



## Resolution 1521 (2006)<sup>1</sup>

# Mass arrival of irregular migrants on Europe's Southern shores

Parliamentary Assembly

1. There is ever growing concern across Europe at the number of irregular migrants and asylum seekers arriving on its southern shores. Spain, for example, has seen the number of arrivals on the Canary Islands leap from 4 700 in 2005 to around 25 000 in the first nine months of 2006. In total, Spain has already received over 27 000 arrivals by sea this year, Italy over 14 500 arrivals and Malta over 1 600. Greece, Cyprus and Turkey are also bearing the brunt of arrivals, indicating a trend for desperate people taking even more desperate and dangerous routes to enter Europe.
2. These attempts to reach Europe's shores are accompanied by a significant loss of life, with regular reports of persons drowning, dying of exposure and dehydration, and even reports of deaths from violence by boat operators.
3. There exists an immediate challenge to meet the humanitarian needs of those arriving and to respect and protect their human rights. It is important to recognise that there are mixed flows of migrants, asylum seekers and refugees amongst those arriving and that it is essential to identify those requiring international protection and to ensure that they have access to a fair and efficient asylum procedure.
4. It is important however, to recall that it is the right of each Council of Europe member state to regulate the entry of foreign nationals and to return irregular migrants to their country of origin while respecting international human rights law.
5. It is also important to recall that those persons arriving also have a responsibility to assist and not hinder the authorities in the processing of their individual cases. This responsibility includes providing information on their origins and reasons for entering Europe.
6. The mass arrivals on Europe's southern shores represent an urgent migration management challenge, requiring new border management strategies, more effective voluntary and forcible return policies and greater efforts to tackle the root causes of migration. These actions are needed not only to tackle the highly visible arrivals on Europe's southern shores but also to deal with the large number of irregular migrants who enter Europe by different routes and means.
7. While countries such as Spain, Italy, Malta, Greece, Cyprus and Turkey are at the front and bear the brunt of these visible arrivals, the problem remains a European one. It involves all European countries, in particular due to secondary movements of persons arriving. It also involves the Council of Europe, the European Union and other international and national organisations.
8. A range of initiatives were taken over the summer of 2006, supported by member states of the Council of Europe and by the European Union and its European Agency for the Management of Operational Cooperation at the External Borders of the Member States (FRONTEX). An expert mission (Hera I) assisted the Spanish authorities with the identification of migrants arriving on the Canary Islands. A second mission (Hera II), comprising sea patrols and spotter airplanes, was set up to operate along the coast of Senegal, Mauritania and Cape Verde and an operation (Jason) is being mounted to control the sea south of Malta and Lampedusa stretching towards Libya.

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1. Assembly debate on 5 October 2006 (29th Sitting) (see [Doc. 11053](#), report of the Committee on Migration, Refugees and Population, rapporteur: Mr Chope). Text adopted by the Assembly on 5 October 2006 (29th Sitting).



9. A number of high level meetings have taken place, during which the issue of mass arrivals and irregular migration flows was closely examined. These include the Euro-African Ministerial Conference on Migration and Development in Rabat (10 and 11 July 2006), the informal Justice and Home Affairs Ministerial Meeting under the European Union presidency in Tampere from 20 to 22 September 2006, as well as the shuttle diplomacy being carried out by countries such as Spain, Malta and Italy.

10. The Parliamentary Assembly has a long history of concerns linked to irregular migration flows and relevant migration management and protection issues. In recent years, the Assembly has adopted [Recommendation 1645 \(2004\)](#) on access to assistance and protection for asylum seekers at European seaports and coastal areas and [Recommendation 1755 \(2006\)](#) on human rights of irregular migrants.

11. Other sectors of the Council of Europe have also been involved in this issue. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) has been active in visiting detention centres where migrants are held and, for example, visited various detention centres for migrants in Italy, including on the island of Lampedusa, in 2006. The Council of Europe Commissioner for Human Rights has also taken a particular interest in the rights of irregular migrants in his country visit reports and issued a recommendation in 2001 on the rights of aliens wishing to enter a Council of Europe member state and the enforcement of expulsion orders.

12. The Parliamentary Assembly considers that, in the light of the mass arrivals on Europe's southern shores, a range of issues need to be tackled, both to manage these migration flows and to deal with the humanitarian and human rights problems posed.

13. In terms of migration management, the Assembly urges member states to:

13.1. examine the root causes of migration;

13.2. provide financial and other support for countries of origin of migrants in order to tackle many of the root causes of migration;

13.3. collect and exchange data on migration movements (country of origin information, transport routes, smuggling and trafficking networks, etc.);

13.4. provide greater transparency on the number and origin of persons arriving as irregular migrants or asylum seekers and also provide statistics on the number that are repatriated, detained or released;

13.5. establish adequate identification mechanisms to determine the nationality of arrivals;

13.6. address secondary movements of migrants and asylum seekers and refugees within member states, taking into account the rights of the persons concerned;

13.7. conclude readmission agreements with countries of origin and transit of irregular migrants;

13.8. promote information strategies for countries of origin, transit and destination, highlighting the dangers involved in irregular migration and explaining the options and possibilities for legal migration.

14. The Assembly also encourages member states to share the burden of these mass arrivals by:

14.1. contributing to the different air and sea patrols being put into place by the European Agency FRONTEX;

14.2. contributing to rapid reaction forces being set up to deal with mass arrivals (border officials, interpreters, medical officers, etc.) and include experts on asylum and human rights issues in these teams to ensure that persons in need of international protection are identified;

14.3. contributing to the humanitarian and material needs of persons arriving (including the provision of portable accommodation, food, medicine, etc.);

14.4. contributing to the cost of processing and where appropriate returning irregular migrants;

14.5. accepting to take in persons arriving or settle those in need of international protection in particular to alleviate the pressure on countries such as Malta with proportionately high numbers of arrivals.

15. The Assembly considers, however, that the issue cannot only be looked at from a migration management angle, as there are significant humanitarian and human rights concerns in relation to the arrival, stay and possible return of irregular migrants and asylum seekers.

16. The Assembly therefore considers it necessary to remind member states of their human rights and humanitarian obligations and calls on member states to:
- 16.1. protect the right to life, refrain from using unreasonable force on those seeking to enter Europe and to rescue those whose life may be in danger;
  - 16.2. respect the right to human dignity by providing adequate reception conditions covering accommodation, health care and other basic needs;
  - 16.3. provide a hearing, with an interpreter if necessary, to anyone whose right of entry is disputed in order to allow them to explain the reasons for entering the country and to lodge an application for asylum if appropriate;
  - 16.4. use detention only as a last resort and not for an excessive period. Irregular migrants should be held in special detention facilities and not with convicted prisoners. Children should not be detained, unless this is unavoidable. In such cases it must be for the shortest possible time. The same applies for other vulnerable persons, including victims of torture, pregnant women, the elderly, etc.;
  - 16.5. provide detainees with the right to contact anyone of their choice (lawyer, family members, a non-governmental organisation, the Office of the United Nations High Commissioner for Refugees – UNHCR, consular services, etc.);
  - 16.6. ensure that detention is judicially authorised and that there is an independent judicial review of the lawfulness and need for continued detention. Detainees should be expressly informed, without delay and in a language they understand of their rights and the procedures applicable to them;
  - 16.7. guarantee freedom from torture, inhuman or degrading treatment or punishment, including in the return process;
  - 16.8. guarantee non-refoulement and the right to asylum;
  - 16.9. prohibit the collective expulsion of aliens;
  - 16.10. provide an effective remedy before an independent and impartial authority, with a suspensive effect when a returnee has an arguable claim that he or she would be subjected to treatment contrary to his or her human rights if returned;
  - 16.11. pay particular attention to the needs of unaccompanied and separated minors, pregnant women, the elderly, the disabled, victims of torture or of trafficking and others in a vulnerable situation;
  - 16.12. ensure that unaccompanied minors have effective access to available protection mechanisms, including asylum procedures.
17. In order to allow persons arriving to enjoy these rights in practice, the Assembly calls on member states to:
- 17.1. provide all persons arriving with information on their rights and responsibilities;
  - 17.2. register persons arriving and provide them with temporary documentation;
  - 17.3. establish transparent mechanisms to determine their nationality;
  - 17.4. allow access by the UNHCR, the International Organization for Migration (IOM), humanitarian and other non-governmental organisations, to all places where persons arriving may be detained;
  - 17.5. support voluntary return programmes for irregular migrants and carry out forcible returns only in accordance with the 20 guidelines on forced return adopted by the Council of Europe's Committee of Ministers in May 2005.
18. The Assembly also encourages the European Parliament's Committee on Civil Liberties, Justice and Home Affairs to continue its programme of visits to places where mass arrivals are taking place in order to provide greater visibility on the plight of persons arriving and the challenges faced by the authorities concerned.
19. The Assembly invites the Council of Europe Human Rights Commissioner to pay particular attention in the preparation of his country reports to human rights issues posed by the arrival, stay and return of irregular migrants and asylum seekers arriving on Europe's shores.

20. The Assembly considers that closer and prompter co-operation is required between all key actors, governmental, non-governmental and intergovernmental, when mass arrivals take place, and recommends that structures for co-operation be set up immediately in preparation for the arrivals which will certainly take place in 2007.

21. The Assembly encourages its Committee on Migration, Refugees and Population to step up its work on mass arrivals, making full use of its ad hoc sub-committee on unexpected large scale-arrival of migrants and asylum seekers.

22. The Assembly also encourages its Committee on Migration, Refugees and Population to examine, in the context of its work, the problems in negotiating and implementing readmission agreements, as well as the steps which have to be taken to tackle the illegal criminal networks responsible for the trafficking and smuggling of irregular migrants.

23. The Assembly proposes returning to the issue of mass arrival of irregular migrants on Europe's southern shores following a more in-depth analysis of the problems faced and solutions available.