

COUNCIL OF EUROPE

COMMITTEE OF MINISTERS

RECOMMENDATION No. R (97) 22

OF THE COMMITTEE OF MINISTERS TO MEMBER STATES CONTAINING GUIDELINES ON THE APPLICATION OF THE SAFE THIRD COUNTRY CONCEPT

*(Adopted by the Committee of Ministers on 25 November 1997
at the 609th 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 principles relating to asylum as enshrined in the Convention for the Protection of Human Rights and Fundamental Freedoms, the Universal Declaration on Human Rights, the United Nations Declaration on Territorial Asylum and the Declaration on Territorial Asylum adopted by the Committee of Ministers of the Council of Europe, and recalling the importance of the full implementation of the 1951 Convention and 1967 Protocol relating to the Status of Refugees;

Recognising the growing complexity of asylum issues in member states;

Stressing the importance of member states agreeing common principles relating to certain asylum issues;

Conscious of the need to avoid asylum-seekers being sent successively from one state to another without any of these states considering their asylum claim;

Anxious to provide for appropriate and effective protection for asylum-seekers and refugees who are in need of it, and that asylum-seekers are given an opportunity to have their claims examined by one state;

Noting that in those cases where a member state considers that asylum-seekers should apply for asylum in the first or subsequent country in which they had an opportunity to do so, and where the asylum-seeker is to be removed to that country or sent to another country, there is a need to establish under which conditions such a country can be considered safe for the asylum-seeker;

Without prejudice to other international instruments applicable between member states,

Adopts the following guidelines:

1. In order to assess whether a country is a safe third country to which an asylum-seeker can be sent, all the criteria indicated below should be met in each individual case:
 - a. observance by the third country of international human rights standards relevant to asylum as established in universal and regional instruments, including compliance with the prohibition of torture, inhuman or degrading treatment or punishment;
 - b. observance by the third country of international principles relating to the protection of refugees as embodied in the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, with special regard to the principle of *non-refoulement*;
 - c. the third country will provide effective protection against *refoulement* and the possibility to seek and enjoy asylum;

d. the asylum-seeker has already been granted effective protection in the third country or has had the opportunity, at the border or within the territory of the third country, to make contact with that country's authorities in order to seek protection there before moving on to the member state where the asylum request is lodged or, that as a result of personal circumstances of the asylum-seeker, including his or her prior relations with the third country, there is clear evidence of the admissibility of the asylum-seeker to the third country.

2. States should adopt modalities to provide for informing the asylum-seeker and, as far as necessary and in accordance with existing data protection legislation – or, in absence of such legislation, with the consent of the asylum-seeker – the authorities of the third country that, when a country is considered safe in the above-stated manner, applications for asylum are generally not examined in substance.