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Mr Dimitri Avramopoulos
Commissioner, Migration, Home Affairs and Citizenship
European Commission
Directorate of Migration and Home Affairs
1049 Brussels

23 April 2019

Ref: Ares(2018)514574

Dear Mr Avramopoulos,

Following our previous correspondence with your Director Migration and Protection, Laurent Muschel and on the basis of compelling new evidence (attached), I am writing today to ask you once again to review the Facilitation Package, and to take urgent steps to prevent the further prosecution of humanitarians for what civil society refer to as 'crimes of solidarity'.

It may be useful to recap the basis of our previous correspondence with the Commission before summarising the main points that have emerged out of our ongoing research.

In November 2017 we wrote to you with a copy of our report Humanitarianism: the unacceptable face of solidarity. The report detailed 26 cases, involving 45 individuals whose acts of humanitarianism towards migrants and refugees had led to arrest, investigation, prosecution and/or conviction, between 2015 and 2017. In the light of this evidence, we urged you to reconsider your evaluation that there was insufficient evidence of the inappropriate use of the criminal law to warrant any change to the Facilitation Package, and to amend the Package so as to ensure that humanitarian actions could not be criminalised,

In your response of 29 January 2018, you asserted that the scope of the Facilitation Package was not to criminalise humanitarian assistance, and that 'The increased role of the NGOs has

been generally acknowledged as an important element in assisting governments facing the current migratory pressure’.

You indicated that the Commission would ‘engage with relevant players, primarily civil society organisations as well as national authorities and EU agencies’ in order to ‘get a better understanding of the application of the existing rules’.

The attached report, *When witnesses won’t be silenced: citizens’ solidarity and criminalisation*, shows that NGOs and humanitarian volunteers, far from being acknowledged as helpful and important, have faced an intensification of criminal investigations and prosecutions since then. Our new report covers 17 cases in 2018-19, involving 99 individuals. Eight cases, involving 76 individuals, concern sea rescue or on-shore reception following sea rescue. Italy alone – whose authorities refuse to allow rescued migrants to land in its ports - has 44 people currently under investigation, from four NGO boats and a trawler. Others arrested and/or convicted in 2018 include members of a ski patrol who rescue migrants from the treacherous mountain passes between Italy and France, volunteers putting up homeless refugees in Brussels and an Italian mayor.

This is a completely unacceptable situation, which we contend is made possible by the Commission’s continuing failure to ensure that humanitarians cannot be prosecuted for their actions. Volunteers risking their own lives to conduct rescue operations, whether on land or at sea, should not additionally have to risk their liberty.

The UN Protocol Against the Smuggling of Migrants by Land, Sea and Air requires the element of profit for the crime of smuggling to be constituted. This ensures that the law does not catch those acting for humanitarian reasons, reflecting the long and honourable history of ‘underground railroad’ activity in Europe.

Once again, we urge you to take action so as to ensure that humanitarian action in support of migrants and refugees cannot be punished.

We await your response.

Yours faithfully,



Frances Webber

Vice-Chair Institute of Race Relations