

Brussels 24 April 2013

Dear Madam,
Dear Sir,

Please find enclosed our comments on the second draft of the Joint Return Operation code of conduct. Caritas Europa welcomes the safeguards included in the draft code. Yet, the Human Rights clauses would be purely decorative without further strengthening the accountability mechanisms and clarification of the personal and material scope of the code. We have therefore provided some alternative language - based in particular on the Council of Europe Twenty Guidelines on Forced Return.

We hope that our comments can be further taken into consideration at this stage of the negotiation process.

In particular, we would like to draw your attention to the following points:

- The standards of the code of conduct apply only to the authorities participating to the JRO. While, it is acknowledged that the authorities of the destination country might not be directly involved in the JRO from a technical point of view, the current draft should be revised in order to ensure that the receiving States are fully aware of the protection and human rights standards included therein (see comments both on personal scope and training). In its current version, there is no clear provision with regards training of the authorities of the receiving parties. This legal loophole might endanger the protection of returnees and expose them to torture, or inhumane and degrading treatment by receiving authorities. We therefore recommend revising with regards to the draft provisions dealing with the personal scope and the training activities.
- The provisions on use of coercive methods should be further strengthened in order to ensure full respect for the physical integrity and dignity of the returnees. In particular, forced return operation should be fully documented while ensuring adequate data protection;

- Provisions dealing with fitness for travel should be further clarified in order to ensure that persons shall not be removed as long as they are medically unfit to travel. Medical examination should be performed by independent medical experts;

- The issue of accountability and monitoring should be further strengthened by ensuring systematic – or at least regular - presence of independent monitors;

- While we welcome the inclusion of a complaint mechanism, we believe that the returnees should receive detailed information about the existence of such mechanism and the procedures available to lodge a complaint. It is also crucial that the possibility to lodge a complaint should be opened to the monitoring bodies as currently it is only the returnee that can lodge the complaint – which casts doubt on the effective use of such remedy.

We remain at your full disposal for further clarification on comments submitted.

Yours faithfully,



Jorge Nuño Mayer
Secretary General