

**OVERVIEW OF COUNTRIES WHO HAVE RATIFIED THE EUROPEAN
CONVENTION ON HUMAN RIGHTS AND BIOMEDICINE**

Country	Date of ratification	Convention is directly applicable	Applicable Constitutional provision
Czech Republic	22 June 2001	Yes	Art. 10 of the Czech Constitution stipulates: "Ratified and promulgated international accords on human rights and fundamental freedoms, to which the Czech Republic has committed itself, are immediately binding and are superior to law."
Cyprus	20 March 2002	Yes	Art. 169 (2) and (3) of the Cyprus Constitution stipulates: (2) any other treaty, convention or international agreement shall be negotiated and signed under a decision of the Council of Ministers and shall only be operative and binding on the Republic when approved by a law made by the House of Representatives whereupon it shall be concluded; (3) treaties, conventions and agreements concluded in accordance with the foregoing provisions of this Article shall have, as from their publication in the official Gazette of the Republic, superior force to any municipal law on condition that such treaties, conventions and agreements are applied by the other party thereto.
Denmark	10 August 1999	No	In principle, treaties do neither automatically nor quasi-automatically become part of Danish law (this could be deduced from the wording of art. 19 of the Danish Constitution). The authorities may not apply the treaty provisions before they have been incorporated. This is concurrent with the dualistic principle of Danish legal doctrinal tradition according to which international and national law are considered to be two essentially different systems of law. At the time of the conclusion of a treaty Danish authorities will examine domestic law in order to determine whether it already complies with the treaty in question or whether amendments in domestic law are required. The most common way is to incorporate the text of a treaty into a Danish

			statute or administrative regulation. It has become more common to adopt a statute which merely refers to the treaty while stating that the treaty provisions shall have effect as part of Danish law. ¹
Estonia	8 February 2002	Yes	Art. 123 of the Estonian Constitution stipulates: “(1) The Republic of Estonia shall not conclude foreign treaties which are in conflict with the Constitution. (2) If Estonian laws or other acts are in conflict with foreign treaties ratified by the Parliament, the articles of the foreign treaty shall be applied.”
Greece	6 October 1998	Yes	Art. 28 (1) of the Greek Constitution stipulates: “The generally recognized rules of international law and the international conventions after their ratification by law and their having been put into effect in accordance with their respective terms, shall constitute an integral part of Greek law and override any law provision to the contrary. The application of the rules of international law and international conventions in the case of aliens shall always be effected on condition of reciprocity.”
Hungary	9 January 2002	No	Art. 7 (1) of the Hungarian Constitution stipulates: “The legal system of the Republic of Hungary accepts the generally recognized principles of international law, and shall harmonize the country's domestic law with the obligations assumed under international law”.
Lithuania	17 October 2002	Yes	Art.138 (3) of the Lithuanian Constitution stipulates: “International agreements which are ratified by the Parliament of the Republic of Lithuania shall be the constituent part of the legal system of the Republic of Lithuania.”
Portugal	13 August 2001	Yes	Art. 8 of the Portugese Constitution stipulates: (1) The rules and principles of general or ordinary international law are an integral part of Portuguese law.

¹ P.M. Eisemann, “L’Intégration du droit international et communautaire dans l’ordre juridique nationale”, Kluwer Law International, 1996, p. 159-160.

			<p>(2) Rules provided for in international conventions duly ratified or approved, following their official publication, apply in municipal law as long as they remain internationally binding with respect to the Portuguese State.</p> <p>(3) Rules laid down by the competent organs of international organization to which Portugal belongs, apply directly in municipal law insofar as the constitutive treaties as applicable provide to that effect.</p>
Slovakia	15 January 1998	Yes	Art. 11 of The Slovak Constitution stipulates: “International treaties on human rights and basic liberties that were ratified by the Slovak Republic and promulgated in a manner determined by law take precedence over its own laws, provided that they secure a greater extent of constitutional rights and liberties.”
Slovenia	5 November 1998	Yes	Art. 8 of the Slovenian Constitution stipulates: “Laws and regulations must comply with generally accepted principles of international law and with treaties that are binding on Slovenia. Ratified and published treaties shall be applied directly.”
Spain	1 September 1999	Yes	Art. 96 (1) of the Spanish Constitution stipulates: “Validly concluded international treaties once officially published in Spain shall constitute part of the internal legal order. Their provisions may only be abolished, modified, or suspended in the manner provided for in the treaties themselves or in accordance with general norms of international law.”

N.B.: Italy has ratified the Convention by law 145 of 28 March 2001, published in the G.U. (Gazetta Ufficiale n.95 of 24 April 2001). However, the official website of the Council of Europe does not mention Italy as having ratified the Convention and the protocol on cloning. The reason for this is that the ratification procedure of an international treaty has two phases: an internal and an external phase. The internal phase usually comprises the adoption by the Parliament of a law to authorize ratification of the treaty and the promulgation of that law by the Head of State. The external phase is constituted by the deposit of the instrument of ratification. Italy has not yet deposited the instrument of ratification of the Convention on Human Rights and Biomedicine. As this is an essential part of the procedure according to article 33.4 of the Convention, Italy does not appear as a country which has ratified the Convention on the website of the Council of Europe.

The Convention has played a major role in the discussions regarding Law 40 of 19 February 2004 on medically assisted reproduction (GU n.45 of 24 February 2004). According to R.A. Fenton: “The catalyst for legislating in 2004 was the ratification of the 1997 Oviedo Convention and subsequent 1998 Protocol by law 145 of 2001 which delegated power to the

Government to legislate in order to bring Italy into line with the principles of the Convention and Protocol.”² In the deliberations concerning the admissibility of a popular referendum on Law 40 the Government argued for the inadmissibility of the referendary question because “the law contained norms adopted in light of international and European laws, or adopted in close connection to them (in particular the Oviedo Convention on Human Rights and Biomedicine of April 4, 1997 and its Additional Protocol No.168 of January, 12, 1998 banning human cloning, both ratified and implemented domestically with law no 145 of March, 28, 2001)” (Judgment of the Italian Corte Costituzionale, 45/2005, on the request seeking a total repeal of law no. 40).

² R.A. Fenton, “Catholic Doctrine Versus Women’s Rights: The New Italian Law on Assisted Reproduction”, *Medical Law Review*, 2006, p. 78.