

Kari Rajamäki
President of the Justice and Home Affairs Council

2 October 2006
Ref: b_586

Dear Mr. Rajamäki,

Subject: addressing irregular migration with full respect of human rights

Prior to your recent informal meeting in Tampere, Amnesty International shared its observations on the developments and challenges in the EU justice and home affairs sphere from a human rights perspective¹. The immigration crisis in the Mediterranean region was a predominant theme at that meeting and will be discussed again at the formal meeting of Justice and Home Affairs Ministers in Luxembourg on 5 and 6 October.

Amnesty International therefore takes the opportunity of the forthcoming JHA Council to recapitulate its concerns regarding the ongoing immigration crisis and the way it is being dealt with by the EU and its Member States.

Amnesty International welcomes the recent statement of Commissioner Frattini in the European Parliament that the strategic goal of the EU's policy on immigration is to strike a balance between improving security and promoting human rights but regrets that concrete examples of the latter have been lacking so far. In fact, ambiguous signals were sent out during and after the Tampere meeting.

The efforts to seek cooperation with Libya in controlling irregular migration flows provide a clear example of this ambiguity. Immediately after the Tampere meeting the Commission announced a € 3 million aid package to the Libyan authorities in order to help them tackle immigrant influxes at their southern border. The money is to be used by Libya to buy patrol vehicles and night visors. It should persuade Libya to collaborate with the EU on joint air and sea patrols in the Mediterranean. The human rights perspective is strikingly absent.

Amnesty International is deeply concerned about the implications of the EU engaging in financial deals with countries known for their poor human rights record, without obtaining any guarantees as regards the respect of basic human rights of the migrants concerned. Amnesty International has repeatedly signalled that the situation of migrants and refugees is very problematic in Libya. The country has still not become a party to the Geneva Refugee Convention and limitations remain on the scope of work which UNHCR is able to do in Libya. As a result, there is no guarantee of refugee rights in Libya, while detention conditions of irregular immigrants are reported to be deplorable.

Even in countries of transit where the situation may be less problematic, we see that asylum systems are weak or non-existent, and that effective safeguards against infringement of the

¹ Amnesty International EU Office, Amnesty International's recommendations ahead of the Informal JHA Ministerial Meeting in Tampere 20-22 September 2006, 18 September 2006.

basic rights of irregular migrants are mostly lacking. The fate awaiting those who are prevented from leaving, or returned after interception or deportation from Europe, is therefore too often most uncertain, and serious abuses have not been uncommon. Nonetheless, the EU's response to the immigration crisis has continued to be almost one-dimensionally focused on attempting to seal off the EU's external borders by ever strengthening immigration controls, without reference to the human rights implications, and without any systematic attempt at monitoring what happens to the people concerned.

Amnesty International considers that human rights conditionality should be an essential element in the EU's strategy when engaging in cooperation with transit countries or countries of origin in the fight against irregular immigration. This applies both to the short-term effort to control irregular immigration, and to the longer-term perspective of addressing its root causes and providing a more structural response. In that respect, we appreciate that both Commissioner Frattini in his statement of 27 September 2006 to the European Parliament and the Finnish Presidency in its response of 28 September 2006 to the letter of the eight heads of state and government have indicated that ever stricter border controls alone will not suffice and that 'the root causes of illegal migration [should be addressed] instead of focusing only on prevention'.

Moreover, both the Commission and a number of Member States recognise the need for an EU policy on legal migration. Amnesty International is convinced that opening up legal channels for migration to Europe will be a necessary component in the EU's overall approach to migration challenges and urges the Commission and the Member States to enter into concrete discussions to create such channels.

Finally, much has been said about the need for solidarity among Member States in this matter and the fact that the Mediterranean crisis does not only concern the Southern states in the frontline, but all Member States. In Tampere, Europe saw Member States bluntly refusing to show solidarity and reproaching Southern Member States to be at least partly responsible for the current crisis. It is regrettable that this dispute is carried out over the heads of migrants who are ultimately paying the price for the Member States' inability to develop real solidarity. We believe that such solidarity should not only be shown in sending more boats, more airplanes and more equipment, but also in a genuine effort to develop a common long term strategy on illegal as well as legal migration that is grounded in respect for the basic rights of migrants.

We hope these concerns may be taken into account during your discussions.

Yours sincerely,



Dick Oosting
Director
Amnesty International EU Office



Frank Johansson
Director
Amnesty International Finland