



## Recommendation 1223 (1993)<sup>1</sup>

# Reservations made by member states to Council of Europe conventions

Parliamentary Assembly

1. The conclusion of conventions and agreements or other legal instruments by which the member states are bound constitutes one of the chief methods available to the Council of Europe for attaining the goals set by its Statute.
2. According to the Vienna Convention and the rules of international law, on acceding to an international convention states are entitled to make certain reservations.
3. Many conventions furthermore specify in their actual texts certain reservations of which the Contracting States may avail themselves, particularly at the time of signing and ratifying the convention.
4. The use of a reservation enables a state to circumvent the obstacle which it may encounter in a given convention provision. Thus the possibility of making reservations simplifies the accession of states to certain Council of Europe conventions.
5. With a view to ensuring maximum participation by Contracting States, most conventions therefore provide facilities whereby states need not be bound by certain provisions.
6. Nonetheless, the use of reservations also has major drawbacks. Firstly, the unity and coherence of the convention may be impaired. The legal machinery which it institutes may be weakened and fall short of the goal of harmonising and unifying the relevant law. As the states are no longer bound by the same international undertakings, reservations interfere with the equality which should prevail between contracting parties and seriously complicate their relations. In addition, it is often difficult to determine the obligations of each state.
7. In conclusion, the Assembly considers it advisable and even necessary that the number of reservations made in respect of Council of Europe conventions be considerably reduced. It accordingly recommends that the Committee of Ministers,
  - a. with regard to Council of Europe conventions which have already been concluded:
    1. invite member states to make a careful review of their reservations, withdraw them as far as possible and make a reasoned report to the Secretary General if certain reservations are maintained;
    2. instruct the Council of Europe steering committees to examine, in the light of the national reports suggested above, the reservations made in respect of each convention within their sphere of competence;
  - b. as regards Council of Europe conventions to be concluded in the future:
    1. include in each convention a clause specifying whether reservations are admitted and, if this is the case, the conditions under which states may make reservations;

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1. Assembly debate on 1 October 1993 (51st Sitting) (see [Doc. 6856](#), report of the Committee on Legal Affairs and Human Rights, Rapporteur: Mr Gundersen). Text adopted by the Assembly on 1 October 1993 (51st Sitting).



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2. limit the validity of reservations to a maximum period of ten years. At the end of that period the Secretary General of the Council of Europe shall invite the state which made the reservation to review it, withdraw it as far as possible or make a reasoned report to the Secretary General if the reservation is maintained. If the reservation is not expressly renewed by the Contracting State, it shall automatically lapse one year after the invitation of the Secretary General to react;
3. vest the bodies set up by conventions with the authority to issue reasoned opinions on such reservations as the Contracting States may wish to make.