

## AMNESTY INTERNATIONAL PUBLIC STATEMENT

3 February 2022 IOR 60/5190/2022

# DELIVERING ON HUMAN RIGHTS COMMITMENTS IN POLICY AND PRACTICE: RECOMMENDATIONS TO THE EUROPEAN UNION (EU) - AFRICAN UNION (AU) SUMMIT, 17-18 FEBRUARY 2022

Ahead of the European Union (EU)-African Union (AU) summit on 17-18 February 2022, Amnesty International calls on African and European leaders to deliver on their human rights commitments in policy and practice, as they confront multiple challenges together. At the EU-AU Foreign Affairs Ministerial Meeting in October 2021, both sides [re-affirmed](#) their commitment to political dialogue aimed at enhancing human rights and informing the overall AU-EU cooperation.

Today, urgent human rights challenges on the agenda include the following:

- ensuring equal access to COVID-19 vaccines, diagnostics and treatments
- protecting human rights in conflict situations
- upholding the rights of refugees and migrants
- safeguarding civil society space, and
- standing for human rights at the multilateral level.

## ENSURING EQUAL ACCESS TO COVID-19 VACCINES, DIAGNOSTICS AND TREATMENTS

The EU-AU summit will be a key opportunity to act on both continents and globally for equal access to vaccines, treatments, diagnostics, and other COVID-19 health technologies and goods. Equal access to COVID-19 vaccines is vital in ensuring that every individual realizes the right to enjoy the best attainable state of physical and mental health in the context of the current pandemic. However, the vastly unequal global distribution of COVID-19 vaccines has served as a stark reminder of how the pandemic has magnified existing global inequalities. While wealthy countries had fully vaccinated more than 60% of their populations by the end of 2021, in Africa less than 8% of people had been fully vaccinated.

COVID-19 vaccines have been mainly supplied to African countries through the COVAX facility, the Africa Vaccine Acquisition Trust and bilateral donations. Too often, supplies have been insufficient, or their arrival times have been unpredictable or delayed, making it hard for governments to build trust among their populations and structure effective roll out campaigns. While COVAX reported increased vaccine availability in late 2021, it was still unable to supply sufficient vaccines in Africa, to meet the WHO's 40% vaccination target by the end of 2021.

The inequality in the global distribution of vaccines has been created by pharmaceutical companies and mostly wealthy nations. Pharmaceutical companies continue to prioritize supplying high-income countries who in turn have stockpiled more doses than they need and can use. These countries have also blocked attempts to increase supplies to low and middle-income countries. In this context, the EU has blocked the proposal by India and South Africa for a TRIPS waiver at the World Trade Organization (WTO). The EU consistently opposed attempts to free up intellectual property rights that would enable other states to fulfil their obligations to protect their people. To date, the communications presented by the European Commission to the WTO [fail to provide useful solutions](#) and cannot be considered as an alternative to the waiver proposal for global access to vaccines, treatments, diagnostics, and other COVID-19 health technologies and goods.

Equal access to vaccines within and across countries remains urgent, and cooperation between states imperative, to ensure that treatment and vaccines are acceptable, affordable, accessible and available to all. In this regard, Amnesty International makes the following recommendations:

- All EU and AU member states should **immediately redistribute any surplus doses in a timely fashion to countries that need them**, ensuring that the doses can be used as part of an effective roll-out plan.

- These states also must **join the efforts of India and South Africa-led TRIPS Waiver proposal at the WTO** to ensure broader access to medicines for all during the current pandemic and work to ensure that any international pandemic treaty or other international instrument that is negotiated at the WHO will provide for equal access to medical tools during any future public health emergency.
- In the absence of sufficient supplies of COVID-19 vaccines, AU member state [governments must step up and take more decisive action](#) to develop robust roll-out plans to **prioritize the vaccination of groups most at risk from the virus as well as to reach people in hard-to-reach areas**, including innovative and targeted means of increasing vaccine uptake, as well as tried-and-tested methods such as direct community outreach and mobile clinics.
- In line with their respective human rights responsibilities and obligations, global pharmaceutical companies and world leaders must [ramp up fair distribution of vaccines](#) and ensure that a fair number of doses go to low-income countries, including in Africa.

## PROTECTING HUMAN RIGHTS IN CONFLICT SITUATIONS

In the area of peace and security, the AU and EU must step up the protection of human rights in conflict situations. Conflicts continue to be particularly prevalent in Africa, a reality that compelled the AU in December 2020 to review its deadline for [silencing the guns in Africa](#) from 2020 to 2030. African countries currently affected by conflict include Burkina Faso, Cameroon, Central African Republic (CAR), Democratic Republic of the Congo (DRC), Ethiopia, Mali, Mozambique, Niger, Nigeria, Somalia and South Sudan. Perpetrated both by government forces and armed groups, indiscriminate and targeted attacks on civilians and civilian infrastructure remain pervasive in African conflicts. Impunity for war crimes, crimes against humanity and other serious violations of international humanitarian and human rights law is equally persistent, leaving victims of these crimes and violations without justice or redress.

The humanitarian impact of conflicts in Africa has been devastating for millions of people. In the conflict in the Tigray region of Ethiopia, for example, over nine million people are in need of humanitarian assistance, of which 5.4 million are in Tigray. Since July 2021, only 10% of the aid needed has reached the region and the government has never allowed essential drugs and other health supplies to enter the region, causing the near collapse of the health system. [According to the United Nations World Food Programme \(WFP\)](#), no humanitarian convoy has been dispatched to Tigray since mid-December 2021 due to insecurity along the only operating route for humanitarian aid delivery. Blockades and restrictions on humanitarian access by governments or armed groups have also been used as a war tactic in the conflicts in Burkina Faso, Cameroon, DRC, Mali and South Sudan.

At the EU-AU Foreign Affairs Ministerial Meeting in October 2021, the need to strengthen EU-AU cooperation on peace and security was emphasized. In this context, Amnesty International makes the following recommendations:

- The upcoming EU-AU summit should send a robust joint message to all parties to conflicts in Africa to protect civilians by **stopping indiscriminate and targeted attacks on civilians and civilian structures**.
- The AU and EU should call on governments in conflict-affected countries to bolster efforts to fight impunity by **undertaking thorough, independent, impartial, effective, and transparent investigations into crimes under international law** and by bringing suspected perpetrators to justice.
- The EU and AU must demand that all parties to conflicts in Africa **allow unfettered humanitarian access and immediately and unconditionally lift any existing blockades and restrictions**.

## UPHOLDING THE RIGHTS OF REFUGEES AND MIGRANTS

Migration and mobility continue to be a key test for human rights in AU-EU relations. Today, both sides are challenged to always respect and uphold the right to seek asylum and the principle of *non-refoulement*.

In recent years, a major concern has been the plight of tens of thousands of refugees and migrants, overwhelmingly nationals of African countries, setting off from Libya by boat in the hope of reaching Italy and other European countries through the Mediterranean Sea. With the support of other EU member states and institutions, Italy has pursued cooperation with Libya to externalize EU borders. The core aim of the Memorandum of Understanding signed by the two countries on 2 February 2017, and renewed without modification three years later, is to ensure that Italy keeps refugees and migrants from reaching its shores and that Libyan maritime forces are equipped to intercept people attempting the crossing of the central

Mediterranean and return them to Libya. Exactly five years ago, on 3 February 2017, the heads of state or government of all EU member states signed the Malta Declaration, which supports this approach.

These agreements have been followed by the provision of speedboats, a maritime coordination centre, training, assistance in the declaration of a Libyan Search and Rescue Region, i.e., a large sea area where the Libyan Coast Guard is responsible for coordinating search and rescue operations, and support in the coordination of such operations.

EU institutions and member states have concurrently worked to ensure that rescue obligations would not fall on their own actors, by keeping their naval assets far from the central Mediterranean. Such efforts have reduced the number of refugees and migrants disembarked in Italy, by dramatically increasing the number of people intercepted at sea by Libyan coastguards and returned to Libya – over 32,000 in 2021, bringing the total to over 82,000 since 2017 – despite the international prohibition to return anyone to a place where they [face serious abuse](#). Once disembarked in Libya, women, men and children face prolonged arbitrary detention in horrific conditions and a host of other well-documented human rights violations and abuses, including torture and other ill-treatment, sexual violence, extortion, forced labour and unlawful killings. Instead of addressing this human rights crisis, the Libyan Government of National Unity (GNU) continues to facilitate further abuses and entrench impunity.

Despite full awareness of these horrific violations, and in the face of [calls by the UN Secretary-General](#) “to re-examine policies that support interception at sea and return of refugees and migrants to Libya”, the EU and its member states continue to cooperate with Libyan authorities to send fleeing men, women and children back to Libya, without conditioning support upon enforceable human rights guarantees and a due diligence framework.

At the same time, EU member states have targeted independent rescue NGOs with administrative obstacles and legal action. Across the EU, those helping refugees and migrants have been threatened, smeared, intimidated, harassed and prosecuted simply for helping others in need. Dozens of prosecutions have been launched against NGOs and individuals in [Italy](#), [Greece](#) and [France](#). Across the EU, this [criminalization of solidarity](#) affects civil society organizations and individuals assisting refugees and migrants as well as having a profound impact on the situation of people on the move.

Serious violations of the rights of refugees and migrants continue to be documented also on other migratory routes, including the Spain/Morocco border, the Greece/Turkey border, the Balkans route and the borders of Poland, Lithuania and Latvia with Belarus. Similarly, refugees and migrants in AU member states face serious human rights violations, including in [Libya](#), [Tanzania](#), [Uganda](#) and [Kenya](#).

Meanwhile, rather than ensuring that negotiations around the new EU Pact on Migration lead to effective solidarity and adequate protection, EU member states are pursuing legislative amendments that would undermine access to asylum in Europe.

In light of the horrific human rights violations and abuses targeting refugees and migrants, Amnesty International makes the following recommendations:

- EU and AU member states and institutions should **refrain from engaging in any form of cooperation that might prevent refugees and migrants from leaving a country where they do not have access to effective protection and are exposed to a real risk of human rights violations**. Consistently with this, any form of cooperation on migration and border control that facilitates the containment of people in Libya should be suspended.
- AU and EU member states must work to **ensure accountability for systemic human rights violations at the EU’s borders**, including through the adoption of an independent border monitoring mechanism which has a broad scope and fulfils the requirements of independence and transparency, as [called for](#) by Amnesty International and other civil society organizations.
- At the same time, EU and AU member states should continue to **work towards upholding in practice international maritime and human rights law for people at sea**, including a fair and predictable disembarkation and relocation mechanism, to ensure that people rescued at sea are promptly disembarked in places of safety and never carried to countries where they are exposed to risks of serious human rights violations, such as Libya.
- **All criminalization of solidarity with refugees and migrants must end**, including any misuse of criminal, civil and administrative laws and measures to target and harass individuals and organizations working for the rights of refugees, asylum seekers and migrants.
- The AU, EU and their member states should **publicly recognize, promote, and celebrate the role of these organizations and individuals as human rights defenders and protect their legitimate activities** - from reporting human rights violations to the provision of humanitarian assistance, including rescue at sea and basic services

among others. It is the responsibility of European and African leaders to create the conditions for all individuals and groups working with asylum seekers, refugees, and migrants to operate effectively and safely.

- **Negotiations around the measures proposed under the new EU Pact on Migration must reflect the positive role of mobility in our societies**, promoting a common European asylum and migration system that is based on solidarity, protection and responsibility-sharing within the EU and globally; a commitment to improve and invest in adequate reception and human rights protection; and accountability for human rights abuses and violations committed by authorities against migrants, refugees and asylum seekers.
- At the global level, it will be crucial to **expand safe and regular pathways for people seeking safety, and to set up regular mobility schemes enabling other people wishing to move** to improve their livelihoods and to access fair, effective and non-discriminatory opportunities to do so in safety and dignity.

## SAFEGUARDING CIVIL SOCIETY SPACE

Today, human rights defenders (HRDs) on both continents find themselves more embattled than ever. Government rhetoric and media campaigns smearing activists and their work foster misinformation and hate that can put their safety at risk. In Poland, several women's rights defenders were [detained or faced what they describe as politically motivated criminal charges](#) for actions during protests following an October 2020 ruling starkly restricting access to legal abortion. In addition, these HRDs face serious and violent threats from the public. In [Poland](#) and [Hungary](#), the space for civil society continues to shrink, as most recently proven by revelations on the use of Pegasus spyware on journalists, opposition politicians and others in both countries.

Like in Europe, civic space has been shrinking in Africa in recent years. Across the region, HRDs are being silenced or criminalized. In 2021, Amnesty International documented the arbitrary arrest and judicial harassment of HRDs and opposition activists in many African countries, including Benin, Cameroon, Congo, DRC, Eswatini, Kenya, Niger, Rwanda, Senegal, Tanzania, Zambia and Zimbabwe. In Cameroon, for example, more than 100 people – including protesters from the country's Anglophone regions and protesters linked to the main opposition party – have been languishing in [arbitrary detention](#) for long periods, where accusations of torture and other ill-treatment abound.

Governments have also curtailed media freedom, including by suspending newspapers and radio and TV stations. Attacks on media freedom have often gone hand-in-hand with internet shutdowns and suspension of social media.

These concerns are paralleled by concerns about civil society space and access to institutions at regional level. In recent years, overt political backlash and open hostility targeted at the African Court on Human and Peoples' Rights (African Court) have threatened to push it towards the edge of an existential crisis. In 2019 and 2020, three countries, Benin, Côte d'Ivoire and Tanzania, withdrew their declarations allowing individuals and NGOs to directly access the African Court. These withdrawals came against the backdrop of growing hostility against HRDs and rapidly deteriorating human rights situations in the three countries. On a positive note, [Guinea](#) and [Niger](#) made the declaration in 2021, bringing the total number of countries that allows direct access to the African Court for individuals and NGOs to eight. The number of countries that have ratified the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights has recently increased to 33.

In the run-up to the EU-AU Summit, EU-based civil society access to the institutions ahead of the meeting remained limited. To date, no formal invitation for consultations ahead of the summit (nor for an official civil society event) was sent to the Human Rights and Democracy Network (HRDN) consisting of 58 European NGOs working on these issues. At the same time, HRDN's counterpart CONCORD Europe, the European confederation of relief and development NGOs, publicly [expressed concern](#) that "civil society has been shut out from having any real influence over the shape or likely outcomes of the Summit" due to "frictions and differences between EU institutions and services" as well as "the more prominent and nationalistic role of many EU Member States."

At the [AU-EU human rights dialogue](#) in November 2021, both sides "commended the work of civil society and human rights defenders...and stressed the critical importance of preserving a free and open space for their programmes and activities." In the spirit of delivering on this commitment, Amnesty International makes the following recommendations:

- EU and AU member states must **end the harassment and intimidation of human rights defenders and activists**, drop all charges against those facing prosecution, and immediately and unconditionally release those who are arbitrarily detained or imprisoned. They must respect media freedom, including by ensuring that media outlets can operate independently.

- The AU and EU must **guarantee unfettered access to their respective institutions for civil society**, which will be key to human rights progress on both continents. In particular, AU member states that are yet to ratify the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of the African Court on Human and Peoples' Rights and/or make the declaration allowing direct access to the Court for individuals and NGOs should do so as a matter of urgency.
- All EU member states should **support the development of EU-wide legislation to prevent Strategic Lawsuits against Public Participation (SLAPP)**, move forward on **accession to the European Convention on Human Rights (ECHR) and the Istanbul Convention**, adopt measures at the EU level that protect civil society and human rights defenders within the EU and ensure effective inclusion of civil society's views in EU processes.
- The upcoming EU-AU summit must **build human rights into all areas of the intercontinental partnership** and explicitly support the role of civil society and human rights defenders in shaping relations from peace and security to migration and the COVID-19 pandemic response.

## STANDING FOR HUMAN RIGHTS AT MULTILATERAL LEVEL

EU and AU member states must prioritize human rights in their collaboration at multilateral fora and act in defence of crucial human rights gains at the multilateral level. In this regard, Amnesty International makes the following recommendations:

- AU and EU decision-makers must ensure they have **concrete strategies to counter the recent pushback on existing human rights norms at multilateral fora**, including against the universality and indivisibility of human rights.
- The EU, the AU and their member states must deliver **full political and financial support to their respective human rights mechanisms** and ensure that these, together with a strong and independent civil society, can guarantee delivery and further progress on human rights for all in Africa and Europe.
- The EU, the AU and their member states must pro-actively counter current restrictions and **ensure that civil society participation and space at all multilateral fora are protected and expanded**.