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OSCE HUMAN DIMENSION IMPLEMENTATION MEETING 2006
STATEMENT IN WORKING SESSION 5: HUMANITARIAN ISSUES AND
OTHER COMMITMENTS

**Migrant workers; refugees and displaced persons; treatment of citizens of other
participating states**

Amnesty International remains concerned at failures by Participating States to uphold their international obligations to protect the rights of migrants, refugees and internally displaced persons in their territories.

Amnesty International continues to be concerned by the situation of migrants and asylum-seekers arriving in **Spain**, specifically along the southern border, in the north African enclaves of Ceuta and Melilla and in the Canary Islands. The unprecedented influx of large increase in the numbers migrants to the Canary Islands in recent months has raised concerns regarding conditions in detention centres, rights to adequate information, the provision of legal and interpretation assistance and access to fair procedures. Bi-lateral agreements between states on returns of irregular migrants and the absence of adequate safeguards, particularly in expulsion procedures, undermine the principle of *non-refoulement*, as enshrined in international law.

Amnesty International draws particular attention to the growing number of unaccompanied minors being held in over-crowded facilities and wishes to remind the Spanish government of their special obligations towards this vulnerable group. Amnesty International also notes with concern that investigations into the deaths of a number of migrants in separate incidents at the fences in Ceuta and Melilla in September and October 2005 have still not produced a result.

Similarly in **Italy** Amnesty International is very concerned at the practice of routinely detaining minors, especially those seeking asylum and unaccompanied by a family member.

During the past five years, approximately 80,000 migrants and asylum-seekers have reached Italy by sea after a hazardous journey, often on board small, unseaworthy boats. Among them have been hundreds of children, generally very young, including infants, and some of them unaccompanied. They have come from Eritrea, Ethiopia, Somalia, Turkey and Iraq as well as from other countries in the Middle East and North Africa. In many cases, they have been detained upon arrival along with adults, although there is no domestic law that justifies this routine practice.

The right of detained minors to be kept separate from adults who are not members of the same family has in many cases not been respected. They, along with children, some less than five years old, have had to endure intense heat in summer and cold and humidity in winter living in mobile houses in detention centres.

Amnesty International has received more than 890 allegations and other information regarding the presence of minors in most detention centres in Italy in recent years. The organization has a detailed knowledge of 28 unaccompanied minors who have been detained at some point between January 2002 and August 2005. Almost all were asylum-seekers from sub-Saharan African countries in which the human rights situation is very precarious.

Amnesty International recognizes that states have a sovereign right to control the entry, residence and expulsion of non-nationals on their territory. That right must, however, be exercised in accordance with human rights law and standards and not at the expense of the fundamental human rights of migrants and asylum-seekers, regardless of their legal status and in particular when they are vulnerable.

Childhood implies a particular vulnerability deserving special protection and primary consideration in every context. Consideration of the best interest of the child, in line with the UN Convention on the Rights of the Child, should guide the practices involving children directly and indirectly at all stages of movement.

In **Greece** Amnesty International has documented the failure of the Greek authorities to ensure that persons residing in Greece who are not members of the Greek majority group enjoy the human rights to which they are entitled, whether they be asylum-seekers, migrants or members of minorities. In particular the Greek state has failed to comply with human rights law and standards regarding access to a fair, independent and transparent asylum process, the conditions of detention for migrants and asylum-seekers, and the protection from discrimination and ill-treatment.

According to official information, in the 1990s the population of non-citizens in Greece grew from 167,276 to 797,091. Migration from European countries increased seven-fold, while migration from Asian countries tripled. Large sections of the migrant population in Greece are nationals of neighbouring countries (Albania, Turkey, Cyprus). Greece's rapid transformation from a traditional emigration country to a pole of attraction of immigrants over the last two decades has brought to the surface the country's lack of an adequate legislative framework of migration policy. These gaps in the legislative framework also lead to violations of the right to seek asylum under international refugee and human rights law. The framework fails to adhere to international human rights law and standards mainly in two respects: (i) at no stage of the process does it provide for an independent review of a rejected application on the substance of the claim; and (ii) it lacks provisions for legal aid for such administrative procedures. Failure to provide access to a fair asylum procedure undermines the the government's obligation on *non-refoulement*.

The Greek authorities are failing to offer individuals arriving at the border access to the asylum process. Officials stationed at border areas, and particularly in the area of the Greek-Turkish border, have been allegedly expelling migrants from the territory of Greece without providing those in need of international protection with the opportunity to seek asylum or providing all migrants with an opportunity to challenge their removal on other grounds, including human rights grounds.

Amnesty International has recorded human rights violations arising from the conditions under which irregular migrants are detained, the treatment of particularly vulnerable detainees such as women and minors, alleged ill-treatment of migrants by police outside detention centres, and the lack of adequate access to justice available to migrants who have suffered such ill-treatment. The organization is concerned about the Greek authorities' failure to effectively address human rights violations perpetrated by police officers, by instituting prompt, effective and impartial investigations into allegations of such violations and bringing perpetrators to justice.

The Greek government is currently in the process of revising its asylum legislation. This legislation must uphold refugees' right to international protection, including providing access to an independent review of asylum applications in the event of negative decisions and to legal assistance.

Governments' obligations not to violate the principle of *non-refoulement* apply equally when considering warrants for extradition. Amnesty International has been concerned, however, about the plight of Uzbekistani refugees who fled **Uzbekistan** after the events in Andizhan in May 2005. In the name of national security and the "war on terror", the Uzbekistani authorities have actively – and often successfully – sought the extradition from participating states of members or suspected members of banned Islamic parties or movements, such as Hizb-ut-Tahrir and Akramia, whom they accused of participation in the Andizhan events or earlier alleged terrorist acts.

Several governments, particularly Russia, Kazakstan, Ukraine and Kyrgyzstan have been cooperating with Uzbekistan in some of these requests, thus denying refugees their right to international protection by facilitating their forcible return. Such practice is a grave violation of countries' obligations under international law which prohibits the return of anyone to a country or territory where they would be at risk of serious human rights violations, including torture. These countries have forcibly returned (or facilitated the return of) refugees despite well-founded fears of them being subjected to serious human rights violations.

Most of those who have been forcibly returned to Uzbekistan continued to be held in incommunicado detention for long periods of time, thus increasing their risk of being tortured or otherwise ill-treated. Independent Imam Rukhiddin Fakhruddinov for example, who was forcibly returned from **Kazakstan** in November 2005 with eight others, was sentenced to 17 years in

prison in September 2006 in a closed trial. He had reportedly been held incommunicado for two months during which time he told his lawyer he was tortured. On 9 August 2006 the **Kyrgyzstani** authorities forcibly returned four Uzbekistani refugees and one asylum-seeker to Uzbekistan in contravention of their international obligations and despite the fact that the UNHCR had found permanent resettlement places for the four refugees. The **Ukrainian** authorities failed to observe the principle of *non-refoulement*, and to provide full and fair refugee status determination procedures, when they forcibly returned 10 asylum-seekers to Uzbekistan in February 2006. The fate of these deported asylum-seekers remains unknown. The Ukrainian security services and the President's administration both defended the action on the grounds that the Uzbek asylum-seekers had allegedly been members of a terrorist organization.

In the **Russian Federation**, recent Amnesty International research shows that ethnic minorities, in particular from the North Caucasus and Central Asia, and migrant workers can be particularly vulnerable to human rights violations at the hands of law enforcement officials, such as extortion, arbitrary arrest, and torture and ill-treatment. In particular, migrants in the Russian Federation without adequate documents or in need of renewal of their documents are made vulnerable by their uncertain legal status. In consequence they suffer a lack of redress, as they are often threatened with deportation should they pursue a complaint.

Amnesty International is aware of people either being forcibly deported to Uzbekistan from the Russian Federation or being detained in order to be deported, despite fears that they would be at high risk of being subjected to serious human rights violations, were they to be returned to Uzbekistan.

For example law enforcement officers in Tatarstan, Russian Federation, stopped and detained Marsel Isaev, an Uzbekistani national on 6 September 2005 although his documents were in order. He was reportedly pressured to testify against an acquaintance on trial in Kazan accused of membership of Hizb-ut-Tahrir. He was threatened that unless he testified that this acquaintance had recruited him to Hizb-ut-Tahrir, his residence permit, due to expire on 19 September, would not be renewed and he would be deported to Uzbekistan as a suspected member of a "terrorist" organization. Marsel Isaev refused to comply with the demands and was subsequently re-detained and deported to Uzbekistan on 12 October 2005.

In early 2005 Uzbekistani national Bairamali Yusupov from Tiumen, Russian Federation, learned that he was wanted by the Uzbekistani authorities for "attempting to overthrow the constitutional order in Uzbekistan". In July 2005 he was informed that the Uzbekistani authorities had asked Russia to extradite him. The Department of Internal Affairs of Tiumen region reportedly based its decision to extradite him on false information given by the Federal Security Service of the Russian

Federation. Bairamali Yusupov is currently awaiting the review of an earlier decision to refuse him refugee status.

Amnesty International has particular concerns in relation to the failure of states to ensure access to employment without discrimination for returning refugees and displaced persons in **Bosnia and Herzegovina**. Throughout the post-war period, the international community has made efforts to encourage the return of those who fled or were driven from their homes, to reduce ethnic discrimination and to ensure that all parts of the country function as multiethnic communities. Despite these efforts, ethnic discrimination in employment continues to be one of the most serious obstacles to the sustainable return of refugees and internally displaced persons. Workers from ethnic minorities continue to be discriminated against in access to work and are denied full reparation for discriminatory dismissals suffered in the past. Approximately one million people remain displaced more than ten years after the end of the conflict.