

The European Convention on Human Rights

(Summary)

Under the Convention, which was signed in Rome on 4 November 1950 and came into force in 1953, the States Parties guarantee the basic civil and political rights of a state governed by the rule of law, not only to their own citizens but to all persons "within their jurisdiction". States or individuals can bring a complaint before the Court set up by the Convention. However, the Convention is not necessarily incorporated into each state's national legal system. The theory of international law whereby human rights have a fundamental character placing them above the legislation and practices of sovereign states is thus brought into practice.

The rights guaranteed

The right to life (Article 2)

Article 2 protects the individual against death inflicted arbitrarily by the State; but it does not exclude the use of the death penalty if carried out in accordance with the law. Protocol No. 6, abolishing the death penalty in time of peace, was adopted in 1985. A new protocol, abolishing death penalty is being prepared.

The right to liberty and security of person (Article 5)

Article 5 guarantees people physical liberty by protecting them from arbitrary arrest and detention and according them certain basic procedural rights. Its provisions are extended by Article 1 of Protocol No. 4 which prohibits imprisonment for debt.

The right to a fair trial in civil and criminal matters (Article 6)

This right is complemented by Article 13, which ensures the right to an effective remedy before a national authority. Article 6 includes the condition that the proceedings must take place within a "reasonable time". Complaints of violations of this provision are those most frequently brought by applicants. The notion of a fair trial is completed by the principle that criminal law should not be retroactive (Article 7), the right of appeal in criminal cases, the right to compensation for wrongful conviction, and the right not to be tried or punished twice for the same offence (Articles 2, 3 and 4 of Protocol No. 7).

Respect for private and family life, home and correspondence (Article 8),

which may be linked to the right to marry and found a family (Article 12).

The equality of rights and responsibilities of spouses during marriage (Article 5 of Protocol No. 7).

The right to freedom of expression (including freedom of the press) (Article 10)

The requirements of this basic right are a logical development of the rights guaranteed by Article 9 (freedom of thought, conscience and religion).

Freedom of peaceful assembly and association (Article 11).

The right to peaceful enjoyment of possessions (Article 1 of Protocol No. 1).

The right to education (Article 2 of Protocol No. 1).

The right to free elections (Article 3 of Protocol No. 1).

The Council of Europe and the protection of human rights

Liberty of movement and freedom to choose where to live (Article 2 of Protocol No. 4).

What is prohibited

Torture and inhuman or degrading treatment and punishment (Article 3).

Slavery, servitude and forced labour (Article 4).

Discrimination in the enjoyment of rights and freedoms guaranteed by the Convention (Article 14).

Expulsion of a state's own nationals or denying them entry, and the collective expulsion of aliens. (Articles 3 and 4 of Protocol No. 4)

Procedural safeguards also protect foreigners under threat of expulsion from a country (Article 1 of Protocol No. 7).

The Convention provides for a European Court of Human Rights to deal with individuals' petitions and inter-state cases. The Judges are entirely independent and are elected by the Parliamentary Assembly.

The Committee of Ministers of the Council of Europe supervises the execution of the judgment where a violation has been found, ensuring that the state takes appropriate remedial action, for example by means of new administrative procedures or by legislation

Source: Council of Europe Directorate General of Human Rights www.humanrights.coe.int