



## Recommendation 1246 (1994)<sup>1</sup>

# Abolition of capital punishment

### Parliamentary Assembly

1. The Parliamentary Assembly deplores the fact that the legislation of eleven Council of Europe member states and seven states whose legislative assemblies enjoy special guest status still provides for the death penalty.
2. It is deeply shocked that fifty-nine people were legally put to death in these states last year and that at least 575 prisoners are known currently to be awaiting their execution.
3. The Assembly considers that the death penalty has no legitimate place in the penal systems of modern civilised societies, and that its application may well be compared with torture and be seen as inhuman and degrading punishment within the meaning of Article 3 of the European Convention on Human Rights.
4. It recalls, furthermore, that the imposition of the death penalty has proved ineffective as a deterrent, and, owing to the possible fallibility of human justice, also tragic through the execution of innocent people.
5. It emphasises that in principle rules aimed at governing special situations should not differ from general rules unless there is a "good reason" to the contrary. The Assembly holds that there is no reason why capital punishment should be inflicted in wartime, when it is not inflicted in peacetime. On the contrary, it finds one very weighty reason why the death penalty should never be inflicted in wartime: wartime death sentences, meant to deter others from committing similar crimes, are usually carried out speedily so as not to lose their deterrent effect. The consequence, in the emotionally charged atmosphere of war, is a lack of legal safeguards and a high increase in the risk of executing an innocent prisoner.
6. Therefore the Assembly recommends that the Committee of Ministers:
  - 6.1. draw up an additional protocol to the European Convention on Human Rights, abolishing the death penalty both in peace-and wartime, and obliging the signatories not to re-introduce it under any circumstances;
  - 6.2. set up a control-mechanism under the Secretary General to encompass both member states and states whose legislative assemblies enjoy special guest status:
    - a. obliging all states whose legislation still provides for the death penalty to set up a commission as soon as possible in their country with a view to abolishing capital punishment;
    - b. asking these commissions to report at regular six-monthly intervals to the Secretary General of the Council of Europe on how abolition is proceeding;
    - c. calling for a moratorium on executions to be implemented immediately, while the commissions fulfil their tasks;
    - d. obliging the commissions to notify the Secretary General of the Council of Europe of any death sentences passed and any executions scheduled without delay, and to inform him in detail of the relevant circumstances;

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1. Assembly debate on 4 October 1994 (25th Sitting) (see [Doc. 7154](#), report of the Committee on Legal Affairs and Human Rights, Rapporteur: Mr Franck). Text adopted by the Assembly on 4 October 1994 (25th Sitting).



- e. binding any country that has scheduled an execution to halt it for a period of six months from the time of notification of the Secretary General, during which time the Secretary General may send a delegation to conduct an investigation and make a recommendation to the country concerned;
- 6.3. organise a conference to take place in 1995 on the abolition of the death penalty, with the participation of all member states and those holding special guest status;
- 6.4. in accordance with the established case-law of the European Court of Human Rights, not allow the extradition of any person to a country in which he or she risks being sentenced to death and subjected to the extreme conditions on "death row";
- 6.5. consider the attitude of applicant states towards the death penalty when deciding on their admission as full members to the Council of Europe.