

PICUM comments on the adoption of the framework decision on strengthening the penal framework to prevent the facilitation of unauthorized entry, transit and residence. (JHA-Council Meeting on 28 and 29 November 2002)

*PICUM/ Gaucheretstraat 164/B-1030 Brussels/
tel: +32 (2) 274.14.39/ fax +32 (2) 274.14.48/
info@picum.org / www.picum.org*

On 28 and 29 November the European Council adopted a framework decision on facilitation of unauthorized entry, transit and residence, as part of the common fight against irregular migration. This framework decision differentiates between assisting undocumented migrants in illegally entering Europe, and assisting undocumented migrants in illegally residing in Europe.

PICUM, being a platform of organizations providing assistance to undocumented migrants residing within Europe, is most concerned by the paragraph on assisting irregular residents.

The adopted framework decision penalizes assistance provided “for financial gain”. This formulation renders problematic the assistance to undocumented migrants provided by i.a. lawyers, doctors, teachers and social workers. The help they provide usually implies a financial compensation. Regarding the interpretation of the phrase “for financial gain”, PICUM strongly demands to exclude these professionals. Undocumented migrants’ access to professionals who can help them obtaining their human rights should be ensured. This paragraph should exclusively aim to penalize exploitation of a vulnerable group in our society.

As for NGOs, we trust that their work will not be penalized under this directive. However, this kind of incriminatory legislation creates a paranoia in society regarding migrants in general and enhances the atmosphere of criminality surrounding undocumented migrants. On the other hand, PICUM observes how in many European countries, governments rely to a certain extent upon assistance provided to undocumented migrants by citizens and civil organizations. Their work is tolerated, often openly praised, and even encouraged. Authorities benefit from the work done by these organizations, that assume a task of social inclusion that should be the responsibility of governments.

Thus such a measure that penalizes help that is at the same time tolerated and needed, is part of a symbolic policy. It fits with a strategy to “enhance security” and to justify a tougher deportation policy. PICUM regrets very much that such a directive has been passed without all its human rights consequences having been considered thoroughly. The fight against irregular migration should not be an excuse for not checking measures against ethical standards anymore. It should be realistic and not at the expense of the human dignity of the persons concerned.

(In view of International Migrant’s Day, PICUM will publish next month the first volume of its Book of Solidarity, making visible the solidarity that is extended to undocumented migrants throughout Europe. This project is sponsored by the European Commission, DG Employment and Social Affairs)

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