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Statement by Iverna McGowan, acting Director of Amnesty International European Institutions Office during the Committee on Civil Liberties, Justice and Home Affairs Hearing: 'The situation of fundamental rights in the European Union', on 30 March 2015

PANEL: Governance of the EU framework for the rule of law and fundamental rights

Ladies and Gentlemen, members of Parliament, fellow panellists.

For those of you I have not yet met, my name is Iverna McGowan. I am acting Director of Amnesty International's European Institutions Office here in Brussels.

Thank you to the Chairman of the Committee, Claude Moraes for the invitation to speak here today and indeed to this House for keeping the burning issue of the EU's role as a human rights actor on the agenda. I would also like to thank Rapporteur Laura Ferrara for her work and consultation with civil society on today's report. Therein lies some strong ideas on how to strengthen the Union's performance on human rights.

Given the limited time space available, and bearing in mind the title of this panel, I have limited the issues we would like to raise to three main points:

- (1) The need to assert the EU's legitimacy as a human rights actor
- (2) The question of the rise of intolerance, discrimination and hate crimes and what the EU can do about it
- (3) The spiralling humanitarian crisis on Europe's doorsteps and how that relates to questions

The EU's Legitimacy as a Human Rights Actor

For many years Amnesty International has been calling on the European Union to change human rights rhetoric into reality. These calls have been made both in terms of external and internal human rights policy. The adoption, in June 2012 for the first time of a human rights strategy and action plan for the EU's external relations serves to further expose the lack of, and need for a corresponding internal human rights policy.

First and foremost I should like to draw your attention to an all too often neglected fact. The European Union *has* the competency to act on human rights. Article 3 of the Treaty of the European Union states that; 'the Union's aim is to promote peace, its values and the well being of its peoples'. Let's reflect upon that for a moment. The Union's AIM, its *raison d'être*, is to promote 'respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities'.

This must be our starting point for discussion – recognition that the EU has legitimacy as a human rights actor. We can no longer deal with human rights in a piecemeal fashion. Our discussions must be based on the principle that human rights are inalienable, indivisible and universal – this approach negates the scrabbling regarding competencies and brings us to a place from which we have clarity of focus – how to ensure that all people in the region and beyond are treated equally in dignity and rights?

This brings me to the question of the EU framework to strengthen the rule of law. Amnesty International has in the past called for the triggering of Art. 7 – the EU must stop ignoring that this option exists.

In terms of triggering the existing EU framework to strengthen the rule of law – the stakes should not be so high as to render the framework useless. For instance, in Amnesty International's view this mechanism should already have been triggered in follow up to the reports produced by this House firstly on the situation of human rights in Hungary and secondly the Reports raising questions of member state complicity in torture by the CIA in the post 9/11 period.

There needs to be an agreement to pressure a member state when it fails to uphold the Union's values, which include respect for human rights. A preventative mechanism could be further developed and used – for example why not establish a formal partnership with the Council of Europe and the Fundamental Rights Agency when examining the existence of 'a threat or risk of serious breach' by member states of Art. 2 principles. It could also be considered to issue a 'formal notice' to the state concerned.

Such an approach would have to be underpinned by confidence and a shared understanding on the part of policy-makers at every level, of the EU's legitimacy to promote and protect human rights in a broader sense, in other words to take heed of its own endorsements of the universality and indivisibility of human rights. To do so of course we would first need a comprehensive human rights policy.

Towards a comprehensive internal EU Human Rights Policy

There are programmes of work in various fields of EU competence with some human rights related priorities but the approach overall is very ad-hoc. Especially in these times where freedoms and norms we perhaps once took for granted are now under threat – there is a clear need for a vision on human rights in the EU and for champions to make that vision a reality. Some starting points would be:

- Better internal/external coherence on human rights policies and better institutional support to ensure that that happens
- A proactive approach – not only a 'non violation' approach to human rights challenges
- Close gaps and strengthen current EU legislative frameworks
- Provide effective, systematic monitoring and enforcement of human rights obligations under EU law
- It goes without saying – persist and insist (as Vice President Timmermans I am heartened to see you are doing) on EU accession to the European Convention on human rights
- Ensure ex ante and ex post assessment of all EU policies and practice for human rights impact

Now, populist parties at both ends of the political spectrum in Europe would have you believe that neither the EU nor the Council of Europe have any business on such matters – it is all just ‘red tape’. Ladies and gentlemen, at no time since the fall of the Berlin Wall has the integrity of, and support for, the international human rights framework in the European region appeared quite so brittle. If you pander to those who cheaply use the politics of fear to undermine the value of such frameworks then they will have won. On the contrary political leaders, and their respective Institutions must unapologetically take a stand and proactively protect, promote and respect human rights.

Reignite the Fight against Discrimination

The European Union has had undeniable impact in the field of equality – being for many years a driving force for positive social change. We need to reignite the fight against discrimination and hate crimes in Europe. Discrimination continues to affect the lives of millions across the region. Long-standing victims of prejudice, including Roma, Muslims and migrants are bearing much of the brunt, and anti-Semitism is becoming increasingly widespread and, worryingly manifesting itself in violent attacks.

The root cause behind the social exclusion of Roma is prejudice and racism. Prejudice against Romani people is deeply ingrained in our societies and this sways political decisions affecting Roma. Prejudice is the driving force behind the forced eviction of Roma people, and the lack of access to adequate housing is discrimination – let’s make no mistake about that. It is an equality issue and should be viewed therefore through the prism of the Race Equality Directive. We would call on the Commission to be strong in that regard and launch infringements under that Directive in cases of discrimination in access to housing.

Members of the House, the fact that in the year 2015 children in some of the European Union member states do not have equal access to education – are segregated on account of their background – should be a most pressing concern to everyone in the region. Amnesty International strongly welcomes the initiation of the infringement proceedings against the Czech Republic for breach of EU anti-discrimination legislation in this regard. It took over ten years however for a case to be taken under the substantive part of that Directive, this in itself was a serious ‘rule of law’ question for the legal safeguard and rights against discrimination mean nothing unless action is taken when those laws and rights are violated.

We are seeing more and more violent hate crimes – targeting in particular Roma, Muslims, Jews, migrants and LGBTI individuals. Amnesty International is calling on the EU to re-examine the Framework Decision on racism and xenophobia and to extend the grounds it covers to include sexual orientation and gender identity as prohibited grounds. Here again the situation should be monitored and the Commission should take action in cases where there is ground for infringement.

Spiralling Humanitarian Crisis in the Mediterranean

Nothing is undermining the EU’s and member states’ credibility on human rights at home more than its response – or lack thereof - to the spiralling humanitarian crisis in the Mediterranean Sea. The number of displaced people across the globe has topped 50 million for the first time since the end of the Second World War. The response of the EU and its member states has been with few exceptions, driven above all by the desire to keep them out. Four years on, the civil war continues to rage in Syria – its people are fleeing conflict and persecution in desperate bids to find refuge.

Vice President Timmermans you have spoken on previous occasions about the 'Fundamental Rights Team' that you have formed in the Commission with Commissioner Jourova and Commissioner Avramopoulos. Despite the important inclusion of the migration portfolio under that team – we see little evidence of a human rights approach in this field. The strategic initiative report “on the situation in the Mediterranean and the need for a holistic EU approach to migration” the LIBE Committee will work on this year can play an important role in identifying urgent gaps in these areas and proposing human rights centred solutions.

The UNHCR has identified 380,000 of the most vulnerable refugees from Syria for resettlement by the end of 2016 – most vulnerable being torture and rape survivors, those who are ill. European countries have only offered a shocking 38,000 places in response to that call – 30,000 of those places in Germany. There needs to be a concerted effort by member states perhaps coordinated by the Commission to significantly increase the resettlement places. We expect to see quick headway in this area given the Commission's declared commitment to “making progress in the increased use of [...] resettlement efforts by the European Union.”

The laudable efforts of Italy's Mare Nostrum the Italian search and rescue mission operating last year help save around 170,000 lives. This has alarmingly been ceased – leaving a gaping hole in search and rescue in the Mediterranean, where almost 3,500 people are known to have perished on their way to Europe in 2014. Frontex's Triton operation, as you know is a border control operation, its mandate is to patrol borders not to save lives. This year already, more than 400 people have lost their lives in the Mediterranean. The summer months are approaching. Sea arrivals will increase. The death toll will dramatically increase with it unless Europe decides to indeed stand up for human rights and save lives. The European Agenda for Migration must include a response to the urgent need for fully fledged search and rescue in the Mediterranean.

Ladies and gentlemen we can have high-brow debates from now until forever regarding the EU's and member states credibility as a global or regional human rights actors but for as long as Europe turns its back on the humanitarian disaster and human tragedy unfolding on at its own gateway – then frankly nobody will take that notion seriously.

Ends

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