Parliamentary Assembly
Assemblée parlementaire
https://pace.coe.int

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

**Recommendation 1587 (2002)**[1]

# Residence, legal status and freedom of movement of migrant workers in Europe: lessons from the case of Portugal

Parliamentary Assembly

1. The Parliamentary Assembly regrets that the numerous efforts of the international community to achieve the adoption of an internationally binding instrument for the protection of migrant workers have not met with success.

2. Since the very beginning of its activity, the Assembly has devoted particular attention to this issue, with the adoption of Recommendation 36 (1949) on migrant workers, Recommendation 712 (1973), Order No. 338 (1973) and Resolution 551 (1973) on the integration of migrant workers with the society of the host countries, Recommendation 931 (1981) on the ratification of the European Convention on the Legal Status of Migrant Workers, Recommendation 968 (1983) and Order No. 420 (1983) on xenophobic attitudes and movements in member countries with regard to migrant workers, Recommendation 1007 (1985) on the return of migrant workers to their country of origin, Recommendation 1066 (1987) on social protection of migrant workers and members of the families, and Recommendation 1082 (1988) on the right of permanent residence for migrant workers and members of their families.

3. The Assembly also recalls Recommendation Rec(2000)15 of the Committee of Ministers concerning the security of residence of long-term migrants as well as the European Convention on Establishment (1955).

4. The Assembly deplores that so far the European Convention on the Legal Status of Migrant Workers, the main instrument elaborated within the Council of Europe to improve the status of migrant workers, has been ratified by only eight member states.

5. The Assembly is even more concerned that, with the important exception of Moldova, no member state having joined the Council of Europe after 1990 has signed or ratified the convention, even if their nationals, as such, are not covered by more favourable multilateral systems of protection, namely those adopted within the European Union to ensure the free movement of labour.

6. The Assembly also recalls that this convention is an important instrument for granting basic legal guarantees to migrant workers in central and east European countries, where the protection given by national legislation can be far lower than that provided by the European Union member states.

7. The Assembly considers with particular concern the situation in Portugal, where nationals of east European Council of Europe member states are authorised to live and work legally in the country without being granted residence permits, which deprives them of security of legal status as well as a range of attached rights.

8. The Assembly acknowledges the outstanding achievements made by the European Union in the area of the protection of EU migrant workers and believes that the Council of Europe should play a major role in bringing the protection of all migrant workers who are nationals of Council of Europe member states closer to EU standards.

---

1. Text adopted by the Standing Committee, acting on behalf of the Assembly, on 18 November 2002 (see Doc. 9603, report of the Committee on Migration, Refugees and Demography, rapporteur: Mrs Aguiar, and Doc. 9610, opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Budin).

9. The Assembly is convinced that the signature and ratification of the European Convention on the Legal Status of Migrant Workers would be an important step in this direction, and that it would contribute to achieving greater unity between Council of Europe member states and facilitating their economic and social progress, in compliance with the principles of non-discrimination and dignity of the person.

10. The Assembly therefore recommends that the Committee of Ministers:

*reiterate the invitation to Council of Europe member states to sign and ratify the European Convention on the Legal Status of Migrant Workers at the earliest opportunity;*

*reiterate the invitation to Council of Europe member states to sign and ratify the European Convention on Establishment;*

*ask its appropriate committee to analyse the reasons why so few member states have so far adhered to the above-mentioned Council of Europe conventions and, in the light of this analysis, take corresponding measures aimed at increasing the number of states parties to these conventions;*

*ask its appropriate committees, and in particular the European Committee on Migration (CDMG), to conduct a study on the notions of residence and residence permits for foreign nationals in Council of Europe member states, with a view to promoting the harmonisation of the law applicable to residence;*

*ask its appropriate committees, and in particular the CDMG, to conduct a study on the feasibility of a Council of Europe instrument facilitating the movement and transit of migrant workers who are nationals of a Council of Europe member state and live and work legally in another member state;*

*ask the Consultative Committee of the European Convention on the Legal Status of Migrant Workers to monitor the situation in Portugal, in consideration of a possible ratification of the convention by Moldova or other non-EU member states, and possibly give an opinion.*