Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Recommendation 1016 (1985)[1]

Living and working conditions of refugees and asylum seekers

Parliamentary Assembly

The Assembly,

1. Aware of :

   1.1. the gap which sometimes exists in practice between, on the one hand, the situation of refugees and asylum seekers, and on the other hand, the application of the rights to which they are entitled in accordance with the 1951 Geneva Convention and its 1967 Protocol ;

   1.2. the fact that asylum seekers in some cases may live in unsatisfactory conditions, particularly with reference to Articles 3, 4, 5, 8 and 13 of the European Convention on Human Rights ;

   1.3. increasing restrictive practices applied to counteract the arrival of the growing number of refugees from outside Europe ;

   1.4. the abusive recourse to the right of asylum, which is detrimental to persons in real need of protection ;

   1.5. the fact that criminal individuals or organisations in certain cases ruthlessly exploit human distress and the desire to leave for a European receiving country of populations who are seeking asylum and, in other cases, encourage their victims to emigrate illegally with promises, notably involving recourse to an unjustified right of asylum ;

   1.6. the fact that some asylum seekers, when applying for refugee status, have no intention of returning to their country even if the situation has changed ;

   1.7. the fact that some refugees who have lived for a long time and have become well assimilated in the host country have given up the idea of returning to their country of origin ;

2. Deploring particularly the fact that :

   2.1. in many receiving countries the determination of refugee status or the grant of asylum entails procedural delays which are often long and may take several years ;

   2.2. during this waiting period, applicants for refugee status and the grant of asylum are sometimes required to live in collective accommodation and in most countries are not entitled to social welfare and cannot apply for a job ;

   2.3. a growing number of asylum seekers are unable to find a state willing to consider their application because of failure in a country of first asylum and thus suffer the tragic living conditions of so-called "refugees in orbit", that is to say, placed in a position of being unable to reside legally in any receiving country ;

1. Assembly debate on 26 September 1985 (11th Sitting) (see Doc. 5380, report of the Committee on Migration, Refugees and Demography). Text adopted by the Assembly on 26 September 1985 (11th Sitting).

2.4. in recent months, the number of persons from Asiatic and African countries seeking asylum who have been escorted from East Berlin-Schönefeld airport to West Berlin, or directly to the ferry to Sweden by the authorities of the German Democratic Republic, has once again increased sharply, leading to protests by the Governments of France and Sweden and arousing deep misgivings on the part of the Government of the Federal Republic of Germany ;

3. Stressing the fact that the number of refugees in Europe compared with the total number of aliens in Europe does not justify the restrictive attitudes of the receiving countries, under pressure from sectors of public opinion conditioned by the economic crisis and unemployment ;

4. Observing that :

4.1. these attitudes are reinforced by the fact that each country suspects it is being asked to accept an unfair share of the burden ;

4.2. the harmonisation of national procedures, advocated in Recommendation No. R (81) 60 of the Committee of Ministers might help to share the burden more fairly ;

4.3. moreover, the national criteria applied for the determination of the refugee status and the grant of asylum should be harmonised ;

5. Considering that :

5.1. all member states have ratified the European Convention on Human Rights, the 1951 Geneva Convention and its 1967 Protocol ;

5.2. with regard to the last two texts, the geographical limitations clause is still in force in Turkey and Italy, where a government initiative has however been taken with a view to withdrawing it ;

5.3. existing international conventions, recommendations and resolutions addressing the refugee problem should pave the way for genuine co-operation between member states and thus for effective sharing of the burden ;

5.4. further adaptation to the realities of the situation must nevertheless be made with a view to unifying the law on asylum in Europe and sharing the burden more equitably between member states,

6. Recommends that the Committee of Ministers :

6.1. set up, in consultation with the Office of the United Nations High Commissioner for Refugees, a permanent body to deal with refugee and migration problems, in order to establish direct cooperation with the member states concerned in seeking and implementing the most appropriate legal and practical solutions at the European level ;

6.2. invite the governments of the member states :

a. to harmonise the national procedures and the application of criteria for determining refugee status and the grant of asylum, taking the 1977 Declaration on Territorial Asylum into account and with a view to drawing up a European convention ;

b. to apply in a liberal way the asylum principle as defined in the 1977 Declaration on Territorial Asylum, while keeping in mind the preventive measures to be taken with regard to the development of terrorism ;

c. to apply the Committee of Ministers Recommendation No. R (84) 21 on the acquisition by refugees of the nationality of the receiving country, Recommendation No. R (81) 60 on the harmonisation of national procedures relating to asylum, Recommendation No. R (84) 1 on the protection of persons satisfying the criteria in the Geneva Convention who are not formally recognised as refugees, the Helsinki Final Act and the Madrid Declaration of the CSCE ;

d. to ratify the European Agreement on the transfer of responsibility for refugees (1980) if they have not yet done so ;

e. to reach as soon as possible an agreement on reducing the length of the procedure for the determination of refugee status while maintaining basic essential guarantees : in the Assembly's opinion it should not exceed one year ;

f. to interpret Article 16 of the European Convention on Human Rights in such a way as to limit the restrictions currently imposed on the political activities of foreign nationals which would be contrary to political activity in a democratic society for the purposes of the European Convention on Human Rights ;

g. to work out a viable common definition of the notion "country of first asylum", with a view to resolving the tragic situation of refugees "in orbit" ;

h. to undertake concrete action to combat the criminal exploitation of refugees and asylum seekers in the spirit of paragraphs 11.ii and iii, on trafficking in clandestine workers, in Recommendation 990 (1984) on clandestine migration in Europe.