

COUNCIL OF EUROPE

COMMITTEE OF MINISTERS

RECOMMENDATION No. R (89) 1

OF THE COMMITTEE OF MINISTERS TO MEMBER STATES ON CONTRIBUTIONS FOLLOWING DIVORCE¹

*(Adopted by the Committee of Ministers on 18 January 1989
at the 423rd 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, in particular, by promoting the adoption of common rules in legal matters;

Noting that a divorce may seriously affect the standard of living of both parties;

Desiring to help each party to be self-supporting after divorce;

Considering that, where a party is not able to be self-supporting after divorce, adequate contributions should be provided;

Having regard to Resolution (78) 37 of the Committee of Ministers on equality of spouses in civil law,

Recommends the governments of member states to implement the following principles:

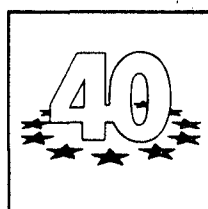
Principle 1

After a divorce, the aim should be that, as far as possible, each party should be economically independent and self-supporting. This aim might be attained by appropriate rules relating to:

a. matrimonial property regimes, in particular by granting to a former spouse the right to obtain a fair share in the property of the other;

b. old-age insurance schemes, to enable the former spouses to benefit equally from payments made during their marriage.

1. The Representative of Ireland, in application of Article 10.2.c of the Rules of Procedure for meetings of the Ministers' Deputies, reserved the right of his Government to comply with the recommendation or not.



Forty years
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Principle 2

The aim of Principle 1 could also be achieved by the payment, by one party to the other, either of a capital sum or periodical payments for a limited period.

Principle 3

If the aim cannot be attained, the party who is not self-supporting should be entitled to contributions made by the other party or by public authorities or both in the manner prescribed by national law.

Principle 4

In the assessment of contributions to be made by one party to the other party under Principles 2 and 3, account should be taken of all relevant factors and, in particular, the resources and the financial needs of each party.

Principle 5

In the assessment of contributions to be made by one party to the other party, account should not be taken of any fault of either party. However, legislation may provide the possibility that a contribution may be refused or reduced where the party seeking the contribution has been seriously at fault.

Principle 6

In the case of a change in the circumstances of either party, the amount of the periodical payments to be paid by one party to the other may be revised.

Principle 7

After the death of the debtor, contributions should, wherever possible, be maintained or replaced by other benefits such as a share in the debtor's estate or, if national law so provides, contributions by public authorities.

Principle 8

States should take measures or reinforce existing measures at a national and international level to ensure that effective means are available to enforce the recovery of contributions.

Principle 9

The parties should provide the necessary information to determine whether there is an obligation to provide contributions, to fix the amount and to enable the amount to be recovered.

The obligation to provide this information may also, if necessary, be imposed on public authorities or employers of the parties who possess it.