Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Recommendation 1917 (2010)[1]
Final version

Migrants and refugees: a continuing challenge for the Council of Europe

Parliamentary Assembly

1. Migration continues to shape the European economy, culture and society. Globalisation with its growing disparities and the recent economic recession have added new challenges that need to be tackled not only at European Union level but also by the 47 members of the Council of Europe.

2. The challenges that particularly require the Council of Europe's attention range from reinforcing the rights and protection of migrants, refugees asylum seekers and displaced persons to contributing to managing migration in a coherent and co-ordinated manner and developing greater responsiveness to new emerging trends.

3. The Parliamentary Assembly is of the opinion that dealing with these challenges should be placed much higher on the political agenda of the Council of Europe and prioritised within the Organisation's reform process. The Council of Europe is a value-based organisation, which was created to protect the rights of all people within Europe. Migrants, refugees, asylum seekers and displaced persons are often some of the most vulnerable people in Europe. There is a need not only to strengthen their rights but also to ensure that these rights are guaranteed in practice.

4. The Council of Europe should focus on the areas where it can provide added value at pan-European level. Its major strength lies in its standards of human rights and the rule of law. It also has the advantage of combining experiences amongst its member states, which include countries of origin, transit and destination. Whereas the European Union is concentrating on migration processes, the Council of Europe should make it its explicit priority to concentrate on the people involved in this process and examine issues of migration, asylum and displacement primarily through a human rights prism in the context of the migration process.

5. The Assembly believes that in defining further priorities and action, the Organisation should refine those established at the 3rd Summit of Heads of State and Government of the Council of Europe, held in Warsaw in 2005, and the 8th Council of Europe Conference of Ministers responsible for Migration Affairs, held in Kyiv in 2008. It should also take into account the recommendations of the 2005 Global Commission on International Migration (GCIM) and the provisions of the European Union's Stockholm Programme (2010-2014).

6. The Assembly deems it important that the Council of Europe formulate its own medium-term strategy on migration, asylum and displacement in Europe. It needs to bring together the bulk of work that has been carried out by the various bodies and sectors of the Organisation and streamline its priorities aiming at the creation of a Europe-wide area where migrants and people in need of protection will enjoy treatment in line with human rights, the principle of the rule of law, access to basic rights and legal remedies. More specifically, the strategy should strengthen the protection of human rights of migrants, asylum seekers, refugees and displaced persons at all key stages of movement; promote cultural diversity and raise the standards of integration of migrants and refugees in European societies; improve policy development and implementation

1. *Assembly debate* on 30 April 2010 (18th Sitting) (see Doc. 12201, report of the Committee on Migration, Refugees and Population, rapporteur: Mrs Fiala; and Doc. 12220, opinion of the Committee on Culture, Science and Education, rapporteur: Mr Olsson). *Text adopted by the Assembly* on 30 April 2010 (18th Sitting).

in member states to handle the long-term impact of migration on society; step up activities in the fields of combating xenophobia, discrimination and trafficking in human beings; and improve the Organisation's intra-institutional cohesion and collaboration in the field of migration, asylum and displacement.

7. Drawing from wide experience across all relevant sectors of the Organisation, the Assembly considers it necessary to set up a transversal Council of Europe project on migrants, asylum seekers and displaced persons in Europe, with a key focus on the protection of their rights and promotion of their integration.

8. The Assembly pays tribute to the European Committee on Migration (CDMG) and its work on the protection of the human rights and dignity of vulnerable migrants, as well as on empowering migrants and strengthening social cohesion in its 2009-2012 programme of action. The CDMG also deserves praise for promoting coherence between migration, development and integration by encouraging dialogue between the countries of origin, transit and destination. The Assembly also pays tribute to the work of the other intergovernmental committees, the Congress of Local and Regional Authorities of the Council of Europe, and the Council of Europe's monitoring mechanisms that have, in particular, tackled many important human rights and integration issues. Furthermore, the Council of Europe Commissioner for Human Rights should be singled out for his principled stand on many migration, asylum and displacement issues.

9. The Assembly also pays tribute to the Committee of Ministers for taking up many migration, asylum and displacement issues but regrets that it has not yet made progress on examining calls for the introduction of a committee to replace the former Ad hoc Committee of Experts on the Legal Aspects of Territorial Asylum, Refugees and Stateless Persons (CAHAR), which previously provided the Organisation with valuable expertise with regard to asylum, refugees and internally displaced persons (IDPs). The Assembly notes that the Secretary General of the Council of Europe has proposed to discontinue, suspend or significantly reduce the intergovernmental activities in the area of migration, which could leave a void in the intergovernmental work on migration, asylum and displacement issues.

10. The Assembly recognises the need to improve the efficiency and impact of the Council of Europe's work within tightened budgetary constraints; however, this should not come at the expense of the protection of the rights of migrants, asylum seekers and displaced persons, nor at the expense of their improved integration into European societies. The Assembly reasserts its view that the Council of Europe needs a focused and adequately resourced intergovernmental body capable of looking at rights-based issues affecting migrants, asylum seekers, refugees and displaced persons.

11. In the light of the above, the Assembly recommends that the Committee of Ministers:

11.1. create a post of migration, asylum and displacement co-ordinator tasked with preparing a medium-term strategy on migration, asylum and displaced persons and implementing a transversal project on migrants, asylum seekers and displaced persons in European societies;

11.2. establish a new intergovernmental committee with a permanent mandate to examine issues relating to asylum seekers, refugees and displaced persons to replace CAHAR or, in the event that the CDMG's activities are brought to an end, establish a new single intergovernmental rights-based committee with a permanent mandate to examine issues relating to migration, asylum seekers, refugees and displaced persons;

11.3. support intergovernmental work and the work of other bodies within the Council of Europe concerning issues relating to the protection of the rights of those involved in the migration, asylum and internal displacement process.

12. The Assembly recommends that in devising a medium-term strategy on migration, asylum and displaced persons, the Committee of Ministers take into account the following priorities:

12.1. encourage member states to sign, ratify and implement all Council of Europe conventions affecting migrants, asylum seekers, refugees and displaced persons, including, *inter alia*, the European Convention on Human Rights (ETS No. 5), the Framework Convention for the Protection of National Minorities (ETS No. 157), the European Convention on the Legal Status of Migrant Workers (ETS No. 93), the Convention on the Participation of Foreigners in Public Life at Local Level (ETS No. 144), the European Convention on Nationality (ETS No. 166), the Council of Europe Convention on the avoidance of Statelessness in relation to State Succession (CETS No. 200) and the Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197). In appropriate circumstances the Committee of Ministers should consider revising the conventions which too few states are prepared to sign or ratify;

12.2. fill the gaps in current Council of Europe legal standards through developing further hard and soft law instruments and practical activities pertaining to migrants, asylum seekers, refugees and displaced persons. In this respect the Committee of Ministers is encouraged to take into account, *inter alia*, the following specific issues, some of which are the subject of Assembly recommendations:

12.2.1. including the right to apply for asylum in the European Convention on Human Rights;

12.2.2. revising the European Social Charter (ETS No. 35) to ensure that all regular migrants come within its scope of application and that at least minimum rights guaranteeing human dignity are included for irregular migrants;

12.2.3. developing further standards and guidelines on the integration of migrants into European societies;

12.2.4. working towards common standards in guaranteeing minimum rights for irregular migrants and providing strategies for dealing with irregular migrants who cannot or will not be returned;

12.2.5. supplementing the European Prison Rules with European rules on detention centres for migrants and asylum seekers;

12.2.6. developing guidelines on alternatives to detention for irregular migrants and asylum seekers;

12.2.7. considering the need for guidelines on the principle of *non-refoulement* in the light of growing numbers of cases concerning expulsion before the European Court of Human Rights and problems linked to interventions at sea;

12.2.8. considering the need for monitoring the quality and consistency of asylum decisions in Europe;

12.2.9. preparing guidelines on voluntary return to supplement the Committee of Ministers' guidelines on forced returns, as well as guidelines on the implementation of readmission agreements;

12.2.10. preparing guidelines on the reintegration of people returning to their countries of origin, whether voluntarily or forced;

12.2.11. finding sustainable solutions for the return, local integration or resettlement of displaced persons and guaranteeing the protection of their rights;

12.3. promote closer European and international co-operation involving countries of origin, transit and destination;

12.4. strengthen co-operation and assistance in the field of migration, asylum and displaced persons by:

12.4.1. supporting an assistance programme for member states, funded by voluntary contributions, with a view to strengthening capacity in the area of migration policy and planning, particularly for countries of origin and transit in Europe which are not members of the European Union;

12.4.2. supporting an assistance programme, funded by voluntary contributions, to allow member states, which are countries of destination, to benefit from the experience of other member states in tackling the difficult issue of integration;

12.4.3. strengthening co-operation with key actors in the field of migration and asylum, notably the United Nations High Commissioner for Refugees (UNHCR), the International Organization for Migration (IOM), the International Labour Organization (ILO), the International Committee of the Red Cross (ICRC) and national and international non-governmental organisations;

12.4.4. strengthening co-operation with the European Union, in particular in the light of the recently adopted Stockholm Programme and the work of agencies such as the European Agency for the Management of Operational Co-operation at the External Borders of the Member States of the European Union (Frontex), the European Union Agency for Fundamental Rights and the soon to be established European Asylum Support Office;

12.5. step up efforts to help migrants to understand not only their rights but also their obligations in order to assure better integration and acceptance by the host society;

12.6. enhance the impact and visibility of the work of the Council of Europe on the rights of migrants, asylum seekers, refugees and displaced persons by:

12.6.1. publishing a compendium of the human rights standards of the Council of Europe applicable to migrants, asylum seekers, refugees and displaced persons;

12.6.2. providing support for an interactive migration and asylum website shared by the different sectors of the Council of Europe working on the issue;

12.6.3. support and strengthen the work of the informal internal Council of Europe Task Force on Migration, which is a liaison mechanism within different sectors of the Organisation involved in migration and asylum issues.

13. The Assembly encourages the Council of Europe Commissioner for Human Rights to continue to give priority to the issue of rights of migrants, asylum seekers, refugees and displaced persons in his work.

14. The Assembly invites the Committee of Ministers to report back to the Assembly within two years on the progress made in implementing this recommendation.