



Resolution 1349 (2003)¹

Abolition of the death penalty in Council of Europe observer states

Parliamentary Assembly

1. The Parliamentary Assembly of the Council of Europe refers to [Resolution 1253 \(2001\)](#) and [Recommendation 1522 \(2001\)](#) on the abolition of the death penalty in Council of Europe Observer states.
2. The Assembly once more reaffirms its complete opposition to capital punishment, which has no legitimate place in the penal systems of modern civilised societies. The Assembly considers that its application constitutes torture and inhuman and degrading punishment and is thus a severe violation of universally recognised human rights.
3. Under Statutory Resolution (93) 26 of the Committee of Ministers on Observer status, a state wishing to become a Council of Europe Observer has to be willing to accept the principles of democracy, the rule of law, and the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms. Japan and the United States of America (both granted Observer status in 1996) keep the death penalty on their statute books and carry out executions. For this reason, the Assembly found Japan and the United States in violation of their obligations under Statutory Resolution (93) 26 in [Resolution 1253](#) (adopted on 25 June 2001).
4. In that resolution, the Assembly consequently required Japan and the United States to institute without delay a moratorium on executions and take the necessary steps to abolish the death penalty. At the same time, it resolved to take all necessary measures to assist Japan and the United States in their endeavours, in particular by promoting parliamentary dialogue in all forms. In [Recommendation 1522](#), the Assembly recommended that the Committee of Ministers proceed in the same way at governmental level.
5. The Assembly has been successful in initiating a dialogue with Japanese parliamentarians, in particular with the Diet members' League for the Abolition of the Death Penalty. In May 2002, the Assembly's Committee on Legal Affairs and Human Rights, in co-operation with the league, organised a conference on Justice and Human Rights in Council of Europe Observer States, in Tokyo, which took the abolition debate to the highest levels of Japanese politics. Unfortunately, while the dialogue with Japanese parliamentarians is fruitful and ongoing, Japan has not yet abolished the death penalty and has carried out five executions since June 2001. An abolition bill, while gaining growing support, has not yet mustered the votes needed to pass the Diet.
6. In contrast, the Assembly has largely failed in its efforts to promote transatlantic parliamentary dialogue. A conference in the United States on Justice and Human Rights in Council of Europe Observer States organised by the Assembly's Committee on Legal Affairs and Human Rights in April 2003 attracted few Illinois state parliamentarians in Springfield (despite the valued support of the Illinois State Senate President and prominent abolitionist politicians), and none in Washington, D.C. The number of abolitionist American jurisdictions has remained low at thirteen, while Illinois remains the only jurisdiction applying a moratorium on executions. Since June 2001, 137 executions have been carried out in seventeen American jurisdictions, including at federal level.

1. Assembly debate on 1 October 2003 (30th Sitting) (see [Doc. 9908](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mrs Wohlwend). Text adopted by the Assembly on 1 October 2003 (30th Sitting).



7. The Assembly thus regrets having to find Japan and the United States, once more, in violation of their fundamental obligation to respect human rights under Statutory Resolution (93) 26, due to their continued application of the death penalty.
8. The Assembly thus requires Japan and the United States to make more of an effort to take the necessary steps to institute a moratorium on executions with a view to abolishing the death penalty.
9. The Assembly asks the Japanese Parliament and Government to continue and deepen its constructive dialogue with the Council of Europe on this issue. In the meantime, it reiterates its demands that the conditions on “death row” be immediately improved, that the secrecy surrounding executions be ended and that access to post-conviction and post-appeal judicial review be broadened for “death row” inmates, and supports the Japanese political and NGO movement working towards these aims and towards the establishment of a moratorium on executions.
10. The Assembly asks the United States Congress and Government, at federal and state level to enter into a more constructive dialogue with the Council of Europe on this issue. It encourages American politicians to create abolitionist “caucuses” in their respective parliamentary assemblies, and to continue to engage opponents of abolition in informed debate.
11. The Assembly supports the American political and NGO movement aimed at putting into place moratoria on executions and restricting the application of the death penalty (in particular, against juvenile defendants and foreign nationals), as well as efforts to reinforce legal guarantees and due process in these cases.
12. The Assembly thus decides to intensify its dialogue with parliamentarians from Japan with a view to encouraging rapid progress on the institution of a moratorium on executions and the abolition of the death penalty, and to continue its efforts to enter into a dialogue with parliamentarians from the United States (both state and federal) with a view to supporting them in their endeavours to institute moratoria on executions and abolish the death penalty. To this end, the Assembly will invite parliamentarians from both countries to a parliamentary conference to be held in 2004 on effective criminal justice in a human rights framework.
13. The Assembly resolves to debate the abolition of the death penalty in Council of Europe member and Observer states whenever the necessity arises, on the decision of the Bureau, and, in any case, at the latest in the year 2005.