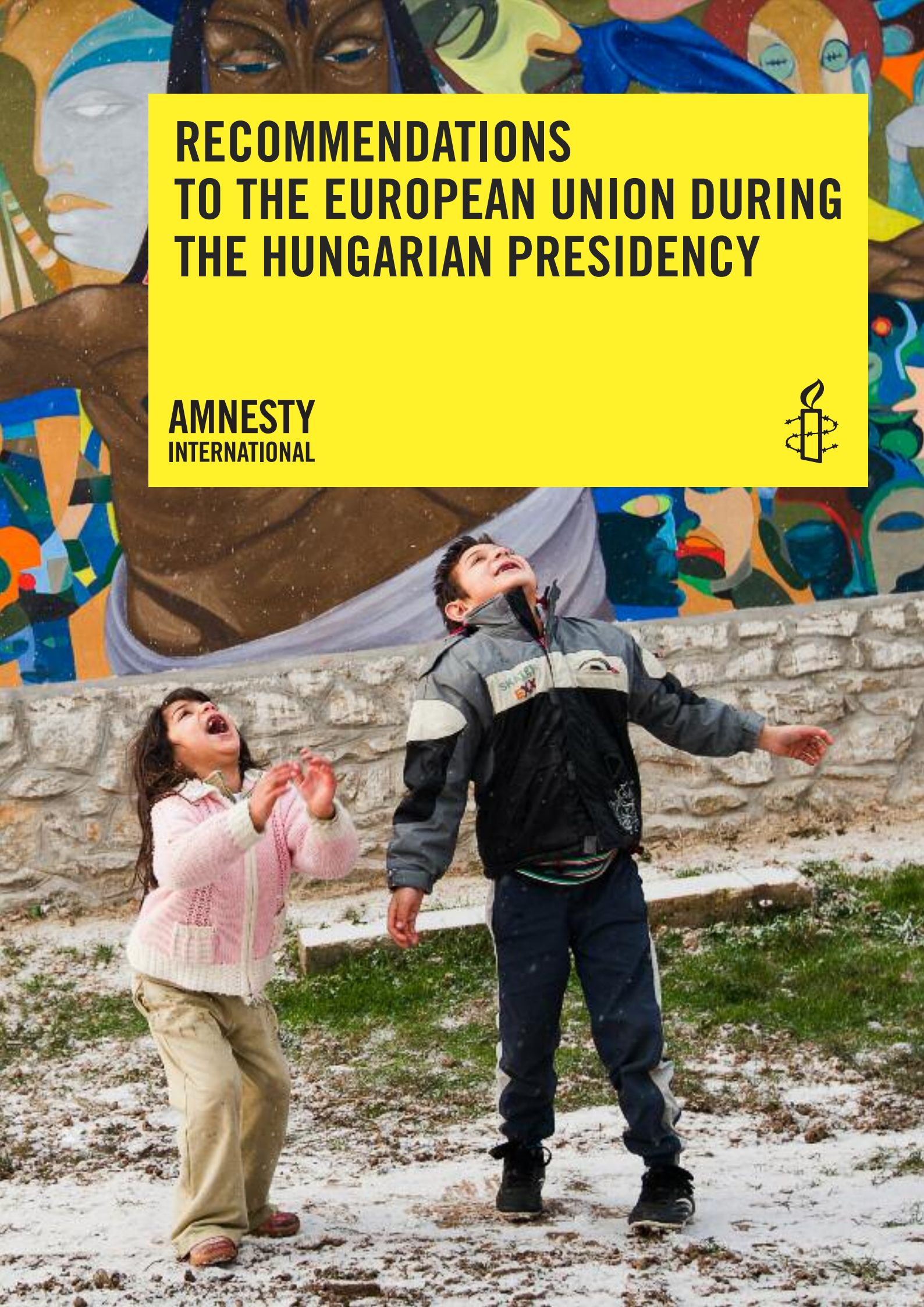


# RECOMMENDATIONS TO THE EUROPEAN UNION DURING THE HUNGARIAN PRESIDENCY

**AMNESTY  
INTERNATIONAL**



Amnesty International is a global movement of 2.8 million supporters, members and activists in more than 150 countries and territories who campaign to end grave abuses of human rights.

Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.

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Picture/painting: Kunhegyesi Ferenc: Bódvalenke balladája/ ballad of Bódvalenke. Children in front of mural painted as part of a project by a Roma community in [town] in Hungary.

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**AMNESTY INTERNATIONAL'S  
RECOMMENDATIONS  
TO THE EUROPEAN UNION DURING  
THE HUNGARIAN PRESIDENCY**

**JANUARY - JULY 2011**

# **AMNESTY INTERNATIONAL'S RECOMMENDATIONS TO THE EUROPEAN UNION DURING THE HUNGARIAN PRESIDENCY**

## **INTRODUCTION**

The changes brought by the Lisbon Treaty have radically transformed the EU presidency's task. It now focuses far more on internal affairs. So one of the main challenges confronting the Hungarian presidency on the human rights front will be something its predecessors were able to dodge by hiding behind laudable work on the external front. Europe's human rights landscape has also been altered. Discrimination against minorities, and racism in law enforcement and criminal justice, have grown so much that they are too overwhelming for member states to tackle singlehandedly. In particular the situation of the Roma people and the grave violations they are facing throughout Europe, have spelt an end to the previous and all-too-convenient impasse EU presidencies have cited to allow them to avoid confronting the human rights situation in the EU.

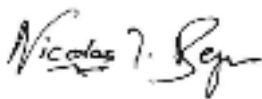
Nobody can escape the burning need for the EU to reconcile the current contradiction between the human rights demands it makes on non-EU countries with its general failure to hold its own member states to account for their behaviour in this field. This incoherence between the EU's internal and external approaches to human rights must be resolved, and soon. The outgoing presidency put this issue explicitly on the agenda for the first time, breaking the previous deadlock. We look to the Hungarian presidency to build on this small but important advance. Unless the EU can present a consistent human rights strategy, its external impact will be handicapped and it will invite ridicule for ignoring glaring human rights violations by its own member states. But equally important, the

present state of human rights in the EU means that it must confront violations energetically for their own sake, regardless of world opinion. The Hungarian presidency's best hope of embarking on a solution to this problem lies in initiating a debate at the highest level, between justice & home affairs and foreign ministers, creating space for civil society comment, and by broadening the mandate of the Working Party on Fundamental Rights, Citizens Rights and Free Movement of Persons (FREMP).

Although starting in 2011, external human rights responsibilities will have been devolved to the new External Action Service, the Hungarian presidency still faces an important challenge. It must keep up the pressure to ensure that the EEAS framework can genuinely achieve the necessary impact on human rights. If the EU is to play a useful role supporting human rights abroad, it needs local clout in-country. This means having enough good human rights staff in all EU delegations as well as in member states' embassies. Amnesty International is concerned that the EEAS will be allowed to slash the EU's true human rights capacity to just a third of its current extent, in Brussels and locally. Our fear is that with such a drastic drop in capacity the EU will be unable to maintain its current standards or help the people whose survival is the very linchpin of the local democracy and human rights movement. We look to the presidency to apply pressure to the EU institutions and member states to rescue the situation before the EU loses all but a token presence in defending human rights abroad.

We are also seeking the new presidency's full support in the task of establishing a framework of corporate accountability for EU-based companies operating in markets abroad. All too often the EU ignores that European companies abuse human rights for which they are not held accountable, frequently leaving victims without effective remedies. This directly negates the effects of the millions of aid euros the EU spends on good governance and justice projects. We look to the presidency to press for, at the very least, a legally binding 'do no harm' principle for European businesses working abroad. The EU can only encourage local accountability by obliging its own business players to respect the rights of local people.

Above and beyond these challenges for the institutions, the Hungarian presidency must remember that ultimately human rights are about protecting people. The EU has to take action on behalf of people who have suffered, or who are currently suffering from human rights violations and abuse whether in the EU or further afield. We are therefore presenting our customary list of ten individuals from Isroil Kholdorov in Uzbekistan to Gertrude Hambira in Zimbabwe. We look to the EU to speak out on their behalf, and make a tangible difference. It is progress on these individuals that will benchmark above all the human rights success of the Hungarian presidency.



Dr. Nicolas J. Beger  
Director  
Amnesty International European Institutions Office



Orsolya Jeney  
Director  
Amnesty International Hungary

# DISCRIMINATION

There has been ample evidence over recent months that Europe is experiencing mounting discrimination. Amnesty International has documented serious human rights violations, including the expulsion of Roma settlers from France, racism in law enforcement and criminal justice systems, migrants' increasing vulnerability and continued gender-based violence. EU action is required but there is a disappointing record of failure, with insufficient progress in the EU and its member states towards fulfilling human rights commitments.

Over a decade after the adoption of the two major EU anti-discrimination directives, and a year after the Lisbon Treaty came into effect, bringing the hope of greater EU human rights coherence, both internally and externally, the Hungarian presidency must renew the EU's commitment to fighting discrimination, protecting migrants and halting gender-based violence.

## ROMA

Events in 2010 have demonstrated widespread and persistent discrimination against Roma communities in Europe, including targeting Roma settlers from elsewhere in the EU, notably by France and Italy. Amnesty International has documented human rights violations against Roma people throughout Europe, such as segregated schooling in the Czech Republic and Slovakia, forced evictions in Italy, and the inadequate investigations into increasing racially-motivated violence against Roma people in Hungary. Similarly, the EU's Fundamental Rights Agency has published surveys and data confirming institutional discrimination against Roma people in Europe.

To curb the climate of intolerance towards Roma people in EU countries including Hungary, the presidency must honour its commitments to respect and promote European and international law. The political undertakings made during the Spanish and Belgian presidencies must be translated into effective action. It is time for effective action against anti-Gypsyism.

## AMNESTY INTERNATIONAL CALLS ON THE HUNGARIAN PRESIDENCY TO

- Take the lead in ensuring EU countries undertake to end ethnic discrimination and improve social inclusion of Roma people, by demanding an end to forced evictions in the EU, segregation in education and encouraging effective, prompt and thorough investigations into racially-motivated violence against Roma
- Ensure the EU Framework for National Roma Integration Strategies aligns national efforts and sets specific targets at EU and national level, and provides monitoring and evaluation systems. Also to ensure active involvement by civil society, particularly Roma organisations
- Ensure impact assessments in EU funding projects are enforced to prevent the entrenchment of segregation and other human rights violations
- Establish specific initiatives to overcome anti-Gypsyism and empower Roma people to take part in policy-making

## BENCHMARKS

The presidency shows leadership in ensuring improvement in the social inclusion of Roma people under existing and planned programmes / initiatives to eliminate discrimination and end social exclusion. Specifically by:

- Condemning forced evictions, segregation in education and any other forms of discrimination against Roma instantly wherever they occur
- Developing a EU Framework for National Roma Integration Strategies which sets targets for EU states, establishes a monitoring and evaluation system and clear governance mechanisms at EU and national level to promote social inclusion, and procedures on investigation of racially-motivated violence
- Taking account of the Roma perspective in existing programmes, such as the EU 2020 strategy
- Launching a Europe-wide campaign to fight anti-Roma prejudice, includes denouncing discriminatory comments by public officials and racially-motivated crimes
- Monitoring and evaluating these measures and their impact, using disaggregated data



Amnesty International group members hold a vigil opposite the Slovak embassy in London, UK, 11 November 2010, calling on the Slovak government to end segregation of Romani children in Slovakia's schools.

## **ANTI-DISCRIMINATION DIRECTIVE**

As a member state with strong anti-discrimination laws and as the first European country to ratify the Convention on the Rights of Persons with Disabilities, Hungary is well placed to press for the adoption of the Anti-Discrimination Directive. The presidency should exert the necessary pressure on Germany, which unjustifiably and vehemently opposes the Directive.

The Directive's adoption, proposed by the Commission in July 2008, merely fills an existing legal gap, which would allow EU law explicitly to encompass the whole range of grounds for discrimination. EU laws in this field would make a crucial difference to how all forms of discrimination are tackled across Europe and would unequivocally confirm that the EU as a whole is committed to fighting discrimination. Filling this gap is crucial particularly in light of recent examples of discrimination, such as homophobic legislation in Lithuania. Following previous discriminatory initiatives in Lithuania, strongly denounced by the EU, the latest draft law (under examination at the time of writing) amends the administrative code to introduce sanctions against the "promotion of homosexuality". Such moves towards institutionalization of discrimination on the basis of sexual orientation go against the right to non discrimination enshrined in EU treaties and laws, demonstrating the need for further EU-action.

## **AMNESTY INTERNATIONAL CALLS ON THE HUNGARIAN PRESIDENCY TO**

- Fight discrimination in line with Trio Presidency commitments by prioritising adoption of the Anti-Discrimination Directive by means of strong, focused engagement at the European Council so as to achieve political agreement

## **BENCHMARK**

- Presidency engages within the Council of the EU to create a strong coalition of member states which actively support adoption of the directive so as to undo the current stalemate



Poster made by AI Hungary for a demonstration on International women's day on violence against women.

© Craig Hull

# VIOLENCE AGAINST WOMEN

Current EU initiatives on gender-based violence and violence against women provide an opportunity for the Hungarian presidency to progress with its commitment under the Trio Presidency. It is crucial that the presidency perseveres with work by the Spanish and Belgian presidencies to ensure policy coherence within and outside the EU. Eradicating gender-based violence must remain a priority.

Amnesty International encourages the Hungarian presidency to promote existing Commission-led initiatives which tackle violence against women. These include the EU-wide strategy on combating violence against women (including female genital mutilation (FGM)) which is expected to be adopted in the next six months, the European awareness-raising campaign on gender-based violence which is due to be launched, and the options to be proposed to eradicate FGM in the EU including by legislative measures.

## AMNESTY INTERNATIONAL CALLS ON THE HUNGARIAN PRESIDENCY TO

- Ensure the EU Strategy on Violence against Women for 2011-15 addresses all forms of violence and ensures the highest degree of human rights protection. Create an awareness-raising campaign in line with international obligations which involves rights-holders and ensures active participation
- Ensure that any legislative proposal, including any on victims' rights in the criminal justice process, conforms to international standards

## BENCHMARKS

- In consultation with civil society and with active participation by rights-holders, proposals for the directive(s) are drafted to reflect the highest standards of human rights protection.
- The EU Strategy on Violence against Women reflects the highest human rights standards found in international law, notably on sexual violence, domestic violence and FGM. These forms of violence are addressed in any planned awareness-raising campaign
- A human rights-centred approach is followed in any legislative proposal, with particular focus on prevention and protection measures, and without stigmatising migrant communities

# MIGRATION AND ASYLUM

## MIGRATION

The EU's relentless pursuit of measures to 'control' irregular immigration has resulted in several EU-level policies which raise profound concerns as they fail to adequately respect and promote fundamental human rights, such as the right to seek and benefit from asylum, and humane treatment for all human beings, irrespective of their immigration status. These initiatives include an increased focus on preventing the entry of migrants through border operations, including by Frontex, the external border agency, and on returning migrants through readmission or other agreements with third countries, some of which, like Libya, have a dire human rights record. So it is crucial that EU 'migration policies' must first of all be protection-sensitive, which includes simultaneously ensuring that they respect international and EU human rights and refugee laws and standards.

Human rights should also inform the EU's dialogue and cooperation with non-EU countries on migration issues. Equally, implementation of any EU-third-country cooperation policies addressing 'migration control' or readmission of third-country nationals must be transparent and ensure full accountability and respect for human rights.

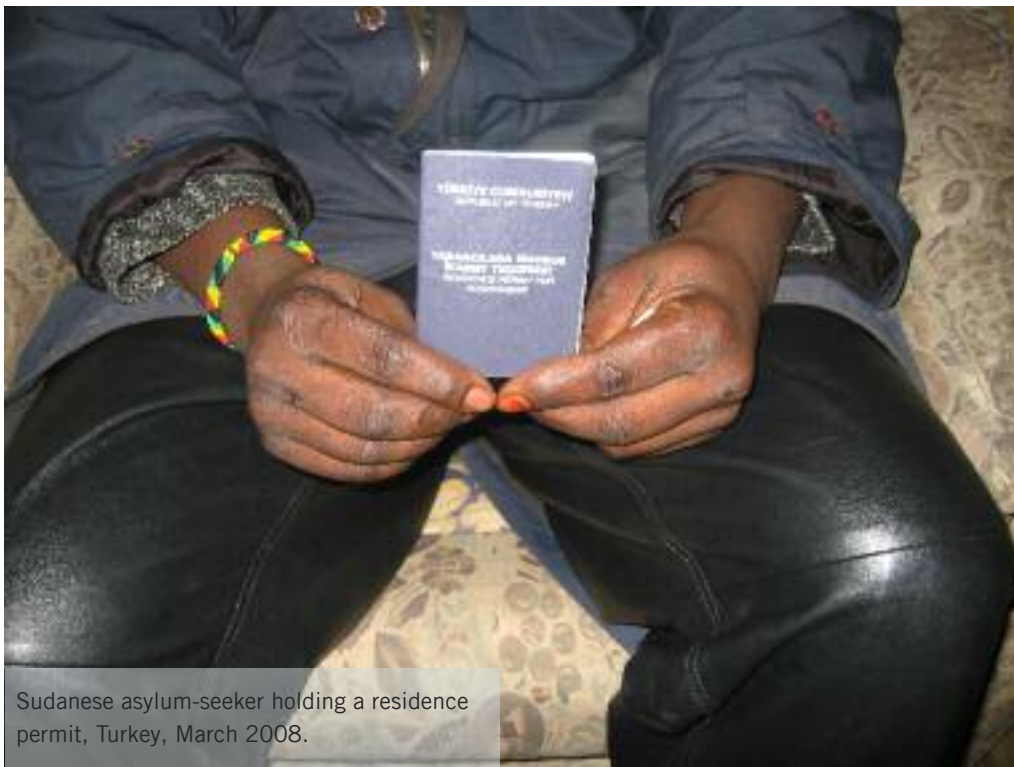
The widespread resort to detaining irregular migrants as a tool of immigration control illustrates the chasm between EU practice and member states' human rights obligations. Detention is governed by human rights standards, and should be used as a last resort and then only if it can be proved that alternative measures to detention would be insufficient. The Hungarian presidency should take the lead on an approach in compliance with international human rights and refugee law. These require individual assessment of the need to detain somebody who is subject to removal. They may only be detained if less intrusive measures have been tried and found insufficient in an individual case.

## AMNESTY INTERNATIONAL CALLS ON THE HUNGARIAN PRESIDENCY TO

- Ensure that administrative detention practices in the EU fully comply with international human rights law and EU standards
- Ensure Frontex operations are carried out transparently and consistently with the human rights framework as clarified in the revised regulation
- Ensure adoption of a human rights-centred approach, which forms the core of any 'migration management' cooperation with third countries, particularly when aimed at controlling entry or return of irregular migrants

## BENCHMARKS

- Initiates conclusions in Council on ensuring alternative measures to detention in the EU
- Promotes independent monitoring, increased accountability and effective enforcement of EU law and human rights standards in the new legal framework for Frontex operations
- Uses stringent human rights guarantees in negotiations for cooperation on readmission and migration control with non-EU countries



Sudanese asylum-seeker holding a residence permit, Turkey, March 2008.

© Amnesty International

## **ASYLUM**

The past year has seen continued emphasis on practical cooperation at the EU level on asylum, which has resulted in the European Asylum Support Office (EASO) being set up. The presidency has a key role to play in these initial stages of the EASO, to ensure it serves as an effective, transparent body with the necessary support from member states and effective input from civil society organisations. Effort invested in practical cooperation must be accompanied by progress towards establishing the second phase of the Common European Asylum System (CEAS), with the aim of eliminating the current wide disparities in handling asylum applications and closing critical gaps in protection of asylum seekers.

In line with commitments made under the Trio Presidency, the Hungarian presidency must aim to move towards harmonisation of member states' laws and practices to create a genuinely common asylum space which offers a high standard of protection. In this regard, a key aspect of the CEAS should be mutual support in providing protection, both within the EU and with non-EU countries. This should be delivered by means of comprehensive reform of the Dublin System, and by strengthening member state commitment to resettle refugees from countries outside Europe.

### **AMNESTY INTERNATIONAL CALLS ON THE HUNGARIAN PRESIDENCY TO**

- Make progress on pending asylum instruments, and ensure further harmonisation of asylum law and practice meets international protection standards
- Tackle the unfairness and failures inherent in the Dublin system to ensure protection is provided for everyone who needs it
- Build on the existing EU Resettlement Programme to increase the number of people resettled from non-EU countries
- Support the EASO and work with civil society to ensure transparency in all areas, including activities, collection of information on countries of origin, and other information gathered

### **BENCHMARKS**

- Resolves outstanding key issues in the asylum instruments, particularly regarding legal safeguards on detention
- Promotes greater sharing of responsibility by allowing the suspension of transfers under the Dublin system
- Commits itself to increasing the number of people from non-EU countries resettled under the terms of the EU Resettlement Programme
- Ensures allocation of adequate resources to EASO and access to all relevant information on the Agency

# EU ACCESSION TO THE EUROPEAN CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS (ECHR)

Negotiations of the EU's accession to the ECHR progressed during the Belgian presidency including in meetings of the Council of Europe Steering Committee for Human Rights Informal Working Group on the Accession of the European Union to the ECHR (CDDH-UE) with the European Commission. This Group, in which EU member states are represented, is charged with developing, by the end of June 2011, the legal instruments setting out the modalities of the EU's accession to the ECHR, including its participation in the Convention's system.

Given that the central purpose of EU accession to the ECHR is to increase and strengthen the effective protection of individuals' human rights, Amnesty International welcomes the current negotiations as a major step towards rectifying a major human rights protection gap.

Amnesty International is however concerned that the absence of civil society's participation and the lack of democratic scrutiny of the negotiations may give rise to questions about the overall process and result in gaps in human rights protection, not least in the context of the 'Co-Respondent mechanism'. The latter would enable the EU and/ or one or more EU countries to join the proceedings as co-respondents alongside the original respondent indicated by the applicant, whether a state or the EU. It is crucial to guarantee that such a mechanism respects the rights of individual applicants and does not put undue pressure on them.

## AMNESTY INTERNATIONAL CALLS ON THE HUNGARIAN PRESIDENCY TO

- Promote transparency in negotiations for accession to the ECHR as regards human rights protection, and ensure thorough consultation of civil society, nationally and regionally
- Ensure that the rights of individual applicants and the principle of equality of arms are respected and protected in the modalities of the EU's accession to the ECHR, including in the framework of the Co-Respondent mechanism

## BENCHMARKS

- Engages in a transparent negotiation process on EU accession to the ECHR. Experts, including civil society representatives, are invited to contribute and participate in exchanges on accession in a timely manner
- The rights of the applicants are respected and protected in the accession agreement and in the modalities for its implementation



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Iran demonstration organised by Amnesty International Hungary

# THE EU AS A GLOBAL PLAYER

## HUMAN RIGHTS POLICY

The review of the EU's human rights policy launched during the Belgian presidency is an important step in ensuring the EEAS (European External Action Service) is built on solid foundations and there is consistency in the EU's actions. Following the review, the EU must do more to recognise the need to be inclusive, guided by a universal understanding of human rights and giving human rights a clear place at the heart of the EU's external policies. The review must also produce a more comprehensive human rights-based analysis, through which situations may be better understood and responses designed.

The EU has extensive human rights mechanisms, which do not necessarily need to be further extended. But far too often these tools are not used effectively, and they are frequently used in isolation from other foreign policy activity. This is particularly true of EU human rights guidelines and dialogues. Officials in EU delegations and member state embassies are often unaware of their commitments under the Guidelines, and dialogues are too often seen as a substitute for a full and coherent human rights strategy. So any review of the available instruments must first tackle implementation problems, particularly their use and recognition by non-human rights experts outside EU countries' capitals.

The expected adoption of comprehensive country-by-country human rights strategies could strengthen EU action. For maximum impact, the EU must run broad-based consultations with local human rights defenders and organisations, including those with limited access to capital-based structures. This is essential for identifying specific needs, and how best to satisfy them. Country strategies must be shared widely so all relevant EU officials know their content and to ensure coherency with action elsewhere.

## EUROPEAN EXTERNAL ACTION SERVICE

The European External Action Service (EEAS) has now been set up and will become fully operational over the next six months. To ensure it fulfils its purpose (greater coherence and consistency in EU foreign policy, including human rights), all EU countries must offer commitment to the EEAS and continue jointly and proactively pursuing a robust human rights agenda. A cooperative presidency role is key in this, especially during the new service's early stages.

Further cooperation and leadership from EU countries will be needed to help the EEAS, with its starkly limited resources, to pursue issues covered by the various EU Guidelines, including the death penalty, violence against women, torture and protection of human rights defenders. EU delegations and member state embassies are especially responsible for this work, which includes helping people at risk.

### **AMNESTY INTERNATIONAL CALLS ON THE HIGH REPRESENTATIVE, THE EUROPEAN EXTERNAL ACTION SERVICE, THE HUNGARIAN PRESIDENCY AND ALL EU MEMBER STATES TO**

- Ensure that human rights are placed at the heart of EU foreign policy and that the EEAS receives support from all EU countries, especially during its early stages
- Follow up the review of the human rights strategy, and robustly assess how effectively human rights tools are deployed
- Effectively implement EU Guidelines by building on previous Presidencies' work to reinforce promotion and protection of human rights in relations with third countries
- Adopt country-specific human rights strategies, consulting relevant organisations and players, and share widely with all other relevant EU structures to guarantee coherence of EU policies through a human rights-centred approach in third countries

### **BENCHMARKS**

- Human rights issues feature on all European Council agendas, Council Conclusions, statements and other EU documents
- A specific discussion on the review of the EU's human rights policy is held with foreign ministers at the Foreign Affairs Council, which leads to the adoption of either comprehensive Council conclusions or a new Commission Communication
- Initiates broad consultations in developing country-specific strategies, focussing on the need to improve implementation of EU Guidelines. Provides briefings to relevant EU players including DG Trade, ECHO, and Development Cooperation, who also apply strategy in their work

## EU BILATERAL RELATIONS

With the EEAS now in operation, the EU is even better placed to demonstrate its resolve to be a global leader, especially by taking a clear stand on human rights with its strategic partners. The EU must ensure respect for human rights is genuinely placed at the heart of all foreign policy decisions, and to set the standard for EU foreign policy coherence.

As security concerns acquire increasing prominence, the USA and EU must reassert their adherence to international law by ensuring they account for human rights violations committed during counter-terrorism operations.

EU-China engagement requires more focused and results-oriented EU activity (e.g. in the human rights and rule of law arena) to fulfil its responsibility for ensuring that human rights in China remain in the spotlight and are not subordinated to economic interests. The EU needs to press China for tangible human rights improvement, particularly over treatment of human rights defenders, freedom of expression, the death penalty, and freedom of belief.



Gate guard at Guantanamo Bay Navy Base, Cuba, 19 November 2008.

© US DoD

## **EU AND ITS NEIGHBOURS**

EU enlargement is a priority for the Hungarian presidency, with Croatian accession negotiations nearing conclusion, and the accession treaty on the horizon. With the opening of the justice and fundamental rights chapter, the EU should firmly state its expectations on domestic action against impunity for war crimes. The Croatian authorities are still failing to provide victims of war crimes and their families with access to truth, justice and reparation for human rights violations committed during the 1991-95 war. Responsible EU treatment of Croatia will set an important precedent for other western Balkan countries seeking accession. Accession negotiations and bilateral relations with Turkey should be used to advance legislative reform there. There is still no comprehensive legislation governing Turkey's obligations to refugees and asylum seekers, and regulations on the detention of foreign nationals declared unlawful by the European Court of Human Rights remain in force.

The strategic review of the European Neighbourhood Policy (ENP) is due to conclude during the Hungarian presidency. This review should be closely linked to the overall review of the EU's human rights policy, and must address the serious problems over coherence in dealings with neighbouring countries to the south and east. Given the EU's relatively strong influence in neighbouring countries, the EU should be much stronger and clearer in its expectations of partners, and develop comprehensive human rights strategies with its neighbours, which do not rely solely on creating a human rights dialogue. Although not a formal part of ENP, the EU's increasing engagement with Belarus remains critical, especially as Belarus is the only European country which still carries out executions. The fight against the death penalty was a clear priority in the Trio programme, although strategic work on country situations has stagnated over the past year. Following the successful adoption of a third UN resolution on the death penalty with increased support, the EU must now reinvigorate its work with all 'countries on the cusp', including Belarus.

## AMNESTY INTERNATIONAL CALLS ON THE HIGH REPRESENTATIVE, THE EUROPEAN EXTERNAL ACTION SERVICE, THE HUNGARIAN PRESIDENCY AND ALL EU MEMBER STATES TO

- Pursue human rights mainstreaming in EU bilateral relations, especially with strategic partners. Ensure human rights are central to EU foreign policy and adequate EEAS resources allocated
- Ensure human rights are central to EU relations with strategic partners, including China, Russia, India, Brazil and USA
- Strengthen its commitment to tackling human rights concerns in neighbouring countries, through enlargement process with western Balkans and Turkey, the ENP review and other developments in bilateral relations
- Reaffirm importance of ending executions worldwide as a key foreign policy goal, by demanding an immediate moratorium on executions in Belarus

### BENCHMARKS

- Human rights feature on agendas and communiqués of bilateral summits, especially with strategic partners
- Uses negotiations with Croatia on the ‘justice and fundamental rights’ chapter to win guarantees that authorities prosecute all crimes under international law committed during the 1991-95 war and grants victims and families access to reparation including restitution, compensation, rehabilitation, satisfaction and guarantee of non-repetition
- Uses accession talks and bilateral relations to press Turkey to adopt refugee law which meets international refugee reception and protection standards, and to establish domestic independent human rights mechanisms in accordance with the Paris principles, as recommended by EU countries during Turkey’s Universal Periodic Review
- Begins developing more coherent and comprehensive human rights strategies with neighbours, using all available means; uses political dialogues and new Action Plans to make stronger and clearer expectations of neighbours, establishing benchmarks and timelines for accomplishment that are entrenched in neighbouring countries’ commitments and obligations under international law
- Develops and implements clear strategy for engaging with ‘countries on the cusp’, to allow implementation of past UN resolutions calling for a moratorium with the aim of abolishing death penalty. In unequivocal terms states the need for immediate moratorium on executions in Belarus and engages with it at all levels on this issue



Street action against death penalty in Belarus near Belarus Embassy in Moscow, Russia

# EU-UNITED NATIONS RELATIONS

## HUMAN RIGHTS COUNCIL

At this crucial stage of the Human Rights Council's (HRC) review, Hungary as an HRC member, and the High Representative, must devote high-level political attention and sufficient resources to the Council's regular work and the review process. Through effective outreach and cross-regional alliances, the EU should press for better implementation of the full HRC mandate, especially by identifying effective ways to tackle human rights violations. More contributions by individual EU countries, alongside EU intervention, would add value. Political implications of any proposal need to be considered and explanations of the benefits of any proposals particularly on sensitive subjects like racism or religion would be useful. The EU should also seek proposals from delegations in other groups it can support. Continued consultation with NGOs and NHRIs throughout the review is necessary, and it is key to anticipate and act against initiatives which might, even unintentionally, exclude NGOs and NHRIs from the HRC's work in the future.

A strong system of UN special procedures is central to the HRC's efforts and therefore the EU needs to develop more proactive means of strengthening and developing this system. The effectiveness and quality of the system's work greatly depends on selecting independent, highly-qualified human rights experts. It is crucial that the public list of eligible candidates is extensive and broadly represents all regions, gender and expertise. Regarding the appointment of individual mandate-holders, the EU should ensure that the authority and responsibility for final selection of experts remains with the HRC President (not passed to the Consultative Group). On the complaints procedure, proposals for major changes are needed to ensure a more effective and transparent mechanism for tackling human rights violations.

The Hungarian presidency must continue to strengthen the EU's commitment to the Universal Periodic Review (UPR) process, especially by ensuring effective NGO participation throughout the review process, and by focusing on implementation of UPR recommendations, including in bilateral relations. Measures to deliver UPR recommendations should be coordinated with, and reinforce, those which enforce recommendations by other UN bodies, including treaty bodies and special procedures. As Hungary will be reviewed under UPR during its presidency, it should embody best practice, which includes responding promptly to all recommendations made and by informing the HRC about progress on implementation.

## ARMS CONTROL

Throughout negotiations in 2010, the EU and its member states have largely supported achieving a strong, robust and politically credible Arms Trade Treaty (ATT). But the EU must show much greater leadership, particularly when discussing the ATT with strategic partners and sceptical countries. The third and fourth rounds of negotiations are due in February and July 2011, which will lay the foundation for the full UN ATT conference in 2012. There are still crucial problems and policy decisions to be made by EU countries, and the EU's role is vital if a treaty with comprehensive scope and strong parameters based on the countries' existing obligations and robust risk assessment procedures is to be presented in 2012.

The EU should also engage actively with all aspects of the UN Programme of Action on small arms and light weapons (UNPoA) and the New Zealand Chair of the Meeting of Governmental Experts (MGE) on small arms and light weapons which will be held in May 2011. The EU should work with partners to promote effective discussion and concerted action on end-use/user certification, verification and standardisation, marking/tracing, stockpile management, and brokering, preventing small arms violence including gender-based violence, regulating small arms transportation, and national coordinating bodies and effective reporting.

### AMNESTY INTERNATIONAL CALLS ON THE HIGH REPRESENTATIVE, THE EUROPEAN EXTERNAL ACTION SERVICE AND THE HUNGARIAN PRESIDENCY TO

- Ensure the EU continues to be engaged and takes a leadership role in the HRC's regular work and in the HRC review, thus pressing the HRC to deliver its full mandate
- Continue to consult NGOs and NHRIs throughout the review process and in the HRC's work, and ensure that the letter and spirit of the rules and regarding participation of non-state observers in the HRC's work is upheld
- Actively support the UPR process by mainstreaming UPR recommendations throughout external relations and demonstrating best practice during Hungary's own examination
- Help build an effective ATT by showing greater leadership during preparatory discussions and help strengthen the UN Programme of Action to prevent the illegal trade in small arms and light weapons

### BENCHMARKS

- The EU demonstrates clear commitment and a strong stand on improving UN-level institutional human rights mechanisms, including the HRC
- Uses Hungary's UPR session as an example of best practice including such areas as preparatory and follow-up consultation with civil society, participation by other member states, including EU countries, and taking clear positions on all recommendations
- The EU pushes for a strong ATT in the PrepComs in February and July, and in EU-sponsored seminars, particularly actively engaging with EU partner and influential states and the Chair of the ATT process, with the clear aim of making substantive progress on developing a comprehensive, principled and effective text
- The EU raises the human rights aspects of the ATT and the UNPoA more prominently in its bilateral relations with strategic partners and others, including in summits and political dialogues outside New York

# CORPORATE ACCOUNTABILITY

Given that the EU hosts many of the world's multinational companies, the Swedish and Spanish presidencies recommended that the EU and its member states take a lead globally to set a good example of corporate responsibility.

The EU then set up a voluntary corporate social responsibility (CSR) framework, which provides incentives to companies which respect human rights. However, this voluntary framework does not adequately express the duty of businesses to respect human rights. The United Nations' Special Representative of the Secretary General (SRSG) on transnational corporations and other business enterprises, Professor John Ruggie, has said that to "discharge the [corporate] responsibility to respect [human rights] requires due diligence. This concept describes the steps a company must take to become aware of, prevent and address adverse human rights impacts". Since host countries may breach their duty to protect human rights through failing to prevent businesses from abusing them within their territory, Amnesty International calls on member states to oblige companies to carry out this human rights due diligence when acting within the EU and abroad.

The EU's CSR framework also fails to fully recognise the EU member states' important role of holding EU companies accountable for human rights abuses. Nor does it help people who are abused to obtain redress. At the very least, access to judicial and non-judicial systems should be granted in EU member states for people whose human rights are abused by companies based in their territory. Rights-holders often face overwhelming barriers, procedural and substantive, to accessing these mechanisms, and the EU should identify ways to overcome them. The EU and member states should also ensure that their financial support to business activities does not cause or contribute to human rights abuse.

Mr Ruggie believes the root cause of the business and human rights challenge lies in gaps in governance, stemming from globalisation. To close this gap, the Hungarian presidency must make urgent progress to ensure a stronger EU-level regulatory framework making human rights standards the foundation for corporate responsibility.

## AMNESTY INTERNATIONAL CALLS ON THE HUNGARIAN PRESIDENCY AND ALL EU MEMBER STATES TO

- Press for robust international standards which include due diligence for business and access to judicial and administrative remedies
- Take the lead in ongoing standard setting processes, eg Ruggie framework, OECD and on International Finance Corporations
- Ensure that financial institutions of the EU and member states and their clients conduct human rights due diligence
- Develop a regulatory framework based on the principle that EU countries must prevent third parties from abusing human rights. The framework should ensure that member states:
  - a. Apply legal and policy measures which require companies to carry out human rights due diligence and mandatory reporting, and impose sanctions if companies fail to do so
  - b. Install legislative and other measures to prevent businesses in their countries from causing or contributing to human rights abuse in their operations abroad
  - c. Ensure access to a judicial and non-judicial structure in their jurisdiction for people whose human rights are abused by companies. This includes introducing measures to remove any obstacles which affected people may face preventing or limiting their ability to claim an effective remedy (eg in procedural rules)

## BENCHMARKS

- The EU encourages the Special Representative to include guiding principles on how countries should fulfil their duty to protect people against human rights abuses by business in his final report to the Human Rights Council, including due diligence for business and access to judicial and administrative remedies
- The EU speaks with a common voice to mainstream human rights in the current review processes: OECD Guidelines of Multinational Enterprises; OECD Common Approaches on the Export Credits and the Environment; and International Finance Corporations' Sustainability Framework
- The presidency initiates discussions to progress with developing a stronger EU-level regulatory framework based on human rights standards as a foundation for corporate responsibility, in consultation with civil society and taking into account the Special Representative's final report to the Human Rights Council



# INTERNATIONAL JUSTICE

The EU's vital role in fighting impunity for serious human rights violations cannot be underestimated. It must maintain support for the universality and effective functioning of the International Criminal Court (ICC) as provided through the EU Council Common Position on the ICC and its Action Plan. Accordingly, the EU's pledge at the Kampala Review Conference to review its instruments on international justice is welcome. In this review the EU must commit itself to protecting the Rome Statute's integrity and to demanding full cooperation with the ICC.

This is linked to the need for continued support for effective implementation of international justice at national level. Universal jurisdiction is essential to denying safe havens to perpetrators of international crimes. So, EU countries must continue to defend the exercise of universal jurisdiction at all fora and the EU must strengthen its own exchanges on universal jurisdiction in the Network of Contact Points in Respect of Persons responsible for Genocide, Crimes against Humanity and War Crimes.

In the EU's external relations, traditional support for international justice must remain a key aspect of the new European External Action Service under the High Representative. The EU can act as a powerful force for advancing international justice particularly in its relations with its main strategic partners. The forthcoming EU-Russia summit in June should launch a robust dialogue on international justice with all strategic partners, including China. International justice is equally important in achieving regional security and stability, and the EU must recognise the importance of international justice to the Middle East peace process and in its bilateral relations with Israel and the Palestinian Authority. This means focusing greater attention on tackling violations of international law, including those committed during hostilities in Gaza and Southern Israel in 2008-9. Accountability for all human rights violations is an integral part of a fair and durable solution to the conflict. The EU Guidelines on promoting compliance with international humanitarian law (IHL) provide the EU with operational tools to tackle violations.

## AMNESTY INTERNATIONAL CALLS ON THE HUNGARIAN PRESIDENCY AND THE HIGH REPRESENTATIVE TO

- Support the universality of the ICC by demanding all states ratify and implement the Rome Statute and the Agreement of Privileges and Immunities of the ICC (APIC) and enact laws on cooperation and complementarity
- Support the effective functioning of the ICC and the integrity of the Rome Statute by demanding cooperation with the ICC and rejecting attacks on the ICC
- Defend the exercise of universal jurisdiction
- Advance international justice through external relations, particularly with strategic partners and in the Middle East peace process, recognising international justice as a way of attaining regional security and stability

## BENCHMARKS

- The presidency convinces the two EU member states (Czech Republic and Malta) which have not yet done so to ratify the APIC as soon as possible. It also urges the three member states (France, Malta and the UK) which have made declarations on ratification of the Rome Statute which amount to prohibited reservations, to withdraw them
- Encourages the UN to cooperate fully with the ICC in locating and arresting persons named in ICC arrest warrants and presses all countries to ensure that people named in the warrants are surrendered to the ICC without delay
- Follows up and implements the conclusions and recommendations made at the 9th Meeting of the European Network of Contact Points in Respect of Persons responsible for Genocide, Crimes against Humanity and War Crimes at the Network's 10th meeting
- Launches a serious dialogue on international justice with all strategic partners, including China. Includes international justice and the ICC as a topic at EU-Russia summit in June and in bilateral démarches
- Recognises the need to tackle continued impunity for violations of international law in Israel/OPT, and particularly seek an international justice solution for violations of IHL and war crimes committed during the conflict in Gaza and Southern Israel (2008-9). Works with the Palestinian Authority and other regional partners to refer the issue back to the UN General Assembly at the Human Rights Council's March session



# THE CONSEQUENCES OF HAVING THEIR HUMAN RIGHTS VIOLATED.

## EU ENGAGEMENT ON THESE PEOPLE'S CASES BY:

OPPORTUNITY AND PRESSING FOR CONCRETE PROGRESS DURING THE SIX-MONTH PRESIDENCY DELEGATIONS IN EACH OF THE COUNTRIES IDENTIFIED, TO WORK CLOSELY ON THESE CASES

## THE EU GUIDELINES ON HUMAN RIGHTS DEFENDERS

### KHALED EL-MASRI RENDITIONS, GERMANY



Khaled el-Masri, a German national of Lebanese descent, was abducted by Macedonian officials in December 2003 and unlawfully handed over to the CIA in January 2004. The CIA tortured him and transferred him to Afghanistan, where he was detained in inhumane conditions for four months and beaten. He was returned to Germany and freed in May 2004, but has never had justice for the human rights violations he experienced. On 11 September 2009, he was arrested after attacking Gerold Noerenberg, the mayor of Neu-Ulm, Germany. He was subsequently sentenced to two years' imprisonment on 30 March 2010. "He is disturbed, disappointed, humiliated and bitter," said his defence attorney, pointing out that it was no coincidence the attack happened on the anniversary of the September 11 terrorist attacks in the USA. "A torture victim deserves help".

- The EU should actively reject impunity and support all efforts to conduct full, impartial and effective investigations into all allegations of European complicity in the US-led rendition and secret detention programmes. This includes raising Khaled el-Masri's case within the Macedonian EU accession discussions, to ensure he is granted effective redress for the abuses suffered.

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### MUNIR SAID THALIB HUMAN RIGHTS DEFENDER, INDONESIA



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Human rights activist Munir Said Thalib (Munir) was found dead on a Garuda Airlines flight from Jakarta to the Netherlands on 7 September 2004. An autopsy showed he had been poisoned with arsenic. Although two people have now been convicted of involvement in Munir's death, credible allegations have been made that those responsible for the murder at the highest levels have not been brought to justice. A report which was issued following a presidential order for an independent fact-finding team has not been published. Munir was one of Indonesia's most prominent human rights campaigners and had lived in constant fear of attack because of his human rights work after a bomb exploded outside his house and his office was attacked by a mob in 2002 and 2003. Indonesia's human rights defenders continue to be threatened, intimidated and attacked.

- In line with the guidelines on Human Rights Defenders, the EU should call on Indonesia to establish a new, independent investigation into the murder of Munir and bring perpetrators at all levels to justice in fair trials, and to protect all human rights defenders from threats, intimidation and attacks.

### THE MOTHERS OF SOACHA CAMPAIGNERS, COLOMBIA



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The Mothers of Soacha (Luz Marina Porras Bernal, Carmenza Gomez Romero, Maria Ublierma Sanabria Lopez, Blanca Nuvia Monroy, Edilma Vargas Riojas and Flor Hilda Hernandez) are a group of Colombian women whose sons were extra-judicially killed by the security forces. These women have been threatened, harassed and subjected to surveillance in an effort to silence their campaign for justice. In 2008 over a dozen young men from Soacha, a poor district near Bogota, were killed by the army and their bodies presented mostly as "illegal armed forces killed in combat". The judicial authorities are investigating over 2,000 cases of extra-judicial killings by the security forces.

- The EU should ask the Colombian Government to take decisive action to end impunity of human rights violations, including extra-judicial executions such as those related to the sons of the Mothers of Soacha, in line with the repeated recommendations of the UN High Commissioner on Human Rights and the EU Human Rights Defender Guidelines.

### EYNULLA FATULLAYEV PRISONER OF CONSCIENCE, AZERBAIJAN



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Eynulla Fatullayev, a newspaper editor in Azerbaijan, was sentenced on 6 July 2010 to two-and-a-half years' imprisonment for possession of illegal drugs. He was already serving an eight-and-a-half-year prison sentence on trumped-up charges dating from 2007 of terrorism, defamation, incitement to racial hatred and tax evasion. We believe all the charges against him have been fabricated as an attempt to silence his critical reporting of the government, and we consider him to be a prisoner of conscience. The European Court of Human Rights quashed the terrorism, defamation, and incitement to racial hatred charges in April 2010, ordering that Eynulla Fatullayev be freed. In line with this decision, the Azerbaijan Supreme Court annulled the charges and although the conviction for tax evasion remains in force it was ruled that he has now served this sentence. However he is still in prison on the more recent charges of illegal drugs possession. By sentencing Eynulla Fatullayev to a further prison term on a new charge over two months after the European Court ruling was made, Azerbaijan has clearly sought to side-step the Court's judgment. Unconditionally release Eynulla Fatullayev and guarantee the right of freedom of opinion and expression.

- The EU should call on the Azerbaijani authorities to immediately and unconditionally release Eynulla Fatullayev and guarantee the right of freedom of opinion and expression.

# CALL

- AROUND THE WORLD, PEOPLE ARE SUFFERING AMNESTY INTERNATIONAL CALLS FOR ACTIVE
- RAISING THE CASES OF THESE PEOPLE AT EVERY
- DEVELOPING A TEAM AT EMBASSIES AND
- ENSURE EFFECTIVE LOCAL IMPLEMENTATION OF

## ISROIL Kholdorov PRISONER OF CONSCIENCE, UZBEKISTAN

Isroil Kholdorov, a human rights defender in Uzbekistan was sentenced to six years' imprisonment for various crimes against the state - following an unfair trial in February 2007. We consider Isroil Kholdorov to be a prisoner of conscience who was convicted solely for the peaceful exercise of his rights to freedom of expression and association. He had spoken to the international media about mass graves in and around Andizhan, following events there in May 2005 during which security forces fired on a crowd of mainly peaceful protesters, killing hundreds. He had left the country following the Andizhan events, but was detained in Uzbekistan in September 2006 - it is not clear whether he returned voluntarily or was abducted by Uzbekistani security forces.



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## PICTOR NAGY STREET DISCRIMINATION, ROMANIA

Some 100 Roma people have been forcibly evicted from their homes in Miercurea Ciuc, Romania in 2004. Instead of being given alternative homes, they were resettled by the authorities in housing which was intended to be a temporary solution: a series of metal cabins and shacks next to a sewage works. But they have been left there, despite the inadequacy of the housing and the area, and the potential health risks which may be involved.



Photography @Zsuzsanna Ardó

## GERTRUDE HAMBIRA HUMAN RIGHTS DEFENDER, ZIMBABWE

Secretary General of the General Agriculture and Plantation Workers Union of Zimbabwe (GAPWUZ) which defends the rights of farm workers, has suffered continuous intimidation, harassment and violence by Zimbabwean security agents. In 2009, Gertrude Hambira's home was attacked by three armed men who forced their way in, stole her belongings and threatened to shoot her husband when he called for help. In February 2010, she was ordered to go to Police Headquarters and interrogated by seventeen high-ranking security officials. After being finally dismissed, this panel warned that they would "call on her again". Later that month Gertrude Hambira was forced to go into hiding following a raid at the union's head office, seeking to find her. She has since remained in hiding outside Zimbabwe in fear for her safety.



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## PETRIJA Piljević ABDUCTION, KOSOVO

Petrija Piljević, a 57-year-old Kosovo Serb woman, was abducted from her flat in Pristina by three men wearing Kosovo Liberation Army uniforms on 28 June 1999, after the end of the armed conflict in Kosovo. Her body was later exhumed from an unmarked grave. It is estimated that 800 Serbs and Roma people were abducted before, during and after the 1999 armed conflict. Over a decade after her abduction, her family is still waiting for those responsible for her death to be brought to justice.



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## SULIAMON Olyfemi DEATH ROW PRISONER, SAUDI ARABIA

Suliamon Olyfemi, a Nigerian, was sentenced to death in Saudi Arabia with 13 other Nigerians at a closed trial in May 2005 in connection with the murder of a policeman in Jeddah in 2002. During his trial, Suliamon Olyfemi who maintains his innocence, was reported to have had no access to a lawyer or consular assistance, and did not have access to adequate translation. The men were reportedly tortured and ill-treated following their arrest. Under interrogation, they were instructed to put their fingerprints - which can act as a signature - on statements written in Arabic, which they could not read. It is possible that these statements were used as evidence against them during the trial proceedings.



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## CHEN ZHENPING PRISONER OF CONSCIENCE, CHINA

Chen Zhenping is a Falun Gong practitioner currently serving an eight-year prison sentence in China for "using a heretical organisation to subvert the law". She is believed to have been forcibly injected with drugs and regularly beaten in prison. A former prisoner reported that Chen Zhenping was often not allowed to go to the toilet and tied to a bed. She remains at "transformation", Falun Gong inmates are subjected to severe torture, which include beatings, being hung by the limbs, electric shocks, being deprived of food and sleep, and in the case of women also sexual assault, until they renounce their faith.



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- The EU should call for all those under death sentences in Saudi Arabia - including Suliamon Olyfemi - to have their sentences commuted urgently, with a view towards the abolition of the death penalty.

- In line with the EU Torture Guidelines the EU should call on China to release Chen Zhenping immediately and unconditionally, and to ensure that she is not tortured or subjected to ill-treatment while in detention.



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TEN CASES OF PEOPLE  
UNDER THREAT

ACT  
NOW