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Government Buildings,
Upper Merrion Street,
Dublin 2,
Ireland

**AMNESTY
INTERNATIONAL**



European Institutions Office

Our Ref: B1473

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Dear Taoiseach,

AMNESTY INTERNATIONAL'S RECOMMENDATIONS TO IRISH EU PRESIDENCY: END OF PRESIDENCY REVIEW

Following our 23 April letter on the mid-term review of Ireland's EU presidency, and now that the presidency has ended, we are publishing the attached briefing with our observations on the Irish presidency's progress on implementing our recommendations. Copies of this letter and briefing are also being sent to relevant ministers. We should like to thank the following government departments for responding to our request for comment on progress on the implementation of our recommendations: Justice & Equality, Foreign Affairs & Trade and Jobs, Enterprise & Innovation.

The Irish Government's engagement with Amnesty International has generally been positive. We appreciated the chance to discuss our recommendations with several ministers and key officials. The level of engagement with the Oireachtas (Irish Parliament) was also an important element. We were also grateful for debriefing sessions at the Irish Permanent Representation to the EU. This practice is to be continued under the Lithuanian presidency and so set an important precedent with regard to EU-level civil society consultation. We welcomed the Irish presidency's initiative of adopting Conclusions on fundamental rights and the rule of law at the June Justice and Home Affairs (JHA) Council meeting. The initiatives under the Irish presidency signal the Council's long-awaited engagement, especially by JHA Ministers, with EU internal human rights policy. We hope that these Conclusions will prove themselves to have been an important step in remedying the lack of engagement and action on internal EU human rights policy.

A great deal still remains to be done to make the ambitions of the EU Action Plan for Democracy and Human Rights a reality. All too often, the EU's rhetoric on human rights externally is undermined by other perceived interests and by a lack of consistency of message by all EU actors, including individual member states.

Unfortunately, there was one area in particular where we felt the presidency really missed a human rights opportunity. Our letter to you of 15 April highlighted the lack of presidency engagement on EU action to combat female genital mutilation (FGM). In our engagements on the issue, it appeared that a lack of certainty existed among the departments on where responsibility for this portfolio lay. While having eventually clarified that this portfolio falls within the remit of the Department of Health, there was regrettably little support given to our recommendations and no evidence of presidency support for the Commission's communication on EU action to end FGM. Ireland should consider remedying this shortcoming by working with its trio counterparts to include FGM on the European Council for Social & Health Affairs' agenda.

We welcome the commitment made by the Secretary General of the Department of Justice and Equality that a relevant high-level official will meet with Amnesty International this autumn on the issue of Roma rights. We trust that Ireland will fully support its trio partner Lithuania in delivering strong Council Conclusions later this year.

We should like to take this opportunity to thank the many officials and political decision makers who worked with us throughout the Irish EU presidency. As you will have seen we have now issued a new set of recommendations to the Lithuanian presidency of the EU (enclosed) and we trust that Ireland, as a member of the presidency trio will fully support Lithuania and subsequently Greece in the implementation of these recommendations.

Yours sincerely,

Colm O'Gorman
Executive Director
Amnesty International Ireland

Dr Nicolas J Beger
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End of Presidency Evaluation of the Irish EU Presidency,
Amnesty International, August 2013

Implementation of the EU Action Plan for Democracy and Human Rights (the human rights package)

A great deal needs to be done to make the ambitions of the now one-year-old human rights package a reality. For many countries in the world, the EU does not follow up its general policy principles with concrete action, often because of competition between different interests and different actors including within the External Action Service (EEAS) and between member states.

We were encouraged to hear from the Department of Foreign Affairs and Trade that the presidency has further mainstreamed human rights in discussions at the various EU Council Working Groups. Amnesty International welcomed the 22 July Council Conclusions on the implementation of the EU Action Plan for Democracy and Human Rights. The emphasis on the centrality of human rights to EU foreign policy was both significant and welcome; too often human rights are not being taken as central to EU foreign policy by decision makers, both in Brussels and in the field. Great attention and follow-up therefore by both member states and the External Action Service will be required to ensure the commitments made in the Conclusions and the human rights package become a reality.

We were encouraged by the meeting held between the Chair of FREMP, the Working Party on Fundamental Rights, Citizens' Rights and Free Movement of Persons and the Chair of COHOM, the EU Working Group on Human Rights. As you will know, we have made specific calls with regard to upgrading the work of FREMP. We hope that this important dialogue between FREMP (see below) and COHOM will be maintained in the future and we will be monitoring this issue closely in Brussels.

We appreciate that enlargement has been a key part of the Irish presidency programme. Current and future enlargement negotiations should be constructive, maximising the potential to improve human rights observance in the country concerned. Croatia became the EU's 28th member state this summer. While there has been progress on human rights domestically in recent years, further attention following Croatia's entry will be needed to ensure victims and their families are given access to truth, justice and reparations for human rights violations committed during the 1991-5 war. Regarding other Balkan countries, we remain deeply concerned by reports that continued impunity for war crimes and the failure of domestic accountability might receive less prominence in future negotiations, which seems to be true of Montenegro.

The excessive use of force and police brutality during protests in Turkey over recent months has shown that, whilst there has been human rights progress in the country, much remains to be done, in particular to ensure that the rights to freedom of expression and peaceful assembly are respected. With the Balkan countries, the EU has decided that chapter 23 of the accession negotiations (dealing with human rights) should be the first negotiating chapter to be opened and the last to be closed - to make sure that throughout the entire process there is a full discussion on human rights. However, even though negotiations with Turkey have been ongoing since 2005, chapter 23 remains closed, blocked by Cyprus. We call on Ireland to engage with their Cypriot and other EU colleagues to ensure that chapter 23 is opened with Turkey as soon as possible. As long as this chapter remains closed, discussions between the EU and Turkey on human rights remain seriously limited. The EU was not able to discuss seriously with Turkey its concerns about the response to the protests. We welcomed the engagement that we had with the Irish Chair of the Conference of Parliamentary Committees for Union Affairs of Parliaments of the European Union (COSAC) on this and other matters. We are glad to see that the issue of the right to peaceful protest in relation to Turkey appeared in the COSAC Conclusions of 25 June.

We welcomed engagement with officials working in the Council Working Group on Public International Law (COJUR). Progress was made by ensuring COJUR input into the EU Annual Human Rights Report and other efforts by the presidency to improve the implementation of the International Humanitarian Law (IHL) guidelines. However, further progress remains necessary if we are to ensure full implementation of the IHL guidelines. This should firstly involve clarifying the roles of COJUR, the EEAS, individual member states and all other actors in their implementation, so that IHL can be comprehensively followed on a technical and country specific level. The aim should be to ensure the inclusion of systematic reference to specific IHL obligations in EU political dialogues, statements and conclusions, and that IHL expertise informs EU-level discussions and policy-making on relevant country situations.

We were pleased by the positive role that the presidency played at the UN Arms Trade Treaty (ATT) negotiations which took place in March of this year, and welcomed the Irish delegates' close engagement with us at the negotiating conference to ensure that a strong text was agreed and then adopted by the UN General Assembly. We welcome Ireland's signing of the ATT on 3 June and its commitment to ratifying within six months. We look to the External Action Service and all EU member states to ensure that signature, ratification and implementation of the ATT is integrated into all relevant political dialogues with third countries.

The Irish presidency's progress and leadership on the UN Treaty Body strengthening process was important. We also welcome its important work at the UN Human Rights Council (HRC) and commend the leadership Ireland has shown working with Norway to strengthen the resolution on "protecting human rights defenders" adopted at the 22nd HRC Session on 21 March. We trust that Ireland will continue positively to contribute to Human Rights Council initiatives as a HRC member.

Amnesty International was most grateful for the invitation to participate in discussions on economic, social and cultural rights at EU-level at the Informal meeting of COHOM in Dublin on 18 April. We hope that Ireland will continue to show leadership in this area and lay out the process towards ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural rights.

We welcomed the adoption of the EU Guidelines on the enjoyment of all human rights by LGBTI persons and the revision of the Death Penalty Guidelines. The upgrading of the LGBTI toolkit to the status of guidelines marked an important progression in EU human rights foreign policy.

Asylum and Migration Matters

On EU asylum legislation, we noted the presidency's efforts which led to the conclusion of negotiations on the Common European Asylum System (CEAS). This marks an important step in EU standard-setting. However, we are concerned, that the new legislation will fail to deliver high protection standards in the EU or sufficient legal clarity to allow for better harmonisation once member states put it into effect.

There is compelling evidence that migration control policies and practices often put migrants, asylum-seekers and refugees at risk along the EU's external borders and in non-EU countries through cooperation agreements. We should like to draw your attention to Amnesty International's recent report "*Frontier Europe: Human Rights Abuses on Greece's border with Turkey*".¹ The report reveals that refugees and migrants trying to reach the EU via Greece from conflict-torn countries like Syria and Afghanistan are being unlawfully returned to Turkey by Greek coast and border guards.

The report examines the Greek authorities' dangerous use of 'push backs' - when they turn groups of migrants back across the border, denying them the right to have their individual cases heard or to challenge their expulsion. The report also highlights the dangers refugees and migrants face when trying to cross from Turkey to the Greek islands, and explores the appalling detention conditions in which those who do make it are often held. We are calling on the Greek authorities to stop push-backs immediately, investigate allegations of collective expulsions and ill-treatment, and prosecute those involved. We are also urging the EU to support Greece in improving reception services instead of sealing off borders. As we have communicated to the Lithuanian EU presidency, Amnesty International maintains that the EU should explore new ways of sharing responsibility for refugees and migrants.

Respecting Roma Rights

The presidency's statement on International Roma Day was a very welcome initiative.² EU-level political support for such initiatives is vital if the Union is to defend its credibility as a body founded on respect for human rights.

Although we are disappointed with the level of engagement on our Roma-related recommendations from officials during the presidency, we appreciate the commitment made by the Secretary General of the Department of Justice and Equality that the Assistant Secretary General in the Equality Division will meet with Amnesty International this autumn to discuss this matter. As you will know, Council Conclusions on an EU Framework for National Roma Integration are due under the Lithuanian presidency. It will be of vital importance that Council take on board the recommendations of the European Commission³ on effective Roma integration in member states, in particular those relating to anti-discrimination. We trust that Ireland as trio partner to Lithuania will support efforts to include the Commission's recommendations.

We welcomed the opportunity to have facilitated the participation of a Roma activist at the Conference of Parliamentary Committees for Union Affairs of Parliaments of the European Union (COSAC) plenary session in Dublin in June. Bringing rights-holders to the decision makers is an essential stepping stone towards the needed changes for Roma people in Europe.

¹ <http://www.amnesty.org/en/library/info/EUR25/008/2013/en>

² <http://www.eu2013.ie/news/news-items/20130408internationalromaday/>

³ http://ec.europa.eu/justice/discrimination/files/com_2013_460_en.pdf

Corporate Accountability

Amnesty International is grateful for having had the opportunity to meet the relevant officials dealing with corporate accountability at the Department of Jobs, Enterprise and Innovation. We note that the Government's Action Plan for Jobs includes a commitment to develop a national plan on Corporate Social Responsibility (CSR) in 2013.

We welcome the news that in Ireland the process of developing a national action plan includes reflection on how to put into effect some aspects of the UN Guiding Principles on Business & Human Rights. We would like to draw particular attention to the fact that from a human rights based perspective, such an action plan must include the duty to protect human rights and access to a remedy (pillars 1 and 3).

As you will know, the Commission has presented a proposal on disclosure of non-financial information by companies, which will be negotiated after the summer break. Amnesty International sees much space for improvement in this proposal, particularly by making reporting obligations compulsory for businesses. However, the Commission's proposal is an improvement on the current situation. Therefore we have requested that the Lithuanian presidency ensure that, as a minimum, this proposal will not be weakened and we trust that Ireland shall support its trio partner in this regard.

Preventing and Combating Violence against Women and Female Genital Mutilation (FGM)

We appreciate Ireland's stated support in principle for the aims and terms of the Council of Europe's Convention on preventing and combating violence against women and domestic violence. We maintain our call that Ireland should as expediently as possible sign this important convention and then move to ratification. We welcomed the agreement on the European Protection Order at the JHA Council in March, completing adoption of the Commission's Victims' Rights Package. Amnesty International would stress, however, that there is still a need for a comprehensive EU strategy on Violence against Women.

We approved of the presidency's strong support for robust human rights language at the UN Commission on the Status of Women in March. We also appreciated collaboration between Irish delegates and our New York office over the Side Event on Women's Human Rights Defenders, and in agreeing strong wording on this in the Conclusions.

As you know, we have written to ministers and officials several times to express our deep disappointment over the presidency's failure to engage with, and show support for, EU action to end female genital mutilation (FGM). There was regrettably little evidence of presidency support for the Commission's communication on EU action to end FGM. We feel this situation was at odds with Ireland's international position on violence against women and FGM at the UN and global level. Ireland should remedy this shortcoming by working with its trio counterparts to include FGM on the European Council for Social & Health Affairs' agenda.

Equality, Fundamental Rights and the Rule of Law

We recognise the presidency's efforts to keep negotiation of the Anti-Discrimination Directive alive in the Council, and we welcome emphasis on the need for further EU action to counter hate crime and intolerance, racism, anti-Semitism and homophobia. We hope that Ireland will keep playing a strong role as part of the presidency trio to push the EU to enhance its standards to combat all forms of hate crime, including homophobic and transphobic hate crimes.

Although communication with Irish presidency officials working on the Anti-Discrimination Directive has been good, we are concerned that Council deliberations on the text continue behind closed doors. We and several other NGOs have urged the Council to share a copy of the current text to allow meaningful consultation on the proposed Directive. We remain concerned about the lack of political will in the Council to make substantial progress on this file and the lack of transparency with regards to the exact state of play of the current draft.

We welcomed the presidency's inclusion of an agenda item on protecting EU citizens' fundamental rights at the first informal Justice & Home Affairs (JHA) Council in Dublin. We strongly support efforts to develop an EU internal human rights policy by extending the debate in the Council to address the current internal framework's shortcomings.

We were encouraged by the presidency's 17 April statement at the European Parliament's plenary debate on the constitutional situation in Hungary and the need for new mechanisms to protect fundamental rights in the EU. The subsequent initiative to include this on the General Affairs Council agenda on 22 April was also heartening. We also valued the opportunity to participate at the presidency conference in Dublin on 9-10 May on fundamental rights and equality, and hope this will spark momentum for tangible EU-level action.

We appreciate the determination of Ireland in leading that debate on the Council's agenda and its strong stance in favour of a stronger and more comprehensive internal EU policy, based on the international human rights law framework.

Given the leading role it played during its presidency, we look to Ireland to ensure that momentum is maintained, and to lead on concrete initiatives to reinforce the EU's capacity to address human rights violations by its member states.

You may be interested to know that the Human Rights and Democracy Network, of which Amnesty International is a member, issued a statement in August on human rights in the Union.⁴ The statement makes a number of calls on the EU including steps to take to promote human rights by its institutions and member states within the Union.

EU Accession to the European Convention on Human Rights

On 5 April, the Council of Europe countries and the EU finalised the draft agreement for EU accession to the European Convention on Human Rights. We appreciated the constructive meeting with Ireland's negotiator on this file. We commend the presidency for maintaining the momentum on this dossier. We continue to call for a more transparent dialogue on EU internal rules and that the focus remains on the protection and promotion of human rights.

Criminal Justice in the EU

Ahead of the 17 April trilogue, we and several other NGOs issued a joint briefing⁵ to flag various contentious points in the last Council draft on the proposed Directive on the right of access to a lawyer and the right to communicate with third parties when detained. We appreciate that Ireland was successful in brokering an agreement on the Directive which marks an important step for the protection of the rights of suspects and accused in criminal proceedings throughout the EU. We do regret, however, that the text did not go far enough in upholding and promoting existing international and European standards, notably with regards to the right to an effective remedy and derogations.

Updates on the Cases of People under Threat

Amnesty International would like to thank the Department of Foreign Affairs and Trade for having provided updates on actions taken on the nine cases of people under threat included in our EU presidency recommendations. Please find below a brief update on some of these cases where new information has become available.

Azza Hilal Ahmad Suleiman: Azza Hilal Ahmad Suleiman has expressed her frustration at the failure of the Egyptian authorities to prosecute those responsible for beating her and other protesters in December 2011.

Her lawyer told Amnesty International that in mid-April 2013 she went to the judge at Cairo Appeals Court responsible for investigating the case to check on progress, and regrettably was informed by his secretary that investigations are still pending.

Families in Cluj-Napoca, Romania: We are pleased to hear that the Irish Embassy in Bucharest has been monitoring this situation. You may wish to note that Amnesty International released a report "*Pushed to the margins: Five stories of Roma forced evictions in Romania*" on 18 June 2013⁶ which includes further information on this case. Although over 100,000 letters and appeals have been sent to the mayor of Cluj-Napoca by Amnesty International activists across the world since April 2012, the situation of the families in Cluj-Napoca remains unchanged. They are still residing in inadequate housing and close to a rubbish and former chemical dump more than two years since the forced eviction.

Ales Bialiatiski, Belarus: Ales Bialiatiski received a reprimand at the end of March preventing him from receiving food parcels for six months. On 27 May in Istanbul Mr Bialiatiski was re-elected as the Vice President of the International Federation for Human Rights.

As you may be aware, on 4 June the UN Human Rights Council in its 23rd session discussed the human rights situation in Belarus and the Special Rapporteur on Belarus, Miklós Haraszti, presented his report. In this report he stated that, "Human rights remain systemically and systematically restricted, especially in the case of the freedoms of association, of assembly, and of expression and opinion, as well as the guarantees of due process and fair trial"⁷. Before the session, Amnesty International submitted a written statement to the Human Rights Council highlighting the organisation's concerns about the violations of freedom of association and peaceful assembly in Belarus.⁸

'Abd Al Rahim Hussayn Muhammed Al-Nashiri, USA: We should like to thank Ireland for continuing to monitor 'Abd Al Rahim Hussayn Muhammed Al-Nashiri's case and we look forward to the promised update on this case in the future.

⁴ <http://www.hrdn.eu/>

⁵ http://www.amnesty.eu/content/assets/Doc2013/JointNGO_briefing_on_Directive_on_the_right_of_access_to_a_lawyer15April2013.pdf

⁶ <http://www.amnesty.org/en/library/asset/EUR39/003/2013/en/beda67b1-7716-4aee-90a5-3190aac45f1c/eur390032013en.pdf>

⁷ http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A-HRC-23-52_en.pdf

⁸ <http://amnesty.org/en/library/info/EUR49/006/2013/en>