



Resolution 2073 (2015)¹

Countries of transit: meeting new migration and asylum challenges

Parliamentary Assembly

1. “Transit” countries are countries that migrants cross on their way to their country of destination. Many migrants, however, do not have a clear destination when they start travelling. Once they have left their country, whether they decide to travel onwards and to where often depends on several factors. Countries that experience transit migration, in whatever form, are rarely if ever only “countries of transit”; many are also countries of destination and/or asylum.
2. The concept of “country of transit” has nevertheless come to play a key role in European policy, generally referring to European Union neighbouring countries from which the final step across the European Union’s external border is taken. However, several European Union member States located between the European Union’s external borders and migrants’ preferred final countries of destination also experience significant levels of transit migration.
3. Whilst there may be certain policy measures that apply specifically to countries of transit, migration policy should be seen in a global perspective: all of the countries from, through and to which a migrant may travel must co-operate and co-ordinate their actions, with the support and assistance of international actors such as the Office of the United Nations High Commissioner for Refugees (UNHCR), the International Organisation for Migration (IOM) and the European Union; and policies must focus on the situation of the individuals whose decisions and actions drive migration. The Parliamentary Assembly welcomes the fact that European Union policy increasingly recognises this imperative, as reflected in the European Commission’s European Agenda on Migration and the European Council’s conclusions of 26 June 2015. It considers that the Council of Europe, through its European Centre for Global Interdependence and Solidarity (North-South Centre), could play a part in enhancing capacities for dialogue to this end.
4. The European Union’s relations with countries of transit emphasise migration policy. This may be expressed in the form of “mobility partnerships”, which are part of the European Union’s “Global Approach to Migration and Mobility” (GAMM). The result is “externalisation” of border control, shifting responsibility for preventing irregular migration into Europe onto the transit country. Transit countries are also asked to accept readmission agreements extending to third-country nationals, even if such persons cannot be returned to their countries of origin. This approach creates problems for transit countries in their internal socio-economic situation, as well as in their relations with neighbouring countries and countries of origin.
5. But most of all, externalisation of European Union border control has serious consequences for migrants and refugees. Large numbers may find their intended onward journey blocked and thus be stranded in the transit country. This may leave them in a precarious or vulnerable situation, without legal status or protection or access to basic needs and therefore at risk of exploitation, abuse and violence. This is especially the case where domestic legal systems contain insufficient safeguards and do not effectively implement

1. *Assembly debate* on 29 September 2015 (31st Sitting) (see [Doc. 13867](#) and [addendum](#), report of the Committee on Migration, Refugees and Displaced Persons, rapporteur: Ms Tineke Strik). *Text adopted by the Assembly* on 29 September 2015 (31st Sitting).

See also [Recommendation 2078 \(2015\)](#).



relevant international standards, including those of the 1951 UNHCR Convention relating to the Status of Refugees. Conditions may become so intolerable that even those who had not intended to do so are constrained to move on, often forced into the hands of migrant smugglers or traffickers.

6. The European Union's influential relationship with many countries of transit, however, could also provide a basis for co-operation on a more holistic, rights-based and effective approach to migration policy. The Assembly therefore considers that the European Union should further reflect upon the aims and structure of its relations with countries of transit, ensuring that this co-operation leads to the prevention of human rights violations and does not put human rights at risk.

7. As examples of how the situation in countries experiencing significant levels of transit migration can improve, the Assembly welcomes recent developments in Turkey and Morocco. These countries are at different stages of introducing new migration policies, laws and institutions, and further developing their co-operation with international actors, notably the UNHCR and the IOM. Much needs to be done, however, in order to effectively implement legislation and policies, in full compliance with the Refugee Convention and, in the case of Turkey, the European Convention on Human Rights (ETS No. 5). The Assembly encourages both countries to continue with their respective reforms until their completion and effective implementation, which would have the potential to make both countries regional models of good practice. It also urges the international community, in particular the Council of Europe and the European Union, to reinforce their encouragement and support for this process. These countries and the European Union should refrain from agreements that could have counterproductive effects, such as a one-sided emphasis on strengthening border controls.

8. By contrast, the Assembly is profoundly alarmed at the situation in Libya. The absence of a functioning State has contributed significantly to transforming Libya from predominantly a destination country for labour migration into a country of transit, especially for those seeking to reach Malta and Italy. Migrants in Libya now find themselves at risk of grave violations of their human rights and forced to confront mortal danger when attempting to cross the Mediterranean Sea, as shown by the horrendous number of deaths in recent years. Strong political and technical support for peace-building in Libya and its subsequent transition to democracy, with full respect for human rights and the rule of law, whilst necessary in itself, would also serve the interests of European migration policy. Operations to prevent migrants and refugees from leaving Libya risk putting their lives and safety in danger and constitute a breach of their human rights. Instead, the European Union should create legal channels and binding resettlement programmes for refugees.

9. The Assembly is also deeply concerned about the ongoing situation in the eastern Mediterranean, western Balkans and central Europe. The current, incoherent European Union response is having disastrous effects for refugees in transit and for Greece and other transit countries in the western Balkans. The statement following the informal European Union summit on 23 September 2015, whilst promising welcome and much-needed increases in support to countries of first asylum and transit and humanitarian agencies, focuses on keeping refugees out or at the periphery of the European Union. Beyond that, however, it reveals a reluctance to accept protection responsibilities, with no mention of resettlement, and a lack of solidarity in burden-sharing between States. This suggests that, overall, action will remain inadequate and ineffective. The Assembly recalls that all European States are legally obliged to provide effective protection to people in need and are prohibited from sending them to countries where that protection is not guaranteed. It considers that if States isolate themselves from European neighbours behind fences and strict border controls, there will be serious geopolitical consequences for wider European integration.

10. Once migrants or refugees have reached the border of a European country, the authorities need to assess their protection needs on an individual basis before deciding whether or not to deny access to territory. Even outside European territory, where a national authority or the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex) has control over migrants and refugees, there is an obligation to ensure access to protection if needed. Unfortunately, this obligation is not always complied with. The Assembly is deeply concerned at continuing, credible reports of unlawful push-backs and related human rights violations, despite the judgment of the European Court of Human Rights in the case of *Hirsi Jamaa v. Italy*. It is further concerned about recent legislative amendments in Spain, which the Council of Europe Commissioner for Human Rights has criticised as being "aimed at legalising push-backs of migrants arriving in Ceuta and Melilla [and] in clear breach of human rights law".

11. The Assembly recommends that the European Union:

11.1. ensure coherency in overall migration policy, taking a “triangular” approach involving the countries of both origin and transit, promoting and respecting human rights and the rule of law and avoiding a narrow emphasis on border control and security. This should include measures such as:

11.1.1. providing significant, unconditional and sustainable support to improve the protection of migrants’ rights in transit countries;

11.1.2. greater investment in reception and asylum-processing capacity in transit countries and promoting and supporting effective implementation of international standards such as the 1951 Convention relating to the Status of Refugees;

11.1.3. reconsideration of its policy of encouraging transit countries to sign readmission agreements extending to third-country nationals;

11.1.4. increased and better targeted development aid, aimed at both economic development and good governance;

11.1.5. further development of initiatives such as the Rabat and Khartoum processes, ensuring that human rights compliance is at their core and a condition for any co-operation on border controls;

11.2. include adequate and effective resettlement and relocation policies in the Common European Asylum System (CEAS), with a binding mechanism and meaningful numbers of refugees;

11.3. ensure that any system of “hotspots” for the reception and processing of asylum seekers fully respects all relevant international standards, including those of the European Convention on Human Rights, and is subject to independent, external monitoring;

11.4. acknowledge responsibility for any breaches of human rights outside European Union territory and at its external borders, including push-backs, where Frontex is involved, and ensure that they come to an end.

12. The Assembly calls on the Council of Europe member States to:

12.1. recognise that the challenge of mass arrivals of refugees and migrants is a matter of common concern and requires the formulation of effective and adequate common responses;

12.2. not return asylum seekers to Lebanon, Jordan, Turkey, Greece, “the former Yugoslav Republic of Macedonia”, Serbia or Hungary, or any other country already bearing a disproportionate responsibility for looking after migrants and/or where protection is not guaranteed on account of deficiencies in reception conditions, asylum procedures or other relevant areas;

12.3. ensure that they refrain from any unlawful push-backs of migrants, whether at land or sea borders or during operations outside their territory, as required by the European Convention on Human Rights;

12.4. ensure that their bilateral co-operation with third countries on migration aims at promoting and ensuring compliance with human rights, and to refrain from agreements on border control if it cannot be guaranteed that the third country fully respects the human rights of migrants and refugees.

13. The Assembly calls on the Executive Committee of the North-South Centre, which already has a co-operation agreement with the European Commission, to consider the feasibility of further developing its role in enhancing capacities for dialogue between countries of origin, transit and destination, building on the experience of the conference organised in co-operation with the Assembly from 30 to 31 March 2015 in Lagos (Portugal). It urges the executive committee to put human rights at the centre of this dialogue.