

A photograph of a sailboat with a large, white, triangular sail. The boat is on a body of water with a sandy beach in the foreground. The sky is clear and blue. The text is overlaid on the image.

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**REFORMING EUROPEAN
DEVELOPMENT
ASSISTANCE
ENSURING TRANSPARENCY AND
ACCOUNTABILITY**

**Glyn Gaskarth,
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Executive Summary

European Development Assistance is in need of reform. A lack of transparency and accountability are endangering the efficiency of European Union (EU) aid and may be contributing to the perpetuation of conflicts EU members are committed to resolve.

Three problems with the existing structure are identified in this paper, each in need of attention:

- Citizens are unable to easily access information that details how EU Development Assistance is disbursed. In 2008, for the fourteenth consecutive year, the EU's accounts were not cleared by the European Court of Auditors (ECA).¹ Greater transparency needs to be introduced into how the EU spends taxpayers' money, and Development Assistance would be a simple and critical place to start.
- Members of the European Parliament (MEPs) lack the powers they need to hold the European Commission's Development Agencies to account. Nor can MEPs demand testimony from aid recipients as a condition of their aid allocation. Such powers would allow the European Parliament to explore why aid has been given and whether it has proved effective.
- The EU is funding extremist entities. Numerous examples expose the fact that EU Development Assistance is helping support groups which do not share our commitment to uphold human rights and democracy (see Grant Letters, pg. 16).

These problems need to be addressed immediately. Taxpayers must have confidence that their money is not being wasted or abused. The current system does not ensure this. This paper suggests three policies to address these problems:

- All grants and sub-grants made by the EU and its grantees should be stored on a public website if they total over €25,000 for an individual grantee. This will allow European citizens to effectively 'google' their money.
- All projects and programmes over €150,000 should testify before the relevant European Parliament Committee.
- All recipients of European Assistance must sign up to a pledge that

¹ Open Europe 'EU fails to have its accounts signed off for the 14th consecutive year – Might not be signed off before 2020', September 2008.



neither they – nor those they sub grant to – will encourage or promote violence, hatred or the de-legitimisation of any state. A proven breach of this would entail immediate cessation of financial support.

1. The Current EU Development Aid System

European Union (EU) member states contribute over half of the financial disbursements provided by members of the OECD's Development Assistance Committee (DAC).²

In 2007 the EU itself distributed €8.5 billion (£6.8 billion) in development assistance, to 160 different countries, territories and organisations.³ By 2010 EU members are pledged to provide 0.56 per cent of the EU's Gross National Income (GNI) to less developed countries.⁴

Already the EU's overseas development assistance programme is larger than the World Bank's, and several times the size of the United Nations' own development programme.⁵

What agreements govern aid distribution?

In 2005 the EU and its member states committed to both the 'Paris Declaration' and the 'European Consensus on Development'.⁶ These two agreements govern the provision of EU Development Assistance.

The Paris Declaration includes 'Twelve Indicators of Aid Effectiveness', to which the EU is signed up to implement. These indicators are designed to grant the recipient nations a greater ownership role in structuring how aid is distributed in their countries.

The Consensus seeks to develop the EU's federation role, encouraging greater coordination between the policies of the EU, member states and recipient countries. The aim of providing assistance is set out in the Consensus; eradicate poverty by encouraging sustainable development based on shared values of "respect for human rights, fundamental freedoms, peace, democracy, good governance, gender equality, the rule of law, solidarity and justice."

² OECD 'European Community Development Assistance Committee: Peer Review', 2007, pg.23

³ European Commission 'Annual Report on the European Community's Development and external assistance policies and their implementation in 2007', 31 October 2008; Currency conversion of €1 - £0.8 used, the 2008 average exchange rate.

⁴ eufocus 'EU Strategy for Trade and Development', March 2008, pg. 5

⁵ OECD 'European Community Development Assistance Committee: Peer Review', Main Findings and Recommendations, 2007.

⁶ DFID 'DFID's Medium Term Action Plan on Aid Effectiveness, Our Response to the Paris Declaration', 2006, Annex 2, pg.34.

How is the aid distributed in practice?

There are two main types of EU foreign assistance; development and humanitarian. European *development* assistance has six separate funding instruments under which it is provided; the European Neighbourhood and Partnership Instrument (ENPI), the European Instrument for Democracy and Human Rights (EIDHR), the Instrument for Stability (IfS), the Nuclear Safety Cooperation Instrument (NSCI), the Development Cooperation Instrument (DCI) and the European Development Fund (EDF). Each is funded through the EU's annual budget, with the exception of the EDF, which is funded by voluntary contributions outside the official EU budget.

The distribution of European *humanitarian* aid is governed by the Good Humanitarian Donorship Principles and Practice Guidance. The EU Humanitarian Aid Office is the only publicly financed department in the world solely devoted to delivering humanitarian aid.⁷ Funded by the European Development Fund and through ad hoc appropriations from an Emergency Aid Reserve, the majority of its work is performed by other international organisations and independent NGOs. The Humanitarian Aid Office concludes Framework Partnership Agreements with these entities to define the scope of each project and apportion tasks.⁸

Who administers the distribution?

The Commissioner for External Relations and European Neighbourhood Policy controls the implementation of European Assistance. Under the Commissioner there are a number of Directorates General with responsibilities in the area of Development. The Directorate-General for External Relations (RELEX) governs bilateral relations with all non EU members, EuropeAid administers the distribution of development funds and the EU Humanitarian Aid Department coordinates humanitarian assistance. These Directorates produce the agreements under which development aid is distributed and administer the delivery of this assistance.

Who assesses the work of these Agencies and how accountable are they for their implementation of EU Policy?

The Commission's implementation of EU development policy is assessed by three institutions; the Office of Quality Support Groups (OQSGs), the Evaluation Unit and the European Anti Fraud Office (OLAF). The former two

⁷ European Commission '*Humanitarian Aid's Finances*', June 2008

⁸ Europa '*Framework Partnership Agreements with humanitarian organisations*', April 2005

assess the effectiveness of the implementation of aid administered by EuropeAid and the Directorates-General for Development and External Relations (RELEX). The latter assesses all EU expenditure for incidences of fraud including the expenditure administered by EuropeAid, RELEX and the Humanitarian aid office. In addition, all EU Agencies are required to produce public accounts for review by the European Court of Auditors.

The OQSGs perform peer reviews during the identification and formulation stages of external assistance managed by EuropeAid specifically, assessing the quality of the key documents before a financing decision is made. There are five operational OQSGs, one for each of EuropeAid's four Geographic Directorates and one for all the thematic directorates. Staffed by EuropeAid members from Brussels, the OQSGs attempt to ensure continuity between the Geographic and Thematic aid instruments, and that the work of different teams adheres to a common Agency standard.

The Evaluation Unit is in charge of monitoring the Commission's cooperation and development programmes in third countries, with the exception of enlargement candidate countries and humanitarian aid. It covers all geographical regions and the corresponding EU external cooperation programmes: Africa, Caribbean and Pacific Countries (ACP), Mediterranean Region (MED), Asia (including Central Asia) and Latin America and Eastern Europe. It manages geographical (country and region) and sectoral/thematic evaluations, such as health, education or transport. It deals with evaluations of specific instruments, such as the sectorwide approach or budget support, and also the channels of aid delivery (development banks, UN Agencies, Non-State Actors, etc).

The European Anti Fraud Office (OLAF) is charged with ensuring all EU funds are not administered fraudulently. It investigates specific development projects for irregularities. Please see Appendix A.1 for examples of OLAF cases.

How transparent is the assessment process?

EuropeAid uses a Results-Oriented Monitoring System (ROM) to assess the effectiveness of the projects and programmes it sponsors. ROM is based on regular on-site assessments (once a year) by independent experts, but the system has its limitations.

For one, not all projects are monitored. The Commission only monitors ongoing projects that have already seen six months of implementation and

are due to run for a further six months (i.e. projects of 12 months or more in total). Projects must also be of a certain minimum size to undergo ROM assessment, equivalent to an EU contribution of about €1 million. For projects funded below this amount, a sample of only 10 per cent is assessed (no more than 300 small projects) each year.

Nor are the results of ROM assessments publicly available. The process results in a 2-page 'Monitoring Report', which is placed on an internal database together with the relevant project documentation. The background conclusion sheets – which ensure the consistency and uniformity between the evaluations of different projects – are considered working documents, and are consequently not stored on the database. Even if they were though, neither National Authorities (such as Parliaments) nor MEPs are entitled to access reports. ROM assessments are only accessible to RELEX and Commission Delegation staff. These are allowed to provide access on the request of national authorities and other bodies, but they are not formally required to do so.

The EU Development Aid System

In sum, a variety of different agencies distribute EU aid, using a variety of complex instruments. There are systems in place to assess the efficacy of these agencies and instruments, as well as the projects sponsored, but not all projects are assessed and for those that are, the results are kept secret. The instruments under which projects obtain funding are rarely made clear in public, and the identity of many grantees and sub grantees is not available to the public. The whole system is opaque and open to abuse. It is in urgent need of reform.

2. Policy Recommendations

The EU needs to implement a system of oversight for its aid spending which prioritises transparency and accountability to EU citizens.

- All grants and sub-grants made by the EU and its grantees should be stored on a public website if they total over €25,000 for an individual grantee. This will allow European citizens to effectively 'google' their money.
- All projects and programmes over €150,000 should testify before the relevant European Parliament Committee.
- All recipients of European Assistance must sign up to a pledge that they – nor those they sub grant to – will encourage or promote violence, hatred or the de-legitimisation of any state. A proven breach of this would entail immediate cessation of financial support.

These three policy proposals (outlined in more depth below) will ensure that the provision of European Development Aid is not only more transparent, but also more effective in the future.

2.1 Google your money

The European Union should create a public website where the details of all grants and sub grants are recorded. Such a system exists in the United States. The Conservative Party in the United Kingdom have pledged to implement a similar system for the UK.⁹

Establishing the US system

On 26 September 2006 President Bush signed into law S.2590, the 'Federal Funding Accountability and Transparency Act'. This Act required the Office of Management and Budget (OMB) to establish a publicly available online database containing information about the entities that are awarded federal grants, loans, and contracts. All grantees receiving in excess of \$25,000 are listed. Sub grantees (those who receive funding from grantees pursuant to the overall project) with a total income of less than \$300,000 are not required to report and are not featured on the database. Individual transactions of less than \$25,000 are also excluded.

⁹ Daily Telegraph, 'Let public Google their tax pounds, say Tories' 14 November 2006

This database includes over one trillion dollars in government spending, a third of all US Federal Government expenditure in 2008.¹⁰ A diverse range of NGO's supported the Act, including People for the Ethical Treatment of Animals (PETA), the Gun Owners of America, the National Gay and Lesbian Task Force and the Traditional Values Coalition.¹¹

There were however differences over the actual mechanics of the Act. Debate over focused on three particular issues, each of which is of relevance to a potential EU version.

The scope of the Act: Should it cover Federal Grants, Loans and Contracts or some combination of these three? We envisage an EU database containing the details of all NGOs and governments receiving funding from the EU, which can be filtered to show particular projects, types of award, etc.

Recovery of costs: Should recipients and sub recipients of federal assistance be allowed to recover the costs associated with collecting and reporting data on sub-recipients? Both NGOs and recipient governments could be allowed to submit claims for reimbursement for compliance costs in the EU system. However, EU authorities would be directly responsible for processing and publishing the information. This would be financed from the general EU budget.

Monitoring the reporting of sub grants: In the US an eighteen month pilot programme was introduced to find the most cost effective system for achieving this. A working group could be set up by the Commission to develop a similar pilot programme for the EU.

A potential EU version

The US Accountability and Transparency Act committed the OMB to create a "searchable website". Records are classified under eleven separate headings, including the name of the entity receiving award, the amount of award given, the type of award (e.g., grant, loan, contract), the Government Agency funding the award, the programme source and the location of the recipient.

Clearly the EU would require a somewhat different system. Criteria could include the name of the entity receiving an award, the amount of the award,

¹⁰ USAspending.gov –www.usaspending.gov

¹¹ Hatch, G. L. 'The Federal Funding Accountability and Transparency Act: Background, Overview, and Implementation Issues', 6 October 2006

the type of award (e.g., grant, loan, contract), the EU agency funding the award, the instrument under which the award is made, a description of the purpose of the funding, the location of recipient, the country in which award performance primarily takes place, and a unique identifier for the entity receiving the award and of the parent entity of the recipient, if it is a subsidiary.

As in the US, EU authorities should be required to produce this information in a downloadable format. US Government offices are required to post all new awards to the site within thirty days of making an award, and users must be able to search a single site for the information (see www.USAspending.gov).

Furthermore, the information must be available free to all citizens, with no charge levied for access to the site or the extraction of information from it. US citizens are able to search their database by any of the eleven criteria available, and they can also obtain all information pertaining to awards for specific entities in a single fiscal year. Such criteria should be replicated in the EU's website. European citizens should be able to search it using any of the field criteria under which awards are listed and by the grantee/sub-grantee over a defined period of years (e.g. Greenpeace from 2006 to 2008).

To compile such a database it would be necessary to identify the existing sites and databases from which it would be composed. An assessment would also need to be made of the quality of the information currently stored. If this is inadequate, reporting standards may need to be standardised to ensure data quality. This standardisation would need to occur before a new database was built. Agencies in charge of administering the six aid instruments and humanitarian aid would then be required to log award information on the new site from a specific date onwards.

EU Authorities should set up a working group composed of representatives of EuropeAid and the Directorate General for External Relations to assess the quality of the existing information and develop proposals to standardise grantee/sub grantee reporting standards.

In America implementation of the system was staggered. First primary grant recipients were logged. Once the pilot programme into how best to log sub-grantees had established a preferred method, a mandatory requirement to log sub-grantees was brought in.

It would be best to repeat this process in the EU. Existing grantees are currently logged, but information is neither itemised nor accessible to the public through one portal. Sub-grantees are currently not recorded and therefore a process for recording these would need to be implemented from scratch.

All of this is a considerable undertaking. The EU Public Accounts have not been cleared by the EU Court of Auditors for fourteen consecutive years. Moreover, an OECD peer review of EU Development Aid policy noted that European institutions had "a reputation for bureaucratic complexity", and that there was a need for "better results reporting to Parliament and the Member States" in order to "help build confidence in Community programmes."¹²

Nor will a new database be cheap to set up or administer. It will need to be funded from EU Agency budgets, and the Directorate General for External Relations and EuropeAid should work together to produce a cost estimate for establishing such a database, based on the working groups' assessment of the quality of the existing unpublished information (sub-grantees, etc).

Such a site will also need to be monitored on an annual basis to ensure it functions effectively. The OMB in the US is required to submit a report each year on the reporting requirements for grantees and sub grantees, and accounting for the public use of the site. Within the EU this report should be made on an annual basis to the Committee on Budgets, by the agency given the task of maintaining the website, most probably EuropeAid. This will allow MEPs to question the agency on its reporting standards, data quality and the extent it is used by the public.

However the greater transparency afforded by the database would enable incidences of fraud to be detected more rapidly, minimising the misuse of EU funds. It would also ensure that the EU's bureaucracy is held accountable for the grants it distributes. Critically, establishing such as public database would ensure compliance with Article 30 Para 3 of Regulation No 1605/2002 of the general budget of the European Communities, which states:

"The Commission shall make available, in an appropriate manner, information on the beneficiaries of funds deriving from the budget held by it when the budget is implemented on a centralised basis and directly by its departments, and

¹²OECD 'European Community Development Assistance Committee: Peer Review', 2007, pg. 12



information on the beneficiaries of funds as provided by the entities to which budget implementation tasks are delegated under other modes of management.¹³

The EU is legally required to ensure that the spending of its Agencies – and that of the organisations commissioned to carry out tasks on their behalf – is documented, enabling proper internal and external scrutiny. Neither is currently possible.

¹³ Council Regulation (EC, Euratom) No 1995/2006 of 13 December 2006 amending Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities

2.2 Budget Committee testimony

Registering grants and sub grantees allows citizens to assess project specific awards. However the EU is also committed to increasing 'budget support' to foreign governments.

Budget Support is a direct fiscal transfer from the EU to a recipient Government. Transfers can be either sector specific (such as education), debt relief, or to finance ongoing general expenditure. The European Union Consensus commits the EU to "channel 50% of government-to-government assistance through country systems, including by increasing the percentage of assistance provided through budget support or swap arrangements."¹⁴ In 2007 €1.79 billion (£1.4 billion) – twenty three per cent of EU development assistance – was delivered via budget support.¹⁵ The EU has pledged to increase the amount of budget support from 20 per cent to 50 per cent of the total.¹⁶

The European Commission favours budget support as a means of distributing aid, allowing recipients to "decide on their own priorities for themselves" and giving "meaning and depth to the dialogue between partners and donors".¹⁷ Moreover, budget support honours seven of the twelve indicators made in the Paris Declaration, which require alignment of donor and partner procedures: "by its very nature, [budget support] promotes alignment on the procedures of the partner country."¹⁸

An agreement is concluded between the European Commission and the recipient state. Usually lasting for three years it includes two tranches of financial support, one to initiate the programme, and the second dependent upon the programme's performance.¹⁹

Budget support carries serious risks however. As it is "not connected to specific projects" it represents an EU subsidy of every activity the recipient Government engages in.²⁰ The EU is legally required to administer its aid programme pursuant to the Articles contained in the European Consensus. Article Forty One of the European Consensus requires that "Community

¹⁴ European Commission 'Annual Report on the European Community's Development and external assistance policies and their implementation in 2007', 31 October 2008, pg. 27

¹⁵ *ibid*, pg. 14

¹⁶ *ibid*, pg. 4

¹⁷ Michel, L. 'Budget Support 'A question of mutual trust', *European Commission*, 2008, pg. 3

¹⁸ *ibid*, pg. 22

¹⁹ European Commission 'Budget Support, The effective way to finance development?', 2008, pg. 15

²⁰ *ibid*, pg. 15

policy in the sphere of development cooperation shall be complementary to the policies pursued by the Member States.”²¹ Article Fifty Six stipulates that “the Community will promote democracy, human rights, good governance and respect for international law, with special attention given to transparency and anti-corruption.” The EU must ensure its budget support does not subsidise actions incompatible with the EU’s anti-terror policies or its commitment to human rights.

Furthermore we need to ensure that the standards of audit are improved. This is because “financial transfers in the form of budget support are managed by the beneficiary countries using their own budgetary procedures and arrangements”.²² The European Court of Auditors (ECA) has already noted this form of support “increases the risk to which European taxpayers’ money is exposed”.²³ In response, the ECA suggested that the EU apply Article 61 (2) of the Cotonou Agreement, which stipulates a threshold level of public finance management below which a country would not be able to gain budgetary support. This was refused by the European Commission. The Commission has sought the right to grant support to countries based on their direction of travel (e.g. that there is a desire for change or things are improving). While improvements in countries systems should be recognised, the EU must ensure that aid recipients are capable of ensuring assistance is actually spent on the projects under which funding was obtained.

EuropeAid describe how they use three criteria to assess whether a country is a suitable candidate for budget support. These are; the presence of a national development strategy to increase living standards, a stability-oriented macroeconomic policy and an assessment of the public financial management system. EuropeAid’s report on Budget Support also states: “Needless to say, as with all forms of aid, respect for human rights, good governance and the capacity to fight corruption also enter into the equation”.²⁴ A closer analysis of the policies of the countries receiving EU budget support however, indicates that many recipient countries fail to meet EU human rights standards. (Please see Appendix A.2 for examples.)

²¹ The European Consensus, Agreed by the European Council, Commission and Parliament and representatives of member state governments, pg. 16

²² Michel, L. ‘Budget Support ‘A question of mutual trust’, *European Commission*, 2008, pg. 17

²³ *ibid* pg. 24

²⁴ European Commission ‘*Budget Support, The effective way to finance development?*’, 2008, pg. 9

2.3 Changing the Grant Letters

Acts of violence and terrorism do not occur in a vacuum. Terrorists have to be mentally conditioned to carry out attacks. The EU must ensure none of its financial assistance aids the glorification of terrorism and terrorists, or the promotion of the hatred and bigotry on which terrorists feed. To achieve this we ask the EU to amend the Framework Partnership Agreements it requires aid recipients to sign. It should now include the following line:

The recipient undertakes not to promote or engage in violence or terrorism, or advocate the destruction of any democratic state and that they do not and will not make sub-grants in the form of material support or resources to any entity that engages in these activities. If the recipient learns that any of its sub grantees does not conform to the clauses contained in this agreement they will inform the EU and immediately terminate their association with the sub grantee.

This specification requires further clarification to allow the EU to operate effectively in conflict zones. We do not require EU agencies or partner organisations to pledge they have never given humanitarian assistance to someone who went on to commit or support a terrorist act. This would be impractical. Instead we require that the EU cancels aid to known terrorists and their supporters, and takes reasonable steps to identify such individuals. The EU should demand the same standards of its grantees and sub grantees. By way of clarification this sub-clause, present in the United States Agency for International Development (USAID) guidance (here amended), could be added:

It is not the intention of EuropeAid that the language in this Certification referring to the provision of material support and resources would apply to the ultimate beneficiaries of EuropeAid assistance, such as recipients of food, medical care, micro-enterprise loans, shelter, etc., unless the applicant has reason to believe that one or more of such recipients has engaged or engages in terrorist activity, as described in the Certification. Rather, that language applies to prime grantees or cooperating agencies and other intermediaries (such as sub-grantees) that receive EuropeAid funds or EuropeAid financed commodities which ultimately are to be furnished to the above-described beneficiaries.²⁵

²⁵ USAID Director, Office of Acquisition and Assistance 'Acquisition and Assistance Policy Directive (AAPD), Certification Regarding Terrorist Financing Implementing E.O. 13224 (Revision 2)', 24 September 2004

This new wording should be inserted in each of the Framework Partnership Agreements the EU Humanitarian Office has concluded with NGOs.²⁶ It should also be made binding on each of the NGOs that have concluded agreements with EuropeAid and the Directorate General for External Relations. The 145 countries to which the EU provides bilateral aid should also be expected to comply.²⁷ In short, if the EU funds an organisation it must verify that the body does not glorify or promote acts of terror in any way; attaching the name of the EU to an extremist groups can grant them legitimacy, when our aim must be to isolate them.

The EU is not alone in having to navigate through such issues. The Ford Foundation faced criticism in the US after it gave money to members of the Palestinian NGO Network, a group which used the platform of the UN's 2001 Durban Conference on Anti-Racism to oppose Israel's right to exist.

Following the revelation of this, the Rockefeller and Ford Foundations did not deny their complicity. An apology was made and both the Ford and Rockefeller foundations changed their Grant Letters to prevent similar instances occurring in the future. Ford Foundation President Susan Berresford said "Ford trustees, officers and staff were disgusted by the vicious anti-Semitic activity seen at Durban, [...] we now recognize that we did not have a complete picture of the activities, organizations and people involved." Andre Oliver, Rockefeller's Communications Director, added "We do have a legal obligation, as do all institutions and individuals, [to see] that our funds do not support terrorism."²⁸

The Ford Foundation grant agreement now states that no grant recipients may "promote or engage in violence, terrorism, bigotry or the destruction of any state" or "make sub-grants to any entity that engages in these activities." The Rockefeller Foundation similarly states in its 2004 grant letter that recipients must "not directly or indirectly engage in, promote or support other organizations or individuals who engage in or promote terrorist activity."²⁹ This was altered in 2006 to an undertaking that recipients comply "with all U.S. antiterrorism laws and regulations, including Executive Order 13224 and the Global Terrorism Sanctions Regulations set forth in 31 CFR Part 594".

²⁶ OECD 'European Community Development Assistance Committee: Peer Review', 2007, pg. 22

²⁷ European Union Presidency, 'General Affairs and External Relations', 2008

²⁸ Marks, S. M. 'Colleges Battle New Grant Wording', *The Harvard Crimson*, 24 January 2005

²⁹ Wang, N. 'University Protests Grants Anti Terror Restrictions', *The Stanford Daily*, 19 May 2004

Importantly, penalties must be ascribed to non compliance. The Ford Foundation's Grant Letter promise that "Failure to comply with the terms of this letter may result in immediate cessation of funding and/or support from the Foundation".³⁰ Despite allegations that the Foundation is not appropriately enforcing these provisions, the EU lacks any such provisions at all.³¹

The alteration of the grant letters was not uncontroversial. University academics in particular raised objections.³² They were concerned that terms such as bigotry may be applied too broadly, and that the difficulty in defining these terms would make the clause ambiguous. Moreover, there were worries that in order to ensure compliance, such provisions would need to be placed in all University contracts. However Susan Berresford of the Ford Foundation clarified the situation: "Our grant letter relates to the official speech of the university and to speech that the university explicitly endorses."³³ This seems a fair compromise.

Since September 24 2004 USAID has required applicants for assistance to sign a Certification Regarding Terrorist Financing Implementing E.O. 13224 (revision 2). This specifies the following:

*"The Recipient, to the best of its current knowledge, did not provide, within the previous ten years, and will take all reasonable steps to ensure that it does not and will not knowingly provide, material support or resources to any individual or entity that commits, attempts to commit, advocates, facilitates, or participates in terrorist acts, or has committed, attempted to commit, facilitated, or participated in terrorist acts, as that term is defined in paragraph 3."*³⁴

The two key words in this provision are "advocates" and "facilitates". To understand what it means to advocate or facilitate terrorism the Directive requires aid recipients not only ensure that grantees are not listed on anti terror lists but:

³⁰ University of California, Office of the President 'Terrorism Clauses', *Operating Guidance for Contract and Grant Officers, Vice Chancellors -- Research*, 22 January 2007 pg. 5

³¹ NGO Monitor, 'Ford Foundation NGO Funding Update - Implementation of Post-Durban Guidelines is Slow and Lacks Transparency', 28 April 2005.

³² University of California, Office of the President 'Terrorism Clauses', *Operating Guidance for Contract and Grant Officers, Vice Chancellors -- Research*, 22 January 2007

³³ Censer, M. J. 'Academics Protest Ford and Rockefeller Grant Terms', *Academe Online*, September - October 2004

³⁴ The Agency for International Development (USAID) Acquisition & Assistance Policy Directive (AAPD) 04-14

*"also must take into account its own knowledge and public information in making the Certification before providing any material support or resources to any individual or entity. This means that the applicant is expected to consider public information of an individual or entity's terrorist ties that is either reasonably available to the applicant (such as, for example, terrorist ties identified in news media or in an official, published designation) or that, from the totality of the facts and circumstances surrounding the individual or entity's interactions with the recipient organization or related to the individual or entity's reputation in the community, the applicant should be aware of an individual or entity's terrorist ties."*³⁵

The adoption of this clause would require the EU to permanently cease assistance in such cases. Mistakes will of course continue to be made. However the EU should seek to mirror the Ford Foundation's response; when it discovered it was funding groups associated with terrorism its response was clear and emphatic, severing all links. The response of the European Commission in similar circumstances has been very different.

On the 24 August 2008 Paulo Casaca, Portuguese Socialist MEP and the lead Socialist on the EU Budget Committee, asked the European Commission to explain its financial support of the Khiam Rehabilitation Centre for the Victims of Torture. This is a Lebanese NGO, which – as Mr Casaca evidenced – glorifies fanaticism and terrorism. Mr Casaca took exception to the Centres coverage of the release of Samir Al-Kantar and asked the Commission the following question:

"It is stated on the first page of the 24 July 2008 edition of the website of the Khiam Rehabilitation Centre (KRC), a popular organisation run by Hezbollah, that the person described days before as the 'son and hero' of Lebanon, Samir Al-Kantar, has visited the 'Followup Committee for the Support of the Lebanese Detainees' and the KRC (apparently the two organisations share the same premises). Below this news appears the logo of the European Union, with the words: 'Within the Framework of the European Initiative for

³⁵ The Agency for International Development (USAID) Acquisition & Assistance Policy Directive (AAPD) 04-14 P.3/P.4

Democracy & Human Rights (EIDHR) Project - Funded by the European Union - Implemented by KRC'

Does the Commission believe it is legitimate to spend EU taxpayers' money on glorifying the basest kind of racism and fanaticism in the person of someone who has murdered a child, apparently purely for being Jewish?"³⁶

In response, on 24 September 2008, the EU Commission informed Mr Casaca:

"The Commission condemns all forms of racism but does not link its financing of projects with an expectation that the Non-Governmental Organisations (NGO) concerned will systematically express opinions that are in line with EU external policy."

The EU Commission said funding the Khiam Centre was pursuant to the European Instrument for Democracy and Human Rights because:

"Indeed the EU supports diversity of opinion and the right of expression, as long as fundamental democratic principles are not violated. In this case the material displayed on the KRC website reflected the general tone of Lebanese press coverage of the release of the detainees, and indeed was largely based on newspaper reports."

In short, the EU Commission cannot say that entities it funds, under the auspices of a programme to encourage human rights and democracy, will desist from glorifying terrorism. In fact it explicitly says that it does not expect NGOs to mirror its policies on human rights and democracy.

There is a legitimate debate about whether people should be free to express support for or otherwise glorify terrorists. Many decent people would prefer to allow unpleasant people to say disreputable things than allow Government entities to decide the boundaries of acceptable speech. This is shown by the controversy over the British Government's attempt to introduce a bill outlawing the glorification of terrorism.³⁷

³⁶ ORAL QUESTION H-0664/08 for Question Time at the part-session in September II 2008 pursuant to Rule 109 of the Rules of Procedure by Paulo Casaca to the Commission, Subject: Support from the Community budget for the glorification of the child murderer Samir Al-Kantar.

³⁷ The Independent, [PM humiliated as Terrorism Bill scrapes through](#), By Nigel Morris and Ben Russell, 3 November 2005



However, there is a distinction between saying such statements should remain legal and supporting EU taxpayer funding for entities which make such statements. The EU is committed to distributing development aid pursuant to the European Instrument for Democracy and Human Rights. Funding groups – in whatever way – listed on the EU terror list, groups which glorify terrorism, is a violation of this duty.

Conclusions

Three recommendations are essential to bringing an end to the misdirection EU Development Assistance, making it transparent and accountable to the Europe's citizens. They must be adopted immediately and in full for a number of reasons:

Transparency: Publishing the details of grantees and sub grantees indicates the EU is completely open about who is funded, why they are funded and how much they are given. This will make EU development assistance transparent to both its citizenry and their elected representatives.

Accountability: Requiring grantees and sub grantees to testify to the relevant European Parliament Budget Committee allows the Parliament to fulfil its stated role of holding the Commission to account over its legal requirement to distribute aid pursuant to the European Instrument for Democracy and Human Rights, the European Consensus and the aid policies of EU member states.

Efficiency: Requiring grant recipients and their sub grantees to pledge they will not support or engage in terror activities or the delegitimisation of any state will bring the EU into accordance with internationally recognised standards designed to avoid aid financing terrorism. It will ensure that the EU fulfils its duties to promote economic development rather than subsidising conflicts which destroy such opportunities.

The EU needs to adopt these proposals if it is serious about reforming the provision of EU Development Assistance. Currently, EU citizens are unable to easily identify who receives their taxpayers' funds. MEPs are also often unable to identify who is being funded, and even if they do so they are unable to publicise this information. The European bureaucracy, no doubt unknowingly, is distributing funds to extreme groups in violation of its policy commitments.

The TaxPayers' Alliance commends these three proposals to the European Commission and the European Union's Member States. We hope they will implement them in full and without delay. Only then will the European Commission fulfil its duty to be open and accountable in distributing development aid.

Appendix A.1: Investigations into EU Development Assistance

Egypt

Between 2007 and 2010 the EU is providing €558 million (£446 million) to the Egyptian Government under the European Neighbourhood Policy. The Egyptian Government finances projects connected with the state owned satellite provider Nilesat. However Nilesat hosts stations that are, according to Viviane Reding, EU Commissioner for the Information Society and the Media, in direct breach of the EU's 'Television without Frontiers' Directive (97/36EC).³⁸

For instance Nilesat broadcasts the radical Islamist television station 'al-Manar', a Beirut-based television station owned and operated by Hezbollah. The Al-Manar website states its purpose as "psychological warfare" and its programmes incite and glorify terrorism.³⁹ In a recent interview an Al Manar official described how the station seeks to "help people on the way to committing what you in the West call a suicide mission".⁴⁰

Enabling Al-Manar to broadcast undermines Egypt's commitment to combat terrorism. Under the EU-Egypt Action Plan, agreed on 6 March 2007, Egypt is obliged to "combat [...] hate or defamatory discourse based on religion, beliefs, race or origin".⁴¹ The Euro-Mediterranean Code of Conduct on Countering Terrorism confirmed that Egypt, the EU and other signatories "will prohibit and prevent the incitement of terrorist acts through the adoption of appropriate measures".⁴²

(For more information on Al-Manar, please refer to the website set up to document the station's extremist output.)⁴³

³⁸ European Foundation for Democracy, 'CATM Urges Europe To Take Action Against Hezbollah's Al-Manar Television', 16 March 2005

³⁹ *ibid*

⁴⁰ Jorisch, A. 'Al-Manar: Hizbollah TV, 24/7' *The Middle East Quarterly*, Winter 2004, Volume XI, Number 1

⁴¹ Europa, 'EU-Egypt Action Plan', 6 March 2007

⁴² Euromed 'Euro-Mediterranean Code of Conduct on Countering Terrorism', 24 November 2005

⁴³ www.stopterroristmedia.org

Britain

In 2005 two British aid charities were among thirty two NGOs investigated by OLAF for suspected fraud in securing EU money. Some of these NGOs were found to be applying to multiple different donors for the same project, effectively being paid twice for the same work. Such abuse would become apparent if such projects were listed on the website and NGOs compelled to testify before EP committees.

Other NGOs had set up subsidiary companies/units to procure services. OLAF officials concluded that "adding this additional layer makes the project more expensive ... This is a way of artificially raising costs to get more income."⁴⁴

Were grantees required to list all sub-grantees on a database, such fiscal manipulation would be easier to detect and perpetrating such frauds would be made far more difficult.

Italy

An Italian non-profit organisation (as yet not publicly identified) received €11 million (£8.8 million) from the European Union and almost €17 million from Italy to finance twenty eight projects in the third world⁴⁵. OLAF found that the organisation had sent fake or duplicate invoices and only part of the money had gone to the projects specified.

Palestine

NGO Monitor's 2008 Report 'Europe's Hidden Hand' describes how EU funding has been provided to groups which oppose the two state solution for Israel-Palestine.⁴⁶ This is in direct contravention of the EU Consensus, which requires EU funding to be distributed in accordance with the foreign policy of the EU and its member states.

The report describes how "despite the tens of millions of Euros provided by taxpayers, no uniform framework or central database exists for obtaining NGO funding information - data is often hidden beneath numerous layers of bureaucracy".⁴⁷

⁴⁴ Gow, D. 'Charities in EU fraud enquiry', *The Guardian*, 30 June 2005

⁴⁵ Moller, M-L. 'EU Watchdog exposes international aid fraud', *Reuters*, 26 November 2004

⁴⁶ Steinberg, G. M. 'Europe's Hidden Hand: EU Funding for Political NGOs in the Arab-Israeli Conflict: Analyzing Processes and Impact', NGO Monitor, April 2008

⁴⁷ Post, J. 'Watchdog questions EU funding of NGO's', *Jerusalem Post*, 31 March 2008.

Paraguay

OLAF investigators discovered that ninety per cent of the EU money assigned to a water supply project was actually located in a bank account belonging to a foundation unconnected with the project. OLAF found that declared sub-contractors did not exist and the Director controlling the project also owned a company contracted to work on the project.⁴⁸

⁴⁸ Moller, M-L. 'EU Watchdog exposes international aid fraud', *Reuters*, 26 November 2004

Appendix A.2: EU Budget Support

Algeria

Algeria receives budget support from the EU as part of the €635 million (£508 million) European Neighbourhood and Partnership Instrument.⁴⁹ Between 2007 and 2010 Algeria is also set to receive a further €220 million (£176 million) for projects under the EU's Multi-Annual Indicative Programme (MIP).

However, Algeria's human rights record is lamentable. In 2008 the UK government was urged by Human Rights Watch to cease deportations to Algeria because of its record on torture.⁵⁰ On 28 September 2008 Amnesty International issued a demand for the Algerian authorities to try or release suspects it had held for nine years without trial.⁵¹ On 13 April 2008, Human Rights lawyer Amine Sidhoum was sentenced to six months imprisonment for bringing the Algerian courts into disrepute. The charge: condemning in a newspaper article the thirty month prison sentence a client endured before their trial begun.⁵² Algerian citizens are denied basic rights of freedom of speech, assembly and association by an Algerian administration financially assisted by the EU.

Belarus

Again receiving budget support under the European Neighbourhood and Partnership Instrument, Belarus received €5 million (£4 million) in 2007, pursuant to the development of a national energy policy.⁵³ Such assistance continues despite the fact that Belarus maintains a totalitarian political system, in which opposition is severely punished and human rights are routinely abused by public authorities.

Belarus is Europe's last remaining dictatorship. The UN Human Rights Council noted that "all efforts made to engage in constructive dialogue [with the Belarus authorities] were fruitless."⁵⁴ In 2007 The UN's Special Rapporteur,

⁴⁹ *ibid*, pg. 8

⁵⁰ Human Rights Watch, 'United Kingdom: Stop Deportations to Risk of Torture', 28 October 2008

⁵¹ Amnesty International, 'Algeria: Immediately try or release detainees jailed for nine years without being convicted by a court', 28 September 2008

⁵² Amnesty International, 'Algerian human rights lawyer convicted for denouncing violations', 26 November 2008

⁵³ European Commission, 'European Commission decision on the ENPI Annual Action Programme 2007', pg. 3

⁵⁴ United Nations, 'Report of the Special Rapporteur on Belarus', A/HRC/4/16, January 15 2007

reported, for the third consecutive year, an absolute refusal to cooperate on the part of the Government of Belarus.”⁵⁵

With reference to the Belarusian elections of 2008 the UN General Assembly noted: “Belarus again failed to meet its commitments to hold free and fair elections, including through the arbitrary use of State power against opposition candidates, routine harassment, the detention and arrest of political and civil activists, the obstruction of the access of opposition candidates to State media, the negative portrayal in the State media of opposition candidates and activists, including human rights defenders, and the serious shortcomings of the vote count, which lacked minimum transparency.”⁵⁶ Belarus flouts the most basic human rights standards that EU authorities are required to consider when making aid awards.

The Palestinian territories

The Palestinian territories receive both direct budget support and humanitarian assistance. On 1st February 2008 PEGASE was launched as a permanent replacement of the Temporary International Mechanism (TIM). Under this mechanism, the EU in 2008 distributed €440 million (£352 million) to the Palestinian Authority.⁵⁷

The Palestinian territories are divided into two non contiguous areas; the West Bank and Gaza. The former is controlled by Fatah (the PLO) and the latter by Hamas. The EU refuses to recognise Hamas and deals solely with the Palestinian Authority (PA). EU assistance is provided on the understanding that the PA is fully committed to a peace based on a two state solution to the Israel/Palestine crisis.

However, in official Palestinian media, Fatah representatives continue to support violence. Abbas Zaki, PA representative in Lebanon, recently said: “Shame on anyone who says that Fatah put down its weapons! Since June 14 [Hamas takeover] until today, Fatah's Al-Aqsa brigades [executed] 220 operations, which are 30% of the [total] operations.”⁵⁸ In addition, the Palestinian Preventive Security Force (PA police force), funded by Western donations, has been widely accused of torture.⁵⁹

⁵⁵ *ibid*

⁵⁶ United Nations, UN General Assembly Resolution 61/175

⁵⁷ EuropeAid ‘*Support to Palestine*’, Working Together, ENPI Special, February 2008

⁵⁸ Palestinian Broadcasting Corporation, Abbas Zaki, PA Representative in Lebanon, 7 January 2008

⁵⁹ White, B. ‘The Palestinian Torturers’, *The Guardian*, 30 July 2008

The PA's support for the peace process also appears tentative. Najat Abu Bakr, a Fatah member of the Palestinian Legislative Council, commented "It doesn't mean that we don't want the 1948 borders [all of Israel], but in our current political program, we [PA] say we want a state on the 1967 borders ... We [Palestinians] were created on this land in order to liberate it, to live on it, to continue as people of Ribat [Religious war]."⁶⁰ President Mahmoud Abbas has publicly supported this approach. He has stated "Now we are against armed conflict because we are unable. In the future stages, things may be different."⁶¹ The PA clearly combine participation in military operations with a pragmatic support for the peace process.

It is also important to note the PA's record on freedom of speech, which is lamentable. The BBC note that the press is not free. They state "journalists risk harassment, attack or arrest by the security services, armed activists or militant groups". Therefore, it is not surprising that "self-censorship is widespread."⁶² Press freedom remains severely curtailed in both PA and Hamas controlled territory.

The EU must do all it can to aid the peace process. However, it must not turn a blind eye to severe infractions of its values. The EU must make a cessation of torture, a resumption of press freedom and the PA's full commitment to the peace process a condition of the continuance of EU budget support.

Syria

Between 2007 and 2010 the EU is pledged to provide €130 million (£83 million) to support the general Syrian budget.⁶³ In addition the EU has given €24 million (£19.2 million) to aid Syria in dealing with the influx of Iraqi refugees.⁶⁴

Syria is a dictatorship. President Bashar al-Assad's regime severely curtails freedoms of speech, assembly and political association. On 29 October 2008 twelve democracy campaigners were sentenced to two year prison terms for "weakening national sentiment" and "spreading false or exaggerated news which would affect the morale of the country".⁶⁵ Leading opposition politician Dr. Kamal al-Labwani was sentenced to twelve years imprisonment for

⁶⁰ Palestinian Broadcasting Corporation, Najat Abu Bakr, 25 August 2008

⁶¹ Al Dustur (Jordanian Daily), Interview with President Mahmoud Abbas, 28 February 2008

⁶² BBC News, 'Country profile: Israel and Palestinian territories', 7 January 2009

⁶³ European Commission, 'External Cooperation Programmes, Syria', 19 July 2008

⁶⁴ European Commission, 'Middle East: European Commission to provide €44 million in humanitarian assistance to Palestinians and Iraqis', 13 June 2008.

⁶⁵ Human Rights Watch, [Syria: Harsh Sentences for Democratic Opposition](#), 30 October 2008.



“communicating with a foreign country and inciting it to initiate aggression against Syria”. He had visited the United States and Europe to advocate human rights in Syria. Tariq Bayasi was imprisoned for three years for criticising the secret police in his web blog.⁶⁶ Syrian involvement in the assassination of Rafiq Hariri, the Lebanese Prime Minister, is suspected.⁶⁷

⁶⁶ Facebook, [Syrian Bloggers Forum](#).

⁶⁷ The Guardian, [Syria's human rights record has become a major Malik al-Abdeh](#), 2 November 2008.