

Recommendation 1440 (2000)¹

Restrictions on asylum in the member states of the Council of Europe and the European Union

Parliamentary Assembly

1. In celebrating its fiftieth anniversary, the Council of Europe has just reaffirmed its commitment to the generous vision and values that inspired its creation: the defence and promotion of democracy, the rule of law and human rights and fundamental freedoms, including freedom from persecution. Moreover, the right to seek and to receive asylum from persecution is enshrined in the Universal Declaration of Human Rights.
2. The Parliamentary Assembly is deeply concerned that these principles are in danger of being undermined by a climate of hostility towards refugees, asylum seekers and other persons in need of international protection in Europe. In recent years, many European governments have introduced restrictions in their immigration and asylum policies and practices with a view to substantially reducing the number of refugees and asylum seekers on their territory. These restrictions are reflected and amplified in the ever more intensive efforts by the European Union to harmonise the asylum and immigration policies and practices of its member and applicant states.
3. Restrictive policies and practices may be classified into four types:
 - 3.1. those designed to prevent undocumented travellers from arriving in Council of Europe member states at all, whether genuine asylum seekers or not;
 - 3.2. measures designed to expedite the consideration of applications by those asylum seekers who do manage to reach their destination or to shift the determination procedure to other countries;
 - 3.3. restrictive interpretation of international refugee law, and in particular the definition of the term "refugee";
 - 3.4. deterrent measures taken to make life uncomfortable for asylum seekers awaiting a decision.
4. The Parliamentary Assembly is particularly anxious to ensure that the European Union's plan to establish a common European asylum system provides sufficient protection for those in need. Moreover, the Assembly considers that any European Union policies which have the effect of reducing the responsibility of European Union member states for persons in need of protection at the expense of non-member states are to be avoided. In this connection, the Assembly stresses the need for sustained co-ordination of asylum and immigration policies between the European Union and Council of Europe member states which are not members of the European Union.
5. The Parliamentary Assembly recalls and reaffirms its past recommendations designed to improve the protection and treatment afforded to asylum seekers and refugees, notably its [Recommendation 1236 \(1994\)](#) on the right of asylum; [Recommendation 1237 \(1994\)](#) on the situation of asylum seekers whose asylum applications have been rejected; [Recommendation 1278 \(1995\)](#) on refugees and asylum seekers in central and eastern Europe; [Recommendation 1309 \(1996\)](#) on the training of officials receiving asylum seekers at border points; [Recommendation 1327 \(1997\)](#) on the protection and reinforcement of the human rights of refugees and asylum seekers in Europe, and [Recommendation 1374 \(1998\)](#) on the situation of refugee women in Europe.

1. Assembly debate on 25 January 2000 (3rd Sitting) (see [Doc. 8598](#), report of the Committee on Migration, Refugees and Demography, rapporteur: Mr Cilevics). Text adopted by the Assembly on 25 January 2000 (3rd Sitting).



6. The Parliamentary Assembly recommends that the Committee of Ministers:
- 6.1. step up the monitoring of member states' compliance with international refugee law and with the general principles governing the protection of refugees and asylum seekers enshrined in the relevant international instruments with a view to continuing to improve common standards for the treatment of refugees and asylum seekers;
 - 6.2. invite Moldova and Ukraine to accede to the 1951 Geneva Convention relating to the Status of Refugees and its 1967 Protocol, and Turkey to drop its geographic limitation to the convention;
 - 6.3. initiate action to ensure the incorporation of the right of asylum into the European Convention for the Protection of Human Rights and Fundamental Freedoms and report back on progress made towards the fulfilment of this objective within a year;
 - 6.4. draw up a European convention on the harmonisation of asylum policies in Europe, in close co-operation with the European Union, with a view to improving the standard of protection for refugees and asylum seekers in Europe and strengthening solidarity between the member states with regard to their responsibilities towards refugees and asylum seekers;
 - 6.5. urge the member states:
 - a. to undertake a thorough review of their obligations under the 1951 Geneva Convention relating to the Status of Refugees and its 1967 Protocol with a view to ensuring strict compliance;
 - b. to refrain from applying and legitimising regulations and practices which might hinder fair implementation of the right to asylum;
 - c. to recognise systematically, in their refugee status determination procedures:
 1. that persecution may not only originate from the authorities of the country of origin of an asylum seeker, but also from entities with no link to the state and over which it exercises no control;
 2. that war and violence may be used as instruments of persecution with a view to repressing or eliminating specific groups on account of their ethnicity or other characteristics;
 3. that asylum seekers should not be required to demonstrate that they have exhausted all possibilities of reaching safety in an area within their own country (the so-called "internal flight alternative") before seeking international protection;
 4. the right of women seeking asylum to apply separately from their spouses or companions in consideration of their specific needs and motivations;
 - d. to ensure that no asylum seeker is removed to a third country in contravention of Recommendation No. R (97) 22 of the Committee of Ministers to member states containing guidelines on the application of the safe third country concept or those of the Office of the United Nations High Commissioner for Refugees;
 - 6.6. call on the institutions of the European Union to ensure that the planned common European asylum system in no way undermines the 1951 Geneva Convention relating to the Status of Refugees nor has the effect of reducing the responsibility of European Union member states for persons in need of international protection at the expense of non-member states.