

AMNESTY INTERNATIONAL

Briefing Paper

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Italy: Amnesty International findings and recommendations to the Italian authorities following the research visit to Lampedusa and Mineo

A delegation of Amnesty International travelled to the island of Lampedusa and the “Village of Solidarity” in the environs of Mineo, in the Catania province, between 29 March and 2 April 2011. Prompted by widespread reports of a humanitarian crisis unfolding on Lampedusa, the delegation undertook research on the situation of thousands of foreign nationals who had reached Italian shores from North Africa in previous weeks.

On 20 April, Amnesty International wrote to the Italian Prime Minister Silvio Berlusconi and the Minister of Interior Roberto Maroni to express concern in relation to the findings of the research visit, as well as on the collective summary removal of Tunisian nationals from Lampedusa to Tunis from 7 April onwards, following the signing of an agreement between the Italian and Tunisian authorities.

The organization has been closely following the response of the Italian authorities to the recent arrivals since their beginning. On 22 February, Amnesty International wrote to the Italian authorities to express serious concern, among other things, over the inadequacy of the assistance being provided to those who had arrived on Lampedusa from North Africa and, in particular, the plight of those forced to sleep outdoors.

RESEARCH VISIT TO THE ISLAND OF LAMPEDUSA

A humanitarian crisis of the Italian authorities’ own making

In Lampedusa, Amnesty International delegates spoke with dozens of people who had recently arrived on the island, the vast majority of whom were male Tunisian nationals, although the delegates also spoke to people who had arrived from Libya. The delegation had in-depth discussions with staff members of humanitarian agencies working on the island, including the United Nations High Commissioner for Refugees (UNHCR), Save the Children Italy, the Italian Red Cross and Médecins Sans Frontières. They visited the Base Loran centre, which accommodates children and other vulnerable individuals, and spoke at length to members of staff there, as well as to the centre’s Director. The delegation met the Prefect of Agrigento and visited the main centre for first reception and accommodation (“Centro di primo soccorso e accoglienza”) at Contrada Imbriacola, which accommodates male adults; at this centre they also met officials from the Ministry of Interior. Additionally, the delegation spoke with representatives of local non-governmental organizations, such as Alternativa Giovani, and with some of the permanent residents of Lampedusa.

Since January 2011, there has been an increasing number of arrivals on Lampedusa from North Africa. As of 19 April, over 27,000 people had arrived in Italy, mostly on the small island. Despite the significant increase in arrivals, and the predictability of ongoing arrivals in light of unfolding events in North Africa, the Italian authorities allowed the large number of arrivals on Lampedusa to accumulate until the situation on the island became unmanageable. Lampedusa is dependent on the mainland for provision of almost all basic goods and services

and is not equipped to be a large reception and accommodation centre, albeit it does have the basics to function as a transit centre for smaller numbers of people.

The Italian authorities' failure to respond to the increase in arrivals from North Africa, and their failure to take effective action between January and April 2011 in the face of fast-increasing numbers of new arrivals, resulted in severe overcrowding on the island. Had the Italian authorities responded to the arrivals effectively, and ensured transfers of meaningful numbers (i.e. proportionate to the number of arrivals) of people off the island onto Sicily or to other regions of Italy, the humanitarian emergency on the island would have been averted. This was a crisis of the Italian authorities' own making and it was entirely avoidable.

At the time of Amnesty International's visit, the Italian authorities began to transfer substantial numbers of people off Lampedusa onto the Italian mainland. However, on 29 March 6,000 people remained stranded on the island, many living in appalling circumstances of squalor and facing risk to their physical and mental health.

Reception facilities on the island were completely inadequate. Specifically, Amnesty International's delegates documented large numbers of people sleeping rough on the streets or in makeshift tents. Despite the evident need, the Italian authorities did not provide tents or other forms of temporary shelter for those who could not be accommodated in the small reception centres. The majority of new arrivals appeared to have no access to toilets or washing facilities. As a consequence, people were forced to defecate and urinate in public areas, which is not only degrading, but constitutes a health risk. No portable toilets or other temporary solutions to the urgent need for safe sanitation facilities were evident. The delegation observed piles of garbage and human waste in public areas. Many individuals reported to Amnesty International delegates that they had gone without a shower for many days as a result of insufficient washing facilities.

While Amnesty International is aware that the Italian authorities were confronted with a challenging situation, very serious questions arise as to why effective response measures were not put in place, e.g. why tents, portable toilets and other commonly used emergency response facilities were not made available promptly, and why timely and orderly removals to Sicily or mainland Italy were not undertaken from the start of the influx of arrivals.

Lack of information about or access to asylum procedures

Given that, at the time of Amnesty International's visit on the island, UNHCR estimated that there were around 6,000 foreign nationals on Lampedusa, the number of people tasked with providing information regarding asylum was totally inadequate. As far as Amnesty International could determine, only a handful of individuals were providing basic information regarding asylum procedures, which was totally inadequate given the number of arrivals. Further, those arriving were provided with only a very brief medical assessment and a very basic screening. Moreover, there appeared to be an assumption that all Tunisian arrivals were economic migrants.

The fact that, at the time of Amnesty International's visit, foreign nationals had not been given proper information about access to asylum procedures, and were not being properly identified or screened, is a particular concern. The delegation spoke with people who had been given no, or very inadequate, information about asylum processes; in many cases they had been given no information about their situation at all. They had not been told how long they would have to stay on the island or what their eventual destination would be once moved off the island. Given that many of those arriving on Lampedusa had already endured extremely dangerous sea voyages, including some whose fellow travellers had drowned at sea, the appalling conditions on the island and the almost total absence of information were clearly leading to considerable anxiety and mental stress.

In Amnesty International's view the asylum and reception systems had completely broken down due to the severe overcrowding caused by the total failure to organize timely and orderly transfers off the island.

Conditions in the "Centres" of the island

In Lampedusa, the Amnesty International delegation visited both the main centre at Contrada Imbriacola, registering and accommodating male adults, mainly from Tunisia, and the Base Loran Centre, accommodating children and new arrivals from Libya.

The main centre at Contrada Imbriacola is equipped to function as a transit centre for relatively small numbers of people; its full capacity is just over 800 individuals. On 30 March, Amnesty International delegates spoke with people being accommodated at the centre, as they entered and exited. The delegation was not able to access the centre itself at that time, but was given access the following day when the centre had just been emptied, as all individuals were being moved off the island.

Those who had been living at the centre described appalling conditions, including severe overcrowding and filthy, unusable sanitary facilities. Some people told Amnesty International delegates that they had chosen to sleep on the streets rather than in the centre because they considered it so dirty as to make it uninhabitable. Amnesty International subsequently spoke to the centre's Director who confirmed the overcrowding stating that, on 29 March, it accommodated 1,980 people, more than double its maximum capacity.

Although Amnesty International was only able to visit the centre after it had been emptied, the conditions that the delegation witnessed corroborated the reports of former inhabitants. Notwithstanding an ongoing clean-up operation at the time of the visit, there was an overwhelming smell of raw sewage. The remains of makeshift tents were observed in the centre. Piles of refuse were still evident around the centre.

At the Base Loran centre, which delegates visited on 31 March, bedrooms appeared to be overcrowded with furniture, including beds obstructing doors. At the time of Amnesty International's visit, the centre accommodated male children and some vulnerable adults. A number of children to whom delegates spoke complained that they had been subjected to bullying by older children; some mentioned very limited contact with family members. The children appeared to have been given no adequate information about their future, leading to fear and anxiety. Whilst Amnesty International delegates were onsite they observed an outbreak of fighting amongst a group of boys that resulted in at least one child sustaining a black eye. Although the delegation was unable to confirm the ratio of staff to children at the centre, there did not appear to be adequate supervision of children's welfare. Amnesty International was also concerned that adults and children were accommodated together at Base Loran.

RESEARCH VISIT TO THE MINEO "CENTRE"

Amnesty International delegates visited the Mineo centre on 2 April, and spoke with asylum-seekers accommodated there, as well as with Red Cross personnel staffing the centre.

Amnesty International was extremely concerned at the manner in which asylum-seekers had been transferred to the centre from a number of other locations around Italy. The organization considers that the way in which those transfers have taken place, coupled with the inadequacy of asylum procedures at the Mineo centre, have undermined the human rights of asylum-seekers.

People interviewed by Amnesty International's delegates reported they had been given no, or very inadequate notice about their being moved to Mineo; nor were they told about the reasons for their relocation or given any information or reassurances about the implications of the move

on their asylum claims. In fact the transfers to Mineo appear to have seriously hindered some asylum-seekers in the preparation of their claims. For example, people recounted how they had been transferred on the day on which they were due to meet lawyers or even on days when their cases were due to be heard. Others were unsure whether the move to Mineo would cause a delay in the processing of their claims, and if so, when the processing of their applications would resume.

Despite already hosting 1,550 people on the day of the Amnesty International's visit, the Mineo centre was not fully functioning. The facilities were not in place to process asylum claims, despite the fact that the centre accommodated only asylum-seekers. Staff told Amnesty International that they were considering establishing a legal clinic with a rota of lawyers, as well as having one of the Territorial Commissions charged with determining eligibility for international protection ("Commissioni territoriali per il riconoscimento della protezione internazionale") on site. They were also negotiating telecommunication services' contracts for coverage so to allow access to internet/skype and use of mobile phones. It was not clear when these systems and facilities would be operational.

Unsurprisingly, given the isolated location of the centre, access to the outside world was difficult. The nearest town is Mineo, about 10km from the centre; there is no public transport available. At the time of Amnesty International's visit, delegates were told that the Red Cross was negotiating with local transport authorities for buses from Caltagirone/Mineo to Catania to stop at the centre.

Amnesty International requests the Italian authorities to provide the following information regarding the Mineo centre:

- the exact legal status of the Mineo centre;
- the rationale for transferring asylum-seekers who were already accommodated in facilities throughout Italy to the Mineo centre;
- the exact legal status of the various facilities on mainland Italy, including whether they are closed or open, where those who have arrived in Lampedusa before 5 April 2001 have begun being transferred, or where it is envisaged that they would be transferred; and
- the exact legal status, location, type of facilities and arrangements for the care of children who have already been transferred from Lampedusa to the Italian mainland, or to Sicily, and for those who are awaiting transfer.

AMNESTY INTERNATIONAL'S RECOMMENDATIONS IN RELATION TO THE RESEARCH VISIT TO LAMPEDUSA AND MINEO

Amnesty International calls the Italian government to take the following actions as a matter of urgency.

With respect to the right to claim asylum:

- ensure that the individual needs of all those arriving in Italy, including those landing on Lampedusa, are promptly and adequately assessed, including through effective screening on arrival. Individualized screening militates against any assumption that those arriving, for example from Tunisia, are per se ineligible for international protection;
- provide the necessary resources to ensure access to information for all those arriving on Lampedusa, including to UNHCR-run information sessions where people are informed of their right to seek asylum should they want to do so;
- ensure that anyone wishing to apply for asylum is given access to fair and effective asylum-determination procedures;
- ensure full respect for the principle of *non-refoulement* at all times;
- establish, without delay, adequate asylum procedures at the Mineo centre, including a legal clinic on site and a Territorial Commission charged with determining eligibility for international protection; and

- immediately end the practice of transferring asylum-seekers from other regions of Italy to Mineo for all of those with established community ties in their present location and/or whose claims are already being processed and/or who have already secured legal assistance in their location. In those circumstances, transfer should only take place after the individuals concerned have given their full and informed consent; this requires provision of information on all aspects of the transfer and its implications for asylum claims.

With respect to conditions on Lampedusa:

- put in place a clear plan to end overcrowding and avoid any further humanitarian crisis. This plan should fully respect the human rights of those arriving on Lampedusa, as well as permanent residents of the island, and should include the following elements:
 - an adequate system for transferring people off the island to other parts of Italy. The process should ensure the safety and dignity of individuals and the protection of their human rights, including the right to claim international protection. The number of people transferred off Lampedusa should be sufficient to ensure adequate processing of those remaining and of any new arrivals;
 - ensuring the availability and provision of adequate emergency shelter options such as tents, temporary sanitation facilities and portable toilets to cope with any surge in arrivals.
- ensure that the centres on the island, as well as centres on the mainland to which people are being moved, are equipped with all necessary staff and facilities to function effectively, e.g. through provision of adequate numbers of interpreters and cultural mediators;
- ensure that people are provided with the means to enable them to make contact with their families;
- ensure that people have access to full information on their situation; and
- ensure that all facilities, services, measures and decisions concerning children are informed by and fully comply with the best interests of the child principle, referring to the guidance provided by the UN Committee on the Rights of the Child and the UNHCR Guidelines on Determining the Best Interests of the Child.

COLLECTIVE SUMMARY REMOVALS, REPORTEDLY OF TUNISIAN NATIONALS, FROM LAMPEDUSA, FROM 7 APRIL 2011 ONWARDS, FOLLOWING THE SIGNING OF AN AGREEMENT BETWEEN THE ITALIAN AND TUNISIAN AUTHORITIES

Amnesty International is extremely concerned by the enforced removal that began on 7 April from Lampedusa, following the recent signing of an agreement between the Tunisian and Italian authorities. At the time of writing these forcible returns were ongoing and had reportedly been carried out twice a day by air since 11 April.

On 6 April, the Italian Ministry of Interior announced that Italy had signed an agreement with Tunisia pursuant to which the latter committed itself to strengthening border controls with a view to preventing departures, and to accepting the speedy readmission of people who had recently arrived and who will be arriving in Italy. Amnesty International is particularly concerned that, according to the above-mentioned announcement, Tunisian migrants arriving onto Italian shores may be “repatriated directly” and with “simplified procedures”.¹

In the light of this announcement, and given, in particular, Amnesty International’s findings in relation to the total inadequacy of asylum procedures on Lampedusa, the organization believes

¹ See “Immigrazione, siglato l'accordo tra Italia e Tunisia”, 6 April 2011, available at http://www.interno.it/mininterno/export/sites/default/it/sezioni/sala_stampa/notizie/immigrazione/000073_2011_04_06_accordo_Italia-Tunisia.html

that those people who have been subjected to “direct repatriations” following “simplified procedures” have been victims of collective summary removals.

As far as Amnesty International could ascertain, people have been removed from the island within one or two days of arrival. Thus, it appears highly unlikely that they would have had access to any meaningful or adequate opportunity to assert that they should not be returned to Tunisia on international protection or other grounds. In the circumstances those removals would amount to summary expulsions (cf. the judgments of the European Court of Human Rights in the case of *Hassanpour-Omrani v Sweden* and *Jabari v Turkey*). Such practices are strictly prohibited under international, regional and domestic human rights and refugee law and standards. Additionally human rights and refugee law and standards require that the removing state must provide an effective remedy against removal. Removing people without giving them the chance of exercising their right to challenge their removal through an effective procedure gives rise *per se* to a human rights violation. This is independent of whether removal would place the individuals concerned at a real risk of serious human rights violations, which, in turn, would constitute a breach of the *non-refoulement* principle.

Amnesty International calls on the government of Italy to:

- disclose the agreement reached with the Tunisian authorities;
- immediately desist from any further summary removals;
- ensure that anyone arriving on Italian shores is adequately screened to assess any potential protection needs, and that they are provided with adequate information about their right to challenge removal on international protection or other human rights grounds; and
- ensure access to fair and effective asylum procedures as well as access to procedures to challenge removal on other grounds.