Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

**Recommendation 769 (1975)**[1]

# Legal status of aliens

Parliamentary Assembly

The Assembly,

1. Considering that in Council of Europe member states more and more persons travel and stay abroad ;

2. Considering that the laws concerning the entry, sojourn, residence and expulsion of aliens, and concerning their legal status in general, although following the same pattern, vary from one Council of Europe member state to another ;

3. Considering that it is desirable to achieve the greatest possible uniformity between the aliens laws and regulations of the member states of the Council of Europe ;

4. Welcoming the achievements reached by the Council of Europe and other international organisations for the improvement of the legal status of special categories of aliens such as refugees and migrant workers ;

5. Expressing the hope that the Committee of Ministers will soon open the European Convention on the Legal Status of Migrant Workers for signature and ratification by Council of Europe member states ;

6. Considering, however, that the time has now come for an overall approach to the legal status of aliens in general,

7. Recommends that the Committee of Ministers instruct the European Committee on Legal Co-operation (CCJ) to draw up a European Convention on the Legal Status of Aliens on the lines of the principles attached to the present recommendation.

1. Assembly debate on 3 October 1975 (13th Sitting) (see Doc. 3666, report of the Legal Affairs Committee). Text adopted by the Assembly on 3 October 1975 (13th Sitting).

## Appendix APPENDIX

### Principles on which a uniform aliens law in Council of Europe member states could be based

1. There shall be freedom of movement of persons between Council of Europe member states. Restrictions to movement of aliens should be listed limitatively. They should be harmonised.

2. In principle there shall be freedom of residence of persons in Council of Europe member states.

3. Identity cards, other than passports, shall be issued to aliens on the same conditions as they are issued to nationals.

4. Within any period of twelve months, an alien may stay (without working) for a total of six months in a given territory without needing a permit.

5. Work permits shall be granted whenever it is clear that a particular position cannot be filled by a national or by another resident already possessing a work permit.

6. Nationals of Council of Europe member states capable of supporting themselves shall be granted residence permits valid for (at least) one year, provided that they are not undesirable on specified grounds which are other than political or religious, and that there is no real danger of the number of aliens becoming too large.

7. After three years of residence, an alien shall be entitled to a residence permit of indefinite validity.

8. A residence permit may not be withdrawn.

9. An alien without a valid residence permit may be removed from the territory of a member state only on specified legal grounds which are other than political or religious. He shall have the right and the possibility of appealing to an independent appeal authority before being removed. It should be studied if also, or alternatively, he shall have the right to bring his case before a judge. He shall be informed of his rights. If he applies to a court or to a high administrative authority, no removal may take place as long as the case is pending.

10. A person holding a valid residence permit may only be expelled from the territory of a member state in pursuance of a final court order. The grounds for expulsion shall be established limitatively by law.

11. Before entry is refused to an alien he shall have a right to state his case fully to the authorities. If he does not want to return to another state he shall have a right to be detained, enabling him to remain pending the decision of a high administrative authority.

12. An expulsion order which cannot be executed shall lapse after a reasonable period of good behaviour which shall not exceed three years.

13. No alien shall be subjected to measures such as rejection at the frontier, return, expulsion or extradition, which would result in compelling him to return to or to remain in either a territory in which he has well-founded fear of being persecuted for reasons of his race, religion, nationality, membership of a particular social group or political opinion, or a territory where he is in danger of being sent to such a territory. He shall have the right to apply to a court or to a high administrative authority.