



Recommendation 1327 (1997)¹

Protection and reinforcement of the human rights of refugees and asylum-seekers in Europe

Parliamentary Assembly

1. The Parliamentary Assembly recalls and reaffirms its [Recommendation 1236 \(1994\)](#) on the right of asylum, its [Recommendation 1237 \(1994\)](#) on the situation of asylum-seekers whose asylum applications have been rejected, and its [Recommendation 1309 \(1996\)](#) on the training of officials receiving asylum-seekers at border points.
2. The number of asylum-seekers in Council of Europe member states increased steadily in the early nineties to reach a level which made it difficult for many European countries to cope with the processing of asylum applications. Moreover, following economic difficulties and social tensions, public opinion became more and more hostile towards large inflows of asylum-seekers.
3. As a result of these developments, nearly all Council of Europe member states introduced restrictive changes to their asylum laws, extended their use of such concepts as "temporary protected status" and "the right to stay on humanitarian grounds", and concluded a number of multilateral treaties and bilateral readmission agreements.
4. Following these restrictive policies, the number of asylum-seekers dropped considerably. At the same time in many European countries asylum procedures fell short of minimum standards in certain crucial respects, thus prompting concern for the human rights of asylum-seekers.
5. The Parliamentary Assembly is concerned by practices restricting access to asylum procedure and deficiencies concerning the refugee status determination procedure.
6. The lack of Europe-wide harmonisation of asylum policies results in unequal "burden-sharing" and continuous attempts to shift responsibility further eastwards.
7. The absence of clear rules governing detention and deportation of asylum-seekers results in the violation of their human rights.
8. The Parliamentary Assembly recommends that the Committee of Ministers :
 - 8.1. further intensify Europe-wide co-operation in the field of asylum policies;
 - 8.2. take the initiative of developing a binding agreement between the member states setting minimum harmonised standards for asylum procedures, taking into account the provisions of the European Parliament's resolution on minimum guarantees for asylum procedures adopted on 14 November 1996;
 - 8.3. insist that those member states which have not yet signed the Geneva Convention relating to the Status of Refugees (1951), and its New York Protocol (1967), do so as soon as possible, and urge the member states concerned to lift the geographical limitation which they adopted when signing;
 - 8.4. instruct the appropriate committee to make proposals for minimum standards to be applied in implementing accelerated asylum determination procedures;

1. Assembly debate on 24 April 1997 (14th Sitting) (see [Doc. 7783](#), report of the Committee on Migration, Refugees and Demography, rapporteur: Mrs Brasseur). Text adopted by the Assembly on 24 April 1997 (14th Sitting).



- 8.5. initiate a reform of the European Convention on Human Rights to make the provisions of Rule 36 of the Rules of Procedure of the European Commission of Human Rights concerning interim measures (such as the suspension of deportation orders) into a mandatory obligation of signatory states under the Convention;
- 8.6. urge member states parties to the Dublin Convention determining the state responsible for examining applications for asylum lodged in one of the member states of the European Communities to amend it with a view to allowing asylum-seekers to express a choice as to the country where they want to apply for asylum, if they can demonstrate an association with that country;
- 8.7. urge the member states :
- a. to adopt national legislation designed to provide victims of torture and other serious violations of human rights with a domestic civil law course of action for damages against violators along the lines of the Alien Tort Claims Act in the United States, and study the feasibility of developing a European convention with this objective;
 - b. to agree that persecution on the grounds of sex is recognised as one of the criteria for granting the right of asylum;
 - c. to include, in the readmission agreements to which they are parties, provisions containing guarantees to protect asylum-seekers;
 - d. to ensure that the "safe third country" and "safe country of origin" principles are not applied in an arbitrary manner, and that clear criteria are used for designating certain countries as "safe" on the basis of those recommended by the Ad hoc Committee of Experts on the Legal Aspects of Territorial Asylum, Refugees and Stateless Persons (CAHAR);
 - e. to insist that asylum procedures comply with the essential principles governing access, fair hearing and appeal set out in Conclusion No. 8 (XXVIII) "Determination of Refugee Status", adopted by the Executive Committee of the Office of the United Nations High Commissioner for Refugees (UNHCR) in 1977;
 - f. to provide in their legislation that any judicial appeal should have suspensive effect; to give priority to non-custodial measures such as supervision systems, the requirement to report regularly to the authorities, bail or other guarantee systems;
 - g. to give priority to non-custodial measures such as supervision systems, the requirement to report regularly to the authorities, bail or other guarantee systems;
 - h. to develop and disseminate clear criteria for the identification of asylum-seekers to be detained, in compliance with Conclusion No. 44 (XXXVII) "Detention of Refugees and Asylum-Seekers" adopted by the Executive Committee of UNHCR in 1986, specifying that unaccompanied children may not be detained;
 - i. to introduce into their asylum laws rules on a maximum allowed period of detention of asylum-seekers, if they have not already done so;
 - j. to review, and, where necessary, to improve conditions of detention, and in particular not to detain asylum-seekers with common-law prisoners;
 - k. to re-examine the procedures used during forced deportations with a view to the elimination of inhuman treatment, and, in particular, to establish monitoring of deportation procedures, including monitoring of the place of destination;
 - l. to co-operate more closely with UNHCR and local non-governmental organisations, and, in particular, to enable them to monitor the situation of those expelled on the basis of special arrangements;
 - m. to support assisted return programmes for refugees organised by the International Organisation for Migration (IOM);
 - n. to abide by the principle of voluntary returns of beneficiaries of temporary protection, and to ensure that any forced repatriation deemed necessary should be exceptional and carried out in accordance with UNHCR recommendations and in close co-operation with that organisation;
 - o. to interpret the concept of asylum-seekers' families as including de facto family members (natural family), for example asylum-seeker's concubine or natural children as well as elderly, infirm or otherwise dependent relations;

- p.* to allow members of the same family to reunite already at the stage of the refugee status determination procedure, which sometimes lasts a very long time;
- q.* to reconsider policy on family reunion in respect of persons granted temporary protection or permission to stay on humanitarian grounds;
- r.* to review their policies in the field of social rights and assistance in order to ensure that each asylum-seeker's case is treated on its merits, in particular to ensure that there is no discrimination against certain categories of asylum-seekers, such as so-called "late applicants";
- s.* to develop programmes aiming at integration of refugees into the host society and preparation for possible return (including skills training and income-generating projects with a view to self-reliance);
- t.* to sign and ratify the International Convention on the Elimination of All Forms of Racial Discrimination, and include in their domestic law provisions aiming at the prevention of discrimination and racist or xenophobic activities;
- u.* to implement at national level the general policy recommendations formulated by the European Commission against Racism and Intolerance in the framework of the Council of Europe's Plan of Action on Combating Racism, Xenophobia, Anti-Semitism and Intolerance;
- v.* to strengthen relations with non-governmental organisations concerned with human rights, and promote the networking of their activities.

8.8.