

Amnesty International Statement

At the occasion of the Ministerial EU-African Meeting on Migration and Development, Tripoli, 22-23 November 2006

On 22 and 23 November 2006, EU Member States and African countries will meet in Tripoli, Libya, to discuss migration and development. The Conference brings together not only Ministers responsible for migration but also Ministers of Foreign Affairs and Development. Recently, we have witnessed the EU participating in similar high-level meetings on the links between migration and development, such as the Rabat Conference in July 2006 and the UN High Level Dialogue on migration and development in September 2006.

Amnesty International welcomes the fact that EU Member States and the Commission continue to engage in multilateral dialogue on this issue. It is indeed important to look at both positive and negative connections between migration and development and to strengthen cooperation between African states and EU Member States on this matter.

The Tripoli Conference is organised at a time when large numbers of migrants have arrived at the southern maritime frontiers of the EU. At the same time, FRONTEX, the EU's external borders management agency, is carrying out operations to tackle crossings of the Mediterranean by asylum-seekers in search of protection and migrants in search of a better life. The trend of increasing numbers of migrants taking ever greater risks to reach the European territory is almost symbolic of the EU's failure so far to effectively address the root causes of migration. It is encouraging to see this realisation entering the debate.

The Tripoli Conference appears to take a different approach from the previous high-level meetings on this issue. According to the draft 'Joint Africa-EU Declaration on Migration and Development' the principles that should govern the partnership between countries of origin, transit and destination on migration management should be more human rights-sensitive and less control-driven. It is stated that peace and security must be guaranteed and that concern for the human rights and well-being of the individual must be a priority, while legal migration opportunities are considered to be 'good for everyone' and that managed migration can be positive for development. Most strikingly, and in sharp contrast to the Rabat Declaration and Action Plan, the need to ensure access to international protection for those in need of it is explicitly mentioned as a guiding principle. Amnesty International also welcomes the particular attention for unaccompanied minors and women and due access to asylum procedures.

However, good intentions are not enough and need to be translated into action. It is important that high-level meetings such as the one organised in Tripoli pass beyond the mere rhetoric and include a perspective of concrete initiatives to be taken by both African states and EU Member States. Moreover, the EU and its Member States should streamline their involvement in the different initiatives they have recently engaged in relating to migration and development so as to ensure a coherent strategy on this issue.

The need for more substantive international burden-sharing in refugee protection

When developing a global approach to migration and development, all parties concerned must observe their obligations under international human rights and refugee law and must honour the principle of international burden-sharing in addressing problems of refugee protection. According to official statistics from UNHCR for 2005, Europe hosted 23 % of all refugees in the world, while Africa and the region of Central Asia, South-West Asia, North Africa and the Middle East each hosted one third of the world's refugee population. Meanwhile the number of asylum-seekers arriving in the EU continues to decrease, with a 34% decrease noted in applications lodged in the first semester of 2006, compared to the first semester of 2004. Nevertheless, the downward trend in asylum applications registered in the EU Member States has not been reflected by a substantial increase of the number of refugees who have been resettled in Europe.

Resettlement is promoted by UNHCR as one of the durable solutions to refugee situations, besides voluntary return and local integration and as a tangible expression of international solidarity and a responsibility sharing mechanism. Yet only a few EU Member States are involved with resettlement programmes resulting in relatively low numbers of refugees being resettled. If EU Member States are serious about honouring the principle of international burden-sharing within the international protection regime, they should substantially engage in resettlement programmes to complement their protection obligations under the 1951 Geneva Refugee Convention and other relevant international human rights instruments, including the European Convention on Human Rights.

It would be highly appropriate for the EU Member States to show solidarity with the African continent in dealing with refugee situations by including the increased use of resettlement in the joint declaration.

The need to respect refugees' and migrants' rights in the fight against irregular migration

The draft joint declaration explicitly mentions 'the need to ensure effective return and readmission policies between all countries concerned for the return, in dignity and with respect for fundamental rights, of illegal migrants by implementing the readmission clauses in Euromed Association Agreements and Neighbourhood Action Plans'. Readmission agreements and readmission clauses in association agreements with countries of origin and transit are an important tool of the EU's overall immigration and return policies. However, Amnesty International is concerned about illegal expulsions of migrants, asylum-seekers and, in some cases, refugees by a number of Mediterranean countries, such as Algeria, Libya, Morocco and Spain.

A recent Amnesty International report has, for instance, documented illegal expulsions in 2005 from Spain and Morocco and from Morocco to bordering countries leading in some cases to refoulement¹. Immediate and collective expulsions as the ones described in the report are unlawful because they are carried out without procedures to determine the lawfulness of return in each individual case or to identify asylum-seekers and examine their claims.

Since then, thousands more people suspected of being irregular migrants have been arrested by the Moroccan authorities and expelled to Algeria and, to a lesser extent, Mauritania. In

¹ Amnesty International, "*Spain and Morocco: Failure to protect the rights of migrants-one year on*", AI Index: EUR 14/009/2006.

August 2006 the humanitarian organisation Médecins du Monde reported that one of a group of 53 migrants expelled to the border between Western Sahara and Mauritania by the Moroccan authorities and left without food or water had died of dehydration. So far this year at least three recognised refugees and one asylum-seeker registered with UNHCR in Rabat have reportedly been among those arrested and expelled by Morocco.

Amnesty International notes the increasing practice of EU Member States and African states of engaging in bilateral and multilateral readmission agreements and is concerned that they may be conducive to human rights violations similar to those documented in Amnesty International's report on Spain and Morocco. As such agreements are often implemented without any transparency, they are difficult to monitor. Currently, the EU is finalising a readmission agreement with Morocco, while it seeks to open negotiations with Algeria soon.

EU Member States must ensure that such agreements are based on the full respect of the rights of asylum-seekers, refugees and migrants and that the principle of non-refoulement is strictly observed in practice. The EU should have sufficient and effective guarantees as regards the return in safety and dignity and in full respect of migrants' human rights. Without such guarantees and without effective monitoring mechanisms the EU and its Member States should refrain from concluding readmission agreements or conducting returns to these countries. In other words, human rights conditionality should be an essential element in the EU's strategy when engaging in cooperation with third countries to control irregular migration.

The need for concrete initiatives on legal migration and the development of a strategy on migration and development that respects migrant workers' rights.

Amnesty International welcomes the fact that both EU and African states agree that well-managed legal migration can promote closer ties between countries of origin and host countries, help meet labour needs and contribute to the development of countries of origin. On earlier occasions, Amnesty International has called upon the EU to open concrete discussions to create legal channels for migration as a necessary component in the EU's overall strategy. Both the Commission and a number of Member States have already recognised the need for such a policy. The Tripoli meeting, of course, offers the ideal forum to set the agenda on legal migration issues between Africa and the EU and to develop together with the African states a balanced approach that addresses both the EU and African states' needs in this debate.

The same dialogue should also serve to promote and protect the rights of all migrant workers and their families without discrimination. Many migrant workers, in particular when they are undocumented, are subject to abusive practices and face discrimination and economic exploitation. The 1990 UN Convention on the Rights of All Migrant Workers and Members of their Families emphasises the principle that all migrants, regardless of their status, are entitled to enjoy human rights and is being considered as the seventh core human rights treaty. It sets out the rights to which all migrant workers are entitled, including the right to life, liberty, protection from collective expulsion and to adequate conditions of work. It clarifies and re-asserts the respect for human rights of all persons within the territory of the State party, not only its citizens. It can be an important instrument in preventing and eliminating exploitation and discouraging irregular labour in humiliating circumstances. Today, none of the EU Member States have yet ratified the Migrant Workers Rights Convention, while a number of African states have. Amnesty International calls upon the African and EU-Member States to recognise the importance of the Migrant Workers Rights

Convention in connection with migration from Africa to Europe and to ratify the Convention as soon as possible.

Amnesty International recommends that the EU and its Member States:

- 1. Express concrete international solidarity with African states in addressing refugee situations by substantially engaging in resettlement.**
- 2. Ensure effective access to international protection with particular attention to the protection needs of vulnerable groups.**
- 3. Ensure that refugees' and migrants' rights are fully respected in the fight against irregular migration while guaranteeing that any return of illegally residing third country nationals takes place in safety and dignity.**
- 4. Commit to concrete initiatives to open legal channels of migration as an important element in a global strategy on migration and development.**
- 5. To ratify the 1990 UN Convention on the Rights of All Migrant Workers and Members of their Families.**

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