

Joint Open Letter on the occasion of the EU-Africa Summit

2nd April 2014

Dear African and European decision-makers,

Ahead of the 4th European Union (EU)-Africa Summit on April 2-3, 2014 in Brussels, African and European civil society call on you to ensure that human rights are put at the centre of discussions aimed at “Investing in People, Prosperity and Peace”.

Seven years after the adoption of an ambitious Joint Africa-EU Strategy (JAES), the Summit provides an opportunity for both continents' leaders to show that real ambition means aiming at tangible human rights improvements and taking measurable steps to fulfill them.

1. Objectives: universality, indivisibility, coherence and mainstreaming

African and European civil society insist that full respect for the universality of human rights be upheld in policy and practice. Any discussion on particular human rights issues must be firmly rooted in the indivisibility and universality of human rights, irrespective of which country people live in. Making the universality of human rights more than an abstract point of discussion on the Summit's agenda must entail a discussion on how to work towards human rights for all and towards addressing the root causes of continued human rights violations. Using the universality of human rights as a point of departure, African and European partners must discuss concretely how to ensure integration of human rights into all African and EU policies and sectors of cooperation (mainstreaming) and that all policies and sectors of cooperation have the fulfillment of human rights as their fundamental objective (coherence).

Both African and European countries have made extensive legal commitments under International Human Rights Law and adopted Human Rights Strategies and Action Plans (the African Human Rights Strategy¹ and the EU Strategic Framework and Action Plan on Human Rights and Democracy²). It is essential that these human rights commitments result in action at the national and regional level, as well as in inter-continental cooperation. Furthermore, the European Framework currently applies only to external EU policies and not to the EU internally. To be coherent, the EU still has to establish a Strategy to provide adequate enforcement and monitoring mechanisms to ensure respect of human rights by the EU institutions, its Member States and EU-based companies.

¹ [http://pa.au.int/en/sites/default/files/HRSA-Final-table%20\(EN\)\[3\].pdf](http://pa.au.int/en/sites/default/files/HRSA-Final-table%20(EN)[3].pdf)

² https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/131181.pdf

To achieve a joint, coherent approach to tackling human rights violations, a next step in inter-continental cooperation could be the design of a common strategy with a concrete action plan, clear attribution of responsibilities and explicit reporting requirements, on human rights challenges that are common to both continents, for example concerning trade, investments, business, migration, agriculture, energy and climate.

2. Specific matters of concern

Against this background, African and European civil society call on leaders of both continents to discuss shared human rights concerns:

- Challenges common to both continents: for example migrants' rights, women's rights, discrimination and harassment against Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) persons, economic and social rights, counter-terrorism and human rights;
- Concerns that can emerge from cooperation on both continents: for example on trade, business and human rights, cooperation in crisis and conflict response;
- Areas where further exchange can lead to concrete achievements: for example the abolition of the death penalty or a human rights based approach to development;
- Defining a common role that both regions can play in ending impunity for serious crimes committed in violation of international law, including through supporting international justice.

Several of these issues—the need for increased protection of migrants' rights and coordinated efforts aimed at promoting human rights during conflict and crisis situations and fighting impunity—are discussed in greater detail below.

2.1 Human rights for all: migrants' rights must be at the centre of migration policies

Restrictive migration policies lead to human rights violations, injury and death of people on the move between the two continents — many of them sub-Saharan Africans. The EU-Africa Summit should address the challenges around migration from an explicit human rights angle. It is legitimate for states to manage their borders. However, this should be done in full compliance with states' international and regional human rights obligations and commitments.

The rights of migrants should remain the primary consideration in negotiating any migration control agreement, including readmission agreements, cooperation with coastguards or other soft law instruments, such as mobility partnerships. Agreements should fully respect international human rights and refugee law, and states should ensure that their migration

control policies and practices do not cause, contribute to, or benefit from human rights violations. National legislation, regulations and operational guidelines that implement cooperation agreements into domestic legal systems should explicitly detail effective substantial and procedural safeguards, in line with the principle of *non-refoulement*.

2.2: Addressing the root causes of violations and ending impunity for crimes under international law

African and EU civil society call for the EU-Africa Summit to discuss protection and promotion of human rights wherever the two continents collaborate, including in crisis response, such as in Mali, Somalia and the Central African Republic (CAR). African and European partners should work to fully integrate human rights into the Partnership on Peace and Security – including through discussions between the EU, the AU Peace and Security Council (PSC), and civil society, the development of human rights and gender training for peacekeeping missions in Africa, and civil society monitoring of conflict situations. Both continents must also work to reinforce the African Commission on Human and Peoples' Rights' protection mandate to ensure it can adequately respond to human rights violations committed in the contexts of crisis and conflict situations.

African and EU decision-makers should also ensure that effective strategies to end impunity for serious crimes committed in violation of international law are developed. To achieve this, fair and credible judicial proceedings at the national level should be fully supported, including by allocating sufficient financial and material resources to the judiciary, guaranteeing its independence from the executive, adopting concrete measures to ensure the protection of victims and witnesses and the rights of accused persons, and codifying crimes under international law into national legislation.

Both continents played key roles in establishing the International Criminal Court (ICC) and we urge you to work together to support its continued efforts to end impunity. In recent years, the African Union (AU) has issued decisions highlighting concerns about the work of the ICC and calling for non-cooperation by AU member states with the ICC³. The EU-Africa summit provides a vital opportunity to discuss the importance of the ICC's efforts to deliver justice to victims of war crimes, crimes against humanity and genocide, as well as the importance of regional and state cooperation with the Court. It is also a key opportunity to discuss the fundamental principle established and applied since Nuremberg that no-one regardless of their status should have immunity with respect to charges of serious crimes. This is particularly relevant in light of the AU's recent decision⁴ that supported an exception for sitting heads of state and other senior officials before the ICC.

³ http://www.au.int/en/sites/default/files/ASSEMBLY_EN_1_3_JULY_2009_AUC_THIRTEENTH_ORDINARY_SESSION_DECISIONS_DECLARATIONS_%20MESSAGE_CONGRATULATIONS_MOTION_0.pdf

⁴ [http://au.int/en/sites/default/files/Assembly%20AU%20Dec%20490-516%20\(XXII\)%20_E.pdf](http://au.int/en/sites/default/files/Assembly%20AU%20Dec%20490-516%20(XXII)%20_E.pdf)

Finally, increased support to the exercise of universal jurisdiction on both continents should be regarded as an additional strategy aimed at ensuring justice for victims of serious crimes committed in violation of international law.

3. Reinforcing human rights mechanisms and enabling civil society

Political will must be translated into concrete reinforcement of human rights mechanisms, efforts to mitigate adverse human rights impacts of policies and a reinforcement of the civil society's role on both continents.

3.1 Reinforcing human rights mechanisms, mitigating negative human rights impacts of policies

While the development of human rights mechanisms on both continents has been impressive in the last decades, challenges remain in terms of ratification of instruments and access by individuals and non-governmental organizations (NGOs). States on both continents still need to ratify and implement key international and regional instruments, including each of the nine core international human rights treaties. There needs to be wider acceptance of the competence of the relevant treaty bodies to receive and consider individual and inter-state communications concerning violations. Ratification of the Optional Protocol to the ESCR Covenant to the Committee on Economic, Social and Cultural Rights (ESCR) in particular is particularly crucial to give economic, social and cultural rights the same enforceability as civil and political rights by allowing individual victims and human rights non-governmental organizations (NGOs) the ability to lodge petitions alleging violations under the ESCR Covenant to the Committee on Economic, Social and Cultural Rights.

At the regional level, African states should ratify the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, to ensure the Court becomes an effective mechanism. To this end, they should consider making the declaration under its article 34.6, so as to guarantee that direct access for individuals and NGOs have direct access to one of the main African human rights mechanisms. To date, only 27 states have ratified the protocol, and while just seven of them (Burkina Faso, Côte d'Ivoire, Ghana, Malawi, Mali, Rwanda, and Tanzania) have made the necessary declaration that would allow direct access to the court. Discussions on improvement of access to effective remedies and regional and international accountability mechanisms should be a key subject for discussion by between African and European partners, at the Summit and beyond.

The EU should develop a comprehensive internal human rights strategy that mirrors its external strategic framework, along with a corresponding action plan to guide collective EU action. All EU institutions should make better use of existing tools to address serious human rights abuses in individual member states. As members of the Council of Europe, EU member

states should improve national implementation of judgments by the European Court of Human Rights, and implement rulings on fundamental rights by the EU's own Court of Justice. The EU should also complete its accession to the European Convention on Human Rights. In addition, all EU member states should move to ratify regional and international instruments such as the Council of Europe Convention on preventing and combating violence against women and domestic violence (ratified by only three EU member states to date), the International Labour Organisation's Convention Concerning Decent Work for Domestic Workers (only one two EU ratifications to date), and the UN Optional Protocol to the Convention against Torture (seven out of 28 EU member states have not yet ratified).

3.2 Reinforcing Enabling civil society as a key human rights actor

While states are legally bound by their human rights obligations and responsible for ensuring accountability for their actions, one crucial way of reinforcing states' accountability is to strengthen civil society's access to human rights mechanisms and its role in monitoring the implementation of their decisions. African and European civil society organisations have a key role to play in setting the priorities for priority setting and the way forward for both continents. The EU and Africa should commit to creating and reinforcing an enabling environment for civil society to input into EU-Africa Summit discussions and , as well as on all future cooperation between the continents.

Leaders at the Summit should hear the call made by the African and European civil society in their November 2013 Seminar held before ahead of the EU-AU Human Rights Dialogue. Civil society recommendations to AU and EU officials highlighted the need for states to end harassment against human rights defenders, repeal repressive NGO laws that restrict the freedom of association, including the ability of associations to access funding, including also international funding, and to ensure their full participation in political processes and institutions at national, continental and inter-continental levels.

African and European representatives at the Summit should ensure the participation of civil society in all discussions, including sectoral ones (such as trade and migration), up to the highest level. They should also discuss how to reinforce the role of civil society in fostering human rights on both continents, including through the monitoring of African and EU trade, investments, business, migration, agriculture, energy and, climate policies' impacts on human rights.

In addition, the future Africa-Europe Partnership must also seek to reinforce the human rights dialogue and make the civil society seminar a central platform for discussion and follow-up of African and EU policies on human rights.

We welcome your expressed commitment to ensuring that human rights remain at the centre of the EU-Africa Summit, and stand ready to continue a fruitful dialogue between civil society and governments, in Africa and the EU.

Yours sincerely.

This open letter is supported by the following organisations (non-exhaustive list):

Belgium - Ligue des Droits de l'Homme
Amnesty International Belgium

Botswana - DITSHWANELO - The Botswana Centre for Human Rights

Burundi - Ligue burundaise des droits de l'homme (ITEKA)

Czech Republic - Amnesty International Czech Republic

Denmark - Amnesty International Denmark

Germany - Amnesty International Germany

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AME (Association Mère et Enfant)

CODDH (Coordination des Organisations des Droits de l'Homme)

AVIPA (Association des Victimes du 28 septembre)

AFADIS (Association des Familles des Disparus)

CONAG-DCF (Coalition Nationale de Guinée pour les Droits et la Citoyenneté des Femmes)

MDT (Mêmes Droits pour Tous)

FECPA (Centre Femme, Citoyenneté et Paix)

CPDH (Centre de promotion et de protection des droits humains)

COJEDEV (Consortium des jeunes pour la défense des victimes)

FOSCAO (Forum des Organisations de la Société Civile de l'Afrique de l'Ouest)

European Union - Amnesty International EU Office

France - Ligue des Droits de l'Homme

Ireland - Amnesty International Ireland

Italy - Liga Italiana dei Diritti dell'Uomo (LIDU)

Amnesty International Italy

Ivory Coast - Ligue ivoirienne des droits de l'homme (LIDHO)

Kenya - Human Rights Commission

Lithuania - Lithuanian human rights association

Luxembourg - Amnesty International Luxembourg

Mali - Association malienne des droites de l'homme (AMDH)
Association Malienne des Expulsés (AME)
Groupe pivot droit et citoyenneté des femmes (GPDCF)

Mauritania – Association mauritanienne des droits de l'homme (AMDH)

Netherlands - Dutch League for Human Rights
Amnesty International Netherlands

Portugal - Amnesty International Portugal

Republique of Congo - Observatoire congolais des droits de l'homme (OCDH)

RDC - Ligue des électeurs (LE)
Groupe Lotus

South Africa - Lawyers for Human Rights (LHR)

Spain - Asociación Pro Derechos Humanos de España, APDHE

Turkey - Human Rights Foundation of Turkey (HRFT)
Human Rights Association (IHD)

United Kingdom/Northern Irland - Committee on the Administration of Justice Ltd (CAJ)

Zimbabwe - Human Rights Association (ZIMRIGHTS)

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International – Amnesty International
Human Rights Watch
International Federation for Human Rights