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Theme 1

Migration and refugee crisis in Europe: role and responsibilities of parliaments

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"Finding a solution is the responsibility of Europe as a whole. The reality is different from what people expect. Many of our fellow citizens are simply afraid of the outside world. It is our job to go back to our countries and explain that we need to re-establish solidarity and trust. Europe must once again become a place of asylum, where anyone can rebuild their life. I am absolutely convinced that the citizens of Europe can achieve that."¹

I. Introduction

The effects of the migration and refugee crisis have been considerable in all European countries, be they first countries of arrival, transit or intended destination, and at all levels of governance, both directly and indirectly.

The solutions to the present crisis are first and foremost political. Although the figures for refugees and migrants arriving in Europe are high, the potential to receive and integrate them appears feasible when they are taken as a proportion of the whole of Europe. History has also proved that the historic waves of intense forced migration have been managed and have brought overall added value to the host countries. It is also a fact that the present decline in population levels in several developed countries of Europe could be offset (to some extent, at least) by taking in new inhabitants ready to reinforce the workforce and contribute to state funding through taxation.

In this context, the distinction between economic migrants on the one hand and refugees and asylum seekers on the other hand, must be recalled and differentiated responses explored. This is particularly challenging in a situation of mixed flows.

It is an unfortunate coincidence that conflicts and life-threatening situations in Africa and the Middle East, forcing hundreds of thousands of people to leave their homes, are taking place during a period of lack of consensus in European construction, and during a prolonged and persistent economic downturn which poses further problems for integration, when the general sentiment is that there is "not enough employment to go round".

¹ Ms Meritzell Mateu, Vice-President of the Parliamentary Assembly of the Council of Europe, Rapporteur of the ad hoc committee of the Bureau on the situation of migrants, refugees and asylum seekers in Greece, reporting to the Assembly on the visit of 30-31 May 2016.

Less of a coincidence, the recent terrorist attacks created, in some countries, a mood of fear and mistrust towards foreigners in general and those of Islamic faith in particular, fear which is susceptible to lead to an irrational rejection of all Muslims from precisely the regions concerned by conflict and upheaval.

National parliaments, as well as the forums which unite them such as the Parliamentary Assembly of the Council of Europe (PACE), should play an important role in promoting balanced and humanitarian solutions to the crisis.

II. The role of the Parliamentary Assembly of the Council of Europe in the current crisis

1. “Early warning”: alerting to first signs of emergency and continued attention to developments

PACE has long been an “echo chamber” for parliamentarians, who are able to bring to debate the concerns and problems emerging in their member states, finding resonance with other countries and bringing international scrutiny to regional crises. Thus PACE addressed the early signs of the current situation in the Mediterranean as early as 2011 with texts on the interception and rescue at sea of asylum seekers, refugees and irregular migrants and on the large-scale arrival of irregular migrants, asylum seekers and refugees on Europe’s southern shores;

Fact-finding visits on the ground in the framework of reports or ad-hoc committees help to report facts as quickly and accurately as possible, which ensures that recommendations made in adopted texts are realistic and timely. For instance, the most recent report on “Refugees at risk in Greece” was reviewed just before the debate in plenary to take into account the new state of play in Greece after the EU/Turkey agreement of 16 March 2016 and the new issues linked to protection and accommodation which arose as a result.

The EU/Turkey agreement was the subject of a “debate under urgent procedure” at the PACE April part-session.

2. Promoting human rights and democracy and addressing specific legal and political issues

Policy-makers need to address the current crisis not only in terms of political and economic concerns, but also of possible humanitarian solutions in keeping with the principles of democracy, human rights and the rule of law. In this context in December 2015, a conference was held in the French *Assemblée nationale* on a “Comprehensive political and humanitarian response to the current migration crisis”, which will be followed up by a report.

As well as providing a space for presenting the different standpoints of countries of origin, transit and reception of migrants, the conference also demonstrated the added value of PACE’s recently-introduced “partnership for democracy” status, which now allows neighbouring countries such as Morocco and Jordan to share their experiences and benefit from dialogue and exchange, developing in a very practical way the universality of the values upheld. There again, parliamentarians were able to return to their respective national instances with these testimonies as elements for promoting concerted action. PACE thus provides opportunities for parliamentarians to liaise and cooperate with Europe’s neighbouring countries, which they may use to forge alliances in a broader, globalising context.

The different discussions and reports also provide as many opportunities for national parliamentarians to better assess the implications of the principles of protection of refugees under the Geneva Convention and the requirement of *non-refoulement*, as well as the issues related to the definition of “safe third countries”. Reports outlining the shortcomings of the Dublin system, for instance, provided a balanced view of the realities of international undertakings and difficulties in their implementation and pointed to ways of remedying the lacunae revealed by the sheer scale of the present situation. They should be used as tools to promote sound legal solutions by national parliaments.

3. The need for concrete measures and lasting solutions

The pan-European platform of the Parliamentary Assembly enables recommendations for concrete measures to be devised and adopted. As shown above, any measures proposed systematically take into account values of human rights and democracy and the need to respect and develop legal frameworks.

It is also important to promote a balanced image of migration, based on concrete findings and successful experiences.

An example: tapping the potential of diaspora networks to promote integration

The Parliamentary Assembly has been looking at diasporas settled in Europe from a cultural and political perspective since 1999. Previous work has underlined the need for greater political participation of migrants, which would enhance their capacity to promote and transfer democratic values. The Assembly also called on its member states to elaborate migration policies which promote an institutional role for diasporas.

A Conference on North-South Migration Dialogue was organised by PACE in 2015 in Lagos (Portugal) in cooperation with the North-South Centre of the Council of Europe and the Parliament of Portugal. At the last session on diaspora as a bridge between South and North, the participants discussed the idea of creating a European Parliamentary Diaspora Network. Taking that the initiative was widely supported by the participants at the event, it was agreed that PACE should develop an action plan for its implementation.

In 2015 and 2016, work on democratic participation for diasporas and on educational and cultural networks of migrant and diaspora communities led to this proposal aimed to promote the positive aspects of migrant communities. The reports concerned underline the crucial role of countries of origin and host countries and stress the need to engage diasporas in decision-making policies, as well as recognising the role of migrant community associations in helping migrants to integrate to host societies and in combating racism and xenophobia in Europe.

The proposed parliamentary network constitutes the next step in a broader policy aimed to institutionalise political dialogue on diasporas and towards the creation of a mechanism to address the concrete issues of inclusive societies together with diaspora communities themselves. Phenomena such as the rapid increase in migration, the desire of retired migrants to return and to live in their countries of origin and the wish of many migrants to take a more active part in the political life of their host countries as well as in their countries of origin, represent new challenges, and there is a need to demonstrate that diaspora communities can indeed benefit both countries of origin and host countries.

In line with the recent Council of Europe's Action Plan on Building Inclusive Societies (2016-2019) the European Parliamentary Network on Diaspora Policies will be empowered to promote policy and legislative reforms related to diasporas' role in European societies. The added value of the project is therefore to stimulate enhanced dialogue between parliamentarians and diaspora associations, as well as peer to peer inter-parliamentary dialogue.

4. Addressing the situation of specific vulnerable categories – the case of women and children

The migration and refugee crisis has cross-cutting effects in most of the areas of the Council of Europe's work, from culture to fight against crime and from youth and children to equality. The work of parliamentarians is therefore considerably enriched by the contribution of the Organisation's specialised sectors, ranging from initiatives such as Intercultural cities programme to the European Commission against Racism and Intolerance. Parliamentarians from different committees of PACE are regularly invited to participate in joint hearings, such as the one organised at the 2016 June session on "Violence against refugee women". The meeting allowed members to exchange with experts and witnesses working with and for women refugees, to take stock of the need for action by all member states and to take back concrete ideas for cooperation at all levels.

Parliamentary campaigns are used to promote action in particular areas, and are successful awareness-raising initiatives as they generate visibility on national and international levels. An example of this type of specific work is the PACE Campaign to End Immigration Detention of Children, organised on the initiative of the General Rapporteur, Doris Fiala (Switzerland, ALDE), with the financial assistance of the Swiss Government. The background to this campaign is that, despite improvements in legislation and practice in some European countries, tens of thousands of migrant children are still placed in detention every year. The practice is contrary to the best interests of the child and a clear and unequivocal child rights violation.

Through its activities (round tables during PACE sessions, specific seminars in the parliaments of member States, etc.) the campaign is succeeding in raising awareness in Europe and encouraging parliamentarians to promote alternatives to detention that respect the best interests of the child and allow children to remain with their family members and/or guardians in non-custodial, community-based contexts while their immigration status is being resolved.

III. Overcoming obstacles to effective parliamentary cooperation

Despite the capacity for rapid reaction, realistic recommendations and potential for follow-up to recommendations made by parliamentarians united in the Parliamentary Assembly, progress is sometimes difficult to achieve and implementation partial.

Returning to previous PACE reports, it is obvious that some issues remain on the agenda not only in the interests of follow-up but because they have not been resolved. In a recommendation dating from 2003 on “Common policy on migration and asylum” the Assembly calls on governments to “ensure a balance between the need to process asylum applications in a rapid and efficient manner and the need to ensure there is no compromise over international obligations including under the 1951 Refugee Convention and its 1967 Protocol and the 1950 European Convention on Human Rights and its Protocols”, and to ensure that the principle of *non-refoulement* is respected by refraining from expelling or returning refugees to the frontiers of territories where their lives or freedom would be threatened. The recommendation goes on to address the problems of “safe countries of origin” and “safe third countries”.

These recommendations from over a decade ago have been repeated in almost the same terms in a Resolution adopted in April this year on “Human rights of refugees and migrants – The situation in the Western Balkans”, where member states are again invited to “ensure compliance with the principle of *non-refoulement* regarding asylum seekers at the border claiming international protection”. This repetition after a decade of constant work on these matters suggests that progress has not been as significant as could have been hoped, and that many problems are lasting or at the very least, recurrent.

It is also true that although parliaments can do much to influence political standpoints, they are not alone in decision-making in their countries and require support from governments. The Council of Europe works with parliaments through the PACE and with foreign and specialised ministries through the intergovernmental sector, a two-pronged approach which can help to reinforce and coordinate recommendations and proposals.

IV. Possible discussion subjects

In the light of the above considerations, the following issues could be discussed:

- How can national parliaments encourage and promote solidarity and cooperation while taking into account different national contexts?
- How can follow-up to PACE’s reports and debates be improved in national parliaments?
- How can national parliaments work to better assist and enhance cooperation between civil society players (associations and NGOs) and public authorities?