

COUNCIL OF EUROPE

COMMITTEE OF MINISTERS

RESOLUTION (77) 31

ON THE PROTECTION OF THE INDIVIDUAL IN RELATION TO THE ACTS OF ADMINISTRATIVE AUTHORITIES

*(Adopted by the Committee of Ministers on 28 September 1977,
at the 275th meeting of the Ministers' Deputies)*

The Committee of Ministers,

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

Considering that, in spite of the differences between the administrative and legal systems of the member states, there is a broad consensus concerning the fundamental principles which should guide the administrative procedures and particularly the necessity to ensure fairness in the relations between the individual and administrative authorities ;

Considering that it is desirable that acts of administrative authorities should be taken in ways conducive to the achievement of those aims ;

Considering that, in view of the increasing co-operation and mutual assistance between member states in administrative matters and the increasing international movement of persons, it is desirable to promote a common standard of protection in all member states,

Recommends the governments of member states :

a. to be guided in their law and administrative practice by the principles annexed to this resolution,

b. to inform the Secretary General of the Council of Europe, in due course, of any significant developments in relation to the matters referred to in the present resolution ;

Instructs the Secretary General of the Council of Europe to bring the contents of this resolution to the notice of the governments of Finland and Spain.

Appendix to Resolution (77) 31

The following principles apply to the protection of persons, whether physical or legal, in administrative procedures with regard to any individual measures or decisions which are taken in the exercise of public authority and which are of such nature as directly to affect their rights, liberties or interests (administrative acts).

In the implementation of these principles the requirements of good and efficient administration, as well as the interests of third parties and major public interests should be duly taken into account. Where these requirements make it necessary to modify or exclude one or more of these principles, either in particular cases or in specific areas of public administration, every endeavour should nevertheless be made, in conformity with the fundamental aims of this resolution, to achieve the highest possible degree of fairness.

I

Right to be heard

1. In respect of any administrative act of such nature as is likely to affect adversely his rights, liberties or interests, the person concerned may put forward facts and arguments and, in appropriate cases, call evidence which will be taken into account by the administrative authority.
2. In appropriate cases the person concerned is informed, in due time and in a manner appropriate to the case, of the rights stated in the preceding paragraph.

II

Access to information

At his request, the person concerned is informed, before an administrative act is taken, by appropriate means, of all available factors relevant to the taking of that act.

III

Assistance and representation

The person concerned may be assisted or represented in the administrative procedure.

IV

Statement of reasons

Where an administrative act is of such nature as adversely to affect his rights, liberties or interests, the person concerned is informed of the reasons on which it is based. This is done either by stating the reasons in the act, or by communicating them, at his request, to the person concerned in writing within a reasonable time.

V

Indication of remedies

Where an administrative act which is given in written form adversely affects the rights, liberties or interests of the person concerned, it indicates the normal remedies against it, as well as the time-limits for their utilisation.