

Ref: TG EUR 23/2012.004  
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Guido Westerwelle  
Federal Minister for Foreign Affairs  
Federal Foreign Office  
Auswärtiges Amt  
D-11013 Berlin  
Germany

19 October 2012

Dear Minister,

#### **OPEN LETTER: GERMANY'S CANDIDACY FOR ELECTION TO THE UN HUMAN RIGHTS COUNCIL**

We write on the occasion of your country's candidacy for membership of the UN Human Rights Council in the elections scheduled for 12 November 2012. We welcome your submission of election pledges to promote and protect human rights at the national and international levels, as indicated in the Annex to the letter dated 28 February 2012 from the Permanent Representative of Germany to the United Nations addressed to the President of the General Assembly.<sup>1</sup>

We recall that, according to General Assembly resolution 60/251, members of the Council shall uphold the highest standards in the promotion and protection of human rights and fully cooperate with the Council.<sup>2</sup> On the occasion of Germany's candidacy, we take the opportunity to comment on your election pledges and to note additional opportunities for your government to promote and protect human rights. In doing so, we refer to the guidance of the Office of the High Commissioner for Human Rights on presenting voluntary human rights pledges and commitments, including that such pledges and commitments should be specific, measurable and verifiable.<sup>3</sup>

#### **Commitments at the international level**

##### *Ratification of international human rights instruments*

While we welcome your commitment to complete the ratification of the Council of Europe Convention on Action against Trafficking in Human Beings during 2012, we wish to take this opportunity to also encourage you to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, as well as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

##### *Cooperation with the Special Procedures and treaty monitoring bodies*

We welcome your commitment to uphold your standing invitation to the Special Procedures. We also welcome your commitment to fulfil your reporting obligations and to cooperate with the Treaty Bodies, including by examining and reporting on the implementation of their recommendations. In this spirit, we remind you of the recommendations made to you by the Committee against Torture in November 2011. We also urge you to promptly submit the periodic reports that are due to the Committee on the Elimination of Racial Discrimination and to the Committee on the Rights of the Child (Optional Protocol

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<sup>1</sup> A/67/67.

<sup>2</sup> A/RES/60/251, para 9.

<sup>3</sup> Office of the High Commissioner for Human Rights, *Suggested Elements for Voluntary Pledges and Commitments by Candidates for Election to the Human Rights Council*, available at <http://www2.ohchr.org/english/bodies/hrcouncil/docs/pledges.pdf>.

on the sale of children, child prostitution and child pornography), and to submit in a timely manner the initial report due in December 2012 to the Committee on Enforced Disappearances.

We welcome your longstanding commitment to an effective, efficient and independent International Criminal Court (ICC), and we note with appreciation your support for the Trust Fund for Victims. In light of the upcoming session of the Assembly of States Parties, we urge you to ensure that the ICC has adequate resources to carry out its mandate and core activities, including its communications with affected communities.

#### *Engagement with the Universal Periodic Review*

We welcome your pledge to work actively in the Universal Periodic Review.

Germany is scheduled to undergo its second review in May 2013. We encourage your government to provide an update on efforts to implement the recommendations made to Germany in its first review in 2009. We also encourage you to use the opportunity of the review to further strengthen the protection of migrants, asylum-seekers and members of minority groups; to establish an effective and adequately resourced national preventive mechanism, as envisaged in the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; and to ensure full compliance with the required standards of prompt, impartial, independent, and effective investigations, including by establishing an independent police complaints mechanism to investigate allegations of ill-treatment by police officers, and by introducing individual identification for uniformed police officers and officers wearing special gear.

#### *Participation in the deliberations of the Human Rights Council*

We note your commitment to work towards enabling the Human Rights Council to carry out in full its mandate under General Assembly resolution 60/251, and granting national human rights institutions, compliant with the Paris Principles, their proper place in the Council. We also note your commitment to pursue an active role in the Council, in particular by continuing your sponsorship of the mandates of the Special Rapporteur on the human right to safe drinking water and sanitation; the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; and the Special Rapporteur on trafficking in persons, especially women and children. We further note that you undertake to actively seek cooperation in the Council on improving the protection of human rights beyond regional frontiers.

In this regard, we urge your government to work with delegations from all regions to ensure that the Council addresses situations of human rights violations, including gross and systematic violations and human rights emergencies, without selectivity or double-standards. We also urge your government to support efforts to ensure that all credible allegations of reprisals or intimidation against human rights defenders, including persons and groups who have engaged or have sought to engage with the UN human rights machinery, are brought to the urgent attention of the Council. We ask you to make sure that the Council demands the government concerned to ensure that any alleged reprisals are investigated in a prompt, impartial, transparent and effective manner and that perpetrators are held to account, and that the Council requests the government concerned to inform it of measures taken in this regard.

#### **Commitments at the national level**

We note your commitments to implement the federal government's Action Plan on Human Rights; to develop an implementation plan for the Convention on the Rights of Persons with Disabilities; and to implement the federal government's Action Plan to Protect Children and Youth from Sexual Violence and Exploitation and review its implementation through a monitoring procedure. We also note your commitments to continue efforts to ensure equal opportunities and participation for people with a migrant background, and to prepare a National Action Plan to Fight Racism, Xenophobia, Anti-Semitism and Related Intolerance. We urge you to improve and implement those Action Plans in substantive and meaningful consultation with civil society stakeholders.

We also call on you to codify enforced disappearance as a criminal offence under national criminal law, as required by Article 4 of the International Convention for the Protection of All Persons from Enforced Disappearance.

We welcome the pledges and commitments already made by Germany, and we urge your government to use this opportunity to further strengthen its election pledges by including the additional elements listed above. We also encourage your government, whether it is successful in gaining a seat on the Council or not, to regularly inform the General Assembly and the Human Rights Council of progress in implementing these commitments. This could be done, for example, in the form of an oral or written statement to these bodies.

We would be pleased to receive your comments and responses to the issues raised in this letter.

A copy of this letter has been sent to your country's permanent missions in Geneva and New York.

Yours sincerely,

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Deputy Programme Director  
Europe and Central Asia Regional Programme  
Amnesty International