Recommendation 990 (1984)[1]

Clandestine migration in Europe

Parliamentary Assembly

The Assembly,

1. Aware of the negative effects of clandestine migration by reason of the injustice inherent in the use of labour at low cost and/or without social charges, and owing to the way in which it distorts the guarantees which workers should enjoy and the rules of competition between firms ;

2. Asserting that clandestine migrant workers are the victims of a process created by many combined factors, inter alia the needs of certain employers in the host countries, the role played by those engaged in trafficking in labour, and the need for all migrant workers to escape from poverty in their country of origin and earn a living ;

3. Observing that :

a. legal measures actually taken in certain countries in 1973-74 to reduce or even halt official migration have had the indirect effect of stepping up clandestine migration ;

b. the phenomenon has grown constantly, despite the adoption in 1978 by the Committee of Ministers of Resolution (78) 44 on clandestine immigration and the illegal employment of foreign workers, which recommended, in particular, measures for the control of migration and international co-operation to make them more effective ;

4. Deploring the fact that :

a. Convention No. 143 of the International Labour Organisation, concerning migrations in abusive conditions and the promotion of equality of opportunity and treatment of migrant workers (1975), has been ratified by only four Council of Europe member states (Cyprus, Italy, Portugal and Sweden) ;

b. under the pressure of xenophobic movements, the authorities in certain host countries have been induced to take administrative measures, the effect of which was that situations not previously irregular actually became irregular, and newcomers were subjected to procedures taking no account of fundamental human rights ;

5. Asserting that any migrant worker, whether clandestine or not, must, in terms of human rights, enjoy legal protection equal to that of nationals ;

6. Observing that the existence of differing laws and practices of some member states and the absence of laws in others produce imbalances in labour situations and population movements ;

7. Considering that, in view of the mobility of migrant workers, European and international cooperation is a necessity not only in the matter of the exchange of information on those engaged in trafficking in labour (see Resolution (78) 44), but also in working out ways of overcoming clandestine migration ;

8. Supporting the proposals for European co-operation to overcome clandestine migration formulated by the Conference of European Ministers responsible for Migration Affairs (Rome, 25-27 October 1983) ;

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1. Assembly debate on 27 September 1984 (11th Sitting) (see Doc. 5265Doc. 5265, report of the Committee on Migration, Refugees and Demography). Text adopted by the Assembly on 27 September 1984 (11th Sitting).

9. Recalling the link between under-development of the country of origin, expansion of the clandestine labour market and the economic and particularly the industrial needs of developed countries (see paragraph 2 above) ;

10. Convinced, as a result, that co-operation between member states would not produce decisive effects unless at the same time member governments engaged with the countries of origin bilaterally and, above all, multilaterally, a suitable aid development policy creating jobs in the countries of origin,

11. Recommends that the Committee of Ministers :

a. invite the member governments which have not yet done so to sign and ratify ILO Convention No. 143 ;

b. further invite the member governments to contemplate, as a first step, regularisation of the situation of migrant workers who have already settled, but only as an exceptional and non-renewable arrangement ;

c. promote the establishment of common norms on clandestine workers on the basis of the following principles :

1. guarantee of human rights for all migrants, including those whose status is irregular and de facto immigrants ;

2. laying down severe administrative and penal sanctions for employers of clandestine workers, intermediaries and traffickers, so as to impose the same charges on all firms and to prevent illicit migration by providing equal treatment and working conditions for migrant workers ;

3. establishment of international definitions of the main offences, such as that of labour trafficking ;

d. invite the member governments to engage in active co-operation with the countries of origin with a view to :

1. preventing clandestine immigration, referring to paragraph 16.xiii of Assembly Recommendation 981 (1984), on employment in Europe (see appendix below) ;

2. launching, in the countries of origin, a campaign on the dangers and effects of clandestine immigration.

Appendix APPENDIX

Extract from Recommendation 981 (1984) on employment in Europe

The Assembly,

1. Recommends that the Committee of Ministers invite the governments of member states and the European Community :

1.1. to make greater use of the Council of Europe both in improving co-operation among the European countries, the other industrialised countries and the developing countries in order to avoid the situation of certain states or groups of states attempting to solve their own problems at the expense of other countries, particularly those of the Third World, and in reactivating co-operation between the countries of Northern and Southern Europe for the purpose of solving the problems facing migrant workers :

a. by intensifying co-operation in the social and legal fields, in particular by the signature and ratification of the European Convention on the Legal Status of Migrant Workers by those states which have not yet done so ;

b. by extending the possibilities of intervention by the Resettlement Fund, so as to enable it to finance more job-creating projects in those European regions most affected by the economic crisis, particularly in the countries of origin of migrant workers ;

c. by increasing the Fund's capacity to grant loans at advantageous rates of interest which, at present, account for only a small proportion of all loans, most of which are made at market rates ;

d. by increasing the means of the existing programmes of vocational training grants for training and further training of instructors from the least developed member countries ;