Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Resolution 1820 (2011)[1]

Asylum seekers and refugees: sharing responsibilities in Europe

Parliamentary Assembly

1. The Parliamentary Assembly believes that further measures are needed to ensure that responsibilities for refugees and asylum seekers are shared fairly in Europe and that those seeking international protection have access to fair and efficient systems for the processing of their claims.

2. The recent conflicts in North Africa have once again put the issue firmly on the agenda. By 10 May 2011, following the new wave of migration, 34 460 people had landed in Italy (about 23 000 irregular migrants and 11 000 asylum seekers/refugees), and 1 106 in Malta (almost all asylum seekers or refugees). Notwithstanding the relatively high numbers that have entered Europe, they should be put in the context of Libya's North African neighbour countries, which have received approximately 750 000 refugees.

3. The Assembly notes that the number of asylum seekers in Europe, and in particular those arriving from the southern Mediterranean, should not pose an insurmountable problem for Europe as a whole, although their concentration in certain regions will pose a much greater problem for the countries or regions concerned. Malta in particular, because of its size and population, and the tiny island of Lampedusa risk facing the greatest strain.

4. This Assembly believes that it is a paramount responsibility of each member state of the Council of Europe to meet its own international legal and humanitarian obligations under the 1951 United Nations Convention relating to the Status of Refugees.

5. The effective protection of asylum seekers and refugees across the world cannot be achieved without countries sharing responsibilities. One example of this has been the requests from front-line Mediterranean countries for a greater sharing of responsibility in response to large-scale arrivals of asylum seekers and refugees on Europe's southern shores.

6. All member states of the Council of Europe should be participating fully in the programmes of the Office of the United Nations High Commissioner for Refugees (UNHCR) for the resettlement of refugees and should accept that, because of the uneven geographical distribution of refugees, fair sharing of responsibility for resettlement is essential.

7. To encourage such fair sharing of responsibility, more information should be given to national parliamentarians to enable them to put pressure on their governments to meet their moral duties. For example, in 2010, European countries resettled only 5 824 refugees compared with 54 077 resettled by the United States and 6 732 by Canada.

8. It is of the utmost importance that the interests of refugees and asylum seekers are kept distinct from those of economic migrants.

9. Porous external borders facilitate racketeering and international people smuggling. Therefore, more effective measures must be taken by member states to maintain the integrity of their own national borders.

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1. Assembly debate on 21 June 2011 (22nd Sitting) (see Doc. 12630, report of the Committee on Migration, Refugees and Population, rapporteur: Mr Chope). Text adopted by the Assembly on 21 June 2011 (22nd Sitting). See also Recommendation 1973 (2011).

10. In order to deter people smugglers from using the high seas for their heinous trade, member states should consider the use of coastguard vessels. These vessels should be sufficiently equipped to enable them to identify anyone with potential international protection needs, something that has been done effectively by the United States Coast Guard.

11. The Assembly notes that within the 27 member states of the European Union, there is a vigorous debate about what each one should be doing by way of sharing responsibility. The Dublin II Regulation system, which was designed to prevent forum shopping and multiple applications for asylum, is no longer fully effective because of the inability of a number of countries, notably Greece, to meet their obligations to provide fair and efficient systems for processing asylum applications. It is unacceptable, however, that the situation in Greece, especially in its detention centres, continues to be below international standards. The European Union should have made it a condition of the financial help to Greece that it should comply with its international obligations on the protection of refugees and asylum seekers.

12. In the Assembly's view, the current situation and status quo are not sufficient and action has to be taken, primarily for three reasons. The first is that a number of member states are not coping with the current situation and there exists a real threat of ongoing arrivals creating further pressure and problems. Secondly, the Dublin System has been shown to be unfair and in need of reform. The most recent condemnation by the European Court of Human Rights in its judgment earlier this year (*M.S.S. v. Belgium and Greece*) attests to this. The third reason is that the issue of responsibility sharing is beginning to create collateral damage and further friction within the European Union member states focused on the countries in the Schengen zone. The actions of some countries in allowing irregular migrants to receive documentation entitling them to travel anywhere within the zone has created tensions which have now reached the level of intergovernmental European Union discussion. These issues need to be resolved.

13. From the perspective of the Council of Europe, it is important that countries within the European Union are not regarded as having special status. The same principles should be applicable in all 47 countries. It would therefore be inappropriate for the Assembly to give definitive advice about what the European Union should do in respect of each of its current problems relating to Schengen, the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex), and its aspirations to create a common immigration and asylum policy for the European Union, except in the context of human rights.

14. The European Union does, however, have financial and material resources which should be made more widely available to Council of Europe member states. For example, Frontex has access to satellite intelligence which should enable it to identify vessels which are leaving North Africa loaded with migrants, so that they can be intercepted in a co-ordinated way. The European Union also has the ability to help facilitate bilateral and multilateral arrangements to help reduce the pressure on particular points of entry such as the border between Turkey and Greece.

15. In order to tackle the issue of responsibility sharing in Europe, taking into account the responsibilities which exist at the moment and foreseeing future developments, the Assembly calls on all member states to:

15.1. encourage reform of the Dublin system to achieve more flexibility, where necessary, on the application of the principle of asylum determinations being carried out in the first arrival country;

15.2. provide direct assistance to countries in need, in particular those currently receiving large-scale mixed migration flows from the southern shores of the Mediterranean, including by:

15.2.1. assisting with border controls, the interception of boats and the rescue of people in need;

15.2.2. facilitating reception, including by providing support for infrastructure and its operation;

15.2.3. providing assistance for screening those with possible international protection needs;

15.2.4. helping with asylum determination and fair and efficient asylum procedures;

15.2.5. facilitating returns (both of irregular migrants and of failed asylum seekers, including individuals held in detention who wish to return to their country of origin);

15.2.6. accepting, as a priority, relocation within Europe from countries under strain, prior to or after the asylum determination process, and resettlement from countries outside Europe in full co-operation with the UNHCR;

15.2.7. taking steps to tackle the root causes of flows of asylum seekers, refugees and irregular migrants;

15.2.8. promoting co-operation between receiving countries and countries through which irregular migrants and asylum seekers have passed in transit since leaving their country of origin;

15.2.9. offering prompt assistance to countries, such as Turkey, receiving civilians fleeing from persecution and military action in neighbouring states;

15.3. put greater reliance upon intelligence-led interceptions at sea, so as to co-ordinate their response to people smugglers.

16. The Assembly recognises that further responsibility sharing cannot be effective without a commitment from the countries at the forefront of the current asylum flows to:

16.1. guarantee access to their territory to any person that might be in need of international protection;

16.2. provide the necessary reception conditions in accordance with relevant human rights and humanitarian standards;

16.3. provide a prompt and fair asylum process and ensure the quality and consistency of decisions;

16.4. ensure the integrity of their borders and control the irregular migration flows.

17. Recognising the particular responsibility, resources and mandate of the European Union in this matter, the Assembly calls on the European Union to:

17.1. modify the Dublin system, as necessary and as soon as possible, in particular in the light of the judgment in the case of *M.S.S. v. Belgium and Greece*, both to ensure fair treatment and appropriate guarantees for asylum seekers and beneficiaries of international protection and also to assist individual member states to face possible situations of exceptional pressure;

17.2. ensure that its funds are flexible and easy to mobilise, to be able to react quickly in the case of unforeseen events and emergency, and consider the possibility of financing infrastructure, in particular to ensure adequate reception facilities;

17.3. ensure that in respect of its members there are accurate and consistent statistics relating to applications for international protection, the granting of refugee status and asylum, detection and return of irregular migrants and realistic estimates of the number of illegal entrants into the European Union;

17.4. rapidly reach agreement on the European Commission’s proposal for the establishment of a European Union joint resettlement programme, to be implemented in close co-operation with the UNHCR;

17.5. in revising the Frontex regulations, ensure that full human rights guarantees are included;

17.6. address the alarming increase in the number of forged travel documents circulating in Europe, and reply to the forecasts by Frontex of increased irregular migration and the concerns of Europol as to the security threats resulting therefrom.

18. Finally, the Assembly commends the work of the UNHCR, congratulates it on its 60th anniversary and calls on all members of the Council of Europe to mark the anniversary by taking greater responsibility for resettling refugees and addressing the challenge of asylum seekers in Europe.