two crimes in times of war.⁶⁹ It is not a mandatory sentence for any of these crimes and, by means of a pardon by the President, may be commuted to life imprisonment.⁷⁰ The law prohibits the imposition of the death penalty on women, offenders under the age of 18 at the time of committing the crime, or men over 65 at the time of sentencing.⁷¹

Under the Criminal Executive Code of the Republic of Belarus, the death penalty is not carried out on persons suffering from psychological disorders that prevent them from understanding their actions.⁷² The Code also provides that executions are carried out secretly; bodies of executed persons are not handed over to families and the place of burial is kept secret.⁷³

In January 2015, the Criminal Code of Belarus was amended to include a provision that the death penalty is not carried out on offenders who meet their obligations under a “pre-trial co-operation agreement”.⁷⁴

67 Constitution of the Republic of Belarus, Article 24, 27 November 1996.

68 Criminal Code of the Republic of Belarus, 9 July 1999, Article 59 (1), amended on 17 July 2006.

69 The Criminal Code of the Republic of Belarus provides for the application of the death penalty for the following crimes: unleashing or conducting a war of aggression (Article 122 (2)); murder of a representative of a foreign state or international organization, with the intention to provoke international tension or war (Article 124(2)); international terrorism (Article 126 (3)); genocide (Article 127); crimes against humanity (Article 128); premeditated, aggravated murder (Article 139 (2)); terrorism (Article 289 (3)); terrorist acts against a state or public figure (Article 359 (2)); treason accompanied by murder (Article 356 (2)); conspiracy to seize power (Article 357(3)), sabotage (Article 360 (2)), murder of a police officer (Article 362); use of weapons of mass destruction (Article 134); murder of a person in violation of the laws and customs of war (Article 135 (3))

70 Criminal Code, *op.cit.*, note 68, para. 3; and Constitution, *op.cit.* note 67, Article 84 (19).

71 Criminal Code, *op.cit.*, note 68, para. 2.

72 Criminal Executive Code of the Republic of Belarus, 11 January 2000, Article 176 (2).

73 Criminal Executive Code, *op.cit.*, note 70, Article 175.

74 Criminal Code, *op.cit.*, note 68, Article 69-1.

Moratorium

There is no moratorium on death sentences or executions in Belarus. The state did not report on any measures to introduce a moratorium on the death penalty.

Method of Execution

The death penalty is carried out by firing squad.⁷⁵

Statistics on Death Sentences

According to the statistics provided by the Permanent Delegation of the Republic of Belarus to the OSCE, one individual was sentenced to death during the reporting period.⁷⁶

Siarhei Ivanou, born in Rechytsa, Belarus on 3 April 1994, citizen of the Republic of Belarus, was found guilty of a murder committed with particular cruelty; hooliganism committed repeatedly with the use of violence by a group of people; intentional infliction of serious bodily injury posing a threat to the victim's life motivated by hooliganism; robbery with the use of violence posing a threat to the victim's life or health committed repeatedly by a group of people, and repeated theft.⁷⁷ As of 30 June 2015, the sentence against Ivanou had not been executed, with an appeal against the sentence pending before the Supreme Court of Belarus.

Statistics on Executions

According to the response of Belarus to the ODIHR questionnaire on the death penalty, two individuals were executed during the reporting period.⁷⁸

Eduard Evgenevich Lykov (Lykau) (born in Moscow, Russia, on 15 March 1960, citizen of the Republic of Belarus) was sentenced to death by the Minsk Regional Court on 23 November 2013.

Alyaksandr Haryunou (born in Homel, Belarus, on 20 February 1988, citizen of the Republic of Belarus) was sentenced to death by the Homel Regional Court on 24 December 2013 for premeditated murder committed with particular cruelty. The

75 Criminal Code, *op.cit.*, note 68.

76 Belarus response, *op.cit.*, note 62.

77 *Ibid.*

78 *Ibid.*

verdict entered into force on 8 April 2014. Haryunou's application for clemency was denied by the President.⁷⁹

The Permanent Delegation of the Republic of Belarus to the OSCE did not report on the number of death row inmates.

The Permanent Delegation of the Republic of Belarus to the OSCE did not provide information about the dates of execution of Eduard Lykov and Alyaksandr Haryunou. According to the UN Human Rights Committee, the death sentence against Alyaksandr Haryunou was carried out on 22 October 2014.⁸⁰

International Safeguards

In October 2014, the UN Human Rights Committee ruled that the execution of Vasily Yuzepchuk⁸¹ in 2010 constituted a violation of his right to life under Article 6 of the ICCPR.⁸² The Committee further determined that Belarus was under an obligation to provide adequate monetary compensation to Yuzepchuk's family for the loss of his life, to prevent similar violations in the future and to co-operate in good faith with the Committee, particularly by complying with the requests of the Committee for interim measures.⁸³

UNITED STATES OF AMERICA⁸⁴

In the United States, the District of Columbia and 19 out of 50 states have abolished the death penalty: Alaska, Connecticut, Hawaii, Illinois, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, New Jersey, New Mexico, New York, North Dakota, Rhode Island, Vermont, West Virginia and Wisconsin. Moratoria on the death penalty are in effect in the states of Colorado, Ohio, Oregon, Pennsylvania and Washington.

79 *Ibid.*

80 UN Human Rights Committee statement, *op. cit.*, note 63..

81 The death sentence handed down to Vasily Yuzepchuk became final on 2 October 2009, after his appeal was rejected by the Supreme Court. Yuzepchuk was reportedly executed in Minsk around 18 March 2010. See the 2010 Background Paper on the Death Penalty in the OSCE Area, <<http://www.osce.org/odihr/71484?download=true>>.

82 Amnesty International Report 2014/15, <<https://www.amnesty.org/en/countries/europe-and-central-asia/belarus/report-belarus/>>.

83 United Nations Human Rights Committee Communication No. 1906/2009, CCPR/C/112/D/1906/2009, <<http://www.cprcentre.org/doc/2014/11/1906-2009-Yuzepchuk-v-Belarus1.pdf>>.

84 Permanent Delegation of the United States to the OSCE did not provide a response to the 2015 ODIHR questionnaire on the death penalty.

The Nebraska legislature voted to abolish the death penalty after overriding the Governor's veto on 27 May 2015.⁸⁵ The law will come into effect in September 2015.⁸⁶ There are ten inmates currently on death row in Nebraska.⁸⁷ In Maryland, the death sentences for the last four death row inmates were commuted to life in prison by the governor in December 2014.⁸⁸ The Pennsylvania governor suspended the death penalty in February 2015, until the state advisory commission on capital punishment established by the Pennsylvania state Senate in 2011 can produce its recommendations.⁸⁹ The state district attorney filed a lawsuit with the Pennsylvania Supreme Court over the moratorium on the death penalty.⁹⁰ The moratorium imposed by a federal judge in Ohio was first extended until January 2015,⁹¹ and then, later that month, the governor postponed all executions scheduled for 2015.⁹²

The laws abolishing capital punishment in New Mexico and Connecticut are not retroactive; therefore, inmates remained on death row in these states during the reporting period – two in New Mexico and 11 in Connecticut.⁹³

An annual survey conducted by the Gallup polling service in May 2015, with a random sample of 1,024 adults living in all 50 states and the District of Columbia, found that 60 per cent of Americans indicated that the death penalty is morally acceptable.⁹⁴ A Pew Research Center poll, with a national sample of 1,500 adults from across the United States, reported that 56 per cent favored the death penalty for people convicted of murder, while 38 per cent opposed it, and that 63 per cent

85 "Nebraska Bans Death Penalty, Defying a Veto", *New York Times*, 27 May 2015, <<http://www.nytimes.com/2015/05/28/us/nebraska-abolishes-death-penalty.html>>.

86 "Out of Spite: The Governor of Nebraska's Threat to Execute Prisoners", *The Atlantic*, 5 June 2015, <<http://www.theatlantic.com/politics/archive/2015/06/a-governor-threatens-to-execute-prisoners-out-of-spite/394949/>>.

87 Nebraska Death Row Inmates, Nebraska Department of Corrections website, <<http://www.corrections.nebraska.gov/pdf/Death%20Row.pdf>>.

88 "Maryland commutes last four death row sentences to life", *BBC*, 31 December 2014, <<http://www.bbc.com/news/world-us-canada-30636325>>.

89 "Pennsylvania's governor suspends the death penalty", *The Washington Post*, 13 February 2015, <<http://www.washingtonpost.com/news/post-nation/wp/2015/02/13/pennsylvania-suspends-the-death-penalty/>>.

90 "Pennsylvania Governor's Death Penalty Moratorium Under Fire", *The Huffington Post*, 5 March 2015, <http://www.huffingtonpost.com/2015/03/05/pennsylvania-death-penalty-supreme-court_n_6804722.html>.

91 "Ohio's death-penalty moratorium extended until next January", *Cleveland.com*, 11 August 2014, <http://www.cleveland.com/open/index.ssf/2014/08/ohios_execution_moratorium_ext.html>.

92 "Ohio delays all 2015 executions, amid scrutiny of lethal injection drugs", *The Christian Science Monitor*, 31 January 2015, <<http://www.csmonitor.com/USA/Justice/2015/0131/Ohio-delays-all-2015-executions-amid-scrutiny-of-lethal-injection-drugs>>.

93 "Connecticut Death Penalty Law Is Unconstitutional, Court Rules", *New York Times*, 13 August 2015, <<http://www.nytimes.com/2015/08/14/nyregion/connecticut-death-penalty-law-is-unconstitutional-court-rules.html?mabReward=CTM&r=0>>.

94 "Most Americans Continue to Say Death Penalty Morally OK", *Gallup*, 4 June 2015, <<http://www.gallup.com/poll/183503/americans-continue-say-death-penalty-morally.aspx>>.

of those surveyed saw the death penalty as morally justified, while 31 per cent saw it as morally wrong.⁹⁵

Legal Framework

The statutes of 31 states allow for the death penalty, in: Alabama, Arizona, Arkansas, California, Colorado, Delaware, Florida, Georgia, Idaho, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nevada, New Hampshire, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington and Wyoming. The federal government, including in the military justice system, also allows this form of punishment.

Methods of Execution

Lethal injection is the primary method of execution in the United States – either as a sole method, or as one of the options offered to death row inmates in certain states.⁹⁶ All people executed in the reporting period were administered a lethal injection.⁹⁷ Alternative methods to lethal injection are electrocution (in eight states), gas chamber (five), hanging (three) and firing squad (three).⁹⁸ Tennessee allows that electrocution may be used if the drugs for lethal injections are not available.⁹⁹ In March 2015, a law entered into force in the state of Utah allowing firing squads to be used for executions in the event that the drugs required for lethal injection are unavailable. In April 2015, in the state of Oklahoma a new law came into effect allowing the use of nitrogen gas as a form of execution if either the drugs for lethal injection are unavailable or if lethal injection is struck down by the courts.¹⁰⁰ North Carolina passed a law classifying information about the manufacturers of

95 “Less Support for Death Penalty, Especially Among Democrats”, Pew Research Center, 16 April 2015, <<http://www.people-press.org/2015/04/16/less-support-for-death-penalty-especially-among-democrats/>>.

96 “Methods of Execution”, Death Penalty Information Center website, <<http://www.deathpenaltyinfo.org/methods-execution>>.

97 “Execution list 2014”, Death Penalty Information Center website, <<http://www.deathpenaltyinfo.org/executionlist-2014>>, “Execution list 2015”, Death Penalty Information Center, <<http://www.deathpenaltyinfo.org/execution-list-2015>>.

98 Death Penalty Information Center, *op. cit.*, note 96.

99 *Ibid.*

100 *Ibid.*

lethal drugs, which removed a requirement that the public be allowed to review and comment on proposed execution protocols.¹⁰¹

On 29 June 2015, the United States Supreme Court decided, in *Glossip v. Gross*, that the use of the sedative midazolam did not constitute cruel and unusual punishment.¹⁰² In this case, the prisoners failed to identify a known and available method of execution that entails a lesser risk of pain, in line with earlier Supreme Court rulings.¹⁰³

There continued to be controversies over botched executions. The execution of Joseph Wood in Arizona on 23 July 2014 took almost two hours, during which he was injected with 15 times the amount of drugs required by the state protocol.¹⁰⁴

Statistics on Death Sentences

No official statistical data on death sentences and executions were provided by the United States Mission to the OSCE as of 1 September 2015. According to publicly available information, in 2014, 73 people were sentenced to death, a drop from 83 in 2013, and the lowest number recorded since the reinstatement of the death penalty in 1976.¹⁰⁵ The most death sentences were imposed in California (14), followed by Florida and Texas (11 each).¹⁰⁶

According to the latest published NAACP¹⁰⁷ Legal Defense and Educational Fund report, as of 1 April 2015 there were a total of 3,002 people on death row, among them 54 women.¹⁰⁸ California had the highest number of death row inmates (746), followed by Florida (401), Texas (271), Alabama (201) and Pennsylvania (184).¹⁰⁹ There are currently 62 federal death row inmates, with the latest sentenced being

101 "N.C. legislators working to restart capital punishment", Rachel Sereix, Duke Chronicle, 9 September 2015, <<http://www.dukechronicle.com/article/2015/09/n-c-legislators-working-to-restart-capital-punishment>>.

102 *Glossip et al. v. Gross et al.* 576 U.S. (2015), <http://www.supremecourt.gov/opinions/14pdf/14-7955_aplc.pdf>.

103 *Ibid.*

104 "Arizona inmate Joseph Wood was injected 15 times with execution drugs", The Guardian, 2 August 2014, <<http://www.theguardian.com/world/2014/aug/02/arizona-inmate-injected-15-times-execution-drugs-joseph-wood>>.

105 "Facts about the death penalty", Death Penalty Information Center website, <<http://www.deathpenaltyinfo.org/documents/FactSheet.pdf>>. In 1976, the US Supreme Court in the case *Gregg vs. Georgia* ruled that the death penalty did not represent the violation of the 8th Amendment of the US Constitution, which automatically led to the reinstatement of the death penalty. See more at <http://www.deathpenaltyinfo.org/part-i-history-death-penalty>

106 "2014 Sentencing", Death Penalty Information Center website, <<http://www.deathpenaltyinfo.org/2014-sentencing>>.

107 "National Association for the advancement of Colored people" is an organization dedicated to fighting racial discrimination, including in the criminal justice system. To learn more about NAACP visit <<https://www.naacp.org/>>.

108 "Death Row U.S.A. Spring 2015", the Criminal Justice Project of NAACP Legal Defense and Educational Fund, Inc., Spring 2015, <http://www.naacpldf.org/files/publications/DRUSA_Spring_2015.pdf>.

109 *Ibid.*

Dzhokhar Tsarnaev, who was sentenced to death for his responsibility in the Boston Marathon bombing.¹¹⁰ Five convicts remain on death row in the military justice system.¹¹¹

Statistics on Executions

During the reporting period, 29 people were executed,¹¹² marking a decrease from the last reporting period, during which a total of 44 people were executed in the United States.¹¹³ Six states carried out executions: Texas (12 executions), Missouri (nine), Georgia (three), Florida (three), Arizona (one) and Oklahoma (one).¹¹⁴ Among the executed was one woman, Lisa Coleman, who was executed in Texas.¹¹⁵

No one has been executed at the federal level since 2003, or by the military since the reinstatement of the death penalty in 1976.¹¹⁶

International Safeguards

Amnesty, Pardon and Commutation

The four people on death row in Maryland had their sentences commuted to life without parole by the governor in January 2015. The death penalty was abolished in Maryland in 2013, but the legislation was not retroactive.

110 "Federal Death Row Prisoners", Death Penalty Information Center website, <<http://www.deathpenaltyinfo.org/federal-death-row-prisoners>>.

111 NAACP website, *op. cit.*, note 108.

112 According to the Death Penalty Information Center in 2014 during reporting period 12 people were executed: Eddie Davis ("White", 45, Florida), John Middleton ("White", 54, Missouri), Joseph Wood ("White", 55, Arizona), Michael Worthington ("White", 43, Missouri), Earl Ringo, Jr. ("Black", 40, Missouri), Willie Trotter ("Black", 45, Texas), Lisa Coleman ("Black", 38, Texas), Miguel Paredes ("Latino", 32, Texas), Chadwick Banks ("Black", 43, Florida), Leon Taylor ("Black", 56, Missouri), Robert Holsey ("Black", 49, Georgia), Paul Goodwin ("White", 48, Missouri); in the 2015 during reporting period 17 people were executed: Andrew Brannan ("White", 66, Georgia), Johnny Kormondy ("White", 42, Florida), Charles Warner ("Black", 46, Oklahoma), Arnold Prieto ("Latino", 41, Texas), Warren Hill ("Black", 54, Georgia), Robert Ladd ("Black", 57, Texas), Donald Newbury ("White", 52, Texas), Walter Storey ("White", 47, Missouri), Manuel Vasquez ("Latino", 46, Texas), Cecil Clayton ("White", 74, Missouri), Kent Sprouse ("White", 42, Texas), Andre Cole ("Black", 52, Missouri), Manuel Garza ("Latino", 34, Texas), Derrick Charles ("Black", 32, Texas), Lester Bower ("White", 67, Texas), Richard Strong ("Black", 48, Missouri), Gregory Russeau ("Black", 45, Texas), see "Execution list 2014", Death Penalty Information Center website, <<http://www.deathpenaltyinfo.org/executionlist-2014>>, and "Execution list 2015", Death Penalty Information Center website, <<http://www.deathpenaltyinfo.org/execution-list-2015>>.

113 *The Death Penalty in the OSCE Area: Background Paper 2014*, OSCE/ODIHR, September 2013, <<http://www.osce.org/odihr/124105?download=true>>.

114 "Execution list 2014", Death Penalty Information Center, <<http://www.deathpenaltyinfo.org/executionlist-2014>>, "Execution list 2015", Death Penalty Information Center, <<http://www.deathpenaltyinfo.org/execution-list-2015>>.

115 *Ibid.*

116 "Jurisdictions with no recent executions", Death Penalty Information Center website, <<http://www.deathpenaltyinfo.org/jurisdictions-no-recent-executions>>.

The death sentence of Tommy Lee Waldrip was commuted to life without parole by the Georgia Board of Pardons and Paroles one day before his planned execution in July 2014.¹¹⁷ The board did not give reasons for the decision.¹¹⁸

Fair Trial Guarantees

During the reporting period there were nine exonerations of individuals who had been previously sentenced to death, according to the National Registry of Exonerations.¹¹⁹

In 1990, in Arizona, Debra Milke, one of those exonerated, was charged with the murder of her son, conspiracy to commit murder, child abuse and kidnapping. No forensic or physical evidence linked her to the murder. The primary evidence against her was the testimony of the detective who questioned her and claimed she confessed to murdering her son. A jury sentenced Milke to death. The United States Court of Appeals for the Ninth Circuit granted her petition for a writ of habeas corpus in 2013, and held that the prosecution had violated Milke's right to a fair trial because it had not turned over evidence of the detective's previous misconduct. The misconduct included several other cases in which the detective lied under oath, and those in which the convictions were vacated because he violated the Fourth and Fifth Amendments during the investigations. Milke spent 23 years of her life on death row.¹²⁰

In 1984, Henry McCollum¹²¹ and Leon Brown,¹²² African-American and intellectually disabled half-brothers, were convicted for the rape and murder of an 11-year-old girl in North Carolina. After being retried, McCollum was again sentenced to death and Brown was sentenced to life in prison. In 2004, DNA testing on a cigarette butt found near the victim's body did not match the DNA profiles of Brown or McCollum and, in 2010, the state police DNA database found that the DNA from the cigarette matched the profile of another man, already sentenced to

117 "Waldrip's death sentence commuted to life without parole", Atlanta JournalConstitution, 9 July 2014, <<http://www.ajc.com/news/news/breaking-waldrips-death-sentence-commuted-to-life-/ngcRm/>>.

118 *Ibid.*

119 According to The National Registry of Exonerations, this includes: Henry McCollum ("Black", North Carolina), Ricky Jackson ("Black", Ohio), Leon Brown ("Black", North Carolina), Wiley Bridgeman ("Black", Ohio), Kwame Ajamu ("Black", Ohio), Debra Milke ("White", Arizona), Willie Manning ("Black", Mississippi), Anthony Hinton ("Black", Alabama), Alfred Brown ("Black", Texas); see The National Registry of Exonerations, <<https://www.law.umich.edu/special/exoneration/Pages/detailist.aspx>>.

120 See more about Debra Milke see the National Registry of Exonerations website: <<https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=4660>>.

121 See more about Henry McCollum, see the National Registry of Exonerations website: , <<https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=4492>>.

122 See more about Leon Brown, see the National Registry of Exonerations website: <<https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=4493>>.

death for the rape and murder of a girl in the same town. On 2 September 2014, both McCollum and Brown were granted motions requesting the charges against them be dismissed and convictions vacated, which resulted in their release, 30 years after they were first sentenced. In June 2015, the North Carolina governor pardoned both men.¹²³

Foreign Nationals

As of 9 June 2015, there were 139 foreign nationals on death row in the United States.¹²⁴ Nationals of Mexico comprised the biggest portion of this group (60), followed by Cuba (9) and El Salvador (8). The three states with the highest numbers of foreign nationals on death row are California (61 inmates), Texas (22) and Florida (21). There have been no executions of foreign nationals in the reporting period. One foreign national on death row in Alabama committed suicide in April 2015.¹²⁵

Individuals with Mental Illness or Intellectual Disability

According to the United States Supreme Court's decision in *Atkins v. Virginia*, executing individuals with "mental retardation" represents a violation of the Eight Amendment of the Constitution of the United States, which bans cruel and unusual punishment.¹²⁶

During the reporting period, one of the primary recommendations being discussed by the Ohio Supreme Court task force was to prohibit the imposition of the death penalty on people with serious mental illness.¹²⁷

Cecil Clayton, an inmate suffering from dementia who had 20 per cent of his frontal lobe removed after a sawmill accident, was executed in Missouri in March 2015.¹²⁸ Psychiatrists said that the removal of a part of Clayton's brain caused violent

123 "North Carolina governor pardons two men who spent 30 years behind bars", *The Washington Post*, 4 June 2015, <<http://www.washingtonpost.com/news/post-nation/wp/2015/06/04/north-carolina-governor-pardons-two-men-who-spent-30-years-behind-bars/>>.

124 "Foreign Nationals and the Death Penalty in the US", Death Penalty Information Center website, <<http://www.deathpenaltyinfo.org/foreign-nationals-and-death-penalty-us>>; the DPIC does not include dual nationals in this list.

125 "Convicted cop-killer hangs himself in Alabama prison", *AL.com*, 27 April 2015, <http://www.al.com/news/birmingham/index.ssf/2015/04/convicted_cop-killer_hangs_him.html>.

126 "Atkins v. Virginia", Cornell University Law School, 20 June 2002, <<https://www.law.cornell.edu/supct/html/00-8452.ZO.html>>.

127 "Mentally ill murderers would avoid death penalty under new Ohio Senate bill", *Cleveland.com*, 15 May 2015, <http://www.cleveland.com/open/index.ssf/2015/05/mentally_ill_murderers_would_a.html>.

128 "Lawyers Seek Reprieve for Killer Who Lost Part of His Brain Decades Earlier", *The New York Times*, 7 March 2015, <<http://www.nytimes.com/2015/03/08/us/lawyers-seek-reprieve-for-killer-who-lost-part-of-his-brain-decades-earlier.html>>.

impulses, schizophrenia and paranoia, His lawyers claimed this led him to kill a police officer and made it impossible for him to understand the significance of his death sentence.¹²⁹

Non-Discrimination

Among the 3,002 people on death row, 43 per cent are “White”, 42 per cent are “Black”, and 13 per cent are “Latino”.¹³⁰ The remaining people on death row are identified as “Native American”, “Asian” or their race was not identified.¹³¹

In December 2014, the judge of the Circuit Court of the Fourteenth Judicial Circuit in South Carolina exonerated George Stinney Jr., who had been executed in 1944 as the youngest person in the United States, at the age of 14, after being sentenced to death by an all-white jury for the murder of two white girls.¹³² Reportedly, he was questioned in the absence of his parents and attorney, the trial took only two hours and his lawyer, a politician from the local community, chose not to appeal.¹³³

In 2015, a University of Nebraska-Lincoln study showed that white individuals who had reported for jury duty in southern California and were presented with hypothetical case facts were more likely to recommend the death sentence when the defendant was identified as “Latino” than when the defendant was identified as “white”.¹³⁴

129 *Ibid.*

130 NAACP website, *op. cit.*, note 108.

131 *Ibid.*; In contrast, United States Census data from 2010 indicated that 72.4 per cent of the US population self-reported as “White”, 12.6 per cent “Black”, and 16.3 per cent “Hispanic or Latino”. Note that some of those reporting themselves to be “Hispanic or Latino” may also have identified as “White” or “Black”. See <<http://www.census.gov/prod/cen2010/briefs/c2010br-02.pdf>>.

132 “It took 10 minutes to convict 14-year-old George Stinney Jr. It took 70 years after his execution to exonerate him”, The Washington Post, 18 December 2014, <<http://www.washingtonpost.com/news/morning-mix/wp/2014/12/18/the-rush-job-conviction-of-14-year-old-george-stinney-exonerated-70-years-after-execution/>>.

133 *Ibid.*

134 Tabak, Ronald J., “Chapter 19: Capital Punishment”, in *The State of Criminal Justice 2015*, American Bar Association, 2015.

Annexes

Annex 1

OSCE Commitments

Document of the Sixteenth Meeting of the Ministerial Council (Helsinki 2008)

We stress that everyone has the right to life, liberty and security of person; no one shall be held in slavery, and no one shall be subjected to torture or cruel inhuman or degrading treatment or punishment.

Budapest Document: Towards a Genuine Partnership in a New Era (Budapest 1994)

Capital Punishment

19. The participating States reconfirm their commitments in the Copenhagen and Moscow Documents concerning the question of capital punishment.

Helsinki Document: The Challenges of Change (Helsinki 1992)

The participating States

(58) Confirm their commitments in the Copenhagen and Moscow Documents concerning the question of capital punishment.

Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE (Moscow 1991)

(36) The participating States recall their commitment in the Vienna Concluding Document to keep the question of capital punishment under consideration and re-affirm their undertakings in the Document of the Copenhagen Meeting to exchange information on the question of the abolition of the death penalty and to make available to the public information regarding the use of the death penalty.

(36.1) They note

- (i) that the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty entered into force on 11 July 1991;
- (ii) that a number of participating States have recently taken steps towards the abolition of capital punishment;
- (iii) the activities of several non-governmental organizations concerning the question of the death penalty.

**Document of the Copenhagen Meeting of the Conference
on the Human Dimension of the CSCE
(Copenhagen 1990)**

17. The participating States

17.1 recall the commitments undertaken in the Vienna Concluding Document to keep the question of capital punishment under consideration and to co-operate within relevant international organizations;

17.2 recall, in this context, the adoption by the General Assembly of the United Nations, on 15 December 1989, of the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty;

17.3 note the restrictions and safeguards regarding the use of the death penalty which have been adopted by the international community, in particular Article 6 of the International Covenant on Civil and Political Rights;

17.4 note the provisions of the Sixth Protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty;

17.5 note recent measures taken by a number of participating States towards the abolition of capital punishment;

17.6 note the activities of several non-governmental organizations on the question of the death penalty;

17.7 will exchange information within the framework of the Conference on the Human Dimension on the question of the abolition of the death penalty and keep that question under consideration;

17.8 will make available to the public information regarding the use of the death penalty.

**Concluding Document of the Vienna Meeting
(Vienna 1989)**

Questions relating to security in Europe

(24) With regard to the question of capital punishment, the participating States note that capital punishment has been abolished in a number of them. In participating States where capital punishment has not been abolished, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to their international commitments. This question will be kept under consideration. In this context, the participating States will co-operate within relevant international organizations.

Annex 2

OSCE Parliamentary Assembly

OSCE Parliamentary Assembly Annual Session, Oslo, 6 – 10 July 2010,

Resolution on the Death Penalty (...)

The OSCE Parliamentary Assembly:

45. *Condemns* all executions wherever they take place;
46. *Calls upon* participating States applying the death penalty to declare an immediate moratorium on executions;
47. *Encourages* the participating States that have not abolished the death penalty to respect safeguards protecting the rights of those facing the death penalty, as laid down in the United Nations Economic and Social Council Safeguards;
48. *Condemns* in particular the resumption of executions in Belarus, despite the political initiatives of the European Union towards the Government, made also with a view to encouraging reforms in the field of human rights;
49. *Calls on* Belarus to take immediate steps towards abolition of the death penalty by promptly establishing a moratorium on all death sentences and executions with a view to abolishing the death penalty, as provided by United Nations General Assembly resolution 62/149, adopted on 18 December 2007, and resolution 63/168, adopted on 18 December 2008;
50. *Calls upon* the Government of the United States of America to adopt a moratorium on executions leading to the complete abolition of the death penalty in federal legislation and to withdraw its reservation to Article 6(5) of the International Covenant on Civil and Political Rights;

[...]

52. *Calls upon* the retentionist participating States to encourage the Office for Democratic Institutions and Human Rights and OSCE Missions, in co-operation with the Council of Europe, to conduct awareness-raising activities against recourse to the death penalty, particularly with the media, law enforcement officials, policy-makers and the general public;

53. Further *encourages* the activities of non-governmental organizations working for the abolition of the death penalty;

54. *Commits* to monitoring the issue of the death penalty and to considering possible initiatives and ad hoc missions in retentionist countries, so as to urge government authorities to adopt a moratorium on executions with a view to completely abolishing them.

Annex 3

United Nations Standards

Extract from the International Covenant on Civil and Political Rights (1966)

Article 6

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.

3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.

4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.

5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.

6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

7. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

**Second Optional Protocol to the International Covenant on Civil and
Political Rights, aiming at the abolition of the death penalty
(1989)**

Article 1

1. No one within the jurisdiction of a State Party to the present Protocol shall be executed.
2. Each State Party shall take all necessary measures to abolish the death penalty within its jurisdiction.

Article 2

1. No reservation is admissible to the present Protocol, except for a reservation made at the time of ratification or accession that provides for the application of the death penalty in time of war pursuant to a conviction for a most serious crime of a military nature committed during wartime.
2. The State Party making such a reservation shall at the time of ratification or accession communicate to the Secretary-General of the United Nations the relevant provisions of its national legislation applicable during wartime.
3. The State Party having made such a reservation shall notify the Secretary-General of the United Nations of any beginning or ending of a state of war applicable to its territory.

Article 3

The States Parties to the present Protocol shall include in the reports they submit to the Human Rights Committee, in accordance with article 40 of the Covenant, information on the measures that they have adopted to give effect to the present Protocol.

Article 4

With respect to the States Parties to the Covenant that have made a declaration under article 41, the competence of the Human Rights Committee to receive and consider communications when a State Party claims that another State Party is not fulfilling its obligations shall extend to the provisions of the present Protocol, unless the State Party concerned has made a statement to the contrary at the moment of ratification or accession.

Article 5

With respect to the States Parties to the first Optional Protocol to the International Covenant on Civil and Political Rights adopted on 16 December 1966, the competence of the Human Rights Committee to receive and consider communications from individuals subject to its jurisdiction shall extend to the provisions of the present Protocol, unless the State Party concerned has made a statement to the contrary at the moment of ratification or accession.

Article 6

1. The provisions of the present Protocol shall apply as additional provisions to the Covenant.
2. Without prejudice to the possibility of a reservation under article 2 of the present Protocol, the right guaranteed in article 1, paragraph 1, of the present Protocol shall not be subject to any derogation under article 4 of the Covenant.

**Extract from the Convention on the Rights of the Child
(1989)**

Article 37

States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age.

**Economic and Social Council Resolution 1989/64 of 24 May 1989:
Implementation of the safeguards guaranteeing protection of the rights of
those facing the death penalty**

The Economic and Social Council,

1. Recommends that Member States take steps to implement the safeguards and strengthen further the protection of the rights of those facing the death penalty, where applicable, by:

- a) Affording special protection to persons facing charges for which the death penalty is provided by allowing time and facilities for the preparation of their defence, including the adequate assistance of counsel at every stage of the proceedings, above and beyond the protection afforded in non-capital cases;
 - b) Providing for mandatory appeals or review with provisions for clemency or pardon in all cases of capital offence;
 - c) Establishing a maximum age beyond which a person may not be sentenced to death or executed;
 - d) Eliminating the death penalty for persons suffering from mental retardation or extremely limited mental competence, whether at the stage of sentence or execution;
2. Invites Member States to co-operate with specialized bodies, non-governmental organizations, academic institutions and specialists in the field in efforts to conduct research on the use of the death penalty in every region of the world;
3. Also invites Member States to facilitate the efforts of the Secretary-General to gather comprehensive, timely and accurate information about the implementation of the safeguards and the death penalty in general;
4. Invites Member States that have not yet done so to review the extent to which their legislation provides for the safeguards guaranteeing protection of the rights of those facing the death penalty as set out in the annex to Economic and Social Council resolution 1984/50;
5. Urges Member States to publish, for each category of offence for which the death penalty is authorized, and if possible on an annual basis, information about the use of the death penalty, including the number of persons sentenced to death, the number of executions actually carried out, the number of persons under sentence of death, the number of death sentences reversed or commuted on appeal and the number of instances in which clemency has been granted, and to include information on the extent to which the safeguards referred to above are incorporated in national law.

Economic and Social Council Resolution 1984/50 of 25 May 1984: Safeguards guaranteeing protection of the rights of those facing the death penalty

1. In countries which have not abolished the death penalty, capital punishment may be imposed only for the most serious crimes, it being understood that their scope should not go beyond intentional crimes with lethal or other extremely grave consequences.
2. Capital punishment may be imposed only for a crime for which the death penalty is prescribed by law at the time of its commission, it being understood that if, subsequent to the commission of the crime, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby.
3. Persons below 18 years of age at the time of the commission of the crime shall not be sentenced to death, nor shall the death sentence be carried out on pregnant women, or on new mothers, or on persons who have become insane.
4. Capital punishment may be imposed only when the guilt of the person charged is based upon clear and convincing evidence leaving no room for an alternative explanation of the facts.
5. Capital punishment may only be carried out pursuant to a final judgement rendered by a competent court after legal process which gives all possible safeguards to ensure a fair trial, at least equal to those contained in article 14 of the International Covenant on Civil and Political Rights, including the right of anyone suspected of or charged with a crime for which capital punishment may be imposed to adequate legal assistance at all stages of the proceedings.
6. Anyone sentenced to death shall have the right to appeal to a court of higher jurisdiction, and steps should be taken to ensure that such appeals shall become mandatory.
7. Anyone sentenced to death shall have the right to seek pardon, or commutation of sentence; pardon or commutation of sentence may be granted in all cases of capital punishment.

8. Capital punishment shall not be carried out pending any appeal or other recourse procedure or other proceeding relating to pardon or commutation of the sentence.
9. Where capital punishment occurs, it shall be carried out so as to inflict the minimum possible suffering.

**General Comment No. 06: The right to life (art. 6) of 20 April 1982
by the Human Rights Committee**

1. The right to life enunciated in article 6 of the Covenant has been dealt with in all State reports. It is the supreme right from which no derogation is permitted even in time of public emergency which threatens the life of the nation (art. 4). However, the Committee has noted that quite often the information given concerning article 6 was limited to only one or other aspect of this right. It is a right which should not be interpreted narrowly

(...)

6. While it follows from article 6 (2) to (6) that States parties are not obliged to abolish the death penalty totally they are obliged to limit its use and, in particular, to abolish it for other than the “most serious crimes”. Accordingly, they ought to consider reviewing their criminal laws in this light and, in any event, are obliged to restrict the application of the death penalty to the “most serious crimes”. The article also refers generally to abolition in terms which strongly suggest (paras. 2 (2) and (6)) that abolition is desirable. The Committee concludes that all measures of abolition should be considered as progress in the enjoyment of the right to life within the meaning of article 40, and should as such be reported to the Committee. The Committee notes that a number of States have already abolished the death penalty or suspended its application. Nevertheless, States’ reports show that progress made towards abolishing or limiting the application of the death penalty is quite inadequate.

7. The Committee is of the opinion that the expression “most serious crimes” must be read restrictively to mean that the death penalty should be a quite exceptional measure. It also follows from the express terms of article 6 that it can only be imposed in accordance with the law in force at the time of the commission of the crime and not contrary to the Covenant. The procedural guarantees therein prescribed must

be observed, including the right to a fair hearing by an independent tribunal, the presumption of innocence, the minimum guarantees for the defence, and the right to review by a higher tribunal. These rights are applicable in addition to the particular right to seek pardon or commutation of the sentence.

**United Nations Commission on Human Rights Resolution 2005/59
on the question of the death penalty**

The Commission on Human Rights,

1. *Expresses its concern* at the continuing use of the death penalty around the world, alarmed in particular at its application after trials that do not conform to international standards of fairness and that several countries impose the death penalty in disregard of the limitations set out in the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child and of the safeguards guaranteeing protection of the rights of those facing the death penalty;
2. *Condemns* the continuing application of the death penalty on the basis of any discriminatory legislation, policies or practices;
3. *Condemns also* cases in which women are subjected to the death penalty on the basis of gender-discriminatory legislation, policies or practices and the disproportionate use of the death penalty against persons belonging to national or ethnic, religious and linguistic minorities;
4. *Welcomes* the seventh quinquennial report of the Secretary-General on capital punishment and implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty (E/2005/3), submitted in accordance with Economic and Social Council resolutions 1745 (LIV) of 16 May 1973, 1995/57 of 28 July 1995 and Council decision 2004/242 of 21 July 2004, which concludes that there is an encouraging trend towards the abolition and restriction of the use of the death penalty in most countries, but that much remains to be done in the implementation of the aforementioned safeguards in those countries that retain it;

5. *Calls upon* all States that still maintain the death penalty:
- (a) To abolish the death penalty completely and, in the meantime, to establish a moratorium on executions;
 - (b) Progressively to restrict the number of offences for which the death penalty may be imposed and, at the least, not to extend its application to crimes to which it does not at present apply;
 - (c) To make available to the public information with regard to the imposition of the death penalty and to any scheduled execution;
 - (d) To provide to the Secretary-General and relevant United Nations bodies information relating to the use of capital punishment and the observance of the safeguards guaranteeing protection of the rights of those facing the death penalty;
6. *Calls upon* all States parties to the International Covenant on Civil and Political Rights that have not yet done so to consider acceding to or ratifying the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty;
7. *Urges* all States that still maintain the death penalty:
- (a) Not to impose it for crimes committed by persons below 18 years of age;
 - (b) To exclude pregnant women and mothers with dependent infants from capital punishment;
 - (c) Not to impose the death penalty on a person suffering from any mental or intellectual disabilities or to execute any such person;
 - (d) Not to impose the death penalty for any but the most serious crimes and only pursuant to a final judgement rendered by an independent and impartial competent court, and to ensure the right to a fair trial and the right to seek pardon or commutation of sentence;
 - (e) To ensure that all legal proceedings, including those before special tribunals or jurisdictions, and particularly those related to capital offences, conform to the minimum procedural guarantees contained in article 14 of the International Covenant on Civil and Political Rights;
 - (f) To ensure also that the notion of “most serious crimes” does not go beyond intentional crimes with lethal or extremely grave consequences and that the death penalty is not imposed for non-violent acts such as financial crimes, religious practice

or expression of conscience and sexual relations between consenting adults nor as a mandatory sentence;

- (g) To withdraw and/or not to enter any new reservations under article 6 of the Covenant that may be contrary to the object and purpose of the Covenant, given that article 6 enshrines the minimum rules for the protection of the right to life and the generally accepted standards in this area;
- (h) To observe the safeguards guaranteeing protection of the rights of those facing the death penalty and to comply fully with their international obligations, in particular with those under article 36 of the Vienna Convention on Consular Relations, particularly the right to receive information on consular assistance within the context of a legal procedure, as affirmed by the jurisprudence of the International Court of Justice and confirmed in recent relevant judgements;
- (i) To ensure that, where capital punishment occurs, it shall be carried out so as to inflict the minimum possible suffering and shall not be carried out in public or in any other degrading manner, and to ensure that any application of particularly cruel or inhuman means of execution, such as stoning, be stopped immediately;
- (j) Not to execute any person as long as any related legal procedure, at the international or at the national level, is pending;

8. *Calls upon* States that no longer apply the death penalty but maintain it in their legislation to abolish it;

9. *Calls upon* States that have recently lifted or announced the lifting de facto or de jure of moratoriums on executions once again to commit themselves to suspend such executions;

10. *Requests* States that have received a request for extradition on a capital charge to reserve explicitly the right to refuse extradition in the absence of effective assurances from relevant authorities of the requesting State that the death penalty will not be carried out, and calls upon States to provide such effective assurances if requested to do so, and to respect them;

11. *Requests* the Secretary-General to submit to the Commission at its sixty-second session, in consultation with Governments, specialized agencies and intergovernmental and non-governmental organizations, a yearly supplement to his quinquennial re-

port on capital punishment and implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty, paying special attention to the imposition of the death penalty on persons younger than 18 years of age at the time of the offence and on persons suffering from any mental or intellectual disabilities;

12. *Decides* to continue consideration of the matter at its sixty-second session under the same agenda item.

**Resolution adopted by the General Assembly
on 18 December 2014**

69/186. Moratorium on the use of the death penalty

The General Assembly,

Guided by the purposes and principles contained in the Charter of the United Nations,

[...]

4. *Calls upon* all States:

- (a) To respect international standards that provide safeguards guaranteeing protection of the rights of those facing the death penalty, in particular the minimum standards, as set out in the annex to Economic and Social Council resolution 1984/50 of 25 May 1984, as well as to provide the Secretary-General with information in this regard;
- (b) To make available relevant information with regard to their use of the death penalty, inter alia, the number of persons sentenced to death, the number of persons on death row and the number of executions carried out, which can contribute to possible informed and transparent national and international debates, including on the obligations of States pertaining to the use of the death penalty;
- (c) To progressively restrict the use of the death penalty and not to impose capital punishment for offences committed by persons below 18 years of age and on pregnant women;
- (d) To reduce the number of offences for which the death penalty may be imposed;

- (e) To establish a moratorium on executions with a view to abolishing the death penalty;
5. *Calls upon* States which have abolished the death penalty not to reintroduce it, and encourages them to share their experience in this regard;
6. *Calls upon* States that have not yet done so to consider acceding to or ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty;
7. *Requests* the Secretary-General to report to the General Assembly at its sixty-ninth session on the implementation of the present resolution;
8. *Decides* to continue consideration of the matter at its sixty-ninth session under the item entitled "Promotion and protection of human rights".

Annex 4

Council of Europe Standards

Extract from the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950

Article 2

1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

2. Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary:

- a. in defence of any person from unlawful violence;
- b. in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- c. in action lawfully taken for the purpose of quelling a riot or insurrection.

Protocol No. 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms, Concerning the Abolition of the Death Penalty of 28 April 1983

Article 1 – Abolition of the death penalty

The death penalty shall be abolished. No one shall be condemned to such penalty or executed.

Article 2 – Death penalty in time of war

A State may make provision in its law for the death penalty in respect of acts committed in time of war or of imminent threat of war; such penalty shall be applied only in the instances laid down in the law and in accordance with its provisions. The State shall communicate to the Secretary General of the Council of Europe the relevant provisions of that law.

Article 3 – Prohibition of derogations

No derogation from the provisions of this Protocol shall be made under Article 15 of the Convention.

Article 4 – Prohibition of reservations

No reservation may be made under Article 57 of the Convention in respect of the provisions of this Protocol.

Article 5 – Territorial application

1. Any State may at the time of signature or when depositing its instrument of ratification, acceptance or approval, specify the territory or territories to which this Protocol shall apply.

2. Any State may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Protocol to any other territory specified in the declaration. In respect of such territory the Protocol shall enter into force on the first day of the month following the date of receipt of such declaration by the Secretary General.

3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the first day of the month following the date of receipt of such notification by the Secretary General.

Article 6 – Relationship to the Convention

As between the States Parties the provisions of Articles 1 to 5 of this Protocol shall be regarded as additional articles to the Convention and all the provisions of the Convention shall apply accordingly.

**Protocol No. 13 to the Convention for the Protection of Human Rights and
Fundamental Freedoms, Concerning the Abolition of the Death Penalty
in All Circumstances of 3 May 2002**

Article 1 – Abolition of the death penalty

The death penalty shall be abolished. No one shall be condemned to such penalty or executed.

Article 2 – Prohibition of derogations

No derogation from the provisions of this Protocol shall be made under Article 15 of the Convention.

Article 3 – Prohibition of reservations

No reservation may be made under Article 57 of the Convention in respect of the provisions of this Protocol.

Article 4 – Territorial application

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance or approval, specify the territory or territories to which this Protocol shall apply.

2. Any State may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Protocol to any other territory specified in the declaration. In respect of such territory the Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.

3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn or modified by a notification addressed to the Secretary General. The withdrawal or modification shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.

Article 5 – Relationship to the Convention

As between the States Parties the provisions of Articles 1 to 4 of this Protocol shall be regarded as additional articles to the Convention, and all the provisions of the Convention shall apply accordingly.

Annex 5

European Union Standards

Extract from Charter of Fundamental Rights of the European Union (2010)

Article 2

Right to Life

1. Everyone has the right to life.
2. No one shall be condemned to the death penalty, or executed.

Extract from the European Union Guidelines on the Death Penalty: revised and updated version of 16 June 2008

III. Minimum standards paper

Where states insist on maintaining the death penalty, the EU considers it important that the following minimum standards should be met:

- i) Capital punishment may be imposed only for the most serious crimes, it being understood that their scope should not go beyond intentional crimes with lethal or other extremely grave consequences. The death penalty should not be imposed for non-violent acts such as financial crimes, religious practice or expression of conscience and sexual relations between consenting adults nor as a mandatory sentence.
- ii) Capital punishment may be imposed only for a crime for which the death penalty was prescribed at the time of its commission, it being understood that if, subsequent to the commission of the crime, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby.
- iii) Capital punishment may not be imposed on:
 - persons below 18 years of age at the time of the commission of their crime;
 - pregnant women or new mothers;

- persons who have become insane.
- iv) Capital punishment may be imposed only when the guilt of the person charged is based upon clear and convincing evidence leaving no room for alternative explanation of the facts.
- v) Capital punishment must only be carried out pursuant to a final judgement rendered by an independent and impartial competent court after legal proceedings, including those before special tribunals or jurisdictions, which gives all possible safeguards to ensure a fair trial, at least equal to those contained in Article 14 of the International Covenant on Civil and Political Rights, including the right of anyone suspected of or charged with a crime for which capital punishment may be imposed to adequate legal assistance at all stages of the proceedings, and where appropriate, the right to contact a consular representative.
- vi) Anyone sentenced to death shall have an effective right to appeal to a court of higher jurisdiction, and steps should be taken to ensure that such appeals become mandatory.
- vii) Where applicable, anyone sentenced to death shall have the right to submit an Individual complaint under International procedures; the death sentence will not be carried out while the complaint remains under consideration under those procedures; the death penalty will not be carried out as long as any related legal or formal procedure, at the international or at the national level, is pending.
- viii) Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases of capital punishment.
- ix) Capital punishment may not be carried out in contravention of a state's international commitments.
- x) The length of time spent after having been sentenced to death may also be a factor.
- xi) Where capital punishment occurs, it shall be carried out so as to inflict the minimum possible suffering. It may not be carried out in public or in any other degrading manner.

xii) The death penalty should not be imposed as an act of political revenge in contravention of the minimum standards, e.g., against coup plotters.

Extract from European Parliament Resolution of 7 October 2010 on the World Day against the Death Penalty

The European Parliament,

...

1. *Reiterates* its long-standing opposition to the death penalty in all cases and under all circumstances and emphasises once again that abolition of the death penalty contributes to the enhancement of human dignity and the progressive development of human rights;

2. *Condemns* all executions wherever they take place; strongly calls on the EU and its Member States to enforce the implementation of the UN resolution on a universal moratorium on executions with a view to total abolition in all states which still practise the death penalty; calls on the Council and the Commission to take action in order to progressively restrict its use while insisting that it be carried out according to international minimum standards; expresses its deep concern regarding the imposition of the death penalty on minors and on persons with mental or intellectual disability and calls for their immediate and definitive ending;

3. *Urges* the EU to use all tools of diplomacy and cooperation assistance available to it to work towards the abolition of the death penalty;

4. *Calls upon* states applying the death penalty to declare an immediate moratorium on executions;

(...)

6. *Encourages* the states that have not abolished the death penalty to respect safeguards protecting the rights of those facing the death penalty, as laid down in the United Nations Economic and Social Council Safeguards; calls on the Council and the Commission to encourage those remaining countries which have not signed and ratified the Second Optional Protocol to the International Covenant on Civil and Political

Rights to do so, and those Member States that have not signed Protocol No 13 to the European Convention on Human Rights on the death penalty to do so;

7. *Calls on* OSCE member states, in particular the United States and Belarus, to adopt an immediate moratorium on executions;

8. *Calls on* Kazakhstan and Latvia to amend provisions in their national legislation that still allow for the imposition of the death penalty for certain crimes under exceptional circumstances;

9. *Strongly encourages* EU Member States and all co-sponsors of the 2007 and 2008 UNGA resolutions to introduce, in the framework of a reinforced cross-regional alliance, a third resolution on the death penalty at UNGA65 which should in priority address:

- the abolition of ‘State secrets’ regarding the death penalty;
- the position of a Special Envoy who would not only monitor the situation and apply pressure with a view to increased transparency within the systems of capital punishment, but also continue to persuade those who still maintain the death penalty to adopt the UN line for a moratorium on executions with a view to abolishing the death penalty;
- the ‘most serious crimes’ threshold for the lawful application of capital punishment;

10. *Calls on* the OSCE participating states to encourage the Office for Democratic Institutions and Human Rights and OSCE Missions, in cooperation with the Council of Europe, to conduct awareness-raising activities against recourse to the death penalty, particularly with the media, law enforcement officials, policy-makers and the general public;

11. *Calls on* retentionist OSCE states to treat information concerning the death penalty in a transparent manner, providing public information on the identity of individuals sentenced to death or executed and statistics on the use of the death penalty, in accordance with OSCE commitments;

12. *Urges* the Council and the Commission, notably in view of the setting-up of the EEAS, to provide guidance for a comprehensive and effective European death penalty policy with regard to dozens of confirmed European nationals facing execution in third countries, which should include strong and reinforced mechanisms in terms of

the identification system, the delivery of legal assistance, EU legal interventions and diplomatic representations;

13. *Further encourages* the activities of non-governmental organisations working for the abolition of the death penalty, including Hands Off Cain, Amnesty International, Penal Reform International, the World Coalition Against the Death Penalty and the International Helsinki Federation for Human Rights, Sant'Egidio and Reprieve; welcomes and supports the recommendations on EU instruments in the fight against the death penalty made at the 12th EU-NGO Forum on Human Rights;

14. *Undertakes* to monitor the issue of the death penalty, to raise specific cases with the relevant national authorities and to consider possible initiatives and ad hoc missions in retentionist countries, so as to urge government authorities to adopt a moratorium on executions with a view to completely abolishing them;

15. *Requests* the Council and the Commission, when it comes to concluding agreements with countries that still apply the death penalty or with countries which have not signed the moratorium with a view to abolishing the death penalty to strongly encourage them to do so;

16. *Requests* the High Representative of the Union for Foreign Affairs and Security Policy/Vice-President of the Commission and the Members States to continue to speak with one voice and to keep in mind that the main political content of the resolution must be the adoption of a worldwide moratorium as a crucial step towards the abolition of the death penalty;

17. *Calls in particular on* the High Representative of the Union for Foreign Affairs and Security Policy/Vice-President of the Commission to demonstrate the political priority she attaches to the abolition of the death penalty by systematically raising the issue in political contacts with retentionist countries and through regular personal interventions on behalf of those at risk of imminent execution;

(...)

19. *Encourages* regional cooperation to this end; points out, for example, that Mongolia formally established a moratorium on executions in January 2010 and that, as a positive consequence of this, several retentionist countries have been considering the constitutionality of this form of punishment;

20. *Calls on* the Council and Commission to identify ways in which to improve the implementation and effectiveness of the EU Guidelines on the Death Penalty during the current review of the EU's human rights policy, in particular in view of the planned revision of the Guidelines in 2011;

Extract from European Parliament resolution of 1 February 2007 on the initiative in favour of a universal moratorium on the death penalty

The European Parliament,

...

1. *Reiterates* its long-standing position against the death penalty in all cases and under all circumstances and *expresses* once more its conviction that the abolition of the death penalty contributes to the enhancement of human dignity and to the progressive development of human rights;
2. *Calls for* a worldwide moratorium on executions to be established immediately and unconditionally with a view to the worldwide abolition of the death penalty, through a relevant resolution of the current UN General Assembly, whose actual implementation the UN Secretary-General should be able to monitor.

Annex 6

Organization of American States Standards

Extract from the American Convention on Human Rights “Pact of San Jose, Costa Rica” (B-32) of 22 November 1969

Chapter II – Civil and Political Rights

Article 4. Right to Life

1. Every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life.
2. In countries that have not abolished the death penalty, it may be imposed only for the most serious crimes and pursuant to a final judgment rendered by a competent court and in accordance with a law establishing such punishment, enacted prior to the commission of the crime. The application of such punishment shall not be extended to crimes to which it does not presently apply.
3. The death penalty shall not be re-established in states that have abolished it.
4. In no case shall capital punishment be inflicted for political offences or related common crimes.
5. Capital punishment shall not be imposed upon persons who, at the time the crime was committed, were under 18 years of age or over 70 years of age; nor shall it be applied to pregnant women.
6. Every person condemned to death shall have the right to apply for amnesty, pardon, or commutation of sentence, which may be granted in all cases. Capital punishment shall not be imposed while such a petition is pending decision by the competent authority.

**Protocol to the American Convention on Human Rights to
Abolish the Death Penalty of 1990 (A-53)**

Preamble

The States Parties to this Protocol,

Considering

That Article 4 of the American Convention on Human Rights recognizes the right to life and restricts the application of the death penalty;

That everyone has the inalienable right to respect for his life, a right that cannot be suspended for any reason;

That the tendency among the American States is to be in favor of abolition of the death penalty;

That application of the death penalty has irrevocable consequences, forecloses the correction of judicial error, and precludes any possibility of changing or rehabilitating those convicted;

That the abolition of the death penalty helps to ensure more effective protection of the right to life;

That an international agreement must be arrived at that will entail a progressive development of the American Convention on Human Rights, and

That States Parties to the American Convention on Human Rights have expressed their intention to adopt an international agreement with a view to consolidating the practice of not applying the death penalty in the Americas,

Have agreed to sign the following protocol to the American Convention on Human Rights to Abolish the Death Penalty

Article 1

The States Parties to this Protocol shall not apply the death penalty in their territory to any person subject to their jurisdiction.

Article 2

1. No reservations may be made to this Protocol. However, at the time of ratification or accession, the States Parties to this instrument may declare that they reserve the right to apply the death penalty in wartime in accordance with international law, for extremely serious crimes of a military nature.

2. The State Party making this reservation shall, upon ratification or accession, inform the Secretary General of the Organization of American States of the pertinent provisions of its national legislation applicable in wartime, as referred to in the preceding paragraph.

3. Said State Party shall notify the Secretary General of the Organization of American States of the beginning or end of any state of war in effect in its territory.

Annex 7

2014 HDIM Recommendations

Relevant Recommendations made at the 2014 OSCE Human Dimension Implementation Meeting

During the 2014 OSCE Human Dimension Implementation Meeting, held in Warsaw from 22 September to 3 October 2014, issues of the abolition of capital punishment, prevention of torture and the protection of human rights in the fight against terrorism were discussed at the *Working Session 4: Rule of Law I*.

Participants made the following recommendations:

- For OSCE participating States that still retain the death penalty, to introduce moratoriums on the death penalty;
- For OSCE participating States that have in place a moratorium on the death penalty, to abolish it from the law; and
- For all OSCE participating States to respond to the ODIHR questionnaires on the state of the death penalty.

Annex 8

2015 ODIHR Questionnaires

Abolitionist OSCE participating States:

- 1) Is your country engaged in any activities relevant to the issue of the death penalty on the national or international level? If yes, please highlight the most important activities in the period from 1 July 2014 to 30 June 2015.
- 2) Are there any pending cases or communications related to the issue of the death penalty with regard to your country, before domestic or international courts or quasi-judicial bodies? If yes, please provide a description of each case or communication.
- 3) Are any of your citizens facing the death penalty abroad? If yes, please provide their full name, age, gender and race or ethnicity, indicating relevant countries.
- 4) What safeguards are in place in your country to protect children who have a parent facing the death penalty abroad (i.e. with regard to nationals of your country)?

De facto Abolitionist OSCE participating States:

- 1) The attached paper is the entry related to your country in the 2014 Background Paper on the Death Penalty. It lists crimes that carry the death penalty in your country. Please check this list and inform us if any corrections or changes are needed.
- 2) Have any steps been taken to retain or remove a moratorium on the death penalty since the last publication?
- 3) Have any steps to fully remove the death penalty from national legislation been taken since the last publication?
- 4) Have any steps been taken towards the ratification of any of the following international instruments (if applicable):

- Second Optional protocol to the International Covenant on Civil and Political Rights;
 - Protocol Six to the European Convention on Human Rights;
 - Protocol Thirteen to the European Convention on Human Rights.
- 5) Please indicate ways in which you have co-operated with local and international organizations on this issue of the death penalty in the period from 1 July 2014 to 30 June 2015.
 - 6) Are any of your citizens facing the death penalty abroad? If yes, please provide us with their full name, age, gender and race/ ethnicity, indicating relevant countries.
 - 7) What safeguards are in place in your country to protect children who have a parent facing the death penalty abroad (relevant to nationals of your country)?

Retentionist OSCE participating States:

LEGAL FRAMEWORK

- 1) The attached paper is the entry related to your country in the 2014 Background Paper on the Death Penalty. It lists crimes that carry the death penalty and the methods of execution in your country, among other issues. Please inform us if any corrections or changes are needed.
- 2) Should your country's Code of Military Law carry the death penalty, have there been any changes to it?
- 3) Have any steps been taken to introduce, retain or remove a moratorium on the death penalty? If yes, please attach copies of relevant legislation.
- 4) If a moratorium is in place, have there been any changes since last year's publication in the specific procedure regulating the treatment and rights of persons subjected to the moratorium? If yes, please attach copies of relevant legislation.
- 5) Please provide details on any changes regarding the treatment of persons on death row and attach copies of relevant legislation.

STATISTICS

- 6) If a moratorium is in place, please list the name and place of detention of all persons subjected to the moratorium.
- 7) Please provide us with statistics on the number, name, age, gender and race/ethnicity of persons who have been sentenced to death in the period from 1 July 2014 to 30 June 2015, as well as the specific crime for which each of these persons was sentenced.
- 8) Please list which of these sentences have entered into force (i.e. all appeal stages have been exhausted), and which courts passed each of these sentences.
- 9) Please indicate if any of the persons sentenced to death in the period from 1 July 2014 to 30 June 2015 were:
 - Under age of 18 at the time the crime was committed;
 - Pregnant women or women with dependent infants;
 - Diagnosed as having any form of mental disorder;
 - Non-nationals; please indicate whether or not each of these persons received consular assistance.
- 10) Please provide us with the full name, age, gender and race/ethnicity of persons, who have been executed in the period from 1 July 2014 to 30 June 2015. Please also indicate the specific crime for which each of these persons was executed.
- 11) Please indicate if any persons executed in the period from 1 July 2014 to 30 June 2015 were:
 - Under age of 18 at the time the crime was committed;
 - Pregnant women or women with dependent infants;
 - Diagnosed as having any form of mental disorder;
 - Non-national; please indicate whether or not each of these persons received consular assistance.
- 12) Please provide us with the full name, age, gender, and race/ethnicity of any persons sentenced to death penalty who have been granted clemency or had their sentences commuted since 1 July 2014.
- 13) Please provide us with the full name, age, gender and race/ethnicity of your citizens facing the death penalty abroad, indicating relevant countries.

SAFEGUARDS

- 14) What safeguards are in place to protect children who have a parent facing the death penalty in your country and abroad (relevant to nationals of your country)?
- 15) Please describe if there have been any changes in the procedure for informing all non-nationals who have been accused of committing a crime, for which the death penalty is a potential sentence, of their right to receive consular assistance. Is this procedure mandatory?
- 16) Please list all cases regarding the use of the death penalty that have been decided since last publication, or are currently ongoing, before international bodies (eg. UN Human Rights Committee, International Court of Justice).
- 17) Please describe procedures for complying with interim stays by the UN Human Rights Committee?
- 18) Please list the names, age, gender and race/ethnicity of any persons who have been executed whilst a procedure regarding their case was ongoing before an international body.
- 19) If there have been any changes since last year's publication, please describe the procedure for considering a request for clemency, including the factors that are taken into account when considering such a request.
- 20) If there have been changes since last year's publication, please indicate the procedure for informing relatives of the date of execution and the date that the execution has been carried out, as well as of the place of burial of executed persons.

MISCELLANEOUS

- 21) Which state body is responsible for keeping statistics on sentences, executions and commutations?
- 22) Please indicate ways in which you have co-operated with local and international organizations on this issue of the death penalty in the period from 1 July 2014 to 30 June 2015.

Annex 9

Status of Ratification of Relevant Treaties

Status of Ratifications as of 1 August 2015

| Participating State | Status | ICCPR | 2nd Optional Protocol | ECHR | Protocol No. 6 | Protocol No. 13 |
|---------------------------|--------|--------------|-----------------------------|------|-------------------|--------------------|
| Albania | A | r | r | r | r | r |
| Andorra | A | r | r | r | r | r |
| Armenia | A | r | not ratified | r | r | signed |
| Austria | A | r | r | r | r | r |
| Azerbaijan | A | r | r | r | r | not ratified |
| Belarus | R | r | not ratified | n/a | n/a | n/a |
| Belgium | A | r | r | r | r | r |
| Bosnia and Herzegovina | A | r | r | r | r | r |
| Bulgaria | A | r | r | r | r | r |
| Canada | A | r | r | n/a | n/a | n/a |
| Croatia | A | r | r | r | r | r |
| Cyprus | A | r | r | r | r | r |
| Czech Republic | A | r | r | r | r | r |
| Denmark | A | r | r | r | r | r |
| Estonia | A | r | r | r | r | r |
| Finland | A | r | r | r | r | r |
| France | A | r | r | r | r | r |
| Georgia | A | r | r | r | r | r |
| Germany | A | r | r | r | r | r |
| Greece | A | r | r | r | r | r |
| Holy See | A | not ratified | not ratified | n/a | n/a | n/a |
| Hungary | A | r | r | r | r | r |
| Iceland | A | r | r | r | r | r |
| Ireland | A | r | r | r | r | r |
| Italy | A | r | r | r | r | r |
| Kazakhstan | DA | r | not ratified | n/a | n/a | n/a |
| Kyrgyzstan | A | r | r | n/a | n/a | n/a |
| Latvia | PA | r | r | r | r | r |
| Liechtenstein | A | r | r | r | r | r |

THE DEATH PENALTY IN THE OSCE AREA

| Participating State | Status | ICCPR | 2nd Optional Protocol | ECHR | Protocol No. 6 | Protocol No. 13 |
|---------------------------------------|--------|-------|-----------------------|------|----------------|-----------------|
| Lithuania | A | r | r | r | r | r |
| Luxembourg | A | r | r | r | r | r |
| Malta | A | r | r | r | r | r |
| Moldova | A | r | r | r | r | r |
| Monaco | A | r | r | r | r | r |
| Mongolia | DA | r | r | n/a | n/a | n/a |
| Montenegro | A | r | r | r | r | r |
| Netherlands | A | r | r | r | r | r |
| Norway | A | r | r | r | r | r |
| Poland | A | r | r | r | r | r |
| Portugal | A | r | r | r | r | r |
| Romania | A | r | r | r | r | r |
| Russian Federation | DA | r | not ratified | r | signed | not ratified |
| San Marino | A | r | r | r | r | r |
| Serbia | A | r | r | r | r | r |
| Slovak Republic | A | r | r | r | r | r |
| Slovenia | A | r | r | r | r | r |
| Spain | A | r | r | r | r | r |
| Sweden | A | r | r | r | r | r |
| Switzerland | A | r | r | r | r | r |
| Tajikistan | DA | r | not ratified | n/a | n/a | n/a |
| Turkey | A | r | r | r | r | r |
| Turkmenistan | A | r | r | n/a | n/a | n/a |
| Ukraine | A | r | r | r | r | r |
| United Kingdom | A | r | r | r | r | r |
| United States of America | R | r | not ratified | n/a | n/a | n/a |
| Uzbekistan | A | r | r | n/a | n/a | n/a |
| Former Yugoslav Republic of Macedonia | A | r | r | r | r | r |

Notes:

r = ratification or accession

signed = signature only

not ratified = neither signed nor ratified

n/a = non-applicable as not member of the Council of Europe

A = abolitionist

DA = de facto abolitionist

R = retentionist