

## **EU Watchdog Finds Commission Failed to Protect Human Rights From its Surveillance Aid to African Countries**

December 5, 2022. In a joint press release, Privacy International, Access Now, Homo Digitalis and the International Federation for Human Rights (FIDH) welcome the decision by the European Ombudsman that found that the European Commission failed to take necessary measures to ensure the protection of human rights in the transfers of technology with potential surveillance capacity supported by its multi-billion Emergency Trust Fund for Africa.

The [decision](#) by the EU's oversight body follows a year-long inquiry prompted by complaints outlining how EU bodies and agencies are cooperating with governments around the world to increase their surveillance powers filed by Privacy International, Access Now, the Border Violence Monitoring Network, Homo Digitalis, International Federation for Human Rights (FIDH), and Sea-Watch.

The complainants welcome the decision by the European Ombudsman and call on the Commission to urgently review its support for surveillance in non-EU countries and to immediately implement the Ombudsman's recommendations in their entirety.

The inquiry, which investigated the support of projects across Africa aimed at bolstering surveillance and tracking powers and involved extensive evidence-gathering from the Commission and complainants, found that "the Commission was not able to demonstrate that the measures in place ensured a coherent and structured approach to assessing the human rights impacts".

It recommends that the Commission now require that an "assessment of the potential human rights impact of projects be presented together with corresponding mitigation measures." The lack of such protections, which the Ombudsman called a "serious shortcoming", poses a clear risk that these surveillance transfer might cause serious violations of or interferences with other fundamental rights.

Ioannis Kouvakas, Senior Legal Officer at Privacy International, commenting on the decision: *"This landmark decision in response to our complaint marks a turning point for the European Union's external policy and sets a precedent that will hopefully protect the rights of communities in some of the most vulnerable situations for the years to come."*

An FIDH Spokesperson said: *"Indeed, this decision warns once again the European Commission about its failure to comply with its human rights obligations. The decision makes clear that the EU has to better develop its processes to effectively put the protection of human rights at core of the design and the implementation of its policies and external activities. All human rights and all activities are at stake."*

Marwa Fatafta from Access Now said: *"We welcome the Ombudsman's decision which scrutinises the EU's failure to protect and respect the human rights of people living off its shores. The EU's ongoing surveillance transfers to authoritarian regimes in Africa and elsewhere cannot continue business as usual. We hope this decision will help hold the EU accountable to its values overseas, and protect the rights and freedoms of vulnerable communities from intrusive tracking and government surveillance."*

Homo Digitalis said: *"The shortcomings that the Ombudsman has identified prove that the Commission is not able to demonstrate that the measures in place ensure a coherent and structured approach to assessing the human rights impacts of EUTFa projects. This is an important first step,*

*but we need specific accountability mechanisms in place to address violations of rights and freedoms in EUTFFA projects. This cannot be ensured via just some revised templates."*

**Notes to Editors:**

- The complaint was launched in November 2021 following evidence submitted to the Ombudsman by the groups detailing how [multiple EU agencies are providing surveillance technology](#), training and financing to non-EU counterparts compiled from EU internal reporting, correspondence with EU bodies and agencies, as well as documents obtained through access to documents requests.
- The European Union Emergency Trust Fund for stability and addressing root causes of irregular migration and displaced persons in Africa ([EUTF for Africa](#)) was created in 2015 and is implemented in twenty six countries across the Sahel and Lake Chad, the Horn of Africa and North Africa. EU and other donors have pledged €5 billion to the Fund.
- The decision comes as the European Parliament continues its special inquiry into the use of spyware and on the eve of a [hearing scheduled](#) for 15 December on “Spyware used in third countries and implications for EU foreign relations”
- PI and the coalition of human rights groups have also filed [two more complaints](#) to the European Ombudsman on Frontex (the European Border and Coast Guard Agency) and EEAS (the European External Action Service). The complaints are currently being similarly investigated.

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