



**Resolution 1732 (2010)<sup>1</sup>**

Final version

## Reinforcing the effectiveness of Council of Europe treaty law

Parliamentary Assembly

1. The Parliamentary Assembly underlines the key role of the Council of Europe in drawing up human rights standards and its major contribution to the development of international law through its treaties. The Assembly is committed to ensuring that these standards are fully applied.
2. The Council of Europe's treaties embody the Organisation's shared values and constitute a fundamental body of law.
3. As the political driving force of the Council of Europe, the Assembly has initiated many of these conventions and welcomes the successful development of this European legal *acquis*.
4. The Assembly emphasises that many Council of Europe treaties deal with pressing issues and include ground-breaking provisions to supplement existing international law.
5. The Assembly welcomes the fact that the Council of Europe has laid the foundations of an innovative and coherent body of European law, particularly in its special fields of expertise of human rights protection, democracy and the rule of law. This body of conventions, covering the entire continent, forms the basis for a Europe without dividing lines.
6. One distinctive feature of Council of Europe treaty law is the independent machinery established by certain conventions to monitor their implementation, the most advanced being the European Court of Human Rights. Thanks in particular to these monitoring arrangements, the Council of Europe's treaty law has proved its added value and shown itself to be effective.
7. However, the Assembly regrets that the authority of Council of Europe treaty law is adversely affected by the excessively low member state participation in certain conventions. It calls on all the member states to ratify the Organisation's "core treaties" as a matter of priority, particularly those provided with monitoring mechanisms.
8. It also notes that certain treaties are outdated or even obsolete and that a minority of them have never come into force even more than 20 years after their adoption.
9. If Council of Europe treaty law is to retain its relevance and value, its conventions must reflect the realities of present-day society.
10. The Assembly believes that two steps must be taken to make Council of Europe treaties more effective and ensure that they are implemented. Firstly, there must be increased member state participation in those treaties, in other words a larger number of ratifications. Secondly, the relevance of Council of Europe treaties must be ensured by updating them, by establishing procedures for abrogating those that are clearly obsolete and withdrawing those that have not come into force within a certain number of years of their adoption.

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1. *Text adopted by the Standing Committee, acting on behalf of the Assembly on 21 May 2010 (see Doc. 12175, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Prescott). See also Recommendation 1920 (2010).*



11. The Assembly calls on member states to:
  - 11.1. ratify, as a matter of priority, what the Assembly considers to be the core Council of Europe treaties (see appendix) with as few reservations as possible;
  - 11.2. withdraw their reservations, derogations and restrictive declarations concerning Council of Europe treaties, particularly the Convention for the Protection of Human Rights and Fundamental Freedoms, also known as the European Convention on Human Rights (ETS No. 5).
12. The Assembly invites each national parliament to:
  - 12.1. require its government to submit during each legislature a report on its policy on ratifying Council of Europe conventions, as is already the case in certain member states;
  - 12.2. instruct its foreign or European affairs committee and, where appropriate, those on legal affairs and human rights, to hold debates on Council of Europe activities in the legal and human rights fields, with particular emphasis on the application of the corresponding legal instruments;
  - 12.3. report to it regularly on the progress of national procedures for ratifying Council of Europe treaties and explain to it, where necessary and in a spirit of dialogue, any difficulties encountered.

## **Appendix – Core Council of Europe treaties**

### **Human rights (including minority rights)**

- Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5)
- Protocol No. 1 (ETS No. 9 – protection of property)
- Protocol No. 4 (ETS No. 46 – freedom of movement, prohibition of expulsion of nationals and prohibition of collective expulsion of aliens)
- Protocol No. 6 (ETS No. 114 – abolition of the death penalty)
- Protocol No. 7 (ETS No. 117 – various: immigration legislation, criminal law and equality)
- Protocol No. 12 (ETS No. 177 – general prohibition of all forms of discrimination)
- Protocol No. 13 (ETS No. 187 – abolition of the death penalty in all circumstances)
- Protocol No. 14 (CETS No. 194 – reform of the Court)
- European Social Charter/European Social Charter (revised) (ETS No. 35 and ETS No. 163)
- Additional Protocol to the European Social Charter (ETS No. 128 – additional rights)
- Protocol amending the European Social Charter (ETS No. 142 – reform of the supervisory machinery) (not yet in force)
- Additional Protocol to the European Social Charter (ETS No. 158 – providing for a system of collective complaints)
- European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ETS No. 126) and its amending protocols
- Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108)
- European Charter for Regional or Minority Languages (ETS No. 148)
- Framework Convention for the Protection of National Minorities (ETS No. 157)
- Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197)
- Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201)

### **Legal co-operation in criminal matters/combating terrorism**

- European Convention on Extradition (ETS No. 24)
- Additional Protocol (ETS No. 86 – prohibition of extradition for political offences and further reference to the *ne bis in idem* principle)
- Second Additional Protocol (ETS No. 98 – further provisions)
- European Convention on Mutual Assistance in Criminal Matters (ETS No. 30)
- Additional Protocol (ETS No. 99 – redefines the provisions of the convention)
- Second Additional Protocol (ETS No. 182 – cross-border crime and data protection)
- European Convention on the Suppression of Terrorism (ETS No. 90)
- Amending Protocol (ETS No. 190 – limiting the exceptions to the treaty's provisions)
- Criminal Law Convention on Corruption (ETS No. 173)
- Additional Protocol (ETS No. 191 – extending its scope to persons exercising quasi-judicial functions)
- Civil Law Convention on Corruption (ETS No. 174)
- Convention on Cybercrime (ETS No. 185)
- Additional Protocol (ETS No. 189 – criminalisation of racist acts)

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- Council of Europe Convention on the Prevention of Terrorism (CETS No. 196)
- Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198)