

## Recommendation 234 (1960)<sup>1</sup>

# Second Protocol to the Convention on Human Rights

Parliamentary Assembly

The Assembly,

Considering that the Convention for the Protection of Human Rights and Fundamental Freedoms, signed at Rome on 4th November 1950, represents, as stated in its Preamble, only "the first step(s) for the collective enforcement of certain of the Rights stated in the Universal Declaration" ;

Having considered the report of its Legal Committee ([Doc. 1057](#)) ;

Being resolved to take further steps in the matter of civil and political rights,

Recommends to the Committee of Ministers :

1. that it should convene a Committee of Experts with instructions to draft a Second Protocol to the Convention of Human Rights based on the attached draft, in order to protect certain civil and political rights not covered by the original Convention or the First Protocol ;
2. that it should submit the draft Protocol prepared by the Committee of Experts to the Assembly for an opinion before signature by Member Governments.

### *DRAFT -for a Second Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms*

The Governments signatory hereto, being Members of the Council of Europe,

Considering that the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4th November 1950 (hereinafter referred to as "the Convention") represents, as witness to the text of its Preamble, "the first step(s) for the collective enforcement of certain of the Rights stated in the Universal Declaration" ;

Considering that the Convention marked a first stage which should be followed by others ;

Considering that a second stage was marked by the signature of a Protocol to the Convention at Paris on 20th March 1952 ;

Taking account of the work being done at the United Nations to draw up an international covenant on civil and political rights ;

Being resolved to extend the collective guarantee provided by the Convention to other political rights which are also part of their common spiritual and legal heritage and their common conception of democracy,

Have agreed as follows :

### ARTICLE 1

No one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation.

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1. Assembly Debate on 22nd January 1960 (30th Sitting) (see [Doc. 1057](#), Report of the Legal Committee). Text adopted by the Assembly on 22nd January 1960 (30th Sitting).



## ARTICLE 2

1. Everyone legally within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.
2. Everyone shall be free to leave any State, including his own.
3. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and constitute a measure which, in a democratic society, is necessary for national security, public safety, the economic welfare of the country, the maintenance of law and order, the prevention of crime and the protection of health or morals, or the rights and freedoms of others.

## ARTICLE 3

No one shall be exiled from the State of which he is a national. Everyone shall be free to enter the State of which he is a national.

## ARTICLE 4

1. An alien lawfully residing in the territory of a High Contracting Party may be expelled only if he endangers national security or offends against ordre public or morality.
2. Except where imperative considerations of national security otherwise require, an alien who has been lawfully residing for more than two years in the territory of a Contracting Party shall not be expelled without first being allowed to avail himself of an effective remedy before a national authority, within the meaning of Article 13 of the Convention.

An alien who has been lawfully residing for more than ten years in the territory of a Contracting Party may be expelled only for reasons of national security or if the other reasons mentioned in paragraph 1 of this Article are of a particularly serious nature.

## ARTICLE 5

Every individual shall have the right to recognition everywhere as a person in the eyes of the law.

## ARTICLE 6

(Alternative A)

All persons are equal before the law. The law shall afford to all persons equal and effective protection.

(Alternative B)

All persons are equal before the law. No one shall be subjected by the State to any discrimination based on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, belonging to a national minority, property, birth or other status.

## ARTICLE 7

1. Any High Contracting Party may at the time of signature or ratification or at any time thereafter communicate to the Secretary-General of the Council of Europe a declaration stating the extent to which it undertakes that the provisions of the Protocol shall apply to such of the territories for the international relations of which it is responsible as are named therein.
2. Any High Contracting Party which has communicated a declaration in virtue of the preceding paragraph may from time to time communicate a further declaration modifying the terms of any former declaration or terminating the application of the provisions of this protocol in respect of any territory.
3. A declaration made in accordance with this Article shall be deemed to have been made in accordance with paragraph 1 of Article 63 of the Convention.

## ARTICLE 8

1. As between the High Contracting Parties the provisions of Articles 1 to 9 of this Protocol shall be regarded as additional Articles to the Convention, and all the provisions of the Convention shall apply accordingly.
2. (Alternative A)

A declaration already made, or which may in the future be made, in accordance with Article 25 or Article 46 of the Convention by any High Contracting Party to this Protocol shall become operative in respect of the provisions of this Protocol.

(Alternative B)

Nevertheless, a declaration recognising the right of individual recourse in accordance with Article 25 of the Convention or a declaration recognising the compulsory jurisdiction of the Court in accordance with Article 46 of the Convention shall apply in respect of the rights set forth in this Protocol only if the High Contracting Party concerned has so stated.

#### ARTICLE 9

1. This Protocol shall be open for signature by the Members of the Council of Europe who are the signatories of the Convention; it shall be ratified at the same time as or after the ratification of the Convention. It shall enter into force after the deposit of five instruments of ratification. As regards any signatory ratifying subsequently, the Protocol shall enter into force at the date of the deposit of its instrument of ratification.

2. The instruments of ratification shall be deposited with the Secretary-General of the Council of Europe, who will notify all Members of the names of those who have ratified.

Done at.....