

COUNCIL OF EUROPE

COMMITTEE OF MINISTERS

RECOMMENDATION No. R (79) 6

OF THE COMMITTEE OF MINISTERS TO MEMBER STATES CONCERNING THE SEARCH FOR MISSING PERSONS¹

*(Adopted by the Committee of Ministers on 20 April 1979
at the 303rd 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 the aim of the Council of Europe is to achieve greater unity between its members ;

Aware that the problems posed by the disappearance of persons are of great importance on account of the number of people who are missing and the psychological and material difficulties in which their situation involves both themselves and their families ;

Noting that particularly on the international level the divergencies in the rules and practices in this area in the various member states of the Council of Europe constitute an obstacle to the search for such persons ;

Considering that the harmonisation of the rules and practices in force is therefore of great interest from a humanitarian and social, as well as from a legal point of view ;

Considering that in order to achieve its true aims the search for missing persons should as a general rule operate at the administrative level and in an atmosphere of co-operation between official departments and individuals ;

Insisting that the search for missing persons should in no case and at no stage infringe the fundamental rights and freedoms of the individual and particularly his freedom of movement and the right to respect for his privacy ;

Bearing in mind Recommendation 646 (1971) of the Consultative Assembly of the Council of Europe on the action to be taken in tracing missing persons,

Recommends the governments of the member states to :

- a. follow in the measures taken to search for missing persons the guidelines set out in the Appendix to this recommendation ;
- b. encourage as far as possible direct co-operation between their competent authorities in the search for missing persons without excluding, as the case may be, recourse to diplomatic or consular channels ;

1. When it was adopted, the Representative of *Norway*, referring to Article 10.2.c of the Rules of Procedure for the meetings of the Ministers' Deputies, reserved his Government's right to comply with the text of paragraph 1.2.a of the Appendix to the recommendation or not.

When it was adopted, the Representative of *Austria*, referring to Article 10.2.c of the Rules of Procedure for the meetings of the Ministers' Deputies, reserved his Government's right to comply with the text of paragraph 1.2.b of the Appendix to the recommendation or not.

- c. give all necessary assistance to diplomatic or consular authorities when the search is made through them ;
- d. inform the Secretary General of the Council of Europe in proper time of all steps taken to implement this recommendation ;
- e. place the documentation and information collected on this subject in the Council of Europe at the disposal of their competent authorities.

APPENDIX TO RECOMMENDATION No. R (79) 6

1. Categories of missing persons to which this recommendation applies

1.1. These categories are as follows :

- a. persons regarded as minors under the domestic law or where appropriate the private international law of the state where they disappeared ;
- b. persons disappearing in suspicious circumstances such as to cause apprehension for their physical and/or moral safety ;
- c. persons who may have been the victims of an accident ;
- d. persons regarded as unable to provide for their own needs on account of their physical or mental state or their poverty.

1.2. Moreover, the member states should extend the search to other categories of persons if there is a legitimate interest in doing so, in particular with regard to :

- a. persons who have disappeared allegedly to escape their liability for maintenance ;
- b. members of the legitimate or natural family with whom all trace or contact has been lost.

2. Departments authorised to receive search applications or declarations that a person is missing

2.1. Each member state should nominate the official departments authorised to receive declarations that a person is missing or search applications, without of course excluding the possibility that an individual may if he so desires have recourse to private humanitarian or welfare organisations.

2.2. These departments should check the genuineness of such declarations or applications and obtain all necessary information firstly on the identity and particulars of the missing person and the circumstances in which he disappeared and secondly on the identity and qualifications of the person making the application. They should also examine the motives which have led to the latter's making the application.

2.3. Provision should be made in order that the person making the application shall notify the departments concerned without delay if the missing person reappears or any fresh information is obtained as to his circumstances.

2.4. Except when the public interest requires otherwise, a search application for a missing person of full age should lapse after a given period. The person making the application may, however, renew his application on the expiration of this period.

2.5. In order not to infringe the privacy of the persons concerned the information asked for by these departments should be adequate and relevant to the purpose in hand.

Moreover, the information furnished may not be used for any purpose other than the search for the missing person.

3. National offices

3.1. If such a body does not already exist, each member state should appoint a national office serving as a centre for the exchange of information connected with the search for missing persons at the international level and, whenever possible, at the national level. It should notify the Secretary General of the Council of Europe of existing offices or offices that have recently been appointed so that the other member states may be informed.

3.2. The role of this office should be to exchange with national offices in other states, through the channels indicated in sub-paragraph 3.3. below, requests for the search of missing persons and information received in reply to those requests.

Furthermore, the office should facilitate the search either by taking all the necessary steps itself, or, if competence in this field lies with other authorities, by calling on those authorities to make the necessary comparisons and checks, to issue search notices or to decide whether it is necessary to initiate an international search.

3.3. Without excluding diplomatic channels, contact between the national offices and in particular the circulation of search notices should be effected through Interpol. Consular officials may apply directly to the national office in the state of residence.

4. Position of a missing person who has been found

4.1. Steps should be taken in order to ensure that a missing person who has been found may if he so wishes refuse to allow his address or any other information concerning him to be communicated to the person making the application. However, as a general rule the competent authorities are not bound to give effect to such a refusal in the case of minors, or persons incapable of supplying their own needs on account of their mental state, or persons with maintenance liabilities.

4.2. The cost of a search for missing persons should be borne by the state where the search was performed.

4.3. The costs, if any, of board, lodging and repatriation of a missing person who has been found should normally be borne by the state where he is ordinarily resident, subject to any provisions to the contrary in the domestic law of the member states concerned or in international agreements or other arrangements or practices which exist or may exist between them. This guideline does not affect the liberty of a state to recover the cost from the person concerned or from other persons bound to carry these costs.