

AMNESTY INTERNATIONAL

PUBLIC STATEMENT

AI: Index: EUR 30/003/2011
18 February 2011

Italy urged to respect human rights and refugee rights in responding to migrant and asylum seeker flows from Tunisia

Amnesty International has urged the Italian authorities to adequately address the humanitarian needs of thousands of migrants and asylum seekers leaving Tunisia following recent unrest.

According to the Italian Ministry of Interior, as of 16 February 2011, over 5,000 people travelling from the Maghreb on board of small boats mainly from Tunisia, had disembarked on the Italian coasts (mostly on the island of Lampedusa) over the past weeks; 3,000 of them arrived between 11 and 14 February only.

After several days, during which a considerable number of migrants and asylum seekers were left to sleep outdoors, the Italian authorities decided to reopen the first aid-reception centre in Lampedusa.

The Ministry of Interior also reports that as of 14 February, about 2,600 people had been transferred from Lampedusa to other destinations on the Italian mainland or Sicily, by airplane or boat.

The Italian authorities have called the recent wave of arrivals across the Mediterranean a “humanitarian emergency” and have claimed that members of terrorists groups may hide among the migrants and asylum seekers. On 12 February the Council of Minister declared the state of humanitarian emergency. The Italian Government also requested the assistance of the European Union including its borders control agency Frontex, to assist in stemming the migration flows from North Africa. The European Union generally agreed to these requests.

In response to the “humanitarian emergency” Italian authorities have reinforced the patrolling of Italian coasts. They also attempted to negotiate with the Tunisian government the deployment of Italian patrols in Tunisians territorial waters, but without success. The Tunisian authorities reportedly committed themselves to increasing their efforts in patrolling their territorial waters. In this context, media outlets reported that on 11 February an attempt by Tunisian vessels to stop a boat carrying migrants and potential asylum seekers resulted in the drowning of several people.

Amnesty International believes that a ‘humanitarian emergency’ demands a humanitarian response, not a law and order one. Boats carrying migrants and asylum- seekers from Tunisia, Egypt or other North African countries must not be pushed back. Everyone arriving is entitled to be treated with dignity, to be granted assistance as well as access to a fair asylum procedure.

In detail, Amnesty International urges the Italian and Tunisian authorities, as well as the European Union, to adhere to the following recommendations:

- **Italian and other relevant authorities** should confront the current humanitarian crisis with a humanitarian response, rather than with an approach merely focusing on policing borders and controlling migration flows. Given the “humanitarian emergency” currently unfolding, any patrolling of national and international waters should be geared towards meeting the immediate humanitarian needs of those who may be found at sea; in

particular, patrolling boats should ensure that the needs of people in distress and of those who may be particularly vulnerable, such as pregnant women, unaccompanied children and individuals in need of immediate medical assistance, be given priority;

- Any patrolling of national or international waters carried out by **Italian, Tunisian or any other state authorities**, as well as **Frontex** when deployed, should have as its main objective ensuring the safety and security of those found at sea. Frontex should act in line with its 2010 Guidelines for operations at sea according to which operations cannot be conducted in violation of human rights, including the rights of refugees. In particular, patrolling boats must search and rescue those found in distress and provide them with immediate succour, as opposed to seeking to intercept them with a view to “pushing them back” to their countries of origin. Any operation should be conducted in full compliance with relevant international human rights and refugee law and standards, as well as with relevant obligations under the Law of the Seas, e.g. duty of search and rescue.
- Anybody who wishes to make an asylum claim should be given the opportunity to do so, for example by ensuring their landing in a place where their claim can be lodged and processed through a fair and effective procedure. In particular, effective safeguards should be put in place to ensure that, in compliance with human rights and refugee law, people are not summarily expelled from Italian territory or otherwise removed before they are given an effective opportunity in practice to challenge their removals, if they so wish. Anyone who wishes to challenge their removal, expulsion or deportation should be provided with the means of doing so in full compliance with Italy’s obligations under international, regional and domestic human rights and refugee law and standards.
- **Italian authorities** should ensure that all available reception facilities are operational and adequately equipped to provide assistance to migrants and asylum seekers, with particular attention to vulnerable groups. All those who reach Italian shores must be provided with assistance in open centres.
- **Italian authorities** should ensure that people are informed of their right to claim asylum and that everybody is entitled to a fair and satisfactory asylum determination procedure. In this context, organizations whose role is to inform people of the possibility of requesting asylum and of the procedures in place to claim it, chiefly among them the UNHCR, should have unrestricted access to all avenues where migrants and asylum-seekers may be accommodated.
- **Italian authorities** should seek the solidarity of other **EU countries** in sharing the responsibility of providing humanitarian assistance to those rescued at sea or reaching Italian shores, whenever the situation unfolds in a way that makes efforts by Italian authorities insufficient.
- Human rights should be the cornerstone of any cooperation in the sphere of “migration control” between Italy and Tunisia or any other North-African countries; bilateral agreements should enshrine adequate protection standards and fully respect the rights of asylum-seekers, refugees and migrants.
- **The EU and its member states** should review the way they manage the migratory challenges, to include an analysis of the human rights impact of current policies to counter irregular migration. Migratory routes cannot be done away with, they can only be diverted to other places: political instability and huge inequality are key factors in encouraging migration from all the regions in the world. The prevalent Italian and EU-wide response to engage third countries in controlling the movement of people on the move to Europe, does not solve the underlying problem of migratory pressures, including those of persons seeking protection. There is a risk that those who for whatever reason seek to migrate will resort to other, even riskier routes, and find themselves increasingly in the hands of smugglers and traffickers.

- **The EU and its member states** should support Tunisia's democratic transition and its economic and social development, particularly the creation of jobs and concrete prospects for young people in the country.
- **EU foreign policy engagement with the region** should focus not only on stability but also on sustainability in terms of economic and social development. The EU needs to develop a better and more comprehensive approach to migration and asylum, which needs to include: 1) human rights conditionality when engaging in cooperation with third countries on migration; 2) guaranteeing access to asylum and full respect for the principle of non-refoulement; 3) a renewed and in-depth discussion on the creation of legal channels of migration to the EU and 4) addressing the root causes of migration by ensuring support to democratic transition and economic development.

At the same time, Amnesty International calls on the Italian authorities, as well as the European Union, to refrain from the following practices:

- **Italian (or any other) authorities** should not carry out "push-backs" operations, i.e. intercept migrants and asylum-seekers at sea while trying to approach Italy's Southern Mediterranean maritime border and send them back to non-European states without providing them access to fair and satisfactory asylum procedures. The Italian authorities should refrain from replicating the policy of "push-backs" implemented against boats arriving from Libya in 2009 and against boats carrying Albanians in the 1990's.
- A response offered in purported solidarity by **other European states** should not be one based on policing but on humanitarian needs. The engagement of **Frontex** - and particularly Frontex alone - would be an unsuitable response to an emergency of a humanitarian character, and one that could result in human rights violations. The **EU** cannot continue to respond to migration challenges by a proliferation of operational initiatives which are mainly control-oriented.
- **EU member states authorities and Italian authorities in particular**, should recognise that placing restrictions or obstacles in people's way is contrary to the right of people to seek and enjoy asylum - those wishing to leave Tunisia may be exercising their internationally-recognized human rights, including the right to seek asylum, they may be fleeing from persecution or serious harm. In the alternatives, people may simply be exercising the right to leave their own country.
- **There should be no recourse to automatic detention. Italian authorities** should avoid the detention of those rescued at sea or reaching Italian shores. Any decision on the restriction of individual liberties should be taken after an individualized examination of their necessity, proportionality and appropriateness in each case, and after considering available alternatives. Detention should always be the last resort. Individuals belonging to vulnerable categories should not be detained, in particular children should never be detained.
- **Italian authorities** should refrain from carrying out mass expulsions, i.e. returning people to their countries of origin without having adequately assessed their individual international protection needs.
- **Italian authorities** should avoid spreading alarmism among the general public by referring to the recent immigration flows as a "biblical exodus", and refrain from making indiscriminate links between individuals who have recently reached the Italian coasts and potential terrorists or criminals, as such statements may promote racism and xenophobia.

Amnesty International publications:

Italy urged to effectively address Tunisian migrants 'emergency', 16 February 2011, AI- Index: PRE01/066/2011

Questions & Answers: North Africa migrants in Italy, 16 February 2011, AI-Index: EUR 30/002/2011

Italy urged to protect migrants' rights as thousands leave Tunisia, Web story, 14 February 2011

END/