

AMNESTY INTERNATIONAL

Public Statement

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Council of Europe: Amnesty International welcomes recommendation not to draft standards for diplomatic assurances

Amnesty International welcomes the decision of a group of governmental experts to recommend that the Council of Europe not draft standards on the use and content of diplomatic assurances in the context of states' expulsion of individuals, purportedly suspected of involvement in terrorism, who face a risk of being tortured or ill-treated by receiving states.

Amnesty International -- along with the Association for the Prevention of Torture, Federation Internationale des Ligues des Droits de l'Homme, Human Rights Watch, International Commission of Jurists, International Helsinki Federation for Human Rights, Redress Trust, and Organisation Mondiale Contre la Torture -- had called on the group of experts to reject the proposal to draft such standards. The human rights organizations rejected the use of diplomatic assurances against such risk and asserted that this practice undermines the absolute prohibition of torture and other ill-treatment and circumvents the prohibition of sending a person to a place where they risk being subjected to torture or other ill-treatment (the obligation of *non-refoulement*), even when complemented by ad-hoc post-return monitoring mechanisms. Our research indicates that people who have been transferred on the basis of such diplomatic assurances have been tortured. The joint statement by the NGOs therefore also called on the Member States of the Council of Europe to absolutely reject the use of diplomatic assurances against such risk.

The call of the human rights organizations echoes those of the UN High Commissioner for Human Rights, the UN Special Rapporteur on torture, the Council of Europe's Commissioner for Human Rights and a number of state representatives on the above-mentioned group of experts. They too consider that bilateral promises between diplomats, made by states with a well-documented record of torture, have proved to be ineffective and undermine efforts of the international community to ensure respect for human rights obligations.

In a statement to the Group of Experts, Louise Arbour, the UN High Commissioner for Human Rights, stated, *inter alia*:

" ... [t]he absolute prohibition on torture is increasingly challenged in the context of counter-terrorism. The reality is that many States continue to engage in torture and other ill-treatment, increasingly in the name of the fight against terrorism, and often in a systematic and widespread manner. Others have returned

persons suspected of engaging in terrorist activities to countries where they face a real risk of torture, thereby violating the obligation of non-refoulement. Some States have also engaged in the dubious practice of seeking diplomatic assurances that torture and other cruel, inhuman or degrading treatment or punishment will not be inflicted on an individual suspect who is transferred to a receiving State. ... I strongly share the view that diplomatic assurances do not work as they do not provide adequate protection against torture and ill-treatment, nor do they, by any means, nullify the obligation of non-refoulement. ... Ad-hoc agreements concluded outside the international human rights legal framework threaten to weaken this system and erode the human rights principles in which it is firmly grounded. Efforts should instead focus on the full implementation of international human rights obligations through existing structures."

BACKGROUND

The Council of Europe Group of Specialists on Human Rights and the Fight against Terrorism held two meetings, in December 2005 and March 2006, to discuss whether the Council of Europe should draft standards on the use of diplomatic assurances in the context of expulsions to places where individuals face the real risk of torture or other ill-treatment. The recommendations of the Group will be submitted to the Council of Europe's Committee of Ministers' Steering Committee for Human Rights for consideration during its meeting in Strasbourg, France on 4 to 7 April.