

The President of the European Council
Mr. Bertie Ahern, Taoiseach
The Vice-President of the European Commission
Mrs. Loyola de Palacio
The High Representative for the CFSP
Mr. Javier Solana

Brussels – Dublin 24 June 2004
B 414

EU-US Summit 25-26 June

Dear Madam, dear Sirs,

The summit of the European Union's leadership with the President of the United States this week coincides with the UN International Day in Support of Victims of Torture. As leaders of a union of countries whose new constitution affirms the respect for human rights and fundamental freedoms as the bedrock of their common endeavour, Amnesty International urges you to end the European Union's embarrassing silence in the face of the United States' ongoing breaches of fundamental human rights and humanitarian law principles in the pursuit of its "war on terror" and in Iraq.

President George W. Bush should not leave Dromoland Castle without one clear message from the EU: the EU will never accept that torture and ill-treatment is encouraged, condoned or ignored, and therefore expects its single-most important partner to abide by the absolute ban on torture laid down in the 1949 Geneva Conventions and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The Council of the EU in May 2004 reacted to the release of photographs showing the abuse of Iraqi prisoners by US agents by expressing its "abhorrence at evidence of mistreatment of Iraqi prisoners". There has been no indication that this has at any stage been taken up officially and forcefully with the US government. Surely now is the moment for the EU to back up its concern with robust calls on President Bush to ensure that the US opens the doors of its detention facilities not only in Iraq, but also in Afghanistan, Guantánamo and other undisclosed locations elsewhere to United Nations human rights' experts and independent international human rights monitors.

For more than two years, the EU Council has stood by in silence while the US has detained hundreds of individuals in a legal black hole in a detention camp at Guantánamo Bay Naval Base in Cuba, all but three without charge or trial, in conditions which amount to cruel,

AI Index: AMR 51/103/2004

inhuman or degrading treatment. It has ignored calls by the European Parliament¹ and EU civil society to speak up before the US Supreme Court in defence of the non-derogable right of all detainees to judicial review as it considers whether US courts have jurisdiction to consider challenges to the legality of the detention of foreign nationals captured abroad and incarcerated in Guantánamo.

Neither has the EU until now shown willingness to demand that every party on Iraqi territory lives up to their obligations under international human rights and humanitarian law, despite the participation of EU Member States in the Coalition Forces in Iraq and despite EU awareness of evidence that serious human rights abuses have occurred in Iraq during the past year. It is particularly disturbing in this regard that one of the EU's own members, the United Kingdom, has also been implicated in reports of abuse of prisoners. Amnesty International notes with regret that the Council has also been utterly silent on this matter, which risks weakening the legitimacy with which it can address the US government.

While this is an issue which the EU needs to reflect on internally, it does not detract from the larger complex of US breaches of international human rights and humanitarian law. As Amnesty International has pointed out in a report published this week on the plight of thousands of detainees held in relation to the "war on terror" in the US Naval Base of Guantánamo, the Gulf and the Arab Peninsula², the recent revelations of Iraqi prisoners being abused by US troops have increased the concern of their families about their possible torture and inhuman treatment. The US and other governments refuse access to the prisoners, and sometimes even basic information about their fate and whereabouts. The refusal of the US to allow independent human rights monitors access to Guantánamo and other detention centres fuels these concerns.

While the commander of the US forces in Iraq has now barred interrogators from using some of the "stress and duress" techniques used in Iraq, their use has not yet been precluded in interrogations in Afghanistan, Guantánamo or other undisclosed locations. Testimonies gathered from former detainees describe regimes of brutality and cruelty in US detention facilities outside the US. Such statements stand in stark contradiction to US claims that it has abided by international conventions barring torture and other cruel, inhuman or degrading treatment or punishment.

The descriptions given by former detainees of their treatment in Guantánamo, Bagram, Kandahar and other facilities suggest that the use of torture and other cruel, inhuman or degrading treatment by US agents in regard to "war on terror" detainees has clearly not been limited to prisoners at Abu Ghraib, nor are there any assurances that the use of such techniques has now been halted. There is also growing evidence that the abusive techniques were approved at a high level of command and are not the actions of a few soldiers as has been claimed.

Amnesty International urges you to call on President Bush to reaffirm the US' commitment to uphold international human rights and humanitarian law and to ensure the humane treatment of those the US has detained in Iraq, Afghanistan, Guantánamo, and elsewhere, in particular by:

¹ The European Parliament on 4 December 2003 called on the Council to submit an *Amicus Curiae* brief to the US Supreme Court. EP Resolution P5_TA(2003)0548, 4 December 2003, para. 42.

² Amnesty International report "The Gulf and the Arabian Peninsula: Human rights fall victim to the 'war on terror'", 22 June 2004, AI Index MDE 04/002/2004.

- immediately halting the use of techniques that amount to torture or other cruel, inhuman or degrading treatment of prisoners in US custody;
- demanding a thorough, impartial, public and transparent investigation of allegations of torture and ill-treatment in all US detention facilities;
- ensuring the appropriate sanctioning of persons at every command level who are guilty of ordering and perpetrating such abuse, or who contributed to a command climate that permitted it;
- granting the International Committee of the Red Cross and independent human rights monitors unfettered access to all US detention facilities;
- upholding the right of every detainee to a judicial review of the legality of his or her detention.

Your meeting with President Bush over the next two days will be a test of the EU's commitment to live up to the principles of its newly adopted constitution and how those principles are reflected in consideration of transgressions by the EU's own members. Most importantly, there is a need to apply these same principles in the EU's relationship with its foremost ally.

We urge you to present these concerns in an open and frank manner, and to ask that the US leadership restore confidence in its commitment to uphold the law and abolish torture definitively and unequivocally.

Yours sincerely,



Dick Oosting
Director
Amnesty International EU Office



Sean Love
Executive Director
Amnesty International Ireland

This letter will be also be brought to the attention of the acting President of the European Parliament, EU Ministers of Foreign Affairs and the European Commissioner for External Relations.