

COUNCIL OF EUROPE

COMMITTEE OF MINISTERS

RECOMMENDATION No. R (84) 10

OF THE COMMITTEE OF MINISTERS TO MEMBER STATES ON THE CRIMINAL RECORD AND REHABILITATION OF CONVICTED PERSONS

*(Adopted by the Committee of Ministers on 21 June 1984
at the 374th meeting of the Ministers' Deputies)*

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

Considering that a crime policy aimed at crime prevention and the social reintegration of offenders should be pursued and developed in the member states of the Council of Europe ;

Considering that criminal records are principally intended to provide the authorities responsible for the criminal justice system with information on the antecedents of the person on trial, in order to assist them in making a decision appropriate to that individual ;

Considering that any other use of criminal records may jeopardise the convicted person's chances of social reintegration, and should therefore be restricted to the utmost ;

Considering the need to promote close co-operation between Council of Europe member states on the basis of common principles for crime policy in this area ;

Having regard to the European Convention on Mutual Assistance in Criminal Matters and to the work done by the European Committee on Crime Problems on the treatment of offenders,

Recommends that the governments of member states review their legislation and their practice relating to criminal records with a view to introducing the following measures where necessary :

- I. *With regard to authorities or persons entitled to receive extracts from criminal records*
 1. to provide that the information mentioned on the criminal record will be communicated only in the form of extracts whose content will be strictly limited to the legitimate interest of the recipients ;
 2. to ensure that only the authorities responsible for the criminal justice system and those exceptionally authorised under the legislation on criminal records may receive the full list of entries on the criminal records ; other public bodies or the person concerned receiving only partial extracts ;
 3. wherever possible, to enable any person proving his identity to inspect his entire criminal record ; unless necessary for overriding reasons provided for in the legislation, to avoid written communication of the record, in order to prevent any risk of misuse ;
 4. to consider the possibility of enabling the judicial authorities to order that certain entries should appear only on criminal records issued for their use ;
 5. to restrict to the utmost the communication of decisions relating to minors ;

II. *With regard to criminal proceedings*

6. to avoid, wherever possible, unnecessary public disclosure of criminal records during criminal proceedings, so as not to stigmatise the person concerned ;
7. to encourage close co-operation between the judicial authorities and the press, so that the latter may be made aware of the risk which references to an accused person's criminal record may pose to his social reintegration ;

III. *With regard to the protection of information in criminal records*

8. to take appropriate steps to protect information contained in criminal records, particularly when the latter are computerised ;
9. to provide appropriate sanctions for breach of the confidentiality of information contained in criminal records ;

IV. *With regard to rehabilitation*

10. to provide for an automatic rehabilitation after a reasonably short period of time and, if appropriate, in addition a possibility of rehabilitation at an earlier moment at the request of the person concerned ;
11. to take steps enabling the persons concerned to be informed :
 - of the conditions for automatic rehabilitation ;
 - of the procedure for applying for rehabilitation ;
12. to provide that enquiries in connection with rehabilitation proceedings be conducted discreetly in order to avoid harm to the person concerned ;
13. to provide that rehabilitation implies prohibition of any reference to the convictions of a rehabilitated person except on compelling grounds provided for in national law ;

V. *With regard to social reintegration*

14. to organise, within penal institutions, activities aimed at strengthening the convicted person's links with the community in order to promote his social reintegration ;

Recommends that governments of member states review their legislation and their practice concerning the issue of certificates of good conduct for the purpose of restricting their use and of ensuring, in any case, that they cover only criminal records and do not refer to the private life or morals of the person concerned ;

Recommends that the governments of member states encourage research on the questions mentioned above, taking account of the findings when revising legislation or practice ;

Invites the governments of member states :

- to ratify, as soon as possible, the European Convention on Mutual Assistance in Criminal Matters, with a view to promoting international co-operation in this area ;
- to give full practical effect to their obligations under Articles 13 and 22 of the convention within the limits of the commitments accepted by signatory parties ;
- to study the possibility of withdrawing reservations relating to Articles 13 and 22 of the aforementioned convention ;

Recommends that the governments of member states ensure that the report of the European Committee on Crime Problems on the criminal record and the rehabilitation of convicted persons is widely distributed to the authorities concerned.