



Doc. 13165

11 April 2013

Criminalisation of irregular migrants: a crime without victim

Motion for a recommendation

tabled by the Committee on Migration, Refugees and Displaced Persons

This motion has not been discussed in the Assembly and commits only those who have signed it

The Parliamentary Assembly is concerned about the increasing trend to criminalise by law the irregular entrance and presence of migrants as a result of particular migration policies. Although States are entitled to introduce measures to prevent irregular immigration, such power is however limited by the international legal and human rights framework.

Several Council of Europe member States have introduced legislation, according to which the irregular entry and stay in the territory is considered a criminal offence punishable by imprisonment and/or fines. Some of these laws and combined reporting obligations on officials have direct human rights implications going beyond what is acceptable.

In 2010, the Council of Europe Commissioner for Human Rights raised concern on the increasing use of criminal law sanctions in the field of migration. He underlined that these laws imply a criminalisation of foreigners, including through the language used, who are guilty of a crime without there being a victim.

There are many other problems associated with this criminalisation trend. It has an effect on the public who consider irregular migrants as dangerous persons because they are classified as criminals. Furthermore it leads to additional problems for asylum seekers and refugees who often have no other option than to enter a country without permission.

The Assembly is therefore called upon to look into the trend of criminalisation of irregular migrants in Council of Europe member States. It should also encourage the Committee of Ministers to start working on a Recommendation on administrative and criminal aspects of irregular migration, in order to find pragmatic solutions, acknowledging the dignity and vulnerability of these people who are entitled to enjoy a set of basic rights granted to all human beings, irrespective of their migration status.

