

The background of the entire page is a blue-tinted photograph of a police officer in profile, looking out of a window. The officer is wearing a uniform with a peaked cap and a high-visibility vest. The window through which he is looking shows a blurred view of a city street with buildings and trees. The overall tone is professional and serious.

# Human Rights-Based Approach (HRBA) assessment framework for EU funded interventions in support of the security sector

April 2024

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## DISCLAIMER

The contents of this document do not necessarily reflect the opinion or the position of the European Commission.

## Human Rights-Based Approach (HRBA) assessment framework for EU funded interventions in support of the security sector<sup>1</sup>

The EU support to security sector reform can be summarized in the following key intervention areas<sup>2</sup>:

- Supporting the development of a clear and appropriate legal and strategic framework.
- Strengthening the capacities of the security sector institutions and civil society organisations working in this field; and
- Supporting stabilization of fragile and post-conflict areas through other complementary means such as Small Arms and Lights Weapons (SALW) and Disarmament and Demobilisation (DDR).

In relation to the five working principles of the HRBA, the expected outcomes of the EU's support to security sector reform (SSR) are the following:

- 1.) **Principle of applying all human rights for all:** EU cooperation is provided “based on the principle that security actors respect and uphold human rights, without discrimination, for the general population and their own members.”<sup>3</sup>
- 2.) **Meaningful and inclusive participation and access to decision-making:** Security sector reform processes are not only a technical process but highly political and affect a society as a whole. All relevant stakeholders and representatives of different sectors of the population need to be consulted in a reform process. In particular, the security needs of women, men, girls and boys and marginalised groups of the population should be taken into account through consultation of their representatives. Such consultations form the baseline for identifying adequate support measures to ensure their security and address their needs as perceived and experienced by them. This is particularly relevant for accountability processes in relation to past and current abuses.
- 3.) **Non-discrimination and equality:** The security sector support should be inclusive, also ensuring a gender balanced recruitment. Moreover, in order to provide quality services that are gender-responsive and compliant with international human rights law, the security sector requires the financial and technical resources/expertise and relevant institutional policies, to address the needs of marginalised groups, as well as to prevent and sanction discriminatory social attitudes and practices.
- 4.) **Accountability and rule of law:** EU funded interventions should contribute to effective democratic control and oversight in line with international standards, as well as to establishing adequate internal institutional oversight mechanisms. The obligations of the state concerned are rooted in the international human rights conventions ratified. Areas of EU support can include contributions to developing a code of conduct, vetting policies for security forces based on UN standards, establishing independent complaints bodies and procedures and supporting monitoring through civil society, while abiding by the Do-No-Harm principle.
- 5.) **Transparency and access to information supported by disaggregated data:** Information on the security sector should be public and regulated by access to information laws meeting international human rights with officially agreed and predictable procedures. EU partners should collect disaggregated data (sex/gender, age, ethnic group, disability etc.) to assess how EU funded

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<sup>1</sup> Several documents have been consulted and adapted for the SSR/HRBA question checklist: DCAF Assessment Framework for SSR, which is largely based on the OECD Handbook on Security System Reform; the INTPA Indicator Sector Guidance on SSR; IPIECA, ICRC, DECAF: Host Country Security Assessment Guide, UN Integrated Technical Guidance Notes on Security Sector Reform; UN Rule of Law Indicators; DCAF/ISSAT: A community-based approach to criminal justice assessments.

<sup>2</sup> INTPA Sector Indicator Guidance on Security Sector Reform. [Security Sector Reform | Capacity4dev \(europa.eu\)](#); See also Joint Communication of the EU parliament and the Council on Elements for an EU-wide strategic framework to support security sector reform JOIN (2016) 31 final, 05.07.2016

<sup>3</sup> INTPA Sector Indicator Guidance on Security Sector Reform. [Security Sector Reform | Capacity4dev \(europa.eu\)](#), p. 6.

interventions in the security sector affect women and different population groups. The Right to Information is crucial and will feed into accountability processes.

For the purpose of this assessment framework, the support to the security sector focusses on third party forces and actors e.g., armed forces, police, border guards, security services, while the security sector definition applied by the EU is wider and also includes judiciary and oversight mechanisms.<sup>4</sup>

**The checklist below includes questions/aspects related to the implementation context of EU funded SSR interventions that refer to structural problems in the security sector in conflict and post-conflict settings and cannot be controlled by the interventions. Nonetheless, they need to be assessed in order to define what the EU funded interventions can contribute to addressing these structural problems in order to adequately apply the HBRA. Other questions listed in this document are clearly under the control of EU funded interventions and can be used as a guidance to orientate the definition of activities.**

### **1. Working principle: Applying all human rights for all**

When analysing this working principle, it is important to look at the implementation context of the intervention and the legal framework, as well as the political scenario in which it is implemented. It is necessary to understand how the intervention is linked to the human rights treaties ratified by the country concerned, and to the observations/conclusions and recommendations of UN special mechanisms.

Country context in relation to human rights commitments/legal and political framework:

- Conduct a gender-responsive conflict analysis (GRCA) taking into consideration the joint COM/EEAS methodology developed. Identify the impact on gender equality of systems of power, institutions and stakeholders and establish what role does the gender dimension play in the root causes, triggers and drivers of conflict and peace. This also implies looking at the fragility dimensions (economic, environmental, security, political, societal and human) and how they affect the intervention and the human rights situation of the population. The GRCA recognises that gender power relations and the enforcement of patriarchal power over men, women, children and LGBTIQ (lesbian, gay, bisexual, trans, non-binary, intersex and queer) persons is political.<sup>5</sup>
- Which are the international humanitarian and human rights law conventions that have been signed and/or ratified by the state concerned?
- What are the gaps in the national legislation pertaining to the security sector in relation to international human rights treaty obligations?
- Is the judiciary independent and what influence do security forces and/or the executive have over it?
- Are women, marginalised groups and persons (ethnic minorities, persons with disabilities, children, the elderly etc.) treated equally under the law?
- Is recourse to justice (e.g. courts) and legal aid available to all? What forms of formal, informal and customary justice systems are present in the country?
- Is the population able to lodge a complaint against security institutions without putting themselves at risk and if so to whom?

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<sup>4</sup> The EU follows the OECD-DAC's SSR guidelines for the definition of a national security sector, which includes the law enforcement institutions (police, gendarmerie, customs, border guards, etc.), the criminal justice system (i.e. penal courts, prosecutor's office, corrections), the armed forces, the intelligence services, the institutions that provide political, financial and judicial oversight (line ministries, parliamentary committees, court of auditors, the judiciary, etc.) and non-state security actors, including customary authorities, traditional courts, guerrillas and liberation armies, private military and security companies.

<sup>5</sup> See also UN Women Guidance Note on Gender-Responsive Conflict Analysis, 2022.

- What are the specific risks for women, girls, children and minorities when coming into contact with law enforcement and/or the military?
- Have government decisions related to the security sector undermined respect for the rule of law and led to the arbitrary exercise of power?

## **2. Working principle: Meaningful and inclusive participation**

When analysing how this working principle has been applied, the key focus is on determining whether rights-holders are put at the centre of the intervention (human security is ensured at individual and community level) and if they are empowered to identify and help define solutions to addressing the main obstacles and structural barriers related to meeting their security needs. Special emphasis needs to be given to the quality of the participation of women and marginalised groups.

- Are government partners of the intervention committed to both strengthening the governance of the security institutions and improving inclusive and non-discriminatory service delivery?
- What is the relation of the security institution subject to this intervention with the population they are meant to serve?
- What is the overall situation of civic space in the country where the intervention is implemented?
- Does civil society seek (and is it allowed) to participate actively in legislative consultations pertaining to the security sector? And does civil society have the capacity to do so?
- Do other international and national actors support the security institution/the reforms and do they do so by applying a HRBA?
- Have there been meaningful consultations with all population sectors on their security needs (especially community consultations in remote areas with a lack of presence of public services, especially security services)<sup>6</sup> for the design of the intervention? Does this put civil society actors at risk of threats and reprisals? (This aspect is crucial, as the perceptions of marginalised and impoverished communities should provide the baseline data for planning and measuring effective SSR interventions.<sup>7</sup> It is also related to the HRBA principle of transparency/access to information and if the population concerned is in a position to engage in any dialogue on security sector reform from a well-informed perspective.)
- Does the intervention promote/contribute to regular meetings of civil society groups and representatives of the population in the intervention area with the security institution to discuss and address security needs?
- Is there an independent monitoring by civil society or other actors of human rights abuses by law enforcement and the military?

## **3. Working principle: Non-discrimination and equality**

In order to analyse if the intervention is promoting/applies non-discrimination and equality, the following aspects need to be assessed during the design phase to define activities aimed at overcoming harmful social attitudes and discriminatory practices in the security sector. It is equally important to assess during implementation, what the intervention has contributed to addressing these aspects.

- Does the security institution subject to this intervention have a history of discrimination or human rights abuses against women, minorities, children, persons with disabilities?
- Is the security institution concerned adequately staffed and resourced to provide adequate services and respond to the specific needs of different population groups? For example, are the services

<sup>6</sup> See also International Security Sector Advisory Team (ISSAT): A community-based approach to criminal justice assessments. DCAF, 2014.

<sup>7</sup> OECD DAC Handbook on Security System Reform. Supporting Security and Justice. 2007.

gender-responsive and are there specific services/specialised units that deal with sexual and gender-based violence, child protection or violence against minorities?

- Is information available (for example through public perception surveys) on how the population assesses the quality of services delivered by the security institution and whether these services meet the needs of the population?
- Are women represented in the security institution and if so, are they in leadership positions?
- Are other marginalised groups represented in the security institution (persons with disability, LGBTIQ, ethnic minorities etc.) and if so, are they in leadership positions?
- Does the security institution have an equal opportunities policy or a specific policy to address the needs of marginalised groups?

#### **4. Working principle: Accountability and rule of law for all**

When analysing how this working principle has been applied, questions need to focus on how the intervention contributes to ensuring that the state as the duty-bearer respects the rule of law and protects human rights, and that rights-holders have the ability to claim their rights and seek justice, redress or compensation for violations, through transparent and effective accountability mechanisms.

Information on human rights violations attributed to security institutions:

- Does the security institution supported by the EU have a history of human rights and/or IHL violations?

Legal and policy framework:

- Are security sector roles and mandates enshrined in the constitution/the national legal framework?
- Does the security institution supported by the EU have human rights-related Standard Operating Procedures and/or a code of conduct?
- Does the security institution supported by the EU have a screening policy in place for the recruitment processes?
- Are the rules and regulations covering the use of force codified in legislation or established policies?
- Are national human rights policies/commitments clearly communicated to regional/local levels (e.g. police)?
- Is the security institution adequately equipped and trained to provide an appropriate response to security threats in terms of necessity and proportion? (Special attention needs to be paid here to whether the EU support to the security institution adheres to the EU Torture Trade Regulation, which prohibits equipping the third country security actor with tools/instruments/arms that could be used for torture or other cruel, inhuman or degrading treatment or punishment (such as portable electric shock devices that can be used for crowd control and prison security). This is specifically relevant for CSDP missions with a “train and equip” component. Third country security actors should not be trained on equipment that can be used for torture.<sup>8</sup>

External and internal oversight:

- Are there any formal legal processes and institutions/mechanisms for holding state security institutions accountable?
- If yes, is there an independent, adequately staffed and resourced oversight body such as a National Human Rights Institution/Ombudsman/Inspector General that can investigate,

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<sup>8</sup> REGULATION (EU) 2019/125 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 16 January 2019 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment.

undertake site visits at its own initiative and institute proceedings in court? Specifically, are there any mechanisms to respond to Sexual and Gender-based violence (SGBV) and Sexual Exploitation, Abuse and Harassment (SEAH)? Or alternatively, is the judiciary sufficiently independent from the executive to exercise this function?

- Are human rights violations attributed to members of the security forces tried in civilian courts (given that these do not constitute an “act of service”)?
- If yes, were trials generally carried out with due process and independence?
- Does the security institution supported by the EU have a responsible unit or an internal system for establishing, adequately investigating and managing files of complaints, reports and testimonies (e.g. professional standards unit in the police)?

## **5. Working principle: Transparency and access to information supported by disaggregated data**

This principle promotes the right to freedom of information and the questions under this principle are linked to the principles of inclusive, meaningful participation and accountability. The key focus is on ensuring that all stakeholders involved in a SSR process can access information pertaining to the security sector.

- Does the country where the intervention is implemented have a legal framework ensuring access to information (such as a Right to Information law)?
- What is the level of quality, reliability and availability of official statistics?
- Are the recruitment and promotion procedures and appointments to senior positions in the security institution based on clearly defined, publicly available criteria?
- Is there accurate and quality reporting in the media on the human rights performance of the security institutions?
- Are civil society organisations, NHRIs or international organisations able to monitor the human rights performance of security institutions without intimidation or interference?
- Does the intervention support public information campaigns and targeted civil society trainings that raise public awareness of the rights and obligations of the population vis-à-vis the security sector and how they can enforce their rights?
- Are the intervention logic, results chain and indicators designed to facilitate the collection of disaggregated data on the results achieved (taking into consideration the available EU corporate indicator framework (GERF, GAP III, Indicator Sector guidance on human rights and on SSR)?
- Is this data adequately analysed by the implementing partner and used to contribute to policy development and future programming to address concrete population security needs?