

Resolution 2059 (2015)¹

Criminalisation of irregular migrants: a crime without a victim

Parliamentary Assembly

1. Increasingly restrictive migration policies, increased social exclusion and limited access to human and social rights for migrants are all aspects of a situation which the Parliamentary Assembly has been condemning for many years.
2. The term “migrant” retains a degree of stigmatisation with regard to the group or person to whom it is applied, especially when it is associated with illegality.
3. The Assembly also notes that the external border control policy of the European Union is framed on the basis of designations that associate migration and crime-causing attributes, making migration an internal security matter and associating migration with a threat to public order and the social system.
4. In this context, the Assembly underlines the importance of the proper use of terms, namely “irregular” as opposed to “illegal” or “undeclared” migrants. Inappropriate use of the terminology relating to migration plays a part in reinforcing xenophobic and racist attitudes and heightens fear of migrants, which is already being fed by the economic crisis and political instability, in particular in the countries of the southern Mediterranean.
5. Noting that, contrary to Directive 2002/90/EC defining the facilitation of unauthorised entry, transit and residence (Reception Directive), some European Union member States sanction humanitarian assistance, thereby creating an “offence of solidarity”, the Assembly underlines the need to end the threat of prosecution on charges of aiding and abetting irregular migration of people who rescue migrants.
6. The Assembly condemns any practice of courts being more severe when trying cases where migrants are arrested, imprisoned and convicted as perpetrators of criminal offences.
7. It also proposes that detention only be used as a last resort, in particular for asylum seekers, when it should be as short as possible, and that alternatives to detention should be used wherever possible.
8. The Assembly recalls that asylum seekers are entitled to receive international protection and to enjoy freedom of movement.
9. Given this trend and in breach of the spirit of the Universal Declaration of Human Rights and the European Convention on Human Rights (ETS No. 5), irregular migrants are deprived of the minimum level of social rights and live in conditions far removed from the principles of protection and human dignity and, in order to survive, they sometimes engage in illegal activities to meet their basic needs.
10. The Assembly underlines the need to adopt a more objective approach based on consideration of the human being, which would discourage any discriminatory or degrading practices towards migrants, including irregular migrants in Europe.
11. Accordingly, the Assembly calls on the member States to:
 - 11.1. promote and observe fundamental rights standards for migrants, including irregular migrants;

1. *Text adopted by the Standing Committee, acting on behalf of the Assembly, on 22 May 2015 (see [Doc. 13788](#), report of the Committee on Migration, Refugees and Displaced Persons, rapporteur: Mr Ionuț-Marian Stroe).*



- 11.2. promote the use of neutral terminology and replace the term “illegal migrants” with “irregular migrants” in speeches and official documents;
- 11.3. combat misinformation and negative stereotypes concerning migrants; unreservedly condemn the exploitation of migrants for political purposes in populist discourse;
- 11.4. apply *sensu stricto* to migrants the standards concerning entry, transit and residence in the territory of European Union countries;
- 11.5. ensure that asylum seekers have access to a fair procedure;
- 11.6. give access to the essential rights for human dignity (medical care, education) to irregular migrants;
- 11.7. develop best practice guides on the arrest and detention of irregular migrants;
- 11.8. put in place alternatives to detention wherever possible;
- 11.9. apply the principles governing administrative detention in migrant detention centres;
- 11.10. take measures to step up the fight against migrant trafficking and smuggling;
- 11.11. continue to consider, when appropriate, the definition of maritime boundaries and ensure that people rescued are allowed to land.