

AMNESTY INTERNATIONAL

Public Statement

AI Index: EUR 30/001/2004 (Public)
News Service No: 248
6 October 2004

Italy: Government must ensure access to asylum for those in need of protection

Reports of planes carrying hundreds of people of African and Middle Eastern origin back to Libya from the small Italian island of Lampedusa raise important questions about the Italian government's determination to address migration challenges no matter what the cost to human rights.

Amnesty International has long-standing, ongoing concerns about the lack of adequate and comprehensive asylum legislation in Italy. Despite the Italian Ministry of Interior's recent assurances of acting lawfully, Amnesty International remains deeply troubled by the apparent speed used in deporting hundreds of people from Lampedusa during the last few days and the lack of any transparency in this process. The organization fears that the Italian government's most recent attempts to deal with arrivals by sea risk seriously compromising the fundamental right to seek and enjoy asylum and the principle of *non-refoulement* that prohibits the forcible return of an individual to a territory where s/he would be at risk of serious human rights violations.

Amnesty International has called on the Italian government to put a stop to this operation. It is incumbent on the Italian government to ensure that all asylum-seekers have access to a fair and satisfactory asylum procedure. In the event of arrivals overwhelming Italy's reception and processing facilities, Amnesty International notes the possibility available to Italy of seeking assistance from the international community on the basis of the principle of burden and responsibility sharing, bearing in mind that it would still need to admit asylum-seekers and refugees to its territory without discrimination.

Key procedural safeguards, such as adequate legal assistance, competent interpretation and the opportunity to contact UNHCR and NGOs, represent essential prerequisites for ensuring Italy's compliance with international refugee and human rights law obligations and the principle of *non-refoulement*. Amnesty International recommends that the Italian government facilitate UNHCR's early access to all persons facing deportation in order to ensure that those who need protection can obtain it. It also urges the Italian government to uphold the principle of transparency and provide for independent scrutiny of its actions and dialogue with UNHCR and NGOs.

Amnesty International's report *Time to make human rights a reality* (AI Index: MDE 19/02/2004) has highlighted serious concerns relating to the human rights situation in Libya, a country that has yet to sign the 1951 Refugee Convention. Amnesty International fears that some of the people returned from Lampedusa may, once in Libya, risk *refoulement* to a country where they may face torture or cruel, inhuman or degrading treatment. The organization notes that despite being a signatory to the OAU Refugee Convention, and therefore bound not to return anyone to a country where there is a risk of human rights violations, Libya has in recent months broken its obligations to provide protection from *refoulement*. This is exemplified by two incidents of deportation of Eritreans back to their country of origin in July and

August 2004. Many of those returned to Eritrea are now believed to be detained incommunicado in a secret prison where conditions are harsh.

Amnesty International acknowledges that Libya has a legitimate right to control the borders of its territory. It notes, however, that Libyan authorities have routinely violated domestic safeguards and international standards regarding arrest, detention and trial, thus disrupting the lives of hundreds of real and suspected political opponents as well as those of migrants and possible asylum-seekers. Amnesty International fears that those returned, whether Libyan nationals or aliens, may be at risk of detention on charges including actual or alleged illegal entry to and exit from Libya, and of ill-treatment while in detention.

Amnesty International urges the Libyan government to give UNHCR access to those returned to Libya from Italy in order that they monitor their safety and report any violations of their fundamental rights including the right to seek and enjoy asylum in Libya, if they so choose.