Parliamentary Assembly
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COUNCIL OF EUROPE
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Resolution 2227 (2018)[1]

Extra-territorial processing of asylum claims and the creation of safe refugee shelters abroad

Parliamentary Assembly

1. The Parliamentary Assembly is deeply concerned about the continuing high number of migrants who lose their lives, having boarded the boats of human smugglers, in particular embarking from Turkey, Libya and Morocco, in their desperate efforts to reach European countries on the other side of the Mediterranean Sea. The Assembly also deplores the severe violence to which migrants are exposed in Libya and the Lake Chad region. It is of utmost importance that all member States pursue concerted efforts to halt this human tragedy.

2. A considerable number of these migrants have the right to asylum or other forms of international protection. They should therefore not be obliged to undertake such dangerous journeys at sea or to use other means of illegal transport which put their lives at risk, in addition to the existing threats in their home countries. Instead, they should be offered safe ways of applying for asylum in conformity with the United Nations Convention relating to the Status of Refugees.

3. Recalling the historic examples of the extra-territorial issuance of visas on humanitarian grounds by Raoul Wallenberg and other outstanding diplomats in Budapest towards the end of the Second World War, the Assembly calls on member States to take legislative and practical measures to enable people to apply for this protection through extra-territorial processes as an exceptional measure on humanitarian grounds.

4. The Assembly reaffirms that, as a general principle under international law, persons should be expected to apply for refugee status in the first safe country of arrival, provided that country can guarantee effective protection in accordance with international standards, and that any country of first arrival must receive and duly process such applications. It emphasises that this fundamental obligation cannot be derogated from on the grounds that a third country provides for the possibility of processing asylum claims extra-territorially in that country of first arrival. Refugees must not be denied their right to asylum in any country because another country is allowing extra-territorial asylum applications.

5. Referring to Recommendation No. R (97) 22 of the Committee of Ministers containing guidelines on the application of the safe third country concept, the Assembly recalls that, when a third country is considered safe, applications for asylum are generally examined using accelerated procedures. In this manner, such non-substantial examinations could be made through diplomatic or consular missions of member States in safe third countries, on the condition that the criteria developed by the Office of the United Nations High Commissioner for Refugees (UNHCR) are met and that applicants can challenge the status of safe country. This extra-territorial processing of asylum claims would prevent people from being deceived by human smugglers about opportunities for asylum.

6. Referring to the Guidelines on human rights protection in the context of accelerated asylum procedures, adopted by the Committee of Ministers on 1 July 2009, the Assembly recalls that under international law, including relevant provisions of the European Convention on Human Rights (ETS No. 5), the United Nations Convention relating to the Status of Refugees and its protocol, and customary international law, States

1. *Assembly debate* on 27 June 2018 (24th Sitting) (see Doc. 14571, report of the Committee on Migration, Refugees and Displaced Persons, rapporteur: Mr Domagoj Hajduković; and Doc. 14585, opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Egidijus Vareikis). *Text adopted by the Assembly* on 27 June 2018 (24th Sitting).
See also Recommendation 2135 (2018).

receiving asylum applications are required to ensure that return of asylum seekers to their country of origin or any other country will not expose them to a real risk of a death sentence, torture or inhuman or degrading treatment or punishment, persecution or serious violation of other fundamental rights which would, under international or national law, justify granting protection.

7. Welcoming the initiative by the French Government in 2017 to provide 3 000 visas and transport to France for refugees from Chad and Niger, the Assembly notes with regret that many member States do not have legislation which allows for extra-territorial processing of asylum claims on humanitarian grounds.

8. The Assembly further welcomes the fact that the UNHCR has resumed its evacuation of vulnerable refugees and asylum seekers out of Libya and provides official Asylum Seeker Cards for Syrian refugees registered in Egypt, but regrets that in 2013 it had to end its global Refugee Status Determination Programme due to the considerable increase in applications. Through the latter programme, the UNHCR assisted approximately 50 States in dealing with asylum applications and directly assisted applicants in an additional 20 States globally. This example shows that such programmes can improve the situation of refugees and asylum seekers, but only if they are substantially supported by the States.

9. If sufficient provision were made for refugee status determination and prompt access to effective protection in countries of first arrival or in third countries, migrants would not have to expose themselves to life-threatening journeys or human smuggling. Therefore, the Assembly calls on member States to:

9.1. consider introducing in their domestic law, if such provisions do not already exist, the possibility to apply for asylum or humanitarian visas at diplomatic or consular missions abroad;

9.2. define the conditions to be met by those extra-territorial applicants, such as a particular humanitarian emergency, the impossibility to safely reach the territory of the member State concerned, quotas for applicants or security requirements including the presentation of identity documents;

9.3. provide special extra-territorial procedures for accelerated asylum applications:

9.3.1. when their competent national authorities have decided to generally grant a category of refugees asylum as an exceptional measure on humanitarian or other grounds;

9.3.2. in the context of family reunification of refugees;

9.3.3. by applicants originating from safe countries or present in third countries which are considered as safe, in accordance with Committee of Ministers Recommendation No. R (97) 22;

9.4. provide basic social services, including shelter, food and health care for applicants, where necessary, possibly in co-operation with the UNHCR or the European Union;

9.5. provide comprehensive information to applicants about the procedure of applying for asylum or humanitarian visas, as well as about regular entry visas to which they may have access, such as temporary visas, work visas and study visas, in a language that they understand;

9.6. assist successful applicants with their travel to the respective member States which have granted asylum;

9.7. ensure that rejected asylum seekers have access to a complaint mechanism and an effective remedy against the rejection in accordance with Article 13 of the European Convention on Human Rights;

9.8. substantially step up the number of pledges for resettlement and humanitarian admission programmes organised by the UNHCR;

9.9. ensure that any means of humanitarian admission or resettlement do not affect the right to apply for asylum in member States.

10. Referring to its Resolutions 2000 (2014) on the large-scale arrival of mixed migratory flows on Italian shores and 2147 (2017) on the need to reform European migration policies, the Assembly recognises that extra-territorial processing of asylum claims remains an exceptional and limited way of granting international protection. Therefore, additional measures are urgently needed to provide safety and protection to refugees and migrants abroad in accordance with the standards required under the United Nations Convention relating to the Status of Refugees.

11. In the past, protective shelters or zones have been successfully established, for instance by the United Nations or the North Atlantic Treaty Organization (NATO), for persons have been forcibly displaced by violence or armed conflicts. Such shelters provided temporary security to persons who would otherwise have

qualified for asylum in other countries. Therefore, the Assembly calls on member States to help establish such protective shelters in countries affected by violence or conflict, or in neighbouring countries, in order to avoid persons being forced to flee to other countries on long and perilous routes.

12. Referring to the camps successfully established for Syrian refugees in Turkey and Jordan, the Assembly calls on member States and the European Union to support such camps financially and logistically.

13. Welcoming the projects of the Italian Refugee Council and the UNHCR for refugees and migrants in Libya, including the creation of protected areas for children, the Assembly calls member States and the European Union to support similar programmes.

14. The Assembly invites the UNHCR and the International Organization for Migration (IOM) to assist migrants who so wish by registering them as asylum seekers and to provide refugee status determination programmes in co-operation with safe countries of first arrival, as well as third countries which offer extra-territorial processing of asylum claims.

15. The Assembly invites the European Union and its member States to support financially and through technical co-operation those States which accept persons under international protection or on humanitarian grounds.