

COUNCIL OF EUROPE

COMMITTEE OF MINISTERS

RECOMMENDATION No. R (84) 12

OF THE COMMITTEE OF MINISTERS TO MEMBER STATES CONCERNING FOREIGN PRISONERS

*(Adopted by the Committee of Ministers on 21 June 1984
at the 374th 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 the large number of foreign prisoners detained in the penitentiary establishments of member states ;

Recognising the difficulties which these prisoners may face on account of such factors as different language, culture, customs and religion ;

Desirous of alleviating any possible isolation of foreign prisoners and of facilitating their treatment with a view to their social resettlement ;

Considering that such treatment should take into account the special needs of foreign prisoners and ensure that it provides them with opportunities equal to those accorded to other prisoners ;

Considering it desirable to establish certain standards at European level ;

Having regard to Resolution (73) 5 on standard minimum rules for the treatment of prisoners and Resolution (75) 3 on the legal and administrative aspects of criminality among migrant workers,

Recommends the governments of member states to be guided in their law and practice by the principles annexed to this recommendation.

APPENDIX

The following principles are designed to apply to foreign prisoners, that is to say to prisoners of different nationality who on account of such factors as language, customs, cultural background or religion may face specific problems. As far as prisoners awaiting trial or extradition are concerned, these principles should, however, be applied only to the extent that their implementation does not impair the purpose of the detention.

In implementing these principles, account should be taken of the requirements of the prison administration, including prison security, and the availability of resources.

The principles should be applied so as to ensure that the treatment of foreign prisoners is conducive to their social resettlement. This might require adopting particular measures in relation to particular categories of foreign prisoners, taking into account such factors as nationality, language, religious precepts and customs, cultural background, length of sentence, and liability to expulsion. Every reasonable effort should be made to ensure that the treatment of foreign prisoners does not lead to their being disadvantaged.

I. Allocation to prison establishments

1. The allocation of a foreign prisoner to a prison establishment should not be effected on the grounds of his nationality alone. If his allocation to a prison establishment is likely to alleviate his situation of isolation and to facilitate his treatment it may be effected according to his specific needs, particularly with regard to his communications with persons of the same nationality, language, religion or culture. This possibility should be envisaged in particular where the national penitentiary system takes account of the wishes of prisoners when allocating them to prison establishments.

II. Treatment in prison

a. Measures to reduce isolation and promote social resettlement

2. To alleviate his feeling of isolation, a foreign prisoner's communications with other persons of the same nationality, language, religion or culture should be facilitated, for instance by permitting them to work, spend their leisure time or take exercise together.

3. Every effort should be made to give foreign prisoners access to reading material in their language. To that end, prisons might seek the assistance of consular services and appropriate private organisations.

4. Where a foreign prisoner is likely to be able to remain in the country of detention and wishes to be assimilated into the culture of that country, the prison authority should assist him in doing so.

5. Foreign prisoners should have the same access as national prisoners to education and vocational training.

In order that foreign prisoners may have access to courses designed to improve educational and professional qualifications, consideration should be given to the possibility of providing them with necessary special facilities.

6. Visits and other contacts with the outside world should be so arranged as to meet the foreign prisoner's special needs.

7. Ordinarily foreign prisoners should be eligible for prison leave and other authorised exits from prison according to the same principles as nationals. The assessment of the risk that a foreign prisoner may leave the country and escape punishment should always be made on the merits of the individual case.

b. Measures to reduce language barriers

8. Foreign prisoners should be informed promptly after reception into a prison, in a language which they understand, of the main features of prison routine, of available training and study facilities, and of possibilities, if any, for requesting the assistance of an interpreter. This information should be supplied in writing or, where this is not possible, orally.

9. A foreign prisoner who has no command of the language of the country in which he is detained should be provided with translation or interpretation concerning sentence, any right of appeal, and any judicial decision taken in the course of his detention.

10. To enable foreign prisoners to learn the language spoken in the prison, appropriate opportunities for language training should be provided for them.

c. Measures to meet special requirements

11. The religious precepts and customs of foreign prisoners should be respected. So far as practicable, foreign prisoners should be allowed to comply with them.

12. Account should also be taken of problems which might arise from differences in culture.

d. Measures to ease conditions of detention

13. Foreign prisoners, who in practice do not enjoy all the facilities accorded to nationals and whose conditions of detention are generally more difficult, should be treated in such a manner as to counter-balance, so far as may be possible, these disadvantages.

III. Assistance by consular authorities

14. Foreign prisoners should be informed without delay of their right to request contacts with their consular authorities, the possibilities of assistance which might be accorded by these authorities and any action concerning them which is to be taken by the competent authorities having regard to existing consular treaties. If a foreign prisoner wishes to receive assistance from a diplomatic or consular authority, including action for his social resettlement in case of expulsion, the latter should be informed promptly of his wish.

15. Consular authorities should, at the earliest possible stage, assist their detained nationals, particularly by regularly visiting them.

16. In the course of their duties, consular authorities should offer any assistance possible to further the social resettlement of foreign prisoners, in accordance with the relevant regulations and arrangements of the country of detention. In particular, they should offer their assistance concerning the prisoner's family relations by facilitating visits from and contacts with members of his family.

17. Consular authorities should make every effort to provide, in accordance with existing prison regulations, literature and other reading material to help foreign prisoners maintain contacts with their home countries.

18. Consular authorities should consider the production of information leaflets for their detained nationals. These leaflets should indicate the location and telephone number of the nearest consulate and inform the prisoner of the possibilities of assistance which may be granted by consulates, such as visiting the prisoner, providing information as regards his defence, supplying literature and reading material, and suggesting possibilities of repatriation, particularly as regards the prisoner's transfer in application of existing international agreements. These leaflets should be made available to the prisoner at the earliest possible stage of his detention.

IV. Assistance by community agencies

19. Prison authorities and community agencies working in the field of aid and resettlement of prisoners should, in collaboration, pay particular attention to foreign prisoners and their specific problems. Community agencies in the prisoner's home country should act in collaboration with the consular authorities of that country.

20. Community agencies should be encouraged to promote information for foreign prisoners about assistance which may be offered to them. Prison authorities should ensure that this information is easily accessible to foreign prisoners.

21. Contacts of foreign prisoners with community agencies should be facilitated.

22. With a view to according adequate assistance to foreign prisoners, prison authorities should grant community agencies all necessary opportunities for visits and correspondence, provided that the prisoner consents to these contacts. Where only a limited number of visits can be made, consideration should be given in appropriate cases to extending the visiting time and to making restrictions on sending or receiving letters more flexible.

23. With a view to facilitating contacts between community agencies and foreign prisoners, the competent authorities in each country should appoint a national contact bureau for community agencies which have responsibility for the social resettlement of prisoners and operate in its territory. The address of the national contact bureau as well as that of any diplomatic or consular authority should be communicated by the prison authority to any foreign prisoner at the moment of reception into the prison.

24. The organisation of assistance by volunteers likely to be able to assist foreign prisoners should be promoted and furthered. These volunteers should act under the responsibility of either the prison authorities or the consular authorities or the community agencies. As far as possible, these volunteers should be accorded the same opportunities as those referred to in paragraph 22.

V. Training and use of prison staff

25. Training for prison officers and other categories of staff to support their work with foreign prisoners should be encouraged and incorporated in the normal training programmes. In general, such training should seek to improve understanding of the difficulties and cultural backgrounds of foreign prisoners so as to prevent prejudiced attitudes from arising.

26. Consideration should be given to having certain staff available for more intensive work with foreign prisoners and enhancing their ability to do so through the provision of more specialised training focusing, for instance, upon the learning of a language or particular difficulties occurring in relation to particular groups of foreign prisoners.

VI. Collection of statistics

27. Consideration should be given to the collection of routine statistics which allow foreign nationals to be classified with reference to factors of importance for practical administration. In this context it should be borne in mind that it is desirable to be able to subdivide the foreign prisoner population with regard to nationality, length of sentence, main offence, residence in the country and liability to expulsion. So far as possible, the statistics should cover the numbers received during the course of a year as well as a daily average.

28. Consideration should also be given to conducting occasional surveys on matters which do not easily lend themselves to analysis by routine statistics.

VII. Expulsion and repatriation

29. In order to allow for the most adequate prison treatment, decisions concerning expulsion should be taken as soon as possible, without prejudice to the prisoner's right to appeal against the decision, taking into account the foreign prisoner's personal ties and the effects on his social resettlement.

30. In view of the advantages to the prisoner's social resettlement, the competent authorities of the country of detention should, regardless of any decision on expulsion, consider the desirability of repatriating the prisoner, in accordance with existing international arrangements.