

Opinion 37 (1963)¹

Proposals relating to the standardisation of fundamental legal concepts in Europe

Parliamentary Assembly

The Assembly,

Having regard to the proposals which Dr. Christian Broda, Minister of Justice for Austria, made in his address to it on 17th May 1962 ;

Having regard to the request of the Committee of Ministers of 22nd June 1962 for its opinion on these proposals,

Adopts the following Opinion :

The Assembly welcomes the proposals for the standardisation of fundamental legal concepts employed in European Conventions and Agreements, which were put before the Assembly by the Minister of Justice for Austria on 17th May 1962.

The Assembly considers that the unification, or harmonisation of the legislations of member States is already possible not only in special branches of law, but also with regard to fundamental legal concepts.

These concepts, when agreed upon in the context of a given subject-matter, should , whenever possible, serve as common definitions in Council of Europe Conventions and Agreements, and as statutory definitions in domestic legislation, in that same subject-matter. This would apply in particular to Conventions and Agreements about to be concluded. Future Agreements should, whenever possible, be construed consistently with existing Agreements, provision being made for the solution of any specific conflicts of interpretation.

Having regard to the above considerations, the Assembly, even at this stage, suggests that the work to be undertaken should proceed along the following lines :

1. The Secretariat of the Council of Europe should send the member Governments questionnaires with a view to determining which legal concepts have given rise to difficulties in the application of European Agreements.
2. Specialised institutions such as the International Institute for the Unification of Private Law in Rome and the Max Planck Institute in Hamburg should be approached with a view to the making of the necessary preliminary studies on those themes which present a practical interest and which appear to offer a reasonable chance of success.
3. The ad hoc Committee on legal cooperation, which was recently set up by the Committee of Ministers, should be instructed to consider on what subjects the standardisation of basic legal concepts would represent a practical interest and, in particular, to evaluate the replies received from the Governments under point 1 and to enlist the help of the specialised institutions in the study of specific questions.

1. Assembly debate on 9th May 1963 (7th Sitting) (see [Doc. 1574](#), Report of the Legal Committee). Text adopted by the Assembly on 9th May 1963 (7th Sitting).

