

Statement by the Council of Europe

Abolition of capital punishment

Europe continues towards a continent-wide ban on the death penalty. As of 1 September 2005, Protocol No. 6 to the European Convention on Human Rights (ECHR), which outlaws the death penalty in times of peace, has been ratified by 45 of the 46 Council of Europe member States.

The seriousness that now attaches to abolition of the death penalty is one of the major achievements of the international community in the 50 years of its existence, and the Council of Europe has been a pioneer in this process. Firstly, it laid down the first ever-binding legal instrument on the death penalty – Protocol No 6 to the European Convention on Human Rights. Secondly, it has exerted political and other pressure to ensure that countries that keep the death penalty on the statute books observe a moratorium on executions. Thirdly, it has insisted that countries move towards abolition of the death penalty and ratification of Protocol No 6 of the European Convention on Human Rights within a fixed time scale. Today, this is one of the core commitments that membership of the Council of Europe implies, and it is relevant for candidate States, as well as Member states – both new and old.

In addition the Council of Europe has adopted Protocol No. 13 to the ECHR, concerning the abolition of the death penalty in all circumstances. The abolition of the death penalty remains a central political objective of the Council of Europe, and a core value of the organisation.

The Parliamentary Assembly of the Council of Europe has been a driving force in the movement to abolish the death penalty. It was at the origin of Protocol No 6 in 1983, and the proponent of Protocol 13. The Parliamentary Assembly has adopted successive statements to outlaw the death penalty, and perhaps more importantly, has constantly exerted pressure in order to encourage abolition – and insist in the meantime on moratoria in individual countries. It has done this both in the context of examining new candidatures for membership and in its procedures for monitoring the compliance of existing member States with commitments undertaken when joining the Organisation.

In June this year the PACE debated a report on Position of the Parliamentary Assembly as regards the Council of Europe member and observer states which have not abolished the death penalty. A Resolution 1760 was adopted, where the Assembly recommends that the Committee of Ministers:

- pursue its efforts to ensure that Protocol No. 13 (ETS No. 187) is ratified by all Council of Europe member states as soon as possible;

- urge the Russian Federation to ratify Protocol No. 6 on the abolition of the death penalty in peacetime (ETS No. 114) without further delay;
- invite Albania and Latvia to amend their domestic legislation so as to abolish the death penalty for crimes committed in wartime or during a state of emergency;
- clarify with Azerbaijan the situation of the prisoners sentenced to death prior to the abolition of capital punishment in that country in 1998, whose sentences have apparently still not been commuted and who therefore continue to be held on death row.

The Council of Europe Committee of Ministers has also continued, until recently, to monitor capital punishment to ensure compliance with the commitments accepted by all member States of the Council of Europe within the context of its thematic monitoring procedure. The subject continues to be considered at meetings of the Ministers' Deputies at six-month intervals.

The European Court of Human Rights has also recognised the considerable evolution with regard to the legal position of the death penalty. The Court noted that capital punishment in peacetime had come to be regarded as an unacceptable form of punishment which was no longer permissible under Article 2 of the Convention. The Court held that the imposition of the death sentence on the applicant following an unfair trial by a court whose independence and impartiality were open to doubt amounted to inhuman treatment in violation of Article 3 of the Convention.

As part of the Council of Europe's efforts towards universal abolition of the death penalty, the question of the status of the death penalty in States having Observer Status at the Council of Europe has also arisen in the Parliamentary Assembly. In the Resolution 1760 the Assembly urged again the United States of America and Japan to abolish the death penalty as soon as possible

The Assembly also recommended that the Committee of Ministers urges the European Union to raise the issue of the death penalty in its political dialogue with China.

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