

Brussels, 6 September 2007

To
MEPs
Committee on Civil Liberties, Justice and Home Affairs

RE: Vote on the draft EP Report by Mr. Manfred Weber (PE 374.321v02-00) Commission Proposal for a directive of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third-country nationals (COM(2005)0931-C6-0266 – 2005/0167(COD))

Dear Madam / Sir,

Amnesty International and ECRE call on the members of the LIBE Committee not to create a common EU standard allowing EU Member States to detain persons subject to the Returns Directive for up to 18 months, (compromise amendment 36 on Article 14, par. 4b (new)), on the basis that this is disproportionate and excessive.

On 12 September, the LIBE Committee will vote on the report prepared by Mr. Weber MEP on the Commission proposal for a directive on returns of illegally staying third-country nationals. During the Committee's meeting of 12 June 2007 a number of compromise amendments to Mr. Weber's first draft report were presented and discussed.

Amnesty International and ECRE wish to draw your attention to an issue of major concern to our organisations, which you will be requested to vote on.

Detention

While we recognise the attempt to improve the Commission proposal with regard to the duration of detention (Article 14, 4), we consider the proposal to allow Member States up to 18 months to detain persons who have committed no crime shocking and excessive, and simply unacceptable as a common EU standard.

We also think the criteria for the extension of a detention period, such as delays in obtaining the necessary documentation from third countries, might open the door to abusive practices at the national level.

Although European governments often state that detention is the only way to ensure an effective removal policy, reports show that longer detention periods do not directly lead to more effective removals. They are therefore unnecessary and they are also inhumane. The prolonged detention of persons in appalling conditions in Europe, such as those witnessed by members of the LIBE Committee on their recent visit to Greece, should never be sanctioned by Community law.

Detention is not the solution: it is expensive while alternative cost-effective methods are available.

Detention is an extreme sanction for people who have not committed a criminal offence and violates one of the fundamental human rights protected by international law – the right to liberty.

As reflected in Compromise Amendment 35, detention pending removal should only be used for as long as removal arrangements are in progress. If such arrangements are not executed with due expedition and diligence, the detention is not acceptable and may be deemed disproportionate and not in compliance with Article 5 of the European Convention on Human Rights. Despite this, Amnesty International reports show that on numerous occasions individuals may be detained even if there is no real prospect of effecting their forcible removal within a reasonable time.



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