

AMNESTY INTERNATIONAL APPEAL TO THE EUROPEAN UNION REGARDING EXPULSIONS FROM ITALY TO LIBYA

Amnesty International is concerned that the Italian authorities on 22 June 2005 forcibly returned at least 45 people to Libya, where they may be at risk of serious human rights violations, including torture. Despite renewed commitments at the June 2005 JHA Council that co-operation with third countries regarding migration management would not in any way prejudice Member States' obligation to ensure access to asylum procedures, the Italian authorities denied them the effective opportunity to apply for asylum and have their claims assessed in a fair and satisfactory asylum procedure. Many more foreign nationals have recently arrived on the island of Lampedusa and as of 22 June 866 people were reportedly detained in the temporary holding centre for foreign nationals on the island. The authorities are reportedly planning further deportations.

The 866 people detained on Lampedusa are reportedly of various nationalities, many of them from North-African and sub-Saharan African countries, and most of them are believed to have set off for Italy from Libya, some 300km away. The Lampedusa detention centre, which has a maximum capacity of 190 people, is now alarmingly over-crowded.

Many of the people now held in the Lampedusa temporary holding centre are at risk of being forcibly returned to Libya and other North-African countries. Amnesty International is concerned that these people might be returned without an effective opportunity to apply for asylum. Amnesty International is concerned that non-Libyan nationals deported to Libya would be at risk of arbitrary detention, and also of forcible return from Libya to other countries where they would be at risk of serious human rights violations, including torture and other ill-treatment.

Italy is bound by international law not to return anyone to a country or territory where he or she would be at risk of serious human rights violations. This obligation is reinforced by the fact that Italy is a party to the 1951 Refugee Convention, the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the European Convention for the Protection of Human Rights and Fundamental Freedoms.

BACKGROUND

The number of people arriving on Lampedusa, and the attendant overcrowding of the detention centre, has increased dramatically over the past two to three years. The number of people arriving on the island has tended to increase in the summer because the weather is more favourable for sea crossings, and the detention centre generally remains overcrowded for long periods during the summer.

In March 2005, the Italian authorities stopped deportations from the temporary holding centre for foreign nationals on Lampedusa following pressure from the NGOs and the United Nations High Commissioner for Refugees (UNHCR). Some 1,000 people have since been moved from Lampedusa to detention centres in mainland Italy.

Libya has not ratified the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, nor has it established national asylum procedures. Libya has signed and ratified the Organisation of African Unity (OAU) Convention on specific aspects of refugee problems in Africa, which provides a broad definition and a legal basis for refugee protection, as well as an obligation to co-operate with the UNHCR. However, according to the UNHCR, two key obstacles prevent the fulfilment of these obligations in practice: firstly, the lack of official acknowledgement of the presence of refugees and asylum-seekers in Libya; and secondly, the absence of any official contact or status accorded to the UNHCR in the country. In the absence of a legal protection framework, there is no effective guarantee that the rights of refugees will be protected.

THE OBLIGATIONS OF THE ITALIAN GOVERNMENT

In view of the Italy's deportation practice, Amnesty International believes that the Italian authorities should be reminded of their obligations under international human rights and refugee law:

- to respect the right of all individuals to seek asylum, and to ensure access to fair and satisfactory asylum procedures, including access to adequate legal assistance and interpretation and an effective right to appeal;
- not to forcibly return anyone to a country where they would be at risk of serious human rights violations, in line with Article 33 of the 1951 Refugee Convention and Article 3 of the Convention against Torture, to which Italy is a party;
- to end the collective expulsion of foreign nationals to Libya or other countries.

AMNESTY INTERNATIONAL APPEAL TO THE EU INSTITUTIONS

Amnesty International urges the Council to break its silence over Italy's deportation practice and to ask the Italian authorities to uphold their obligations under international human rights and refugee law. Not to respond would effectively undermine the credibility of the commitment reiterated on the occasion of the June 2005 JHA Council by EU Member States to fulfil their protection obligations under international law. It would also be at odds with the central importance attached to the human rights conditionality in migration partnerships expressed in the November 2004 European Council and recalled by the June 2005 JHA Council.

Amnesty International urges the Commission to publicly distance itself from the actions of the Italian authorities. The Commission should carry out an independent investigation regarding Italy's compliance with international law obligations which are part of the EU acquis, and in particular with its obligation under articles 5 (information), 6 (documentation), 7 (residence and freedom of movement), 13 and 15 (material reception and health care) of the directive 2003/9/EC laying down minimum standards for the reception conditions of asylum seekers. The silence observed by the Commission in these situations undermines the credibility of its monitoring responsibility. The Commission Director General for Justice and Home Affairs visited Libya on 22 June 2005, as the special envoy of Commissioner Frattini, for first discussions on starting up cooperation to counter illegal immigration. Against this background, a lack of reaction from the Commission would also seriously undermine its political credibility in the ongoing discussions with the Libyan authorities when promoting the respect of international standards on refugee protection and human rights as a precondition for operational co-operation.

Amnesty International urges the European Parliament to reiterate its firm criticism of the large-scale returns operated by Italy, as already expressed in a previous resolution of 14 April 2005. Amnesty International welcomes the initiative of MEPs to carry out visits of detention centres across the EU, and in particular in Italy, and urges them to publish the result of their missions.