

**Resolution on Manifestly Unfounded Applications for Asylum
(London, 30 November and 1 December 1992)**

MINISTERS OF THE MEMBER STATES OF THE EUROPEAN COMMUNITIES responsible for Immigration, meeting in London on 30 November and 1 December 1992,

HAVING REGARD to the objective, fixed by the European Council meeting in Strasbourg in December 1989, of the harmonization of their asylum policies and the work programme agreed at the meeting at Maastricht in December 1991;

DETERMINED, in keeping with their common humanitarian tradition, to guarantee adequate protection to refugees in accordance with the terms of the Geneva Convention of 28 July 1951, as amended by the New York Protocol of 31 January 1967, relating to the Status of Refugees;

NOTING that Member States may, in accordance with national legislation, allow the exceptional stay of aliens for other compelling reasons outside the terms of the 1951 Geneva Convention;

REAFFIRMING their commitment to the Dublin Convention of 15 June 1990, which guarantees that all asylum applicants at the border or in the territory of a Member State will have their claim for asylum examined and sets out rules for determining which Member State will be responsible for that examination;

AWARE that a rising number of applicants for asylum in the Member States are not in genuine need of protection within the Member States within the terms of the Geneva Convention, and concerned that such manifestly unfounded applications overload asylum determination procedures, delay the recognition of refugees in genuine need of protection and Jeopardize the integrity of the institution of asylum;

INSPIRED by Conclusion No. 30 of the Executive Committee of the United Nations High Commissioner for Refugees;

CONVINCED that their asylum policies should give no encouragement to the misuse of asylum procedures;

HAVE ADOPTED THE FOLLOWING RESOLUTION:

Manifestly unfounded applications

1. (a) An application for asylum shall be regarded as manifestly unfounded if it is clear that it meets none of the substantive criteria under the Geneva Convention and New York

Protocol for one of the following reasons:

- there is clearly no substance to the applicant's claim to fear persecution **in** his own country (paragraphs 6 to 8); or
- the claim is based on deliberate deception **or is an** abuse of asylum procedures (paragraphs 9 and 10).

(b) Furthermore, without prejudice to the Dublin Convention, an application for asylum may not be subject to determination by a Member State of refugee status under the terms of the Geneva Convention on the Status of Refugees when it falls within the provisions of the Resolution on host countries adopted by Immigration Ministers meeting in London on 30 November and 1 December 1992.

2. Member States may include within an accelerated procedure (where it exists or is introduced), which need not include full examination at every level of the procedure, those applications which fall within the terms of paragraph 1, although an application need not be included within such procedures if there are national policies providing for its acceptance on other grounds. Member States may also operate admissibility procedures under which applications may be rejected very quickly on objective grounds.

3. Member States will aim to reach initial decisions on applications which fall within the terms of paragraph 1 as soon as possible and at the latest within one month and to complete any appeal or review procedures as soon as possible. Appeal or review procedures may be more simplified than those generally available in the case of other rejected asylum applications.

4. A decision to refuse an asylum application which falls within the terms of paragraph 1 will be taken by a competent authority at the appropriate level fully qualified in asylum or refugee matters. Amongst other procedural guarantees the applicant should be given the opportunity for a personal interview with a qualified official empowered under national law before any final decision is taken.

5. Without prejudice to the provisions of the Dublin Convention, where an application is refused under the terms of paragraph 1 the Member State concerned will ensure that the applicant leaves Community territory, unless he is given permission to enter or remain on other grounds.

No substance to claim to fear persecution

6. Member States may consider under the provisions of paragraph 2 above all applications the terms of which raise no question of refugee status within the terms of the Geneva Convention. This may be because:

- (a) the grounds of the application are outside the scope of the Geneva

Convention: the applicant does not invoke fear of persecution based on his belonging to a race, a religion, a nationality, a social group, or on his political opinions.. but reasons such as the search for a job or better living conditions;

- (b) the application is totally lacking in substance: the applicant provides no indications that he would be exposed to fear of persecution or his story contains no circumstantial or personal details;
- (c) the application is manifestly lacking in any credibility: his story is inconsistent, contradictory or fundamentally improbable.

7. Member States may consider under the provisions of paragraph 2 above an application for asylum from claimed persecution which is clearly limited to a specific geographical area where effective protection is readily available for that individual in another part of his own country to which it would be reasonable to expect him to go, in accordance with Article 33.1 of the Geneva Convention.' When necessary, the Member States will consult each other in the appropriate framework, taking account of information received from UNHCR, on situations which might allow, subject to an individual examination, the application of this paragraph.

8. It is open to an individual Member State to decide in accordance with the conclusions of Immigration Ministers of 1 December 1992 that a country is one in which there is in general terms no serious risk of persecution. In deciding whether a country is one in which there is no serious risk of persecution, the Member State will take into account the elements which are set out in the aforementioned conclusions of Ministers. Member States have the goal to reach common assessment of certain countries that are of particular interest in this context. The Member State will nevertheless consider the individual claims of all applicants from such countries and any specific indications presented by the applicant which might outweigh a general presumption. In the absence of such indications, the application may be considered under the provisions of paragraph 2 above.

Deliberate deception or abuse of asylum procedures

9. Member States may consider under the provisions of paragraph 2 above all applications which are clearly based on deliberate deceit or are an abuse of asylum procedures. Member States may consider under accelerated procedures all cases in which the applicant has, without reasonable explanation:

(a) based his application on a false identity or on forged or counterfeit documents which he has maintained are genuine when questioned about them;

(b) deliberately made false, representations about his claim, either orally or in writing, after applying for asylum;

(c) in bad faith destroyed, damaged or disposed of any passport, other document or ticket relevant to his claim, either in order to establish a false identity for the purpose of his asylum application or to make the consideration of his application more difficult;

(d) deliberately failed to reveal that he has previously lodged an application in one or more countries, particularly when false identities are used;

(e) having had ample earlier opportunity to submit an asylum application, submitted the application in order to forestall an impending expulsion measure;

(f) flagrantly failed to comply with substantive obligations imposed by national rules relating to asylum procedures;

(g) submitted an application in one of the Member States, having had his application previously rejected in another country following an examination comprising adequate procedural guarantees and in accordance with the Geneva Convention on the Status of Refugees. To this effect, contacts between Member States and third countries would, when necessary, be made through UNHCR.

Member States will consult in the appropriate framework when it seems that new situations occur which may justify the implementation of accelerated procedures.

10. The factors listed in paragraph 9 are clear indications of bad faith and justify consideration of a case under the procedures described in paragraph 2 above in the absence of a satisfactory explanation for the applicant's behaviour. But they cannot in themselves outweigh a well-founded fear of persecution under Article 1 of the Geneva Convention and none of them carries any greater weight than any other.

Other cases to which accelerated procedures may apply

11. This Resolution does not affect national provisions of Member States for considering under accelerated procedures, where they exist, other cases where an urgent resolution of the claim is necessary, in which it is established that the applicant has committed a serious offence in the territory of the Member States, if a case manifestly falls within the situations mentioned in Article 1.F of the 1951 Geneva Convention, or for serious reasons of public security, even where the cases are not manifestly unfounded in accordance with paragraph 1.

Further action

12. Ministers agreed to seek to ensure that their national laws are adapted, if need be, to incorporate the principles of this Resolution as soon as possible, at the latest by 1 January 1995. Member States will from time to time, in co-operation with the Commission and in consultation with UNHCR, review the operation of these procedures and consider whether any additional measures are necessary.