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# Human Rights Begin at Home

Recommendations to Ireland's EU Presidency

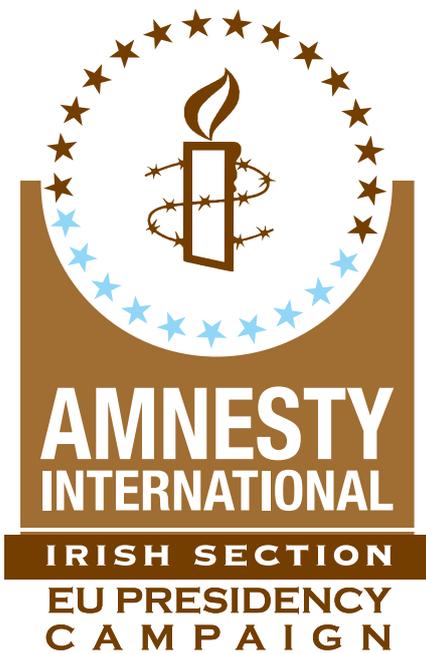


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# PART ONE

## EU human rights policy – state of play

*Ireland assumes the Presidency in a year of great change for the European Union as ten new members join, a new European Parliament is elected and a new European Commission appointed. Added to that will be the continued pressure to complete a new constitutional treaty.*

*It is logical that the stated priority of the 2004 Irish and Dutch presidencies is “that the Union continues to function effectively while integrating successfully the new Member States”. Beyond that, their overarching objective is “to ensure that the Union continues to grow and develop as a community of values, providing security and a high quality of life for its peoples, while assuming its responsibilities towards the wider world”.*

*But what does this mean for human rights?*

### ■ Security above all

Human rights protection is at a low ebb everywhere. The quest for security is now recognised to have fundamentally changed the human rights landscape across the world. Fighting “terrorism” is the overriding priority on the global agenda. It is being used as a pretext for the gross abuse of human rights and a general undermining rather than strengthening of the rule of international law. This is giving rise to more insecurity, not less. Despite the solemn political pledges that there can be no security without human rights, for many people, today’s world is now a more dangerous place.

This global security agenda continues to have a profound effect on the EU and its human rights policy.

In external relations, the EU’s political will to implement policies, to put human rights into practice, appears to be on the wane. There are good intentions and achievements in certain areas, but mainly in limited, favourable conditions, or at micro level. However, in the face of major human rights crises and persistent erosion of international standards and mechanisms, the EU is failing to put forward a strong rights agenda.

At home, the satisfaction over the proposed inclusion of the Charter of Fundamental Rights into the new European constitution is not matched by a determination to ensure compliance. Which is a problem, because human rights are violated within the EU’s own borders. But it also represents a serious political handicap in light of the EU’s enlargement and in particular with a country like Turkey in the queue. Meanwhile, legislation facilitating cooperation in criminal matters is being pushed through without the necessary safeguards, while asylum and immigration policies are increasingly at odds with human rights and protection obligations.

### ■ Council of Ministers lacking purpose

The EU’s ambitions are and remain high. But the overall performance is missing a critical edge, and it is particularly at the level of the Council and the member states that the collective strength of purpose that is required to pursue human rights goals effectively and coherently is lacking.

Adopting guidelines is not enough – they must be made to work. In December 2003 the Council adopted new EU Guidelines on Children and Armed Conflict at the very moment that its Working Group on Human Rights

had to conclude that the implementation of the Guidelines on Torture, adopted two-and-a-half years ago, had failed even to get off the ground. The problem in a nutshell: intentions are good, the tools are there, but there is a real problem with the capacity and the collective strength of purpose to put them into practice.

It is easy to criticize, and of course that criticism must be addressed carefully. We must recognise that the EU has both the ambition and the potential to be the most powerful global force for human rights. The EU cannot be accused of sitting still. On the contrary, the Council's Annual Report on Human Rights shows an impressive array of activities. But with all this ambition, potential and effort, there is too little to show in terms of impact and effectiveness.

### ■ **Recognising the problem**

At a more fundamental political level, there is a reluctance to acknowledge that there is a problem at all, and to reflect on the larger picture of the EU's increasing difficulties to set and pursue a strong human rights agenda. The EU is failing to set the right example as far as human rights at home are concerned, leaving itself open to accusations of double standards which affect its international credibility. It is avoiding serious consideration of the impact of the "war on terror" on human rights. It pays lip service to lofty goals of coherence and mainstreaming and relegates its interaction with some of the worst human rights offenders to the safe havens of 'human rights dialogues' and silent diplomacy.

In terms of coherence, for example, why is the performance of the High Representative of the Council for CFSP so lacking in human rights profile, in sharp contrast with that of the Commissioner for External Relations?

### ■ **Human rights just an "add-on"?**

There is an overriding impression that while the EU prides itself on being a community of values, when the going gets tough, EU member states seek the lowest common denominator and are willing to sacrifice principle for political compromise. Human rights have become more of an add-on than a central determining force – dispensable in the face of strong opposition, negotiable when confronted with other interests, taken for granted at home.

If the EU is a community of values, it is not succeeding in putting human rights at the heart of its policies. And yet, there is growing recognition that the various "wars" – on terror, on illegal immigration, on poverty - can only be won in the long term through a strong and consistent rights and democracy approach.

After the 50th anniversary of the Universal Declaration of Human Rights in 1998 sparked a policy impulse and generated a series of concrete instruments, now, two years after "11 September", the EU human rights machine is running out of steam. The conclusion must be that there is a need for more thorough reflection and evaluation of the EU's human rights policy as a whole. Are the forthcoming Irish and Dutch presidencies willing and able to go beyond good intentions and stewardship, and prepare the Union for such reflection?

While this may be difficult in a year of such fundamental change for the EU, it is precisely the right time to confront this challenge. If it is not taken up now, enlargement may effectively relegate human rights to the backburner for a long time to come. But more importantly, the changes in 2004 have everything to do with the EU's ambition to indeed "grow and develop as a community of values, providing security and a high quality of life for its peoples, while assuming responsibilities towards the wider world".

## ***How the EU is responding to world events***

- The pervasive impact of the “war on terror” has far-reaching consequences for human rights worldwide.

***The EU has not been ready to acknowledge that. It is pursuing a security-driven agenda both domestically and in external relations but has not examined human rights implications in any systematic manner .***

- Serious human rights crises persist in a number of countries, often in a context of violent conflict, with the international community failing to have any decisive influence.

***The EU's existing policy tools and frameworks have not been used in such a way as to effectively confront some of the world's worst violators. In no such situations have human rights ever constituted a bottom line.***

- The United Nations Commission on Human Rights is in decline as the world's highest body for human rights protection that should ensure public scrutiny of situations of gross and persistent abuse.

***Despite very considerable efforts on specific initiatives, the EU has not mustered the collective strength of purpose to confront and counter the general negative trend.***

- The international community has so far failed to develop a proper human rights dimension in relation to armed conflict and conflict resolution.

***The new European security strategy provides an important conceptual framework but its primary focus will be on the military aspects of crisis management, rather than on prevention through other means that can effectively address underlying causes. In that respect, control of small arms - arguably the world's real weapons of mass destruction - is a serious omission.***

- Effectively addressing underlying causes of human rights abuse across the spectrum of political, developmental and trade activity requires coherence, consistency and complementarity.

***The EU continues to manifest a significant lack of coherence, and a disconnection between the political domain and the concrete application of human rights instruments. Meanwhile 'mainstreaming' of human rights is not taking hold, especially in economic and development relations where the “war on poverty” is stagnating.***

## ***How the EU is responding to events inside Europe***

- Human rights violations occur within the EU and its member states, old and new. Amnesty International's 2003 annual report included criticisms of 13 out of the 15 current member states. Incorporating the Charter of Fundamental Rights into the constitution is not a solution in itself.

***While the European Parliament and the Commission have taken initiatives, the Council has for too long been unwilling to even acknowledge that structural problems of human rights compliance occur and are properly a concern to be addressed also at EU level.***

- Judicial and police cooperation have accelerated since 2001.

***The European Arrest Warrant and subsequent legislation are based on the principle of mutual trust and recognition, but lack the necessary human rights safeguards or adequate knowledge of member states' legal systems on which to rationally base such trust.***

- European governments relentlessly pursue ever tighter asylum legislation, lowering standards of refugee protection.

*Proposals that would form the core of a future EU common asylum system may end up as seriously flawed in terms of human rights. The EU's 'war on illegal immigration' likewise risks undermining the international refugee protection system.*

- Racism and xenophobia are growing problems throughout the EU.

*The European Commission produced a proposal for a Council framework decision on combating racism and xenophobia in 2002. Work on this proposal has been suspended since February 2003 due to difficulties raised by one member state.*

### Conclusion

2003 was not a good year for human rights. Amnesty International now asks the Irish and Dutch presidencies to take the lead in shaping a new rights agenda that empowers the EU to:

- *confront the world's most entrenched human rights crises, putting rights protection at the heart of conflict resolution;*
- *uphold rights protection when countering "terrorism" and "illegal immigration";*
- *shape EU accountability for human rights observance within an enlarged Union.*

This message is urgent if the EU is to stop the ever-widening gap between ambition and performance.

# PART TWO

## Amnesty International's recommendations to Ireland's EU Presidency

### A Proposals for the internal agenda: human rights in the EU

*"There was continued concern about the treatment of asylum-seekers and about allegations of misconduct by police (...) about racist violence and harassment of ethnic minorities and about the inadequacy of legislation in this area (...) about the treatment in prison of people with mental illness."*

From the Amnesty International Report 2003, chapter on Ireland. Amnesty's reports show concerns in virtually all EU member states, present and new.

#### ■ Human rights compliance in EU countries

Amnesty International has long been pointing out the need to address, at EU level, the observance of human rights within EU member states. The European Parliament, in its annual reports since 2001, has underlined the need for this and facilitated the establishment of the Network of Independent Experts that first reported in 2003 on compliance within the EU.

AI's call for a recognition of the Commission's role as 'guardian of the treaties' in the protection of fundamental rights within the EU received a response with the Commission communication of October 2003 on the application of Article 7 of the Treaty of the European Union (TEU). This provision allows the EU to take action where a member state is in serious and persistent breach of the common values contained in Article 6 TEU, or risks such a breach.

AI welcomed the Commission communication as a first step towards acceptance of a key element in Article 7 TEU, that of adequate monitoring in order to recognise risks and actual breaches of fundamental rights within the EU. However, the communication failed to recognise the real possibility of such a situation occurring in the EU, thereby devaluing its commitment to effective monitoring. Although sanctions are not to be ruled out, the main goal should be prevention, and peer review of standards and performance between member states would be an important method in that respect.

At Council level the issue of compliance has long been ignored. However, in the margins of the December 2003 European Council, EU leaders decided to establish a Human Rights Agency, by extending the mandate of the European Monitoring Centre on Racism and Xenophobia in Vienna. It stressed "the importance of human rights data collection and analysis with a view to defining Union policy in this field", but gave no further indication of the scope of this new venture.

*Amnesty International urges the Irish Presidency to take the opportunity to demonstrate that genuine protection for fundamental rights is at the heart of developments in the EU in practice as well as in theory, by providing a robust and practical response to the Commission's communication on Article 7 TEU, addressing the issue of EU-level accountability for serious breaches of the EU's common values which may occur within a member state.*

*Amnesty International asks that the proposal to establish a new Human Rights Agency be subject to full consultation with civil society as to its remit and role.*

## ■ Judicial cooperation

Improved judicial cooperation between EU member states is to be welcomed in preventing serious crimes but can only be effective if it is accompanied by a harmonisation of the standards of procedural safeguards that are applicable to suspects and defendants in member states. The principle of mutual recognition is based upon the notion that there is mutual trust between member states in the application of human rights through very different legal frameworks. Proposals relating to procedural safeguards for suspects and defendants have long been promised as a balance to prosecution-led developments and as a support for the principle of mutual recognition. However they have so far failed to materialise.

*Amnesty International urges the Irish Presidency to give these issues a high priority in the interest of facilitating judicial cooperation to combat serious crime within the framework of international human rights obligations, and to ensure that the values and principles enshrined in Article 6 TEU are truly common in their application across the EU.*

## ■ European Arrest Warrant

The European Arrest Warrant (EAW), adopted in record time after the events of 11 September 2001, was the first and most far-reaching of the EU level instruments putting into practice the principle of mutual recognition, whereby a judicial order issued in one member state in criminal matters is directly recognised and executed in another. The EAW is set to replace extradition procedures between Member States with a simple system of surrender, and was due to be implemented from January 2004.

The speed with which it was adopted resulted in gaps in the legislation which have caused problems for a number of member states to transpose the EAW in time for 1 January 2004 - not least the absence of a specific ground for refusal to execute an order where to do so would constitute a breach of human rights. These gaps are likely to lead to further problems when the system starts to be dealt with in the courts of member states. Failure to implement the EAW system adequately may lead to breaches of fair trial rights as well as impeding the efficient prosecution of crimes such as trafficking in human beings, war crimes, genocide and torture.

*Amnesty International urges the Irish Presidency to ensure that the EAW system is implemented in all Member States and accession States as quickly as possible with appropriate safeguards reflecting Member States' international human rights obligations.*

## ■ Police cooperation

Improving cooperation between police, customs and security services is another priority area in 2004, in particular in the context of the "fight against terrorism", and with a continued intensified focus on fighting trans-border organised crime. These developments must be set against persistent shortcomings in police observance of fundamental rights.

Amnesty International's regular reports show a common and disturbing pattern of abuse by law enforcement officials including torture, ill-treatment and excessive use of force, regularly allowed to go unpunished and often with a clear discriminatory element, occurring in both old and new member states. There is evidence to suggest that existing mechanisms in many member states in the areas of police training and accountability are not adequate.

To address such shortcomings due reference should be made to international best practices in policing. A

good example of the integration of human rights in all aspects of policing is contained in the 1999 report of the Independent Commission on Policing for Northern Ireland, also known as the Patten Commission, which set an important benchmark for policing in the area of human rights protection and training, community policing and police accountability.

***Amnesty International urges the Irish Presidency to ensure that any agreements for increased cooperation among police services throughout Europe give due consideration to international human rights standards and best practices. Any commitments made should include adequate mechanisms of accountability and provision for training so that law enforcement services are equipped to ensure full protection of human rights.***

## ■ Racism and discrimination

The issues of racism, xenophobia and discrimination have begun to be addressed from a number of different angles at EU level. However, solemn declarations are not sufficiently backed up with real measures. Amnesty International's Irish section has been critical of the Irish Government's failure to deliver on its stated commitment to anti-racism including the Durban promise to implement a National Action Plan in 2003.

At the OSCE conference on racism, xenophobia and discrimination in Vienna in September 2003, Ireland made the recommendation that "participating States should develop action against racism, at national or international level, in a two-fold way: it should address the prevention of a culture of racism and respond effectively to racist incidents and attacks".

As Ireland takes on the EU Presidency it has the opportunity to be a driving force in putting the recommendation into practice on an EU level and of providing a good example by swiftly addressing lacunae in its domestic legislation.

The area of racism and xenophobia has been singled out as a target for EU level harmonisation of substantive criminal law. Within this context, the European Commission produced a proposal for a Council framework decision on combating racism and xenophobia in 2002. Work on this proposal has been suspended since February 2003 due to the difficulties raised by one Member State in relation to the drafting, despite the advanced stage of negotiations.

Of the 15 old and 10 new member states, only Cyprus has ratified Protocol 12 of the European Convention on Human Rights providing for a general prohibition on discrimination. Ratification of the Council of Europe Framework Convention for the protection of national minorities is set down as one of the Copenhagen criteria that accession states must meet. Some current member states have so far failed to ratify this Framework Convention (Belgium, Greece, Luxembourg and the Netherlands), while France has not even signed.

***Amnesty International asks the Irish Presidency to promote the transposition of existing EU legislation combating racism and discrimination into the national laws of member states during its presidency, in particular the EU Race Directive which should have been implemented by 19 July 2003.***

***Amnesty International urges the Irish Presidency to place the proposal for a framework decision on combating racism and xenophobia back onto the Council agenda and to push for agreement on harmonisation of criminal laws against racism and xenophobia.***

***Amnesty International urges the Irish Presidency to push member states to sign and ratify the relevant Council of Europe instruments in the field of racism, xenophobia, discrimination and the protection of minorities.***

## ■ Common European Asylum System

Ireland assumes its responsibilities as EU President at a significant time for EU asylum policy. While all instruments setting minimum standards should have been adopted by the end of 2003, the qualification directive and the proposal on asylum procedures are still awaiting agreement in the Council. With drastic reforms taking place in several member states, the political will to adjust national systems to the common minimum standards that would fully comply with international human rights standards has further decreased. As a result, the Common European Asylum System (CEAS) is being held hostage to domestic political agendas and may end up as a series of “empty boxes”, referring to national legislation on some of the most critical issues.

The Irish Presidency will, moreover, be crucial in determining steps towards the second phase of harmonisation on the basis of the lessons learnt from the outcome of the “Tampere agenda”. In addition to examining the feasibility of a single asylum procedure, the Presidency will also explore means of better managing the entry of persons in need of international protection into the EU, through the development of protected entry procedures, resettlement schemes and protection in the region.

Amnesty International considers that resettlement and protected entry procedures are part of the international protection toolbox and should not be seen as – or used as a justification for - restrictive measures which inhibit access to fair and satisfactory asylum procedures.

***Amnesty International urges the Presidency to ensure that the final instruments of the CEAS are firmly grounded in principles of international human rights and refugee law. In particular, Amnesty International calls on the Presidency to ensure that EU Member States do not shift their responsibility to third countries where adequate levels of protection and durable solutions are not available.***

***Amnesty International calls on the Presidency to ensure that resettlement and protected entry procedures are never used as a substitute - either legally or politically - for the legally binding rights that attach to a refugee or asylum-seeker who has directly engaged the protection obligations of a state party to the Refugee Convention.***

## Immigration and borders

The Irish Presidency is also expected to develop recent initiatives for an integrated management of external borders and the fight against illegal immigration, through partnership with third countries, which would include financial incentives and technical assistance for the countries willing to implement their readmission obligations.

This approach potentially has far-reaching implications for the international protection system, as there are grounds to fear that drastic measures to fight illegal immigration will in practice hamper effective access to protection for refugees and asylum seekers. The policy of engagement of EU member states with countries of origin and transit has so far produced little more than an extension of their restrictive asylum and immigration policies, rather than pursuing political, development or economic co-operation from a human rights perspective to prevent the causes of people fleeing their countries.

In particular, Amnesty International is concerned that readmission agreements do not include sufficient safeguards and that a mere general reference to member states’ international obligations is not enough to effectively prevent *refoulement*.

*Amnesty International reiterates its call to the EU presidency for the development of effective monitoring mechanisms and a human rights impact assessment, based on relevant human rights standards, of every decision taken to combat illegal immigration and of their cumulative effect, in order to help prevent negative effects on the EU's key human rights obligations.*

## ■ Violence against women

Amnesty International is launching a major campaign to stop violence against women in March 2004 and its program of action will include research that it expects will confirm that domestic violence is an entrenched problem across Europe. NGOs active in this field such as the European Women's Lobby have already built up an important body of work in this area. The first report in 2003 of the EU Network of Independent Experts on Human Rights in the EU highlighted the incidence of domestic violence in several member states.

Over the past years a number of initiatives including presidency conferences have reflected awareness of the problem on the part of EU institutions and member states. A welcome move is the launch of the Daphne II program, continuing the EU's commitment to prevent violence against children and women through information exchange and awareness raising. However, there is no policy framework to address the complex issue of violence against women including domestic violence in a more comprehensive manner, from systematic monitoring to legislative action.

*Amnesty International calls on the Irish Presidency to begin examining the scope for longer-term policies at EU level to address in a comprehensive manner the problem of violence against women.*

## ■ Human trafficking

Trafficking in human beings is a phenomenon which is increasing across the world resulting in serious breaches of the fundamental rights of the victims of such crime. Women and children are most commonly the victims of this type of crime, whether they are being trafficked into prostitution or into other forms of slave labour or debt bondage.

Trafficking provides a particularly serious example of violence against women in Europe. The EU has identified trafficking in human beings as a type of organised crime to be targeted specifically at EU level. However, developments so far have failed to adequately address protection of victims' rights, which has to be at the heart of any effective program to combat human trafficking.

The problem of trafficking must also be addressed from an external perspective by the EU working to remove the push factors in countries of origin, in particular, severe poverty.

*Amnesty International asks the Irish Presidency to promote the ratification of the UN protocol on human trafficking by all member states and the application of its principles in the EU approach to combating trafficking.*

*The Presidency is also asked, as a matter of urgency, to address the issue of trafficking effectively by tackling the problem of human rights protection for victims of trafficking through appropriate legislative measures.*

# B Proposals for the external agenda: human rights in the world

## ■ The EU and the UN Commission on Human Rights

The world's highest body for human rights protection and promotion, the UN Commission on Human Rights, failed dismally in the 2003 59th session to fulfill its mandate of ensuring public scrutiny of situations of gross and persistent abuse, in particular regarding Russia (Chechnya), Colombia, Sudan, Nepal, Iran, China, and Zimbabwe. It was kept from doing so by increasingly effective obstructionism by political blocks and through political manipulation by the big powers. The EU made a considerable effort, but lacked confidence and conviction, and where on key issues the ambition was no more than damage control it ended up virtually empty-handed.

The Irish Presidency faces the challenge of reversing the tide. Any meaningful effort to do so must in the view of Amnesty International be based on a clear understanding that protection of human rights through monitoring, reporting and public scrutiny is and should remain the CHR's core function.

*Amnesty International urges the Irish Presidency to take a principled approach to the UN Commission on Human Rights that seeks to keep close to the UN Commission's core function of monitoring, reporting and public scrutiny of situations of gross abuse. The Irish Presidency should further integrate the EU's work on the UNCHR into the annual external relations cycle and into its political dialogues with third countries including at the highest political level.*

## ■ Human rights clause

In December 2003 negotiations were concluded for a Euro-Mediterranean Association Agreement with Syria. The agreement is expected to be signed in early 2004 and is to contain a legally binding human rights clause. This clause, which appears in similar agreements with Algeria, Egypt, Israel, Jordan, Lebanon, the Palestinian Authority and Tunisia, stipulates that relations between the parties, as well as all the provisions of the agreement itself, shall be based on respect for human rights and democratic principles, which guide their domestic and international policies and constitute an essential element of the agreement.

Amnesty International hopes that the recent conclusions by the Council to reinvigorate the EU's human rights efforts with Mediterranean partners will mark a turning point in the implementation of these clauses, which have until now been largely ignored in the context of association agreements between the EU and other Mediterranean countries. Recent reports that a number of the EU's Mediterranean partners have agreed to establish or are considering establishing subcommittees on human rights within the framework of their association agreements are encouraging, and this will hopefully pave the way for the establishment of mechanisms that will provide for the monitoring and effective action on human rights violations in the partner countries.

*Amnesty International urges the Irish Presidency to advance the inclusion of human rights issues in the political dialogue with all Mediterranean countries, to complement and support the European Commission's current efforts to develop National Action Plans on human rights and democratisation for these countries.*

## ■ Wider Europe

The EU's move to develop a policy framework for "Wider Europe" to enhance relations with countries in the neighbouring regions to the East and South offers those countries prospects of a stake in the EU internal market, in return for demonstrating shared values and implementing necessary reforms. With a focus on fostering political and economic stability, the Wider Europe policy evidently has the potential to strengthen democracy and promote human rights in a number of countries where serious problems of systematic and gross abuse persist.

To create such opportunities will require political determination to build a constructive link between economic and trade benefits and real progress in advancing human rights, democracy and the rule of law including respect for and protection of minorities. Experience with the Mediterranean association agreements in the context of the Barcelona process has shown that in the absence of such conditions the human rights clause easily remains a "dead letter".

*Amnesty International calls on the Irish Presidency to ensure that human rights are part of political dialogue at the highest level with neighbouring countries, and that human rights observance in these countries is the subject of effective monitoring and reporting.*

## ■ Action against torture

In 2001 the Council adopted guidelines on torture, providing the EU with an operational tool to be used in contacts with third countries at all levels as well as in multilateral human rights fora in order to support and strengthen ongoing efforts to prevent and eradicate torture and ill-treatment in all parts of the world.

Successive presidencies have sought to move towards effective implementation of the guidelines, in particular by addressing specific concerns (including individual cases), which constitute the primary purpose of the guidelines. A procedure for action agreed in December 2002, whereby countries would be selected for specific action turned out not to be workable, a year later.

As part of its commitment to eradicate torture, the European Commission has taken the positive step of drafting a regulation concerning trade in certain equipment and products which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment. The regulation is to ban the export of equipment that has no other use than torture, including electro-shock stun belts, thumbcuffs and leg cuffs, from member states to outside the EU. It would also strictly control the export of equipment that may have a legitimate policing function but can lend itself to torture, such as tear gas.

There are at least 57 companies within member states and acceding countries that are offering to sell, broker, distribute or manufacture torture equipment or security equipment that can be easily misused for torture. The measure would be the first of its kind in the world. It is crucial that this trade regulation is strengthened and implemented as soon as possible.

On a positive note, the Optional Protocol to the UN Convention Against Torture was adopted by the UN General Assembly in 2002 with the strong support of the EU. By December 2003 however only six EU member states had signed and none ratified the optional protocol.

*Amnesty International calls on the Irish Presidency to ensure that the proposed regulation on trade in torture equipment is adopted by the Council of Ministers without further delay, so that the EU has export controls in place for torture and death penalty-related equipment before the accession of the ten new member states on 1 May.*

*Amnesty International urges the Irish Presidency to redouble efforts to implement the guidelines on torture, and to promote speedy ratification in 2004 of the Optional Protocol to the UN Convention Against Torture by all member states and acceding countries.*

### ■ Human rights defenders

In view of the fifth anniversary of the UN Declaration on Human Rights Defenders, Amnesty International welcomes the announcement by the Irish and Dutch governments in their joint Operational Programme for 2004 to present the Council with guidelines for EU policy on human rights defenders. The European Union has repeatedly paid tribute to the crucial role played by human rights defenders. The calendar of the Irish Presidency provides ample opportunity to translate this public recognition into concrete steps to ensure their protection.

At the end of May, government leaders from the EU, Latin America and the Caribbean will meet in Mexico for their third summit. Across the Americas, human rights defenders have fought, often against the odds, to establish fairer, more equitable societies, to protect the environment and defend economic, social and cultural rights and to seek justice for crimes against humanity, and for violations committed by state agents including extrajudicial killings, "disappearances" and torture.

There exists a long tradition of repression of the brave individuals who defend human rights in Latin America and the Caribbean. Amnesty International has documented more killings of human rights defenders in this region than anywhere else in the world.

*Amnesty International calls on the Irish Presidency to invite the EU's Latin American and Caribbean partners to use the opportunity of the summit in Mexico to put in place a roadmap towards the implementation of the principles of the UN Declaration on Human Rights Defenders, to include measures at the political, legal and practical levels which aim to improve the environment in which human rights defenders can operate as well as to ensure their immediate protection.*

*Amnesty International urges the Irish government to finalise the proposed guidelines for EU policy on human rights defenders.*

### ■ European security strategy

Looking at the larger picture of persistent and proliferating conflict around the world, it is increasingly clear that human rights constitute the vital ingredient that has been consistently missing from conflict resolution and, too often, from post-conflict reconstruction. Not only are standards of international human rights and humanitarian law blatantly violated in armed conflict, most of the victims being civilians, there is also an equally disturbing failure to put human rights onto peace agendas. Human security and human rights responsibilities during and after conflict should be at the heart of those agendas.

The adoption of the European security strategy in December 2003 reflects the EU's ambition to "share in the responsibility for global security and in building a better world". Its conceptual framework underlines the

need for more effective global governance and the importance of rights, democracy and development towards achieving that.

To be realistic, however, the primary focus will undoubtedly be on the military aspects of crisis management, and the overall approach to conflict prevention and global reform is likely to remain elusive. And while the more direct engagement the EU has begun to display in the Balkans, in Afghanistan and in the DRC is welcome, there is a clear need to develop and reinforce a specific human rights dimension in the context of conflict resolution and crisis management.

***Amnesty International calls on the Irish Presidency to inject the concepts of human rights responsibility and the rule of law as integral components of conflict resolution as well as of long-term engagement in post-conflict reconstruction.***

### ■ Arms control

Every day, millions of men, women, and children face the threat of armed violence. Every minute, one of them is killed. Arms are out of control. The impact of the widespread proliferation and misuse of arms is now critical. The “war on terror” should have focused political will to prevent arms falling into the wrong hands. Instead, since 11 September 2001, some suppliers have relaxed their controls in order to arm new-found “allies against terrorism”, ignoring their disregard for human rights and humanitarian law.

The European security strategy identifies the proliferation of weapons of mass destruction as the single most important threat to peace and security and acknowledges that the easy availability of small arms has contributed to the weakening of state and social structures in many parts of the world. The strategy’s objective to counter these threats by containing proliferation should lead the EU to take decisive action against the unchecked flow of all weapons.

Despite the damage that they cause, there is still no binding, comprehensive, international agreement to control the export of conventional arms. Within its own remit, the EU Code of Conduct on Arms Transfers falls far short of the controls that are necessary, and it would require significant strengthening to make it more effective. However, looking at the arms trade as a global human rights problem, it also needs the EU’s support for a global solution. Together with OXFAM and the International Action Network on Small Arms (IANSA), AI has launched a major campaign to press for such a solution in the form of an international Arms Trade Treaty.

***Amnesty International calls on the Irish Presidency to support the efforts towards the adoption of an international Arms Trade Treaty by 2006 to prevent the export of arms where they contribute to violations of international human rights and humanitarian law, and to promote support of EU member states for this goal.***

***At the same time, Amnesty International calls on the Irish Presidency to instigate a review of the functioning of the EU Code of Conduct on Arms Transfers, and to take steps towards improving its effectiveness.***

### ■ Guidelines on children and armed conflict

In December 2003 the Council adopted a new set of human rights guidelines on children and armed conflict. Monitoring, reporting and analysis are to be the basis for effective action to influence third countries and non-state actors, to provide actual protection to children from the effects of armed conflict, and to halt the use of child soldiers and to end impunity.

While welcoming the guidelines as an important new instrument, there is reason for concern about the EU's capacity for effective implementation, given limited resources and institutional complexities. An active partnership between EU institutions and member states and international organisations and civil society is needed to help in overcoming the obvious handicaps in the first two years, but active consideration will have to be given to the question of how to provide the necessary capacities and resources in the long term on a structural basis, for example through the establishment of a function of special representative.

*Amnesty International calls on forthcoming Presidencies to consider establishing a focal point with the necessary resources for the effective implementation of the guidelines on children and armed conflict.*

### ■ Corporate accountability

It is widely recognised that non-state actors have an essential contribution to make to the protection and promotion of the full spectrum of human rights. The debate on Corporate Social Responsibility (CSR) has developed in the EU with the establishment of a European Multi-Stakeholder Forum bringing together the business sector, trade unions and NGOs with the Commission to explore "the appropriateness of establishing common guiding principles for CSR practices and instruments".

The Forum's report due by mid-2004 should mark an important step towards a European framework for CSR as regards both its internal (health, safety and employee development) and external (social, environmental and human rights) dimensions. The main challenge will be to reconcile fundamental differences of approach between the corporate sector, who maintain that CSR must be business-driven, and NGOs, who believe that it cannot be left to voluntary commitment only.

Both the Irish and the Dutch were among the governments that, at the Italian Presidency conference in November 2003 on the role of public policies in promoting CSR, expressed strong interest in developing effective ways of implementing Corporate Social Responsibility. In fact, a crucial factor will be for public authority - including the EU - to assume its own responsibility and regulatory power to ensure responsible corporate behaviour, with proper transparency and accountability to match.

*Amnesty International calls on the Irish Presidency to ensure that the evolving debate on Corporate Social Responsibility fully addresses the issue of the impact on human rights, and that in the development of a European framework, corporate accountability is not left to rely on voluntary commitment only.*