



Recommendation 1237 (1994)¹

Situation of asylum-seekers whose asylum applications have been rejected

Parliamentary Assembly

1. In the face of persecution or other threats to their life or integrity, everyone has the right to seek and to enjoy asylum. However, under the principle of national sovereignty the decision to grant asylum is a matter for the host state.
2. The 1951 Geneva Convention relating to the Status of Refugees and its Protocol of 1967, the European Convention on Human Rights and the relevant national instruments in the field of humanitarian law must provide the basis for harmonising asylum policies and regulations in all the Council of Europe member states.
3. Since the 1980s, European states have been confronted with an increase in the number of asylum applications and have adopted a series of instruments designed to clarify the concept of right of asylum.
4. Most Council of Europe member states allow asylum-seekers whose asylum applications have been rejected to remain on their territory on humanitarian grounds, particularly on account of international or domestic armed conflicts, serious violations of human rights or lack of democracy.
5. Some asylum-seekers whose asylum applications have been rejected wish to return to their countries of origin. Steps should be taken to ensure their safe and dignified return and the countries of origin and temporary entry should adopt return policies combined with support measures to assist the social and occupational resettlement of those applying to return.
6. Asylum-seekers whose asylum applications have been rejected and who are not allowed to remain in the host country, but who do not return to their countries of origin, are in an unlawful situation and usually risk becoming clandestine immigrants.
7. In the absence of legal doctrine, these frequent unlawful situations are settled only in a pragmatic fashion; it is, therefore, important to fill a legal vacuum which is detrimental both to the states and to the persons directly concerned.
8. The Assembly, therefore, recommends that the Committee of Ministers invite the Council of Europe member states:
 - 8.1. to set up fair and effective asylum procedures in co-operation with the Office of the United Nations High Commissioner for Refugees (UNHCR), and to harmonise asylum policies and legislation in the spirit of the 1951 Geneva Convention and its 1967 Protocol and the relevant national instruments in the field of humanitarian law;
 - 8.2. to confer basic rights, as provided for in Conclusion No. 22 (XXXII) of the Executive Committee of the UNHCR, on asylum-seekers until their applications have been fully considered;
 - 8.3. to examine the possibilities for harmonising the conditions on which those who do not satisfy the criteria for the granting of refugee status may nevertheless be authorised to stay for humanitarian reasons on the territory of the member states;

1. Assembly debate on 12 April 1994 (11th Sitting) (see [Doc. 7044](#), report of the Committee on Migration, Refugees and Demography, Rapporteur: Mr Flückiger). Text adopted by the Assembly on 12 April 1994 (11th Sitting).



- 8.4. to give special attention and protection to solitary minors and to certain groups of de facto refugees;
- 8.5. to take practical steps to curb the illegal and abusive exploitation of asylum-seekers whose asylum applications have been rejected, bearing in mind [Recommendation 1211 \(1993\)](#) on clandestine migration: traffickers and employers of clandestine migrants;
- 8.6. to ensure that asylum-seekers, whose applications have been rejected on the grounds that they could have found refuge in a third country, find effective, lasting protection, including legal protection, and fair asylum procedures when they are removed to that country;
- 8.7. to strengthen policies for bilateral and multilateral co-operation in the fields of human rights and minority rights, and to contribute to the social and economic development of the countries of origin of asylum-seekers whose applications are rejected;
- 8.8. to contribute, by means of bilateral and multilateral co-operation policies, to the social and economic reintegration of such asylum-seekers into their countries of origin;
- 8.9. to draw up bilateral and/or multilateral agreements, in close co-operation with the International Organization for Migration (IOM) and the non-governmental organisations concerned, to:
 - a. promote initial and advanced vocational training schemes as well as educational and cultural programmes for asylum-seekers whose asylum applications have been rejected, taking account of personal circumstances, designed to assist their reintegration into their countries of origin;
 - b. set up programmes for voluntary assisted return to the country of origin.