

COUNCIL OF EUROPE COMMITTEE OF MINISTERS

RECOMMENDATION No. R (88) 13

OF THE COMMITTEE OF MINISTERS TO MEMBER STATES

CONCERNING THE PRACTICAL APPLICATION
OF THE CONVENTION ON THE TRANSFER OF SENTENCED PERSONS¹

*(Adopted by the Committee of Ministers on 22 September 1988
at the 419th meeting of the Ministers' Deputies)*

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

Desirous of facilitating the practical application of the Convention on the Transfer of Sentenced Persons and of encouraging the widest possible use of the transfer mechanism it provides;

Having regard to Recommendation No. R (84) 11 concerning information about the Convention on the Transfer of Sentenced Persons,

I. Recommends the governments of member states:

1. *Concerning the choice of enforcement procedure (Article 3.3 of the convention)*

a. that, when considering whether to exclude, by virtue of Article 3.3 of the convention, the application of one of the enforcement procedures provided for in Article 9.1, they take due account of any difficulties which such an exclusion might entail for the application of the convention or the functioning of the transfer mechanism;

b. that, if they have made the declaration under Article 3.3, they take account of the difficulties which that declaration might entail for the application of the convention or the functioning of the transfer mechanism in relation to other Contracting States, and seek a solution which would enable the transfer of the sentenced person, taking into account in particular his interest in being transferred;

2. *Concerning the application to "nationals" (Article 3.4 of the convention)*

that they consider availing themselves of the possibility under Article 3.4 to define the term "national" in a wide sense, having regard to any close ties the persons concerned have with the administering state;

3. *Concerning the processing of transfer requests*

a. that they establish procedures and make organisational arrangements for the effective handling of transfer requests and inform the other Parties thereof, with a view to making them aware of the procedure in all its stages; this could be effected by addressing explanatory notes or letters to the other Parties or by means of an *aide-mémoire*;

b. that they deal with transfer requests and take decisions on whether or not to agree to a transfer as expeditiously as possible, and, to that effect, consider introducing target dates for the processing of

1. When this recommendation was adopted, the Representative of Greece, in application of Article 10.2.c of the Rules of Procedure for the meetings of the Ministers' Deputies, reserved the right of his Government to comply or not with paragraph I.2 of the recommendation.

cases ; where a request raises particular difficulties likely to cause delay, the other Party and the sentenced person should be so informed ;

c. that, to expedite the processing of transfer requests, particularly in urgent cases, the competent authorities make the widest possible use of modern means of telecommunication, such as telex and telefax facilities ;

4. *Concerning information to be supplied to the sentenced person*

that, to enable the sentenced person to give his informed consent, the competent authorities of the sentencing state endeavour to provide him with all relevant details of the expected effects of his transfer, including, if possible, information on the conditions for early release ;

5. *Concerning the transfer of the sentenced person*

a. that they effect agreed transfers as soon as possible after the sentenced person has given his consent ;

b. that they ensure that information on any remission earned by the prisoner in the sentencing state and any other factors relevant to the enforcement of the sentence, based on a hypothetical date of transfer, is supplied to the administering state before the transfer is effected ; where this is not possible, the information should be supplied as soon as possible after transfer ;

II. Instructs the Secretary General of the Council of Europe to transmit this recommendation to the governments of non-member states party to the convention and to the governments of states invited to accede to the convention.