



Ressort: Politik

The relocation of migrants is fully legitimate

Rome, 11.09.2017 [ENA]

While sources reported to Reuters maintained that a new force based in Sabratha is preventing migrants from leaving Libya and is seeking legitimacy and financial support from Tripoli, with a judgment of 6 September 2017, the European Court of Justice dismissed the appeals and rejected entirely the actions of Slovakia and Hungary against the compulsory relocation scheme for asylum seekers.

According to the Court, the relocation mechanism - set up in 2015 and strongly obstructed by some Member States - is fully legitimate, in addition to being an adequate, necessary and proportionate response to the ongoing migration crisis. The crisis situation in the Mediterranean prompted the European Union institutions to recognize the exceptional migratory flows in that region and call for tangible measures of solidarity towards the frontline Member States. In particular, at a joint meeting of Foreign and Interior Ministers on 20 April 2015, the European Commission presented a 10-point plan of immediate action to be taken in response to the crisis, including a commitment to consider options for an emergency relocation mechanism.

At its meeting of 23 April 2015, the European Council decided, inter alia, to reinforce internal solidarity and responsibility and committed itself in particular to increasing emergency assistance to frontline Member States and to considering options for organising emergency relocation between Member States on a voluntary basis, as well as to deploying European Asylum Support Office (EASO) teams in frontline Member States for the joint processing of applications for international protection, including registration and fingerprinting.

In its resolution of 28 April 2015, the European Parliament reiterated the need for the Union to base its response to the latest tragedies in the Mediterranean on solidarity and fair sharing of responsibility and to increase its efforts in this area towards those Member States which receive the highest number of refugees and applicants for international protection in either absolute or relative terms.

Besides measures in the area of asylum, Member States at the frontline should increase their efforts to set up measures to cope with mixed migration flows at the external borders of the European Union. Such measures should safeguard the rights of those in need of international protection and prevent irregular migration.

The European Council agreed in particular, in the light of the emergency situation and the commitment to

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reinforce solidarity and responsibility, on the temporary and exceptional relocation over 2 years, from Italy and from Greece to other Member States of 40 000 persons in clear need of international protection, in which all Member States would participate. According to Article 80 TFEU, the policies of the Union in the area of border checks, asylum and immigration and their implementation are to be governed by the principle of solidarity and fair sharing of responsibility between the Member States, and Union acts adopted in this area are to contain appropriate measures to give effect to this principle.

In accordance with Article 78(3) TFEU, the measures envisaged for the benefit of Italy and of Greece had to be of a provisional nature. A period of 24 months was reasonable in view of ensuring that the measures provided for in this Decision had a real impact in respect of supporting Italy and Greece in dealing with the significant migration flows on their territories. The measures to relocate from Italy and from Greece, provided for, contain a temporary derogation from the rule set out in Article 13(1) of Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 setting up the criteria and mechanisms for defining the Member State responsible for examining an application for international protection.

If the authorities of the beneficiary Member States are afforded some autonomy when they have to identify, under Article 5(3) of the contested decision, the individual applicants who can be relocated to a given Member State of relocation, such freedom of action is justified in the order to take pressure off the Greek and Italian asylum systems by actually relocating, within a short time frame, a significant number of applicants to other Member States, in compliance with EU law and, in particular, with the fundamental rights guaranteed by the Charter. Relocation then is judged correct and proportional and particularly necessary, given the circumstances. Faced with such a migratory crisis, it is essential to show solidarity according to ECJ.

Bericht online lesen:

http://a.v.woertz.en-a.at/politik/the_relocation_of_migrants_is_fully_legitimate-68904/

Redaktion und Verantwortlichkeit:

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