

Reference: **TIGO IOR 10/2023.4246**

To the attn. of:

Mr Pedro Sánchez

Prime Minister of Spain

Cc: Ambassador Marcos Alonso Alonso

Permanent Representative of Spain to the European Union

Dear Prime Minister Sánchez,

Amnesty International recommendations to the Spanish Presidency of the Council of the European Union

As Spain assumes the Presidency of the Council of the European Union (EU), Amnesty International calls on you to ensure that human rights are at the forefront of your mandate. The Spanish presidency comes at a time of increased challenges in Europe: ongoing Russia's war against Ukraine, mounting geopolitical tensions, new conflicts and instability across the world, worsening impacts of the climate crisis, increasing challenges to the international human rights system and those seeking to defend human rights. We continue to observe the backsliding on the rule of law and the growing anti-gender movement within the EU, while there is a significant uptake in sea crossings in the Mediterranean, with many cases of shipwrecks and drownings due to a failure to prioritise prompt rescue, new policies to obstruct operations by NGO rescue vessels, and continued reliance on interceptions by third countries to prevent arrivals to the EU.

Amnesty International urges you to:

- **Lead on effective and sustainable asylum and migration policies centred on solidarity and human rights.** A common European asylum and migration system should be based on 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. The General Approaches on the Pact measures so far do not reflect these principles. Member States must continue to keep their protection system open and effectively accessible to all people seeking safety in the EU, in addition to meeting the ambition of implementing a robust Union Resettlement Framework combined with other safe and legal pathways. The Spanish Presidency should also steer negotiations on the proposed Crisis Regulation away from allowing for sweeping derogation to the asylum rules, which would de facto enable the prevailing practice in several member states of pushing people back in the border areas, and from increasing reliance on third country cooperation to externalise refugee protection and migration control responsibilities.
- **Put human rights at the centre of EU foreign policy:** in response to new and ongoing conflicts and escalating human rights violations worldwide, the Spanish Presidency should lead the EU and its member states toward a foreign policy that puts human rights first, by:

- **Prioritizing human rights in EU policy towards third countries and regions**, including Latin America, Ukraine, China, Israel and the occupied Palestinian territories, Sudan, Türkiye, Tunisia and the United Arab Emirates (UAE); and refrain from side-lining human rights in efforts to cooperate with third countries on trade, energy security, digital and other global challenges;
 - **Stepping up collaboration in defence of the international human rights system** and the universality of human rights by actively forging truly global partnerships and coalitions, at multilateral fora and beyond;
 - **Strengthening EU and member state support to Human Rights Defenders (HRDs)** through the adoption of annual Foreign Affairs Council Conclusions on HRDs. These Conclusions should provide a strategic vision outlining how the EU and its member states will support HRDs globally in light of the increasing challenges to their work. They should address key policy shortcomings and inconsistencies in the EU's HRD policy, mainstream HRD concerns across the EU's different policy areas and strengthen the EU's crisis response and contingency planning capabilities. The Spanish Presidency should also lead the EU and its member states toward a more coherent, coordinated, and predictable visa policy for HRDs.
- **Ensure concrete progress on protecting and promoting human rights and the rule of law within the EU**, in particular by ensuring the strongest possible **Directive on combatting violence against women and domestic violence**; advancing on ongoing **proceedings under Article 7(1) of the Treaty on European Union (TEU)**; advancing on **EU accession to the European Convention on Human Rights**; supporting the adoption of strong EU legislation to counteract **Strategic Lawsuits against Public Participation (SLAPP)**; and protecting **civic space and HRDs** within the EU.
 - **Lead on a robust EU tech regulation, providing strong fundamental rights protections against potential harms induced by Artificial Intelligence (AI) systems, and aimed at ending unlawful targeted surveillance and ensuring greater regulation of the cyber-surveillance industry:**
 - Member states should seize the opportunity to address challenges regarding the human rights impact of Artificial Intelligence (AI), while ensuring strong fundamental rights safeguards under the EU AI Act.¹ The EU should ban harmful use and export of AI technologies, incompatible with human rights, including technologies used for mass surveillance, predictive policing, and which violate the rights of people on the move. In addition, public transparency and accountability related to the use of high-risk AI by public authorities, including for law enforcement and migration management purposes, is key to safeguarding fundamental rights of impacted people and communities. Requirements for high-risk AI systems should extend to exported AI systems developed by EU-based companies.
 - EU member states must immediately put in place a moratorium on the sale, transfer, and use of spyware technologies, as well as a ban on the most highly invasive types of spyware. Given the breadth and scale of the findings which emerged from the Pegasus Project, there is an urgent need to halt surveillance technology enabled activities of all states and companies, until there is a human rights-compliant regulatory framework in place.²
 - **Lead on finalising a strong and effective corporate sustainability law which works for rightsholders and provides access to justice for victims of corporate harm.** The ground-breaking Corporate Sustainability Due Diligence Directive (CSDDD) has the potential to close a legislative gap which has allowed companies operating in the EU to escape accountability for widespread rights abuses

¹ Amnesty International, *EU: Ban on most harmful use of AI moves a step closer*, 11 May 2023, <https://www.amnesty.eu/news/eu-ban-on-most-harmful-use-of-ai-moves-a-step-closer/>

² Amnesty International, *Briefing on Recommendations to the European Union to end unlawful targeted surveillance*, 7 October 2021, <https://www.amnesty.org/en/documents/eur01/4850/2021/en/>

around the world for many years. However, in order for the CSDDD to begin to address corporate harm it must first meet international business and human rights standards and be strengthened in comparison to what has been proposed by the European Commission and Council of the EU. The CSDDD must require companies from all sectors to conduct human rights and environmental due diligence in relation to their full value chain, with respect to all human rights and using an intersectional perspective. Companies must be required to engage meaningfully and safely with rightsholders, and member states must address the barriers victims of corporate harm often face when attempting to access justice.

- **Promote bold and human rights consistent measures at COP28**, including:
 - Ensuring a commitment by all states for a rapid and equitable fossil fuel phase out.
 - A clear plan to deliver this year the agreed goal of raising at least 100billion USD for climate change mitigation and adaptation in developing countries and provide the shortfall for previous years.
 - Operationalising the Loss and Damage Fund and its resourcing with adequate and additional financial resources to remedy climate-induced loss and damage in developing countries, ensuring the most affected groups – including women, Indigenous peoples, children and other marginalized groups – can effectively access resources and other form of remedies.
 - A Global Stocktake that delivers clear, actionable, specific, and measurable human rights-consistent plans for all aspects of climate action.
 - Adequate civic space at UN Framework Convention on Climate Change (UNFCCC) meetings for civil society, youth, women, people living with disabilities and Indigenous peoples from all countries, including by ensuring the UNFCCC Secretariat develops clear human rights standards and principles for host country agreements which should be made public, and press for meaningful improvements in the human rights situation in Egypt, the current COP27 presidency, and in the UAE ahead of COP28.

Please find enclosed with this letter an annex providing further analysis and recommendations to the Spanish Presidency.

We look forward to working closely with you and with our Spanish counterparts during the Presidency and beyond. We stand ready to provide any further information required.

Thank you in advance for your action to deliver on the EU's human rights commitments at this crucial time.

Yours sincerely,

Eve Geddie



Head of Office and Advocacy Director
European Institutions Office
Amnesty International

Esteban Béltran



Director
Amnesty International Spain