



SUMMARIES OF THE COUNCIL OF EUROPE TREATIES

The summaries available hereunder are designed to meet a practical need, that of supplying the public at large with concise descriptions of the Council of Europe treaties. The summaries are necessarily short and can therefore only give a first introduction to the main features of each treaty.

Subject-matter: **CIVIL LAW**

European Convention on Compulsory Insurance against Civil Liability in respect of Motor Vehicles ([ETS No. 29](#)), open for signature, in Strasbourg, on 20 April 1959.

Entry into force: 22 September 1969.

The Convention aims to establish a system of compulsory insurance in respect of civil liability, guaranteeing compensation for victims of damage caused by motor vehicles. Each Party undertakes to introduce in its municipal law a system of compulsory insurance which should comply with the provisions annexed to this Convention (Annex I). The system should determine the persons who shall be responsible for having the motor vehicle insured and provide all appropriate measures, accompanied where necessary by penal or administrative sanctions, to enforce the obligations resulting from the annexed provisions.

Moreover, the Convention specifies the principles governing exemptions from normal insurance, compensation for injury caused by a motor vehicle (involving both compulsory motor insurance and social security schemes), international insurance certificates, guarantees of payment, the establishment of a guarantee fund or conclusion of equivalent arrangements in order to compensate injured parties, and the possibility of bringing the claim in any other Party on equal terms with the nationals of that State.

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Convention on the Liability of Hotel-keepers concerning the Property of their Guests ([ETS No. 41](#)), open for signature, in Paris, on 17 December 1962.

Entry into force: 15 February 1967.

This Convention sets out detailed provisions under which hotel-keepers are liable for the property of their guests. The liability of the hotel-keeper is engaged for any damage to or destruction or loss of property brought to the hotel by any guest who stays at the hotel and has sleeping accommodation put at his/her disposal. This liability is limited to the equivalent of 3 000 gold francs (Art. 1 of the Annex). However, the liability of hotel-keepers is unlimited where the property has been deposited with them or where they have refused to receive property which they are bound to receive for safe custody.

The Convention prescribes that Parties can, under some conditions, limit the liability of the hotel-keeper. The principles set out in the Annex are not applied to vehicles, any property left with a vehicle, or live animals.

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European Convention providing a Uniform Law on Arbitration ([ETS No. 56](#)), open to signature, in Strasbourg, on 1 January 1966.

Entry into force: The Convention will enter into force following the third ratification.

With this Convention, each Party undertakes to incorporate in its law, within six months of the date of entry into force of this Convention in respect of that Party, the provisions of the uniform law contained in Annex I to this Convention and relating to arbitration.

The aim of the Convention is the unification of national laws in order to enable a more effective settlement of private law disputes by arbitration and to facilitate commercial relations between the member States of the Council of Europe.

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European Convention on the Adoption of Children ([ETS No. 58](#)), open for signature, in Strasbourg, on 24 April 1967.

Entry into force: 26 April 1968.

The Convention ensures that national law on the protection of children applies not only to adoptions of children from the Parties but also to those of children from other States.

The Convention contains a core of essential provisions on adoption practice which each Party undertakes to incorporate in its legislation, and a list of supplementary provisions to which Parties are free to give effect. Thus, under the Convention's essential provisions, adoption must be granted by a judicial or administrative authority, the decision to authorise the adoption of a child must be freely accepted by the parents and the adoption must be in the interest of the child.

Furthermore, after adoption:

- the adopter has, in respect of the adopted person, the rights and obligations of every kind that a father or mother has in respect of a child born in lawful wedlock;
- as a general rule, the child shall be able to acquire the surname of the adopter;
- in matters of succession, an adopted child is treated as if he\she were a child of the adopter born in lawful wedlock;
- acquisition by the child of the nationality of the adoptive parents is facilitated.

The supplementary provisions relate, inter alia, to measures which may be taken, to include the social and legal aspects of adoption in the curriculum for the training of social workers, to enable adoption to take place without the identity of the adopter being disclosed to the child's family, and to enable adoption proceedings to take place in camera.

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European Convention on the Calculation of Time-Limits ([ETS No. 76](#)), open for signature, in Basel, on 16 May 1972.

Entry into force: 28 April 1983.

The goal of this Convention to harmonise European rules on calculation of time-limits both for domestic and international purposes.

The rules laid down apply to time-limits established by law, by a judicial authority or administrative authority, by an arbitral body or by parties to a contract.

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Convention on the Establishment of a Scheme of Registration of Wills ([ETS No. 77](#)), open for signature, in Basel, on 16 May 1972.

Entry into force: 20 March 1976.

This Convention allows a testator to register his will with the competent authorities not only in a State of his residence, but also in other Parties. The Convention provides that each Party shall establish or appoint one or more bodies responsible for the registration provided for by the Convention. These bodies will be in charge, after the death of the testator, of answering requests for information providing from the persons concerned.

Each Party appoints a national body which shall facilitate the international co-operation on this matter.

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European Convention on Civil Liability for Damage caused by Motor Vehicles ([ETS No. 79](#)), open for signature, in Strasbourg, on 14 May 1973.

Entry into force: The Convention will enter into force following the third ratification.

The Convention introduces stricter liability on a European scale for keepers of vehicles with regard to victims of road accidents. This liability is no longer associated with the concept of "fault" but based on the principle of "risk" due to the very fact of driving the vehicle.

The primary objectives of the Convention are to improve the situation of victims of road accidents and to adopt a system acceptable to the majority of member States.

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European Convention on the Legal Status of Children born out of Wedlock ([ETS No. 85](#)), open for signature, in Strasbourg, on 15 October 1975.

Entry into force: 11 August 1978.

The object of the rules embodied in this Convention is to bring the legal status of children born out of wedlock into line with that of children born in wedlock and thereby to contribute to the harmonisation of the relevant legislation of Parties. However, as not all Parties are able to achieve this objective immediately, the Convention provides for a system of reservations enabling Parties to work towards it gradually. Reservations may be made in respect of a maximum of three of the nine articles entailing an obligation, but such reservations are valid for a maximum of five years, after which they have to be reconsidered. The Convention's main provisions relate to paternal and maternal affiliation, recognition, denial and contesting of paternity, the assignment of parental responsibilities and the children's succession rights.

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European Convention on Products Liability in regard to Personal Injury and Death ([ETS No. 91](#)), open for signature, in Strasbourg, on 17 January 1977.

Entry into force: The Convention will enter into force following the third ratification.

The Convention constitutes a major element to ensure better protection of the public and, at the same time, to take producers' legitimate interests into account.

The aim of this Convention is to assist the development of case law in the majority of member States, which are extending liability of producers prompted by a desire to protect consumers taking into account the new production techniques and marketing and sales methods, by giving priority to compensation for personal injury and death in introducing special rules on the liability of producers at European level.

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European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children ([ETS No. 105](#)), open for signature, in Luxembourg, on 20 May 1980.

Entry into force: 1 September 1983.

The Convention protects custody and access rights in international situations and provides for free, prompt, non-bureaucratic assistance from central authorities designated by each Party in discovering the whereabouts and restoring custody of a child improperly removed.

Application for the restoration of custody of a child may be made directly either to a court or to the central authorities of any Party concerned. Central authorities are required, *inter alia*:

- to assist the applicants in their action;
- to discover the whereabouts of the child;
- to avoid, in particular by any necessary provisional measures, prejudice to the interests of the child or of the applicant;
- to secure the recognition or enforcement of the custody decision;
- to secure the delivery of the child to the applicant where enforcement is granted.

The Convention deals with various situations and offers specific solutions. For instance, if application is made within six months of the improper removal of a child, restoration of custody is to be immediate and subject to no condition other than the establishment of the facts:

- that the child was improperly removed, that the child and both parents had as their sole nationality the nationality of the State in which the decision on custody was made and that, in addition, the child had his habitual residence in that State or
- that the child has not been repatriated after the exercise of access abroad, in violation of the conditions governing exercise of the right of access.

If these conditions are not met but the application is lodged within the six-month time-limit, restoration of custody is subject to stricter conditions. Once the six-month time-limit has expired, restoration of custody is subject to more numerous conditions, since the child may already be integrated into a different environment.

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Convention on Civil Liability for Damage resulting from Activities Dangerous to the Environment ([ETS No. 150](#)), open for signature, in Lugano, on 21 June 1993.

Entry into force: The Convention will enter into force following the third ratification.

The Convention aims at ensuring adequate compensation for damage resulting from activities dangerous to the environment and also provides for means of prevention and reinstatement. It considers that the problems of adequate compensation for emissions released in one country causing damage in another country are also of an international nature.

The Convention first explains some technical terms as "dangerous activity", "dangerous substance", "genetically modified organism" and so on. The system of the Convention is based on objective liability taking into account the "polluter pays" principle. However, specific rules are provided concerning the fault of the victim, causation, joint liability of the operators of installations or sites for damage, and a compulsory financial security scheme to cover liability under the Convention.

The Convention provides that persons interested have the right to access to information held by bodies with public responsibility for the environment.

The Convention sets up a Standing Committee which is responsible for the interpretation and implementation of the Convention. The Committee may make recommendations as regards the implementation of the Convention and propose any necessary amendments to the Convention.

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European Convention on the Exercise of Children's Rights ([ETS No. 160](#)), open for signature, in Strasbourg, on 25 January 1996.

Entry into force: 1 July 2000.

The Convention aims to protect the best interests of children. It provides a number of procedural measures to allow the children to exercise their rights. It sets up a Standing Committee which shall keep under review problems relating to this Convention.

The Convention provides for measures which aim to promote the rights of the children, in particular in family proceedings before judicial authorities. The judicial authority, or person appointed to act before a judicial authority on behalf of a child, has a number of duties designed to facilitate the exercise of rights by children. Children should be allowed to exercise their rights (for example, the right to be informed and the right to express their views) either themselves or through other persons or bodies.

Among the types of family proceedings of special interest for children are those concerning custody, residence, access, questions of parentage, legitimacy, adoption, legal guardianship, administration of property of children, care procedures, removal or restriction of parental responsibilities, protection from cruel or degrading treatment and medical treatment.

Each Party is required to specify at least three categories of family proceedings to which this Convention is to apply. This European legal instrument will also facilitate the implementation by Parties of the United Nations Convention on the rights of the child.

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Civil Law Convention on Corruption ([ETS No. 174](#)), open for signature, in Strasbourg, on 4 November 1999.

Entry into force: 1 November 2003.

It is the first attempt to define common international rules in the field of civil law and corruption. It requires Contracting Parties to provide in their domestic law "for effective remedies for persons who have suffered damage as a result of acts of corruption, to enable them to defend their rights and interests, including the possibility of obtaining compensation for damage" (art.1).

The Convention is divided into three chapters, they cover: measures to be taken at national level, international co-operation and monitoring of implementation) and final clauses. In ratifying the Convention, the States undertake to incorporate its principles and rules into their domestic law, taking into account their own particular circumstances.

The Convention deals with:

- compensation for damage;
- liability (including State liability for acts of corruption committed by public officials);
- contributory negligence: reduction or disallowance of compensation, depending on the circumstances;
- validity of contracts;
- protection of employees who report corruption;
- clarity and accuracy of accounts and audits;
- acquisition of evidence;
- court orders to preserve the assets necessary for the execution of the final judgment and for the maintenance of the status quo pending resolution of the points at issue;
- international co-operation.

The Group of States against Corruption (GRECO) will monitor commitments entered into under the Convention by the States Party.

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Council of Europe Landscape Convention ([ETS No. 176](#)), open for signature, in Florence, on 20 October 2000.

Entry into force: 1 March 2004.

The Convention aims to encourage public authorities to adopt policies and measures at local, regional, national and international level for protecting, managing and planning landscapes throughout Europe. It covers all landscapes, both outstanding and ordinary, that determine the quality of people's living environment. The text provides for a flexible approach to landscapes whose specific features call for various types of action, ranging from strict conservation through protection, management and improvement to actual creation.

The Convention proposes legal and financial measures at the national and international levels, aimed at shaping "landscape policies" and promoting interaction between local and central authorities as well as transfrontier cooperation in protecting landscapes. It sets out a range of different solutions which States can apply, according to their specific needs.

The Council of Europe intergovernmental committees will be supervising the convention's implementation. The text also provides for a Council of Europe Landscape award, to be given to local or regional authorities or an NGO which introduced exemplary and long-lasting policies or measures to protect, manage and plan landscapes.

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Convention on Contact concerning Children ([ETS No. 192](#)), open for signature, in Strasbourg, on 15 May 2003.

Entry into force: 1 September 2005.

Given the problems inherent in the exercise and protection of children's personal relationships, as well as its possible limitations, the Convention aims to regulate these relations in the light of the best interests of the child.

The aim of the Convention is to improve certain aspects of the right of national and transfrontier contact and, in particular, to specify and reinforce the basic right of children and their parents to maintain contact on a regular basis. This right may be extended, if necessary, to include contact between a child and other persons than his or her parents, in particular when the child has family ties with such a person.

In this respect, the object of the Convention is to determine the general principles to be applied to contact orders, as well as to fix appropriate safeguards and guarantees to ensure the proper exercise of such contact and the immediate return of children at the end of the period of contact. It establishes co-operation between all the bodies and authorities concerned with contact orders and reinforces the implementation of relevant existing international legal instruments in this field.

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European Convention on the Adoption of Children (Revised) ([CETS No. 202](#)), open for signature, in Strasbourg, on 27 November 2008.

Entry into force: 1 September 2011.

The aim of the Convention is to take account of social and legal developments while keeping to the European Convention on Human Rights and bearing in mind that the child's best interests must always take precedence over any other considerations.

The new provisions introduced by the Convention are the following:

- The father's consent is required in all cases, even when the child was born out of wedlock.
- The child's consent is necessary if the child has sufficient understanding to give it.
- It extends to heterosexual unmarried couples who have entered into a registered partnership in States which recognise that institution. It also leaves States free to extend adoptions to homosexual couples and same sex-couples living together in a stable relationship.
- The new convention strikes a better balance between adopted children's right to know their identity and the right of the biological parents to remain anonymous.

- The minimum age of the adopter must be between 18 and 30, and the age difference between adopter and child should preferably be at least 16 years.

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Council of Europe Convention on preventing and combating violence against women and domestic violence ([CETS No. 210](#)), open for signature, in Istanbul, on 11 May 2011.

Entry into force: 1 August 2014.

This new landmark treaty of the Council of Europe opens the path for creating a legal framework at pan-European level to protect women against all forms of violence, and prevent, prosecute and eliminate violence against women and domestic violence.

The Convention also establishes a specific monitoring mechanism ("GREVIO") in order to ensure effective implementation of its provisions by the Parties.