

CONCLUSIONS
(présentées dans les deux langues)

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The Fourteenth Symposium of the Councils of State and the Supreme Administrative Courts of the European Union was held in Paris on 16, 17 and 18 May 1994. This year it was devoted to the study of two concrete cases concerning the situation of foreigners who have been refused residence permits or refugee status.

The extremely complete national reports that had been prepared at the end of 1993 made it possible for the Rapporteur General to carry out an initial synthesis which was distributed just over a month before the beginning of the symposium.

On the basis of this preliminary work it was possible, during the four half days of discussions, to go more deeply into the subject and to enlarge its scope. The members of the symposium were in fact able to reach the following conclusions.

1) The situations of the countries in the Union are very different.

These differences appear clearly at the purely factual level, for reasons due either to differences in population or economic policies, or to very different geographical situations (notably between continental and insular countries). There are also cases where the presence of foreigners and the pressure of applications for asylum assume an importance varying considerably between the two extreme cases of Ireland and Germany.

However, there are equally marked differences that can be attributed to legal traditions. These may exist at the procedural level, concerning, for example, the organization and powers of the administrative tribunals and the bodies competent to examine applications and appeals submitted by foreigners. Such differences may also relate to matters of substance, for example, matters concerning the relation between marriage, residence permits and access to nationality, on the one hand, or, on the other hand, matters concerning the right to residence and the right to work.

2) However, the discussion of the various cases involved brought out the existence of many points of convergence or attenuation of differences.

While bearing in mind that the vast majority of migrants had no intention of defrauding the authorities, the members of the symposium noted that, in most member States, the inverse in the number of applications deemed in certain countries to be unjustified or obviously groundless had led to modifications in either the case law or codified law dealing with situations of this nature. The impact of such restrictive measures has in fact already been felt in certain countries.

The members also noted, however, that such developments had often given rise to very spirited discussions, not only at the political level, but even at all the levels of legal debate, often extending to the constitutional level. This simply shows that the principles and freedoms considered by all member countries to be of a fundamental nature are involved.

3) The existence of numerous international agreements on this subject (Geneva Convention, European Convention for the safeguard of human rights and fundamental freedoms, and the Schengen and Dublin agreements, for example) has extremely important consequences.