



Ivan Langer
Minister of the Interior

Jiří Pospíšil
Minister of Justice

Presidency of the Justice and Home Affairs Council

Brussels, 19 February 2009
Our Ref: B847

Dear Ministers,

Our organizations wrote to EU Ministers of Foreign Affairs on 22 January ahead of the General Affairs and External Relations Council (GAERC) discussion on how the European Union can help the United States meet its goal of closing the Guantánamo Bay detention facility. We respectfully requested that EU member states agree to provide humanitarian protection to Guantánamo detainees who cannot be safely repatriated, or who are effectively stateless and have no country to which they are able to return. We write again in advance of the Justice and Home Affairs (JHA) Council meeting with the same appeal and our continued offer of assistance.

There are approximately 245 men who continue to be indefinitely detained in Guantánamo. Approximately 60 cannot safely be repatriated. None of these men has been charged or has any expectation of ever being charged. Many have even been told by the US government that they should be released, some of them years ago.

Providing a safe place for them to live will ensure that these men are not subjected to further human rights violations, and will help end the human rights scandal of Guantánamo itself.

Following the discussion of 26 January, the GAERC concluded that there are 'a number of political, legal and security issues which need further study and consultation', including with the Justice and Home Affairs Ministers.

Our organizations appreciate that the JHA Council will address these issues at its next meeting on 26 February. We take this as an important sign of the political will of member states to further discuss the issue

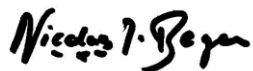
at EU level and develop concerted plans of action. In line with our request to the GAERC, our organizations call on the JHA ministers to agree to provide humanitarian protection to these men.

We welcome clear EU leadership in this endeavour. Any initiative taken by the JHA Council should focus on securing detainees' physical and legal protection so they can begin rebuilding their lives; ensuring that any restrictions on the men's movement and association fully comport with their human rights; and providing safeguards against *refoulement* to any country where they may face further abuse. The EU's experience and instruments in the field of asylum, immigration and free movement, as well as with regards to rehabilitation and integration, could facilitate the design and implementation, including through provision of financial support, of a framework for the protection of these detainees.

With respect to issues of security, while it is ultimately for receiving authorities to decide whether to accept detainees, the simple fact that an individual has been detained in Guantánamo or has been labelled by US authorities as a security threat cannot be taken as conclusive evidence that the individual poses such a threat.

We note the wide support for EU engagement in helping the new US administration to close the Guantánamo detention facility, expressed by the European Parliament in its resolution of 4 February 2009 and by the European government officials who have been receptive to proposals to accept some Guantánamo detainees with humanitarian protection concerns. We also note the confirmation given by the Presidency and the Commission during the parliamentary debate on 4 February 2009, that an 'option paper' was being drafted to outline an EU framework for receiving Guantánamo detainees; and that an EU mission will be going to the USA to discuss the issues directly with the US administration. We call on the JHA Council to provide the necessary political and technical support to the ongoing diplomatic efforts.

As members of an international coalition of non-governmental organizations actively involved in litigation and advocacy on the closure of Guantánamo, we remain at your disposal to assist you in any way we can to achieve this objective.



Nicolas Beger
Director of EU Office
Amnesty International



Vincent Warren
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Center for Constitutional Rights



Souhayr Belhassen
President
La Fédération Internationale des Ligues des Droits de l'Homme



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Clive Stafford Smith
Director
Relieve

Cc:

Navi Pillay, United Nations High Commissioner for Human Rights.
Manfred Nowak, Special Rapporteur on torture and other cruel, inhuman or degrading treatment
Martin Scheinin, Special Rapporteur on the promotion and protection of human rights while countering terrorism
António Guterres, United Nations High Commissioner for Refugees
Terry Davis, Secretary General of the Council of Europe
Thomas Hammarberg, Council of Europe Commissioner for Human Rights
Dick Marty, Rapporteur, Parliamentary Assembly of the Council of Europe
Anne Marie Lizin, Belgian Senate