



## Resolution 1253 (2001)<sup>1</sup>

# Abolition of the death penalty in Council of Europe observer states

Parliamentary Assembly

1. The Parliamentary Assembly of the Council of Europe reaffirms its complete opposition to capital punishment. The Assembly considers that the death penalty has no legitimate place in the penal systems of modern civilised societies, and that its application constitutes torture and inhuman or degrading punishment within the meaning of Article 3 of the European Convention on Human Rights.
2. The Assembly believes 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.
3. The Assembly recalls that the willingness to institute an immediate moratorium on executions and to abolish the death penalty in the long term have become, since 1994, preconditions for accession to the Council of Europe. As a result, the forty-three countries which make up the Council of Europe have been a de facto death penalty-free zone since 1997.
4. Under Statutory Resolution (93) 26 on Observer status, a state wishing to become a Council of Europe Observer state 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. Canada (1996), Mexico (1999), Japan (1996) and the United States of America (1996) have been granted Observer status by the Committee of Ministers of the Council of Europe. Japan and the United States keep the death penalty on the statute books and carry out executions.
5. The Assembly condemns all executions, wherever they are carried out. However, it is particularly disturbed about executions carried out in Observer states which have committed themselves to respect human rights. The Assembly condemns the execution of juvenile offenders, of persons suffering from mental illness or retardation, and the lack of a mandatory appeal system for death penalty cases. The Assembly is also very concerned about conditions on "Death Row", both in Japan and in the United States, exacerbating the mental anguish known as "Death Row phenomenon", which was expressly declared a violation of human rights by the European Court of Human Rights in 1989.
6. The Assembly is aware of the various obstacles which have so far impeded the abolition of the death penalty in both Observer states, such as a high proportion of public support. These obstacles can and must be overcome, as the European experience has shown. In the United States, the criminal justice system is not exclusively of federal competence. The Assembly believes, however, that both the federal and the state legislatures should follow the example of the thirteen American jurisdictions which have abolished the death penalty.
7. When Japan and the United States were granted Observer status with the Council of Europe, the Organisation's position on capital punishment was already clear, but had not yet been taken on board by all European states. Today, the Council of Europe does not accept countries in its midst which carry out executions. Viewing the application of the death penalty as a violation of the most fundamental human rights,

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1. Assembly debate on 25 June 2001 (17th Sitting) (see [Doc. 9115](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mrs Wohlwend). Text adopted by the Assembly on 25 June 2001 (17th Sitting).



such as the right to life and the right to be protected against torture and inhuman or degrading treatment, the Assembly thus finds Japan and the United States in violation of its obligations under Statutory Resolution (93) 26.

8. The Assembly therefore requires Japan and the United States of America:

8.1. to institute without delay a moratorium on executions, and take the necessary steps to abolish the death penalty;

8.2. to improve conditions on "Death Row" immediately, with a view to alleviating "Death Row phenomenon" (this includes the ending of all secrecy surrounding executions, of all unnecessary limitations on rights and freedoms, and a broadening of access to post-conviction and post-appeal judicial review).

9. The Assembly resolves to take all necessary measures to assist Japan and the United States in instituting moratoria on executions and abolishing the death penalty. To this end, the Assembly will promote dialogue with parliamentarians from Japan and the United States (both state and federal) in all forms, in order to support legislators in their endeavours to institute moratoria on executions and abolish the death penalty, and in order to engage the opponents of abolition in an informed debate.

10. The Assembly deplores the fundamental difference in values regarding the abolition of the death penalty between the Council of Europe on the one hand and Japan and the United States on the other hand. It urges these Observer states to make a serious effort to bridge this widening gap. The Assembly decides to call into question the continuing Observer status of Japan and the United States with the Organisation as a whole, should no significant progress in the implementation of this resolution be made by 1 January 2003.

11. The Assembly decides to henceforth only grant Observer status with the Assembly to national parliaments, and to only recommend the granting of Observer status with the Organisation as a whole to states which strictly respect a moratorium on executions or have already abolished the death penalty.