



Guidelines for dealing with persons deprived of liberty in closed environment

Ensuring justice

Enhancing human rights protection
for detained and sentenced persons
in Bosnia and Herzegovina

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**GUIDELINES FOR DEALING WITH PERSONS
DEPRIVED OF LIBERTY IN CLOSED
ENVIRONMENT**

The original version of the manual was prepared within the first phase of the joint EU/CoE programme “Horizontal Facility for the Western Balkans and Turkey” and its action “Enhancing human rights protection for detained and sentenced persons in Bosnia and Herzegovina”, but this summary was prepared within the second phase of the joint EU/CoE programme “Horizontal Facility for the Western Balkans and Turkey 2019-2022” and its action “Strengthening human rights treatment of detained persons based on European standards and best practices in Bosnia and Herzegovina”.

This document has been prepared using funds of a joint programme between the European Union and the Council of Europe. The views expressed herein can in no way be taken to reflect the official opinion of the European Union or the Council of Europe.

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Contents

FRAMEWORK TRAINING PROGRAMME FOR THE LAW	
ENFORCEMENT OFFICERS ON HUMAN RIGHTS SAFEGUARDS.....	11
FOREWORD	12
NOTES.....	13
SHARED DEFINITIONS.....	14
INTERNATIONAL STANDARDS AND NORMS	15
Basic concepts	15
Purpose and aim	15
Legal framework.....	16
European Convention for the Protection of Human Rights and Fundamental Freedoms	17
What rights are protected under the European Convention and its Protocols?.....	18
What do the Convention and its Protocols prohibit?.....	18
What does the European Court of Human Rights do?.....	18
How does the European Court of Human Rights apply the European Convention?.....	19
What are the positive obligations as per the Convention?.....	19
What are the negative obligations under the Convention?.....	20
What does the “autonomous” concept of a right from the Convention mean?.....	20
The right to life (Article 2, ECHR).....	20
Prohibition of Torture (Article 3 ECHR)	22
What is the negative obligation of the state according to Article 3?.....	23
What is the positive obligation of the state according to Article 3?.....	23
What is torture?.....	23
What is inhuman conduct or treatment?	24
What does degrading treatment mean?.....	24
Detention in itself does not constitute a violation of Article 3 of the ECHR. However, suffering and humiliation must not exceed the accepted threshold.....	26
The most common forms of violation of human rights of persons deprived of liberty are the following ones:.....	27
The right to liberty and security of person (Article 5 ECHR)	27
When does deprivation of liberty commence?.....	29
What does the word “lawful” mean (Article 5.1 a-f)?.....	29
When is deprivation of liberty unlawful under the Convention?.....	29
Competence assessment form: International standards and norms.....	31
Questions and answers: International standards and norms	31
EUROPEAN CODE OF POLICE ETHICS AND EUROPEAN CODE OF ETHICS FOR PRISON STAFF.....	32
Basic concepts.....	32
Purpose and aim	32
European Convention for the Protection of Human Rights and Fundamental Freedoms.....	32
Case law of the European Court of Human Rights	32
Competence assessment form: European Code of Police Ethics and European Code of Ethics for Prison Staff.....	33

Questions and answers: European Code of Police Ethics and European Code of Ethics for Prison Staff.....	33
CULTURAL SIMILARITIES AND DIFFERENCES	34
Basic concepts.....	34
Purpose and aim	34
European Convention for the Protection of Human Rights and Fundamental Freedoms.....	35
Case law of the European Court of Human Rights	35
Recommendations of the Committee of Ministers of the Council of Europe to member states	36
European Prison Rules	36
Standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT Standards).....	37
Excerpts from the reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment to BiH authorities	38
Guidelines for managing persons deprived of liberty in closed environment with respect for their cultural specifics	38
Competence assessment form: Cultural similarities and differences	39
Questions and answers: Cultural similarities and differences.....	39
EFFICIENT COMMUNICATION	40
Basic concepts	40
Purpose and aim	40
Recommendations of the Committee of Ministers to member states	40
European Prison Rules	41
Standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPStandards).....	41
Excerpts from the reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment to BiH authorities	42
Guidelines for efficient communication in closed environ.....	44
CONFIDENTIALITY OF PERSONAL DATA	45
Basic concepts.....	45
Purpose and aim	45
European Convention for the Protection of Human Rights and Fundamental Freedoms	45
Case law of the European Court of Human Rights	46
Recommendations of the Committee of Ministers of the Council of Europe to member states.....	47
European Prison Rules	47
Excerpts from the reports of the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment to BiH authorities	47
Guidelines for protecting confidentiality of personal data	48
Competence assessment form: Confidentiality of personal data.....	48
Questions and answers: Confidentiality of personal data.....	48
SEARCH	49
Basic concepts.....	49

Purpose and aim	49
European Convention for the Protection of Human Rights and Fundamental Freedoms	49
Case law of the European Court of Human Rights	49
European Prison Rules	50
Excerpts from the reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment to BiH authorities	50
Guidelines for searching persons deprived of liberty	51
Competence assessment form: Searching persons deprived of liberty	52
Questions and answers: Searching persons deprived of liberty	52
ESCORTING	53
Basic concepts	53
Purpose and aim	53
European Convention for the Protection of Human Rights and Fundamental Freedoms.....	53
Case law of the European Court of Human Rights	53
European Prison Rules	54
Standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT Standards)	54
Excerpts from the reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment to BiH authorities	55
Guidelines for escorting persons deprived of liberty	55
Competence assessment form: Escorting of persons deprived of liberty.....	56
Questions and answers: Escorting persons deprived of liberty	56
SELF-HARM AND SUICIDE	57
Basic concepts.....	57
Purpose and aim	57
European Convention for the Protection of Human Rights and Fundamental Freedoms.....	57
Case law of the European Court of Human Rights	58
Recommendations of the Committee of Ministers of the Council of Europe to member states	58
European Prison Rules	58
Standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT Standards)	58
Guidelines for the prevention of self-inflicted injuries and suicides	59
Guidelines for handling cases of attempted self-harm and suicide	59
Competence assessment form: Preventing self-harm and suicide.....	60
Questions and answers: Preventing self-harm and suicide.....	60
CONTROL AND RESTRAINT	61
Basic concepts.....	61
Purpose and aim	61
European Convention for the Protection of Human Rights and Fundamental Freedoms	62
Case law of the European Court of Human Rights	62

European Prison Rules	64
Standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT Standards)	64
Excerpts from the reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment to BiH authorities	65
Competence assessment form: Control and restraint	66
Questions and answers: Control and restraint	66
ILL-TREATMENT	67
Basic concepts	67
Purpose and aim	68
European Convention for the Protection of Human Rights and Fundamental Freedoms	68
Case law of the European Court of Human Rights	69
European Prison Rules	70
Guidelines for combatting ill-treatment	71
Competence assessment form: Combatting ill-treatment	73
Questions and answers: Combatting ill-treatment	73
IMPUNITY	74
Basic concepts	74
Purpose and aim	74
European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment	74
European Prison Rules	75
Standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT Standards)	75
Excerpts from the reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment to BiH authorities	75
Guidelines for preventing impunity	76
Basic concepts	79
Purpose and aim	79
European Convention for the Protection of Human Rights and Fundamental Freedoms	79
Case law of the European Court of Human Rights	80
European Prison Rules	80
Standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT Standards)	80
Excerpts from the reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment to BiH authorities	81
Guidelines for investigating allegations of ill-treatment	82
Competence assessment form: Investigating allegations of ill-treatment	83
Questions and answers: Investigating allegations of ill-treatment	83
INVESTIGATING ALLEGATIONS OF ILL-TREATMENT INTERNALLY	84
Basic concepts	84

Purpose and aim	84
European Convention for the Protection of Human Rights and Fundamental Freedoms	84
UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	84
Case law of the European Court of Human Rights	85
European Prison Rules	86
Standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT Standards)	86
Guidelines for investigating allegations of ill-treatment internally	88
Competence assessment form: Investigating allegations of ill-treatment internally	90
Questions and answers: Investigating allegations of ill-treatment internally.....	90
ADMISSION TO CLOSED ENVIRONMENT	91
Basic concepts.....	91
Purpose and aim	91
European Convention for the Protection of Human Rights and Fundamental Freedoms	91
Case law of the European Court of Human Rights	91
European Prison Rules	92
Standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT standards)	92
Excerpts from the reports of the European Committee for the Prevention of Torture, Inhuman or Degrading Treatment or Punishment to BiH authorities..	93
Guidelines for admitting persons deprived of liberty in the closed environment ..	96
Competence assessment form: Admission to closed environment	97
QUESTIONNAIRE ON ADMISSION	98
Basic concepts.....	98
Purpose and aim	98
European Convention for the Protection of Human Rights and Fundamental Freedoms.....	98
European Prison Rules	98
Standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT Standards).....	98
Excerpts from the reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment to BiH authorities	99
Guidelines for developing questionnaire on admission	99
Competence assessment form: Questionnaire on admission	100
Questions and answers: Questionnaire on admission	100
Basic concepts.....	101
Purpose and aim	101
European Convention for the Protection of Human Rights and Fundamental Freedoms	101
European Convention on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment	102
Case law of the European Court of Human Rights	102

Recommendations of the Committee of Ministers of the Council of Europe to member states	103
European Prison Rules	103
Standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT standards)	104
Excerpts from the reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment to BiH authorities	104
Guidelines for informing persons deprived of liberty of their rights	105
Competence assessment form: Informing persons deprived of liberty about their rights	106
Questions and answers: Informing persons deprived of liberty about their rights	106
THE RIGHT TO INFORM A CLOSE FAMILY MEMBER OR A THIRD PERSON OF CHOICE ABOUT DEPRIVATION OF LIBERTY	107
Basic concepts	107
Purpose and aim	107
European Convention for the Protection of Human Rights and Fundamental Freedoms	107
Standards of the European Committee for the Prevention of Torture, Inhuman or Degrading Punishment or Treatment (CPT standards)	107
Excerpts from the reports of the European Committee for the Prevention of Torture, Inhuman or Degrading Treatment or Punishment to BiH authorities	108
Competence assessment form: The right to inform a close family member or a third person of choice about deprivation of liberty	109
Questions and answers: The right to inform a close family member or a third person of choice about deprivation of liberty	109
THE RIGHT TO ACCESS A LAWYER	110
Basic concepts	110
Purpose and aim	110
European Convention for the Protection of Human Rights and Fundamental Freedoms	110
Case law of the European Court of Human Rights	110
European Prison Rules	111
Standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT standards).....	112
Excerpts from the Reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment to BiH authorities	112
Guidelines for ensuring the right to access a lawyer	112
Competence assessment form: The right to access a lawyer	113
Questions and answers: The right to access a lawyer	113
THE RIGHT TO ACCESS A MEDICAL DOCTOR	114
Basic concepts	114
Purpose and aim	114
European Convention for the Protection of Human Rights and Fundamental Freedoms	114

Case law of the European Court of Human Rights	114
Recommendations of the Committee of Ministers of the Council of Europe to member states	115
Standards of the European Committee for the Prevention of Torture, Inhuman or Degrading Treatment or Punishment (CPT standards)	115
Excerpts from the reports of the European Committee for the Prevention of Torture, Inhuman or Degrading Treatment or Punishment to BiH authorities	116
Competence assessment form: The right to access a medical doctor	119
Questions and answers: The right to access a medical doctor	119
THE RIGHT TO ACCESS A LAWYER	121
Basic concepts.....	121
Purpose and aim	121
European Convention for the Protection of Human Rights and Fundamental Freedoms	121
Case law of the European Court of Human Rights	121
European Prison Rules	122
Standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT standards)	123
Excerpts from the reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment to BiH authorities.....	123
Guidelines for ensuring the right to access a lawyer	123
Competence assessment form: The right to access a lawyer	124
Questions and answers: The right to access a lawyer	124
THE RIGHT TO AN INTERPRETER	125
Basic concepts.....	125
Purpose and aim	125
European Convention for the Protection of Human Rights and Fundamental Freedoms	125
Case law of the European Court of Human Rights	125
European Prison Rules	126
Excerpts from the reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment to BiH authorities.....	126
Guidelines for ensuring the right to access an interpreter.....	126
Competence assessment form: The right to access an interpreter	127
Questions and answers: The right to access an interpreter	127
VIOLENCE BETWEEN PERSONS DEPRIVED OF LIBERTY	127
Basic concepts.....	127
Purpose and aim	127
European Convention for the Protection of Human Rights and Fundamental Freedoms.....	127
Case law of the European Court of Human Rights	128
European Prison Rules	128
Standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT standards)	128

Excerpts from the reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment to BiH authorities	129
Guidelines for handling cases of violence occurring between persons deprived of liberty.....	130
Competence assessment form: Violence occurring between persons deprived of liberty.....	131
Questions and answers: Violence between persons deprived of liberty	132
VULNERABLE CATEGORIES OF PERSONS DEPRIVED OF LIBERTY	133
Basic concepts	133
Purpose and aim	133
European Convention for the Protection of Human Rights and Fundamental Freedoms	134
Recommendations of the Committee of Ministers of the Council of Europe to member states	134
Case law of the European Court of Human Rights	134
Standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT Standards).....	134
Excerpts from the reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment to BiH authorities.....	137
Guidelines for managing vulnerable categories of persons deprived of liberty.....	137
Competence assessment form: Managing vulnerable categories of persons deprived of liberty.....	139
Questions and answers: Managing vulnerable categories of persons deprived of liberty	139
JUVENILES	140
Basic concepts.....	140
Purpose and aim	140
European Convention for the Protection of Human Rights and Fundamental Freedoms	140
Recommendations of the Committee of Ministers of the Council of Europe to member states	141
United Nations Rules for the Protection of Juveniles Deprived of their Liberty.....	141
Case law of the European Court of Human Rights	141
Standards of the European Committee for the Prevention of Torture, Inhuman and Degrading Treatment or Punishment (CPT standards).....	142
Excerpts from the reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment to BiH authorities	144
Guidelines for managing juveniles deprived of liberty in closed environment	144
Competence assessment form: Managing juveniles deprived of liberty in closed environment	146
Questions and answers: Managing juveniles deprived of liberty in closed environment	146

Framework training programme for the law enforcement officers on human rights safeguards

Competence area	Module	Session title	Duration
Introduction to the closed environment	International standards and norms	International standards and norms	30min
		European Police Code of Ethics and European Code of Ethics for Prison Staff	
	Persons deprived of liberty and closed environment	Cultural similarities and differences	
Communication in the closed environment	Efficient communication and handling confidential data	Efficient communication	30 min
		Confidentiality of personal data	
Safety and security in the closed environment	Maintaining the level of security in detention	Search	3 h
		Escorting	
		Self-harm	
		Suicide	
		Control and restraint (use of force)	
	Emergency preparedness	Ill-treatment	3 h
		Impunity	
		Investigating allegations of ill-treatment	
		Investigating allegations of ill-treatment internally	
	Human rights in the closed environment and public safety	Treatment of persons deprived of liberty while respecting their human rights	Admission to the closed environment
Questionnaire on admission			
Informing a person deprived of liberty about his rights			
The right to inform a close relative or a third person of choice about deprivation of liberty			
The right to access a lawyer			
The right to access a medical doctor			
The right to an interpreter			
Maintaining security and respecting human rights of persons deprived of liberty		Violence between persons deprived of liberty	2 h
		Vulnerable categories	
		Juveniles deprived of liberty in custodial environment	

Foreword

These Guidelines were prepared for the law enforcement officers in Bosnia and Herzegovina within the framework of the European Union/Council of Europe Horizontal Facility for Western Balkans and Turkey I project “Enhancing human rights protection for detained and sentenced persons in BiH”.

The purpose of Guidelines and human rights standards contained herein is not to replace the good existing local practices but to complement and enrich them with recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). The CoE, as the implementing partner in the project, believes that this material will directly contribute to upholding human rights of persons deprived of liberty and that it will also be a valuable complement to the institutional training framework on human rights of the law enforcement agencies in BiH.

Senior managers from the Ministry of Internal Affairs of Republika Srpska (Mišel Krajišnik), Federal Police Administration (Almir Sunulahpašić), Police of Brčko District of BiH (Petar Klarić), State Investigation and Protection Agency (Boris Knežević), Border Police (Semir Pašanbegović), Service for Foreigners’ Affairs (Muhamed Huskić), Court Police of Bosnia and Herzegovina (Franjo Dujko), Court Police of the Federation of BiH (Dženad Grošo and Edis Skopak), Court Police of Republika Srpska (Željko Dragojević and Veljko Spremo) and Court Police of Brčko District of BiH (Senad Hukić) made significant and highly appreciated contribution by commenting on the draft material and ensuring that it is aligned with the best current local practices and legal provisions. The drafting team benefited also from the expertise of the Working Group members appointed by the Ministry of Justice of BiH (Dragan Granzov) and Ministry of Justice of Republika Srpska (Nenad Mirkonj and Mile Mastilo).

Assistant Ministers of Justice for execution of criminal sanctions in Bosnia and Herzegovina, Mustafa Bisić, Pero Dunjić and Hidajet Trako, as well as international consultants Rod MacCowan and Jean-Pierre Devos contributed throughout the development of the Guidelines.

The drafting team: Nermina Delibašić, Faik Fejzić, Nusret Hambo, Esad Hrustić, Redžo Kahrić, Zlatko Ledić, Aleksandar Majdov, Miroslav Marić, Miro Prodanović, Ana Radeta, Zoran Rajič, Vedrana Rakić, Milenko Vidović, Marica Bender, Armin Dervoz

Notes

Some of the material used in these Guidelines is based on the earlier prepared Training manuals on core and advanced competencies for prison officers and Guidelines for developing treatment programmes for vulnerable categories of prisoners.

The languages in which the material is drafted are Bosnian, Croatian and Serbian, in accordance with the individual preference of the authors.

All references to law enforcement officers in this material refer equally to male and female officers.

The definitions offered in this material are not quotes from legal documents but definitions jointly agreed among the authors to serve the purposes of these Guidelines.

The competence assessment form developed for individual subjects can be used by managers when preparing annual performance evaluation reports for the law enforcement officers. The questions and answers developed for individual subjects can equally be used by managers when preparing annual performance evaluation reports for the law enforcement officers.

Shared definitions

The term law enforcement officer encompasses:

Authorised officers (BiH) are persons with relevant authorisations within police authorities, including the State Investigation and Protection Agency (SIPA), State Border Service, court and financial police, as well as customs, tax and military police authorities in Bosnia and Herzegovina. Authorised officers also include expert associates, i.e. investigators of the BiH Prosecutor's Office investigators acting upon the Prosecutor's authorisations.

Police officers (RS) are persons employed with the Ministry of Internal Affairs and authorised to enforce police authorisations prescribed by the law and act as authorised persons in accordance with the Criminal Procedure Codes of Republika Srpska and Bosnia and Herzegovina and other laws falling in the competence of the Ministry.

Police officers (FBiH) are members of police authorities, authorised to enforce police authorisations prescribed by the Law on Police Officers and act as authorised officers in accordance with the Criminal Procedure Codes in the Federation of BiH and Bosnia and Herzegovina.

Investigation is the term encompassing activities aimed at establishing facts related to an event, most frequently an illegal or unauthorised conduct. These activities are usually undertaken by the special investigation authorities or independent commissions (in case of allegations of ill-treatment among police officers: Internal Control Unit, Professional Standards Unit, disciplinary commissions, etc)

Safety encompasses measures and actions aimed at preventing infliction of injuries to the person deprived of liberty and/or to the law enforcement officer.

Security comprises measures and actions that prevent the person deprived of liberty from harming, threatening or damaging third persons, as well as causing damage to the facility holding the person.

Deprivation of liberty in the criminal justice terminology comprises any action or procedure aimed at preventing a person or a group of persons from moving freely, while exercising legally authorised means of control and restraint.

Deprivation of liberty is a legal action by which the competent authority restricts free movement for the person suspected beyond reasonable doubt of committing a criminal offence.

Person deprived of liberty is any individual who has been referred to a premise intended for deprivation of liberty by a competent body. Authorised law enforcement officer also restricts the right to free movement for such person.

Closed environment is the area holding a person deprived of liberty suspected beyond

reasonable doubt of having committed a criminal offence. For the purposes of this document, any place of deprivation of liberty shall be deemed detention, regardless if these are premises in which investigation takes place, premise or cell in the police station, holding premise in the Border Police unit, office space in SIPA, holding premises in the court police and pre-trial detention units in prison establishments.

Ill-treatment comprises any action or failure to act towards persons deprived of liberty, which can lead to torture, inhuman or degrading treatment with negative impact on their mental and physical integrity.

The purpose of Guidelines and human rights standards contained herein is not to replace the good existing local practices but to complement and enrich them with recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). The CoE, as the implementing partner in the project, believes that this material will directly contribute to upholding human rights of persons deprived of liberty and that it will also be a valuable complement to the institutional training framework on human rights of the law enforcement agencies in BiH.

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The Council of Europe is the continent's leading human rights organisation. It comprises 47 member states, including all members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.

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The Member States of the European Union have decided to link together their know-how, resources and destinies. Together, they have built a zone of stability, democracy and sustainable development whilst maintaining cultural diversity, tolerance and individual freedoms. The European Union is committed to sharing its achievements and its values with countries and peoples beyond its borders.

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