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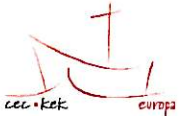


Churches' Commission for Migrants in Europe
Commission des Eglises auprès des migrants en Europe
Kommission der Kirchen für Migranten in Europa

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The signatory organisations represent churches throughout Europe - Anglican, Orthodox, Protestant and Roman Catholic - as well as Christian organisations particularly concerned with migrants and refugees. As Christian organisations, we are deeply committed to the inviolable dignity of the human person created in the image of God, and the concept of the common good and global solidarity

To the
Members of the European Parliament

30 May 2008

Vote of the European Parliament on the proposed Directive on common standards and procedures in Member States for returning illegally staying third-country nationals

Dear Members of the European Parliament,

Churches and church-related organisations have taken note of the latest developments regarding the negotiations on the EU directive on "common standards and procedures for returning illegally staying third country nationals". They recognise the difficulty of reaching a compromise on such a controversial issue between 27 Member States' governments and the Members of the European Parliament. They are also aware of the changes made by the Committee of Permanent Representatives of Member States in the Council to the recent compromise text with regard to access to legal aid.

Our organisations have conveyed the concerns of churches throughout Europe to the Rapporteurs in the European Parliament, to the negotiating partners, to the Presidents of the EU Council, Parliament and Commission. While we do acknowledge some of the improvements, we would like to draw your attention to some critical points of the proposal and urge you to carefully consider them when you are voting on the text:

Detention

We recognise the attempt to improve the Commission's proposal with regard to the length of detention (article 14.1). However, we are deeply concerned that Member States should be able to detain persons for up to 18 months (article 14.5). This is unacceptable as a common EU standard. While we appreciate that a review of such a provision is foreseen, it remains unclear at what intervals it would be deemed necessary, as the concept of "prolonged detention" is not defined.

We also think that some of the criteria for the extension of the detention period, such as the one concerning delays in obtaining the necessary documentation from third countries, are based on reasons which are beyond the detained persons' control and are therefore unjustifiable.

For people who have not been found guilty by a court of committing a crime, detention is too extreme a sanction, and it violates one of the fundamental human rights protected by international law – the right to liberty.

Entry Ban

Christian organisations have expressed their concern on various occasions over the past years about the fact that the draft directive provides for an entry ban of up to five years as an accompanying measure for return decisions (article 9). An entry ban amounts to a double penalty, and five years is far too long a period to be deemed just. It may also have far-reaching consequences for the respect of the principle of *non-refoulement*¹ as guaranteed by the 1951 Refugee Convention. The situation of returnees may indeed change after they have been removed, and they may become eligible for the status of refugee.

¹ Non-refoulement is the provision in the UN Refugee Convention obliging States not to send a person back into a possible situation of risk or persecution.

A general entry ban for 27 and potentially more EU or Schengen Member States excludes any chance of a person finding refuge, particularly if imposed for such an extensive period of time, without considering that the person may be returning into an unstable condition which might worsen. A number of persons would probably feel obliged to turn to smugglers, out of desperation for being excluded from legal entry. For such reasons, the instrument of an entry ban is likely to increase irregular migration, smuggling and trafficking in human beings. Family relations in EU Member States also have to be taken into account. An entry ban for dependent family members and minors would definitely be inappropriate.

Churches in Europe have on various occasions, individually and jointly, expressed their serious concern about the increasing use of administrative detention of migrants pending removal procedures in many European countries. Many churches and organisations have resolved to reject the current compromise proposal for not taking into account the reality of many migrants, refugees and asylum seekers in EU Member States.

While churches share the concern of Governments and societies to uphold the rule of law in the various European countries, the need to respect the dignity of every human being requires an effort to enhance voluntary return of third-country nationals who have no permit to stay. Unfortunately, in the current phase of the negotiations, the priority given to voluntary return, and more particularly the granting of assistance for this purpose and sufficient time to carry it out, has become less and less important.

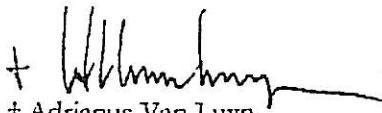
Therefore, in view of its vote on the directive, we would urge the European Parliament to


- Restrict rather than extend the use of administrative detention;
- Restrict the mandatory entry ban to exceptional circumstances and provide for procedures to mount legal challenges to such administrative actions;
- Improve the access to voluntary return, by granting for this purpose a minimum of at least 30 days, if not the equivalent of time given to the authorities to enforce removal after an expulsion order has been issued.


If an agreement on these issues cannot be reached, safeguarding the rights of deportees, we urge the European Parliament not to lift the conditionality on the European Return Fund and keep it in the reserve.

With kind regards,
Yours sincerely


Rev. Jean-Arnold de Clermont
President of the Conference of European Churches


† Adrianus Van Luyn
President of the Commission of the Bishops'
Conferences of the European Community
Bishop of Rotterdam


Rev. Erny Gillen
President of Caritas Europa


Rev. Arlington W. Trotman
Moderator of the Churches' Commission for
Migrants in Europe

cc: Permanent Representations of the Member States to the EU

Mr Jacques Barrot, European Commissioner for Justice, Freedom and Security