



**Information document  
SG/Inf(2012)12 Addendum**

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**EXECUTIVE SUMMARY**

**REPORT BY THE SECRETARY GENERAL  
ON THE REVIEW OF COUNCIL OF EUROPE CONVENTIONS**

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## 1. Introduction

As part of the reform process of the Council of Europe (CoE), the Secretary General (SG) launched the proposal of taking stock of the situation of CoE's conventions through a critical review of their relevance, with a view to providing the basis for decisions on follow-up, including measures to increase the visibility and the number of Parties to relevant conventions. At their 1084th meeting (May 2010), the Ministers' Deputies (hereafter, the "CM") supported these proposals.

- **Methodology:** Drafting a comprehensive report for the CM encompassing, *inter alia*, identification of criteria to assess relevance, classification of CoE conventions on the basis of set criteria; identification of measures which could be adopted in relation to CoE conventions.
- **Preparation:** a) February 2011: SG's Outline presented to CM (SG/Inf(2011)2); b) April 2011: establishment of an inter-secretariat working group to prepare a preliminary draft; c) June/July 2011: informal consultations with steering committees and other bodies; d) September 2011: examination of preliminary draft by CAHDI, which requested additional time; e) September 2011: SG, having informed CM, extended deadline for CAHDI to finalise its observations; f) End of March 2012: CAHDI adopted its observations; g) April 2012: SG's preliminary draft amended to take account of CAHDI's observations; h) 16 May 2012: SG presents report to CM.
- **Nature of CoE conventions:** CoE conventions are not legal acts of the Organisation. They are international treaties, negotiated by States and binding only on the Parties. However, they keep certain links with CoE (framework for negotiations, powers conferred upon CM, SG depositary, follow-up, etc.).
- **Main objectives of report:** a) identify key conventions: a common legal platform in the areas of Human Rights, Rule of Law and Democracy; b) identify inactive conventions; c) suggest conventions which could be usefully updated; d) promote accession by EU and, when appropriate, non-member States to CoE conventions; e) suggest measures to increase visibility, number of Parties and impact of CoE conventions.

## 2. Classification of CoE conventions

- a) Chapter 2 provides a general perspective of the situation of the CoE conventions in general, not an individual examination of each convention. A snapshot of the situation of CoE conventions in May 2012, which could change over time.
- b) CoE conventions are classified in 4 groups in accordance with criteria indicated by CAHDI. Within each of those 4 groups there is, for indicative purposes, a further subdivision based on the 3 pillars of the Programme of Activities (Human Rights, Rule of Law and Democracy).

**Group 1: Conventions with numerous ratifications and considered as key.** Criteria: 40 ratifications or more and considered as key. For the purpose of this report it has been considered that key conventions are those identified as “core” treaties in PACE Resolution 1732(2010) and qualified as “important” by the CM in its reply to PACE Recommendation 1920(2010), as well as those considered as key by steering committees during consultations prior to the elaboration of the report (See Appendix 1).

**Group 2: Conventions with fewer ratifications but considered as key.** Criteria: Conventions considered as key (see explanation under Group 1 above) which, in addition, meet one of the following criteria: recent conventions (adopted after 2002)/ regular ratifications/ replacement of numerous bilateral agreements/ influence outside Europe (accession by non-member States) (See Appendix 2).

**Group 3: Other active conventions.** Criteria: Other active conventions which are not considered as key (See Appendix 3);

**Group 4: Inactive conventions.** Criteria: still not in force after 20 years of opening for signature/ or superseded by more recent conventions or existence of EU legislation or instruments by other international organisations which set higher standards/ protocols already incorporated into parent convention or loss of purpose (See Appendix 4).

- c) Some CoE conventions could be updated or revised to increase their effectiveness and respond to legislative, societal change. Tentative suggestions, made by some steering committees and PACE, are mentioned in Chapter 2.2.

**3. Proposed Action Plan for CoE conventions:** Chapter 3 makes some suggestions on possible measures which could be adopted, essentially by Contracting Parties or by CM. Measures of promotion can not be adopted in respect of all conventions. A selection will need to be made, depending on the nature of the measure proposed. Treaty events could, f.i. focus mostly on Groups 1 and 2 conventions but could also concern some Group 3 conventions, depending on the nature of the event and the priorities of the Organisation at a given point in time. Other measures, such as f.i. management of conventions, could, in turn, be applied to all conventions in Groups 1 to 3.

- a) **International level:** Certain events would lend themselves to the promotion of conventions related to theme treated. Some selected conventions could also be promoted in relation with the priorities of successive CM Chairmanships. Treaty ceremonies could be organised in the margins of important events. Targeted activities organised by PACE may also be an occasion for promoting certain conventions. Steering or other committees could address to CM reports on the state of implementation of certain conventions. *Tours de table* could be organised. The promotion of certain conventions could be an element of CoE campaigns.
- b) **National level:** Political dialogue with national authorities could provide an occasion to encourage ratification. Same could be done during "on-the-spot" monitoring visits. Awareness could be raised among national judges and officials about new, important conventions. National parliaments could request information on ratification policy.
- c) **EU:** Only 37 CoE conventions are open to EU accession. EU-CoE partnership should be reflected in an enhanced EU participation in a pan-European common legal platform. After settling EU accession to ECHR, there should be bilateral contacts to identify EU interest in other conventions and prepare legal solutions to facilitate future accession.
- d) **Non-members States:** Advertising in relevant fora that certain conventions are or will be in preparation, improving accession procedures, review conditions of participation, financial issues. CoE Offices before UN, OSCE or other international organisations could play a critical role in this endeavour.

- e) **Improvement of management of conventions:** Concept. A proactive role for the CM. An increased role for steering committees in reviewing the level of ratifications and the implementation of conventions under their jurisdiction. Role of the SG through the Treaty Office: disseminating knowledge about the body of CoE conventions.
- f) **Measures relating to inactive conventions:** Several measures are suggested to deal with this kind of conventions:
  - a) CM recommendation inviting member States not to ratify certain obsolete conventions any longer;
  - b) agreement between Parties to terminate or suspend certain CoE conventions;
  - c) CM recommendation to Parties to denounce conventions included in a list (to be drawn up on the basis of careful case-by-case analysis).
- g) **Measures to try to reduce the number of reservations.** It is suggested to include explicit provisions on reservations in future conventions. Moreover, consideration could be given, in certain cases, to the possibility of including sunset clauses for reservations. Periodical review of reservations to certain treaties could be a useful tool to encourage a reconsideration of whether certain reservations are still needed. Monitoring bodies might also raise the possibility of lifting reservations on the occasion of "on-the-spot" visits. Promote and disseminate CM Recommendation n° R(99)13 on responses to inadmissible reservations.

**4. Conclusions.** Importance of preserving the CoE's conventional heritage. Classification based on objective and neutral criteria, taking mainly into account the position of States. Trigger discussion on role of conventions in CoE's future. Reform of the Organisation represents an opportunity to streamline management and follow-up of conventions.

**5. Appendices.** Appendices 1 to 4: Classification of CoE conventions by group according to their relevance. Appendix 5: References to CoE conventions in ECtHR's decisions and judgments.