

Commissioner Benita Ferrero-Waldner  
External Relations and European Neighbourhood Policy  
European Commission

Brussels, 28 July 2009  
Ref.: B888

Dear Ms. Ferrero-Waldner,

### **The human rights impact of the total abortion ban in Nicaragua**

Amnesty International has recently launched a new report entitled *The total abortion ban in Nicaragua: Women's lives and health endangered, medical professionals criminalized*. This report is being published on the occasion of the one-year anniversary of the revised Penal Code of the Republic of Nicaragua, which came into force in July 2008.

The revised Nicaraguan Penal Code criminalizes all forms of abortion, regardless of the circumstances under which the abortion is sought, obtained or performed. The research in Amnesty International's report reveals the serious negative impact of this new legislation on the human rights of women and girls in Nicaragua. Women and girls who seek an abortion, even when their lives or health are in danger if the pregnancy continues, or when the pregnancy is a result of rape or incest, now face long prison sentences. The new law also leaves women and girls who have suffered a spontaneous miscarriage vulnerable to prosecution, since they may be wrongly suspected of having induced an abortion. Any health professionals who provide abortion services will also face criminal prosecution and sanctions, as well as professional sanctions.

By compelling women and girls to carry unwanted or non-viable pregnancies to term, the new law causes severe pain and suffering. The link between the complete prohibition and criminalization of abortion on the one hand, and the violation of women and girls' human rights on the other hand, is well established. The United Nations Special Rapporteur has found that acts that deliberately restrain women from having an abortion constitute violence against women (UN Document E/CN.4/1999/68/Add.4).

Prohibition and criminalization of abortion may also lead to the violation of the total ban on torture. In a briefing to the UN Committee Against Torture, on *The impact of the complete ban of abortion in Nicaragua*, Amnesty International found that Nicaraguan women and girls may suffer torture and other ill-treatment as a direct result of the state's legislative action banning all forms of abortion. The UN Committee Against Torture followed this line. In its Concluding Observations of 14 May 2009 (CAT/C/NIC/CO/1), the Committee urged Nicaragua to revise its legislation on the issue of abortion, citing also recommendations to the same effect from the UN Human Rights Council, the UN Committee on the Elimination of Discrimination Against Women, and the UN Committee on Economic, Social and Cultural Rights.

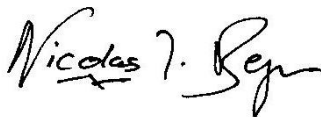
The impact of the law is most likely to be felt by women and girls from less affluent backgrounds; this effectively makes the law discriminatory. Under the total abortion ban, women and girls with few economic resources and fewer safe alternatives may feel compelled to obtain illegal abortions, endangering their lives and health, and risking imprisonment. Maternal mortality already has a disproportionate effect on women and girls living in poverty. Under the UN Millennium Development Goals (MDGs) the Nicaraguan authorities have committed themselves to reducing maternal mortality by 75 per cent by the year 2015. Amnesty International is concerned that by having adopted this retroactive law, Nicaragua risks undermining any progress in cutting maternal mortality figures. Preventable maternal mortality is a violation of women's right to life, to non-discrimination, to the highest attainable standard of health care and to information.

On 20 October 2006 when the debate on the revision of the Penal Code's provisions on abortion was taking place, the European Commission, along with a number of international organizations and states, co-signed a letter to the Nicaraguan National Assembly expressing their grave concern about this development. The signatories included the UN Children's Fund, UN Development Programme, UN Population Fund, the Pan-American Health Organisation, the World Health Organisation, and the diplomatic representatives of the European Commission, the Netherlands, Finland, Denmark, Iceland, the United Kingdom and Norway. On 10 November 2006, the Inter-American Commission on Human Rights' Rapporteur on the Rights of Women also sent a letter of concern to the Foreign Minister of Nicaragua. Despite these international efforts to dissuade the Nicaraguan legislators from enacting the revisions of the Penal Code, the National Assembly went ahead with the retroactive legislative changes. Today, one year after the entry into force, women and girls in Nicaragua suffer under the restrictive abortion provisions in the Penal Code.

The situation described in Amnesty International's report on Nicaragua reflects a wider regional dimension of this specific problem. Several UN Treaty Bodies, including the Human Rights Committee, have found that restrictive abortion legislation existing in Costa Rica, El Salvador, Guatemala, Honduras and Panama, are not in line with the states' obligations under international human rights law.

Recalling its obligation to integrate human rights concerns into all aspects of its external policies, the EU should use the continuing rounds of negotiations on the EU-Central America Association Agreement to make clear its strong concerns about the serious impact of restrictive abortion legislation on the human rights of women and girls in Nicaragua, and in the broader Central American region.

We would welcome any feedback on the issue, and we remain at your disposal to provide any further information.



Nicolas Beger  
Director  
Amnesty International EU Office

CC: Commissioner Karel De Gucht – Development and Humanitarian Aid  
Commissioner Baroness Catherine Ashton – Trade  
EC Delegation in Nicaragua, Head of Delegation – Mr. Mendel Goldstein

Attached:

- Amnesty International report *The total abortion ban in Nicaragua: Women's lives and health endangered, medical professionals criminalized*
- Amnesty International briefing *The impact of the complete ban of abortion in Nicaragua: Briefing to the United Nations Committee Against Torture*