



## Call for the Non-criminalisation of Humanitarian Aid and Legal Assistance to Migrants

UIA wishes to draw the attention of its members and of the legal community to the risks of criminal penalties imposed for assisting individuals with an irregular immigration status in the context of national regulations aimed at combating human trafficking.

UIA welcomes the **July 5, 2018 European Parliament Resolution on guidelines for Member States to prevent humanitarian assistance from being criminalised (2018/2769(RSP))<sup>1</sup>**, which emphasized the need "to ensure that appropriate criminal sanctions are in place while avoiding risks of criminalisation of those who provide humanitarian assistance to migrants in distress".

UIA notes that this Resolution expressed concern regarding the very limited incorporation by Member States of the exemption made for humanitarian assistance provided for in the Facilitation Directive<sup>2</sup> and further notes that the exemption should be implemented as a bar to prosecution, to ensure that individuals and civil society organisations assisting migrants for humanitarian reasons are not prosecuted for their actions.

UIA supports the July 5, 2018 Resolution in that it called on Member States to incorporate the humanitarian assistance exemption provided for in the Facilitation Directive and "*urge[d] the Commission to adopt guidelines for Member States specifying which forms of facilitation should not be criminalised, in order to ensure clarity and uniformity in the implementation of the current gains, including Article 1(1)(b) and 1(2) of the Facilitation Directive, and to ensure greater consistency in the criminal regulation of facilitation across Member States and limit unwarranted criminalisation*".

In light of the laws and regulations adopted in some of the States concerned, UIA expresses its deepest concern with regard to the resulting restrictions on human and defence rights. It is particularly concerned about the risks arising from activities conducted by lawyers in defending the rights of migrants targeted by these laws.

UIA notes that, as with respect to humanitarian assistance, legal assistance must not be criminalized, and doing so constitutes a violation of the fundamental principles of European Union law, including Article 47's guarantee of the right to an effective legal remedy and to an impartial tribunal; and Article 48's provision for the presumption of innocence and defence rights as provided for in the Charter of Fundamental Rights.

<sup>1</sup>Available on <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2018-0314+0+DOC+XML+V0//EN>

<sup>2</sup>2002/90/CE Council Directive of November 28, 2002 defining facilitation of unauthorised entry, transit and residence, available on <https://eur-lex.europa.eu/legal-content/FR/TXT/HTML/?uri=CELEX:32002L0090&from=EN>

\*\*\*\*\*

*UIA adopted the Basic Principles on the Status of Refugees on October 28, 2016 in Budapest. These Principles confirm the rights and obligations of asylum seekers and refugees and address the specific situation of asylum seekers with special needs. They also address the issue of each State's responsibilities, particularly with respect to the ratification of protective laws, their implementation, and the adoption of all necessary measures to ensure access to law and justice. Finally, the responsibility of professional organisations is the subject of several provisions relating, in particular, to the organisation of effective legal assistance and the development of training for lawyers.*

**For further information on UIA (the International Association of Lawyers)**

---

*UIA is a global, multi-cultural organisation for the legal profession. Established in 1927, it currently consists of members present in 110 countries. UIA facilitates professional development and international exchange of information and ideas, promotes the Rule of law, defends the independence and freedom of lawyers worldwide, and emphasizes friendship, collegiality and networking among members.*

For more information: [www.uianet.org](http://www.uianet.org) - [uiacentre@uianet.org](mailto:uiacentre@uianet.org)

**Media Contact:** Marie-Pierre LIENARD, Communication in-charge: [mplienard@uianet.org](mailto:mplienard@uianet.org)