



# The Treaty Office in a Nutshell



COUNCIL OF EUROPE    CONSEIL DE L'EUROPE

**S**ince it was founded in 1949, the Council of Europe has contributed to achieving greater unity between its 47 member States and to creating a pan-European legal area by concluding more than 200 treaties in all areas of its competence. These treaties constitute the concrete applications of the three fundamental principles that underlie the work of the Organisation: democracy, human rights and the rule of law.

The Secretary General of the Council of Europe is the depositary of all these treaties. The tasks related to the exercise of depositary functions are carried out by the Treaty Office, which is responsible for the day-to-day administration of the treaties of the Council of Europe.

The Treaty Office publishes and is the custodian of the original texts of all the treaties and organises each ceremony of signature or ratification. It receives and registers the ratifications, as well as any declarations and reservations that accompany them, and any withdrawal or modification thereof. It ensures that the documents it receives are in due and proper form and notifies them to the member States of the Council of Europe and other States or organisations which are parties to the treaties. The Treaty Office may also be asked to provide advice on questions of public international law.

This booklet is published for the first time in 2009, to mark the Council of Europe's 60th anniversary.

## Procedures for signature and deposit of instruments of ratification



### Signature

- Contact the Treaty Office to organise an appointment with the Secretary General or his/her Deputy.
- Send a copy of the full powers to the Treaty Office at least 24 hours before the appointment.
- During the appointment, the signatory hands over the original of the full powers, signs the original treaty and the *procès-verbal* prepared for the occasion, a copy of which will be given to him/her.

### A special case: the opening of a treaty for signature

Once a treaty is adopted by the Committee of Ministers, it is opened for signature by the member States during a ceremony organised by the Treaty Office. During this ceremony, States sign the original treaty. A *procès-verbal* of signature is not prepared for this occasion. However, a notification listing the signatures on the day of the

opening for signature and a certified copy of the new treaty are sent to the Permanent Representations of all the Council of Europe member States.

### Deposit of instruments of ratification

- There are two ways to deposit an instrument:

#### *In person*

The original of the instrument of ratification is handed over to the Secretary General or his/her Deputy in person.

The appointment is organised by the Treaty Office. A copy of the instrument is to be sent to the Treaty Office at least 24 hours before the appointment.

The person depositing the instrument of ratification is not required to produce full powers authorising them to do so. Handing over the original of the instrument of ratification is sufficient.

#### *By mail*

The original of the instrument of ratification is sent by mail to the Treaty Office for registration. This is the usual way of depositing an instrument.

- On each occasion, a *procès-verbal* is drawn up. It mentions any reservations and/or declarations contained in the instrument of ratification. A copy of the *procès-verbal* is then given or sent to the Permanent Representative of the State which has deposited the instrument.

The date of registration is the date of receipt of the original of the instrument by the Secretary General or by the Treaty Office.

After each signature or ratification, the Treaty Office website is updated and a notification is sent to all member States and, where appropriate, to the other States or organisations party to the treaty.

## A few definitions

**Treaty:** an international agreement concluded between States in written form and governed by international law. Most of the Council of Europe treaties are entitled “conventions” but some are referred to as “agreements”, “charters”, “codes” or “protocols”. Whatever their denomination, all these instruments are treaties as defined by the 1969 Vienna Convention on the Law of Treaties.

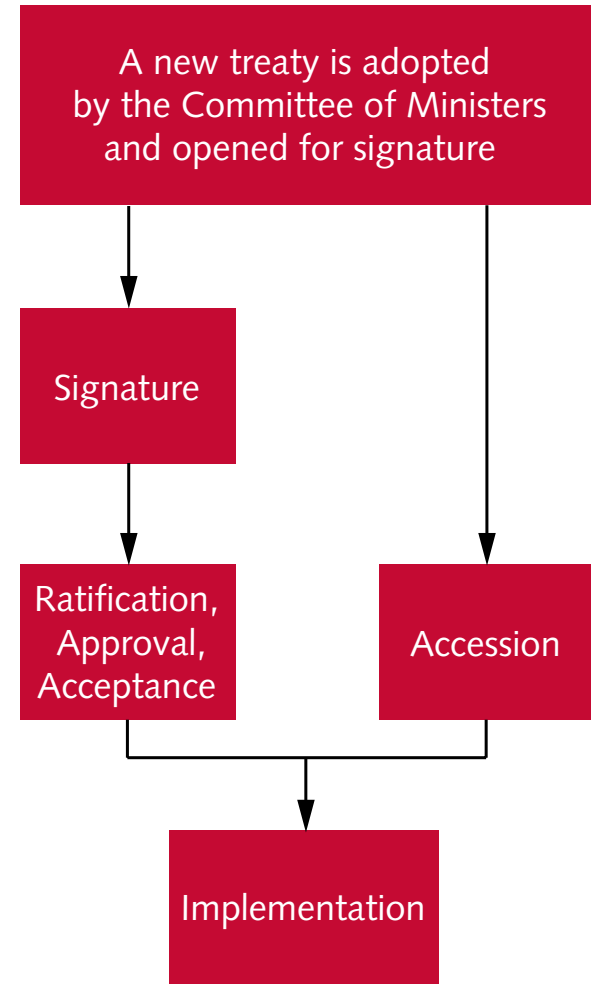
**Signature:** act whereby a State indicates its intention to become party to a treaty. In principle, the signature precedes the ratification, acceptance or approval of the treaty.

**“Full powers”:** document by which the Head of State, Head of Government or Minister for Foreign Affairs authorises a person, usually an Ambassador or a Minister, to sign a treaty on behalf of the State.

**Instrument of ratification, acceptance or approval** (the term used depends on the procedure of each State): document by which a State expresses its consent to be bound by a treaty. The instrument of ratification, acceptance or approval must be issued by the Head of State, Head of Government or Minister for Foreign Affairs and signed accordingly.

**Accession:** act whereby a State expresses its consent to be bound by a treaty. It has the same legal effect as ratification. Accession is, in general, the instrument by which non-member States of the Organisation become parties to the Council of Europe treaties. The deposit of an instrument of accession is not preceded by the signature of the treaty. The instrument of accession must be issued by the Head of State, Head of Government or Minister for Foreign Affairs and signed accordingly.

**Procès-verbal:** document prepared by the Treaty Office certifying that a State has signed, ratified, accepted, approved or acceded to a treaty.





*Signature of the European Convention on Human Rights by Robert Schuman in Rome on 4 November 1950.*

## Frequently asked questions

### 1 Are full powers needed for every signature?

**Yes.** Other than the Head of State, Head of Government or Minister for Foreign Affairs, any person appointed by his/her government to sign a treaty of the Council of Europe must have full powers. **Full powers shall indicate precisely the name and position of the person designated**, as well as the full title of the treaty to be signed. Full powers must be signed by the Head of State, Head of Government or Minister for Foreign Affairs

Sometimes the Permanent Representative of a State has **general full powers** which allow him/her to sign all Council of Europe treaties without it being necessary for his/her authorities to prepare specific full powers for each signature. The original of general full powers is to be sent to the Secretary General of the Council of Europe or to the Treaty Office.

### 2 Are there any time limits to sign and ratify Council of Europe treaties?

**No.** The treaties can be signed at any time once they have been opened for signature. **Furthermore, once a State has signed a treaty, it can choose to ratify it at any time afterwards.** Sometimes States sign and ratify treaties simultaneously.

### 3 When does a treaty enter into force after its ratification by a State?

When a State ratifies a treaty, it enters into force for that State after the expiry of a period of time set by the treaty, **usually three months.**

Once the treaty enters into force in respect of a State, it becomes legally binding and the State must implement its provisions.

### 4 In which language do the communications need to be made by the States?

**Communications must be made in either English or French**, the two official languages of the Council of Europe. The full powers, the instruments of ratification, acceptance, approval or accession, the text of the reservations and declarations should, therefore, be transmitted to the Treaty Office in one of these two languages.

If these documents are written in another language, they must be accompanied by a translation into English or French.

### 5 When and how can reservations be made?

Provided that they are not excluded by the treaty, a State has the possibility of making reservations **when signing a treaty.**

In order to take effect, these reservations must be confirmed at the time of ratification of the treaty. To be valid, reservations must comply with general treaty law and with the specific requirements imposed by the treaty concerned.

Reservations must be made **no later than at the time of deposit of the instrument of ratification.** No reservations can be made after the ratification.

Reservations may be contained either in the instrument of ratification or in a *note verbale* from the Ministry for Foreign Affairs or the Permanent Representation to the Council of Europe.

## 6 Are there any compulsory declarations?

**Yes.** Some Council of Europe treaties specify that States must, at the latest when depositing the instrument of ratification, make a declaration which **usually consists in designating a national authority responsible for the implementation of the treaty**. Declarations may either be contained in the instrument of ratification or in a *note verbale* from the Ministry for Foreign Affairs or the Permanent Representation to the Council of Europe.

If the compulsory declaration provided for by the treaty is not made at the time of ratification, registration of the ratification may be delayed until the State concerned has submitted this declaration to the Treaty Office.

Example: under the Convention on Cybercrime, States are required to designate an authority responsible for receiving and answering requests for extradition and mutual assistance.

## 7 Can a reservation or declaration be modified after the ratification of the treaty?

Once a State has made a reservation at the time of ratification, **this reservation can only be modified afterwards in a way which makes it less restrictive**. Indeed, if a State expanded the scope of a reservation made upon ratification, this would amount to a new reservation, which according to the law of treaties cannot occur after ratification.

After the deposit of the instrument of ratification, a declaration which designates a competent authority to implement the treaty may be modified at any time when, for example, the State has designated another competent authority or when the contact details of the designated authority have changed.

## 8 How are the signatures and ratifications of a treaty made public?

A **press release** is prepared for each signature or ratification of a Council of Europe treaty and the **website of the Treaty Office** is updated.

When a State has signed a treaty, deposited an instrument of ratification or made any other communication regarding a treaty, the Treaty Office informs all the member States of the Council of Europe as well as the other States or international organisations that have acceded to the treaty or have been invited to accede to it, through a notification. **This information is sent by electronic means.**



## Some figures

- On average, the Committee of Ministers of the Council of Europe adopts 3 new treaties each year.
- Every year, the Treaty Office deals with more than 350 legal acts related to treaties.
- With over 2000 visits a day, the Treaty Office has one of the most visited websites of the Council of Europe.
- Almost all the Council of Europe treaties are open to States which are not members of the Organisation. To date, 26 non-member States, mainly American and African (for example the United States of America, Costa Rica, South Africa or Senegal), have signed and/or ratified Council of Europe treaties in the fields of legal co-operation in criminal matters, environment, culture, education or sports.

## Website

The text of all Council of Europe treaties, their explanatory reports, the status of signatures and ratifications, declarations and reservations made by States and the notifications issued by the Treaty Office are available on the website of the Council of Europe Treaty Office:

**<http://conventions.coe.int>**

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