AMNESTY INTERNATIONAL'S RECOMMENDATIONS TO THE CZECH PRESIDENCY OF THE EU MAKE SURE THE HEART OF EUROPE BEATS FOR HUMAN RIGHTS

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AMNESTY International Amnesty International is a global movement of 2.2 million people 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 – funded mainly by our membership and public donations.

AMNESTY INTERNATIONAL



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MAKE SURE THE HEART OF EUROPE BEATS FOR HUMAN RIGHTS

On 1 January 2009 the Czech Republic takes up the presidency of the European Union (EU) for the very first time. It will lead a union of states brought together by respect for the rule of law and committed to tolerance, democracy, and human rights. This will give the Czech Republic the opportunity to ensure that the values it helped to build in the heart of Europe are also at the heart of EU policymaking.

The EU has over the past 60 years developed an impressive array of policies and instruments that underpin its human rights commitments. There is a guiding principle of ensuring human rights are at the core of EU policy. But in reality human rights more often than not remain an afterthought. When the EU is faced with the challenge of how to 'balance' serious human rights concerns with obvious interests in the fields of trade, energy and security, human rights are often subordinated to strategic and economic considerations. Individuals whose rights are violated need urgent protection that is transparent, constructive and systematic.

Human rights standards are not as secure as they seemed to be just ten years ago. The yawning gap between rhetoric and reality, standards and application, principles and performance is reducing the EU's influence to effect positive change both at home and abroad. The Czech presidency can now address this by sending a clear signal that it is still committed to action on human rights as a leader of the EU. With this document, Amnesty International presents specific recommendations to the Czech Presidency on a range of pressing human rights issues where the Czech Republic is uniquely placed to effect change. These include offering assistance to the United States to close its detention center at Guantánamo Bay at the very first EU-US Summit with the new US administration. The Czech Republic could also use its domestic experience on Roma social exclusion to support the elaboration of an EU framework strategy.

These recommendations are achievable within a six-month EU presidency. Amnesty International hopes that the Czech Presidency will, by implementing them, reaffirm the EU's role in protecting human rights in Europe and the world.



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MAKE SURE THE HEART OF EUROPE BEATS FOR HUMAN RIGHTS

War on Terror

Given the strong emphasis on transatlantic cooperation as a priority during its presidency, the Czech Republic is uniquely placed to act on the Council's commitment to help the new US administration close the detention centre on its military base at Guantánamo Bay. The presidency could do so by leading the EU's member states in offering protection to Guantánamo detainees who cannot be returned to their home countries because they would face the risk of torture or other ill-treatment there. This would send a strong signal that the EU is committed to an approach to fighting terrorism which is based on the rule of law and respect for international human rights standards.

The persistent failure of the Council to address EU and member states' responsibilities in the CIA's rendition and secret detention programme is continuing to undermine the credibility of the EU's commitment to human rights. The Czech Presidency has a role to play in openly and constructively encouraging member states to cooperate with all investigations at national and European level in order to disclose the truth about the full extent of Europe's involvement, end any further collaboration with such programmes, bring the perpetrators to justice and give full reparation to victims.



Amnesty International calls on the Czech Presidency to:

Urgently engage in discussions with the new US administration on cases of Guantánamo detainees who cannot be returned to their home countries because they would face the risk of torture or other ill-treatment upon return. This should include:

working on fostering, and further coordinating, commitments from member states that they will receive some former Guantánamo detainees on their territory; and

taking the lead in drafting a Council declaration committing the EU to address the role and responsibilities of member states in renditions and secret detentions.

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Roma Discrimination

The Czech Republic has presented its practical experience as an asset in the debate on Roma social inclusion in Europe. It is therefore in a unique position to build on the momentum raised by the Roma Summit last September and draw up an ambitious EU Framework Strategy for Roma inclusion. Such a strategy should identify clear goals and effectively coordinate EU and member state initiatives in order to fight the persistent and structural discrimination faced by the Roma community across the EU. So far actions undertaken at EU and national level to promote equal opportunities for Roma concerning access to quality jobs, education, health services and housing remain isolated and are too limited to have made a real difference. In order to achieve change, these actions need to be part of a comprehensive EU-wide Roma policy whose ultimate objective would be the full realization of the human rights of Roma people, including social, economic and cultural rights.

The development of a proactive and meaningful framework for Roma inclusion would reiterate that all EU citizens are equal before the law and should be protected from discrimination, in line with the presidency motto *'Europe without barriers'*. Building support for the European Commission's proposal for a new anti-discrimination directive to complement the existing EU legislative framework would be another important step in this direction.

Amnesty International calls on the Czech Presidency of the European Union to support the elaboration of an EU framework strategy for Roma inclusion with the active participation of Roma communities.



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Migration and Asylum

The first half of 2009 will be marked by the start of discussions on new Commission proposals to further harmonise asylum policies in the EU. These will include proposals to amend existing EU legislation with regard to the Dublin system, which allocates responsibility for examining asylum applications introduced in the EU to one Member State, and reception conditions for asylum-seekers in the EU Member states. Proposals on the establishment of an EU Asylum Support Office are also expected under the Czech Presidency.

The second phase of harmonization should aim at imposing high standards of protection at EU level that serve as a firm basis for a Common European Asylum System that is fully in line with international refugee and human rights law and standards and is able to provide international protection to those in need. An increase in the level of material reception conditions for asylumseekers in the EU and improving assistance to vulnerable asylum-seekers such as victims of torture or unaccompanied children is equally necessary. At the same time EU legislation should clearly reflect the principle that asylum-seekers should not be detained except exceptional in circumstances should unambiguously and promote the use of alternatives to detention in a non-discriminatory way. Evaluations of the asylum systems in the EU Member states have shown that recognition rates of international protection continue to differ widely between the Member states despite the adoption of minimum standards in the first phase of harmonization. As asylum-seekers have to apply for asylum in the Member State which is responsible according to the Dublin system, the Common European Asylum System is currently leading to a situation whereby for instance Iraqi refugees had in 2007 an 85% chance to receive protection in Germany or Sweden, whereas they have less than a 2% chance to find protection in countries like Greece or Spain. Pending fundamental changes to the Dublin system, measures must be taken to ensure that such differences and the specific needs of the asylum-seeker concerned as well as the conditions in the responsible Member State are duly taken into account.



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The EU's efforts to establish a comprehensive European migration policy should be firmly rooted in respect for the human rights of refuaees. asvlum-seekers and migrants. Measures to counter irregular migration flows must be protection-sensitive and not prevent persons in need of international protection from applying for asylum in the EU. As FRONTEXoperations at the EU's external borders multiply, effective human rights monitoring of these operations is urgently needed. The increased cooperation between Member states in 'fighting irregular migration' also risks stigmatizing migrants, who are already vulnerable to human rights violations. The current trend in some EU Member states to increasingly criminalise irregular migrants is worrying and should be stopped.

As the EU continues to receive only a small fraction of the world's total number of refugees, there should be efforts at EU level to encourage EU Member states to engage in resettlement of refugees as one of the durable solutions and as a concrete expression of solidarity with those countries that currently host high numbers of refugees. This should always be complementary to existing asylum procedures designed to deal with spontaneously arriving asylum-seekers. Measures to counter irregular migration flows must be protection-sensitive and not prevent persons in need of international protection from applying for asylum in the EU

Amnesty International calls on the Czech Presidency to:

ensure negotiations on new EU asylum legislation are aimed at adopting high standards of protection. Pending fundamental changes to the Dublin System, there needs to be access to an effective remedy with suspensive effect against decisions to transfer asylum-seekers to another member state; and

promote at EU level a significant engagement in resettlement of refugees as concrete expression of solidarity and burden-sharing with other regions in the world.

MAKE SURE THE HEART OF EUROPE BEATS FOR HUMAN RIGHTS

The EU as a global actor

There needs to be consistency throughout the EU's external relations in order to strengthen its human rights message. Recent EU Presidencies have added to and improved the breadth of the human rights toolkit, including developing new sets of guidelines on children's rights and on women and violence, and beginning human rights dialogues with new partners, including Central Asian states and the African Union. These new steps are welcome, but to really increase their impact, forthcoming Presidencies should increase the depth of the EU's commitment to human rights. This means ensuring that the importance the EU places on the absolute respect for human rights is no less clear in summit level discussions on trade, energy, and security, than it is in official level dialogues reserved for human rights. And it means ensuring that efforts made by some EU representations in third countries to protect the operating space of human rights defenders are replicated by missions and delegations wherever the are EU is represented, and reinforced, not compromised, by senior level diplomatic visits.

The EU can have serious and measurable impact by putting into practice what is written in its human rights mechanisms.



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The EU as a global actor

Human Rights Guidelines and Dialogues

The incoming presidency should show leadership by focusing not on developing new, high profile, commitments but by ensuring that the existing guidelines really impact. The torture guidelines, adopted in 2001, have yet to be fully implemented. Despite instructive assessments of progress made by internal Council reviews, and publicly, by the European Parliament in 2006, the guidelines have yet to become fully operational.

This lack of progress has been further compromised by indications in the context of the EU's internal counter terrorism policies that their commitment never to transfer detainees where there is risk of torture, is not watertight. The guidelines on human rights defenders, though more progress has been made since their adoption in 2004, are far from universally understood and used by EU diplomats in third countries.

So much more could be achieved if there was a high level political demonstration of the importance placed on the actions in the guidelines, and with more resource and leadership devoted to training and information sharing on how the guidelines operate. Regarding the guidelines on human rights dialogues, the Czech Presidency is well placed to carry out a thorough evaluation of what is being achieved in each instance through these mechanisms. It should take the Council forward in developing thorough benchmarks and indicators that can be publicly shared, in order to clarify decisions on whether the dialogues are bringing sufficient progress on human rights on the ground, or whether other measures would be more effective.

As new human rights dialogues with different partners are developed every year, and the first one with Cuba possible under the Czech presidency, lessons must be learned from past experience to ensure that these discussions are as effective as possible in bringing about change on the ground.

Amnesty International calls on the Czech Presidency to evaluate the existing human rights mechanisms of the EU's external relations:

a good starting place would be the EU-China human rights dialogue, the assessment of which is of renewed importance now that the Olympics has passed, to ensure that the spotlight on the human rights situation in China does not fade while the violations continue.

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The EU as a global actor

Enlargement and the Western Balkans

There will be a renewed focus on enlargement and relations between the EU and the countries of the Western Balkans during the Czech Presidency. The EU has a special responsibility to raise human rights concerns with candidate and potential candidate countries, and offer concrete assistance on further reform that is necessary. Past experience has shown that the encouragement and support for reform that the EU can give to these countries during the enlargement process is a clear benefit.

However, there are still serious concerns across the region that have not been fully addressed, in particular regarding impunity for war crimes.

This is a concern across the Western Balkans, but is one that holds special resonance with regards to Croatia, as the country prepares to enter the final stage of accession negotiations in 2009. There are continued concerns at the slow pace and apparent ethnic bias of investigations and prosecutions for war crimes in Croatia. In particular, there is a lack of investigation of cases where the alleged perpetrators were members of the Croatian army and police forces or the victims Croatian Serbs and other minorities. There are also fears regarding harassment and intimidation of victims, witnesses and journalists. In Kosovo, expectations are that the EULEX rule of law mission will finally become operational during the Czech Presidency. However, as is the case with other ESDP missions, there remain fears that the human rights provisions in the procedures and operational plans are not being implemented effectively, primarily due to a perceived lack of political importance. In order to ensure that human rights provisions are not marginalised, there should be specific regular reporting on implementation by the Heads of Mission to the Council, and to the High Representative's Personal Representative on Human Rights in particular. There should also be a commitment to recruiting human rights & gender experts in the EU Military Staff and the Civilian Planning and Conduct Capability (CPCC) in the Council Secretariat.

Amnesty International calls on the Czech Presidency to:

ensure that as Croatia enters the final stages of accession negotiations, and attention is directed towards the justice and fundamental rights chapters, the focus is clearly placed on the urgent need for further judicial reform, to guarantee justice for all victims of war crimes, regardless of the ethnicity of the victims or perpetrators of abuses; and

ensure that the human rights provisions in the procedures and operational plans of EULEX and all other ESDP missions are effectively implemented, through specific regular reporting by Heads of Mission and the recruitment of sufficient expertise.

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The EU as a global actor European Neighbourhood Policy (ENP)

During the Czech Presidency, the future direction of the EU's relations with neighbouring countries will be defined, in particular the countries of the Southern Mediterranean. Morocco has already been granted an 'enhanced status' within the ENP, and the Commission is set to come forward with proposals on what future 'next generation' Action Plans will look like.

This gives the EU the opportunity to address the serious shortcomings with the coherence and consistency of the current system.

The first country to negotiate one of these 'next generation' Action Plans with the EU will be Israel, the details of which will be mutually agreed by the end of the presidency. The detail within this plan will serve to define the EU's relations with all Southern Mediterranean countries in the future.

The human rights component in the current Action Plan between the EU and Israel is seriously deficient, more so than any of the other ENP countries. Therefore, it is imperative that this deficiency is dealt with from the outset.



Amnesty International calls on the Czech Presidency to:

assure that the future direction of relations with neighbouring countries is founded on respect for human rights, by agreeing a 'new generation' Action Plan with Israel that contains not only the space to discuss human rights concerns, but also concrete benchmarks, commitments and programmes to address these concerns. Amnesty International established a new world record with 26,105 burning candles representing its logo on 4 June 2008, in Sint-Truiden, Belgium.

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The EU as a global actor

Business and human rights

Companies' activities have both positive and negative impacts on human rights. Although governments have the primary responsibility for the protection of human rights, companies have, at a minimum, the responsibility to respect them. Companies should exercise due diligence or the "do no harm" principle to avoid causing or being complicit in human rights violations because the action or inaction of companies can have a negative effect on human rights.

The impact of economic activity carried out by corporations on environment and society was officially put on the EU agenda in 2001 in accordance with the objectives of the Lisbon Strategy. The EU as a global actor and an economic bloc is uniquely placed in advancing corporate accountability through providing a level playing field and guiding business to respect human rights. The challenge of emerging economies underline the need for a global framework set out by international human rights standards for all companies. The EU is uniquely placed to advance corporate accountability through providing a level playing field and guiding business to respect human rights

Amnesty International calls on the Czech Presidency to:

take the lead on a Council declaration whereby the EU reaffirms the roles and responsibilities of companies and states in upholding human rights.

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The EU's credibility

As an advocate for human rights worldwide, the EU has been losing credibility. As the EU stumbles on its human rights record, its ability to influence others declines. That is serious but it also has to be seen in perspective: it does not mean that Europe should be cast together with the world's worst human rights offenders. Rather, if domestic problems are not addressed adequately, it will affect the EU's credibility as a human rights and thus effectiveness. champion. when confronting third countries over their human rights abuses. Protecting human rights is a challenge but what counts is how choices are made, how consistency is ensured and whether there is at least in principle an ability for self-reflection and self-correction.

The real decision-making power in EU policy is the prerogative of the Council, i.e. the member states. This is the crux when it comes to the question of how to shape a consistent, credible and effective human rights policy. Member states can be exceptionally strong on setting global standards, for example on the abolition of the death penalty, while at the same time the prevailing divisions between Member states in foreign policy matters, in combination with their collective denial of domestic shortcomings, ensure that in practice human rights are all too easily sidelined.



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The Council has never mustered the strength to review the human rights framework in light of the change in the political environment after 11 September 2001 and more recently the financial crisis. Without refreshing the principle EU human rights framework with coherent internal and external instruments, the EU is not able to confront the challenges ahead and neither will it be able to counteract the erosion of its influence on stability, security and the observance of fundamental rights globally. A review is essential and it should clearly establish that consistency not only requires the means (namely the principles and instruments) but equally their systematic implementation in order to monitor and address problems both inside and outside the EU.

Amnesty International calls on the Czech Presidency to promote a Council declaration launching an overall review on the human rights policy of the EU in both its internal and external dimensions.

As a first step towards this review the Czech Presidency should invite leading human rights NGOs to participate in the informal EU foreign ministers meeting (Gymnich) in order to start an open debate.

The Czech Presidency should create a stronger understanding of what human rights mainstreaming means in all Council regional working groups through inviting human rights defenders or organisations to working group meetings on a regular basis.



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