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Mr Antti Rinne

The Prime Minister of Finland
Snellmaninkatu 1 A, Helsinki

28 June 2019

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

Dear Prime Minister,

As the Finnish government prepares to assume 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 Finnish Presidency comes at a key moment of institutional transition and as the EU faces a host of challenges in its internal and external policy. With human rights under assault worldwide and many states currently disengaging from the international human rights framework, the EU and its Member States are increasingly called upon to exercise leadership on human rights at global level, including at multilateral fora, as most recently highlighted in Council Conclusions on multilateralism.

Given Finland's longstanding and vocal support for human rights, as reaffirmed in your Presidency's¹ and government's programs², we trust that you will use this opportunity to influence the future direction of the EU by championing a robust, coherent and consistent human rights policy throughout the Presidency.

We would particularly encourage you to act upon the following recommendations:

1. Put human rights defenders (HRDs) front and centre of EU Foreign Policy work

2019 marks the 15th anniversary of the EU Guidelines on HRDs, yet worldwide, HRDs are being demonized, harassed, unjustly prosecuted and detained for who they are and what they do.

The EU possesses several policies and instruments to support HRDs, yet more can be done to embed these tools and actions on HRDs within a broader strategic vision. To help confront the rapidly evolving challenges HRDs face today, a more strategic, innovative and impact-oriented EU policy is needed.

¹ "Sustainable Europe, Sustainable Future – Finland's Presidency Programme, Presidency of the Council of the European Union, 1 July – 31 December 2019", page 5: <https://eu2019.fi/documents/11707387/14346258/EU2019FI-EU-puheenjohtajakauden-ohjelma-en.pdf/3556b7f1-16df-148c-6f59-2b2816611b36/EU2019FI-EU-puheenjohtajakauden-ohjelma-en.pdf.pdf>

² Program of Prime Minister Antti Rinne's Government, 6 June 2019, page 8:
http://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/161664/Inclusive%20and%20competent%20Finland_2019.pdf?sequence=7&isAllowed=y

To strengthen the EU's policy and political commitment towards HRDs, Amnesty International calls on the Finnish Presidency to strive towards:

- **Annual Foreign Affairs Council Conclusions on EU actions to promote and protect 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 the EU's 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.
- **Result-oriented country level strategies for EU action on HRDs,** ensuring that EU actions are tailored to country-specific circumstances.³ These strategies should complement the global strategic vision developed in the annual FAC conclusions and outline steps to 1) Promote and protect individual HRDs, 2) Ensure an enabling overall environment and 3) Support the human rights issues raised by HRDs.
- **A global public communications strategy on HRDs,** with explicit guidance and benchmarks on content, timing and level at which communications should be made, how they can be coordinated between the EU and its Member States, and how to enhance the impact and visibility of EU actions, including through targeted social media.
- **Cultivating a culture of innovation within the EU,** by designating a focal point in the EEAS and member state MFAs responsible for identifying and propagating good practices and seeking to promote innovative and adaptable approaches to supporting HRDs.
- **A strategy to support HRDs with intersectional concerns** and facing specific challenges and risks as a result. These will include WHRDs, LGBTI defenders, indigenous HRDs, HRDs working on land/environmental/territory or business and human rights. To achieve meaningful impact, the EU HRD guidelines must be linked up with existing EU policies on women's rights, LGBTI rights, business and human rights, indigenous peoples and other policies on specifically targeted groups.

2. Rule of law, human rights and shrinking space within the European Union

The Finnish Presidency comes at a crucial time in which the founding principles of the EU are under severe pressure. Some Member States are adopting policies that actively go against these principles, and the EU is scrambling to respond adequately to this challenge. The EU cannot stand by idly while human rights and the rule of law, as well as civil society standing up for it, are so viciously attacked. The Council plays a central role in the EU response and it is therefore imperative that the Finnish Presidency does all within its power to move the Council forward and find adequate solutions to these threats, in accordance with your government's programme in the area of rule of law⁴.

In particular, Amnesty International calls on the Finnish Presidency to:

- **Ensure actual progress on the Article 7(1) TEU proceedings with regards to both Poland and Hungary** by proposing a meaningful way forward for hearings and further steps in both cases. It is imperative that

³ Mirroring already existing local HRD strategies, see for example the EU' local strategy for HRDs in Afghanistan:

https://eeas.europa.eu/sites/eeas/files/170115_final_eu_local_strategy_for_hrds_in_afghanistan.pdf; Nepal:

http://www.europarl.europa.eu/meetdocs/2009_2014/documents/droi/dv/201/201101/20110110_053euguidelineshrdnepal_en.pdf; and Turkey:

https://www.avrupa.info.tr/sites/default/files/2016-11/EU_local_strategy_on_HRD_draft_07012011_L-EN.pdf

⁴ "Sustainable Europe, Sustainable Future – Finland's Presidency Programme, Presidency of the Council of the European Union, 1 July – 31 December 2019", page 2: <https://eu2019.fi/documents/11707387/14346258/EU2019FI-EU-puheenjohtajakauden-ohjelma-en.pdf/3556b7f1-16df-148c-6f59-2b2816611b36/EU2019FI-EU-puheenjohtajakauden-ohjelma-en.pdf.pdf>

Member States continue to hold Polish authorities to account within the framework of the Article 7.1 TEU procedure. Within this process, the Council should continue to debate ongoing developments and urge Polish authorities to address all of the Commission's recommendations, as well as implement decisions by the Court of Justice of the EU and immediately halt the harassment of judges.

For Hungary, it is high time to move beyond procedural matters and properly examine the reasoned proposal of the EP. This requires the swift start of hearings with authorities, based on the data provided in the EP report and up-to-date information which could be provided by sources quoted in this report, such as EU, Council of Europe and United Nations bodies and institutions. To adequately address all relevant concerns, a schedule of hearings could be proposed indicating when the different topics will be discussed, giving all relevant actors, including civil society, adequate time to provide input.

If Hungarian and Polish authorities continue their current path, this should ultimately lead to a determination that indeed there is a clear risk of a serious breach of the values listed in Article 2 TEU. In any case, the Council can decide to address recommendations to the Hungarian and Polish authorities with the aim of bringing these Member States back on the common path of the EU.

- **Ensure the review of the “Rule of Law Dialogue” meaningfully improves the capacity of the Council to stand up for human rights and the rule of law** within the EU and addresses serious concerns regarding threats to Article 2 TEU by Member States. For the “Rule of Law Dialogue” to be more meaningful, it is crucial that: more time be made available, ensuring space for real dialogue beyond prepared statements; civil society be consulted in preparations for the dialogue, including regarding the selection of the topic and the drafting of the discussion paper; conclusions are adopted with specific recommendations, the implementation of which is assessed at working party level. Discussions around the establishment of a new peer review mechanism in the context of this review should also be opened up to relevant external actors, rather than remain behind closed doors.
- **Move forward accession to the European Convention of Human Rights (ECHR) and the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) by the EU**, as also stated in your government's program⁵, to ensure that people across Europe enjoy more complete recognition and protection of their human rights. The Presidency should work strategically with Member States and other relevant actors, including the Council of Europe and civil society, to ensure current blockages are resolved and meaningful progress is made on both files.
- **Stand up for civil society in Europe**, by working to adopt measures at the EU level that protect civil society and by ensuring effective inclusion of civil society's views in Council processes, including those mentioned above. Where it is not possible to invite civil society to the table, consultations and (de)briefing sessions can be set up with civil society around important debates, particularly where human rights and rule of law are at stake.

3. Lead on asylum and migration policies centred on solidarity and human rights

The Finnish Presidency marks the 20th anniversary of the Tampere Conclusions which set an ambitious programme for the establishment of an area of freedom, security and justice accessible to all. The Tampere milestones included a common EU asylum and migration policy based on absolute respect of the right to seek asylum and a firm commitment to the principle of *non-refoulement*. Since then, policies have emerged and taken root which present a

⁵ Program of Prime Minister Antti Rinne's Government, 6 June 2019, page 73:

http://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/161664/Inclusive%20and%20competent%20Finland_2019.pdf?sequence=7&isAllowed=y

clear erosion of those principles. Various plans have been conceived and implemented with the explicit objective of containing refugees and migrants in their regions of origin or deflecting them away from the EU borders.

At the height of the Syrian refugee crisis in 2015, EU and Member States' efforts focused on strengthening cooperation with Turkey to contain and return refugees there. More recently, massive support and assistance has been given by the EU and some key Member States to Libya to prevent arrivals of refugees and migrants to the EU, despite knowing that migrants and refugees are arbitrarily held in detention centres in Libya, exposed to torture, extortion and rape, after being intercepted at sea by the Libyan Coast Guard. At the same time, some EU governments have launched an unprecedented offensive against NGOs operating search and rescue vessels, thus leaving little genuine 'rescue' capacity in place in the face of continuing incidents and loss of life in the Mediterranean Sea. Internally, Member States have proven incapable of agreeing a reform of the Dublin system, which could ensure fairer responsibility sharing for asylum seekers and refugees across the EU.

To ensure that the EU asylum and migration are actually human-rights based⁶, Amnesty International calls on the Finnish Presidency:

- **To put on the Council agenda an assessment of the extent to which current externalization policies contribute to endangering the lives of migrants and refugees**, and agree to reset migration cooperation with third countries focusing it on the priority of protecting the human rights of refugees, asylum-seekers and migrants;
- **To make saving lives a top priority** by agreeing at Council level to enable robust search and rescue operations in the Mediterranean Sea;
- Against the backdrop of stalemate in the reform of the Dublin system, to **work towards the establishment of a temporary mechanism for disembarking and relocating in Europe people rescued at sea**;
- **To step up efforts to implement and increase EU-wide resettlement pledges and open alternative pathways to people in need of international protection** – including for the thousands stranded in Libya – and commit to reviewing migration policies with a view to facilitate regular pathways for would-be migrants;
- **Agree at the Council level to refrain from smear campaigns targeting human rights defenders who help refugees and migrants**; publicly recognize the legitimacy and value of their activities in the promotion of human rights; and ensure that NGOs and individuals can operate in a safe and enabling environment in which those who defend solidarity are celebrated and not punished.

4. Promote Responsible Business Conduct in the EU

Despite its endorsement of the United Nations Guiding Principles on Business and Human Rights (UNGPs) and the recognition of the human rights and environmental risks that are linked to the operations of EU businesses worldwide, the EU still lacks a coherent and comprehensive policy framework to ensure business' respect for human rights. In the meantime, national legislation has been adopted or is currently pursued at Member State level, risking further fragmentation of the legal framework.

We welcome the Finnish Presidency's commitment to investigate a legislative approach to ensure company's respect for human rights.⁷ Amnesty International calls on the Finnish Presidency to encourage the Council to support

⁶ "Sustainable Europe, Sustainable Future – Finland's Presidency Programme, Presidency of the Council of the European Union, 1 July – 31 December 2019", page 15: <https://eu2019.fi/documents/11707387/14346258/EU2019FI-EU-puheenjohtajakauden-ohjelma-en.pdf/3556b7f1-16df-148c-6f59-2b2816611b36/EU2019FI-EU-puheenjohtajakauden-ohjelma-en.pdf>

coherent regulation on responsible business conduct at EU level, ensuring a consistent application of human rights due diligence standards. In particular, the Finnish presidency should lead the Council to:

- Engage with the European Commission and the European External Action Service to promptly and effectively develop **an EU Action Plan on responsible business conduct**, with the aim of achieving the full implementation of the UNGPs throughout the EU;
- Commit to a **legislation establishing mandatory Human Rights Due Diligence** requirements regarding a company's operations, investments, business relations and global supply chains. This legislation should also ensure access to remedy for individuals and communities affected by businesses' global operations, including establishing parent liability;
- Take a constructive approach in the current negotiations with the European Parliament on the legislative review of the **dual use export regime**, with the aim to establish effective protection of human rights against unlawful surveillance. Licensing decisions for cyber-surveillance technologies should be based on human rights criteria and exports must be denied in case of significant human rights risks.
- Encourage Member States to establish more ambitious and forward-looking **National Action Plans on the Implementation of the UNGPs** and to effectively implement them. Equally, existing National Action Plans that fail to effectively protect human rights, provide access to remedy or compel companies to respect human rights, should be revised.

5. Lead in the fight against climate change

Although the European Union has committed to fighting climate change, it remains one of the world's most carbon polluting regions, and its climate and energy policies have been criticised by environmental groups.

The current EU target for emission reductions (i.e. a reduction of 40% of domestic greenhouse gas emissions by 2030 in comparison to 1990 and by 80-95% by 2050)⁸ and Member States pledges for emission reductions by 2030 made under the Paris Agreement are insufficient to avoid catastrophic levels of climate change.⁹ European institutions and some Member States are increasing their support for the use of natural gas and the development of relevant infrastructure, which is not compatible with the target of limiting global warming to 1.5°C above pre-industrial temperatures. While the Special Report of the UN Intergovernmental Panel on Climate Change (IPCC) showed that the global consumption of coal should be cut at least by two thirds by 2030, Germany and Poland stand out for their continued reliance on the use of coal.¹⁰

⁷ Program of Prime Minister Antti Rinne's Government, 6 June 2019, page 115:

http://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/161664/Inclusive%20and%20competent%20Finland_2019.pdf?sequence=7&isAllowed=y

⁸ Families from around Europe and outside have launched in 2018 the "People's Climate Case" at the European General Court demanding that the EU accelerates its climate action and urgently increases its 2030 climate target. See <https://peoplesclimatecase.caneurope.org/>

⁹ According to Climate Action Tracker, "if all countries were to follow EU's approach, warming could reach over 3°C and up to 4°C".

¹⁰ Only recently, in January 2019, Germany issued plans to phase-out coal-fired power by 2038. This is inconsistent with the recommendations of the IPCC to limit global warming to 1.5°C. See <https://www.greenpeace.org/international/press-release/20429/greenpeace-welcomes-germanys-plan-to-phase-out-coal-but-urges-haste/>

To ensure that the EU acts as a global leader in climate action¹¹, we call on the Finnish Presidency to:

- Lead the Council of the EU to review the EU 2030 climate targets, aligning the emission reduction target with the imperative to limit the increase of global average temperature to 1.5°C above pre-industrial levels;
- Lead the discussions for a phasing out of fossil fuels, aiming at shifting to 100% renewable energy and ending the use of all fossil fuels (coal, oil and gas) in the EU by 2040;
- Trigger policy discussions on how to ensure a just and fair climate transition, consistent with Member States' obligations under the Paris agreement and human rights law, to a zero-carbon economy which respects, protects and fulfils human rights and leaves no one behind, both within the EU and abroad;
- Encourage the commitment to adequately fund and support human rights-consistent climate initiatives in countries which would not be able to effectively mitigate and adapt to climate change alone, as well as to provide support to people whose rights have been negatively affected by climate change in developing countries.

We hope to establish a close cooperation with the Finnish authorities over the coming months and remain available to provide any further information required and discuss how the Finnish Presidency can act upon the above-mentioned recommendations.

Yours sincerely,

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¹¹ "Sustainable Europe, Sustainable Future – Finland's Presidency Programme, Presidency of the Council of the European Union, 1 July – 31 December 2019", page 10: <https://eu2019.fi/documents/11707387/14346258/EU2019FI-EU-puheenjohtajakauden-ohjelma-en.pdf/3556b7f1-16df-148c-6f59-2b2816611b36/EU2019FI-EU-puheenjohtajakauden-ohjelma-en.pdf.pdf>