

COUNCIL OF EUROPE

COMMITTEE OF MINISTERS

RECOMMENDATION No. R (83) 1

OF THE COMMITTEE OF MINISTERS TO MEMBER STATES ON STATELESS NOMADS AND NOMADS OF UNDETERMINED NATIONALITY

*(Adopted by the Committee of Ministers on 22 February 1983
at the 356th 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 for the purpose of safeguarding and realising the ideals and principles which are their common heritage ;

Recalling its Resolution (75) 13 containing recommendations on the social situation of nomads in Europe and taking into account action taken by governments of the member states to implement these recommendations ;

Noting that many nomads experience difficulties with regard to their legal status, particularly in matters of travel and stay, because they lack a sufficient link of nationality or residence with a given state ;

Considering that it is desirable to contribute at European level to a harmonised solution of these problems particularly for humanitarian reasons in a way consistent with the legislation of each member state, while at the same time respecting the nomads' way of life ;

Bearing in mind the provisions of Articles 8 and 14 of the European Convention on Human Rights as well as of Article 2 of Protocol No. 4 to the convention ;

Having regard to the wish expressed by the Conference of European Ministers of Justice, which met at Athens in May 1982, that the problems raised by nomads should be examined in greater depth within the framework of the existing structures of the Council of Europe,

Recommends the governments of member states to take all measures necessary to give effect to the principles set out below.

Principles

The present recommendation applies to persons who, for traditional reasons, are accustomed to follow an itinerant way of life ("nomads").

1. Non-discrimination

In their law and practice regarding the movement and residence of persons, states should refrain from any measures which would lead to discrimination against nomads for reasons of their nomadic way of life.

2. Link with a state

Within the limits of its legislation on entry and stay of aliens in its territory, each state should take, as far as necessary, appropriate steps to facilitate in relation to stateless nomads or

nomads of undetermined nationality the establishment of a link with the state concerned. For the establishment of such a link, one or more of the following criteria could in particular be taken into consideration :

a. the state concerned is the state of birth or origin of the nomad or the state of origin of his immediate family ;

b. habitual residence or frequent periods of residence of the nomad in the state concerned provided that the residence in question is not unlawful ;

c. the presence in the state concerned of members of the nomad's immediate family lawfully staying in that state or possessing its nationality.

3. Residence and movement of nomads

Where the link of a nomad with a given state has been established in accordance with principle No. 2 above, this state should take appropriate measures in order to permit him to reside on its territory, to travel abroad and to return to its territory.

4. Reunion of families

In pursuance of principle No. 3, the state should endeavour to facilitate the admission of the nomad's immediate family to its territory.

5. Measures of a general character

Each member state should take measures, under its domestic law, to reduce cases of statelessness of nomads. For this purpose, each member state should in particular consider ratification, if it has not already ratified it, of the Convention on the Reduction of Statelessness signed in New York on 30 August 1961. It should also consider ratification, if it has not already ratified it, of the Convention relating to the Status of Stateless Persons signed in New York on 28 September 1954 and apply it, taking account of the particular situation of nomads.

6. Extended protection

The application of the principles contained in this recommendation should not result in less favourable treatment being given to nomads under the law or practice of each member state.