Recommendation 1088 (1988)[1]

Right to territorial asylum

Parliamentary Assembly

The Assembly,

1. Recalling that granting the right to territorial asylum is a humanitarian act based on the principles of political freedom and human rights ;

2. Recalling that considerable work has been accomplished in respect of refugees in the framework of the Council of Europe, both in the Committee of Ministers and its subordinate bodies and in the Assembly itself ;

3. Considering that certain measures taken or envisaged in some member states may increase the burden laid on the other member states of the Council of Europe ;

4. Concerned about the tremendous increase since the beginning of the 1980s in the number of persons asking for asylum in Council of Europe member states ;

5. Also concerned about rising xenophobia in a number of Council of Europe member states and the influence that that might have in refugee policies ;

6. Desirous to preserve fully the right to territorial asylum as one of the generous liberal traditions of democracy, and to pursue and to extend the work of the Council of Europe in this field ;

7. Expressing the hope that the Council of Europe may 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 co-operation with the member states concerned in seeking and implementing the most appropriate legal and practical solutions at the European level ;

8. Recalling that, whereas a certain protection of refugees and asylum-seekers is already guaranteed by Protocols Nos. 4 and 7 to the European Convention on Human Rights, Protocol No. 4 has not yet been ratified by all member states, whilst Protocol No. 7 will enter into force on 1 November 1988 ;

9. Regretting that the Committee of Ministers did not follow this proposal which the Assembly made in its Recommendation 1016 (1985) on living and working conditions of refugees and asylum-seekers,

10. Recommends that the Committee of Ministers :

10.1. adopt a coherent asylum policy ;

10.2. set up a system of permanent consultation among European states :

a. to examine jointly the problems arising out of the growing number of refugees in certain countries, with a view to apportioning the burden on the basis of greater solidarity ;

b. to grant temporary residence to true asylum-seekers ;

c. to detect concurrent asylum requests ;

d. to screen true asylum-seekers from those who are not ;

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1. Assembly debate on 7 October 1988 (15th Sitting) (see Doc. 5930, report of the Legal Affairs Committee, Rapporteur : Mrs Offenbeck ; and Doc. 5940, opinion of the Committee on Migration, Refugees and Demography, Rapporteur : Mr Böhm). Text adopted by the Assembly on 7 October 1988 (15th Sitting).

e. to exchange information on measures adopted and statistical information ;

f. to make arrangements so that those who are still in the country where they are persecuted may be able to exercise their right to asylum with regard to Council of Europe member states ;

10.3. continue work on the harmonisation of the legal rules in respect of territorial asylum in Council of Europe member states to obtain, in particular :

a. the speedy adoption by the CAHAR (ad hoc Committee of experts on the legal aspects of territorial asylum, refugees and stateless persons) of the draft European agreement on responsibility for examining asylum applications, laying down rules for designating the state required to examine an asylum application presented by a person who has passed successively through a number of countries ;

b. as a next step, the speedy preparation by the CAHAR of a European convention listing cases in which a person would be eligible for the granting of asylum ;

c. the harmonisation of the criteria governing the granting of refugee status, to contribute to a more balanced distribution of asylum-seekers among the countries of Europe, especially in view of the abolition of internal borders between the countries of the European Community scheduled for 1992, and taking into account developments in the framework of the so-called Schengen Agreement taking effect in 1990 ;

d. co-operation in specifying the cases where a person not meeting the conditions for the granting of refugee status might nevertheless be authorised to reside, on humanitarian grounds, in the territory of the member states (de facto refugees) ;

10.4. examine the possibility of preparing a European convention, including the establishment of a consultative body, dealing with people falling outside the scope of the Geneva Convention, but requiring protection, and on whose fate the Council of Europe, under the term ‘‘de facto refugees", has been proposing concrete measures for many years ;

10.5. invite those member states which have not already done so to ratify Protocol No. 4 and Protocol No. 7 to the European Convention on Human Rights ;

10.6. draw up - as a long-term objective - a protocol to the European Convention on Human Rights concerning asylum-seekers and the admission of political refugees ;

10.7. give active consideration to measures aimed at averting new flows of refugees, for example by promoting closer co-operation at national and European level between authorities responsible for asylum policy and those responsible for development assistance ;

10.8. urge, in conformity with paragraphs 10.ii.a and 10.iii.c of the present recommendation, the governments of member states to share the burden of Turkey, which on humanitarian grounds has recently accepted on its territory more than 50 000 persons from Iraq, by accepting a certain number of them on their own territories, or by apportioning the financial implications of this humanitarian act, or both.