

Franco Frattini
Commissioner for Justice, Freedom and Security

21 March 2005
B456

Dear Mr. Frattini,

For the third time in six months, Amnesty International feels compelled to address the Commission with regard to Italy's deportation practice. As you are aware, on 17 March 2005, the Italian authorities forcibly returned 180 people to Libya, where they may be at risk of torture. Despite strong protests by various organisations including the UNHCR, Italy is reportedly planning further deportations. The authorities appear to be rushing to deport people from Lampedusa, and are doing so without proper scrutiny of the individual cases.

During a similar episode last October, we had already alerted your predecessor about the potentially harmful consequences of the actions carried out by the Italian authorities. Again in January 2005, we approached you to denounce Italy's breach of its international obligations under the 1951 UN Refugee Convention and the European Convention on Human Rights. Amnesty International fears that the same concerns apply to the on-going developments in Lampedusa.

Whilst it is the responsibility of the Commission to uphold the EU acquis and to take action against Member States that act in breach of the principles defined by the Common European Asylum system, we have not received any satisfactory answer so far. This new letter aims at sharing our most recent findings, but also to engage in a critical dialogue about the appropriate answer to this issue.

Since 13 March over 1,000 people of various nationalities have landed by boat on the Sicilian Island of Lampedusa. All are believed to have set off from Libya, some 300 kms away, and have been detained on arrival and held at a temporary holding centre for foreign nationals. Up to 400 have reportedly been transferred from the Lampedusa centre, intended to hold a maximum of 190 people, to a centre in Crotona, on the southern Italian mainland.

On 15 March the United Nations High Commissioner for Refugees (UNHCR) requested access to the Lampedusa centre, but was denied. In a communiqué, published on 18 March 2005, UNHCR deplored that due to the rushed methods, individuals who might have a valid asylum claim do not receive a proper assessment. UNHCR also underlined that "it is far from clear that Italy has taken the necessary precautions to ensure that it is not sending back any bona fide refugees to Libya, which cannot be considered a safe country of asylum".

On 16 March the Italian Minister of the Interior informed parliament that Italy was acting lawfully. He asserted that almost all of the foreign nationals who had arrived on Lampedusa were Egyptian, but had claimed to be Palestinian or Iraqi.

On 17 March 180 people were removed from the Lampedusa centre and flown to the Libyan capital, Tripoli, under Italian police escort.

Amnesty International and UNHCR are all the more concerned that Libyan officials have been in Lampedusa recently, and, according to the Italian Minister of the Interior, they have been allowed into the centre to collaborate with the Italian authorities in identifying people-traffickers. Amnesty International believes that this would be likely to put any detainees later returned to Libya in grave danger. Non-Libyan nationals would risk detention on charges including illegal entry into and exit from Libya.

In view of these different elements, it seems that the Italian authorities have not acted in compliance with the 1951 UN Refugee Convention. Furthermore, according to Protocol 4 to the European Convention on Human Rights, the Italian government is prohibited from expelling entire groups of people, without properly considering each individual's situation.

Amnesty International has long-standing concerns about the lack of adequate and comprehensive asylum legislation in Italy. Over the last year, the organisation has also expressed fears that the Italian government's attempts to deal with arrivals by sea are seriously compromising the fundamental right to seek asylum and the principle of *non-refoulement*, which prohibits the forcible return of anyone to a territory where they would be at risk of serious human rights violations.

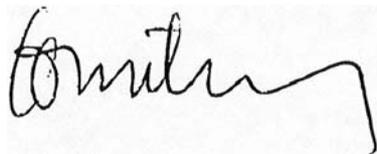
As underlined by UNHCR, Libya has not signed the 1951 UN Refugee Convention, nor does it have a functioning national asylum system. Amnesty International is aware that Libya is a state party to the Organisation of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa, and is therefore bound not to return anyone to a country where they would be at risk of serious human rights violations. However, according to our findings, Libya violated this obligation on several occasions in 2004. Hundreds of Eritreans were forcibly returned in July and August 2004; many of those returned to Eritrea are believed to be detained incommunicado in a secret prison where conditions are harsh.

Amnesty International believes that the silence of the Commission so far goes against the principles underlying the Common European Asylum System. A lack of critical reaction to these recent events would undermine the credibility of the Commission's monitoring process. It is also in flagrant contradiction of the EU's human rights policies as they are proclaimed through the Common Foreign and Security Policy and raises serious concerns about the orientations of the partnership to be implemented with countries in North Africa that have questionable human rights records.

Amnesty International hopes that, on the basis of the elements mentioned above, the Commission will publicly distance itself from these actions and express concern at reports that 180 foreign nationals were deported to Libya on 17 March, within days of their arrival in Lampedusa and without the UNHCR being allowed access to them. We believe that the Commission should properly investigate this case and cannot only rely on Italy's declaration. It should also urge the Italian authorities to grant access to a fair and satisfactorily asylum procedure, including access to adequate legal assistance and competent interpretation. The Commission should also ask the Italian authorities to give UNHCR prompt access to all the detainees in Lampedusa and Crotone and to stop deportations in breach of international standards.

Amnesty International also takes this opportunity to urge the Commission to publish the outcome of the technical mission on illegal immigration in Libya, which took place in December last year. While we were able to meet with the relevant services in charge of the dossier, we believe that it is time to develop a transparent dialogue on this dossier involving all the actors concerned.

We look forwards to your urgent response.
Yours sincerely,



Dick Oosting
Director

P.S. CC to: President of the Commission, EU Commissioner in charge of external affairs, EU Presidency, Permanent Representatives, Members of the European Parliament, Personal Representative on Human Rights for the CFSP and UNHCR B.O. Brussels.