



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: **FAMILY LAW – RIGHTS OF CHILDREN**

European Convention on the Adoption of Children ([ETS No. 58](#)), open to 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.

* * *

European Convention on the Legal Status of Children born out of Wedlock ([ETS No. 85](#)), open to 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.

* * *

European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children ([ETS No. 105](#)), open to 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.

* * *

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.

* * *

Convention on Cybercrime ([ETS No. 185](#)), open for signature, in Budapest, on 23 November 2001.

Entry into force: 1 July 2004.

The Convention is the first international treaty on crimes committed via the Internet and other computer networks, dealing particularly with infringements of copyright, computer-related fraud, child pornography and violations of network security. It also contains a series of powers and procedures such as the search of computer networks and interception.

Its main objective, set out in the preamble, is to pursue a common criminal policy aimed at the protection of society against cybercrime, especially by adopting appropriate legislation and fostering international co-operation.

* * *

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.

* * *

Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse ([CETS No. 201](#)), open for signature, in Lanzarote, on 25 October 2007.

Entry into force: 1 July 2010.

This Convention is the first instrument to establish the various forms of sexual abuse of children as criminal offences, including such abuse committed in the home or family, with the use of force, coercion or threats.

Preventive measures outlined in the Convention include the screening, recruitment and training of people working in contact with children, making children aware of the risks and teaching them to protect themselves, as well as monitoring measures for offenders and potential offenders.

The Convention also establishes programmes to support victims, encourages people to report suspected sexual exploitation and abuse, and sets up telephone and internet helplines for children. It also ensures that certain types of conduct are classified as criminal offences, such as engaging in sexual activities with a child below the legal age and child prostitution and pornography. The Convention also criminalises the solicitation of children for sexual purposes ("grooming") and "sex tourism".

With the aim of combating child sex tourism, the Convention establishes that individuals can be prosecuted for some offences even when the act is committed abroad. The new legal tool also ensures that child victims are protected during judicial proceedings, for example with regard to their identity and privacy.

* * *

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.

* * *

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.