



Coalition of International NGOs Against Torture
Coalition d'ONG internationales contre la torture
Coalición De ONG Internacionales Contra La Tortura

- CINAT



Geneva, Paris, Copenhagen, London, 3rd October 2005

Dear Sir,
Dear Madam,

The Coalition of International NGOs Against Torture (CINAT)¹ wishes to express its deep concern regarding measures involving the law, policy and practice of several European Union member states in the name of countering terrorism, which erode safeguards against torture and other cruel, inhuman or degrading treatment or punishment.

Over the last couple of years, some governments, within and outside of the European Union, have taken measures which have contradicted their international obligations related to the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. Some governments in fact use information obtained through prohibited treatment outside proceedings against a person accused of torture, transfer persons to countries where they risk being subjected to torture and other cruel, inhuman or degrading treatment or punishment, including by relying on diplomatic assurances or memorandums of understanding to circumvent the obligation of non-refoulement.

Similarly, in a recent statement (7th September 2005) to your Parliament, Mr Charles Clarke, the UK Home Secretary, speaking on behalf of the current British Presidency of the Council of the European Union (EU), claimed that: "the right to be protected from torture and ill-treatment must be considered side by side with the right to be protected from the death and destruction caused by indiscriminate terrorism".

CINAT strongly condemns all acts and comments aimed toward eroding the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment and is particularly alarmed at the fact that the EU Presidency itself has made such an unacceptable statement. CINAT recalls that the prohibition of torture and other forms

¹ CINAT is a coalition of the following international NGOs: Amnesty International (AI), the Association for the Prevention of Torture (APT), the International Federation of ACAT – Action by Christians for the Abolition of Torture (FI.ACAT), the International Commission of Jurists (ICJ), the International Rehabilitation Council for Torture Victims (IRCT), The Redress Trust (REDRESS) and the World Organization Against Torture (OMCT).

of ill-treatment is enshrined in all the major international and regional instruments² and is absolute and non-derogable³. For this reason all international human rights bodies have recognized that the right to be free from torture and other cruel, inhuman or degrading treatment or punishment cannot be subjected to any form of balancing. As established by the European Court on Human Rights which stated that "even in the most difficult circumstance, such as the fight against organised terrorism and crime, the [European] Convention [on Human Rights] prohibits in absolute terms torture or inhuman or degrading treatment or punishment"⁴.

CINAT believes that the obligation of states to take lawful measures to counter terrorism and their obligation to prevent and prohibit torture or other ill-treatment serve fundamentally the same purpose: the protection of the integrity and dignity of human beings.

CINAT urges you, as a Member of the European Parliament, to take all the appropriate measures, and in particular to promote the use of tools such as the Guidelines to EU policy towards third countries on torture and other cruel, inhuman or degrading treatment or punishment adopted on 9 April 2001⁵, to ensure that all relevant European Union institutions play an active role in urging States within and outside of the European Union:

- to fully respect all their international obligations related to the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment when countering terrorism,
- to prosecute all persons responsible for any violations of the prohibition,
- and to guarantee the right to an effective remedy and adequate forms of reparation for victims of torture and other forms of ill-treatment.

CINAT offers its full cooperation in this endeavor

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² Article 5 UDHR, article 7 ICCPR, article 3 ECHR, article 5 ACHR, article 147 4th Geneva Convention, article 8-2 Rome Statute of the ICC.

³ Article 4§2 ICCPR, article 27§2 ACHR, article 15§2 ECHR,

⁴ *Aksoy v. Turkey*, judgment of 18 December 1996, Reports of Judgments and Decisions 1996-VI, para. 62. See also ICTY, *Prosecutor v Furundzija*, 10 December 1998, Case No IT-95-171/1-T 10; House of Lords, *R v Bow street Magistrate, ex parte Pinochet (No. 3)* [2000] 1 AC 147; *Human Rights Committee General Comment 20, para.3.*

⁵ http://europa.eu.int/comm/external_relations/human_rights/torture/guideline_en.htm