



CONFERENCE OF INGOs
OF THE COUNCIL OF EUROPE

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CONSEIL DE L'EUROPE

Declaration on genuine democracy adopted on 24 January 2013

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The Conference of International Non-Governmental Organisations (INGOs) of the Council of Europe,

1. **As an active player** in promoting democracy and defending the principles of the Universal Declaration of Human Rights and the European Convention on Human Rights;
2. **Noting** that “genuine democracy”, a term enshrined in the Statute of the Council of Europe, goes hand in hand with “the protection of human rights” and “the rule of law” as a requirement for accession by states to membership of the Council of Europe;
3. **Believing** that there is a need for the fundamental elements of genuine democracy to be brought together in a reference text based on existing Council of Europe conventions and declarations, as well as the case-law of the European Court of Human Rights;
4. **Recalling** the work of the Council of Europe on the principles of genuine democracy*, which served us as basis for the drafting of this Declaration;
5. **Underlining** the need to determine and clarify more effectively the fundamental elements of the three complementary and inseparable principles that are the distinguishing features of the Council of Europe’s common heritage, namely respect for the universal and indivisible rights of the individual, the rule of law and the genuinely democratic nature of political systems;
6. **Underlining** the crucial part which civil society, in particular NGOs, can play in building a genuine democracy;
7. **Believing** that a general declaration on the fundamental principles of pluralist democracy will help to expand and consolidate democracy in Europe and throughout the world;
8. **Recommending** that this text be used to determine the conditions required for becoming or remaining a member state of the Council of Europe;
9. **Bearing in mind** the Universal Declaration of Human Rights and the European Convention on Human Rights, as well as the Statute of the Council of Europe and all the texts adopted by the organisation listed in the appendix;

10. **Urging** those states which have not yet ratified the conventions included in the list to do so as soon as possible;
11. **Believing** that genuine democracy is a political, legal and cultural system based on respect for human rights, the rule of law and the ability of all individuals to take part in public life;
12. **Aware** that democracy entails the active commitment of individuals and their governments to equality, tolerance, and respect for diversity, as well as to social integration;
13. **Recognising** that education is the key means of developing democratic values in the young, and wishing to encourage them to exercise fully the rights and assume the responsibilities of citizenship;
14. **Believing** that effective democracy and good governance at all levels are essential for preventing conflicts, promoting stability, facilitating economic and social progress, and hence for creating sustainable communities where people want to live and work, now and in the future, and that this can only be achieved through the active involvement of citizens and civil society;
15. **Wishing** member states to maintain and develop effective, transparent and accountable democratic institutions, responsive to the needs and aspirations of all;
16. **Adopts** the present declaration:

A. PRINCIPLES AND VALUES OF GENUINE DEMOCRACY

I. HUMAN DIGNITY

- a. Genuine democracy must ensure respect for the dignity and the equal value of all persons and for their inalienable rights.

II. EQUALITY AND NON-DISCRIMINATION

- a. All persons are equal under the law and shall be entitled to the equal protection of the law without any discrimination.
- b. Gender equality is a fundamental criterion of democracy which must be ensured in all areas of public and private life.
- c. Any discrimination based on sex, ethnic origin, language, religion, political or other opinions, national or social origin, association with a national minority, sexual orientation, property, birth or other status is prohibited.
- d. Genuine democracy ensures that all individuals enjoy equal and effective protection against any form of discrimination and also affords them full equality of opportunity.
- e. No measure aimed at correcting existing imbalances or hastening the achievement of equality may be regarded as discriminatory.

III. RESPECT FOR DIVERSITY AND TOLERANCE

- a. The principles of pluralism and tolerance require respect for the cultural and linguistic identity of all persons, as well as respect for their freedom to hold or not to hold

religious or philosophical beliefs and to change them insofar as their manifestations remain compatible with human rights.

- b. Genuine democracy must stand firm against all those who seek its destruction, in particular those advocating racial hatred, anti-Semitism, xenophobia, persecution on religious or ideological grounds or violence and terrorism.
- c. The activities of any organisation which opposes the democratic order through violence or the encouragement of violence shall be punished by the law.

IV. UNIVERSALITY AND INDIVISIBILITY OF HUMAN RIGHTS

- a. Human rights and fundamental freedoms are inherent in the individual and are inalienable; their protection is the primary responsibility of states. Respect for, and full enjoyment of, human rights and fundamental freedoms are the bases on which liberty, justice and peace are founded.
- b. Civil, political, economic, social and cultural rights are universal, indivisible and interdependent.
- c. Any derogation from obligations to respect human rights shall remain within the limits provided for in international and European law. Such derogations are by definition of an exceptional nature and shall be applied and interpreted restrictively.

V. INTERDEPENDENCE OF HUMAN RIGHTS, DEMOCRACY AND HUMAN DEVELOPMENT

- a. Genuine democracy and human rights are intrinsically related concepts which cannot exist without each other. Political rights and freedoms form part of human rights, while respect for human rights is essential to the establishment and maintenance of a democratic system. The implementation of a democratic culture helps to develop a human rights culture and vice versa.
- b. Genuine democracy must maintain a balance between the requirements of the general interests of the community and the need to safeguard the fundamental rights of all individuals.
- c. Democracy, human development and respect for all human rights and fundamental freedoms are interdependent and mutually enhancing.

VI. THE RULE OF LAW

The principles of the rule of law include, in particular:

- a. Respect for the principles relating to human rights and fundamental freedoms provided for in international law and, in particular, in the European Convention on Human Rights;
- b. Respect for a constitutional order implementing fundamental rights and conformity of laws to this constitutional order;
- c. The fact that the government and all other public authorities are subject to the law;
- d. Legal certainty, which includes the principle of accessibility to the law and the principles of predictability and proportionality in the application of laws;
- e. Refusal of impunity, which means that:

- In the event of violation of the rule of law, it shall fall to states and the international community to make sure that such violation does not go unpunished;
- Gross violations of human rights, in particular, torture, genocide, ethnocide, systematic rape and massacres should be condemned and their perpetrators punished.

VII. GOVERNMENT ACCOUNTABILITY

- a. In a genuine democracy, those in authority are accountable for their acts to all citizens on whose behalf they exercise power and to their representatives.

B. POLITICAL CONDITIONS FOR THE ACHIEVEMENT OF GENUINE DEMOCRACY

I. CITIZEN PARTICIPATION

1. PARTICIPATION IN PUBLIC AND POLITICAL LIFE

- a. Genuine democracy presupposes power sharing as well as freedom based on solidarity.
- b. Genuine democracy shall permit and encourage full and equal participation by women and men in the democratic process, including balanced representation at all levels of decision-making in public and political life.
- c. Every citizen has a right to participate in the conduct of public affairs, either directly or through freely chosen representatives, both at European and national level and at local and regional level, as well as to vote and be elected.
- d. Every citizen has a right to participate in the voluntary sector.
- e. Every citizen has a duty to take part in the promotion of and respect for human rights and democratic values.
- f. Genuine democracy shall encourage and recognise work done by non-governmental organisations or any voluntary association, whether national or international, working to protect human rights and democratic institutions.
- g. Every foreign national residing lawfully on the territory of a state has the right to participate in public life and the voluntary sector, at least at local level.

2. FREE AND FAIR ELECTIONS

- a. Elections shall be free and fair, in accordance with international and European standards.
- b. Periodic elections to political office are an essential means of enabling the will of the people to be expressed.
- c. Such elections shall be based on universal and equal suffrage and held by secret ballot. They shall take place in circumstances guaranteeing the possibility of a genuine choice for the electorate and respect for its opinion, and ensuring the proper conduct and legality of procedures, as well as the legality of election results.

- d. The presence of international observers and of the international press shall not be regarded as interference in the internal affairs of the state.

3. POLITICAL PARTIES

- a. A genuinely democratic society requires the existence of a multi-party system.
- b. The right to freedom of association includes the right to establish political parties. The role of these parties is to engage and promote political debate.
- c. The setting up of political parties or other groupings shall be free in accordance with the law. The setting up of political parties may not be obstructed and political parties may only be banned in the cases mentioned under point A-III-b of this declaration. In no circumstances may a political party seek the destruction of democracy or fundamental rights.
- d. The funding of political parties shall be regulated by law.

4. ASSOCIATIONS, NON-GOVERNMENTAL ORGANISATIONS AND TRADE UNION ORGANISATIONS

- a. Associations, non-governmental organisations and trade union organisations are necessary for the proper functioning of democracy; they provide citizens with a means of action and expression.
- b. They have a specific independent role to promote the values of democracy and human rights and contribute to their effective implementation.
- c. Their activities shall not be limited or forbidden in so far as they are carried out in the framework of the law and the respect for human rights.

5. FREEDOM OF EXPRESSION

- a. Freedoms of thought, opinion, expression, information and communication are essential requirements for the functioning and progress of a democratic society and individual fulfilment. They shall not justify calls to violence, incitement to hatred or any form of discrimination.

6. THE ROLE OF THE MEDIA

- a. The freedom and independence as well as the pluralism and diversity of the media are essential for the functioning of a democratic society.
- b. The media's responsibility for ensuring respect for all human rights is an essential counterpart of media freedom. The exercise of this freedom shall not be used to incite violence, hatred or any form of discrimination.
- c. Free circulation of information and ideas across borders must be guaranteed as an important factor in promoting understanding between nations, close relations between peoples and the mutual enrichment of cultures.
- d. The possibilities offered by new information and communication technologies must be taken into consideration to develop a genuine democracy.

7. RESPECT FOR PERSONS BELONGING TO MINORITIES

- a. While based on the principle of majority rule, genuine democracy must at the same time secure the respect of all rights of persons belonging to minorities.

II. LOCAL AND REGIONAL GOVERNANCE

- a. Local and regional self-government is an important element of genuine democracy. It must have an institutional and legal basis.
- b. Such a form of government contributes to the strengthening of a democratic Europe based on the principle of subsidiarity and decentralisation on all levels at which power is exercised.
- c. This includes the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population.
- d. This right shall be exercised by bodies composed of members elected by universal suffrage. This provision shall in no way affect recourse to assemblies of citizens, referendums or any other form of direct citizen participation where it is permitted by statute.
- e. The conditions of office of local elected representatives shall provide for free exercise of their functions.

III. EXERCISE OF POWER IN A STATE GOVERNED BY THE RULE OF LAW

1. SEPARATION OF POWERS

- a. Democracy requires the separation and independence of the legislature, executive and judiciary.
- b. The role of the legislature, as the representative of the electorate, is to draw up and pass legislation, to vote taxes and to hold the executive to account. To this end, the legislature must have independent powers of investigation and scrutiny and its representatives must enjoy immunity from executive pressure or coercion in the exercise of their office.
- c. In implementing and upholding the law, the executive shall be answerable to the people and their representatives. In particular, it must ensure that the law is strictly applied by the agencies entrusted with law enforcement.
- d. Judicial authority shall be exercised independently by the courts and their decisions shall be executed by the competent public authorities in each state.
- e. The independence of judges shall be safeguarded. They shall be impartial and give their rulings within a reasonable time. Judges' decisions shall not be influenced by the interests of the executive, the legislature or any other public authority or private group.
- f. The independence of lawyers shall be recognised and protected, especially with regard to the conditions of their access to the profession and the performance of their duties.

2. IMPARTIALITY OF THE STATE

- a. In keeping with the principle of non-discrimination, genuine democracy presupposes the impartiality of the state with respect to religions, beliefs and convictions.

- b. The state must never favour the interests or values of a specific group.

3. EFFECTIVE PROTECTION AGAINST VIOLATIONS OF FUNDAMENTAL RIGHTS

- a. Every person alleging a violation of his or her recognised rights and freedoms is entitled to an effective remedy before a competent national body, including when the alleged violation was committed by persons acting in the course of their official duties.
- b. Every democratic state must offer any person within its jurisdiction the opportunity of submitting an individual complaint to an international body in the event of a violation of their fundamental rights.
- c. Every democratic state must provide for setting up the office of ombudspersons, commissioners or other national human rights institutions, with the power to take any measure to ensure effective respect for the rights of all persons living on the territory of the state.

4. DEROGATIONS FROM OBLIGATIONS RELATED TO RESPECT FOR RIGHTS

- a. Where the life of the nation is threatened, any exceptional measures taken shall be aimed solely at preserving the democratic system, upholding the rule of law and ensuring respect for fundamental rights and freedoms.
- b. Where the executive authorities are legally empowered to take a decision to impose a state of emergency, the decision shall be subject to approval and review by the legislature. The measures taken shall not be exempt from judicial review under ordinary law.

C. ECONOMIC, SOCIAL AND CULTURAL CONDITIONS FOR THE ACHIEVEMENT OF GENUINE DEMOCRACY

I. ECONOMIC DEVELOPMENT

- a. Genuine democracy shall develop economic systems aimed, amongst other things, at achieving social justice, sustainable economic development, well-being, the promotion of employment and the rational use of economic and environmental resources out of respect for future generations.
- b. Genuine democracy must secure access to essential goods and services for all citizens.
- c. Any economic system must promote the development and self-fulfilment of every individual and the social development of the community aimed at global sustainable development.

II. SOCIAL DEVELOPMENT

1. A GENUINE DEMOCRACY MUST BE A SOCIAL DEMOCRACY

- a. Democracy cannot be genuine unless it has a social dimension. Lack of respect for fundamental social rights threatens legal and political equality, the foundation of any democracy.

- b. Social debate and collective bargaining are elements of social development. Trade unions and other social partners must be able fully to play their role here.

2. PROTECTION AGAINST MARGINALISATION OR EXCLUSION

- a. Democracy can be measured by the way in which it recognises and treats those who are excluded from society.
- b. Any genuine democracy must take concrete measures to eliminate extreme poverty, economic, social and cultural deprivation and marginalisation, in particular:
 - By giving the means to persons suffering poverty and social exclusion to obtain information and make themselves heard and to take part in decision-making on public policy, in particular when it affects them;
 - By facilitating access by such persons to comprehensive services, including appropriate training to enable them to develop their abilities.

III. CULTURAL DEVELOPMENT

1. RIGHT TO EDUCATION

- a. Genuine democracy involves giving effect to the right to education, as an integral part of human rights, with a view to lifelong learning.
- b. Education in human rights, in the values and practice of democracy and in active and responsible citizenship is an essential part of the education system which must be provided not only as part of compulsory general education but also in other forms and at other levels of publicly funded education and lifelong learning. In particular, it concerns members of the judiciary, the police and the armed forces and, in general, those who are expected to ensure respect for the rights of individuals.
- c. The right of parents to ensure that their children receive an education in keeping with their religious and philosophical convictions must be guaranteed insofar as this is compatible with human rights and respects the right of children to their own development.

2. PARTICIPATION IN CULTURAL LIFE

- a. Genuine democracy requires everyone to have access to, and be able to participate actively in, cultural life, information and social communication without any discrimination.
- b. All cultural communities, including those disadvantaged on account of their size, their specific cultural or religious characteristics or their conditions of existence, shall be entitled to pursue their own cultural policy without prejudice to human rights and the rights of other communities.

IV. INTERNATIONAL DIMENSION OF DEMOCRATIC PRINCIPLES

- a. Democratic principles must play an ever-increasing role in the conduct of European and international affairs. Every democracy has a duty to support states in the process of transition to democracy, as well as a duty of solidarity with persons who are oppressed or live in conditions harmful to their development.

- b. Every genuine democracy must defend democratic principles. It should promote human rights protection and democratic principles in its international relations.
- c. The protection of universal human rights is an essential responsibility of the international community and of each of its members and no state may invoke the principle of non-interference in its internal affairs when instances of abuse of human rights are reported.
- d. Preserving and accommodating, on an equal footing and in permanent structures, the democracies which will make Europe a vast area of democratic security must remain one of the major objectives of the Council of Europe. Democracies are therefore invited to commit themselves to the principles and values set out in this declaration.

A P P E N D I X

Convention for the Protection of Human Rights and Fundamental Freedoms (1950) and Protocols

European Cultural Convention (1954)

European Social Charter (1961), its Protocols and the revised European Social Charter (1996)

European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (1987) and Protocols

Convention on the Participation of Foreigners in Public Life at Local Level (1992)

Framework Convention for the Protection of National Minorities (1994)

Convention on Action against Trafficking in Human Beings (2005)

Convention on Preventing and Combating Violence against Women and Domestic Violence (2011)

European Charter of Local Self-Government (1985)

Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (2009)

European Charter for Regional or Minority Languages (1992)

Revised European Charter on the Participation of Young People in Municipal and Regional Life (2003)

Vienna Declaration adopted by the heads of state and government of Council of Europe member states at their first summit on 9 October 1993

Strasbourg Declaration adopted by the heads of state and government of Council of Europe member states at their second summit on 11 October 1997

Warsaw Declaration adopted by the heads of state and government of Council of Europe member states at their third summit on 17 May 2005

Declaration of the Committee of Ministers on Human Rights (1978)

Declaration of the Committee of Ministers regarding intolerance – A threat to democracy (1981)

Declaration of the Committee of Ministers on freedom of expression and information (1982)

Declaration of the Committee of Ministers on equality of women and men (1988)

Declaration of the Committee of Ministers on cultural diversity (2000)

Declaration of the Committee of Ministers on the Code of Good Practice in Electoral Matters (2004)

Declaration of the Committee of Ministers on the Code of Good Practice for Civil Participation in the Decision-Making Process (2009)

Declaration of the Committee of Ministers on religious freedom (2011)

European Landscape Convention (2000)

Recommendation Rec(2002)1 of the Committee of Ministers to member states
on the Guiding principles for sustainable spatial development of the European continent

Resolution of the Ministers responsible for spatial/regional planning of the member States of
the Council of Europe (CEMAT) on the contribution of essential services to the sustainable
spatial development of the European continent, Moscow (2010)

* Final activity report of the Project group “Human Rights and Genuine Democracy”
(CAHDD), CM(96)12 Addendum I