

Evaluation of the Italian EU Presidency.
Amnesty International, January 2015

Human Rights in the EU

Amnesty International welcomed the new EU High Representative for Foreign Affairs and Security Policy (and former Italian Foreign Affairs Minister), Federica Mogherini's, statement calling for a central role for human rights in EU foreign policy; in order to mainstream human rights into many policy areas within, as well as outside, the EU.

We also appreciated Italian Minister of Labour and Social Policies, Giuliano Poletti's statement at the High-Level Conference on the European Social Charter in Turin, that stated that respect for the Charter should be at the centre of member states' work programmes, since these rights, although linked to social and economic issues, are, above all, human rights.

We acknowledge the Presidency's initiative and work to secure some concrete engagement by the Council to strengthen the rule of law in Europe, following the Commission's communication last April. We look forward to seeing how the new dialogue on the rule of law materialises in the Council, following the commitment last December to hold such a dialogue (Governmental Advisor Committee – GAC, December 2014).

However, we regret that this discussion was not part of a wider reflection on how the EU can strengthen its action on human rights in Europe. While we appreciate the opportunity given to NGOs to address the Fundamental Rights and Free Movement of Persons (FREMP) working party on this issue, we still need to see concrete follow-up on our call for the EU to adopt a comprehensive internal human rights strategy, following on from the Council Conclusions on the implementation of the Charter adopted under the Greek Presidency of the EU.

Asylum and Migration

The Italian Presidency started its mandate with a strong focus on migration issues. The Presidency priorities included a structured, sustainable answer to migratory pressures, with a view to a European approach beyond emergency measures.

We were encouraged by this particular attention, demonstrated by the many international events organised with EU member states, institutions (such as the Fundamental Rights Agency), and stakeholders, aimed at increasing awareness on the urgency and importance of this matter. However, such efforts failed to materialise in any concrete steps towards the development of protection sensitive border-management policies and practices, with effective and independent human rights scrutiny.

Amnesty International welcomed the efforts made with partners in the Council that led to Conclusions calling on member states to make full use of existing tools under the Dublin Regulation by applying the provisions on family reunification, including through the strengthening of family tracing systems, and a greater use of the sovereignty clause, in line with the jurisprudence of the Court of Justice of the European Union.

The sustained arrivals of migrants and refugees through the central Mediterranean Sea was inevitably on the agenda of the Council during the Presidency, and formed part of the Council Conclusions seeking to address the situation. Amnesty International described the perils of the sea-crossing in the report "[*Lives Adrift: refugees and migrants in peril in the central Mediterranean*](#)", launched on 30 September 2014 in Brussels, and debated at a conference organised by Amnesty International in Rome on 17 October 2014. In the report, we presented the findings and conclusions of Amnesty International research conducted in

Malta, Italy, and on board an Italian Navy ship. The report included a set of recommendations for relevant authorities, including calls to the EU.

Amnesty International has welcomed the efforts made since October 2013 to enhance search and rescue in the central Mediterranean through Italy's Operation Mare Nostrum (OMN), which saved over 150,000 lives. Given that OMN was key to ensuring protection at sea, we were gravely concerned by the October Justice and Home Affairs Council decision to phase out OMN, and to set up Frontex's Operation Triton, which cannot ensure similar levels of protection. Rather than search and rescue, Operation Triton has a clear border management remit at its core, focusing on patrolling coastlines and vetting migrants. Operation Triton's scope does not cover international waters, where many shipwrecks happen, as OMN did, but instead it operates closer to Europe's shores. Also, Operation Triton does not have the necessary resources to patrol the high seas effectively.¹

Many people who are trying to reach Europe by undertaking these dangerous sea crossings are refugees from Syria, who after nearly four years of crisis, constitute the largest refugee population in the world. We welcome the acknowledgement of the need to increase international solidarity and offer safe routes to protection, notably by stepping up resettlement. And whilst EU countries collectively offering 36,300 places – 30,000 by Germany - is a step forward, the reality is that this is still gravely insufficient to meet the real needs of these vulnerable people.

Amnesty International draws your attention to Italy's continuing obligation to save lives at sea, and ensure access to international protection for all those who need it. To fulfill this obligation, we call on you to reinforce national search and rescue resources and activities, in order to close the gaps left by Triton, until EU member states finally realise a collective and concerted operation in the Central Mediterranean, similar to OMN.

Finally, we note the Presidency's efforts to push forward the dialogue with countries of origin and transit, notably with the Fourth Euro-African Ministerial Conference as a part of the process of Rabat, and the launch of the first conference on the Khartoum process, which marked the beginning of closer cooperation between Europe and the Horn of Africa countries. We remain concerned, however, that these processes are not sufficiently transparent nor rooted in a human rights framework. It is of concern also that such processes seek the engagement of third countries where many human rights violations have been and are still occurring, and also of those from where many refugees are fleeing, such as Eritrea and Ethiopia.

Fighting Discrimination

We regret that the Italian Presidency did not succeed in overcoming the political deadlock on the horizontal directive on comprehensive anti-discrimination legislation, which seeks to protect people against discrimination on all grounds in all areas of life.

Amnesty International welcomes the Presidency's impetus to Equal Opportunities issues, in view of the 20th anniversary of the adoption of the Beijing Declaration and its Platform of Action (PAP), by organising several international conferences in Italy, as well as in other EU Countries. We also recognise that the Italian government kept the fight against hate crime on the agenda by co-hosting the inaugural meeting of the intergovernmental Hate Crime Working Party with the Fundamental Rights Agency of the EU (FRA). Similarly, it showed a commitment to promoting the rights of LGBTI people, by co-organising the first-ever event on LGBTI rights at the Council of the EU with FRA, and by organising other international conferences on this theme in Italy and abroad. These, however, were not accompanied by the necessary steps to enhance the protection of the human rights of LGBTI people at domestic level, including reforms of national legislation with regard to hate crimes based on sexual orientation and gender identity, as well as to the rights of same-sex couples. With regards to hate crime, we regret that the establishment of a

¹ <http://www.amnesty.eu/en/news/press-releases/all/triton-is-no-substitute-for-life-saving-mare-nostrum-0800/#.VG3y1MmOpas>

Working Party was not matched with a commitment to take new initiatives at EU level to review and extend the scope of existing legislation on hate crime.

Respecting Roma Rights

Amnesty International is disappointed that action was not taken on our recommendations under the Italian Presidency to address the human rights violations against Roma across the region. We are gravely concerned about the discrimination against Romani communities at domestic level. According to international law (Article 2 (2) of the International Convention on the Elimination of All Forms of Racial Discrimination) and EU law (Race Equality Directive 2000/43/EC), the obligation to eliminate racial segregation requires immediate implementation.

Women's rights

Amnesty International welcomed the Presidency's decision to prioritise gender equality, in particular by organising a high level event on the adoption of specific Conclusions at the December Employment, Social Policy, Health and Consumer Affairs (EPSCO) Council in Rome. The Conclusions called on the European Commission to develop a new gender equality strategy beyond 2015. The Conclusions also call on the Commission and EU member states to ratify and implement the Council of Europe's Istanbul Convention, and *"to support existing and/or new measures and strategies to combat all forms of violence against women and girls by applying a comprehensive policy that includes measures for prevention, protection and punishment"*. These positive developments were regrettably accompanied by a lack of transparency regarding the drafting of these Conclusions. Despite repeated proposals for inputs, civil society was not invited to consult on content.

Corporate Accountability

The Presidency showed no leadership in promoting the implementation of the United Nations Guiding Principles (UNGPs) and other relevant international human rights standards. The Council discussions under the Italian Presidency on the "Proposal for a Regulation of the European Parliament and of the Council setting up a Union system for supply chain due diligence self-certification of responsible importers of tin, tantalum and tungsten, their ores, and gold originating in conflict affected and high-risk areas"² failed to reflect international human rights standards endorsed by the UNGPs and the Organisation for Economic Co-operation and Development (OECD), and remained on a technocratic level. There has also been slow progress in developing National Action Plans for the implementation of the UNGP at member states' level, and none at EU level.

Stop Torture

There were some key developments under the Italian Presidency regarding the individuals at risk cases raised by Amnesty International. These occurred notably at the start of the Presidency, and specifically on 7 August 2014 with the release of Chinese human rights lawyer Gao Zhisheng. However, the Presidency was not overall proactive in pushing for the use of EU diplomatic channels to free prisoners of conscience tortured in third countries.

Accountability for European involvement in CIA rendition and secret detention programmes

The United States (US) Senate committee report summary detailing torture methods used as part of a secret US detention and interrogation programme was published on 9 December 2014. It was a stark reminder of the ongoing impunity for the many appalling human rights violations perpetrated in the name of "national security" after the 9/11 attacks. We regret that the publication of the report did not prompt

² See the text: http://trade.ec.europa.eu/doclib/docs/2014/march/tradoc_152227.pdf

any reaction by the Italian EU Presidency. We recall that the involvement of EU member states was instrumental in these illegal US-led operations, and deplore the ongoing silence of the EU on the issue of accountability in Europe for crimes of torture and enforced disappearances that were committed on EU soil.

In January 2015, Amnesty International published a report, "[Breaking the Conspiracy of Silence: USA's European 'Partners in Crime' Must Act after Senate Torture Report](#)", linking details in the Senate report to open source information regarding *inter alia* allegations that secret sites existed in Lithuania, Poland, and Romania. Following up from its predecessors and the landmark reports from 2007 and 2012, we look forward to renewed mobilisation in the European Parliament (EP)³ to take up the issue of accountability for European involvement in the crimes that were committed. We further urge all EU institutions to implement the Parliament's recommendations and take action to uncover the truth and ensure justice for victims.

All counter-terrorism laws, policies, and practices must uphold human rights and the basic dignity of all persons. This is a particularly important principle at this sensitive moment in Europe, when the French and other governments are reviewing their counter-terrorism responses and measures following the deadly attacks against the magazine Charlie Hebdo, a kosher supermarket, and security forces, in Paris on 7 and 9 January.

Death Penalty

The Italian Presidency gave high prominence and visibility to EU work against the death penalty. In addition, Italian and EU representatives to the UN in New York were actively engaged in negotiations on the Moratorium resolution, and lobbied other states to increase support for the successful adoption of the 2014 resolution on a Moratorium on the use of the death penalty.

UN members coordinating on this draft resolution (Chile, Italy and the EU) worked in a very constructive way with a cross-regional Task Force, as well as other UN member states more broadly. Amnesty International's Italian Section (office) was particularly glad to be involved in the negotiation process – together with two other relevant national NGOs – and to take part, in its capacity as a member of the Italian Task Force on the Death Penalty, in a Human Rights Working Group Meeting (COHOM) in Rome in December 2014.

After the vote at the UN General Assembly (UNGA) plenary session, on 16 December 2014, Amnesty International welcomed the outcome of the vote, which showed a total of 117 votes in favour, 39 against and 34 abstentions. This was the fifth time a resolution on this issue had been passed by the UNGA and a record in terms of the support received from countries of all regions.

Cases of People under Threat

At the beginning of the Presidency, Amnesty International welcomed Prime Minister Matteo Renzi's statement on 2 July 2014 at the EP where he stressed the need for greater European involvement in the humanitarian dimension of the Union, not only in economic matters. We were glad to hear him mentioning the case of Asia Bibi, a Pakistani Christian woman convicted on blasphemy charges and sentenced to death, who has been held in prison for over five years.

Finally, as mentioned, Chinese human rights lawyer Gao Zhisheng was released from prison on 7 August 2014. However, his political rights have remained suspended for the coming year in line with his original sentence, and he remains under constant state surveillance and is recovering from the health issues he

³ <http://www.europarl.europa.eu/news/en/news-room/content/20141216STO02041/html/Torture-MEPs-call-for-investigation-into-EU-countries'-role-in-CIA-practices>

developed while in prison. Thus, there is still a need to monitor his case to ensure he is not subjected to further torture and other forms of ill-treatment.

Similarly, we welcomed the release of two of the Bolotnaya prisoners of conscience, during the Italian Presidency. On 8 September, Yaroslav Belousov was released from penal colony after having served his sentence. He spent two years and three months in detention for “participation in mass riots”. In the same way, after serving his sentence, Artiom Saviolov was released on 31 December 2014 from Penal Colony #6 in Ryazan Region, near Moscow. We also welcome the release of Mikhail Kosenko from psychiatric hospital on 11 July, one month after the Checkhov Town Court had decided against his confinement in an institution. He has nonetheless been ordered to continue ambulant treatment.

We regret overall that the Italian government failed to make the best use of its position and contacts during the Presidency to push third countries to release prisoners of conscience in general, and the individual cases highlighted in our Recommendations.

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