

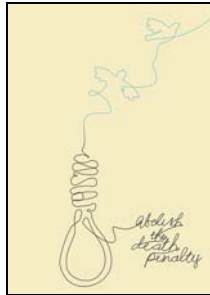
# Death is not justice

**The Council of Europe  
and the death penalty**

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Directorate General of Human Rights and Legal Affairs  
Council of Europe  
September 2010

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# Foreword

## Thorbjørn Jagland, Secretary General

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The death penalty is a travesty of justice. It is barbaric and does not deter crime. It does not help the victims of crime. And it transforms murderers into martyrs and judicial errors into irreversible tragedies.

For more than three decades, the abolition of capital punishment has remained a central political objective and a core value for the Council of Europe. Since 1994, a clear commitment to abolition has been set as a condition for accession of all new member states. When our organisation was created after the second world war, most European states still retained capital punishment. 60 years on, none of our member states has executed any death sentence for more than a decade. This has turned the territory of our member states into a *de facto* death penalty-free zone, stretching from Lisbon to Vladivostok, and from the Atlantic to the Urals.

An important event for us was the Russian Constitutional Court's declaration last autumn on the expiring moratorium on the death penalty. It confirmed that no death penalty sentence can be pronounced or applied in that country. This is a significant further step towards a *de jure* abolition of the death penalty in Russia.

The situation in Russia however shows that the success story of abolition in Europe is not yet complete. In addition, Belarus remains a country - the only European country - that is still practising capital punishment. As things stand, it cannot become a member of our organisation. We continue our efforts towards a moratorium and abolition in that country. Only then can we really speak of the whole continent as a death penalty-free zone.

Unfortunately, many European citizens continue to be in favour of the death penalty. Therefore, our organisation believes there is a continuing need to explain to people why capital punishment is wrong. Only that way can we be assured that future generations grasp why the death penalty has been abolished and why it should stay abolished. This brochure is meant to address all arguments against the death penalty.

We must also look beyond Europe. Signs are encouraging: in the past few years, the United Nations General Assembly has voted twice with a strong majority in favour of a resolution which proclaims a global moratorium on the use of the death penalty. This



reflects a growing worldwide trend towards its abolition. Nevertheless, some of our closest friends and allies continue to execute people. We all know that the decision to abolish the death penalty must come from them, and that the process of abolition may require time. However, this does not mean that we should not encourage them to do so.

*Thorbjørn Jagland  
Secretary General, Council of Europe  
September 2010*

# Death is not justice

No executions have taken place in Europe since 1997. This is the Europe of 47 states that make up the Council of Europe. It was not just an aberration, or a blip in traditional state policies of killing persons who have been found guilty of particularly heinous crimes, in the name of justice. It was a conscious achievement, won through years of hard work.

Justice, revenge, an eye for an eye, deterrence! These have been the long-held justifications and rationalisations for carrying out executions. And, if the wrong person was “mistakenly” executed?<sup>1</sup> An unfortunate but necessary evil to assuage the fears of ordinary law-abiding folk that those implicated in murderous crimes shall be punished and thus the authority vested in the state be reaffirmed? The good of society is more important than the individual and sometimes mistakes happen?

The death penalty has always been, and will remain, an emotional issue arousing the passions of people in all countries, especially in the wake of a particularly gruesome murder or a terrorist attack.

Step outside the emotion and shock of the moment, and the reasons for abolition reflect more exactly the type of societies that the countries of Europe, and those outside Europe who share its values, aspire to create and maintain.

Working on a daily basis to promote these values it is not surprising that the Council of Europe has been at the heart of the abolitionist movement in Europe during the last 30 years.

In September 2007 the Committee of Ministers approved the establishment of a “European Day against the Death Penalty” to be held on 10 October of each year. It constitutes a regional contribution to the World Day against the Death Penalty, and aims at continuing to raise awareness of the abolition of capital punishment. Since 2008, the Council of Europe has been organising this annual event conjointly with the European Union.

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1. In the Russian Federation Alexander Kravchenko was executed by the State for carrying out a series of murders only to be exonerated in 1994, when the real killer, Andrey Chikatilo, confessed to the killings and was convicted. In the United Kingdom the cases of the Guildford Four and the Birmingham Six spring to mind, as these persons were finally able to prove their innocence after spending more than 15 years in prison for allegedly planting deadly bombs. If the death penalty had existed at the time these persons would probably now be dead. Similar examples could be given for many other countries.

## The Council of Europe

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In the aftermath of the destruction of the Second World War, the Council of Europe was created to unite Europe around the shared principles of the rule of law, respect for human rights and pluralist democracy. This political project aimed to entrench a common philosophy about the type of society that the member countries wanted to create, strengthen and defend. Since 1949 the Council of Europe has grown from 10 founding members to 47 member states as more and more countries embrace the principles and values of the Organisation and commit themselves to further entrenching these ideals within their societies.

**The Convention was adopted in 1950. The right to life was the first substantive article, stating that everyone's life shall be protected.**

At the heart of the Council of Europe machinery stands the European Convention on Human Rights, serving as a safeguard for all who find themselves on the territory of Europe. The Convention was adopted in 1950. The right to life was the first substantive article, stating that everyone's life shall be protected by law and that no one shall be deprived of life, except through a court sentence after being convicted of a crime carrying the death penalty. After the horrors of Nazi Germany Europe was not ready to abandon the death penalty, as witnessed by the Nuremberg trials. Hence the death penalty remained on the Statute books of most European countries at the time.

## Towards a European death penalty-free area

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**Since 1994, one of the conditions for new states to join the Council of Europe has been the immediate institution of a moratorium on executions.**

However, as more and more European countries abandoned the use of the death penalty as a sanction, a consensus began to emerge by the late 1960s that the death penalty seemed to serve no purpose in a civilised society governed by the rule of law and respect for human rights. Rather, it ran counter to both principles. The Council of Europe's Parliamentary Assembly,<sup>2</sup> made up of members of national parliaments from the various member States and representing all political parties, initiated a proposal to legally abolish the death penalty in Europe. The result was the drafting of Protocol No. 6 to the European Convention on Human Rights, which abolishes the death penalty unconditionally in peacetime. The protocol was opened for signature in 1983.

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2. For more information, see <http://assembly.coe.int/>.



Having promoted the adoption of Protocol No. 6, the Parliamentary Assembly was concerned to see it enforced in all European countries. Since 1994, one of the conditions for new states to join the Organisation has been the immediate institution of a moratorium on executions with a commitment to sign and ratify Protocol No. 6 within one to three years.

In Recommendation 1246 of 1994 the Parliamentary Assembly raised for the first time the issue of the abolition of the death penalty also in respect of acts committed in time of war or of imminent threat of war. At the Ministerial Conference on Human Rights, held in Rome in November 2000, the Ministers of Council of Europe member states adopted a resolution expressing support for a new protocol on abolition of death penalty in time of war. This issue was finally addressed in Protocol No. 13 to the European Convention on Human Rights, which abolishes the death penalty in all circumstances. The protocol was opened for signature in 2002.

As of September 2010 all member states of the Council of Europe except for the Russian Federation have ratified Protocol No. 6; and Protocol No. 13 has been ratified by 42 member states.

Certainly there were Governments that did not feel strong enough to abolish the death penalty, citing public opinion as an impediment. Interestingly enough, often in these countries few efforts were made to explain the rationale behind abolition. Again the Parliamentary Assembly through its reports and recommendations and by organising and participating in conferences attempted to publicise the arguments for abolition and put pressure on member states to honour the commitments they had freely entered into in order to join the Council of Europe. Parallel with these high profile events, the Council of Europe began to sponsor and co-operate with national authorities and NGOs in developing public awareness campaigns on the abolition of the death penalty.

These public awareness campaigns went beyond preaching abolition as an end in itself but rather focused on the educational dimension. We have to consider what type of society we, our children and our grandchildren, want to live in. That violence begets violence cannot be disputed. The death penalty only brutalises society by further legitimising cold-blooded killing as justice. It is a fallacy that it prevents violent crime or can be considered as justice. Have a look at what is going on in the United States of

**The death penalty only brutalises society by further legitimising cold-blooded killing as justice. It is a fallacy that it prevents violent crime.**

**The story of the abolition of the death penalty in Europe is also about uniting the peoples of Europe around a common set of societal values.**

**The death penalty touches our deepest instincts. Fear; pain; abhorrence; revenge; insecurity; honour; indignation.**

America. Reports show how unfair, indiscriminate and arbitrary the death penalty is, without even talking about the inhuman conditions of “death row”.<sup>3</sup>

Abolishing the death penalty is a politically courageous step for politicians to take but it is also one of those fundamental societal values where political leaders have to lead and not be guided by the latest opinion poll. This does not mean ignoring people’s genuine concerns but means being brave enough to recognise that the death penalty is not a panacea for reducing crime, improving the morale of the population or providing justice. Capital punishment, like torture, is simply wrong.

The Council of Europe has, therefore, encouraged and supported countries in Europe, to make the argument for abolition known, both politically and through technical expertise. Abolition in Albania, the Russian Federation and Ukraine have not led to popular uprisings but instead have forced the relevant governments to look at a broader range of criminal policy measures, including improving the professional training for the law enforcement personnel and the judiciary, and developing better links between the community and the police with an emphasis on preventing crime.

The story of the abolition of the death penalty in Europe is also about uniting the peoples of Europe around a common set of societal values. These values are inscribed in the European Convention on Human Rights and fleshed out in other legal treaties drawn up by the Council of Europe. These legal instruments create a framework but it is up to each and every person in all countries to ensure that their spirit is transposed into daily life.

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3. *The Soering v. the United Kingdom* judgment of 7 July 1989, in which the European Court of Human Rights ruled that the conditions of death row in the USA went beyond the threshold of ill-treatment set by Article 3 of the European Convention on Human Rights, and thus required the United Kingdom not to extradite Soering to the USA without first receiving assurances from US prosecutors that he would not face the death penalty. European countries, party to Protocol No. 6 of the ECHR, will not extradite persons to countries where they run the risk of being executed or being exposed to the “death row” phenomenon.

# Why abolish? Questions and answers about the death penalty

## Introduction

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The death penalty touches our deepest instincts. Fear; pain; abhorrence; revenge; insecurity; honour; indignation; hatred and a multitude of other emotions influence our opinions. When we hear of a particularly vicious crime, or live with daily insecurity that only seems to be increasing, or are close to the victim of a brutal act, we are overcome by intense reactions and may then feel the perpetrator should be put to death.

But, this is exactly why it is so important to take the time to reflect rationally about this issue – to base our opinion upon informed considerations consistent with our other values and the ends we really hope to achieve. The questions posed below have been expressed to the Council of Europe by various people in different countries. The answers do not attempt to be exhaustive, but to address the most pertinent issues surrounding this complex societal problem.

**A state that endorses the death penalty sends the message that killing or other brutal methods are acceptable ways of solving society's problems.**

## The death penalty and democracy

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### Can't I believe in democracy and be a firm believer in the death penalty?

The death penalty is often discussed and evaluated on its own, as a separate issue divorced from other issues and its social context. This is misleading. A choice whether to abolish or retain the death penalty is also a choice about the kind of society we want to live in and the values it upholds. Abolishing the death penalty is part of a package of values marked human rights, democracy and the rule of law.

The repercussions of the death penalty echo well beyond the killing of a particular criminal. When the state takes a life, it is sending a signal that there are situations when killing is acceptable, when killing is legally sanctioned. Who is to say what these situations are? If it is all right to kill a violent criminal, perhaps it is also acceptable to kill political opponents, minorities, the poor, or others

**Respect for human rights must never be dependent on the whims of public opinion.**

deemed deserving of such treatment. This logic is unacceptable in a democratic society, as it opens the door for the arbitrary use of power to take the place of democracy and the rule of law. A state that endorses the death penalty sends the message that killing or other brutal methods are acceptable ways of solving society's problems. It legitimises cold-blooded, pre-meditated killing as justice. In so doing it undermines humane and civil relations in society and the dignity of all the people who live in it. That violence begets violence cannot be disputed.

## **Isn't it anti-democratic to abolish the death penalty, if the majority of the population supports it?**

**The more people know about the facts surrounding the death penalty the less resistant they are to abolition.**

The narrowest definition of “democracy” is “one adult – one vote”. Democracy, though, is not based on majority rule alone. It is a whole system of beliefs – not all of them equally popular with public opinion. Abolition of the death penalty must surely be one of the least popular. This makes it easy for political leaders to avoid confronting the death penalty by taking cover under “majority public opinion”.

A Gallup opinion poll approach in politics may produce disastrous results for human rights – that is a key element of democracy. Respect for human rights must however never be dependent on the whims of public opinion. Torture, for example, would never be permissible even if there were public support for its use in certain cases. It is the task of politicians and public figures in a democratic society to lead, not follow or hide behind, public opinion and to take a policy decision when fundamental human rights are at stake.

At any rate, the words *public opinion* are often misleading. The population's opinions about the death penalty are often based on an incomplete understanding of the relevant facts, and manipulated by simplistic and slanted information. The results of polls that supposedly measure public opinion can vary according to the way questions are asked. It is incumbent on officials responsible for policy in this area not only to listen to the public, but also to ensure that the public is fully informed. It has been shown that the more people know about the facts surrounding the use of the death penalty, the reasons for abolition and alternatives to capital punishment, the less resistant they are to abolition.

Most countries have abolished the death penalty despite public opposition with no obvious ill effects, either to the crime rate or to those who took the decisions to abolish.

## What about the United States of America? It's a democracy and still maintains the death penalty.

The United States may be a democracy, but like other democratic countries it is not a perfect democracy. It has strengths and weaknesses, aspects in which it is more or less “democratic”. In continuing this barbaric and anachronistic form of punishment – even for persons with mental illnesses or intellectual disabilities – the United States is out of step with other democracies and international human rights standards – and, in this aspect, “undemocratic”. The Council of Europe and the European Union strongly criticise the United States for continuing to practise the death penalty. Criticisms also come from within. Many representatives of civil society as well as political leaders continually campaign against the death penalty criticising its undemocratic nature, unbefitting of a modern democracy.

The manner in which the death penalty is administered in the United States is also a subject of worldwide and domestic concern, in particular its reportedly racist and discriminatory nature. For instance, as of 2007, over half of those on death row in the United States were people of colour or belonging to an ethnic minority. A 1990 analysis by the United States General Accounting Office, which reviewed 28 comprehensive studies containing empirical data about death penalty sentencing, revealed “a pattern of evidence indicating racial disparities in the charging, sentencing, and imposition of the death penalty.”<sup>4</sup> Discrimination against the poor, who are unable to afford an adequate defence, is also well established.<sup>5</sup> These are just some illustrations of the unfairness and arbitrariness of the implementation of the death penalty in the United States. Is this aspect of American society an appropriate model for other states striving to strengthen democracy?

Thirty years ago another democracy, France, found herself out of step with her European neighbours. As the pioneer of abolition in France, Robert Badinter, has recalled, in the 1970s France was constantly under pressure from her European partners to abolish such an inhuman and cruel punishment. As was the case with France so it is with the United States today, that other democracies should

**The Council of Europe and the European Union strongly criticise the United States for continuing to practise the death penalty.**

**The death penalty is in clear violation of the internationally recognised right to life.**

4. United States General Accounting Office, *Death Penalty Sentencing: Research Indicates Pattern of Racial Disparities*, Report to the Senate and House Committees on the Judiciary, February 1990, 5.

5. See Hugo Adam Bedau, *The Case Against the Death Penalty*, American Civil Liberties Union website, 1997.

recall the moral obligation to abolish, particularly when the country in question plays such an eminent role in fighting for human rights throughout the world.

## The death penalty and justice

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**Those subject to the death penalty have committed atrocious acts. Have they not brought their punishment upon themselves?**

**The death-row phenomenon amounts to inhuman and degrading treatment in violation of Article 3 of the European Convention on Human Rights.**

Human rights apply to everyone, including those who commit atrocious crimes. The fundamental principle underlying human rights is that they are inalienable. They are not granted for good behaviour and they may not be taken away even if a person has committed outrageous and brutal acts. The message of a society that believes in human rights is that these rights should never be violated. They apply to the worst of us as well as the best of us, which is why they protect us all.

The death penalty violates fundamental human rights. Both European and international human rights treaties provide for abolition of the death penalty in peacetime and even in times of war. Protocol No. 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms (“European Convention on Human Rights”), providing for the abolition of the death penalty in times of peace, together with Protocol No. 13 to the Convention, providing for the abolition of the death penalty in all circumstances, clearly embody European standards. At the international level, the Second Optional Protocol to the International Covenant on Civil and Political Rights provides for the total abolition of the death penalty, but allows states parties to retain the death penalty in time of war if they make a reservation to that effect at the time of ratifying or acceding to the protocol.

The death penalty is in clear violation of the internationally recognised right to life as well the right not to be subjected to cruel, inhuman and degrading treatment.<sup>6</sup> Jurisprudence of the European Court of Human Rights (especially the landmark *Soering* case) shows that the “death-row phenomenon” in the United amounts to

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6. These rights are guaranteed *inter alia* in the Universal Declaration of Human Rights. Article 3 stipulates that: “Everyone has the right to life, liberty and security of person”. Article 5 stipulates that: “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.” Article 3 of the European Convention on Human Rights also guarantees that: “No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

inhuman and degrading treatment in violation of Article 3 of the European Convention on Human Rights. The cruelty of this punishment is not limited to the brutality of the killing itself, but also to the mental and physical rigours of waiting for execution. In addition, the death penalty is often applied in an unfair, arbitrary and discriminatory manner; it is used disproportionately against the poor, minorities and members of racial, ethnic and religious communities.

**The criminals who are put to death did not hesitate to infringe the rights of their victims, often in gruesome and barbarous ways. The dead victims can no longer claim their rights. Is it not right, fair and just that the state defends the rights of these victims by severely punishing the perpetrators?**

When the state commits a cold-blooded killing, it in no way defends the rights of victims. Another crime cannot right a past wrong or ease any of the pain and suffering the victim experienced. It does not restore a dead victim to life. In a law-based society, no criminal legislation requires that a rapist be raped or a torturer tortured. And it is obvious that to do so would not protect the rights of the initial victims of torture and rape. Committing further wrongs simply extends the cycle of violence and brutality, creating more victims and more pain, while not restoring any rights. It also inflicts immeasurable harm upon society.

Executing the criminal is in fact disrespectful of the victim. Undertaking such an act in the name of the victim is an affront to the victim's dignity and memory. And many victims' families denounce the use of the death penalty for this reason, believing it is an insult to them and their values.

It is right, fair and just to punish the perpetrator, but this punishment should be carried out in a manner worthy of the society and the victim. In addition, it is important that the victim and their family and friends are given recognition and respect and provided with appropriate support by the State.

**All criminal justice systems are susceptible to human error.**

**Surely a person who commits horrendous crimes deserves to die? Isn't the death penalty a perfectly just and measured form of revenge for certain despicable criminal acts against innocent victims?**

Abolishing the death penalty does not mean being soft on crime. People who offend against innocent victims should certainly be punished severely and learn that their behaviour is unacceptable. But is "revenge" a fitting response to crime? And is the State –

**The death penalty too often offers a highly dramatic response that serves to hide inefficiency in the criminal justice system.**

tugged by its competing interest groups and political undercurrents – a fitting “avenger”? Can anyone judge who deserves to live, and whose life should be taken away from them for bad behaviour? A humane and moral penal policy distinguishes between the criminal and the crime and this is the only policy worthy of a democratic society that respects human rights.

All criminal justice systems are susceptible to discrimination, arbitrariness and human error. No system is or could conceivably be capable of deciding fairly, consistently and infallibly who should live and who should die. Expediency, discretionary decisions and prevailing public opinion may influence all phases of the proceedings from the initial investigation to the last-minute decision on clemency. This means that those who end up being killed may not in fact be the worst criminals, but those who were unable to defend themselves, those who suffer from discrimination, those who happened to face harsher prosecutors or judges or even those who were innocent. Experience demonstrates that this happens whenever and wherever the death penalty is applied.

**How would you feel if your sister was raped and murdered? Wouldn't you want the offender to be put to death?**

Anyone whose sister or friend or family member is a victim of a violent crime feels a whole range of strong emotions including rage, anger, shock, despair, pain, disgust and a desire to retaliate and punish the person who perpetrated this crime. These are only natural human reactions. Everyone would want this person caught as soon as possible and severely punished. This requires an effective law-enforcement and court system. One in which crimes are efficiently and thoroughly investigated, suspects swiftly and fairly tried, and the guilty punished. It is essential that there are adequate procedures to ensure that the right person is caught and punished – not someone who is innocent – while the perpetrator is allowed to remain free. The death penalty does not ensure that the right perpetrator is caught. It all too often offers a highly dramatic response that serves to hide inefficiency in the criminal justice system.

Killing the perpetrator would be a barbarous and anachronistic response to this terrible situation, and not one befitting of a civilised society guided by the rule of law. The history of the endeavour to establish the rule of law is a history of the progressive restriction, in public policy and legal codes, of personal vengeance. It is a his-



tory of establishing effective and fair procedures befitting of a humane society, which punish criminals while respecting fundamental human rights.

## The death penalty and deterrence

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**But isn't the death penalty a deterrent against crime? If we abolish it won't crime increase even further?**

- *Statistics and data from abolitionist countries continually prove that there is no link between the death penalty and crime rates – this includes countries in transition towards democracy.*

We are all familiar with claims that the death penalty is a deterrent to crime, and yet, it is a well-known fact that there is no statistical evidence to bear this out. This commonly held view is a myth. Study after study in diverse countries has failed to show a causal link between the retention or abolition of the death penalty and the rate or volume of violent crime. An extensive study conducted for the United Nations Committee on Crime Prevention in 1988 and updated in 1996 and 2002, which reviewed the large body of research on the relation between changes in the use of the death penalty and crime rates, concluded that “this research has failed to provide scientific proof that executions have a greater deterrent effect than life imprisonment. Such proof is unlikely to be forthcoming. The evidence as a whole still gives no positive support to the deterrent hypothesis.”<sup>7</sup>

Crime figures from countries that have abolished the death penalty repeatedly confirm that doing so does not lead to an increase in crime. In Canada, for instance, the homicide rate per 100 000 population fell from a peak of 3.09 in 1975 the year before abolition of the death penalty for murder to 2.41 in 1980 and since then it has declined further. In 2006, 30 years after abolition, the homicide rate has fallen by 44% compared with 1975.<sup>8</sup>

**Figures from countries that have abolished the death penalty confirm that doing so does not lead to an increase in crime.**

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7. Renate Wohlwend, “The Efforts of the Parliamentary Assembly of the Council of Europe” in *The Death Penalty: Abolition in Europe*, Council of Europe Publishing, May 1999, p. 58.

8. Amnesty International, *Global moratorium now*, August 2007.

In Lithuania, no criminal has been executed since 1996 and the number of murders has decreased steadily.<sup>9</sup> In Georgia the death penalty was abolished in November 1997 and since then there has been a remarkable decline in the number of intentional murders.<sup>10</sup>

The findings from the United States, where the use of the death penalty differs from state to state, reveal within the context of a single country the irrelevance of the death penalty in preventing crime. “States that have death penalty laws do not have lower crime rates or murder rates than states without such laws. And states that have abolished capital punishment, or re-instituted it, show no probative changes in either crime or murder rates.”<sup>11</sup> “Since 1977 over 80% of all executions have occurred in the South, the region with the highest murder rate. The Northeast, the region with the lowest murder rate, has accounted for less than 1% of executions.”<sup>12</sup>

- *Crimes punished with death are usually committed under conditions whereby rational calculations about the consequences for the victims and the criminals themselves are not considered.*

The claim that capital punishment deters crime assumes that those who commit murders and other capital crimes rationally calculate beforehand the costs and benefits of their actions, weighing the possibility of being killed into their calculations. This assumption relies on a completely false picture of the perpetrators and the conditions under which they commit the crimes punished by death. Most capital crimes are committed in the heat of the moment, at times of great emotional stress or under the influence of drugs or alcohol – at a time when logical thinking and rational calculation are suspended. Some of these crimes are also committed by highly unstable or mentally incompetent individuals. In none of these situations do the perpetrators calculate the punishment they may face if caught.

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9. Dr Aleksandras Dobryninas, “The experience of Lithuania regarding abolition”, in *The Abolition of the Death Penalty in Albania, Proceedings of the International conference organised in co-operation between the Parliament of Albania, the Council of Europe and the European Commission*, Tirana, 31 March-1 April 2000.

10. Erik Svanidze, “The experience of Georgia regarding abolition of the death penalty”, *ibid.*

11. American Civil Liberties Union, Briefing Paper: The Death Penalty, Number 14, Spring 1999. Peter Hodgkinson, “Beyond Capital Punishment: Respecting the needs of victims and establishing effective alternatives to the death penalty”, in *The Abolition of the Death Penalty in Albania*, *ibid.*

12. American Civil Liberties Union, *National Death Penalty Factsheet*, March 2007.

- *Those who do plan crimes in a calculated manner are deterred not by the severity of the punishment, but by the certainty of being caught and convicted.*

When a crime is planned, the criminal ordinarily concentrates on escaping detection, arrest and conviction, rather than on the severity of the punishment. The threat of even the severest punishment will not discourage those who expect to escape detection and arrest. The key to deterrence is not more severe punishments, but increasing the likelihood that perpetrators of crimes will be caught, arrested and convicted. This means that the focus of efforts aimed at preventing crime should be on improving the effectiveness of law enforcement agencies. Public confidence that crime will be promptly and professionally investigated and criminals brought to justice is fundamental to deterring crime. This means building up the trust between the community and the law enforcement agencies and developing confidence in the judicial system. Developing a climate of “legality” where everyone has a stake in a peaceful and orderly society will contribute to preventing and detecting crime.

- *The death penalty is not necessary in order to fight against terrorism and organised crime.*

There is no evidence that organised crime and terrorism are reduced by the existence of the death penalty. In fact, officials responsible for fighting political crimes and terrorism have repeatedly pointed out that the death penalty can have the opposite effect – executions can create martyrs whose memory becomes a rallying point for terrorist organisations and for further acts of terrorism. The threat of the death penalty for groups involved in trafficking of human beings or narcotics has proved to be irrelevant in addressing the problem.

In countries where the death penalty exists, it is generally not this group of criminals that find themselves on death row. Anatoly Pristavkin, former Chairman of the Presidential Pardons Commission of Russia, has explained, for instance, that among the hundreds of people who found themselves on death row in Russia, before a moratorium on executions was instituted in August 1996, not a single case of a Mafioso, drug trafficker, hired killer or terrorist had yet come before the board of pardons. Instead, he said, “the people the state executes are from the lowest, most defenceless layer of society, besotted with vodka and reduced to a bestial condition; they usually commit run-of-the-mill crimes when drunk.”

**Those who commit murders often don't rationally calculate beforehand the costs of their actions.**

**There is no evidence that organised crime and terrorism are reduced by the existence of the death penalty.**

**Execution completely negates the principle of rehabilitation and respect for human rights.**

The death penalty has also become an insurmountable obstacle in the fight against internationally organised crime, because abolitionist states will not extradite suspects to countries where they could face capital punishment. When a suspect escaped from Ukrainian law-enforcement authorities in 1999, for example, the Hungarian authorities refused to extradite him for this reason.<sup>13</sup> In a landmark case in February 2001, the Canadian Supreme Court refused to extradite two men wanted for murder to the United States of America without prior assurances from US prosecutors that they would not face the death penalty.

- *It is not necessary to execute certain prisoners in order to prevent their repeating their crimes.*

Obviously a dead person cannot commit any future crimes. But this is a draconian and totalitarian approach to the prevention of criminality, not befitting of a civilised society. The experience of many abolitionist countries shows that dangerous offenders can be kept safely from the public without resorting to execution. Those executed are a very small percentage of all criminals and there is no reason to think that a capital offender is more likely to repeat an offence than any other type of criminal. Execution essentially involves taking the life of someone to prevent them from committing hypothetical future crimes – which the overwhelming majority would not have repeated anyway.

Execution completely negates the principle of rehabilitation and respect for human rights. It is totalitarian to regard criminals as undesirable elements, which should be eliminated from society. Criminals are not an inhuman species, but human beings who are products of society. Frequently the crimes committed were an exceptional few minutes in the perpetrator's life committed under highly stressful and aberrant circumstances, or the culmination of years of suffering from abuse and brutality.

- *Those against the death penalty always argue that there is a risk of executing the innocent that cannot be assuaged by procedures like DNA-testing.*

The risk of making a mistake and executing an innocent person is a real risk. Mistakes occur far more often than most people realise. And once a life is taken away, there is no possibility of returning it. In the United States, since 1976, when the Supreme Court reinstated capital punishment, 123 people have been released from

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13. In 1999 a moratorium on executions had already been introduced in Ukraine but the death penalty remained on the statute books.

death row after being found to be innocent.<sup>14</sup> During the same time period, over 1004 people have been executed. This means that for every ten people executed, an eleventh – completely innocent – person spent time on death row. There have also been 23 documented cases in which innocent people have been mistakenly executed since the early 1900s<sup>15</sup> and this number is likely low because of the difficulty of establishing innocence once the person is dead. If this is the case in the United States, with considerable procedural safeguards, how much greater the risk must be in countries that have just recently started to build genuinely independent and impartial legal systems. The risk is further aggravated in countries where the quality of legal advice for indigent defendants is poor and wage arrears, poor working conditions and rising caseloads produce fertile grounds for corruption within the judiciary. It is impossible to avoid mistakes. No matter how many procedural safeguards are built into the judicial system and how advanced science and technology become, humans will always administer this system – and they are fallible. Even DNA evidence is only as reliable as the humans who collect and read it, not taking into account the possibility of planted evidence, and the fact that DNA evidence is not always available at the scene of the crime.

In addition, innocent people can be executed on purpose. The death penalty is a notorious means of silencing political opponents or others that the state deems undesirable, like Ken Sarawewa in Nigeria or the Fulan Gong in China. The victims are commonly sentenced to death after unfair trials. It is the irrevocable nature of the death penalty that makes it such an apt tool for abuse.<sup>16</sup>

## The death penalty and prisoners

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### Don't people prefer death to bad conditions in prison?

When prisoners in certain places prefer death to the conditions in prison, this is a sign of the barbarity and cruelty of the prison conditions themselves. Human rights treaties require that an end be

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14. In many cases following campaigns by committed activists working outside the checks and balances of the system. A study of judicial errors by students of a Northwestern University journalism class, for example, helped prompt the Governor of Illinois to impose a moratorium on executions in January 2000.

15. Hugo Adam Bedau and Michael L. Radelet, "Miscarriages of Justice in Potentially Capital Cases", in: *Stanford Law Review*, 40: 21-179, 1987.

16. Amnesty International, *The Death Penalty: Questions and Answers*, Amnesty International Website, April 2007.

put to such inhumane situations. Both international and European treaties are categorical that “no one shall be subjected to torture or to inhuman or degrading treatment or punishment”.<sup>17</sup> Prison conditions that fall short of international standards should be remedied and cannot serve as a pretext for applying the death penalty. Practices such as keeping prisoners in overcrowded and filthy conditions, where they are unable to leave their tiny cells except for the occasional shower, not allowed visitors for many years and subject to physical and mental abuse, are unacceptable. Prisoners should also benefit from the right to respect for private and family life under Article 8 of the European Convention on Human Rights. This includes the right to receive visits from family members and the right to respect for correspondence. This right is especially important for prisoners sentenced to long terms of imprisonment, since normal means of continuing relationships, crucial for rehabilitation, have been removed.

In a humane justice system, long sentences, such as life detention, should not only be based on the gravity of the offences, but also on considerations of risk and dangerousness to the society, which can change with the passage of time. This is of special importance for prisoners sentenced to life imprisonment for crimes committed when they were young, because any developments in their personality and attitude as they grow older need to be taken into account.

**A humane penal policy should recognise that criminals are an integral part of society.**

A humane penal policy is underpinned by the recognition that each criminal is different and that criminals are an integral part of society. It is essential to look behind the crime at the personal circumstances of the criminal and the circumstances under which the crime was committed. The penal system should not only aim to punish, but to rehabilitate and allow prisoners who have reformed to re-enter society where they can make a positive contribution. This approach is not “soft on crime”. On the contrary, it places crime in a broader social perspective, which can only impact positively upon the development of society as a whole and the rate of crime itself.

To reinforce its actions in this area, the Council of Europe established a specialised body in 1989 called the European Committee for the Prevention of Torture with a mandate to visit any place where persons are deprived of their liberty to ensure that all such persons are being kept in humane conditions. The aim is to work in close co-operation with the authorities of each country to pro-

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17. Article 3 of the European Convention on Human Rights.

tect prisoners from torture and abuse, to improve the conditions in the prisons and to develop a prison system that prepares prisoners for reinsertion into society. The Committee has conducted 291 visits to date.<sup>18</sup>

## **How can the death penalty be eliminated if there aren't enough prisons for prisoners with life sentences?**

When states impose a moratorium on capital punishment and need to commute large numbers of death sentences, they all find themselves in the same predicament. They are not sure what to do with all these prisoners. The result is usually a logjam of prisoners in the system with life sentences, without any planned provision for their needs. This poses real political and practical problems. All states that abolish the death penalty must confront these temporary problems, and as a result, there is now considerable expertise in this area.

Also, the number of death row inmates is usually very small compared with the overall prison population. Even in the Russian Federation, which had a comparatively large death row, its over 600 prisoners paled in comparison to the over one million inmates in Russia's prisons and pre-trial detention centres.

The answer is not to undertake a hasty building programme in an attempt to develop separate prisons for these persons. Life prisoners can safely and constructively be imprisoned alongside other prisoners. The United Kingdom has developed expertise in the field of managing life-sentence prisoners since *de facto* abolition in 1965. The consensus among British prison workers is that prisoners serving life sentences actually have a stabilising influence upon the general prison population. They tend to develop a routine and are reluctant to jeopardise the possibility of parole.

It is worth recalling that it is society that produces prisoners – and prisons are an integral part of society. We may want to wash our hands of people who have offended – but this has never stopped crime and has only undermined the work of dedicated staff in prisons. It is important for contacts between prisoners and society to remain open, so that ex-offenders may one day reintegrate into life outside the prison walls.

**It is worth recalling  
that it is society that  
produces prisoners.**

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18. As of 26 August 2010. For reports and more information, see <http://www.cpt.coe.int/>.

## Is it not too expensive to keep people serving life sentences?

- *How much is a human life worth? Can a price tag be attached to it?*

**If costs are the real concern, it is not the very small percentage of prisoners on death row that will have an impact on the budget.**

The death penalty is not a cheap alternative to imprisonment; at least not as long as necessary safeguards are created against miscarriages of justice. This option may actually be more expensive than imprisonment. In the United States even those who support the death penalty decry the additional costs of death penalty cases, said on average to be twice as high as those of life imprisonment. If costs are the real concern of a state, it is not the very small percentage of prisoners on death row that will have an impact on the prison budget, but changes in the sentencing policy that aim to reduce the overall prison population. A first step in addressing financial problems would involve reducing the number of prisoners and the duration of sentences for offenders detained for less serious offences as well as ending the routine use of pre-trial detention in minor criminal cases. The introduction of alternatives to detention as part of a diversified sentencing policy would certainly lead to much greater financial savings.

## When the death penalty is a tradition in a country, why should it change? What right do others, from wealthy countries, have to criticise national traditions and impose their own values?

All countries have their own cultures and traditions, and the death penalty was at one time practised in most countries of the world. Human rights, however, are universal and inalienable, deriving from aspirations agreed by all societies – aspirations such as human dignity and the sanctity of human life.<sup>19</sup>

All too often the cultural or national traditions argument is invoked by authoritarian regimes to justify their own positions and has nothing to do with cultural diversity or the traditions of a particular people.

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19. The right to life and the right to be free from torture or from inhuman or degrading treatment or punishment are fundamental standards guaranteed in International and European instruments. These standards were collectively adopted and are collectively enforced – they are not exclusively Western ideas.



The so-called wealthy countries are not a uniform group. Their traditions vary widely and have led to considerable differences in the speed with which human rights standards have been achieved. For instance, although it had abolished the death penalty *de facto* for decades, the United Kingdom ratified Protocol No. 6 in 1999, later than numerous other Council of Europe States, among them Moldova, Georgia, Portugal and Iceland. Those countries that have abolished the death penalty have adapted their practices to international standards, and there is no reason preventing any country from applying these standards. All humans are equally worthy – no matter where they live.

**All too often the national traditions argument is invoked by authoritarian regimes to justify their own positions.**

# Abolition and society

**Politicians and opinion leaders should lead the debate in an informed and open-minded atmosphere.**

The debate on abolition reflects the societies we live in. It cannot be reduced to simplistic sound bites. A gruesome murder should not be exploited by politicians for mouthing populist rhetoric about being tough on crime without actually contributing to an informed debate on the subject. The desire for vengeance is a natural human reaction. Revulsion at the crime, pity for victims, anger, indignation and powerlessness about the situation are all common feelings. However, politicians and opinion leaders should lead the debate in an informed and open-minded atmosphere. In looking at the question of abolition it is necessary to examine the criminal justice system in its entirety from police–community relations to the fairness of the judicial system to prison conditions and possibilities for rehabilitation. Each of these issues raises a multitude of questions. Abolition of the death penalty is ultimately about subscribing to a number of fundamental values, which underpin the societies we live in, such as freedom, democracy and human rights. The debate then comes down to what kind of a society do you, your family, your children want to help create and live in.

# Afterword

## Mevlüt Çavuşoğlu, President of the Parliamentary Assembly

The Parliamentary Assembly takes great pride in having spearheaded the campaign for making Europe a death penalty-free zone. The Assembly made a moratorium on executions and a commitment to abolition a precondition for accession to the Council of Europe. The death penalty is now *de facto* abolished in all member states of the Council of Europe, and the Assembly is presently campaigning vigorously for the abolition of this outdated and cruel form of punishment in the Council of Europe's observer states, in particular in the United States of America and Japan.

My own country, Turkey, abolished the death penalty in 2002, after a *de facto* moratorium had been in place since 1984. Needless to say that Turkey has not experienced any increase in violent crime following abolition – the same was true for all other recently abolitionist countries in Europe.

Europe's positive experience with abolition is radiating even beyond our continent. The successful Italian initiative in the UN General Assembly in favour of a world-wide moratorium on executions was wholeheartedly supported by the Parliamentary Assembly. Renate Wohlwend, the Assembly's Rapporteur on the death penalty, is invited more and more often to present the European experience in different regions of the world.

Nevertheless, some work still remains to be done in Europe, too: the Russian Federation has yet to formally ratify Protocol No. 6 to the European Convention on Human Rights on the abolition of the death penalty in peacetime, in line with its commitments upon accession to the Council of Europe, and Protocol No.13 laying down a total ban of the death penalty in all circumstances still awaits acceptance by several states. Last but not least, one European country – Belarus – is still carrying out executions on a regular basis. This barbaric practice – at least two executions have even taken place this year – is one of the main obstacles preventing closer relations between Belarus and the Council of Europe or this country's eventual accession.



The death penalty is not only an affront to our common values, but it has also been recognised as a human rights violation by the European Court of Human Rights – as a violation of the right to life, quite literally the most “fundamental” of all rights, which is the very foundation of all other rights. This recognition also makes the continued retention of the death penalty by some countries a formidable obstacle to international legal co-operation in the fight against terrorism and other forms of organised crime: States Parties to the Convention cannot extradite suspects to, or share evidence with retentionist states, if this would in any other way contribute to the application of the death penalty.

I am therefore proud that the Parliamentary Assembly and the Council of Europe as a whole will continue to lead the campaign for the permanent and universal abolition of the death penalty.

*Mevlüt Çavuşoğlu  
President of the Council of Europe's  
Parliamentary Assembly  
September 2010*

# Appendix 1

## **Protocol No. 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the abolition of the death penalty**

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The member States of the Council of Europe, signatory to this Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms, signed at Rome on 4 November 1950 (hereinafter referred to as “the Convention”),

Considering that the evolution that has occurred in several member States of the Council of Europe expresses a general tendency in favour of abolition of the death penalty;

Have agreed as follows:

### **Article 1 – Abolition of the death penalty**

The death penalty shall be abolished. No one shall be condemned to such penalty or executed.

### **Article 2 – Death penalty in time of war**

A State may make provision in its law for the death penalty in respect of acts committed in time of war or of imminent threat of war; such penalty shall be applied only in the instances laid down in the law and in accordance with its provisions. The State shall communicate to the Secretary General of the Council of Europe the relevant provisions of that law.

### **Article 3 – Prohibition of derogations**

No derogation from the provisions of this Protocol shall be made under Article 15 of the Convention.

### **Article 4 – Prohibition of reservations**

No reservation may be made under Article 57 of the Convention in respect of the provisions of this Protocol.

## **Article 5 – Territorial application**

1. Any State may at the time of signature or when depositing its instrument of ratification, acceptance or approval, specify the territory or territories to which this Protocol shall apply.
2. Any State may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Protocol to any other territory specified in the declaration. In respect of such territory the Protocol shall enter into force on the first day of the month following the date of receipt of such declaration by the Secretary General.
3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the first day of the month following the date of receipt of such notification by the Secretary General.

## **Article 6 – Relationship to the Convention**

As between the States Parties the provisions of Articles 1 to 5 of this Protocol shall be regarded as additional articles to the Convention and all the provisions of the Convention shall apply accordingly.

## **Article 7 – Signature and ratification**

The Protocol shall be open for signature by the member States of the Council of Europe, signatories to the Convention. It shall be subject to ratification, acceptance or approval. A member State of the Council of Europe may not ratify, accept or approve this Protocol unless it has, simultaneously or previously, ratified the Convention. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

## **Article 8 – Entry into force**

1. This Protocol shall enter into force on the first day of the month following the date on which five member States of the Council of Europe have expressed their consent to be bound by the Protocol in accordance with the provisions of Article 7.
2. In respect of any member State which subsequently expresses its consent to be bound by it, the Protocol shall enter into force on the first day of the month following the date of the deposit of the instrument of ratification, acceptance or approval.

## **Article 9 – Depositary functions**

The Secretary General of the Council of Europe shall notify the member States of the Council of:

- a. any signature;
- b. the deposit of any instrument of ratification, acceptance or approval;
- c. any date of entry into force of this Protocol in accordance with Articles 5 and 8;
- d. any other act, notification or communication relating to this Protocol.

In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.

Done at Strasbourg, this 28th day of April 1983, in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe.

## Appendix 2

### **Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the abolition of the death penalty in all circumstances**

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The member States of the Council of Europe, signatory hereto,  
Convinced that everyone's right to life is a basic value in a democratic society and that the abolition of the death penalty is essential for the protection of this right and for the full recognition of the inherent dignity of all human beings;

Wishing to strengthen the protection of the right to life guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4 November 1950 (hereinafter referred to as "the Convention");

Noting that Protocol No. 6 to the Convention, concerning the Abolition of the Death Penalty, signed at Strasbourg on 28 April 1983, does not exclude the death penalty in respect of acts committed in time of war or of imminent threat of war;

Being resolved to take the final step in order to abolish the death penalty in all circumstances,

Have agreed as follows:

#### **Article 1 – Abolition of the death penalty**

The death penalty shall be abolished. No one shall be condemned to such penalty or executed.

#### **Article 2 – Prohibition of derogations**

No derogation from the provisions of this Protocol shall be made under Article 15 of the Convention.

#### **Article 3 – Prohibition of reservations**

No reservation may be made under Article 57 of the Convention in respect of the provisions of this Protocol.

#### **Article 4 – Territorial application**

1. Any state may, at the time of signature or when depositing its instrument of ratification, acceptance or approval, specify the territory or territories to which this Protocol shall apply.



2. Any state may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Protocol to any other territory specified in the declaration. In respect of such territory the Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt by the Secretary General of such declaration.
3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn or modified by a notification addressed to the Secretary General. The withdrawal or modification shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.

## **Article 5 – Relationship to the Convention**

As between the states Parties the provisions of Articles 1 to 4 of this Protocol shall be regarded as additional articles to the Convention, and all the provisions of the Convention shall apply accordingly.

## **Article 6 – Signature and ratification**

This Protocol shall be open for signature by member states of the Council of Europe which have signed the Convention. It is subject to ratification, acceptance or approval. A member state of the Council of Europe may not ratify, accept or approve this Protocol without previously or simultaneously ratifying the Convention. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

## **Article 7 – Entry into force**

1. This Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date on which ten member states of the Council of Europe have expressed their consent to be bound by the Protocol in accordance with the provisions of Article 6.
2. In respect of any member state which subsequently expresses its consent to be bound by it, the Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of ratification, acceptance or approval.

## Article 8 – Depositary functions

The Secretary General of the Council of Europe shall notify all the member states of the Council of Europe of:

- a any signature;
- b the deposit of any instrument of ratification, acceptance or approval;
- c any date of entry into force of this Protocol in accordance with Articles 4 and 7;
- d any other act, notification or communication relating to this Protocol.

In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.

Done at Vilnius, this 3rd day of May 2002, in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe.

## Appendix 3

### Signatures and ratifications of Protocols Nos. 6 and 13

| Protocol No. 6          |            |            |                  |
|-------------------------|------------|------------|------------------|
| Member state            | Signed     | Ratified   | Entry into force |
| Albania                 | 04/04/2000 | 21/09/2000 | 01/10/2000       |
| Andorra                 | 22/01/1996 | 22/01/1996 | 01/02/1996       |
| Armenia                 | 25/01/2001 | 29/09/2003 | 01/10/2003       |
| Austria                 | 28/04/1983 | 05/01/1984 | 01/03/1985       |
| Azerbaijan              | 25/01/2001 | 15/04/2002 | 01/05/2002       |
| Belgium                 | 28/04/1983 | 10/12/1998 | 01/01/1999       |
| Bosnia and Herzegovina  | 24/04/2002 | 12/07/2002 | 01/08/2002       |
| Bulgaria                | 07/05/1999 | 29/09/1999 | 01/10/1999       |
| Croatia                 | 06/11/1996 | 05/11/1997 | 01/12/1997       |
| Cyprus                  | 07/05/1999 | 19/01/2000 | 01/02/2000       |
| Czech Republic          | 21/02/1991 | 18/03/1992 | 01/01/1993       |
| Denmark                 | 28/04/1983 | 01/12/1983 | 01/03/1985       |
| Estonia                 | 14/05/1993 | 17/04/1998 | 01/05/1998       |
| Finland                 | 05/05/1989 | 10/05/1990 | 01/06/1990       |
| France                  | 28/04/1983 | 17/02/1986 | 01/03/1986       |
| Georgia                 | 17/06/1999 | 13/04/2000 | 01/05/2000       |
| Germany                 | 28/04/1983 | 05/07/1989 | 01/08/1989       |
| Greece                  | 02/05/1983 | 08/09/1998 | 01/10/1998       |
| Hungary                 | 06/11/1990 | 05/11/1992 | 01/12/1992       |
| Iceland                 | 24/04/1985 | 22/05/1987 | 01/06/1987       |
| Ireland                 | 24/06/1994 | 24/06/1994 | 01/07/1994       |
| Italy                   | 21/10/1983 | 29/12/1988 | 01/01/1989       |
| Latvia                  | 26/06/1998 | 07/05/1999 | 01/06/1999       |
| Liechtenstein           | 15/11/1990 | 15/11/1990 | 01/12/1990       |
| Lithuania               | 18/01/1999 | 08/07/1999 | 01/08/1999       |
| Luxembourg              | 28/04/1983 | 19/02/1985 | 01/03/1985       |
| Updated: 25 August 2010 |            |            |                  |

| Protocol No. 6                              |            |            |                  |
|---|------------|------------|------------------|
| Member state                                | Signed     | Ratified   | Entry into force |
| Malta                                       | 26/03/1991 | 26/03/1991 | 01/04/1991       |
| Moldova                                     | 02/05/1996 | 12/09/1997 | 01/10/1997       |
| Monaco                                      | 05/10/2004 | 30/11/2005 | 01/12/2005       |
| Montenegro                                  | 03/04/2003 | 03/03/2004 | 06/06/2006       |
| Netherlands                                 | 28/04/1983 | 25/04/1986 | 01/05/1986       |
| Norway                                      | 28/04/1983 | 25/10/1988 | 01/11/1988       |
| Poland                                      | 18/11/1999 | 30/10/2000 | 01/11/2000       |
| Portugal                                    | 28/04/1983 | 02/10/1986 | 01/11/1986       |
| Romania                                     | 15/12/1993 | 20/06/1994 | 01/07/1994       |
| Russia                                      | 16/04/1997 |            |                  |
| San Marino                                  | 01/03/1989 | 22/03/1989 | 01/04/1989       |
| Serbia                                      | 03/04/2003 | 03/03/2004 | 01/04/2004       |
| Slovakia                                    | 21/02/1991 | 18/03/1992 | 01/01/1993       |
| Slovenia                                    | 14/05/1993 | 28/06/1994 | 01/07/1994       |
| Spain                                       | 28/04/1983 | 14/01/1985 | 01/03/1985       |
| Sweden                                      | 28/04/1983 | 09/02/1984 | 01/03/1985       |
| Switzerland                                 | 28/04/1983 | 13/10/1987 | 01/11/1987       |
| "The former Yugoslav Republic of Macedonia" | 14/06/1996 | 10/04/1997 | 01/05/1997       |
| Turkey                                      | 15/01/2003 | 12/11/2003 | 01/12/2003       |
| Ukraine                                     | 05/05/1997 | 04/04/2000 | 01/05/2000       |
| United Kingdom                              | 27/01/1999 | 20/05/1999 | 01/06/1999       |
| Updated: 25 August 2010                     |            |            |                  |

## Protocol No. 13

| Member state           | Signed     | Ratified   | Entry into force |
|------------------------|------------|------------|------------------|
| Albania                | 26/05/2003 | 06/02/2007 | 01/06/2007       |
| Andorra                | 03/05/2002 | 26/03/2003 | 01/07/2003       |
| Armenia                | 19/05/2006 |            |                  |
| Austria                | 03/05/2002 | 12/01/2004 | 01/05/2004       |
| Azerbaijan             |            |            |                  |
| Belgium                | 03/05/2002 | 23/06/2003 | 01/10/2003       |
| Bosnia and Herzegovina | 03/05/2002 | 29/07/2003 | 01/11/2003       |
| Bulgaria               | 21/11/2002 | 13/02/2003 | 01/07/2003       |
| Croatia                | 03/07/2002 | 03/02/2003 | 01/07/2003       |
| Cyprus                 | 03/05/2002 | 12/03/2003 | 01/07/2003       |
| Czech Republic         | 03/05/2002 | 02/07/2004 | 01/11/2004       |
| Denmark                | 03/05/2002 | 28/11/2002 | 01/07/2003       |
| Estonia                | 03/05/2002 | 25/02/2004 | 01/06/2004       |
| Finland                | 03/05/2002 | 29/11/2004 | 01/03/2005       |
| France                 | 03/05/2002 | 10/10/2007 | 01/02/2008       |
| Georgia                | 03/05/2002 | 22/05/2003 | 01/09/2003       |
| Germany                | 03/05/2002 | 11/10/2004 | 01/02/2005       |
| Greece                 | 03/05/2002 | 01/02/2005 | 01/06/2005       |
| Hungary                | 03/05/2002 | 16/07/2003 | 01/11/2003       |
| Iceland                | 03/05/2002 | 10/11/2004 | 01/03/2005       |
| Ireland                | 03/05/2002 | 03/05/2002 | 01/07/2003       |
| Italy                  | 03/05/2002 | 03/03/2009 | 01/07/2009       |
| Latvia                 | 03/05/2002 |            |                  |
| Liechtenstein          | 03/05/2002 | 05/12/2002 | 01/07/2003       |
| Lithuania              | 03/05/2002 | 29/01/2004 | 01/05/2004       |
| Luxembourg             | 03/05/2002 | 21/03/2006 | 01/07/2006       |
| Malta                  | 03/05/2002 | 03/05/2002 | 01/07/2003       |
| Moldova                | 03/05/2002 | 18/10/2006 | 01/02/2007       |
| Monaco                 | 05/10/2004 | 30/11/2005 | 01/03/2006       |
| Montenegro             | 03/04/2003 | 03/03/2004 | 06/06/2006       |
| Netherlands            | 03/05/2002 | 10/02/2006 | 01/06/2006       |
| Norway                 | 03/05/2002 | 16/08/2005 | 01/12/2005       |

Updated: 25 August 2010

## Protocol No. 13

| Member state                                | Signed     | Ratified   | Entry into force |
|---|------------|------------|------------------|
| Poland                                      | 03/05/2002 |            |                  |
| Portugal                                    | 03/05/2002 | 03/10/2003 | 01/02/2004       |
| Romania                                     | 03/05/2002 | 07/04/2003 | 01/08/2003       |
| Russia                                      |            |            |                  |
| San Marino                                  | 03/05/2002 | 25/04/2003 | 01/08/2003       |
| Serbia                                      | 03/04/2003 | 03/03/2004 | 01/07/2004       |
| Slovakia                                    | 24/07/2002 | 18/08/2005 | 01/12/2005       |
| Slovenia                                    | 03/05/2002 | 04/12/2003 | 01/04/2004       |
| Spain                                       | 03/05/2002 | 16/12/2009 | 01/04/2010       |
| Sweden                                      | 03/05/2002 | 22/04/2003 | 01/08/2003       |
| Switzerland                                 | 03/05/2002 | 03/05/2002 | 01/07/2003       |
| "The former Yugoslav Republic of Macedonia" | 03/05/2002 | 13/07/2004 | 01/11/2004       |
| Turkey                                      | 09/01/2004 | 20/02/2006 | 01/06/2006       |
| Ukraine                                     | 03/05/2002 | 11/03/2003 | 01/07/2003       |
| United Kingdom                              | 03/05/2002 | 10/10/2003 | 01/02/2004       |

Updated: 25 August 2010