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Exmo. Presidente da República Federativa do Brasil
Mr. Luiz Inácio Lula da Silva
Gabinete do Presidente
Palácio do Planalto, 3º andar
70150-900 - Brasília - DF
Brazil

1 October 2009

Dear Mr. President,

EU-Brazil Summit 2009

On 6 October 2009, the European Union (EU) and Brazil will meet for the third time at summit level as part of the new strategic partnership, established under the Portuguese Presidency of the EU in 2007. The Swedish Presidency has announced that the meeting will focus on issues of common concern, including the global economic and financial crisis, and climate change. We are writing to you to emphasize Amnesty International's view that approaches to these international challenges will only be effective in the long term, if global actors such as the EU and Brazil ensure that respect for human rights is central to all decisions taken.

As such, it is important to foster a relationship between these two global powers which is as effective as possible in ensuring the promotion and protection of human rights worldwide. This entails both sides taking up their responsibilities in the defence of human rights internationally, regionally, and at home. In the spirit of enabling dialogue on this common effort, we are writing to you to highlight a number of human rights concerns that Amnesty International has documented in the EU region:

- Violations of the rights of migrants and asylum seekers;
- Discrimination; and
- Use of torture and ill treatment by law enforcement officials.

Rights of migrants and asylum-seekers

Europe remains a magnet for those seeking to escape poverty, violence or persecution, with tens of thousands attempting each year attempting hazardous sea crossings to the borders of the European Union. However, the signature response of the region to these challenges of large and mixed flows of irregular migration remains repressive, showing a consistent pattern of human rights violations linked to the interception, detention, and expulsion by states of foreign nationals, including those seeking international protection.

In May, for example, the lives and safety of hundreds of migrants and asylum-seekers on three vessels in the Mediterranean were placed at risk first by a squabble between the Italian and Maltese authorities over their obligations to respond to maritime distress calls, and then by the Italian government's unprecedented decision to send them to the Libyan capital Tripoli, without assessing their protection needs. Other asylum-seekers facing obstacles in accessing asylum procedures include those in Greece who can be unlawfully detained and expelled before their claims are properly heard, or denied necessary guidance and legal support to pursue their claims.

Many countries routinely detain migrants and asylum seekers, and in inappropriate conditions. It is particularly worrying that in 2008 the EU adopted a directive allowing the detention of migrants for up to 18 months. The UN Human Rights Committee has expressed its concern at conditions in French migration detention centres, in terms of severe overcrowding and poor hygiene. In the Netherlands, alternatives to detention have been used infrequently, even for unaccompanied minors and victims of trafficking or torture. The European Commission on Racism and Intolerance has expressed concern at Malta's practice of systematically detaining all migrants, noting that policies put in place by the authorities to respond to the challenges of irregular migration were seriously reinforcing perceptions of immigrants as criminals and increasing the levels of racism and xenophobia against the general population.

Many asylum-seekers and migrants are also subject to discrimination and exclusion from services and employment, and experience extreme poverty. In Germany, for example, migrants continue to suffer restricted access to health care and judicial remedies in cases of violation of their labour rights, and migrant children's access to education is limited. In the United Kingdom thousands of rejected asylum-seekers are forced into destitution and face significant limits on their access to free health care. The majority of destitute rejected asylum seekers rely on the charity of others, although some statutory support provisions exist in principle where it is recognised that there are barriers to return. Access to such subsistence is limited in practice, as rejected asylum-seekers face barriers in terms of their eligibility.

Discrimination

A climate of racism and intolerance persists in many countries in the EU, helping to keep people excluded from society or government, and fostering further discrimination. Migrants, Roma, Jews and Muslims are among those subjected to hate crimes by individuals or groups. Often, a failure to acknowledge the gravity of racially motivated crimes and a lack of political will has led to impunity for those responsible. Following the rise in anti-Roma sentiment in several European countries, such as the Czech Republic and Hungary, the UN Special Rapporteur on racism stated in November 2008 that "such actions reveal serious and deep-rooted problems of racism and discrimination against Roma at the heart of modern Europe that must be addressed in the most vigorous manner and through the rule of law."

One of the most profound illustrations of systemic discrimination in Europe is against Roma, who remain largely excluded from public life in all countries. Despite some efforts, the problem is far from adequately addressed at EU level. Roma families are frequently unable to enjoy full access to housing, education, employment and health services. Many live in what amount to segregated ghettos, physically isolated from

other parts of the community, and often with limited or not water or electrical supplies, sanitation systems, paved roads or other basic infrastructure. Unlawful forced evictions of Roma, such as those taking place in Italy this year, drive them deeper into poverty. In some countries such as Slovakia and the Czech Republic the authorities are still failing to integrate Romani children fully into the education system, showing no practical commitment to reversing segregation in schools. Poor housing conditions, physical and cultural isolation, poverty and lack of transport also hinder Romani children's ability to attend school. Negative stereotyping likewise blights future prospects and leads to further denial of rights.

Authorities in a number of countries also continue to foster a climate of intolerance against the lesbian, gay, bisexual and transgender (LGBT) communities. Authorities have obstructed public events, failed to provide adequate protection to participants, and in some cases highly placed politicians have used openly homophobic language. In August the Lithuanian parliament adopted a controversial law that Amnesty International believes will institutionalize homophobia and could be used to prohibit any legitimate discussion of homosexuality, impede the work of human rights defenders and further the stigmatization of and prejudice against LGBT people. Amnesty International welcomes the EU's stance against this law and calls for more action at EU level to combat all forms of discrimination, whatever the grounds.

Torture and other ill-treatment by law-enforcement officials

In many countries in the EU, victims of torture and other ill-treatment, often race- or identity-based, are too frequently failed by justice systems which do not hold to account those charged with ensuring security and the rule of law. Obstacles to accountability include lack of prompt access to a lawyer, failure by prosecutors to vigorously pursue investigations, victims' fear of reprisals, low penalties imposed on convicted police officers, and the absence of properly resourced and independent systems for monitoring complaints.

Unlawful killings, beatings, racial abuse and excessive use of force by law enforcement officials are prohibited under international law in all circumstances. Yet in France, for example, reports of such human rights violations are rarely investigated effectively and those responsible seldom brought to justice. In Austria Amnesty International has documented racist abuse and ill-treatment by the police as well as a failure of the broader criminal justice system to treat migrants and members of ethnic minorities as they would the majority population – whether as victims, suspects or perpetrators of crime. There is a pattern throughout Spain of complaints of torture and other ill-treatment against law enforcement officials -- from national, autonomous and local police forces -- frequently being closed by investigating judges after minimal investigation. Such cases in Spain are not isolated incidents but examples of structural failings that affect all aspects of the prevention, investigation and punishment of such acts. In Greece the police response at the turn of this year to unrest following the shooting of a 15-year old boy by a police officer was the culmination of a long entrenched pattern of serious human rights violations by law enforcement officials, including allegations of excessive use of force and firearms, torture or other ill-treatment, arbitrary detention and denial of prompt access to lawyers. The examples above, and also the shooting of Jean Charles de Menezes in the UK in 2005, demonstrate the ongoing pressing need for full and independent oversight of police activities, including systematic, prompt and thorough independent investigations where there are allegations of abuse.

The EU has yet to take collective responsibility for addressing violations of international human rights law taking place within its territory. We would welcome any feedback on discussion of this issue at the EU Brazil summit.

As the directors of Amnesty International's EU office and of Amnesty International's Swedish Section (Sweden is currently holding the rotating Presidency of the EU) we have also written to the Swedish Prime Minister, Frederick Reinfeldt regarding a number of human rights abuses that we have documented in Brazil.

Yours sincerely,

Susan Lee
Diretor
Américas Regional Program
Amnesty Internacional – International Secretariat

Cc: Frederick Reinfeldt, Primer Minister - Sweden
Jose Manuel Barosso, President of the EU
João Pacheco, Head of the EU delegation
Carl Bildt, Swedish Minister of Foreign Affairs
Celso Amorim, Minister of Foreign Affairs, Brazil
Ambassador Ricardo Neiva Tavares, Head of the Brazil Mission for the EU