

## **The Countries of Europe Must Ratify the International Conventions Safeguarding the Rights of Irregular Migrants**

Declaration

of the Conference of European Justice and Peace Commissions

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Freedom of movement is a fundamental human right. Recognition of this must necessarily lead to a decriminalization of what today is called “irregular migration”. Consequently, even if Europe is currently experiencing an increase in the arrival of undocumented migrants, this is in itself no reason for a degrading treatment of them.

Trying to avoid irregular migration in favour of an orderly entry of a much needed workforce is an understandable reaction of the states of Europe. But the best way of tackling this problem is rather to deal with the causes of voluntary as well as forced migration. These causes are:

- Wars and other conflicts between or within states, crumbling state structures, environmental and natural disasters.
- Human rights' violations and persecutions.
- Huge profits found by trafficking of human beings
- Unfair trade relations between the developed world and less developed countries (LDCs) leading to lingering economic crises in these countries.
- The debt burden of the LDCs, a problem that still has not been solved.
- The inability of the developed world to meet the Millennium Development Goals.
- Corruption in the migrants' home countries as well as too strict demands and procedures for obtaining a legal visa.

In other words, as long as the common good, given by God the Creator to all of humanity to share, is not more equally distributed, a fact that hinders justice and peace to prevail, migration – regular as well as irregular – will go on into Europe. Not least since modern communications make the difference in living conditions all too obvious to people of the LDCs and encourage them not to resign themselves to stay in a condition of – at best – mere survival.

There exist a number of international Human Rights instruments, starting with Universal Declaration of Human Rights of 1948 and the European Convention for the Protection of Human Rights and Fundamental Freedoms of 1950. Still it must be recognized that these conventions, when put into practice, lack effectiveness not least for migrants and their families. The reason for this is that the signatories of these conventions are states. As they apply these conventions as law, it can only refer to the citizens of these countries. Migrants not being in their own country de facto lose their human rights and are left to the goodwill of the host-country.

Therefore the international community must look to the dignity and integrity of the human being as it applies the international conventions of human rights. This respect for the dignity of the human being forms the basis for the Social Teaching of the

Catholic Church. It also constitutes a cornerstone in her position on the rights of irregular migrants. Already in 1996 pope John Paul II said in a message for World Migration Day: "His irregular status cannot allow the migrant to lose his dignity, since he is endowed with inalienable rights, which can neither be violated nor ignored." Consequently, only by accepting the universality of human dignity is it possible to distinguish between universal human rights and the specific citizens rights to be guaranteed by the individual states.

In a majority of European states irregular migrants and victims of trafficking do not have access to legal and social assistance or a minimum subsistence. In some European countries they do not even have access to minimum provisions of health care. This is an outcry against the teaching of Jesus Christ: "I was a stranger and you welcomed me" (Matthew 25: 35).

Instead, the Conference of European Justice and Peace Commissions agrees with PICUM (The Platform for International Cooperation on Undocumented Migrants) that there must exist a minimum level of human rights that apply to all migrants, including irregular migrants. These include:

- the right to shelter,
- the right to health care aid,
- the right to organize,
- the right to education and training,
- the right to a minimum subsistence,
- the right to family life,
- the right to moral and physical integrity,
- the right to religious freedom,
- and the right to legal aid.

Therefore:

- Considering the fact that millions of irregular migrants already live and work in Europe.
- Considering the fact that the living and working conditions of irregular migrants in Europe are an outcry against what is normal in the society in which they live.
- Considering the fact that hundreds of thousands of trafficking victims are forced to work in conditions even worse, conditions comparable to a modern form of slavery.
- Considering the fact that the international conventions on human rights today de facto do not guarantee that the human rights of migrant – regular as well as irregular – are safeguarded.
- Considering the fact that there exist three international recommendations and conventions that can better respect for the universality of human dignity.
- Therefore the Conference of European Justice and Peace Commissions joins other organizations in urgently demanding that the parliaments of the countries of Europe:
- Act decisively to assure a minimum of human rights for irregular migrants in accordance with the Recommendation 1755 (2006) of the Parliamentary Assembly of the Council of Europe;

- Ratify and implement the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which was adopted unanimously by the UN General Assembly in 1990, but still has been ratified by only three European countries.
- Ratify and implement the Council of Europe Convention on Action against Trafficking in Human Beings CETS No 197 of 2005, which has been signed by all member states of the Council of Europe but ratified by only four (out of the needed ten countries to enter it into force).