

Resolution on migrant's rights in the European Union

Presented by the Hellenic League for Human Rights (HLHR) and the Human Rights Association (IHD)

The International Federation for Human Rights, at its 39th Congress:

Having regard to the Universal Declaration of Human Rights,

Having regard to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights,

Having regard to the Geneva Convention of 1951 relating to the Status of Refugees and its additional protocol there to,

Having regard to the European Convention for the Protection of Human Rights and Fundamental Freedoms,

Having regard to the Charter of Fundamental Rights of the European Union,

Having regard to the EU asylum *acquis*;

Having regard to the reports of the United Nations Special Rapporteur on the human rights of migrants, François Crépeau, on the management of the external borders of the European Union and its impact on the human rights of migrants,¹

Having regard to the report of the Parliamentary Assembly of the Council of Europe, Lives lost in the Mediterranean Sea: Who is responsible?,²

Having regard to the report of the Parliamentary Assembly of the Council of Europe, The “left-to-die boat”: actions and reactions,³

A. Whereas it is estimated that by July 2016, 4.8 million people had fled the conflict in Syria;

B. Whereas most of the Syrian nationals who have fled their country are to be found in neighbouring countries: 2.7 million in Turkey, 1.05 million in Lebanon and more than 600.000 in Jordan⁴;

C. Whereas 65.3 million people including from war-torn countries or fleeing repressive regimes, such as in Afghanistan, Iraq, Eritrea or Iran, were reported by the United Nations High Commissioner for Refugees (UNHCR) to have left their countries at the end of 2015, of which only about one million sought protection in Europe⁵

D. Whereas in July 2015, EU Member States agreed to resettle 20.000 persons under the EU resettlement scheme;

1 A/HRC/23/46, 24 April 2013 ; A/HRC/29/36, 8 May 2015.

2 Doc. 12895, 5 April 2012.

3 Doc. 13532, 9 June 2014.

4 Syria Regional Refugee Response, inter-agency Information Sharing Portal, Last updated 4 July 2016 [<http://data.unhcr.org/syrianrefugees/regional.php>].

5 UNHCR, Global Forced Displacement hits record high, 20 June 2016, <http://www.unhcr.org/news/latest/2016/6/5763b65a4/global-forced-displacement-hits-record-high.html>

E. Whereas in September 2015, EU Member States agreed to relocate 160.000 persons from Greece and Italy by September 2017 under the temporary emergency relocation scheme;

F. Whereas as of June 2016, around 7.000 people had been resettled and 2.280 asylum seekers had been relocated⁶;

G. Whereas in March 2016, the European Union concluded a deal with Turkey providing for fast-track expulsions of all “new irregular migrants” reaching the Greek islands back to Turkey following an accelerated procedure which does not ensure a thorough assessment of asylum claims and adequate safeguards, and a “swap” of Syrians;

H. Whereas in June 2016, the European Commission announced a new Partnership Framework under the European Agenda on Migration to reinforce its cooperation with non-EU countries of origin and transit such as Jordan, Nigeria or Libya in the management of migration, in order to tackle the drivers of migration and increase returns ;

I. Whereas in July 2016, the EU committed to adopting a common list of “safe” countries of origin within three years, whereby it will be able to return migrants whose asylum claims were rejected following fast-track procedures based on the assumption that they come from countries that are considered “safe”;

J. Whereas the mandate of the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX) has been extended and its budget and assets have been increased significantly in recent years with a view to enhancing border surveillance at the EU’s external land and sea borders; whereas no investigation has been carried out to date into allegations of human rights violations in the context of operations coordinated by FRONTEX and no independent complaint mechanism has been put in place which would ensure the agency's accountability for such violations, despite the recommendations made by the European Ombudsman in this regard⁷;

K. Whereas the recast Regulation (EU) No 604/2016 establishing the criteria and mechanisms for determining the member state responsible for examining an application for international protection lodged in one of the member states by a third-country national or a stateless person (“Dublin III regulation”) is still in place and its implementation leads to the unfair distribution of asylum-seekers within the EU while imposing a disproportionate burden on frontline member states; whereas recent proposals to reform the Common European Asylum System fail to address concerns raised by civil society and ensure respect for human rights, particularly the right to seek asylum, the right to family unit, the protection against refoulement and non-discrimination;

K. Whereas on 6 July 2016, the European Parliament has endorsed a proposal by the European Commission for a Regulation on the European Border and Coast Guard, repealing Regulation (EC) No 2007/2004, Regulation (EC) No 863/2007 and Council Decision 2005/267/EC to replace FRONTEX and empowered with a new reinforced mandate; whereas the proposal falls short of the recommendations made by civil society organisations, notably regarding better transparency and accountability in border surveillance operations;

L. Whereas since the beginning of 2016, over 230.000 people, forced to take dangerous routes due to the lack of safe and legal channels for migration into Europe, risked their lives at sea;⁸ and 2,977 out of the 3,843 migrant deaths registered worldwide in 2016, are reported to have drowned or went missing, of which 461 in the last two months⁹

H. Whereas laws and measures have been adopted across EU member states which make it increasingly difficult for asylum-seekers and refugees to access international protection on their territories; whereas some

6 European Commission, Relocation and resettlement – State of Play, 15 June 2016 [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/background-information/docs/20160615/factsheet_relocation_and_resettlement_-_state_of_play_en.pdf].

7 Special Report of the European Ombudsman in own initiative inquiry OI/5/2012/BEH-MHZ concerning Frontex, <http://www.ombudsman.europa.eu/en/cases/specialreport.faces/en/52465/html.bookmark>

8 Refugees/Migrants Emergency Response – Mediterranean, Updated July 2016 [http://data.unhcr.org/mediterranean/regional.php#_ga=1.72046224.2037546767.1449489581].

9 International Organisation for Migration, Mediterranean Update – Migration Flows Europe: Arrivals and Fatalities, updated 22 July 2016, available at: <http://missingmigrants.iom.int/>

EU member states have built fences to prevent migrants and asylum-seekers to access their territory and some have adopted measures that blatantly contradict international and European human rights and refugee law and standards; whereas some member states have promoted an hostile rhetoric against migrants, asylum-seekers and refugees, which assimilates them to terrorists and fuels xenophobic discourse and behaviours among the population;

1. Recalls that the challenges faced by the EU and its member States in terms of immigration are far less significant than those faced by other countries, such as Lebanon, Jordan or Turkey;
2. Considers that the EU response to the Syrians exodus and the influx of asylum-seekers and refugees into Europe in general has been largely insufficient;
3. Considers that the commitments made by EU Member States for the resettlement and relocation of refugees are derisory in light of the current situation, and that these commitments have not been met;
4. Expresses its deep regrets at the very small proportion of Syrians who have been accommodated in Europe;
5. Considers that both the EU and its Member States have shamefully failed to adapt their migration and asylum policies to the influx of refugees, to show solidarity, to protect the human rights of migrants, asylum-seekers and refugees and to uphold the rule of law;
6. Expresses its deep concerns at the militarisation of the EU's external border and at the EU's increasingly security-centered approach to migration, aimed at preventing migrants, asylum-seekers and refugees to access and remain on EU territory, at the expense of the human rights of migrants, asylum-seekers and refugees;
7. Expresses its deep concerns at the populist rhetoric and "anti-migrant" discourses as well as the drastic measures adopted by Member States to repel or deter migrants, asylum-seekers and refugees, such as the building of walls and fences; the adoption of quotas; push-backs; the use of systematic administrative detention, including for minors, often in degrading conditions; or the confiscation of migrants' valuables;
8. Believes that the notion of "safe country" is contrary to the right to asylum and the principle of non-discrimination on grounds of nationality enshrined in international law¹⁰;
9. Urges the EU and its Member States to stop trying to push migrants, asylum seekers and refugees away at all costs, by outsourcing their responsibilities for managing migration to non-EU countries with poor human rights records, where migrants don't have access to fair and effective asylum procedures and are at risk of refoulement and other human rights violations;
10. Urges in particular the EU and its member states to refrain from entering into any cooperation agreement on migration with countries which do not offer sufficient guarantees of respect for human rights and which do not have adequate asylum systems in place to assess and recognize claims for international protection, and to set aside those they have already entered until sufficient guarantees are offered in this regard; urges the EU to immediately set aside the deal it concluded with Turkey in March 2016;
11. Recalls that need to ensure that the human rights of migrants, asylum-seekers and refugees are respected in the context of operations coordinated by FRONTEX and that any allegation of violation is promptly, thoroughly and impartially investigated and that perpetrators are held to account; to this end urges FRONTEX to establish an independent complaint mechanism to ensure accountability for human rights violations committed in the context of the operations it coordinates;
12. Calls on the EU and its Member States to adopt a human-rights based approach to migration, by prioritizing the protection of the human rights of migrants, asylum-seekers and refugees, taking urgent measures to prevent further loss of lives at sea, including by enhancing their capacity for search and rescue, increasing their resettlement capacity, opening safe and legal migration channels and addressing the root causes of the violence that force people to flee their country of origin; urges the EU and member states to

10 FIDH, The European Union's lists of "safe countries": a denial of the right of asylum, 26 May 2016, available at : <https://www.fidh.org/en/issues/migrants-rights/the-european-union-s-lists-of-safe-countries-a-denial-of-the-right-of>

continue to uphold the international asylum *acquis* they have contributed to build and committed to respecting, protecting and promoting following two world wars and not let it be destroyed by the current emergency situation