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Mass arrival of irregular migrants on Europe's Southern shores

Recommendation 1767 (2006)

Reply from the Committee of Ministers
adopted at the 998th meeting of the Ministers' Deputies (13 June 2007)

1. The Committee of Ministers has taken note of Parliamentary Assembly Recommendation 1767 (2006) and its related Resolution 1521 (2006) on the "Mass arrival of irregular migrants on Europe's southern shores" and has brought the recommendation to the attention of member states. At the same time it also transmitted it to the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the European Committee on Migration (CDMG) and to the Steering Committee for Human Rights (CDDH).
2. The Committee of Ministers shares the concerns of the Assembly with regard to the rising numbers of irregular migrants, as well as the related causes and implications. It reaffirms the position outlined in the Action Plan adopted by the Third Summit of Heads of State and Government of the Council of Europe (Warsaw, May 2005) in this sector. The Council of Europe continues its efforts in developing and implementing policies on migration and the integration of migrants that are founded on the principles of human rights, democracy and the rule of law, with a view to ensuring orderly migration, social cohesion and the respect of the individual.
3. The Committee of Ministers is acutely aware of the vulnerable and sometimes dire circumstances in which irregular migrants arrive on the territory of its member states. It refers to its reply to Parliamentary Assembly Recommendation 1755 (2006) on human rights of irregular migrants in which it draws attention to the minimum safeguards of civil and political rights provided for in the European Convention on Human Rights that can be applied to irregular migrants. In this respect, it also recalls its Recommendation Rec(2000)3 to member states on the right to satisfaction of basic material needs of persons in situations of extreme hardship, which provide a minimum threshold of rights which should be recognised whatever their status.
4. The Committee of Ministers has noted with interest Resolution 1521 (2006). Whilst maintaining that it is the individual responsibility of each member state, bearing in mind the particularities of the specific situations or difficulties in their respective territories, to decide on policies with regard to irregular migrants, the Committee of Ministers acknowledges and approves of the reminder to member states as regards their human rights and humanitarian obligations in this context as outlined in points 16 and 17 of the resolution.
5. The Committee of Ministers draws the Parliamentary Assembly's attention to the fact that work is being carried out on the issue of irregular migration with a view to improving the capacity of member states to manage migration flows. Most recently, the European Committee on Migration (CDMG) has undertaken the assessment of recent policies of selected member states on irregular migrants. This exercise may give rise to further work on the subject. The CDMG is also currently preparing a draft recommendation concerning life projects for unaccompanied migrant minors, which will address problems of particular relevance in the context of the arrival of irregular migrants in southern Europe.

6. The Committee of Ministers also notes the links which exist with Recommendation 1727 (2005) on accelerated asylum procedures in Council of Europe member states and draws attention to its recent instruction to the Steering Committee for Human Rights (CDDH) to examine the question of human rights protection in the context of accelerated asylum procedures, and, as appropriate, to draft guidelines in this field. The CDDH has started its work with a view to drafting such guidelines.

7. In response to paragraph 3.1 of the Assembly's recommendation, the Committee of Ministers takes note of the proposal that the CDMG and the CDDH hold an exchange of views on a possible European response to the mass arrival of irregular migrants on Europe's southern shores and of the readiness of the CDMG to organise such an event. It considers that such a proposal falls within the recently adopted terms of reference of the CDMG flowing from the Action Plan of the 7th Conference of Ministers responsible for Migration Affairs (Helsinki, 2002) which recommends "strengthening the dialogue and partnership between member states and, when relevant, non-member states, taking into account existing bilateral and multilateral agreements on migration issues and to take steps in identifying possible legal gaps". It would therefore encourage the organisation of such a meeting, in conjunction with the CDDH, for example within one of the CDMG plenary meetings, subject to the necessary resources being available.

8. With respect to the Parliamentary Assembly's reference to the role of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the Committee of Ministers is aware and satisfied that the issue of irregular migrants and the conditions of detention of such persons are elements which are taken into account in the Committee's visits and work programmes. The Committee of Ministers would urge the CPT to remain vigilant to the possible risks which may incur as a result of the rapidly increasing number of irregular migrants arriving at the borders of Council of Europe member states and to adapt its priorities as appropriate.

9. Finally, in response to paragraph 3.3 of the recommendation, and with due consideration given to the distinction to be made between the trafficking in human beings and the smuggling of migrants,¹ the Committee of Ministers would recall the European Convention on Action against Trafficking in Human Beings of the Council of Europe which was opened for signature on 16 May 2005² and the United Nations Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organised Crime which entered into force on 28 January 2004.³ The Committee of Ministers urges those member states that have not already done so to give full consideration to a prompt ratification of those treaties.

¹ The purpose of trafficking in human beings is exploitation. The aim of smuggling of migrants is the unlawful cross-border transport in order to obtain, directly or indirectly a financial or other material benefit (Explanatory Report to the European Convention on Action against Trafficking in Human Beings).

² The European Convention on Action against Trafficking in Human Beings has to date been ratified by 6 member states (Albania, Austria, Georgia, Moldova, Romania and Slovakia). It will enter into force once 10 ratifications will have taken place (including 8 member states).

³ Thirty-six member states of the Council of Europe (Albania, Armenia, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Denmark, Estonia, Finland, France, Georgia, Germany, Hungary, Italy, Latvia, Lithuania, Malta, Monaco, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, "the former Yugoslav Republic of Macedonia", Turkey, Ukraine, United Kingdom) as well as Montenegro are among the states Party to the United Nations Protocol against the Smuggling of Migrants by Land, Sea and Air.