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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Doc. 12175
26 February 2010

Reinforcing the effectiveness of Council of Europe treaty law

Report
Committee on Legal Affairs and Human Rights
Rapporteur: Mr John PRESCOTT, United Kingdom, Socialist Group

Summary

The Council of Europe plays a major role in setting standards in the human rights field and in developing international law. The pan-European conventional *acquis* it has developed lays the foundations for a Europe without dividing lines.

The Council of Europe member states must renew their commitment vis-à-vis this normative corpus, whose importance and undeniable added value are recalled in the report.

To this end, the number of ratifications of treaties – particularly the more basic conventions – must increase. Furthermore, existing treaties must be re-examined and updated as appropriate (or indeed, in extreme cases, abrogated).

The report also calls into question the increasing use of so-called "disconnection clauses", and invites the Committee of Ministers to regulate this practice more strictly.

Contents **Page**

A. Draft resolution 3
Appendix to Resolution … (2010) – Core Council of Europe treaties 4
B. Draft recommendation 6
C. Explanatory memorandum by Mr Prescott, rapporteur 7
1. Introduction 7
2. The Council of Europe as architect of the European legal area 7
3. The Council of Europe's "core" treaties 8
4. Fresh impetus for the ratification process 9
5. Declarations, reservations and disconnection clauses 9
6. Possible obsolete or inappropriate treaties 10
7. Conclusions and recommendations 11

A. Draft resolution

1. The Parliamentary Assembly underlines the key role of the Council of Europe in drawing up human rights standards and its major contribution to the development of international law through its treaties. The Assembly is committed to ensuring that these standards are fully applied.

2. The Council of Europe's treaties embody the Organisation's shared values and constitute a fundamental body of law.

3. As the political driving force of the Council of Europe, the Assembly has initiated many of these conventions and welcomes the successful development of this European legal *acquis*.

4. The Assembly emphasises that many Council of Europe treaties deal with pressing issues and include ground-breaking provisions to supplement existing international law.

5. The Assembly welcomes the fact that the Council of Europe has laid the foundations of an innovative and coherent body of European law, particularly in its special fields of expertise of human rights' protection, democracy and the rule of law. This body of conventions, covering the entire continent, forms the basis for a Europe without dividing lines.

6. One distinctive feature of Council of Europe treaty law is the independent machinery established by certain conventions to monitor their implementation, the most advanced being the European Court of Human Rights. Thanks in particular to these monitoring arrangements, the Council of Europe's treaty law has proved its added value and shown itself to be effective.

7. However, the Assembly regrets that the authority of Council of Europe treaty law is adversely affected by the excessively low member state participation in certain conventions. It calls on all the member states to ratify the organisation's "core treaties" as a matter of priority, particularly those provided with monitoring mechanisms.

8. It also notes that certain treaties are outdated or even obsolete and that a minority of them have never come into force even more than 20 years after their adoption.

9. If Council of Europe treaty law is to retain its relevance and value, its conventions must reflect the realities of present-day society.

10. The Assembly believes that two steps must be taken to make Council of Europe treaties more effective and ensure that they are implemented. Firstly, there must be increased member state participation in those treaties, in other words a larger number of ratifications. Secondly, the relevance of Council of Europe treaties must be ensured by updating them, by establishing procedures for abrogating those that are clearly obsolete and withdrawing those that have not come into force within a certain number of years of their adoption.

11. The Assembly calls on member states to:

    11.1. ratify, as a matter of priority, what the Assembly considers to be the core Council of Europe treaties (see Appendix) with as few reservations as possible;

    11.2. withdraw their reservations, derogations and restrictive declarations concerning Council of Europe treaties, particularly the European Convention on Human Rights.

12. The Assembly invites each national parliament to:

    12.1. require its government to submit during each legislature a report on its policy on ratifying Council of Europe conventions, as is already the case in certain member states;

    12.2. instruct its foreign or European affairs committee and, where appropriate, those on legal affairs and human rights to hold debates on Council of Europe activities in the legal and human rights fields, with particular emphasis on the application of the corresponding legal instruments;

    12.3. report to it regularly on the progress of national procedures for ratifying Council of Europe treaties and explain to it, where necessary and in a spirit of dialogue, any difficulties encountered.

Appendix to Resolution … (2010) – Core Council of Europe treaties

Human rights (including minority rights)

– Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5)
  - Protocol No. 1 (ETS No. 9 – protection of property)
  - Protocol No. 4 (ETS No. 46 – freedom of movement, prohibition of expulsion of nationals and prohibition of collective expulsion of aliens)
  - Protocol No. 6 (ETS No. 114 – abolition of the death penalty)
  - Protocol No. 7 (ETS No. 117 – various: immigration legislation, criminal law and equality)
  - Protocol No. 12 (ETS No. 177 – general prohibition of all forms of discrimination)
  - Protocol No. 13 (ETS No. 187 – abolition of the death penalty in all circumstances)
  - Protocol No. 14 (CETS No. 194 – reform of the Court)
– European Social Charter/European Social Charter (revised) (ETS No. 35 and ETS No. 163)
  - Additional Protocol to the European Social Charter (ETS No. 128 – additional rights)
  - Protocol amending the European Social Charter (ETS No. 142 – reform of the supervisory machinery) (not yet in force)
  - Additional Protocol to the European Social Charter (ETS No. 158 – providing for a system of collective complaints)
– European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ETS No. 126) and its amending protocols
– Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108)
– European Charter for Regional or Minority Languages (ETS No. 148)
– Framework Convention for the Protection of National Minorities (ETS No. 157)
– Council of Europe Convention on Trafficking in Human Beings (CETS No. 197)
– Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201)

Legal co-operation in criminal matters/Combating terrorism

– European Convention on Extradition (ETS No. 24)
  - Additional Protocol (ETS No. 86 – prohibition of extradition for political offences and further reference to the ne bis in idem principle)
  - Second Additional Protocol (ETS No. 98 – further provisions)
– European Convention on Mutual Assistance in Criminal Matters (ETS No. 30)
  - Additional Protocol (ETS No. 99 – redefines the provisions of the Convention)
  - Second Additional Protocol (ETS No. 182 – cross-border crime and data protection)
– European Convention on the Suppression of Terrorism (ETS No. 90)
  - Amending Protocol (ETS No. 190 – limiting the exceptions to the treaty's provisions)
– Criminal Law Convention on Corruption (ETS No. 173)
  - Additional Protocol (ETS No. 191 – extending its scope to persons exercising quasi-judicial functions)
– Civil Law Convention on Corruption (ETS No. 174)
– Convention on Cybercrime (ETS No. 185)
  - Additional Protocol (ETS No. 189 – criminalisation of racist acts)

– Council of Europe Convention on the Prevention of Terrorism (CETS No. 196)

– Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198)

B. Draft recommendation

1. The Parliamentary Assembly, referring to its Resolution ... (2010) on reinforcing the effectiveness of Council of Europe treaty law, considers that one of the Council of Europe's main functions is to draw up standards on human rights and the rule of law that together form a coherent body of European conventions. It therefore asks the Committee of Ministers to:

1.1. approve an action plan to secure the early ratification by all member states of the core Council of Europe treaties, as defined in the appendix to the Assembly resolution, with the fewest possible reservations;

1.2. urge member states to withdraw their reservations, derogations and restrictive declarations concerning Council of Europe treaties, particularly the European Convention on Human Rights, and instruct the Committee of Legal Advisers on Public International Law (CAHDI) to intensify its existing efforts in this area to reduce the use of such clauses;

1.3. agree on an action programme of new conventions to be drawn up, as a matter of priority, over the next five years;

1.4. instruct the Steering Committee on Human Rights (CDDH), the European Committee on Legal Co-operation (CDCJ) and the European Committee on Crime Problems (CDPC), in close co-operation with the Council of Europe's Legal Advice Department and the Treaty Office, to examine the binding legal instruments within their respective areas of authority, with a view to identifying:

1.4.1. treaties that are still relevant but require updating;

1.4.2. treaties that are obsolete and should be abrogated;

1.4.3. treaties which have lost their relevance and have not come into force within a certain number of years of their adoption and which should be withdrawn.

1.5. in the light of changes in European law within the European Union, particularly the advent of framework decisions or community acts, consult the CAHDI on the possible adoption by the Council of Europe of pan-European model acts to supplement its treaties.

2. The Assembly is also concerned about the possible effects of the increased use, at the request of the European Union, of so-called disconnection clauses in Council of Europe treaties. To ensure the coherence of Council of Europe treaty law, and to avoid establishing new dividing lines in Europe, it asks the Committee of Ministers to draw up strict guidelines to control this practice, based on the work of the CAHDI. The Assembly also urges the European Union to accede to the Council of Europe's conventions, in particular the European Convention on Human Rights, as provided for in the Lisbon Treaty.

C. Explanatory memorandum by Mr Prescott, rapporteur

1. Introduction

1. As stated in the motion for a recommendation presented by the rapporteur (Doc. 11425), since its foundation the Council of Europe has drawn up more than 200 conventions and protocols which, after ratification (or acceptance), become binding on member states under international law.

2. The rapporteur notes that the Committee of Ministers and the Parliamentary Assembly have acknowledged and defend the Council of Europe's major role in creating norms in the human rights field in the widest sense and in the development of international law through its treaties. This unique European role has been referred to on a number of occasions at summits of heads of state and government.

3. One of the weaknesses of the Council of Europe treaty system is that very few conventions have been ratified by all the member states. Those that have include the European Convention on Human Rights, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the European Cultural Convention, the European Convention on Extradition and the European Convention on the Suppression of Terrorism.[1]

4. The Council of Europe's treaties cover practically all the Organisation's areas of activity. They vary in significance and number of ratifications. It is of the utmost importance that at least the essential treaties be ratified by all the member states, with the fewest possible reservations.

2. The Council of Europe as architect of the European legal area

5. As stated in the Assembly's Resolution 1547 (2007) on the state of human rights and democracy in Europe, "The Council of Europe ... is the point of reference for and the guardian of human rights, democracy and respect for the rule of law in Europe. It possesses an array of effective control mechanisms, among which the European Convention on Human Rights (ETS No. 5), the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ETS No. 126), the European Social Charter (ETS No. 35) and the Framework Convention for the Protection of National Minorities (ETS No. 157) are at the forefront. These instruments possess independent review bodies, such as the European Court of Human Rights (the Court), unique in providing for the international judicial protection of human rights. This arsenal for human rights protection has been reinforced, notably by the creation of the European Commission against Racism and Intolerance (ECRI) and the institution of the Commissioner for Human Rights."

6. Article 15 of the Statute of the Council of Europe authorises it to establish rules and standards through the conclusion of conventions or agreements. This means that one of the Council's roles is to construct the European legal area.[2] The Council of Europe's treaty law is now made up of more than 200 treaties.

7. For more details, see the report on the specificity and added value of the *acquis* of Council of Europe treaty law, prepared by Mr Jeremy McBride at the rapporteur's request.[3]

8. The fact that the European Union makes signing and ratifying a significant number of Council conventions a condition for applicant countries' accession is evidence of the importance of the Council of Europe's treaty *acquis*. However, Council of Europe treaty law is not just an entry ticket to the European Union. These treaties have created a European legal area that extends well beyond European Union members and candidates for accession. Moreover, some are also open to ratification by non-Council of Europe member states.

---

1. With the single exception of Andorra.
2. Jiri Malenowsky, "L'espace juridique européen et les nouveaux pays membres du Conseil de l'Europe", in *Law in Greater Europe – Towards a Common Legal Area – Studies in Honour of Heinrich Klebes*; B. Haller, H. C. Krüger and H. Petzold (eds), Kluwer Law International, 2000, p. 362.
3. The report is available under http://assembly.coe.int/CommitteeDocs/2009/ajdoc40%202009.pdf. See also J. Polakiewicz, "Treaty-making in the Council of Europe" (1999), Council of Europe Publishing, and F. Benoît-Rohmer and H. Klebes, "Le droit du Conseil de l'Europe – vers un espace juridique paneuropéen" (2005), Council of Europe Publishing.

3. The Council of Europe's "core" treaties

9. When the Council of Europe celebrated its 50th anniversary, the then Secretary General, Mr Daniel Tarschys, identified 51 instruments that constituted the Organisation's core treaties, the texts of which were to be published in a single volume in each member state. Already by then the Parliamentary Assembly regularly referred to a much more limited list of core treaties, which are easily identifiable in its opinions on the accession of new member states.

10. These divergences do not necessarily facilitate the integration process for new member states, or the coherence of the Council of Europe's legal *acquis*.

11. Based on the Assembly's previous work, the rapporteur believes that the following conventions[4] can be identified as constituting the Council of Europe's core treaties.

Human rights (including minority rights)

1. **Convention for the Protection of Human Rights and Fundamental Freedoms** (ETS No. 5): ratified by all the member states

a. **Protocol No. 1** (ETS No. 9 – protection of property): not ratified by Monaco and Switzerland

b. **Protocol No. 4** (ETS No. 46 – freedom of movement, prohibition of expulsion of nationals and prohibition of collective expulsion of aliens): not ratified by Greece, Switzerland, Turkey and United Kingdom

c. **Protocol No. 6** (ETS No. 114 – abolition of the death penalty): not ratified by Russia

d. **Protocol No. 7** (ETS No. 117 – various: immigration legislation, criminal law and equality): not signed by United Kingdom, not ratified by Germany, Belgium, Netherlands and Turkey

e. **Protocol No. 12** (ETS No. 177 – general prohibition of all forms of discrimination): only 17 ratifications

f. **Protocol No. 13** (ETS No. 187 – abolition of the death penalty in all circumstances): not signed by Azerbaijan and Russia, not ratified by Armenia, Italy, Latvia and Poland

g. **Protocol No. 14** (CETS No. 194 – reform of the Court): not ratified by Russia

2. **European Social Charter (ESC) / European Social Charter (revised)** (ETS No. 35 and ETS No. 163): Andorra, Liechtenstein, Monaco, Montenegro, San Marino and Switzerland have not ratified either

a. **Additional Protocol to the ESC** (ETS No. 128 – additional rights): only 13 ratifications of the 27 that have ratified the ESC

b. **Protocol amending the ESC** (ETS No. 142 – reform of the supervisory machinery) (not yet in force): only 23 ratifications

c. **Additional Protocol to the ESC** (ETS No. 158 – providing for a system of collective complaints): only 12 ratifications

3. **European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment** (ETS No. 126) **and its amending protocols**: ratified by all the member states

4. **Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data** (ETS No. 108): 41 ratifications, 3 signatures not followed by ratification

5. **European Charter for Regional or Minority Languages** (ETS No. 148): only 24 ratifications

6. **Framework Convention for the Protection of National Minorities** (ETS No. 157): not ratified by Andorra, Belgium, France, Greece, Iceland, Luxembourg, Monaco and Turkey

7. **Council of Europe Convention on Action against Trafficking in Human Beings** (CETS No. 197): 15 ratifications, 26 signatures not followed by ratification

8. **Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse** (CETS No. 201): 3 ratifications, 35 signatures not followed by ratification

4. State of ratifications as at 18 January 2010.

Legal co-operation in criminal matters/Combating terrorism

9. **European Convention on Extradition** (ETS No. 24): ratified by all the member states

a. **Additional protocol** (ETS No. 86 – prohibition of extradition for political offences and further reference to the ne bis in idem principle): not ratified by Germany, Austria, Finland, France, Greece, Ireland, Italy, United Kingdom, San Marino and Turkey

b. **Second additional protocol** (ETS No. 98 – further provisions): not ratified by Andorra, France, Greece, Ireland, Liechtenstein, Luxembourg and San Marino

10. **European Convention on Mutual Assistance in Criminal Matters** (ETS No. 30): ratified by all the member states

a. **Additional Protocol** (ETS No. 99 – redefines the provisions of the Convention): not ratified by Andorra, Bosnia and Herzegovina, Liechtenstein, Malta, Monaco, San Marino and Switzerland

b. **Second additional Protocol** (ETS No. 182 – cross-border crime and data protection): 19 ratifications, 17 signatures not followed by ratification

11. **European Convention on the Suppression of Terrorism** (ETS No. 90): not ratified by Andorra

a. **Amending protocol** (ETS No. 190 – limiting the exceptions to the treaty's provisions): 29 ratifications, 17 signatures not followed by ratification

12. **Criminal Law Convention on Corruption** (ETS No. 173): not ratified by Austria, Germany, Italy, Liechtenstein, San Marino and Spain

a. **Additional Protocol** (ETS No. 191 – extending its scope to persons exercising quasi-judicial functions): 25 ratifications, 10 signatures not followed by ratification

13. **Civil Law Convention on Corruption** (ETS No. 174): not ratified by 14 member states

14. **Convention on Cybercrime** (ETS No. 185): 26 ratifications, 20 signatures not followed by ratification

a. **Additional Protocol** (ETS No. 189 – criminalisation of racist acts): 15 ratifications, 19 signatures not followed by ratification

15. **Council of Europe Convention on the Prevention of Terrorism** (CETS No. 196): 22 ratifications, 21 signatures not followed by ratification

16. **Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism** (CETS No. 198): 11 ratifications, 18 signatures not followed by ratification

4. Fresh impetus for the ratification process

12. The Assembly has already considered several reports on certain member states' failure to ratify core treaties. The Committee on Legal Affairs and Human Rights regularly discusses this subject in the context of ratification of the European Charter for Regional or Minority Languages and the Framework Convention for the Protection of National Minorities or of Russia's failure so far to ratify Protocol No. 14 of the European Convention on Human Rights. Too often, unfortunately, member states display a lack of political commitment to ratifying certain instruments.

13. The Assembly should call on all the member states, and not just the new ones, to sign and/or ratify as soon as possible, as a matter of priority, all the treaties identified as being in the "core" category. Member states should report regularly on the progress of the relevant procedures and where necessary explain to the Assembly, in a spirit of dialogue, any difficulties encountered.

5. Declarations, reservations and disconnection clauses

14. As Mr McBride told at the committee hearing on 1 October 2009, the declarations and reservations are so numerous and varied that it is impossible to quantify their general impact on the Council of Europe's legal *acquis* (see also paragraph 7).

15. The Assembly should again call on member states to sign and/or ratify all the main Council of Europe legal instruments without reservations or restrictive interpretative declarations and to withdraw those already made.[5] It should repeat its request to member states to withdraw their reservations and derogations concerning Council of Europe treaties, particularly the European Convention on Human Rights.[6]

5. See Assembly Resolution 1547 (2007) on the state of human rights and democracy in Europe, Recommendation 870 (1979) on the ratification of Council of Europe conventions and agreements and Resolution 894 (1988) on the ratification of Council of Europe conventions.

16. Questions may also be raised about the relatively new practice of including in Council of Europe treaties, at the request of the European Union, so-called disconnection clauses. As Mr Anderson explained at the committee hearing, these are clauses in multilateral treaties that enable members of the European Union (or parties to other bilateral or multilateral arrangements) to apply their own rules to their mutual relations rather than those of the treaty.

17. However, the purpose of such clauses is not very clear, and their scope even less so.

18. One is entitled to ask whether this practice constitutes a form of blank cheque or whether European Union member states are trying to avoid their obligations under Council of Europe instruments or even replace the Council of Europe system with their own. The initial idea was to enable the European Union to impose higher standards but in practice there is a danger that such clauses will permit the application of lower standards.

19. This is an extremely important issue, which the Committee of Legal Advisers on Public International Law (CAHDI) has already discussed.[7]

20. The rapporteur is concerned that disconnection clauses have become common in recent Council of Europe conventions. The practice has potentially significant and unforeseeable consequences and poses a threat to the coherence of Council of Europe treaties and could reinforce divisions in Europe.[8]

21. He therefore encourages the European Union itself to accede to the Council of Europe's conventions, giving priority – as provided for in the Lisbon Treaty – to the European Convention on Human Rights. This would probably reduce the need to resort to disconnection clauses.

22. He also encourages the Committee of Ministers to draw up strict guidelines to control the use of disconnection clauses, and invites it to base these guidelines on the criteria presented by Mr Anderson at the committee hearing[9] and the conclusions of the aforementioned CAHDI report.

23. Finally, in view of the Council of Europe's unique role in drafting rules and standards applicable to the entire continent with a view to fostering a stronger Europe without dividing lines, and of legal developments in the European Union, particularly the emergence of framework decisions and community acts, the rapporteur asks the Committee of Ministers to consult the CAHDI on whether it is possible for the Council of Europe to adopt draft pan-European "model acts" to complement its treaties. The introduction of this kind of act could adequately complement the Council of Europe treaties. International treaties indeed suffer from the slowness of the ratification procedures.

6. Possible obsolete or inappropriate treaties

24. Europe has undergone a profound transformation since the adoption of the Council of Europe's Statute in 1949. Many very old treaties have fallen into disuse because they no longer reflect the realities of society, which are constantly evolving, while others have been deliberately replaced by more modern texts.[10]

---

6. See Assembly Recommendation 1671 (2004) on the ratification of protocols and withdrawal of reservations and derogations made in respect of the European Convention on Human Rights.

7. Document CM(2008)164, 27 October 2008.

8. The Assembly is very keen to maintain a uniform interpretation of Council of Europe treaties, and has already addressed this subject in its Recommendation 1458 (2000) "towards a uniform interpretation of Council of Europe conventions: creation of a general judicial authority".

9. Mr Anderson asked the Council of Europe to:

1 recognise that disconnection clauses to which the parties have agreed are lawful, serve a useful purpose and may even be necessary in order to accommodate the fact that in certain respects, the EU has taken the place of its member states as an international actor;

2. require disconnection clauses to specify that they apply only where relations between EU member states are governed by EU/EC rules;

3. require disconnection clauses to specify that they do not reduce the rights or increase the obligations of a non-EU party vis-à-vis the EU and its member states;

4. require that disconnection clauses should not be used to defeat the object and purpose of the Treaty;

5. require the EU parties to keep the other parties informed of the content of EU rules;

6. require disconnection clauses to be directed only to those provisions of the Treaty in respect of which they are necessary;

7. resist in the case of human rights-type provisions setting standards *erga omnes* (see CAHDI report, paragraph 40; Mr McBride's report, footnote 92);

8. encourage EC participation in Council of Europe conventions.

25. Twenty-one Council of Europe conventions that are more than twenty years old have never come into force for lack of the required number of ratifications. Of these, 12 are actually over thirty years old.

26. Should the Council of Europe consider the introduction of a procedure for removing or withdrawing conventions?

27. The International Labour Organization (ILO) has already undertaken such an exercise with the adoption, in 1997, of an instrument to amend its constitution.[11] This provides that "by a majority of two-thirds of the votes of delegates present, the Conference, acting on a proposal of the Governing Body, may abrogate any Convention adopted in accordance with the provisions of this article if it appears that the Convention has lost its purpose or that it no longer makes a useful contribution to attaining the objectives of the Organisation." There are various procedural conditions to ensure that no convention will be abrogated unless there is very substantial support for the decision. Abrogation applies to conventions in force.

28. However, the ILO also has a procedure for withdrawing conventions that have never come into force. The ILO Conference has been deemed not to require formal powers to withdraw conventions that have not come into force because in such cases there are no constitutional obligations between members or binding the organisation to its members. The International Labour Conference thus withdrew five conventions in 2000 (Nos. 31, 46, 51, 61 and 66).

29. The Council of Europe should also consider these issues, and include in its discussions the updating of certain conventions that are already in force. This could take the form of one or more joint meetings of the Assembly's Committee on Legal Affairs and Human Rights and the CAHDI and/or the various steering committees concerned. If the Council of Europe's legal *acquis* is to retain its full value, and in order to avoid any threats to the credibility of all the other Council of Europe conventions, these treaties must continue to reflect present-day realities.

7. Conclusions and recommendations

30. In its Resolution 1547 (2007) on the state of human rights and democracy in Europe, the Assembly noted that "While recognising that much progress has been made in member states, there remains a need to reduce the gap between standards on paper and the reality on the ground. The full implementation of existing human rights in everyday life is an unfinished task".

31. The Assembly should launch a major campaign to secure ratification of the main Council of Europe treaties. This would represent a powerful new commitment by the member states (including the longest-standing ones) to the organisation's fundamental values.

32. The Assembly wishes to point out that if major treaties such as those on trafficking in human beings and the protection of children against sexual exploitation and sexual abuse, which add ground-breaking provisions to existing international standards, do not secure a sufficient number of member state ratifications, they will not have the impact that the countries most affected by these problems urgently await.

33. Steps could also be taken to make the Council of Europe treaty system more effective. The Assembly should therefore encourage the Committee of Ministers to give serious consideration, followed by concrete action, to the possible withdrawal of treaties that have not come into force after many years, or even the abrogation of conventions that have become obsolete, as well as to updating conventions that are still important but require certain changes. Finally, to ensure the continued coherence of Council of Europe treaty law, the Committee of Ministers should impose strict conditions on the use of disconnection clauses.

***

Reporting committee: Committee on Legal Affairs and Human Rights

Reference to committee: Doc. 11425, Reference 3395 of 21 January 2008

Draft resolution and draft recommendation unanimously adopted by the committee on 26 January 2010

---

10. Jiri Malenowsky, "L'espace juridique européen et les nouveaux pays membres du Conseil de l'Europe", in *Law in Greater Europe – Towards a Common Legal Area – Studies in Honour of Heinrich Klebes*; B. Haller, H. C. Krüger and H. Petzold (Eds.), Kluwer Law International, 2000, p. 362.

11. For more details see http://www.ilo.org/public/english/bureau/leg/download/amendmenten.pdf.

Members of the committee: Mr Christos **Pourgourides** (Chairperson), Mr Christopher **Chope**, Mr Christoph **Strässer**, Mr Serhiy **Holovaty** (Vice-Chairpersons), Ms Marieluise Beck, Ms Marie-Louise **Bemelmans-Videc**, Mr Petru Călian, Mr Erol Aslan **Cebeci**, Ms Ingrida **Circene**, Ms Ann Clwyd (alternate: Mr John **Prescott**), Mr Agustín **Conde Bajén**, Mr Telmo Correia, Mr Joe Costello, Mr ***Arcadio****Díaz Tejera,* Ms Lydie Err, Mr Renato Farina, Mr Valeriy **Fedorov**, Mr Joseph Fenech Adami, Ms Mirjana **Ferić-Vac**, Mr György **Frunda**, Mr Jean-Charles **Gardetto**, Mr József Gedei, Ms Svetlana Goryacheva, Mr Neven Gosović, Ms Carina **Hägg**, Mr Holger Haibach (alternate: Ms Anette **Hübinger**), Ms Gultakin **Hajibayli**, Mr Johannes **Hübner**, Mr Michel **Hunault**, Mr Rafael Huseynov, Mr Shpetim Idrizi, Mr Aliosman **Imamov**, Mr Željko Ivanji, Ms Kateřina **Jacques**, Mr Mogens Jensen, Mr András **Kelemen**, Ms Kateřina **Konečná**, Mr Franz Eduard **Kühnel**, Ms Darja Lavtižar-Bebler, Mr Pietro Marcenaro, Ms Milica Marković, Mr Dick Marty, Ms Ermira Mehmeti Devaja, Ms Chiora Taktakishvili (alternate: Mr Akaki **Minashvili**), Mr Philippe Monfils, Mr Felix **Müri**, Mr Philippe Nachbar (alternate: Mr Yves **Pozzo di Borgo**), Mr Adrian Năstase, Ms Anna **Ntalara**, Ms Steinunn Valdís Óskarsdóttir, Mr Valery Parfenov, Mr Peter Pelegrini (alternate: Mr József **Berényi**), Ms Marietta **de Pourbaix-Lundin**, Mr Valeriy Pysarenko, Mr Janusz Rachoń, Ms Mailis Reps (alternate: Mr Aleksei **Lotman**), Ms Marie-Line Reynaud, Mr François Rochebloine, Mr Paul **Rowen**, Mr Armen Rustamyan, Mr Kimmo **Sasi**, Ms Marina **Schuster**, Mr Yanaki **Stoilov**, Mr Fiorenzo **Stolfi**, Lord John **Tomlinson**, Mr Tuğrul **Türkeş**, Ms Özlem **Türköne**, Mr Viktor Tykhonov (alternate: Mr Ivan **Popescu**), Mr yvind **Vaksdal**, Mr Giuseppe Valentino, Mr Hugo Vandenberghe, Mr Egidijus **Vareikis**, Mr Miltiadis **Varvitsiotis**, Mr Luigi **Vitali**, Mr Klaas **de Vries**, Ms Nataša **Vučković**, Mr Dimitry **Vyatkin**, Mr Marek Wikiński, Ms Renate Wohlwend, Mr ***Jordi*** *Xuclà i Costa*

NB: The names of the members who took part in the meeting are printed in **bold**

Secretariat of the committee: Mr Drzemczewski, Mr Schirmer, Ms Szklanna, Ms Heurtin