

**RECOMMENDATIONS TO THE MALTESE
PRESIDENCY OF THE COUNCIL OF
THE EUROPEAN UNION**

JANUARY-JUNE 2017

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LIST OF RECOMMENDATIONS

As the Maltese government assumes the Presidency of the Council of the European Union (EU), Amnesty International calls on the Presidency to take this opportunity to put human rights issues at the forefront of its mandate. We therefore call on the Maltese government to act upon the following recommendations throughout its Presidency.

MIGRATION

- Champion fair sharing of responsibility by and in the EU
- Ensure EU cooperation on migration with non-EU countries is human rights centered

STOP TORTURE

- Fully implement changes to the EU 'tools of torture' regulation
- Lead EU and member state efforts to stop torture worldwide

SECURITY AND HUMAN RIGHTS

- Ensure EU cooperation with third countries prioritizes human rights protection
- Respect human rights while countering terrorism in the EU

HUMAN RIGHTS DEFENDERS

- Reinforce EU support to human rights defenders

HUMAN RIGHTS IN THE EU

- Strengthen Council monitoring of the human rights situation in EU member states

ANTI-DISCRIMINATION

- Strengthen EU anti-discrimination framework

MIGRATION

CHAMPION FAIR SHARING OF RESPONSIBILITY BY AND IN THE EU

Migration will continue to be a priority issue for the Presidency of the Council of the EU. The arrival of over one million asylum seekers in Europe in 2015 exposed the inherent flaws of the Dublin rules and the need for new measures based on solidarity while harmonising protection and reception standards across the EU. In 2016, the Commission proposed a new legislative package reviewing the Common European Asylum System (CEAS). The new package aims to achieve greater harmonization of procedures, reception standards and qualification rules, and better sharing of responsibility within the Dublin system. However, the new provisions also seek to shift responsibility for asylum seekers to countries outside the EU which are deemed “safe” for them, and punish asylum seekers who move irregularly within the EU.

Amnesty International has serious concerns about the proposed revision of the CEAS. Some key measures proposed by the Commission represent an overall lowering of standards, and risk undermining access to asylum and fair procedures in the EU. Furthermore, the proposed Dublin reform risks exacerbating uneven responsibility-sharing within the EU and exposing asylum seekers to even more hardship and violations of their rights.

The Maltese Presidency will be tasked with giving a strong push to the proposals in order to reach a common approach within the Council and agreement with the European Parliament. Amnesty International calls on the Maltese Presidency to ensure that the revision of the EU asylum acquis safeguards the right to seek asylum as a key principle in the EU and guarantees access to fair and individualized procedures; and to use this opportunity to operationalise the EU Treaty’s solidarity principle by changing Dublin into a system that provides for fair and equal sharing of responsibilities for asylum seekers arriving to the EU, independently of crisis situations.

In September 2016, during the United Nations General Assembly, world leaders failed to come up with a concrete plan to address large movements of refugees and migrants and share responsibility for the world’s refugees. There are 21 million refugees in the world, and more than half of them are divided across only 10 countries¹. In July 2015, EU states agreed to resettle 22,504 people. Despite this unambitious target, only 11,852 people have so far been resettled to 21 EU states.² Similarly, within the EU, relocation measures adopted in September 2015 to address the uneven responsibility placed on a few EU countries at the external borders, have proven difficult to implement and are far wide of the 106,000 target: as of 19 December, only 9,356 asylum seekers have been relocated to other member states from Italy and Greece.³ While leading on concrete arrangements to support Greece and Italy, and other EU states that receive larger numbers of asylum seekers, and ensure member states’ relocation commitments are fulfilled, the Maltese Presidency should also take any necessary steps to ensure greater participation and commitment from member states in the resettlement of refugees worldwide.

1 Amnesty International, Tackling the Global Refugee Crisis: From Shrinking to Sharing Responsibility (Index: POL 40/4905/2016) available at www.amnesty.org/en/documents/pol40/4905/2016/en/

2 European Commission, Communication from the Commission to the European Parliament, the European Council and the Council: Seventh Report on Relocation and Resettlement, 9 November 2016, available at http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20161109/seventh_report_on_relocation_and_resettlement_en.pdf

3 European Commission, Member States Support to Emergency Relocation Mechanism, 19 December 2016, available at http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/press-material/docs/state_of_play_-_relocation_en.pdf

WHAT THE MALTESE PRESIDENCY CAN AND SHOULD DO

The Maltese Presidency should promote the operationalisation of the principle of solidarity under Article 80 TFEU and also champion fair sharing of responsibility externally, while ensuring that the revised EU asylum acquis preserves access to asylum and to fair procedures in the EU.

SIGNS OF SUCCESS

- During the Maltese Presidency, the Council reaches an agreement on an effective EU-wide resettlement framework without conditionality;
- The Maltese Presidency proactively encourages the effective relocation of refugees from Greece and Italy by giving this issue a high priority on the agenda of Council meetings and suggests ways to overcome current obstacles;
- The Dublin IV regulation operationalises the solidarity principle in providing for fair and equal sharing of responsibilities for asylum seekers arriving to the EU independently of crisis situations;
- The EU asylum acquis does not prescribe mandatory admissibility or accelerated procedures based on safe country concepts.

ENSURE EU COOPERATION ON MIGRATION WITH NON-EU COUNTRIES IS HUMAN RIGHTS-CENTERED

In the face of a growing refugee crisis affecting regions in Africa and the Middle East, the EU has failed to look at the root causes of forced migration and provide safe and legal routes for those seeking protection in Europe. Instead, as it has done for the past decade, the EU and its member states have continued focussing on discouraging migration to the EU and increasing returns by seeking to enlist third countries as their gatekeepers, regardless of the human rights or security situation in these countries. In the course of 2016, the EU and/or member states have negotiated and agreed migration deals with countries such as Turkey, Sudan and Afghanistan in return for development aid and other types of financial and technical support.

In March 2016, the EU signed the EU-Turkey deal. Under the terms of the agreement, all new irregular migrants crossing from Turkey to Greek islands after 20 March 2016 are to be returned to Turkey. In exchange the EU made a number of commitments, including to resettle one Syrian refugee from Turkey to the EU for each Syrian refugee returned from Greece to Turkey (up to a maximum of 72,000 people) and to give Turkey up to 6 billion EUR. In May, the EU announced that it was giving the Sudanese government 155 million EUR aimed at reducing irregular migration⁴. In October the EU signed a 'declaration' with Afghanistan on migration cooperation, which was negotiated with Afghanistan in exchange for development aid. Amnesty International has raised concerns about the security and human rights situations in these countries and the failure to therefore guarantee basic rights to returned migrants and asylum-seekers. In all of these cases, there has been little, if any, transparency and scope for scrutiny of these arrangements negotiated and implemented with third countries. To Amnesty International and broader civil society organisations' dismay, the EU Partnership Framework, published in June 2016, further streamlines initiatives and deals with third countries which make migrants a bargaining chip, risk reinforcing repressive regimes, and on a broader scale, do serious damage to the EU's reputation globally.

The Maltese Presidency should seek to centre migration cooperation with third countries on respect for human rights, not on their undertakings on returns and readmissions. It is fundamental to subject any deal to rigorous human rights scrutiny, to build in protection sensitive evaluation, monitoring and accountability mechanism and to ensure that development aid is not made conditional on such cooperation.

WHAT THE MALTESE PRESIDENCE CAN AND SHOULD DO

The Maltese Presidency should initiate an evaluation of cooperation between EU and third countries, to assess the protection of refugee rights, define human rights benchmarks, and increase operational accountability.

POSSIBLE ACHIEVEMENTS AND SIGNS OF SUCCESS

- A call for evaluation and review is made and for the EU to define human rights benchmarks for new arrangements and projects;
- Partnership arrangements with third countries are devised, adopted, and implemented in a transparent manner, are open to scrutiny and include mechanisms to monitor their implementation;
- The EU partnership framework with third countries is rebalanced away from the narrow focus on discouraging migration and increasing returns of irregular migrants, towards longer term objectives that include respect for human rights;
- The follow up to the Valletta Summit places greater emphasis on legal pathways to migration and protection of vulnerable people.

⁴ Amnesty International, Tackling the Global Refugee Crisis: From Shrinking to Sharing Responsibility (Index: POL 40/4905/2016) available at www.amnesty.org/en/documents/pol40/4905/2016/en/

STOP TORTURE

FULLY IMPLEMENT CHANGES TO THE EU 'TOOLS OF TORTURE' REGULATION

On 23 November 2016, the European Parliament and Council signed into law changes to the European Union's landmark regulation combatting the trade in equipment that can be used to torture (Regulation (EC) 1236/2005)⁵. These changes came into force in December 2016.⁶

Positive amendments to the regulation include: an explicit ban on the transit through the EU of equipment specifically designed for torture, ill treatment or execution; a ban on brokering activities by EU-based companies when prohibited goods do not touch EU soil; a ban on the promotion and advertising of prohibited equipment online and at trade fairs; a ban on providing training and technical assistance in the use of prohibited equipment; and an 'urgency procedure' which enables the EU to more quickly put in place controls on new types of equipment.

The adoption of these changes marks another milestone in the fight against torture and other ill-treatment. While the EU has set up strong standards and sent an important message worldwide by voting in favour of these measures, member states must now show their commitment by fully implementing them and by putting in place additional procedures and measures at national level to meet the overall objectives of the regulation.

WHAT THE MALTESE PRESIDENCY CAN AND SHOULD DO

The Maltese Presidency should lead on implementation by member states of amendments to the 'Tools of Torture' regulation.

POSSIBLE ACHIEVEMENTS AND SIGNS OF SUCCESS

- EUMS put into practice changes to Regulation (EC) 1236/2005 and commit to meeting their obligations fully, including to regularly report publicly on its implementation;
- The Maltese Presidency together with the Commission and EEAS develops a strategy to promote similar regulations at regional and international level worldwide;
- The Maltese Presidency and European Commission formally agree a timetable of outstanding issues to be dealt with following the coming into force of the amended regulation, including how to monitor and control brokering and training activities carried out by EU nationals and companies in third countries;
- Member states in the Council agree to adopt national measures and procedures, as foreseen by the Regulation and existing EU/WTO law, to:
 - introduce further controls on brokering and technical assistance related to banned goods;
 - immediately suspend individual transfers when they believe that a non-listed good will be used to enforce the death penalty or in torture and other ill treatment.

⁵ Council Regulation (EC) No 1236/2005 concerning the trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment <http://data.europa.eu/eli/reg/2005/1236/2015-07-13>

⁶ Regulation (EU) 2016/2134 of the European Parliament and of the Council of 23 November 2016 amending Council Regulation (EC) No 1236/2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment <http://eur-lex.europa.eu/eli/reg/2016/2134/oj>

LEAD IN EU AND MEMBER STATE EFFORTS TO STOP TORTURE WORLDWIDE

In 2016, the EU took several significant steps in its work to prevent and respond to torture and other ill-treatment worldwide, including the revision of the EU Guidelines on Torture, due to be finalised in 2017. The Maltese Presidency has an important opportunity to use its leadership role to ensure that the EU and its member states make full use of the reissue of the EU Guidelines to reaffirm their commitments and to step up their efforts to stop torture worldwide. Likewise, the mid-year review of the Action Plan on Human Rights and Democracy in 2017 will be a key moment for Malta to lead on identifying specific gaps and ensuring sustained political engagement and practical action against torture worldwide.

In December 2016, the annual EU NGO Forum, entitled “United against all forms of Torture - applying a cross-cutting perspective to prevent, prohibit and redress torture globally”, was dedicated to the issue of torture and ill treatment.⁷ Participants in the Forum, including the High Representative herself ⁸, stressed the importance of mainstreaming human rights throughout EU foreign policy and reflected how concerns about torture and ill treatment are linked both to all other human rights as well as key foreign and security policy issues on which the EU and its member states are engaged today.

In the first half of 2017, the Maltese Presidency has the opportunity to take forward the recommendations emerging from the Forum to lead a united EU approach against torture at home and abroad. The EU and its member states must keep concerns about the use and risk of torture and ill treatment at the top of the agenda during all meetings on foreign and security policy up to the highest level, including Foreign Affairs Council meetings. At the same time, the Presidency can ensure concrete actions and commitments are undertaken within the EU to match efforts in engagement with third countries, in particular the criminalisation of torture in national law, and the ratification and implementation of the Optional Protocol to the Convention Against Torture (OPCAT) by all member states.

WHAT THE MALTESE PRESIDENCY CAN AND SHOULD DO

The Maltese Presidency should use its leadership role to ensure that the EU and its member states make full use of opportunities in the first half of 2017 to intensify EU and member state efforts to stop torture worldwide.

POSSIBLE ACHIEVEMENTS AND SIGNS OF SUCCESS

- When the revised EU Guideline on torture is issued, the Council, fully backed by EUMS, adopts Conclusions committing to intensify EU and member states’ action against torture worldwide, following the model of the 2014 Council Conclusions on the tenth anniversary of the HRD guidelines, calling for the stepping up of EU political and material support on human rights defenders (HRDs);
- The Presidency leads on specific discussions with EUMS to set up concrete recommendations on how to put the guidelines into practice and ensures that discussions on torture and ill-treatment are mainstreamed into key foreign policy and

⁷ EEAS, EU-NGO Forum on Human Rights, 1 December 2016, available at https://eeas.europa.eu/headquarters/headquarters-homepage/16240/eu-ngo-forum-human-rights_en

⁸ EEAS, Speech by HRVP Mogherini at the EU-NGO Human Rights Forum, 2 December 2016, available at https://eeas.europa.eu/node/16292_en

- security cooperation debates; the Presidency promotes debates, dissemination and capacity building policy to accompany the revised guidelines;
- The Presidency promotes concrete actions and commitments against torture within the EU that match efforts towards third countries, such as the criminalization of torture in all member states' national law, and the ratification and implementation of the OPCAT by all member states;
- The Presidency uses recommendations emerging from the EU NGO forum on torture to lead discussions on how to take forward a united EU approach against torture at home and abroad;
- The Presidency uses the mid-year review of the Action Plan on Human Rights and Democracy in 2017 to lead on identifying specific gaps in EU and member state action and ensuring sustained political engagement and practical action against torture worldwide.

SECURITY AND HUMAN RIGHTS

ENSURE EU COOPERATION WITH THIRD COUNTRIES PRIORITISES HUMAN RIGHTS PROTECTION

The European Union (EU) Global Strategy (EUGS) “Shared Vision, Common Action: A Stronger Europe. A Global Strategy for the European Union’s Foreign and Security Policy”⁹ of June 2016 sets out the EU and member states’ strategy in their foreign and security policy for the coming years, including “the EU’s core interests and principles for engaging in the wider world” and effective ways to jointly confront “challenges such as energy security, migration, climate change, violent extremism, and hybrid warfare.”

The EUGS rightly points to several factors that will be crucial as the EU and its member states put their human rights commitments into practice. These include: greater coherence between external and internal human rights practices and recognition of its importance for the EU’s global credibility; championing the indivisibility and universality of human rights; systematic mainstreaming of human rights throughout the institutions; deepened engagement with civil society and Human Rights Defenders (HRDs); and a renewed commitment to speak out against shrinking civil society space and violations of rights to freedoms of expression, peaceful assembly and association.

Amnesty International considers that in order for the EUGS to be truly strategic in mainstreaming human rights they must present real benchmarks and tangible objectives.

The EU and its member states have committed to place human rights at the centre of all external action, and thus at the centre of their relations with third countries. The EU and its member states must ensure that any sharing of intelligence or other security cooperation with third countries cannot lead to human rights violations or be used to persecute, harass or arrest political opponents, human rights defenders and activists. Equally, the EU must take a strong stance affirming the absolute prohibition of torture and ill treatment, as well as against the death penalty in all relations with third countries, including in security cooperation. Any such security cooperation must include clear safeguards against the use of torture-tainted information to avoid any risk of EU or member states acquiescence in torture.

The Maltese Presidency of the EU presents an opportunity to put EU human rights commitments into practice, both by catalysing EU and member state engagement in the six months of the Presidency and by setting a longer term framework to reinforce its own human rights work within the EU and beyond.

WHAT THE MALTESE PRESIDENCY CAN AND SHOULD DO

The Maltese Presidency must ensure human rights are at the centre of EU foreign and security policy, counter-terror cooperation and intelligence-sharing with third countries.

POSSIBLE ACHIEVEMENTS AND SIGNS OF SUCCESS

- In line with EU and member state commitments to place human rights at the centre of all external action and with the renewed commitments to human rights mainstreaming in the EUGS, the Maltese Presidency should take forward a discussion among EUMS

⁹ European Union Global Strategy, Shared Vision, Common Action: A Stronger Europe. A Global Strategy for the European Union’s Foreign and Security Policy, 28 June 2016, available at https://europa.eu/globalstrategy/sites/globalstrategy/files/eugs_review_web.pdf

on practical ways to mainstream human rights into the work of the Council and in the work of the EU and its member states in third countries worldwide;

- Foreign Affairs Council (FAC) includes specific discussions and agreements on how to address human rights violations when discussing country situations;
- FAC and other EU foreign policy discussions take on more country situations involving human rights crises with a view to adopting EU and member state strategies to address these violations;
- The EU mainstreams human rights in foreign policy by organizing more regular, substantive and systematic exchanges with non-governmental organisations (NGOs) and human rights defenders (HRDs). The Maltese Presidency should ensure that at least one of these meetings takes place during its mandate, focusing on the mainstreaming of human rights in EU foreign policy. The Maltese Presidency can likewise take the lead by meeting with human rights defenders regularly throughout the Presidency;
- The Maltese Presidency uses several key opportunities, including the EU-Africa summit, the likely EU-China summit and the mid-term review of the EU Action Plan on Human Rights and Democracy, to catalyse EU and member state action on HRDs and to raise concerns about civil society space and the situation of individual HRDs and their ability to work, worldwide;
- The Maltese Presidency leads on a review on the implementation of the 'Operational Human Rights Guidance for EU external cooperation actions addressing terrorism, organised crime and cybersecurity' to be made public at the end of its mandate;
- The EU partnership framework with third countries is refocussed towards longer term objectives that include respect for human rights, instead of short term EU gains on returns.

RESPECT HUMAN RIGHTS WHILE COUNTERING TERRORISM IN THE EU

The year 2016 has yet again seen a number of despicable attacks across Europe. The protection of the people in the territory of the EU is rightfully one of the priorities of the Institutions and that will continue to be in 2017. The Maltese Presidency has placed ensuring security among its top priorities, while also stressing this must be done while upholding human rights and rule of law which underpin the very existence of the Union. Indeed providing security and the protecting human rights are not conflicting but complementary and mutually reinforcing goals. Member states provide security so that EU citizens can fully exercise their rights – not by taking those rights away.

Transparency in decision-making procedures and the meaningful participation of civil society can help ensure that the negative impacts of any security measures on human rights are not overlooked and that limitations on these rights are limited to what is strictly necessary and proportionate. However, the fast-track procedures used by both EU institutions and member states to adopt counter-terrorism measures severely limit the time for careful consideration and adequate consultation with human rights and other experts. The Directive on Combatting Terrorism that was proposed and negotiated within one year had no impact assessment, and no time was made for meaningful consultation with civil society. As a consequence, this legislation violates the principle of legality and freedom of expression, leaving much room for abuse.

The Maltese Presidency has indicated that it will prioritise improved information sharing in the context of counter-terrorism. While effective cooperation and information sharing is indeed crucial to increase safety and security, it should at all times be conducted in full compliance with EU and member states' human rights commitments. Amnesty International calls upon the Maltese Presidency to ensure that respect for human rights is central to these discussions.

WHAT THE MALTESE PRESIDENCY CAN AND SHOULD DO

The Maltese Presidency ensures that the Council adopts counter-terrorism measures that are human rights compliant.

POSSIBLE ACHIEVEMENTS AND SIGNS OF SUCCESS

- Ensure all agreements, measures and legislation adopted under the Maltese Presidency in the field of countering terrorism are fully human rights compliant. In order to achieve this, human rights experts and civil society are adequately consulted in the development of all measures;
- Intelligence information-sharing among EU member states, between member states and states outside the EU, and between EU agencies (e.g. Europol) and foreign intelligence and police agencies is conducted in compliance with the absolute ban on torture, including the prohibition on the use of information and evidence suspected of having been extracted under torture or other ill-treatment.

HUMAN RIGHTS DEFENDERS

REVIEW EU SUPPORT TO HUMAN RIGHTS DEFENDERS (HRDS)

On the tenth anniversary of the EU Guidelines on Human Rights Defenders in 2014, the Council of the EU adopted conclusions affirming the EU and member states' commitment to action in "strong support" of HRDs, including to "intensify political and material support to human rights defenders and step up efforts against all form of reprisals". Together with the recently created EU Global Strategy (EUGS)¹⁰ and its commitments to interface with and support civil society worldwide, the EU guidelines on HRDs set important standards for the EU and its member states' work to promote and protect Human Rights Defenders and their vital work. To truly deliver on these stated commitments, the EU guidelines must urgently be matched by meaningful action.

Against today's global backdrop of shrinking space for civil society and ongoing threats to human rights defenders, the EU and its member states must take a visible stance of support for HRDs and engage with third countries to uphold civil society and deliver on their human rights commitments. Concerted and concrete steps to support HRDs include trial observation, regular consultation with HRDs, their families and lawyers; prison visits and strategic use of public diplomacy in support of HRDs and the issues they raise as well as in response to other human rights violations in country.

As one of its key priorities, the Maltese Presidency aims at focusing on building the stability of Europe's neighbours through further EU engagement. Stability can only come if it goes hand in hand with the respect and promotion of human rights. The Maltese Presidency should take this opportunity to further promote the full implementation of existing EU policies and commitments to give full political, material and other support to those working to realise these rights.

WHAT THE MALTESE PRESIDENCY CAN AND SHOULD DO

The Maltese Presidency must ensure the EU fully supports HRDs and takes steps to address the current shrinking space for civil society worldwide.

POSSIBLE ACHIEVEMENTS AND SIGNS OF SUCCESS

- The situation of HRDs, civil society space and support to key human rights issues raised by HRDs are included in key Council discussions and conclusions;
- Discussions on EU and EUMS relations with strategic partners such as China, Russia and USA as well as on conflict and crisis situations, reflect commitments to protect and support HRDs and include strong positioning toward partners worldwide on accountability for International Humanitarian Law and International Human Rights Law violations raised by HRDs;
- Gaps in engagement under the HRD guidelines are identified and subject of EU and member state efforts to address them in practice, including in the mid-term review of the Human Rights Action Plan in 2017;
- EU and member states show leadership in involving HRDs in Council discussions and publicly meeting HRDs in third countries and in Brussels.

¹⁰ European Union Global Strategy, Shared Vision, Common Action: A Stronger Europe. A Global Strategy for the European Union's Foreign and Security Policy, 28 June 2016. available at https://europa.eu/globalstrategy/sites/globalstrategy/files/eugs_review_web.pdf

HUMAN RIGHTS IN THE EU

STRENGTHEN COUNCIL MONITORING OF THE HUMAN RIGHTS SITUATION IN EU MEMBER STATES

As outlined in Articles 2 and 3 of the Treaty on the Functioning of the EU, the EU is founded on principles including respect for human rights and the rule of law, and the Union's aim specifically includes the promotion and protection of those rights. Ensuring human rights are adhered to by all member states requires a regular and systematic approach at EU level, however, it is clear that the current institutional focus of the Council of the European Union to human rights and the rule of law inside the EU does not meet the importance given to them in the Treaties. The Council has previously acknowledged its 'responsibility' for application of the EU Charter of Fundamental Rights, and the idea of an annual Council assessment in this regard.¹¹ While the Council's 'Rule of Law Dialogue', established in 2014¹² and reviewed in 2016, can contribute to this, it does not fulfil this role in its current form. Following the continued threats to human rights and rule of law across the Union and the unsuccessful application of the Rule of Law Mechanism in 2016, it is clear more than ever that the Council needs to step up and protect the role of the Union as a credible human rights actor both globally and at home.

In seeking a more impactful role for the Council, the Presidency must underline that the institution's role lies not simply in 'promoting a culture of respect for the rule of law'¹³ and human rights in the EU, but also in the active monitoring of the situation in member states, and a real response to situations where the Union's own institutions and international and European human rights bodies identify a particular crisis or structural problem in one or several member states.

WHAT THE MALTESE PRESIDENCY CAN AND SHOULD DO

The Maltese Presidency strengthens Council monitoring of the human rights situation in EU member states by specifically addressing serious threats in member states.

POSSIBLE ACHIEVEMENTS AND SIGNS OF SUCCESS

- The Maltese Presidency proposes to discuss serious threats to human rights and rule of law in specific member states where these threats are clearly identified by relevant bodies such as the European Institutions, the Council of Europe and the United Nations;
- The Council should explicitly acknowledge the role that civil society organisations (CSOs) have in securing respect for human rights and holding governments and EU institutions to account for operating transparently and in accordance with the law. This acknowledgement includes ensuring adequate consultation of civil society when discussing these matters.

¹¹ Council of the European Union, Council Conclusions on the Commission 2013 report on the application of the EU Charter of Fundamental Rights and the consistency between internal and external aspects of human rights protection and promotion in the EU, paragraphs 22 and 24, available at www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/jha/143099.pdf

¹² Council of the European Union, Conclusions of the Council of the European Union and the member states meeting within the Council on ensuring respect for the rule of law, 14 December 2014, available at www.consilium.europa.eu/en/workarea/downloadasset.aspx?id=40802190993

¹³ Council of the European Union, Conclusions of the Council of the European Union and the member states meeting within the Council on ensuring respect for the rule of law, 14 December 2014, available at www.consilium.europa.eu/en/workarea/downloadasset.aspx?id=40802190993

ANTI-DISCRIMINATION

STRENGTHEN EU ANTI-DISCRIMINATION FRAMEWORK

Discrimination and violence, particularly targeting ethnic and religious minorities, lesbian, gay, bisexual, transgender and intersex (LGBTI) people, as well as women, remain a Europe-wide concern. The Council should prompt bold action to combat persistent discrimination, violence and hate crime across the EU.

The adoption of the Framework Decision on Racism and Xenophobia (2008/913/JHA) in 2008 represented a great step forward by the EU with regard to the protection against hate crimes in Europe. However, this instrument is limited to only cover racism and xenophobia and not other hate crimes motivated by different grounds of discrimination - leaving a clear gap in protection needs. Furthermore, problems remain with the effective implementation of the instrument, in particular with regard to the actual investigation and recording of such crimes. Both these concerns should be addressed in the context of the Maltese Presidency priorities around LGBTI issues and the planned event in the context of abovementioned Framework Decision (2008/913/JHA). This can be done, where appropriate, in cooperation with the EU High Level Group on combating racism, xenophobia and other forms of intolerance.

Amnesty International welcomes the Maltese Presidency's prioritization of combating gender-based violence given the fact that according to latest reports in 2016 ¹⁴, 1 in 3 women in Europe have experienced physical and/or sexual violence since the age of 15, fifty women die every week from male domestic violence and 75% of women in top management positions have experienced sexual harassment at work. While the stated focus of Malta is on promoting the sharing of best practices and exchanging information, it follows logically that due attention will be given to the matter of EU accession to the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (the Istanbul Convention).

Implementation of the Istanbul Convention at EU and member state level will have a real impact on the lives of women, who deserve to live a life free from all forms of violence. Malta is ideally placed to champion this position as it has already ratified the Istanbul Convention and has extended protection from hate crime on grounds beyond the EU legislation.


¹⁴ European Women's lobby, EU ratification of the Istanbul Convention: A vital opportunity to end violence against Women, 25 November 2016, available at, www.womenlobby.org/Factsheet-EU-ratification-of-the-Istanbul-Convention-A-vital-opportunity-to-end

WHAT THE MALTESE PRESIDENCY CAN AND SHOULD DO

The Maltese Presidency works to strengthen the EU and member states' response to violence based on gender and all other discriminatory grounds.

POSSIBLE ACHIEVEMENTS AND SIGNS OF SUCCESS

- The Maltese Presidency proactively works to strengthen the EU & member states' response to hate crime, including in the framework of activities around LGBTIQ issues and Framework Decision (2008/913/JHA), by:
 - promoting effective implementation of existing EU standards on hate crime, including taking into consideration racist motivation behind all crimes and ensuring that racist motivation is adequately investigated and recorded; highlighting the existing gap in the EU legislative framework, as there is lack of EU standards on hate crimes perpetrated on the grounds of other characteristics, such as sexual orientation, gender identity or disability.
- The Maltese Presidency does everything within its power to ensure EU accession to the Istanbul Convention takes place as soon as possible, and within the broadest scope of EU competence as possible and promotes accession by EU and member states in events on gender-based violence.



**AMNESTY INTERNATIONAL
IS A GLOBAL MOVEMENT
FOR HUMAN RIGHTS.
WHEN INJUSTICE HAPPENS
TO ONE PERSON, IT
MATTERS TO US ALL.**

RECOMMENDATIONS TO THE MALTESE PRESIDENCY OF THE COUNCIL OF THE EUROPEAN UNION

JANUARY – JUNE 2017

In this submission, Amnesty International presents specific recommendations on human rights policy for the Maltese presidency of the EU to deliver on during its six month term (Jan-June 2017). Amnesty International will access the presidency process throughout. Amnesty International calls on the Presidency to take this opportunity to put human rights issues at the forefront of its mandate.

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