



amnesty
international

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Íslandsdeild Amnesty International vill með bréfi þessu vekja athygli yðar á vanköntum á lögum um eftirlit með útlendingum nr. 45/1965. Í lögum vantar ákvæði um réttláta meðhöndlun fólks sem leitar pólitísks hælis hérlendis. Íslendingar eru aðilar að Flóttamannasáttmálanum og ber því skylda til að laga eigin löggjöf að þeim ákvæðum sem þar er að finna um meðferð pólitískra flóttamanna.

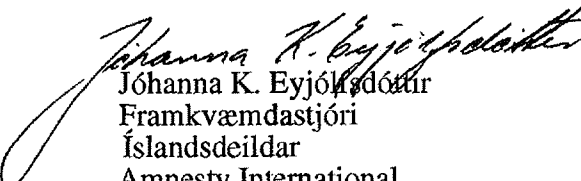
Nú hefur verið lagt fram frumvarp til laga um breytingar á ýmsum lögum sem varða réttarfar, atvinnuréttindi o.fl. vegna aðildar að samningi um evrópska efnahagssvæðið. Því vill Íslandsdeild Amnesty International beina þeim tilmælum til yðar, að þér hlutist til um að hin nýju lög verði í fullkomnu samræmi við alþjóðlega viðurkenndar meginreglur um meðferð pólitískra flóttamanna.

Þessu bréfi fylgir skjal sem Amnesty International hefur gefið út undir heitinu **Fundamental standards for the protection of refugees**. Í því er gerð grein fyrir meginreglum og öryggisráðstöfunum sem nauðsynlegar eru til að vernda þá sem hælís leita. Þær eru byggðar á alþjóðareglum um mannréttindi og vernd flóttamanna, og fjalla um þörf allra sem hælís leita á aðgangi að efnislegri og réttlátri meðferð. Einnig er greint frá afstöðu Amnesty International til þess úrræðis að senda flóttamenn til þriðja lands og lögð áhersla á öryggisráðstafanir, sem fylgja þegar þegar fjallað er um málefni flóttamanna, sem og fangelsun þeirra sem hælís leita.

Eru það tilmæli Íslandsdeildar Amnesty International að fyrirhugaðar lagabreytingar endurspegli þær meginreglur um vernd flóttamanna sem settar eru fram í ofangreindu skjali.

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Fundamental standards for the protection of refugees

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SUMMARY

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The attached paper sets out certain fundamental principles and safeguards which are essential for the protection of asylum-seekers. They are based on international standards dealing with human rights and the protection of refugees, and deal with the need for all who seek protection to have effective access to asylum procedures; sending asylum-seekers to third countries, procedural safeguards to be followed in the asylum procedure; and the detention of asylum-seekers. Amnesty International calls on all governments to follow these principles.

KEYWORDS: REFUGEES1 / HUMAN RIGHTS INSTRUMENTS /

This describes a 5-page document (1,800 words), *AMNESTY INTERNATIONAL: Fundamental standards for the protection of refugees* (AI Index: POL 33/03/93), issued by Amnesty International in April 1993. Anyone wanting further details or to take action on this issue should consult the full document.

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AMNESTY INTERNATIONAL

Fundamental standards for the protection of refugees

Amnesty International's work for refugees is an essential component of its work for the protection of human rights. It aims to contribute to the worldwide observance of human rights as set out in the Universal Declaration of Human Rights and other internationally recognized standards. It opposes grave violations of the right of every person freely to hold and express their convictions and to be free from discrimination by reason of their ethnic origin, sex, colour or language, and of the right of every person to physical and mental integrity. The organization has members worldwide and is independent of any government, political grouping, ideology, economic interest or religious creed. In carrying out its work it applies the same standards to all governments. It also opposes abuses by opposition groups: hostage-taking, torture and killing of prisoners or other arbitrary killings. The main focus of its campaigning is to:

- free all prisoners of conscience -- men and women detained anywhere for their political, religious or other conscientiously-held beliefs, or because of their ethnic origin, sex, colour or language, and who have not used or advocated violence.
- ensure that all political prisoners receive a fair trial, conforming to internationally recognized norms, within a reasonable time.
- abolish the death penalty, torture or other cruel, inhuman or degrading treatment or punishment.
- end extrajudicial executions and "disappearances".

Arising from these concerns, Amnesty International opposes the forcible return of any person to a country where he or she risks any of these serious human rights violations. It therefore seeks to ensure that states provide people with effective and durable protection from being sent against their will to a country where they risk such violations, or to any third country where they would not be afforded effective and durable protection against such return.

Sending asylum-seekers to third countries

Amnesty International opposes the sending of asylum-seekers who are or who may be in need of protection from serious human rights violations to a third country unless the government sending them there has ensured that in that country they will be granted effective and durable protection, which should normally include legal protection, against forcible return.

Procedural safeguards

Amnesty International seeks to ensure that states' asylum procedures, including the procedures and practices followed at their airports and borders, are adequate to identify asylum-seekers who would risk serious human rights violations if sent against their will to another country.

Amnesty International calls on all governments to observe certain basic principles in their asylum procedures. These principles are essential in helping to prevent the forcible return of asylum-seekers at risk of serious human rights violations. These principles are based on international standards, such as are set out in the International Covenant on Civil and Political Rights, relevant Conclusions adopted by the intergovernmental Executive Committee of the Programme of the United Nations High Commissioner for Refugees (UNHCR), and Recommendation R(81)16 of the Committee of Ministers of the Council of Europe dealing with the harmonization of national procedures relating to asylum. They include specific practical measures which are necessary for the effective implementation of the international standards. They include the following:

- 1** The fundamental principle of *non-refoulement* demands that national asylum procedures are adequate to effectively identify all those in need of protection.
- 2** All asylum-seekers, in whatever manner they arrive within the jurisdiction of a state, must be referred to the body responsible for deciding on claims for asylum.
- 3** The body responsible for deciding on claims for asylum must be an independent and specialized authority whose sole and exclusive responsibility is examining and making decisions on asylum claims.
- 4** The decision-makers of that independent body must have expertise in international refugee law and international human rights law. Their status and tenure should afford the strongest possible guarantees of their competence, impartiality and independence.

- All officials involved in questioning or interviewing asylum-seekers and in making decisions on their applications should be instructed and trained to follow the procedural guidance given in §195-§219 of UNHCR's *Handbook on Procedures and Criteria for Determining Refugee Status*. All such officials, including border officials, should take into consideration the special situation of asylum-seekers, who might experience language or other difficulties in expressing or presenting a request for asylum, who may have had to flee without personal documents, and whose past experience may have caused them to be apprehensive of authority, to be afraid to speak freely, and to have difficulty giving a full and accurate account of their case.

Amnesty International urges that these principles and safeguards be used as a basis to develop an international agreement on the minimum procedural standards for dealing with asylum requests. If such an agreement is reached, a committee of experts should be established to monitor its implementation, and UNHCR should be represented on that committee; as well, states should be obliged to report regularly to the committee on their national asylum procedures.

Detention of asylum-seekers

Amnesty International opposes the detention of asylum-seekers unless they have been charged with a recognizably criminal offence, or unless the authorities can demonstrate in each individual case that the detention is necessary, that it is on grounds prescribed by law, and that it is for one of the specified reasons which international standards recognize may be legitimate grounds for detaining asylum-seekers. Amnesty International calls for each asylum-seeker who is detained to be brought promptly before a judicial or similar authority to determine whether his or her detention is lawful and in accordance with international standards.

Amnesty International's refugee work:

In keeping with the principle that the protection of human rights is an international responsibility, Amnesty International's national sections may not work on cases in their own countries where people are imprisoned as prisoners of conscience, or subjected to torture, "disappearance", or extrajudicial execution - this is done by the organization's sections in other countries and its International Secretariat. But Amnesty International's sections may work in their own countries on behalf of refugees and asylum-seekers.
