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THE POWER OF FOCUS

PROPOSAL FOR A EUROPEAN HUMAN RIGHTS ENTRY BAN COMMISSION

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Today there is an urgent need to defend key human rights norms, such as the bans on torture, on political imprisonment and on extra-judicial killings. Leaders in many countries are questioning these norms and the international treaties that protect them; in others they are violated with impunity. European democracies have an interest to send a strong message to human rights violators and the wider public that these actions remain wrong and shameful.

European governments have long supported human rights. In the 1950s, they drafted and ratified the European Convention on Human Rights and Fundamental Freedoms. In the EU Charter of Fundamental Rights, EU member states guarantee all these rights to their citizens. The EU Treaty also commits EU governments to promoting worldwide human rights, the rule of law, democracy and the principles of international law.

One effective way to do this is to highlight cases where red lines have been crossed without accountability; to point the finger at the perpetrators and those responsible for it; and to declare entry bans and asset freezes against them. The message that an admission ban sends is strong, simple and clear: you are no longer welcome in our society because of what you have done.

The EU and other European democracies already have legislation that allows banning foreigners due to human rights violations. During the last two decades, the EU has imposed entry bans and asset freezes against individuals to address human rights situations in countries such as Iran, Myanmar, Venezuela, the D.R. Congo, Belarus, Uzbekistan and others.

In April 2018, we took the initiative in the Dutch Lower House to task the Dutch government to help establish sanctions at the European level, as well as in the Netherlands against Russian officials that are responsible for the detention, torture and death in prison of Russian lawyer Sergei Magnitsky in 2009. The [resolution we proposed](#) was accepted.

Today we want to build on this and offer a concrete way forward with a realistic proposal for more effective and more systematic sanctions against human rights offenders.

By declaring an entry ban against a human rights offender, European governments acknowledge that a serious violation of rights has occurred. In this way we demonstrate solidarity with victims of abuse, and with embattled human rights defenders across the world. We also convey an important message about the values that we seek to uphold. The exposure may lead to a change in the offender's behaviour and deter others from doing something similar. But even

when this does not happen, human rights entry bans fulfil a crucial function; they reassert publicly the norms on which our civilisation rests.

However, to reach these objectives requires that a wider public pays attention. It requires *audiences*. Entry bans must capture the attention of the public to educate. They must also be noticed in the offender's society as the basic precondition to set into motion the desired process of exclusion, shame and change in behaviour.

Until today, when the EU or governments have listed human rights violators for entry bans, they have simply published lists of names, often dozens, who have drowned in anonymity. They have failed to explain what these people have done concretely and which norms they have violated. They have directed little attention to the individual stories.

Public attention is also crucial for another reason: admission bans and asset freezes require the unanimous agreement of all 28 EU member states. As a result, many proposals for such measures by some member states have been rejected by others, often due to bilateral considerations. The Dutch proposal for a new sanctions regime for human rights offenders is in danger of suffering the same fate. Making clear to a wider public why a limited number of specific individuals should be banned even before the Council takes a decision makes it much more likely to achieve the necessary agreement.

The strategy:

- We propose that the Dutch government invites other European governments to establish an independent human rights entry ban commission right away. Its task will be to identify each year a limited number of human rights violators whom the EU should consider for admission bans.
- The commission would be headed by a board of three distinguished former judges and human rights practitioners of high credibility. It would employ a small team of analysts with legal expertise and communication skills. It would accept proposals from human rights NGOs, lawyers, victim families and governments or governmental organisations, taking advantage of existing information. They would need to fill out a detailed questionnaire.
- The commission would screen the proposals and ask for additional information as needed, making sure that the evidence can stand up to court scrutiny. Roughly half of all EU entry bans and asset freezes that listed individuals have contested before the EU's General Court have been overturned, which is embarrassing.
- The commission would also see to it that a case represents a particularly gross violation or illustrates underlying problems; and it would allow those concerned to respond to the allegations to ensure due process.
- At least once a year, the commission would present a list of offenders to the public, and recommend to the Council of the EU and to individual European states to declare entry bans against them. Entry bans do not require an EU Regulation in addition to the Council Decision and are easy to implement. The result of the debate and vote in the Council should be recorded and made public.

- The running costs of such an operation would be in the range of at most 400,000 Euro per year. In organisational terms, the commission could emulate the European Endowment for Democracy (EED). Since 2013, the EED has provided grants to pro-democracy groups in the EU's neighbourhood. Legally it is a Belgian non-profit association, financed from voluntary contributions by EU member states. The European Parliament is involved in running the EED as well.
- The commission should focus on particularly alarming cases that illustrate *grave* human rights violations such as torture, political imprisonment and extra-judicial killings. Communication will be central. This requires that the commission chooses *only a few cases* every year. Less is more when it comes to public attention.
- At least initially, the commission might want to concentrate on violations in wider Europe and Eurasia. Under the EU Treaty, the EU is committed to upholding the European Convention on Human Rights and the 1990 Paris Charter, which bind all OSCE member countries. An initial focus also makes it easier to establish strong credibility.
- Even if the EU does not declare the recommended entry bans, many individual member states and other European countries could; and the commission itself would have created a debate about human rights violations that should not be ignored. Finding unanimity is much more likely this way.
- This strategy complements ongoing efforts by the European Parliament and those EU member states that have, or which support, sanctions to honour the memory of Sergei Magnitsky.

Signed by:

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