



November 2018

**CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND DIGNITY OF THE HUMAN BEING WITH REGARD TO THE APPLICATION OF BIOLOGY AND MEDICINE: CONVENTION ON HUMAN RIGHTS AND BIOMEDICINE of 4 April 1997**

**(ETS No. 164, entered into force on 1 December 1999)**

**Subject: Accession by States which are not member States of the Council of Europe and which have not participated in the elaboration of the Convention**

I. Participation in the Convention for the protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine is not exclusively limited to member States of the Council of Europe, to the non-member States which have participated in its elaboration, namely Australia, Canada, the Holy See, Japan and the United States of America.

The Convention is also open for accession by other non-member States, provided that they have been formally invited to accede by the Committee of Ministers of the Council of Europe. The relevant provision of the Convention on Human Rights and Biomedicine - Article 34, paragraph 1 - reads as follows:

*“After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may, after consultation of the Parties, invite any non-member State of the Council of Europe to accede to this Convention by a decision taken by the majority provided for in Article 20, paragraph d, of the Statute of the Council of Europe, and by the unanimous vote of the representatives of the Contracting States entitled to sit on the Committee of Ministers.”*

II. The procedure for the accession of a State which is not a member of the Council of Europe and which has not participated in the elaboration of the Convention may be summarised as follows:

1. In principle, the Committee of Ministers may take the initiative of inviting a non-member State to accede to a specific Convention. It is nevertheless customary for the non-member State to request accession in a letter addressed to the Secretary General of the Council of Europe. The letter should be signed by the Minister for Foreign Affairs or a diplomatic representative acting upon instructions of his or her government (see [Model application for accession to a treaty](#)).

2. In accordance with the Council of Europe's practice and before formally inscribing the point on the agenda of the Committee of Ministers, the Secretariat consults at the same time all member States of the Council of Europe, whether they are Parties or not to the Convention, and Parties to this Convention, that are not member States, on the request of invitation.

3. Requests for accession to a Council of Europe convention are examined by the Committee of Ministers' Rapporteur Group on Legal Co-operation (GR-J) and, then, by the Committee of Ministers. In the case of the Convention on Human Rights and Biomedicine, the decision on whether or not to issue an invitation has to be unanimously agreed by those Council of Europe members which have ratified the Convention. This decision is usually taken at the level of the Ministers' Deputies. Then, an invitation to accede to the Convention is notified to the State concerned by the Secretariat General.

4. It must be noted that the Committee of Ministers decided, in April 2013, to limit the validity of invitations of non-member States to accede to conventions to a period of five years.

5. The instrument of accession is deposited at the seat of the Council of Europe in Strasbourg, in the presence of a representative of the acceding State and of the Secretary General of the Council of Europe or his Deputy. The representative of the acceding State brings with him or her the instrument of accession and a procès-verbal of deposit is signed by both parties. Should it prove difficult for the acceding State to send a representative to Strasbourg, the instrument of accession may be sent by diplomatic courier. Deposit of the instrument of accession is notified to all concerned, accordingly to Article 38 of the Convention.

6. Article 34, paragraph 2, of the Convention on Human Rights and Biomedicine provides that the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe.

7. The Convention has been supplemented by the following Additional Protocols:

- Additional Protocol to the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine, on the Prohibition of Cloning Human Beings (ETS No. 168), which entered into force on 1 March 2001;
- Additional Protocol to the Convention on Human Rights and Biomedicine concerning Transplantation of Organs and Tissues of Human Origin (ETS No. 186), which entered into force on 1 May 2006;
- Additional Protocol to the Convention on Human Rights and Biomedicine, concerning Biomedical Research (CETS No. 195), which entered into force on 1 September 2007;
- Additional Protocol to the Convention on Human Rights and Biomedicine concerning Genetic Testing for Health Purposes (CETS No. 203), which entered into force on 1 July 2018;

States having acceded to the Convention are entitled to accede to the Protocols, without a specific invitation by the Committee of Ministers being necessary.

8. The instrument of accession and any reservation or declaration appended to it shall be accompanied by a translation into one of the official languages of the Council of Europe (English or French). It is important to stress that, subject to the applicable provisions of each treaty (See Article 36 of this Convention) and in line with the 1969 Vienna Convention on the Law of Treaties, any reservations or declarations are to be made when depositing the instrument of accession. For reasons of legal certainty and in order to ensure the uniform implementation of conventions, reservations may not be made at any later date.

III. The text of the Convention, its explanatory report, the chart of signatures and ratifications and all declarations and reservations made with regard to it can be consulted on the website of the Council of Europe's Treaty Office on <http://conventions.coe.int>. Information concerning the Protocols is also available on this website.

For any further information, please contact the Treaty Office:

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