

COUNCIL OF EUROPE COMMITTEE OF MINISTERS

Recommendation No. R (99) 18 of the Committee of Ministers to member States on the avoidance and reduction of statelessness

*(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,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members;

Recognising the negative impact of statelessness on individuals and the problems that statelessness creates for States;

Convinced, therefore, of the need to avoid and reduce, as far as possible, cases of statelessness;

Agreeing that, in matters concerning nationality, account should be taken both of the legitimate interests of States and those of individuals;

Recalling that neither States nor individuals should benefit from the misuse of nationality laws;

Recalling Recommendation 87 (1955) on statelessness adopted by the Parliamentary Assembly of the Council of Europe at its 24th session on 25 October 1955;

Having regard to and taking into account the relevant international instruments in this field and, in particular, the 1930 Hague Protocol Relating to Certain Cases of Statelessness, the 1954 United Nations Convention Relating to the Status of Stateless Persons, the 1957 United Nations Convention on the Status of Married Women, the 1961 United Nations Convention on the Reduction of Statelessness, the 1966 International Covenant on Civil and Political Rights, the 1966 International Convention on the Elimination of All Forms of Racial Discrimination, the 1973 Convention to reduce the number of cases of statelessness of the International Commission on Civil Status, the 1979 Convention on the Elimination of All Forms of Discrimination against Women and the 1989 United Nations Convention on the Rights of the Child;

Taking into account the importance of the principles and rules of the 1997 European Convention on Nationality (European Treaty Series n° 166) towards the avoidance and reduction of statelessness;

Realising the need for further measures, both at national and international levels, to avoid and reduce cases of statelessness;

Hoping that as many member States as possible will soon sign and ratify the 1997 European Convention on Nationality,

1. Recommends governments of member States to avoid and reduce statelessness and to this end that:

1.1. they be guided by and act in conformity with the principles and rules which aim at avoiding and reducing statelessness and which are contained in the above mentioned international instruments;

1.2. laws and practices prevent the creation of and provide for the elimination of situations of statelessness;

1.3. they promote the avoidance of statelessness through co-operation with all States;

1.4. they apply in particular the following principles and provisions:

1. Principles based on the European Convention on Nationality which have a special relevance to the avoidance and reduction of statelessness

a. Laws and administrative practices relating to the acquisition, retention, loss, recovery or certification of nationality should not contain distinctions which amount to discrimination on the grounds of sex, religion, race, colour or national or ethnic origin.

b. Access to the nationality of a State should be possible whenever a person has a genuine and effective link with that State, in particular through birth, descent or residence.

c. Nationals should not be arbitrarily deprived of their nationality. Nationals who are deprived of their nationality, renounce or otherwise lose their nationality should not thereafter become stateless.

d. The acquisition of nationality by stateless persons should be facilitated and not subject to unreasonable conditions.

e. States should endeavour to regulate matters relating to statelessness, where appropriate and in particular in cases of state succession, by international agreement.

f. In the application and interpretation of national legislation, account should be taken of the consequences of the relevant corresponding provisions of the legislation and of the practice of other States concerned, in order to avoid statelessness.

II. Provisions aiming at the avoidance and reduction of cases of statelessness

A. Avoiding and reducing statelessness at birth

a. Each State should provide for its nationality to be acquired *ex lege* by children one of whose parents possesses, at the time of birth of these children, its nationality.

Exceptions made with regard to children born abroad should not lead to situations of statelessness.

b. Each State should ensure that its legislation provides for the acquisition of its nationality by children born on its territory who would otherwise be stateless.

B. Facilitating the acquisition of nationality by stateless persons

Each State should facilitate the acquisition of its nationality by stateless persons lawfully and habitually resident on its territory, and in particular each State should:

- a.* reduce the required period of residence in relation to the normal period of residence required;
- b.* not require more than an adequate knowledge of one of its official languages, whenever this is provided for by the internal law of the state;
- c.* ensure that procedures be easily accessible, not subject to undue delay and available on payment of reduced fees;
- d.* ensure that offences, when they are relevant for the decision concerning the acquisition of nationality, do not unreasonably prevent stateless persons seeking the nationality of a State.

C. Avoiding statelessness as a consequence of loss of nationality

- a.* Each State should ensure that the renunciation of its nationality will not take place without the possession, actual acquisition or guarantee of acquisition of another nationality. Where another nationality is not acquired or possessed, States should provide that the renunciation is without effect.
- b.* When a State requires persons to lose their previous nationality in order to acquire its nationality, this State should grant its nationality, even if the previous one is not immediately lost. The States concerned, if necessary, should agree on the modalities of the application of this provision.
- c.* In order to avoid, as far as possible, situations of statelessness, a State should not necessarily deprive of its nationality persons who have acquired its nationality by fraudulent conduct, false information or concealment of any relevant fact. To this effect, the gravity of the facts, as well as other relevant circumstances, such as the genuine and effective link of these persons with the state concerned, should be taken into account;

2. Instructs the Secretary General of the Council of Europe to transmit this Recommendation to the States parties to the European Convention on Nationality which are not members of the Council of Europe.