

**Recommendation No. R (2000) 9
of the Committee of Ministers to member states
on temporary protection**

*(Adopted by the Committee of Ministers
on 3 May 2000
at the 708th meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Recalling the 1950 Convention on the Protection of Human Rights and Fundamental Freedoms, the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol and other relevant international instruments;

Bearing in mind the Conclusions adopted by the *Ad hoc* Committee of Experts on the Legal Aspects of Territorial Asylum, Refugees and Stateless Persons (CAHAR) at its 1999 extraordinary meeting on Kosovo and Recommendation No. R (99) 23 of the Committee of Ministers to member states on family reunion for refugees and other persons in need of international protection, as well as the 1981 Conclusion No. 22 (XXXII) on the Protection of Asylum-Seekers in Situations of Large-Scale Influx and the 1998 Conclusion No. 85 (XLIX) on International Protection by the Executive Committee of the Program of the United Nations High Commissioner for Refugees (UNHCR);

Having regard to Recommendation 1348 (1997) of the Parliamentary Assembly on the temporary protection of persons forced to flee their country;

Anxious to preserve the institution of asylum and to ensure that persons who are in need of international protection have the possibility to seek and enjoy such protection with full respect for their fundamental human rights and dignity;

Considering that, in cases of massive and sudden influx of persons in need of international protection, member states might decide to adopt temporary protection measures;

Underlining that temporary protection is an exceptional, practical measure, limited in time and that it complements the protection regime enshrined in the 1951 Convention and its 1967 Protocol;

Noting that among beneficiaries of temporary protection there may be refugees within the meaning of the 1951 Convention and the 1967 Protocol and that the granting of temporary protection must not prejudice recognition of refugee status under those instruments;

Stressing that international solidarity is a key to coping with situations of massive and sudden influx and that the obligation of states to offer protection based on the

principle of *non-refoulement* is not dependent on burden-sharing arrangements between states;

Emphasising that return under safe and dignified conditions to the country of origin is to be facilitated, and that voluntary return is preferable;

Desiring to establish certain minimum guarantees for the persons concerned in relation to those member states which apply or wish to apply temporary protection measures,

Adopts the following recommendations :

1. Persons in need of international protection should, for their safety, be admitted to the country where they first seek protection with only minimal formalities. The granting of such protection by one state should not prejudice the possibility of subsequent admission to a third state. These persons should be treated with full respect for their fundamental human rights and liberties. In taking decisions to initiate temporary protection measures, competent national authorities should consult with the United Nations High Commissioner for Refugees (UNHCR).

2. Persons benefiting from temporary protection should be swiftly registered and allowed to remain in the territory of the host country for the duration of applicable temporary protection measures. The freedom of movement of such persons within the territory of the host country should not be unnecessarily restricted.

3. Persons benefiting from temporary protection should have access, at least, to:

- adequate means of subsistence, including accommodation,
- appropriate health care,
- education for their children,
- the labour market in conformity with national legislation.

4. With regard to family reunion for persons benefiting from temporary protection who are not able to lead a normal family life together elsewhere, Recommendation No. (99) 23 of the Committee of Ministers, where appropriate, should apply.

5. The needs of vulnerable persons for special protection and assistance should be met, to the extent possible.

6. In the spirit of international solidarity and in an effort to alleviate the burden that falls upon the host countries, member states should take appropriate steps to co-operate with each other. Such co-operation should take place, on the one hand, between different host countries for the purpose of temporary protection and, on the other hand, between host countries and countries of origin for the safe and dignified return of those involved to, and re-integration into their country of origin.

7. Co-operation by states to prepare for emergencies would facilitate the exercise of international solidarity in situations of unexpected, massive and sudden influx. Member states affected by such situations may decide to turn to the Committee of Ministers for rapid consultation.

8. Individual applications for refugee status, where national law allows the suspension of examination of such applications, should be examined according to modalities provided for by internal legislation, at the latest, when temporary protection measures cease to apply. However, such suspension of examination should not last longer than can reasonably be justified by the exceptional circumstances.

9. Temporary protection measures cease to apply by decision of the competent authorities of the host country when the circumstances in the country of origin which had given rise to the massive and sudden flight have changed in a manner which enable the return in safety and dignity of the persons benefiting from these measures.

10. After a prolonged period of time without change in the relevant circumstances in the country of origin, temporary protection measures also cease to apply by decision of the competent authorities of the host country to offer long-term solutions with an adequate level of entitlements to the persons concerned.

11. In phasing out temporary protection measures, competent national authorities should consult with the UNHCR.

12. Member states should facilitate, through all available means, the voluntary return of persons whose temporary protection comes to an end. The decision by such persons to return must be well-informed. Where appropriate, the possibility of visiting the country of origin should be envisaged.

13. The right to return to one's own country should be respected by all states. Countries of origin should treat returning persons in a dignified manner and with full respect for their human rights.

14. When deciding about the return of the persons concerned, member states should take into consideration compelling humanitarian reasons, which would make return in such individual cases impossible or unreasonable.