

# COUNCIL OF EUROPE COMMITTEE OF MINISTERS

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## **Recommendation No. R (99) 20 of the Committee of Ministers to member states concerning the friendly settlement of any difficulty that may arise out of the application of the Council of Europe conventions in the penal field**

*(Adopted by the Committee of Ministers  
on 15 September 1999  
at the 679th meeting of the Ministers' Deputies)*

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

Having regard to the Council of Europe Conventions in the penal field;

Recognising that through such conventions it pursues the goals notably of:

- upholding the rule of law;
- promoting human rights;
- fighting for democratic stability in Europe;
- strengthening European legal co-operation in criminal matters;
- supporting victims and redressing their rights;
- pursuing the ends of justice by bringing before a court of law those who are accused of having committed a crime;
- promoting the social rehabilitation of offenders;

Desirous of strengthening its ability to pursue such goals in a comprehensive and harmonious fashion;

Convinced that to that effect it is proper to facilitate, in accordance with the guidelines appended, the friendly settlement of any difficulty arising out of the application of any one or more of the Council of Europe conventions in the penal field,

1. Recommends the governments of member states:
  - a. to continue to keep the European Committee on Crime Problems (CDPC) informed through the PC-OC about the application of all the conventions in the penal field and of any difficulty that may arise thereof;
  - b. pending the entry into force of provisions formally extending the CDPC's role in this area to the European Convention on Extradition and the European Convention on Mutual Assistance in Criminal Matters, to accept that

the CDPC be called upon to do whatever is necessary to facilitate a friendly settlement of difficulties arising out of the application of those conventions;

c. when experiencing difficulties that may be seen as concerning two or more conventions simultaneously, to assign them jointly to the CDPC;

2. Instructs the Secretary General of the Council of Europe to transmit this recommendation to the governments of the non-member states which are a party to any of the above-mentioned conventions and to the governments of states invited to accede to any such convention.

### Appendix to Recommendation No. R (99) 20

#### *Procedural guidelines for the friendly settlement of difficulties arising out of the application of conventions in the penal field*

1. Any request for a friendly settlement should be forwarded in writing to the Secretariat.
2. The Secretariat shall transmit the requests to the Bureau for consideration at the earliest meeting, whether a Bureau meeting or a CDPC plenary session.
3. Where the request is urgent, the Secretariat, in consultation with the Bureau of the CDPC, shall put into motion an urgent procedure.
4. Whenever friendly settlements coincide in time with plenary sessions of the CDPC, they shall be sought within an open-ended working party of the CDPC.
5. Whenever they do not coincide in time with plenary sessions of the CDPC, friendly settlements shall be sought within an *ad hoc* working party of the CDPC set up and convened to that effect.
6. The members of such an *ad hoc* working party shall then be:
  - a. persons appointed by the states involved in the difficulties or disputes under review;
  - b. persons designated by the Bureau of the CDPC, amongst:
    - the Heads of Delegation to the CDPC, or their substitutes designated to that effect;
    - persons appointed to that effect by states not members of the Council of Europe yet parties to one or more of the conventions in respect of which the difficulties or disputes have arisen.
7. All Heads of Delegation shall be informed of the request and the procedure followed; they shall be allowed to submit written comments.
8. The Chair of the CDPC, or a member of the Bureau, should assume responsibility for, and preside over, any meetings that might be held in the context of friendly settlements.
9. The number of persons appointed by the states involved, as well as the number of persons appointed by the Bureau of the CDPC, shall be measured against the nature of the

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1. Extract from the *Official Gazette of the Council of Europe* – September 1999.

difficulties involved and the need to proceed both effectively and efficiently.

10. The state that sets the procedure in motion should put into writing the facts of the case, the difficulties that it is faced with, whether or not it considers the request to be urgent, as well as the aim that it seeks to achieve.

11. The respondent state should likewise put into writing its point of view or any comments that it deems fit.

12. At the end of the procedure, a paper must emerge, stating the facts, the difficulties encountered, as well as suggestions that the CDPC or, in urgent situations, the *ad hoc* working party, wishes to submit to the states involved.

13. Finally, states involved in friendly settlements may be invited to feed back information on what happened as a consequence of the procedures, or following the procedures, in particular where such information might be of relevance to the interests of other states.