Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Doc. 15472
08 March 2022

Rights and obligations of NGOs assisting refugees and migrants in Europe

Reply to Recommendation[1]: Recommendation 2192 (2020)
Committee of Ministers

1. The Committee of Ministers has carefully examined Recommendation 2192 (2020) "Rights and obligations of NGOs assisting refugees and migrants in Europe" and welcomes the Parliamentary Assembly's support for the work of NGOs in protecting the fundamental rights of migrants and refugees.

2. It points out that NGOs assisting migrants and refugees in Europe enjoy the rights and protection afforded under the European Convention on Human Rights, in particular the right to freedom of association enshrined in Article 11 of the Convention, which is a fundamental principle of the Council of Europe and of which the exercise may not be subject to any restrictions other than those provided for in paragraph 2 of that article.

3. Like any individual, refugees and migrants enjoy fundamental freedoms and universal human rights, which must be respected, protected and exercised in all circumstances. The Committee also recalls that refugees, migrants in a regular situation and those in an irregular situation, fall under distinct legal frameworks.

4. It also underlines the relevance of the Council of Europe's other existing legal instruments, including of the European Convention on the Recognition of the Legal Personality of International Non-Governmental Organisations (ETS No. 124), which those States which have not yet done so are encouraged to sign and/or ratify, and Recommendation CM/Rec(2007)14 on the legal status of NGOs in Europe as well as Recommendation CM/Rec(2018)1 on the need to strengthen the protection and promotion of civil society space in Europe.

5. It also refers to the Joint Guidelines on Freedom of Association adopted by the European Commission for Democracy through Law (Venice Commission) and the Office for Democratic Institutions and Human Rights of the Organisation for Security and Co-operation in Europe (OSCE/ODIHR) and the Guidelines on Protecting NGO Work in Support of Refugees and Other Migrants prepared by the Expert Council on NGO Law of the Conference of INGOs of the Council of Europe. In addition, it draws attention to the many opinions issued by the Venice Commission directly addressing a number of points raised in the recommendation such as the establishment of field offices or tax privileges.

6. In the light of the above, and in the absence of clearly identified legal lacunae, the Committee considers that priority should be given to implementing the existing legal standards which apply to NGOs assisting refugees and migrants who are in Europe. In this context, it recalls that all actors should act in accordance with relevant legal standards and stresses that NGOs need to be able to carry out their activities freely in accordance with the rights enshrined in the European Convention on Human Rights.

1. Reply adopted at the 1427th meeting of the Ministers' Deputies (2 March 2022).