

COUNCIL OF EUROPE

COMMITTEE OF MINISTERS

RECOMMENDATION No. R (79) 12

OF THE COMMITTEE OF MINISTERS TO MEMBER STATES CONCERNING THE APPLICATION OF THE EUROPEAN CONVENTION ON THE TRANSFER OF PROCEEDINGS IN CRIMINAL MATTERS¹

*(Adopted by the Committee of Ministers on 14 June 1979
at the 306th 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 application of the European Convention on the Transfer of Proceedings in Criminal Matters, which was opened for signature on 15 May 1972 and entered into force on 30 March 1978,

I. Recommends the governments of member states :

1. If they are not yet Contracting Parties to the Convention, to ratify it as soon as possible with a view to extending this system of co-operation ;

2. If they are Contracting Parties,

a. to interpret Article 17 in a way as to ensure that the suspected person is heard by the requested state, if he is present in its territory or that of a third state, and by the requesting state, whatever the foundation of its competence, if he is present in the latter's territory ;

b. to be guided, in cases where the suspected person is present in the territory of the requesting state, by the rules laid down either in their national law or in the European Conventions on Extradition and on the International Validity of Criminal Judgments in respect of the suspected person's provisional arrest, his transfer to the requested state, his transit through the territory of another state and in respect of the principle of speciality ;

c. to interpret Article 26, paragraph 1, as also applying to acts taken in the requested state ;

d. to conclude, in pursuance of Article 43, paragraph 2, of the Convention, bilateral or multilateral agreements extending the legal assistance they afford one another in criminal matters to measures necessary for the execution of the Convention, including the transmission of acts drawn up by administrative authorities ;

II. Invites the governments of member states Contracting Parties to the Convention to inform the Secretary General of the Council of Europe, within a period of five years, of the measures taken to implement this recommendation.

1. When the recommendation was adopted, the Representative of Turkey, referring to Article 10.2.d of the Rules of Procedure for the meetings of the Ministers' Deputies, recorded his abstention and in an explanatory statement said that his Government would be unable to comply with the text.