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Malta: European solidarity needs to be matched by strong efforts at national level to protect the human rights of migrants

Strasbourg, 28.03.2011 - "Malta and Europe need each other if the challenges of migration are to be met in a manner that respects human rights," said the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, following his visit to Malta from 23 to 25 March. According to the Commissioner, Malta needs to move away from a reactive approach to migration and establish a system that is fully in line with European standards concerning the human rights of immigrants and asylum seekers. At the same time, a much more generous and collegial approach is needed on the part of other European states, by accepting to host some of the persons to whom Malta has rightly accorded international protection. "However, with the exception of France and Germany - and further afield the US - this has not been the case so far."

The Commissioner underlined that the current uncertainty related to the events in Libya and possible forced migration towards Malta and Europe should not deter the Maltese authorities from undertaking the necessary reforms. "Instead this is another reason for more European solidarity to support these reforms" said the Commissioner, noting also that the substantial decrease in the number of irregular arrivals in Malta over the last two years has taken considerable pressure off Malta.

In this context, the policy of mandatory detention of all irregular migrants, including asylum seekers, should be reconsidered. The Commissioner notes that the mandatory detention of migrants can hardly be reconciled with the requirements set by the European Convention on Human Rights, as also reflected in a July 2010 judgment of the Strasbourg Court in the case of *Louled Massoud*, which found that Malta had violated the Convention by detaining an asylum seeker, whose claim had been rejected, for almost 18 months. "Malta should take all necessary legislative and other measures in order to implement fully and effectively this important judgment of the European Court of Human Rights" said the Commissioner. Alternatives to the detention of migrants should be provided for in law, in accordance with the Council of Europe Parliamentary Assembly's Resolution 1707 (2010).

Material conditions in the open centres, which currently house some 2 300 migrants, are substandard and need to be improved "as a matter of urgency" said the Commissioner, highlighting this as a further area where Europe could help Malta make further progress. The Commissioner found that the Marsa open centre and, in particular, the tent village in Hal-Far offered clearly inadequate conditions of accommodation for short or long periods of time. While efforts are made to prevent vulnerable groups, such as children, families and pregnant women from being accommodated in the big, inadequate centres, the placement of such migrants in adequate accommodation centres is not always guaranteed.

Finally, the Commissioner stresses that the establishment of durable solutions for at least some refugees in Malta should include a support system that favours self-reliance and integration into Maltese society. In this context it is important to overhaul the current system which makes financial support dependent on residence in the open centres and thus hampers integration in the community. "Migrants I spoke to really show a high level of frustration and feel stuck in a limbo - unable to move to other European countries which return them to Malta because they are fingerprinted here; unable to return home; and unable to integrate in Malta. Measures enhancing migrants' integration should be accompanied by determined action to eliminate manifestations of intolerance and xenophobia".

The Commissioner's report on this visit is forthcoming.

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The Commissioner for Human Rights is an independent, non-judicial institution within the Council of Europe, mandated to promote awareness of, and respect for, human rights in the 47 member states of the Organisation.

Elected by the Parliamentary Assembly of the Council of Europe, the present Commissioner, Mr Thomas Hammarberg, took up his function on 1 April 2006