



## The AEDH says "No!" to joint return flights

*Brussels, 9 November 2009*

The EU heads of state and government that met within the European Council on 29-30 October 2009 came to an agreement regarding the "examination of the possibility of regular chartering financed by FRONTEX [the European agency in charge of managing the EU's external borders] of joint return flights." Accordingly, they have invited the Commission to present proposals to this end in early 2010.

The AEDH has always expressed its opposition to organising "charter flights" to return migrants to their country of origin or even a country of transit. Up until now, Member States have been responsible for these charters, paying for them out of their own budget, even when they were shared with other Member States. The latest European Council's assessment that these flights are a regular occurrence and could be financed through the European budget constitutes a serious change in EU asylum and immigration policy.

The AEDH emphatically calls attention to the fact that migrants cannot be sent back to a country where their lives or freedom would be threatened. As the Geneva Convention states (Article 33<sup>1</sup>), "*no Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.*" Similarly, Article 19 of the Charter of Fundamental Rights of the European Union provides that "*collective expulsions are prohibited*" and that "*no one may be removed, expelled or extradited to a State where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment.*" The origins of this precautionary concept can be found in both Article 3 of the United Nations Convention Against Torture and Article 3 of the European Convention for the Protection of Human Rights. Plenty of case law also exists on this point<sup>2</sup>. Until the European Union can demonstrate its ability to manage "mixed" flows of migrants fairly and in full respect of fundamental rights, and until the conditions for reception and treatment of persons seeking protection are harmonised through application of a common asylum policy, and until the European Asylum Support Office is created, the risk of seeing people put in danger with complete disregard for legal requirements will remain high. Wanting to apply the return directive cannot be used as justification for everything.

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<sup>1</sup> Geneva Convention of 28 July 1951 Relating to the Status of Refugees, entered into force 22 April 1954.

<sup>2</sup> *Soering v. the United Kingdom*, judgement of 7 July 1989, para. 88, available on: [www.echr.coe.int](http://www.echr.coe.int); *Chahal v. the United Kingdom*, judgement of 15 November 1996, para. 79-80, available on: [www.echr.coe.int](http://www.echr.coe.int).

The AEDH strongly condemns the project to transfer a responsibility to FRONTEX that has always been incumbent on Member States; it is deeply opposed to organising deportation procedures under a "European banner"<sup>3</sup>, which would endorse a type of regressive harmonisation. It becomes concerned about the deviation that seems to be increasingly common amongst the leaders of the European Union when it hears Per Orneus, the representative of Sweden and therefore of the EU Presidency, declare at the General Assembly of the United Nations that "violations of the principle of non-refoulement need[...] addressing, for example, in the context of migratory flows"<sup>4</sup>.

The development of a common European policy on asylum and immigration must never cease to respect the principles underlying both the European Union and its Charter of Fundamental Rights; it must constantly promote respect of the rights of third-country nationals, without discrimination and without exclusion, regardless of their status.

**Contact:**

AEDH, European Association for the Defense of Human Rights  
33, rue de la Caserne B-1000 Brussels  
Tel: +32(0)25112100 Fax: +32(0)25113200 Email: [aedh@aedh.eu](mailto:aedh@aedh.eu)

The **European Association for the Defense of Human rights (AEDH)** is an umbrella organisation that brings together leagues and associations defending human rights in EU countries. It is an associate member of the International Federation for Human Rights (FIDH). For further information: [www.aedh.eu](http://www.aedh.eu)

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<sup>3</sup> "We think forced returns should be conducted under a European banner", Eric Besson, French Minister of Immigration, Integration, National Identity and Mutually-Supportive Development, at an event in Folkestone on 27 October 2009

<sup>4</sup> United Nations - General Assembly; Third Committee - 38th & 39th Meetings; GA/SHC/3964; 3 November 2009  
<http://www.un.org/News/Press/docs/2009/gashc3964.doc.htm>