

COUNCIL OF EUROPE

COMMITTEE OF MINISTERS

RECOMMENDATION No. R (94) 5

OF THE COMMITTEE OF MINISTERS TO MEMBER STATES ON GUIDELINES TO INSPIRE PRACTICES OF THE MEMBER STATES OF THE COUNCIL OF EUROPE CONCERNING THE ARRIVAL OF ASYLUM-SEEKERS AT EUROPEAN AIRPORTS

*(Adopted by the Committee of Ministers on 21 June 1994
at the 515th meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members;

Recalling the liberal and humanitarian attitude of member states of the Council of Europe with regard to asylum-seekers;

Having regard to Recommendation 1163 (1991) of the Parliamentary Assembly on the arrival of asylum-seekers at European airports;

Considering that the member states of the Council of Europe since the mid-1980s, as a whole, have been unceasingly confronted by a very large number of asylum requests;

Taking into account that the particular position of asylum-seekers at the airports may entail specific difficulties, linked to the reception itself as well as the handling of their requests;

Considering that, without prejudice to other principles applicable in this field, guidelines based on the fundamental principles in the field of human rights should inspire the practices of member states with regard to the protection of asylum-seekers at airports, and contribute to the development of legislation and the establishment of an administrative infrastructure concerning the reception of asylum-seekers in new host countries,

Recommends that the governments of member states apply the following guidelines:

I. Fundamental principles

1. Member states reaffirm their obligations under the Geneva Convention of 28 July 1951 and the New York Protocol of 31 January 1967 relating to the Status of Refugees, and also the Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950.

II. Asylum requests

2. The examination of all asylum requests presented at the airport shall be assured, in compliance with the rule of law, on the basis of domestic law and the international obligations of each state.

3. Moreover, each state preserves the possibility of sending an asylum-seeker to a third country subject to respect to the provisions of the Geneva Convention Relating to the Status of Refugees, in particular its Article 33, and with respect to the European Convention on Human Rights, in particular its Article 3.

4. States should also further develop their co-operation with regard to the treatment of asylum requests.
5. The request shall be examined with all diligence required in order not to prolong the stay of the applicant at the airport beyond a period strictly necessary for the handling of such a request.
6. The authorities entrusted with the receipt of applications at the border shall receive training adapted to the specific situation of people seeking asylum. Such authorities should, moreover, have precise instructions on the procedures to be followed.
7. The examination of such requests, including the interview with the applicant, shall be reserved to authorities competent in matters of asylum and appointed for that task.
8. The whole procedure shall be under the supervision of the competent authorities with a view to ensuring compliance with the principles mentioned above.

III. Asylum-seekers

9. When the asylum-seeker has to stay at the border pending a decision, he or she shall be received and accommodated in an appropriate place, whenever possible provided to that effect.
10. The asylum-seeker can be held in such a place only under the conditions and for the maximum duration provided for by law.
11. When the request is received, the asylum-seeker shall be informed about the procedure to be followed, and about his or her rights and obligations. This information shall be provided orally or in the form of a written document and, if necessary, with the assistance of an interpreter.
12. The asylum-seeker has a right to the assistance of a qualified and impartial interpreter during the interview with the competent authority.
13. The competent authority shall draw the attention of the asylum-seeker to the confidential nature of the interview and of the information contained in his or her file.
14. A representative of the United Nations High Commissioner for Refugees shall be allowed to contact the asylum-seeker in the airports, according to the procedures of each member state.
15. After the first interview with the competent authorities, the asylum-seeker shall be allowed to contact a legal counsellor or a lawyer.
16. The reception of the asylum-seeker at the border shall be under the best possible conditions.
17. The responsible authority shall provide sufficient accommodation and food and, to the extent possible in case of a prolonged stay, recreational facilities.
18. Medical and social assistance shall be provided.
19. According to the procedures fixed by each member state, the asylum-seeker can ask to meet with, among others, a representative of a religion, a lawyer and a representative of the United Nations High Commissioner for Refugees. To that effect, they shall all be allowed access to the place of accommodation.
20. The persons in charge of the reception of asylum-seekers shall receive appropriate training to fulfil this task.