

Brussels, 12 April 2010

Our Ref : B953

Dear Sir/Madam,

Amnesty International Report: 'Dangerous Deals: Europe's Reliance on "Diplomatic Assurances" Against Torture'

Amnesty International would like to draw your attention to its report on the recent developments with respect to the use of diplomatic assurances by European states: *'Dangerous Deals: Europe's Reliance on "Diplomatic Assurances" Against Torture'*. The report documents that there are serious deficiencies with diplomatic assurances and calls on European countries to reject once and for all the dangerous practice of relying on feeble promises from governments with proven records of torture.

Many governments continue to seek diplomatic assurances to justify forcible returns of persons they allege are national security and terrorism suspects to countries where they are at risk of torture and ill-treatment. Our report covers recent jurisprudence and contains detailed updates on cases in Austria, Azerbaijan, Bosnia and Herzegovina, Denmark, France, Germany, Italy, Russia, Slovakia, Spain, Sweden, and the United Kingdom. We illustrate a number of fundamental flaws with the practice and demonstrate that governments are using diplomatic assurances in their own self-interest to rid themselves of foreigners alleged to be involved in acts of terrorism, instead of prosecuting those persons for any crimes of which they are accused.

Diplomatic assurances undermine the absolute ban on torture and violate the principle of *non-refoulement*. The global ban on torture and other ill-treatment requires governments to take positive steps to prohibit and prevent such abuse, investigate claims of abuse, prosecute those responsible and provide reparation and rehabilitation for victims. It remains in full force at all times and places and in respect of all persons. By striking a deal with the receiving state the sending state undermines this ban and implicitly tolerates the continuation of a broader pattern of torture violations in the receiving state.

There are inherent deficiencies in diplomatic assurances that militate against them providing a reliable safeguard against torture and ill-treatment. Secrecy is in the very nature of torture and abuse is difficult to identify. Victims are afraid to recount their abuse; governments routinely deny it and fail to keep perpetrators accountable. In the event of an alleged breach, bilateral diplomatic assurances are not legally binding and lack enforcement mechanisms. Governments have no incentive to acknowledge a breach as this not only would imply that they had violated international law in the first place but would also complicate future reliance on assurances. Even if breaches are detected by the sending government, there is no evidence that serious diplomatic consequences will result and at that stage there are no means to ensure effective protection of the individual.

Our report demonstrates that post-return monitoring of diplomatic assurances does not render their usage compatible with international human rights obligations. On the one hand system-wide monitoring cannot guarantee the protection of particular individuals and on the other hand individual monitoring places the

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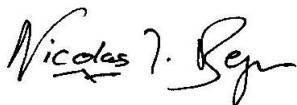
detainee in an untenable position where he or she will clearly be identified as the source. Sporadic monitoring alone cannot eliminate the risk of torture or other ill-treatment that a particular person would otherwise face – and no reputable independent monitoring body has ever made that claim.

Our position against diplomatic assurances is supported by jurisprudence of the European Court of Human Rights and domestic courts in Europe, which have ruled in several cases that diplomatic assurances are not reliable and halted extraditions where a person has been at risk of torture or ill-treatment. A similar position has been taken by the UN Committee against Torture and the Human Rights Committee and a number of regional and international human rights experts. It is noteworthy that to date, the European Court of Human Rights has never permitted a transfer in reliance on diplomatic assurances from a European state to a country where torture is routinely practised or where persons belonging to specific groups are particularly targeted for torture.

Amnesty International calls on the member states of the European Union and the Council of Europe to reject unequivocally the failed experiment of accepting unreliable, unenforceable promises of humane treatment from governments that torture. We call on these governments to halt the use of unreliable diplomatic assurances against torture and other ill-treatment to forcibly return persons to places where they are at risk of such violations. The most effective way to prevent torture is to respect the principle of *non-refoulement* and refuse to send people to places where they risk being harmed. States should instead commit the necessary resources to assist governments in countries where torture and other ill-treatment are persistent to eliminate these practices.

We thank you for your attention and look forward to your response. We remain at your disposal to discuss the report in greater detail

Yours faithfully,



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