

**COUNCIL OF EUROPE  
COMMITTEE OF MINISTERS**

**Recommendation No. R (99) 12  
of the Committee of Ministers to member states  
on the return of rejected asylum-seekers**

*(Adopted by the Committee of Ministers on 18 May 1999  
at the 670<sup>th</sup> meeting of the Ministers' Deputies)*

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

Recalling the 1950 Convention for the Protection of Human Rights and Fundamental Freedoms and the 1951 Convention and its 1967 Protocol Relating to the Status of Refugees;

Anxious to preserve the institution of asylum and to ensure that persons who are in need of international protection have the possibility to seek and enjoy it;

Stressing that everyone shall be free to leave any country including one's own and that no one shall be deprived of the right to enter the territory of the country of nationality;

Conscious of the need to avoid cases of statelessness;

Bearing in mind that persons who, after due consideration of their asylum claim in a fair and full procedure, are found by the competent authorities not to qualify for refugee status, or not to be in need of other forms of protection, have no right, unless authorised on other grounds, to stay on the territory of the host country and are therefore expected to co-operate with the respective authorities to facilitate return;

Considering that the competent authorities of the host country may take appropriate measures to ensure the return of such persons to their countries of nationality or former habitual residence, as the case may be;

Underlining that such measures shall be implemented under the conditions as prescribed by law and in conformity with applicable international obligations of the state, in particular as provided for by the European Convention on Human Rights;

Being aware of Parliamentary Assembly Recommendation 1237 (1994) on the situation of asylum-seekers whose asylum applications have been rejected;

Desiring to ensure that national legislation and practice concerning the return of rejected asylum seekers be in conformity with the principles indicated above and that the states concerned co-operate to that effect,

Recommends that

1. the country hosting the person to be returned ensures that
  - whereas voluntary return is preferable, when nevertheless the resorting to mandatory return is necessary, it takes place in a humane manner with full respect for fundamental human rights and without the use of excessive force,

- the principle of family unity be taken into account;

2. the country of origin of the person to be returned (country of which such person is a national or a non-national former habitual resident):

- respects its obligation under international law to readmit its own nationals without formalities, delays or obstacles,

- refrains from applying sanctions against returnees on account of their having filed asylum applications or sought other forms of protection in another country,

- takes into account the principle of family unity, in particular as it concerns the admission of such family members of the persons to be returned who do not possess its nationality,

- does not arbitrarily deprive the person concerned of its nationality, in particular, to avoid statelessness,

- does not permit the renunciation of nationality when it may lead to statelessness as a means to prevent the return of the rejected asylum seeker;

3. host countries and countries of origin

- co-operate in order to facilitate the return of rejected asylum-seekers, in particular through conclusion of readmission agreements,

- co-operate, through their respective competent authorities, in determining nationality or place of habitual residence, in order to permit the return of rejected asylum seekers;

4. member states share their experiences concerning their respective national return programmes and their co-operation with countries of origin and competent international agencies in the context of voluntary return.