



# FROM WORDS TO ACTION ON HUMAN RIGHTS

## AMNESTY INTERNATIONAL'S RECOMMENDATIONS FOR THE SWEDISH PRESIDENCY OF THE EU

**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 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.

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Cover picture: Stockholm Old Town  
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### INTRODUCTION

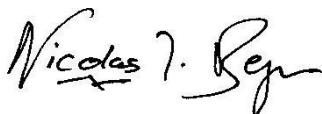
When the last Swedish Presidency came to a close in 2001 Sweden had made a considerable impact on the European Union's (EU) broader human rights agenda. The EU Guidelines on Torture and the Goteborg Programme for Conflict Prevention are just two prominent examples of the Presidency's impact. Preparations for this Swedish Presidency have consequently led to high hopes for marked improvements with regards to human rights. The agenda for the six month Swedish Presidency contains quite a number of items that are essential to move forward the human rights situation both within Europe and beyond its borders. Human rights defenders and human rights organizations are now looking towards Sweden for renewed leadership and decisive action.

The EU has an impressive array of policies and instruments that underpin its human rights commitments. In reality though, human rights issues do not feature as high on the EU's agenda as they ought to. The challenge of balancing political interests with human rights too often lead to subordinating the latter to trade, energy, and security concerns. While doing so the EU tends to forget that neither the economic nor security interests of the EU and its member states can be properly safeguarded without more emphasis on the respect for, and protection and fulfilment of, human rights. As long as sizable communities in Europe are effectively excluded from social contributions due to discrimination and poverty, Europe's economic power cannot be fully realized. As long as the serious human rights violations that lead to poverty and are caused by poverty, including through the action of companies, are not more fundamentally addressed internationally, the EU will never be able to appropriately deal with migratory flows, climate change and energy. Turning migrants and refugees back without any possibility of accessing protection, and without addressing more fundamentally the root causes from which people flee, contradicts all efforts of a common asylum system. Such an approach will not make the EU able to successfully manage migratory flows. Equally, as long as counter-terrorism practices allow torture on EU territory and do not make use of human rights instruments shown to aid security aims, such as working with human rights defenders, security in Europe will not be achieved.

During the Swedish Presidency the EU is facing global and institutional changes. The economic and financial crisis will need responses that avoid social unrest and safeguarding economic, social and cultural rights will be a key factor. A new European Commission and European Parliament provide renewed possibilities to unblock institutional reform with strong political leadership by the presidency. Incorporated into these efforts should also be a renewed thinking about the EU's human rights policies and how internal mechanisms can be developed, as well as more transparent consultation mechanisms with civil society. Sweden has a strong tradition of transparency and Amnesty International hopes it will engage in more consultation within Council structures.

With this document, we present specific recommendations to the Swedish Presidency on a range of pressing human rights issues on which Sweden is uniquely placed to effect change. These include ensuring the adoption of the new anti-discrimination directive, taking decisive steps towards the proper implementation of the EU Guidelines on Torture, utilizing the window of opportunity to move towards standard setting in corporate accountability, and setting clear signals on human rights protection in the Stockholm Programme.

These recommendations are focused on the remit of the presidency and we believe they are achievable in a six month period. Amnesty International hopes that the Swedish Presidency will engage in working towards achieving these recommendations and, by implementing them, affirm the EU's role in upholding human rights as a guiding principle in external and internal policies.



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# DISCRIMINATION

## Anti-Discrimination Directive

**“Discrimination violates the very core values of the Union and must be combated at all levels. Existing Directives apply outside the employment sphere only for discrimination on the basis of sex and racial and ethnic origin. As a consequence, the protection against discrimination on other grounds, such as disability, is weaker. The forthcoming proposal for a new Directive implementing the principle of equal treatment outside employment will be addressed.”**

(Trio Presidency Programme, 30 June 2008: 18 month programme of the Council, prepared by the future French, Czech and Swedish Presidencies)

The new anti-discrimination directive proposal presented in July 2008 by the European Commission has upheld this commitment. It extends the EU's legal framework to fight discrimination in areas that are not yet covered by EU law, i.e. discrimination in access to goods and services - including social services, healthcare and housing - on the grounds of age, sexual orientation, disability, religion or belief.

Unanimous support by all EU member states for this proposal is the next step needed to ensure the directive is adopted and to fill the protection gap that currently exists in EU law. The strong support already delivered by the European Parliament should serve as an example and press the Council to act.

No national, political or technical issues can serve as a pretext to block a process where the EU has clear competence and a strong legacy of positive leadership. This process should not be about promoting or safeguarding national models, but about upholding human rights in the EU and beyond. A number of member states already have the full protection proposed, but many will not without the EU's guidance. Increasing protection will impact on accession countries as well as setting an example for international standards. The stake is too high for the issue to be seconded to small scale national interests. In addition, reports on the situation in Europe continue to show the need to reaffirm a principled approach and to strengthen legal protection to fight all forms of discrimination.

This year the EU Fundamental Rights Agency (FRA) published a new report on discrimination on the grounds of sexual orientation and gender identity in EU member states. The research shows that discrimination, harassment and violence against lesbian, gay, bisexual and transgender (LGBT) persons are still widespread throughout the EU and calls on decision-makers to further improve equality legislation. The FRA and Amnesty International have documented that pride marches in some EU member states in particular were marked by violations of LGBT activists' human rights to freedom of peaceful assembly and association, free from physical and verbal attacks and threats.

**No national, political or technical issues can serve as a pretext to block a process where the EU has clear competence and a strong legacy of positive leadership.**

**The Swedish Presidency should now take the opportunity to show leadership by passing the strongest possible anti-discrimination directive. Human rights are everyone's birthright and apply to all without distinction.**

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### Roma Discrimination

While it is essential to extend the EU's legal framework to fight discrimination, more efforts are also needed to apply existing legislation. Discrimination against Roma communities is widespread in Europe. Many continue to face exclusion from public life and are unable to access their rights in relation to housing, education, employment and health services. Evidence of segregation patterns such as special schools or classes for Roma children with limited education standards have echoes of apartheid. Roma people face a systematic stigmatization fuelled by a spiral of verbal and physical abuse against them. And yet, responses at national and European level remain scattered and unsuccessful in achieving lasting improvement. Only through a coordinated and consistent EU Roma policy, can the EU address this unacceptable situation and ensure that the human rights of the Roma community are fully respected.

**Amnesty International calls on the Swedish Presidency to secure the adoption of the newly proposed EU anti-discrimination legislation by:**

- **showing political leadership at all relevant occasions in support of the proposed comprehensive legislation to guarantee everyone in the EU the right to live without fear and discrimination; and,**
- **ensuring that sufficient time and resources are dedicated to the negotiations in the Council to reach an agreement on the new directive as soon as possible.**





## GUIDELINES ON TORTURE AND THE FIGHT AGAINST TERRORISM

In 2001 the previous Swedish Presidency developed and adopted operational guidelines on torture “to identify ways and means to effectively work towards the prevention of torture and ill-treatment within the Common Foreign and Security Policy”. However, there is no equivalent EU internal instrument or policy framework to support efforts and action at international, regional or national level, to prevent and combat torture and other ill-treatment within the EU. This has an impact on coherence and credibility. Coherence is an issue because the EU cannot aim at working towards the upholding of the universal ban on torture worldwide and leave aside 27 countries. Credibility is an issue because the EU cannot claim to encourage third countries to end the use of torture if it is perceived as accepting violations committed by its own member states.

In the context of the fight against terrorism, the lack of EU scrutiny and accountability for torture and other human rights violations committed by EU member states have undermined the EU’s commitment to upholding the absolute ban on torture. Member states seeking “diplomatic assurances” from third countries to expel terrorist suspects to countries despite the fact that they would be at risk of torture and other ill-treatment there is in clear violation of the *non-refoulement* principle that is highlighted in the preamble to the EU Guidelines on Torture. States including: Austria, Germany, Italy, the Netherlands, Sweden, and the UK have used these diplomatic assurances. As these assurances were sought from countries including Jordan, Algeria, Egypt, Syria and Tunisia – countries with a well-known record of torturing exactly this type of detainee – this practice is in flagrant contradiction of EU efforts to fight torture in these countries.

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Despite the renewed call of the European Parliament for the Council to address member states' complicity in US-led illegal renditions and the secret detention programme, there has been no significant move from the Council to acknowledge its responsibilities. This complicity has manifested itself in many ways, including: assisting or turning a blind eye to CIA rendition flights over their territories, sharing information that has led to people being forcefully captured and tortured, failing to protect EU citizens or residents from torture and enforced disappearances and allowing the CIA to operate secret prisons in Europe. The ongoing denial of justice and reparation to the victims of such abuses, in the vast majority of cases, amounts to a serious and persistent breach of the founding values of the EU.

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If such issues of coherence are not adequately addressed they will undermine the EU's credibility and effectiveness when confronting third countries over violations of international human rights law.

This is becoming evident in relation to EU demarches on torture, as documented in recent evaluations of the implementation of the EU Guidelines on Torture. More and more third countries are challenging the EU to reaffirm their own commitment to the absolute ban on torture before challenging them on their record. This adds to inertia on the implementation of the EU guidelines, resulting in a lack of political leadership to prioritize action on this sensitive issue in relations with third countries. There is also a lack of understanding among EU diplomats in the field about how to work on these guidelines, including how to involve civil society. Although at EU and member state level important steps have been taken to update the text of the guidelines, this has yet to lead to improvements in their practical use.

EC regulation 1236/2005 regulating trade in, and originating from, EU member states in instruments that could be used for torture is another example of an instrument that could be used more effectively to fight torture in a coherent manner. Currently, many EU member states do not provide annual activity reports on their compliance with this regulation. Greater transparency and reporting on relevant trade activity could help to close remaining loopholes in this regulation, and demonstrate clearly that the EU means to practice what it preaches in this important area.

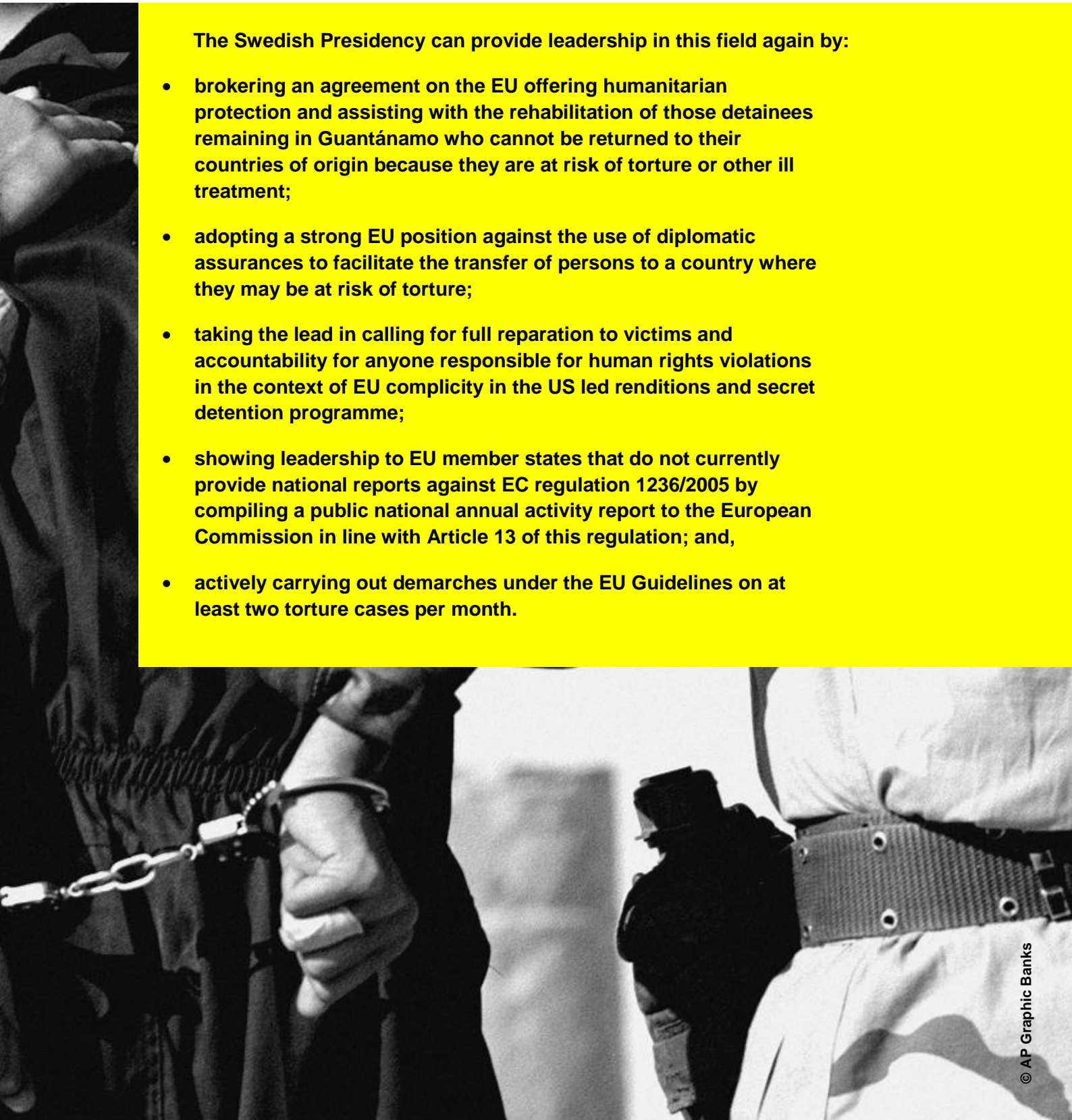
Recent positive discussions regarding humanitarian protection for Guantánamo detainees who are at risk of being tortured or suffering other ill-treatment if returned to their countries of origin have shown that the EU can begin to meet some of the challenges exposed above. By its engagement on this important debate the EU is explicitly

acknowledging the need for consistency in its defence of human rights globally.

Sweden led the EU in adopting the torture guidelines in the first place and we look forward to new initiatives in this important area.

**The Swedish Presidency can provide leadership in this field again by:**

- **brokering an agreement on the EU offering humanitarian protection and assisting with the rehabilitation of those detainees remaining in Guantánamo who cannot be returned to their countries of origin because they are at risk of torture or other ill treatment;**
- **adopting a strong EU position against the use of diplomatic assurances to facilitate the transfer of persons to a country where they may be at risk of torture;**
- **taking the lead in calling for full reparation to victims and accountability for anyone responsible for human rights violations in the context of EU complicity in the US led renditions and secret detention programme;**
- **showing leadership to EU member states that do not currently provide national reports against EC regulation 1236/2005 by compiling a public national annual activity report to the European Commission in line with Article 13 of this regulation; and,**
- **actively carrying out demarches under the EU Guidelines on at least two torture cases per month.**



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### ASYLUM

During the Swedish Presidency the discussions on the recast Commission proposals on the Dublin and EURODAC Regulations and the Reception Conditions Directive will continue. The discussions on the recast Commission proposals on the Qualification Directive and the Asylum Procedures Directive are also expected to be launched in the second half of 2009. The second phase of harmonization of EU asylum legislation must ensure high standards of protection for asylum-seekers in the EU, in line with international refugee and human rights law and standards.

The Commission proposals presented so far contain a number of positive amendments reflecting such an approach. These include: the prohibition of detention of unaccompanied children, the obligation to establish alternatives to detention, the extended definition of family members in the asylum *acquis* and the strengthening of safeguards with regards to vulnerable asylum-seekers.

Access of asylum-seekers to an appeal with suspensive effect against a transfer decision under the Dublin Regulation is of paramount importance to protect them against possible violations of their fundamental rights, resulting from the application of Dublin criteria. In addition, the proposed temporary suspension mechanism is considered a useful tool to prevent asylum-seekers from becoming the victims of dysfunctional asylum systems. However, this should also be complemented with concrete obligations for member states to effectively address the protection gaps within their national asylum systems. The Swedish Presidency should take the lead in ensuring that such essential safeguards for the protection of the fundamental rights of asylum-seekers are integrated in the Dublin Regulation, pending a fundamental revision of the Dublin system.

One particular area of concern is the proposed grounds for detention in the recast proposal on reception conditions. These risk encouraging the use of systematic detention of asylum-seekers. The Council and the European Parliament should ensure that the EU asylum *acquis* includes a clear presumption against the detention of asylum-seekers and sufficient guarantees to ensure that asylum-seekers are effectively protected from arbitrary detention and that detention is always for the shortest period possible. The detention of asylum-seekers should only be a last resort and never a first response. The Swedish Presidency must play an active role in defending these essential principles in discussions at EU level.

As the European Asylum Support Office (EASO) will have a key role in the completion of the Common European Asylum System (CEAS) through the coordination of practical cooperation between member states, it must serve as a tool to improve the quality of the CEAS. NGO expertise in the field of asylum must be sufficiently acknowledged in the functioning of the EASO, as it should uphold transparency in its activities. Its role in cooperation with third countries ought to be limited to coordination and promotion of resettlement activities at EU level.

The resettlement of refugees is increasingly being debated at EU level and a Commission proposal on an EU resettlement programme is expected in the second half of 2009. The Swedish Presidency should ensure that outstanding commitments with regard to the resettlement of 10, 000 Iraqi refugees from countries neighbouring Iraq are complied with in practice. The development of an EU resettlement programme has to serve the purpose of providing durable solutions for refugees, prioritize the resettlement of vulnerable refugees in accordance with UNHCR criteria and remain complementary to member states' obligations with regard to spontaneously arriving asylum-seekers.

**The development of an EU resettlement programme has to serve the purpose of providing durable solutions for refugees.**

**Amnesty International calls on the Swedish Presidency to:**

- **take the lead in ensuring that the presumption against detention of asylum-seekers and the right to a suspensive appeal against Dublin transfers are firmly rooted in EU asylum legislation; and,**
- **take the lead in ensuring the adoption of an EU resettlement mechanism that prioritizes resettlement of vulnerable refugees in accordance with UNHCR criteria.**



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### THE STOCKHOLM PROGRAMME

To achieve one of its core objectives of providing its citizens with an area of freedom, security and justice (AFSJ) without internal borders, the EU must ensure that it respects, protects and fulfils the human rights of all persons. Efficiency in EU justice and home affairs (JHA) policies can only be achieved if respect for human rights and the establishment of common measures to safeguard individual freedoms are addressed directly as a core part of the AFSJ development. This principle should underpin the new five year work programme of the EU for the AFSJ - better known as the Stockholm Programme.

#### Criminal Justice

When developing an AFSJ, the EU should proactively address the issue of torture and ill-treatment in the context of fighting terrorism, but also in relation to police and judicial cooperation in criminal matters more generally. Recent Amnesty International reports on human rights violations committed by law enforcement officials in Greece, France and Austria, as well as case law by the European Court of Human Rights and reports from Council of Europe monitoring bodies, continue to demonstrate that human rights, including the absolute right not to be subjected to torture and other ill-treatment, cannot be taken for granted across the EU.

There are encouraging signs by the Commission and the Council that new proposals on legislation will be presented to protect the rights of suspects, defendants, and detainees as well as on peer review systems to monitor EU criminal justice systems. Such steps are needed in order to provide some human rights benchmarks to hold EU member states accountable for the way they implement criminal justice policies.

Regarding legislation on procedural safeguards, Sweden has already indicated that it favours an incremental "right-by-right" approach, starting with legislation solely on the right to interpretation and translation. For such an approach to be successful it is essential to have an overarching plan of action. This plan must clearly detail all the rights that will be addressed and

set clear deadlines, including guarantees that sufficient time is allocated to consider each right. Any such programme will need to have a binding effect upon future JHA Councils to retain its focus.

**Amnesty International calls on the Swedish Presidency to:**

- **secure a binding political commitment in the Council on a detailed plan of action with regards to legislation on procedural rights in criminal matters;**
- **take leadership in the Council to ensure that the upcoming Stockholm Programme commits the EU to enhancing human rights protection in the area of justice and security, notably by:**
  - **developing mechanisms, including peer review, to monitor at EU level the human rights compliance of EU criminal justice policies; and,**
  - **adopting legislation on procedural rights of suspects and defendants that covers at least the scope of the 2004 Commission proposal.**

## **Rights of Migrants and Asylum-Seekers**

The new five-year programme on the AFJS is a unique opportunity to put the protection of asylum-seekers', refugees' and migrants' rights again at the core of the debate at EU level and to counter the current emphasis on security considerations.

The Stockholm Programme should fully endorse a rights-based approach to migration and include a strong engagement against the approach taken in some EU member states to address irregular migration from a criminal law perspective. Persons residing or entering the territory of member states should not be treated as criminals and EU member states should never use criminal sanctions against irregular migrants for the sole reason of their irregular entry or residence. The new five-year programme ought to promote an approach to migration that is grounded in administrative law and based on the full respect of human rights of migrants, irrespective of their status.

**Persons residing or entering the territory of member states should not be treated as criminals.**

As far as the external dimension of the EU's migration and asylum policy is concerned, emphasis is still predominantly on cooperation with third countries with the sole objective to prevent undesired migration towards the EU. The impact of these EU policies on the human rights of the migrants concerned is rarely taken into consideration. The EU is involved in various

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ways in enhancing the capacity of third countries to provide international protection as well as address irregular migration. Should the Lisbon Treaty enter into force, the EU will gain an ill-defined competence to develop partnership and cooperation with third countries in order to “manage the influx of asylum-seekers”. It is crucial for the Stockholm Programme to include a strong commitment for such partnerships to be developed in full compliance with member states’ obligations under international refugee and human rights law. The obligation to ensure access to protection in the EU in accordance with these obligations must be clearly reaffirmed in the Stockholm Programme as a fundamental principle of the CEAS. The decision of the Italian government in May to return individuals rescued at sea to Libya without entering into a proper assessment of their potential protection needs has set a dangerous precedent and illustrated the need for such renewed commitment. While concrete solidarity between all member states will indeed be a necessary aspect of the CEAS, the lack of progress at EU level on this issue should never justify violations of fundamental rights. The Swedish Presidency must be vigilant to ensure that the effective protection of persons fleeing persecution or serious harm remains at the centre of the debate at EU level and is not subordinated to political or diplomatic considerations.

This should also be accompanied by a clear commitment to establish mechanisms at EU and national level to monitor the human rights performance of EU migration and asylum policies. Such a mechanism should in particular be established to monitor joint operations at the EU’s external borders coordinated by FRONTEX and the future EASO as well as any extra-territorial activities. Clear arrangements have to also be established between EU member states on which state is to take responsibility for individuals rescued or intercepted at sea in accordance with their obligations under international human rights and maritime law.

At the same time, the EU’s global approach to migration offers opportunities to shift the emphasis in the discussion on the external dimension of migration and asylum policy from a purely control-oriented approach to a more balanced “management of migration”, including initiatives on the creation of legal channels of migration and increased collaboration with countries of origin and transit. The latter should involve a true partnership with countries of origin and transit to effectively address the root causes of migration, among which human rights violations continue to take a prominent place. More and more migratory flows are also caused by or have a link with environmental factors such as climate change. This will increasingly have an impact on EU policies in the field of migration



and asylum. The new five-year annual programme on the AFSJ would be well placed to identify the key policy challenges for the EU from the perspective of its asylum and migration policy, based on the full respect of the fundamental rights of those forced to leave their countries.

**Amnesty International calls on the Swedish Presidency to:**

- **promote the inclusion of a clear commitment in the Stockholm Programme to establish mechanisms to monitor the human rights impact of policies developed in the framework of the external dimension of the EU's asylum and migration policy;**
- **promote the inclusion of a clear commitment in the Stockholm Programme to ensure that strengthened border controls do not prevent persons in need of international protection from having effective access to protection in the EU; and,**
- **promote the inclusion of a clear commitment in the Stockholm Programme against the use of criminal sanctions against irregular migrants for the sole reason of their illegal entry or status and instead give impetus to effectively address the root causes of forced migration, including poverty, environmental degradation, and human rights violations.**

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### **CORPORATE ACCOUNTABILITY**

Globalization has brought unprecedented power and influence for corporations, along with jobs and investment returns for millions. But when corporations' activities violate human rights and drive people deeper into poverty, there is often no effective means to hold companies to account or to ensure redress for those affected. States frequently fail to uphold their duty to protect against human rights abuses involving companies due to multiple reasons, including the protection of foreign investment, lack of understanding or capacity, as well as lack of political will.

In comparison allegations of human rights abuse are particularly high within the extractive industry. This is not surprising, given the impact that such operations have on land and water resources. Communities may be forcibly relocated to make way for extractive activities. Pollution or the overuse of water resources can damage local communities' access to clean water. Heavy-handed security operations to protect extractive industry sites have been a recurring problem, particularly since they occur most frequently in countries or areas already affected by conflict.



The current international framework on business and human rights at the UN focuses on the obligations of states to protect human rights, the responsibilities of companies to respect or practice the “do no harm” principle in the context of economic relations and the importance of ensuring effective remedies for victims. The EU needs to live up to its commitments at the UN and incorporate this framework at the EU level. A number of concrete actions can be taken by the EU in this direction. One of them is providing a clear political signal reaffirming the roles and responsibilities of the EU, its member states and European companies in relation to human rights. Another step is to seriously consider the human rights impact of EU-based companies’ activities on third countries which face substantial regulatory gaps. In relation to the European Investment Bank (EIB), the EU and its member states need to ensure that the EIB has effective mechanisms to guarantee that it is not supporting projects or activities that will negatively impact on human rights.

The EU as a global actor and an economic bloc 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 Swedish Presidency to:**

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



## **SEXUAL AND REPRODUCTIVE HEALTH AND RIGHTS**

Despite being of crucial importance with regards to women's rights, the area of sexual and reproductive rights is often surrounded by controversy or shied away from in the international arena.

This is true even at EU level, where it has proven difficult for member states to come to a common understanding, thus making it almost impossible for the EU to speak with one voice and contribute effectively to improvements for the millions of people affected by violations of sexual and reproductive rights in the world. Sexual violence in armed conflict, human trafficking, discrimination against LGBT people, female genital mutilation, HIV and Aids, access to information about contraceptives and abortion, access to safe abortions and maternal mortality are some of the central issues in this field. The term sexual and reproductive health and rights involves physical and mental integrity and the right of sexual self-determination, regardless of gender or sexual orientation. Sexual and reproductive rights are based on human rights and affect an individual's choices in life.

Sweden has a good reputation internationally in the area of sexual and reproductive rights and the Swedish Presidency has an opportunity to raise some of these important issues. The UN Millennium Development Goals set out to improve maternal health, yet few real improvements have been made. Maternal mortality is highly preventable and can be drastically reduced if there is political will. As the world's biggest donor, the EU could make a real difference by ensuring development aid is put into the area of sexual and reproductive health and rights.





**Amnesty International calls on the Swedish Presidency to:**

- **work actively to put sexual and reproductive health and rights on the EU agenda and break the silence surrounding the issue;**
- **ensure that adequate levels of resources for sexual and reproductive health and rights are provided through international cooperation and assistance and support countries' efforts to prevent maternal mortality by providing the necessary financial and technical assistance for sexual and reproductive health programmes and health system strengthening; and,**
- **apply a human rights framework to the provision of development assistance for sexual and reproductive health and ensure that international cooperation and assistance respects and supports the realization of women's sexual and reproductive health and rights.**



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# THE EU AS A GLOBAL ACTOR

## Bilateral Relations

The EU remains a key actor on the global stage, with the possibility to act as a powerful force for positive change on human rights. However this potential is not always fulfilled. Promoting the respect of human rights is crucial in itself, but it is also central to achieving progress on some of the many stated priorities in EU external relations; conflict prevention, gender equality, environmental protection, poverty reduction and democracy protection. Progress in all these areas is facilitated by the work on the ground of human rights defenders and by the development of human rights protection in the country concerned. An EU approach to its commitments on human rights which takes into account its cross cutting nature requires greater coherence, consistency and the courage to ensure that human rights are always an absolute and non-negotiable priority in its relations with third countries.

The Swedish Presidency is aiming to focus on advancing accession negotiations with Croatia and Turkey, to enable accession negotiations to start with Macedonia, as well as to assess the new membership applications from Montenegro and Albania. The key issue across the Western Balkans remains impunity for war crimes. The EU has taken a strong stance in the past on the need for full cooperation with the International Criminal Tribunal for the Former Yugoslavia and for the effective investigation and prosecution of outstanding war crimes in domestic chambers. In the case of Croatia, this has proved to be a defining issue in accession negotiations from the outset. However, despite the political capital invested by the EU, there remains a persistent failure to investigate and combat impunity for war crimes, especially in cases where victims were Croatian Serbs or members of other minorities and the perpetrators members of the Croatian Army and police forces.

Promoting the respect of human rights is crucial in itself, but it is also central to achieving progress on some of the many stated priorities in EU external relations.

The accession process has shown its potential to have a major positive impact on the human rights situation across all candidate and potential candidate countries, which the Swedish Presidency must use to the full. Likewise, following the establishment of the Union for the Mediterranean and the Eastern Partnership, the Swedish Presidency has a crucial role in defining the level of human rights engagement with all other neighbouring countries. The current different levels of engagement and monitoring of the human rights situation in neighbouring countries undermines the credibility of the European Neighbourhood Policy as a tool to bring about human rights reforms. The Swedish Presidency urgently needs to address these shortcomings as the EU seeks to negotiate new agreements or “upgrades” with a number of countries – including Moldova, Ukraine, Israel, the Palestinian Authority, Morocco, Tunisia, Egypt, Jordan, Belarus, Syria and Libya.

Following the cancellation of the EU-China summit by the Chinese government in December 2008 in reaction to EU leaders' decision to meet with the Dalai Lama, the EU-China relationship is at a crucial stage of redevelopment. Amnesty International supports a strong EU-China relationship to address issues of common concern. China is an important international actor and with such influence comes international obligations that China cannot ignore. The restarting of summit level discussion in 2009 provides an opportunity to place the relationship on the basis of equal partnership, enabling frank discussion where there is disagreement. This means that human rights should not only be discussed in the human rights dialogues, but in all engagements to ensure a clear and consistent message that human rights are not a sideline, but a core part, of all areas of co-operation. The EU's decision to evaluate the human rights dialogue is welcome, but this process should be as transparent as possible, and ought to be widened to include assessing the effectiveness of the different tools it has for promoting respect for human rights in China, to ensure that genuine progress is achieved. While there have been some positive signs, including the development this year of China's first ever Human Rights Action Plan, it is unclear whether the dialogue with the EU on human rights has achieved concrete impact on the ground in China, or led to reforms to ensure that China's law and practices are in line with international human rights standards. The EU's relationship with China is taken as an example in this instance, but this process of reflection and assessment to improve effectiveness should be applied to all human rights instruments in relations with third countries.

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The EU should also upgrade its engagement with the Israeli-Palestinian conflict, including through the Quartet, at a time in which the US Presidency appears ready to proactively promote peace negotiations. The EU has failed to use its full influence with the parties to this conflict. The Swedish Presidency has the opportunity to redress this deficit and ensure through bilateral relations and the peace process that international human rights and humanitarian law are fully respected by all sides.



#### **Amnesty International calls on the Swedish Presidency to:**

- ensure that the potential impact of human rights criteria in accession negotiations is strengthened, in particular to maintain the EU's strong position in combating impunity, supporting international justice and demanding progress in domestic war crimes proceedings;
- ensure that all new agreements, potential "upgrades" and new implementation documents negotiated with neighbouring countries contain progressive provisions on human rights engagement, including the use of specific benchmarks to facilitate monitoring and recommendations;
- ensure that the evaluation of the EU-China dialogue is transparent, taking on board NGOs concerns, and that it develops public benchmarks and indicators to clarify future decisions on the effectiveness of this tool; and,
- upgrade EU engagement with the Israeli-Palestinian peace process to ensure that international human rights and humanitarian law are fully respected.



## The United Nations

Although the UN Human Rights Council (HRC) has definite limitations, it is the only universal human rights body and therefore warrants continued investment from the EU. Recent experience has shown that the EU still needs to considerably improve how it works in the HRC with third countries. The practical challenge for the Swedish Presidency is to identify and exploit those areas where the HRC can make a positive contribution to the protection of human rights, and prioritize cooperation with cross-regional partners in those areas from the outset. The EU's work in the HRC needs to be better integrated in EU human rights diplomacy more generally. The HRC has to do a much better job in addressing violations of human rights, especially gross and systematic violations. It should continue to address important themes, such as human rights and counter-terrorism. The HRC will review its work and functioning in 2011, and the Swedish Presidency should consult while preparing the EU participation in this review.

The Universal Periodic Review (UPR) has had a positive start, and many states (including EU member states) are taking the UPR seriously, whether as reviewed or reviewing state. However, it is work in progress which, over time, can be made more effective. The sessions have addressed the situation of human rights in the countries under review with a mixed degree of success. Some reviews have seen large measures of superficial praise and focus on peripheral issues, some have seen an almost categorical rejection of recommendations made by certain countries, while others again have been robust and focused on the key human rights challenges in the countries under review. The UPR was developed as an answer to perceived double standards and greater effort must therefore be made by the EU, through its system of "loose coordination", to achieve the highest possible standards of rigour and equal treatment for all states under review. It is key to the effectiveness and credibility of the UPR that double standards are not allowed to creep in. The greatest value of the UPR is undoubtedly as a catalyst to a national process of human rights examination. This process must include effective consultation within government and with civil society, both in preparation of the review and in its follow-up. The EU should take the lead in integrating UPR outcomes into its own human rights policy, including by examining the implementation of recommendations during all bilateral meetings. During this follow up the EU should also focus on recommendations rejected by the states under review by promoting greater willingness to reconsider such recommendations. These recommendations are often paramount to improving the situation of human rights in the country concerned.

**Recent experience has shown that the EU still needs to considerably improve how it works in the HRC with third countries.**

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At the 63<sup>rd</sup> session of the UN General Assembly, which commences during the Swedish Presidency, important discussions will take place on the “extent of the application of universal jurisdiction”, the role of the International Criminal Court (ICC), the Arms Trade Treaty and on counter-terrorism and human rights. There will also be further discussions on the establishment of a new, consolidated UN women's entity, enabling the UN system and member states to better protect and promote women's human rights. The EU's past support for the “composite” model, combining country level operations and policy making functions, has been particularly welcome, however work still needs to be done by the Swedish Presidency in order to secure cross-regional support for a new entity and ensure full civil society involvement.

#### **Amnesty International calls on the Swedish Presidency to:**

- **organize a comprehensive exchange of views with civil society on the review of the HRC, also launching a discussion on the development of a long-term and strategic plan for the HRC, how this fits with broader EU activities and how the EU can improve on its own effectiveness within the HRC;**
- **make sure that the implementation of UPR outcome documents is prioritized in all bilateral dialogues with third countries, including those recommendations not accepted by states under review;**
- **strengthen the work of the UN on counter-terrorism and human rights, including both the resolution of the General Assembly and activities within the HRC, and strengthen the support given generally to the ICC in UN resolutions; and,**
- **ensure EU support for meaningful involvement of civil society in the new UN women's entity - at all levels, including on the governing board, and ensure the necessary cross-regional support for action during the 63<sup>rd</sup> session.**



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Amnesty International 2009

During the Swedish Presidency the EU is facing global and institutional changes. The economic and financial crisis will need responses that avoid social unrest and safeguarding economic, social and cultural rights will be a key factor. A new European Commission and European Parliament provide renewed possibilities to unblock institutional reform with strong political leadership by the presidency. Incorporated into these efforts should also be a renewed thinking about the EU's human rights policies and how internal mechanisms can be developed, as well as more transparent consultation mechanisms with civil society.

With this document, we present specific recommendations to the Swedish Presidency on a range of pressing human rights issues on which Sweden is uniquely placed to effect change. These include ensuring the adoption of the new anti-discrimination directive, taking decisive steps towards the proper implementation of the EU Guidelines on Torture, utilizing the window of opportunity to move towards standard setting in corporate accountability, and setting clear signals on human rights protection in the Stockholm Programme.

These recommendations are focused on the remit of the presidency and we believe they are achievable in a six month period. Amnesty International hopes that the Swedish Presidency will engage in working towards achieving these recommendations and, by implementing them, affirm the EU's role in upholding human rights as a guiding principle in external and internal policies.

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