Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Recommendation 1309 (1996)[1]

Training of officials receiving asylum-seekers at border points

Parliamentary Assembly

1. Access to a country's procedures for the granting of refugee status is essential to the very concept of international protection for those claiming a well-founded fear of persecution, a concept to which all Council of Europe member states signatory to the 1951 Geneva Convention relating to the Status of Refugees and its 1967 Protocol are committed. These texts also commit them to respect the fundamental principle of non-refoulement.

2. The decision whether or not to refer asylum-seekers to the authorities responsible for determining refugee status is usually made by an immigration or border police official. However, such decisions may be difficult in the case of asylum-seekers who are not in a position to state their claim formally or intelligibly or to enter the state territory legally, since they may have been persecuted by the very authorities to whom they must apply for travel documents in their country of origin. Consequently, there may be occasions when border officials violate the rights of asylum-seekers, resulting in denial of access to the proper authorities, unjustified return and persecution.

3. It is therefore essential that those officials who first come into contact with asylum-seekers should be fully cognizant not only of international and domestic legal instruments and regulations governing the reception of asylum-seekers but also acutely aware of their responsibility for treating asylum-seekers with humanity, sensitivity and discernment, not least at a time when the governments of member states have taken steps to reduce the numbers of asylum-seekers arriving on their territory.

4. Some Council of Europe member states provide special training for the officials who first come into contact with asylum-seekers, others do not, despite Recommendation No. R (94) 5 of the Committee of Ministers to member states which enjoins them to do so. The Assembly considers it important that officials receiving asylum-seekers at border points should be properly trained so that they possess adequate knowledge of the applicable international and domestic legal instruments and regulations, are kept informed of the human rights situation in asylum-seekers' countries of origin, and acquire the intercultural and interpersonal skills to allow them to deal with asylum-seekers in a sensitive way.

5. The Assembly recalls that, in accordance with Recommendation No. R (81) 16 of the Committee of Ministers to member states, the role of border officials must be strictly confined to understanding and recording the request for asylum and should on no account include responsibility for pronouncing on the merits of such a request, this being a function of the central authority competent to recognise refugee status.

6. Moreover, carriers' personnel at the point of embarkation should not be put in a position where, through the effects of carrier liability legislation, they perform the functions of border police or immigration officers. Where, nevertheless, they are required to do so, they should be given appropriate training in accordance with the guidelines below.

1. See Doc. 7683, report of the Committee on Migration, Refugees and Demography, rapporteur: Mr Akselsen. Text adopted by the Standing Committee, acting on behalf of the Assembly, on 7 November 1996.

7. The Assembly recommends that the Committee of Ministers:

7.1. organise exchanges of experience and information between the member states, with the participation of the appropriate international governmental and non-governmental organisations, on the training of officials who first come into contact with asylum-seekers, as well as those involved in the determination of refugee status;

7.2. instruct the appropriate committee to develop, in consultation with the relevant international governmental and non-governmental organisations, guidelines to be addressed to the member states for the training and guidance of officials who first come into contact with asylumseekers, with a view to developing the officials' knowledge and skills in the following areas in particular:

a. the basics of asylum law, especially the 1951 Geneva Convention relating to the Status of Refugees, incorporating the principle of non-refoulement, its 1967 Protocol, and the European Convention on Human Rights, notably with regard to the application of Article 3;

b. the limitations under national and international law on the use of detention, and the guidelines of the Office of the United Nations High Commissioner for Refugees (UNHCR) on this subject;

c. the asylum procedures in the member state concerned _ in particular to whom asylum applications should be referred and whom the asylum-seeker can call for assistance;

d. procedures to ensure that, if asylum-seekers are sent to a "safe third country", that state will guarantee that they will actually enter fair asylum procedures there;

e. what constitutes a request for asylum as opposed to the entry requests of other non-nationals;

f. the types of pressure that refugees are under;

g. the human rights' situation in the countries which generate the greatest numbers of asylumseekers;

h. the relevant databases providing information on the country of origin;

i. special needs, such as those of women and unaccompanied minors;

j. the correct choice and use of interpreters;

k. interview techniques;

l. intercultural awareness;

m. interpersonal relations;

7.3. promote the implementation of initial and in-service training programmes for these officials at the national level;

7.4. contribute to the training of officials who first come into contact with asylum-seekers and those involved in refugee status determination by providing expertise and materials on the subject of the European Convention on Human Rights in relation to the protection of refugees, asylum-seekers and displaced persons;

7.5. draw the attention of the governments of the member states to the adverse effects of carrier liability legislation for the protection of refugees and asylum-seekers and to the need to institute training for any carrier personnel required to perform, at the point of embarkation, functions normally carried out by border police or immigration officers at the port of entry.