

Ljubljana, 11 January 2017

To: Members of the European Parliament

**Subject: Slovenian Aliens Act contravenes EU and international asylum legislation**

Dear Members of the European Parliament,

the undersigned organizations, members of the Coordination of Slovene non-governmental and humanitarian organizations working in the field of support to refugees would like to draw Your attention to the proposed amendments to the Aliens Act which are currently in the urgent legislative procedure in Slovenia.

In our opinion, supported by academics and experts in Slovene legal system and international refugee law, the proposed amendments to the Aliens Act contravene Slovene constitutional provisions as well as the EU Charter of Fundamental Rights, 1951 Geneva Convention and EU legislation regulating asylum procedures. In our view the proposal refrains from common European principles and values and undermines the possibility for comprehensive and coordinated response to current migration challenges.

If adopted, the amendments will provide Slovene authorities with the possibility to adopt special measures that would deny entry to people arriving at the borders and automatically expel migrants and refugees who had entered Slovenia irregularly, even if they expressed the intention to apply for asylum. Migrants and refugees would be expelled to the country from which they had irregularly entered Slovenia from (in most cases migrants irregularly enter Slovenia from Croatia and Hungary) without any formal procedure, which constitutes illegal push-backs.

The application of the measures would be conditional on the decision of the Parliament to trigger their enforcement, following Government's assessment that the migration situation is changed and therefore public order and national security are under threat.

Unlike other EU Member States that have introduced new measures to control migration and access to asylum procedure, Slovenia does not foresee any annual or daily quotas.

Exemption from these measures would apply only where police officers on the ground would estimate that a direct threat to the life of an alien would exist, when they could be subject to torture or inhuman or degrading treatment upon return, where the health situation would obviously hamper the implementation of the measure, or where police would assess that aliens are unaccompanied minors. The procedure for identifying such persons is not defined in the law; it is also not clear how would assessment of the police whether someone is in danger of torture, differ from the asylum procedure where these same issues might be at stake.

Today, Council of Europe Secretary General Thorbjørn Jagland expressed concern<sup>1</sup> regarding proposed amendments to the Act in his letter to the Prime Minister of the Republic of Slovenia, Dr Miro Cerar. Concerns and recommendations related to proposed

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<sup>1</sup> <http://www.delo.si/novice/slovenija/poziv-sveta-evrope.html>

amendments<sup>2</sup> were presented also by UNHCR<sup>3</sup> and Amnesty International<sup>4</sup>, and expressed also by some international experts, including James C. Hathaway.

With best regards,

Dr Neža Kogovšek Šalamon, Directress, Peace Institute

Katarina Bervar Sternad, Directress, Legal-Informational Centre for NGOs, Slovenia

Tereza Novak, Executive Directress, Slovene Philanthropy

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[http://www.vlada.si/delo\\_vlade/gradiva\\_v\\_obravnavi/gradivo\\_v\\_obravnavi/?tx\\_govpapers\\_pi1%5Bsingle%5D=%2FMANDAT14%2FVLADNAGRADIVA.NSF%2F18a6b9887c33a0bdc12570e50034eb54%2F45483517eb4bbc70c125809f00579c28%3FOpenDocument&cHash=e5d7b660d106640724930f1afa1ec825](http://www.vlada.si/delo_vlade/gradiva_v_obravnavi/gradivo_v_obravnavi/?tx_govpapers_pi1%5Bsingle%5D=%2FMANDAT14%2FVLADNAGRADIVA.NSF%2F18a6b9887c33a0bdc12570e50034eb54%2F45483517eb4bbc70c125809f00579c28%3FOpenDocument&cHash=e5d7b660d106640724930f1afa1ec825)

<sup>3</sup> <http://www.unhcr-centraleurope.org/assets/files/news/si/2016/slovenia-comments-on-aliens-act-amendments-9-december-2016-1.pdf>

<sup>4</sup> <https://www.amnesty.org/en/latest/news/2017/01/slovenia-proposals-to-strip-refugees-and-asylum-seekers-of-their-rights-must-be-rejected/>