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Switzerland

Alleged cruel, inhuman and degrading treatment of asylum-seekers in the Canton of Glarus

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At around 5.30am on 3 July 2003 a police special unit, apparently searching for criminal suspects and evidence of criminal activity, carried out simultaneous raids on Rain transit centre for asylum-seekers and unauthorized immigrants in the town of Ennenda and two apartment houses for asylum-seekers in the towns of Linthal and Rüti, Canton of Glarus.

Amnesty International is calling on the authorities in the Canton of Glarus to ensure that a thorough and impartial investigation is opened immediately into the alleged cruel, inhuman and degrading treatment of foreigners during the police raids and that the findings are made public at the earliest opportunity. Any officer found responsible for human rights violations should be brought to justice and the victims of any such violations should receive full and adequate reparation.

Prompt, thorough and impartial investigations, in line with international standards, with the scope, methods and findings made public, serve to safeguard the interests of genuine victims of cruel, inhuman and degrading treatment, as well as to protect the reputations of police officers who may be the subject of unfounded accusations.

It has been alleged, amongst other things, that during the house searches:

- Police officers wore masks hiding their individual identities;
- Police officers, after using hammers to smash the main doors and inside doors, dragged the residents from their beds and onto the floor, then bound them hand and foot;
- Police officers then placed black hoods over the heads of the detainees so that they could not see;
- Police officers then pulled down the trousers and underpants of some male detainees, stuck numbers onto their backs with adhesive tape and photographed them from behind "in a sexually degrading position,"^[1] while laughing at them;

1. "in sexuell demütigender Stellung"

- Detainees in the Rain transit centre were then locked together in a room for several hours, still bound and hooded, and forbidden to speak until released by other – unmasked - police officers;
- A 16-year-old boy, an asylum-seeker apparently fleeing civil war in his home country and frightened by the raid, jumped from a third-floor window, suffering serious back injuries: it is claimed that he did not receive adequate medical assistance. One month after the fall, it was reported to Amnesty International that the boy was experiencing serious problems in walking and sitting as a result of the injuries suffered to his back.

It has been announced that a criminal complaint is to be lodged against the police in connection with their conduct on 3 July, and that a complaint is also to be lodged in connection with the injuries suffered by the 16-year-old boy.

The Glarus police have stated that the operation was carried out in a "lawful" [*gesetzmässig*] and "proportionate" [*verhältnismässig*] manner. Amnesty International understands that the police have also confirmed, amongst other things, that the residents were bound, required to undress for body searches, had numbers stuck to their backs, were forbidden to speak to each other, and were hooded, to prevent eye-contact. The police have denied that any detainee was photographed in a sexually degrading position. Police have also indicated that the officers involved in the operation wore labels identifying themselves as members of the police force.

In mid-July 2003 the Migration Department of the Swiss Red Cross, responsible for running the asylum-seekers' accommodation, wrote to the cantonal authorities seeking an explanation and a report with regard to the police raids of 3 July.

Amnesty International is urging that the investigation into the police operation include a determination as to whether international human rights standards were observed. The investigation should establish in particular:

- whether European and international standards on the fundamental rights of detainees were observed, including:
 - the right not to be subjected to cruel, inhuman or degrading treatment (guaranteed under the UN Convention against Torture, Article 7 of the International Covenant on Civil and Political Rights and Article 3 European Convention on Human Rights);
 - the right of prompt provision of adequate medical care (in accordance with Article 6 of the UN Code of Conduct for Law Enforcement Officials);
 - and the right to humane conditions of detention (in accordance with Article 10 (1) of the International Covenant on Civil and Political Rights).
- whether General Recommendation issued by the UN Special Rapporteur on Torture in 1995 [2], that the practice of hooding and blindfolding of detainees be forbidden, has been transmitted to the police by relevant federal and

2. UN Doc: E/CN.4/1995/34.

cantonal authorities.

- whether the European Code of Police Ethics, adopted by the Committee of Ministers of the Council of Europe in September 2001, has been transmitted to the police by relevant federal and cantonal authorities. The code indicates, amongst other things, that during interventions law enforcement officers should normally "be in a position to identify themselves as an individual member of the police." [3]

As the Committee commented, "without a possibility of identifying the individual policeman/woman, personal accountability ... becomes an empty notion." [4]. If officers do not display prominently some form of identification - such as a service number - this can prevent the identification of alleged assailants and thus provide them with complete impunity.

The organization is also urging that the investigation into the police operation include a determination as to whether articles relevant to the conduct of searches contained in the Glarus Cantonal Code of Criminal Procedure and the Service Regulations for the Glarus Cantonal Police Force were observed. The relevant articles include:

- Article 7(1) of the Service Regulations for the Glarus Cantonal Police Force which states that "The police have an obligation to act tactfully and firmly in the performance of their duties. Any abuse, unlawful threat, brutality or unnecessary use of force is forbidden." [Unofficial translation] [5]
- Article 28(1) of the Service Regulations for the Glarus Cantonal Police Force which states that "Privacy is guaranteed. [...] The search is to be carried out thoroughly, in accordance with a specific plan and treating occupants with all due care. Locked rooms may only be opened by force following a unsuccessful request to their occupants. The person whose rooms are being searched or, in his absence, a relative, housemate or an official person, is to be called in for the house search." [Unofficial translation] [6]

3. Article 45 – Explanatory Memorandum to Recommendation Rec (2001) 10 of the Committee of Ministers to member states on the European Code of Police Ethics.

4. Ibid.

5. *Dienstreglement für das Polizeikorps des Kantons Glarus (Erlassen vom Regierungsrat am 30. November 1964) - Art. 7 (1) "Die Polizei hat die Pflicht, bei der Ausübung des Dienstes taktvoll und entschlossen zu handeln. Jede Beschimpfung, widerrechtliche Drohung, Gewalttätigkeit oder unnötige Gewaltanwendung ist untersagt."*

6. *Dienstreglement für das Polizeikorps des Kantons Glarus (Erlassen vom Regierungsrat am 30. November 1964) - Art. 28 (1) "Das Hausrecht ist gewährleistet. [...] Die Durchsuchung ist gründlich, nach einem bestimmten Plan und mit aller Schonung von Bewohnern und Sachen durchzuführen. Verschlussene Räume dürfen erst nach erfolgloser Aufforderung an deren Inhaber mit Gewalt geöffnet werden. Zur Hausdurchsuchung ist die Person, deren Räumlichkeiten durchsucht werden oder wenn diese nicht anwesend ist, ein Verwandter, Hausgenosse oder eine Amtsperson beizuziehen. Zur Nachtzeit sowie an Sonn- und Feiertagen darf eine Hausdurchsuchung nur vorgenommen werden, wenn dringende Gefahr besteht."*

- Article 62 (3) of the Glarus Cantonal Code of Criminal Procedure which states that “Should the house, a room or container be locked, then the owners shall be asked to open them. If this request is to no avail, then force may be used to open them.” [Unofficial translation] [7]

Anyone wishing further details about Amnesty International’s concerns in Switzerland should consult the following publications:

- *Amnesty International Report 2003: Switzerland* (AI Index: POL 10/003/2003), May 2003;
- Amnesty International press release – *Switzerland/G8: Allegations of human rights violations must be investigated* (AI Index: EUR 43/003/2003), 5 June 2003;
- Amnesty International press release – *Switzerland: Security for everybody during WEF Davos police operations* (AI Index: EUR 43/001/2003), 20 January 2003;
- *Amnesty International Concerns in Europe and Central Asia, July – December 2002 : Switzerland* (AI Index: EUR 01/002/2003);
- *Amnesty International Concerns in Europe, January – June 2002: Switzerland* (AI Index: EUR 01/007/2002).

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7. *Strafprozessordnung des Kantons Glarus (Erlassen von der Landsgemeinde am 2. Mai 1965) - Art. 62 (3) “Sollte das Haus, ein Zimmer oder Behälter verschlossen sein, so werden die Besitzer aufgefordert, zu öffnen. Bleibt diese Aufforderung fruchtlos, so darf gewaltsam geöffnet werden.”*