

AMNESTY INTERNATIONAL PUBLIC STATEMENT

3 July 2014

Index: IOR 61/007/2014

Council of Europe's Parliamentary Assembly falls prey to anti-migrants rhetoric

Amnesty International expressed its deep concern about the adoption on 24 June 2014 by the Parliamentary Assembly of the Council of Europe (PACE) of a resolution and recommendation which risk violating the rights and lives of refugees, migrants and asylum-seekers. Both texts were adopted with a broad majority. In Amnesty International's view, PACE appears to be buying into anti-migration rhetoric and policies currently prevailing in the public and political sphere instead of holding true to its mission and values to protect lives and rights.

The PACE report at the origin of the adopted texts, prepared by British MP Christopher Chope, focused on "The large-scale arrival of mixed migratory flows on Italian shores" and put forward several measures contrary to the obligation to protect asylum-seekers' and migrants' rights, such as the use of DNA records for identification purposes and external processing of asylum applications in camps outside Europe. The report endorses a worrying trend across Europe to outsource migration control and to external countries, effectively shifting the responsibility to Europe's neighbours.

In particular, Amnesty International has serious concerns about the call in the resolution for DNA records to be collected to facilitate the identification of migrants and asylum-seekers. The measure of identifying migrants and asylum seekers through the use of DNA records in addition to fingerprints appears disproportionate and discriminatory, particularly as regards their right to privacy. This proposal sets a negative precedent, as it further criminalises migrants and asylum-seekers.

The resolution further suggests that Council of Europe (CoE) member states should set up camps in North African countries for external processing of asylum applications. This suggestion is questionable from a legal and practical point of view. Asylum seekers should have their claims for asylum processed in a secure environment with adequate procedural safeguards in line with international refugee and human rights law. Research undertaken by Amnesty International has highlighted patterns of human rights abuses prevailing against migrants, refugees and asylum-seekers in North African countries such as Egypt and Libya. Moreover, it is likely that such holding centres would not function without detention and thus breach the Refugee Convention and relevant human rights standards.

The adopted recommendation calls for the opening of negotiations to allow for the automatic return of migrants intercepted within the territorial waters of a non-European Union (EU) country to that country and the review of conditions for returning migrants intercepted in international waters to countries of embarkation. International agreements allowing European countries to intercept in the territorial waters of a non-EU country cannot circumvent

international human rights obligations by which the authorities exercising de facto and/or de jure jurisdiction over people intercepted are bound. Any automatic arrangement for returning people to a non-EU country would be in violation of the obligation to assess the personal circumstances of individuals (as set out in the *Hirsi* judgment), including any risk of *refoulement*. In addition, states are under the obligation to ensure that people intercepted have access to individualised procedures and that there is no *refoulement*, including in the context of bilateral readmission or migration control agreements.

Amnesty International is calling on the CoE to uphold its founding principles and collectively ensure that member states' approach to migration and asylum is based on respect of human rights obligation by:

- Strengthening search and rescue operations, particularly in the Mediterranean and the Aegean seas, through a joint effort involving all European states;
- Ensuring that those fleeing conflict and persecution have access to international protection at Europe's borders and have safe and legal routes to come to Europe so that they are not forced to take dangerous journeys;
- Refrain from engaging in cooperation with third countries that results or contributes to human rights violations.