



Reference: **TIGO IOR 10/2023.4926**

To the attn. of:

Alexander De Croo

Prime Minister of Belgium

Cc: Ambassador Willem Van de Voorde

Permanent Representative of Belgium to the European Union

Dear Prime Minister De Croo,

AMNESTY INTERNATIONAL RECOMMENDATIONS TO THE BELGIAN PRESIDENCY OF THE COUNCIL OF THE EUROPEAN UNION

Belgium assumes the Presidency of the Council of the European Union (EU) at a critical moment, and Amnesty International calls on you to ensure that human rights are at the forefront of your mandate. The Belgian presidency comes at a time of increased challenges in Europe and beyond: Russia's ongoing war against Ukraine, attacks by Hamas and other Palestinian armed groups on Israel and Israel's bombardment of the Gaza strip, mounting geopolitical tensions, increasing challenges to the international human rights system and those seeking to defend human rights. We continue to witness backsliding on the rule of law and a growing anti-gender movement within the EU. At the same time, as negotiations on complex asylum reforms enter their final stage, EU institutions risk reaching a final compromise that weakens the rights of asylum seekers, refugees and other migrants, and leads to less coherent, sustainable, humane and effective responses to people seeking safety at EU borders. Crucial legislative efforts by the EU to provide strong fundamental rights protections against potential harms induced by Artificial Intelligence (AI) systems, risk falling short unless remaining gaps and loopholes in the draft Regulation are closed.

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. In the final stage of negotiations on the New Pact on Migration and Asylum, EU institutions risk weakening protections for people at borders and less coherent responses. The Crisis Regulation under negotiations, including proposals allowing states to deviate from EU asylum standards in cases of so-called 'instrumentalisation' of migrants, is at odds with this principle. The Belgian Presidency should steer the last stage of technical negotiations away from sweeping derogations to asylum rules, which risks further normalising and enabling the prevailing practice of pushbacks, arbitrary detention, and denial of asylum by several member states. At the same time, the Belgian Presidency should uphold the rule of law and refugee protection standards at domestic and European level, encouraging all member states to keep their protection system open and effectively accessible to all people seeking safety in the EU, invest in a meaningful expansion of safe and regular pathways, and move away from a growing 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 Belgian Presidency should lead the EU and its member states toward a foreign policy that centres on human rights and remains consistently committed to justice and accountability, by:
 - **Prioritizing human rights in EU policy towards third countries and regions,** including Ukraine, Israel and the Occupied Palestinian territories, China, India, Ethiopia, Sudan, Burundi, Türkiye and Iran; and refrain from side-lining accountability for serious human rights violations 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.¹ 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, mainstream HRD concerns across the EU's different policy areas and strengthen the EU's crisis response and contingency planning capabilities. The Belgian 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**, including the criminal offence of rape with a consent-based definition; advancing on ongoing **proceedings under Article 7(1) of the Treaty on European Union (TEU)**; 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:**
 - Before the adoption of the **AI Act**, the Belgian Presidency should lead EU member states to close remaining gaps and loopholes in the draft Regulation to **prioritise the protection and promotion of human rights. The Act must ban the use of AI technologies that are fundamentally incompatible with human rights**, including facial recognition (RBI), predictive policing, and AI systems that violate the rights of people on the move; **prohibit the export** of these systems from the EU; close **loopholes and removing exemptions** for private companies, and law enforcement, migration and national security authorities,² that undermine effective enforcement of the Act and public accountability of state agencies.³ The Act must not create a blanket exemption on national security grounds, and derogations for public transparency and accountability of AI use by law enforcement and migration authorities.
 - The Belgian Presidency should encourage EU member states to 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 Predator Files disclosures⁴, and the previous 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.⁵

¹ See also Amnesty International, *Defending Defenders? An Assessment of EU Action on Human Rights Defenders*, 25 September 2019, <https://www.amnesty.org/en/documents/ior60/0995/2019/en/>

² Civil society calls have been echoed by the UN High Commissioner for Human Rights, the European Data Protection Supervisor, and the network of European anti-discrimination bodies and national human rights institutions.

³ A civil society statement on fundamental rights in the EU Artificial Intelligence Act, *EU Trilogues: The AI Act must protect people's rights*, 12th July 2023, <https://www.amnesty.eu/news/eu-trilogues-the-ai-act-must-protect-peoples-rights/>

⁴ Amnesty International, *The Predator Files: Caught in the Net*, 9 October 2023, <https://www.amnesty.org/en/documents/act10/7245/2023/en/>

⁵ 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/>

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

We look forward to working closely with you 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
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Wies De Graeve



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