

The Council of Europe as an Effective Actor on the Multilateral Scene: The Mexican Experience

El Consejo de Europa como actor eficaz en la escena multilateral: la experiencia mexicana

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Abstract

This article deals with the Council of Europe and its relevance as a specialized multilateral organization. The author explains what the Council is, its pillars of action, the debate that is presently taking place within the organization and its most notable contributions to international governance. She then goes on to examine the role Mexico plays in the organization and how the Strategic Partnership between Mexico and the Council of Europe is an opportunity to strengthen cooperation in keeping with the priorities of Mexico's foreign policy and multilateralism.



Resumen

Este artículo trata sobre el Consejo de Europa y su relevancia como organismo multilateral especializado. La autora describe lo que es el Consejo, sus pilares de actuación y el debate que se lleva a cabo dentro del organismo, y enumera las aportaciones más importantes del Consejo a la gobernanza internacional. También explica el papel que desempeña México en ese organismo internacional y cómo la puesta en marcha de la Asociación Estratégica entre México y el Consejo de Europa representa una oportunidad para potenciar la colaboración en favor de las prioridades mexicanas de política exterior y del multilateralismo.



Keywords

Council of Europe, multilateralism, Parliamentary Assembly, strategic partnership, European Union, Mexico



Palabras clave

Consejo de Europa, multilateralismo, Asamblea Europea, asociación estratégica, Unión Europea, México

The Council of Europe as an Effective Actor on the Multilateral Scene: The Mexican Experience*

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This article discusses the relevance of the Council of Europe as a specialized multilateral organization and describes some of its most notable contributions to international governance over the last 75 years or so, based on a multilateral activism that has enabled its members to successfully address global challenges, often in more forward-looking ways than other international organizations. The first section explains what the Council of Europe is and the pillars that guide its actions. The second looks at the role Mexico plays in this international organization, which it joined as an Observer State in 1999, and how its participation has reinforced its position as a major actor on the world stage. The third section analyzes the debate that is presently taking place within the organization with a view to modernizing it and refocusing its priorities, while the final section explains how the strategic partnership between Mexico and the Council of Europe, announced in October 2020, is an opportunity to strengthen cooperation in keeping with the priorities of Mexico's foreign policy and multilateralism.

* English translation by Alison Stewart.

What is the Council of Europe?

Founded in 1949, the Council of Europe is the oldest intergovernmental organization on the continent. In the wake of World War II, the weakened position of the United Nations gave rise to a myriad of initiatives for the establishment of a European organization to prevent the return of totalitarian regimes and defend peace, democracy and fundamental freedoms. It was in this context that the Brussels Treaty was signed on March 17, 1948, with Belgium, France, Luxemburg, the Netherlands and the United Kingdom agreeing to military cooperation in the event of any future armed conflicts affecting their nations. The Brussels Treaty set up a committee to study European unity, which led to the creation of the Council of Europe and its Parliamentary Assembly, formed by representatives of the national parliaments of its Member States. The agreement to create the Council of Europe was signed on May 5, 1949 at a general conference in London, to which Denmark, Ireland, Italy, Norway and Sweden were invited by the five signatories of the Brussels Treaty.

The Council of Europe preceded the European Union¹ and what sets it apart from the institutions and agencies of the United Nations is, essentially, its mandate, which is to “achieve a greater unity between its members for the purpose of safeguarding and realizing the ideals and principles which are their common heritage and facilitating their economic and social progress”.² Headquartered in Strasbourg, France, the Council of Europe has 46 Member States³ and operates via a series of working groups that draw

¹ The European Union is a supranational economic and political organization created in 1951 to promote economic cooperation as a means of increasing interdependence between its members, thereby reducing the possibility of conflict. The European Council, comprised of heads of state and government of the organization’s 27 Member States, is the body that defines the political direction and priorities of the European Union. The European Council has no ties whatsoever to the Council of Europe.

² Statute of the Council of Europe, art. 1, a, at <https://rm.coe.int/1680306052> (date consulted: March 12, 2023).

³ The Member States of the Council of Europe are: Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia-Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Liechtenstein, Lithuania, Luxembourg, Malta, Moldavia, Monaco, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Rumania, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine and United King-

up conventions, decisions, recommendations, reports, standards and parameters, which are then adopted by its Committee of Ministers.⁴ The Council's ideals are structured around three pillars focused on the defense and promotion of the rule of law, human rights and democracy.

Rule of law. Assisting the Council in the task of promoting and guaranteeing the rule of law is the European Commission for the Efficiency of Justice (CEPEJ), the Consultative Council of European Judges (CCJE) and the Consultative Council of European Prosecutors (CCPE), which develop common standards and policies on this priority matter. The European Commission for Democracy through Law, better known as the Venice Commission, provides legal assistance for Member States on constitutional matters, while the Committee of Legal Advisers on Public International Law (CAHDI) guides decisions and hands down recommendations on how to respond to threats posed by corruption, money laundering, terrorism and cybercrime. CAHDI also draws up guidelines for the protection of freedom of speech and the recovery of assets in the hands of organized crime. The Council of Europe Convention on the Counterfeiting of Medical Products and Similar Crimes Involving Threats to Public Health (MEDICRIME Convention) is intended to combat the falsification of medicines and medical devices, while the Cooperation Group on Drugs and Addiction (Pompidou Group) is the Council's cooperation platform on matters of drug policy.

Protection of human rights. The Council's broad scope in this area is based on the regulations established by the 1950 European Convention on Human Rights and the European Court of Human Rights, created in 1959.⁵ The Convention on Preventing and Combatting Violence Against Women and Domestic Violence (Istanbul Convention) incorporates the highest international standards aimed at eliminating all types of violence against women, while

dom. Russia was a member of the Council of Europe for 26 years until March 16, 2022, when it was expelled from the organization for invading Ukraine.

⁴ The Committee of Ministers is comprised of the foreign ministers of the organization's Member States. See Committee of Ministers of the Council of Europe, "About the Committee of Ministers" at <https://www.coe.int/en/web/cm/about-cm> (date consulted: March 12, 2023).

⁵ Covers protection of freedom of speech and the media, freedom of association, the equality and protection of minorities, and protection of the human rights of women, children and migrants, among other guarantees.

the Convention on Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention) is the first of its kind in that it criminalizes the exploitation and sexual abuse of children within the home or family, and provides for the prosecution of perpetrators of such crimes.⁶

Democracy. The European Committee on Democracy and Governance (CDDG) works to develop standards, recommendations and reports on the state of democracy in Member States of the Council of Europe, and strengthen national institutions.⁷ Likewise, the Directorate General of Democracy and Human Dignity supports the Council of Europe in fields essential to the sustainability of democracy by ensuring compliance with human rights standards, improving the functioning of democratic institutions and protecting freedom of expression based on the jurisprudence of the European Court of Human Rights, and via recourses like its public platform to deal with complaints and threats against journalists.⁸

The Council of Europe also has an important parliamentary diplomacy component that complements its actions: the Parliamentary Assembly (PACE), which discusses priority issues and other matters of interest to Member States. The conclusions reached at PACE debates take the form of recommendations and reports, which, while not strictly binding, serve as guidelines for the stances adopted by Member States.⁹

⁶ The Lanzarote Convention prioritizes prevention of the sexual abuse and exploitation of children, and establishes guidelines to protect victims below the legal age of consent (18) from all forms of violence regardless of where this occurs, including exploitation using information and communications technologies (ICTs). See Parliamentary Assembly of the Council of Europe, *Handbook for parliamentarians: The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention)*, Strasbourg, Council of Europe, 2011, at <https://assembly.coe.int/LifeRay/soc/Pdf/DocsAndDecs/LanzaroteHandbook-EN.pdf> (date consulted: March 12, 2023).

⁷ One example of the work of the CDDG in promoting democracy is the drawing up of a manual of 12 principles of good democratic governance that apply to all levels of government and that include participation, representation and fair conduct at elections; ethical conduct; the rule of law, and the rendering of accounts, which, together with other tools, will be put at the disposal of governments for implementation purposes.

⁸ See Council of Europe, "Platform for the Protection of Journalism and Safety of Journalists," at <https://fom.coe.int/en/accueil> (date consulted: March 12, 2023).

⁹ The Parliamentary Assembly has 612 members appointed by the national parliaments of each Member State. The number of members representing each Member State is proportional to the size of its population. Mexico has been an Observer State to the Parliamentary

Mexico as an Observer State to the Council of Europe

Mexico has been an Observer State to the Council of Europe since 1999.¹⁰ There are three main reasons the Mexican government sought out membership of the Council: because it recognizes that Europe is the continent where democratic principles, the rule of law and the protection of human rights were conceived; because it prioritizes belonging to international organizations as a means of making progress on problems shared with like-minded partners; and because it sees membership of the Council of Europe as an opportunity to diversify and broaden its international relations with the European continent.

In granting Mexico the status of Observer State under Resolution (99) 32, issued on December 1, 1999, the Council of Europe and its Parliamentary Assembly were essentially acknowledging the ideals and fundamental values Mexico has historically upheld and promoted. In the resolution's recitals, the Council highlighted the importance of maintaining dialogue and cooperation with Mexico, particularly on matters of democratic security as a means of strengthening democratic institutions, establishing the rule of law and promoting human rights.¹¹

This status affords Mexico the opportunity to sit in on high-level debates on important matters related to the defense of democracy, the rule of law and human rights. It is also an opportunity to share and become informed of good practices and relevant experiences in areas of interest to the country.

The wide experience and highly recognized work of Mexico's network of consulates in protecting Mexican citizens has enabled the country to make a positive contribution to debates within the Council of Europe.

Assembly since 1999, along with Canada and Israel. See Parliamentary Assembly, "Mexico," at <https://pace.coe.int/en/aplist/countries/50/mexico> (date consulted: March 14, 2023).

¹⁰ Other Observer States include the Holy See (since 1970), the United States of America (1995), Japan (1996) and Canada (1996).

¹¹ Committee of Ministers of the Council of Europe, "On Observer Status for Mexico with the Council of Europe," Resolution (99) 32, December 1, 1999, at <https://rm.coe.int/090000168050b117> (date consulted: March 18, 2023).

Furthermore, the Mexican government's opposition to the death penalty has also been very well received by members of the Council, and the Mexican Capital Legal Assistance Program (MCLAP) is deemed a benchmark good international practice.¹² Efforts to prevent violence against women and children, the discrimination of minority groups, xenophobia, corruption and organized crime are all issues discussed in depth by the Council, whose standpoint on these is shared by Mexico.

Mexico's observer status with the Council also facilitates legal cooperation. For example, the legal advisor to the Mexican Chancellery and Mexican legal experts are able to discuss priority matters related to international law with officials and lawyers from Member States at firsthand, share postures, and lobby their European partners to take actions that are in the interests of Mexico's foreign policy.

Via its representation office to the Council of Europe, officials of the Mexican government, experts, academics and judges actively participate in 40 steering committees and subordinated bodies on a wide range of topics.¹³

Mexico's contribution to debates and discussions on these issues is complemented and enriched by its participation in other international and regional organizations, like the U.N. System and the Inter-American System.

The Council of Europe has more than 200 treaties on matters within its scope of action. Mexico is a signatory to eight of these (see Table).

¹² Abolishing the death penalty is a priority Mexico shares with the Council of Europe, which deems this a prerequisite to membership of the organization.

¹³ The Mexican government participates in 15 steering committees, eight subordinated bodies, eight ad hoc committees, three committees established by resolutions handed down by the Committee of Ministers, five committees established by a convention and one enlarged partial agreement. For further details of Mexico's participation in these groups, see <https://www.coe.int/en/web/portal/mexico>. Among the diverse issues discussed by the Council of Europe are matters related to bioethics, the prevention and combatting of sexism; the rights of persons with disabilities; the rights of children, women and migrants; antiterrorism, artificial intelligence, journalism in the digital age; democracy and governance; youth; culture and heritage; pharmaceutical care; the combatting of racism and intolerance; the efficiency of justice; money-laundering and the financing of terrorism; the processing of personal data; cybercrime; violence against women and domestic violence; the combatting of drug abuse and drug trafficking; current challenges to international law and legal cooperation, among others.

Table. Treaties Signed and Ratified by the Council of Europe and Mexico

Council of Europe Convention on Offenses relating to Cultural Property, CETS No. 221 (Nicosia Convention)	Opening of the treaty: 19/05/2017 Entry into force: 01/04/2022 Signature: 19/05/2017 Ratification: 06/09/2018 Entry in force for Mexico: 01/04/2022
Protocol Amending the Convention on Mutual Administrative Assistance on Tax Matters between the Council of Europe and the Organization for Economic Cooperation and Development (OECD) (CETS No. 208)	Opening of the treaty: 27/05/2010 Entry into force: 01/06/2011 Signature: 27/05/2010 Ratification: 23/05/2012 Entry in force for Mexico: 01/09/2012
Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, regarding Supervisory Authorities and Transborder Data Flows (ETS No. 181)	Opening of the treaty: 08/11/2001 Entry into force: 01/07/2004 Signature: 19/06/2018 Ratification: 28/06/2018 Entry in force for Mexico: 01/10/2018
Convention on Mutual Administrative Assistance in Tax Matters, between the Council of Europe and the Organization for Economic Cooperation and Development (OECD) (ETS No. 127)	Opening of the treaty: 25/01/1988 Entry into force: 01/04/1995 Signature: 27/05/2010 Ratification: 23/05/2012 Entry in force for Mexico: 01/09/2012
Convention on the Transfer of Sentenced Persons (ETS No. 112)	Opening of the treaty: 21/03/1983 Entry into force: 01/07/1985 Signature: 28/06/2007 Ratification: 13/07/2007 Entry in force for Mexico: 01/11/2007
Convention for the Protection of Individuals with regard to the Automatic Processing of Personal Data (ETS No. 108)	Opening of the treaty: 28/01/1981 Entry into force: 01/10/1985 Signature: 19/06/2018 Ratification: 28/06/2018 Entry in force for Mexico: 01/10/2018
European Convention on Information on Foreign Law (ETS No. 62)	Opening of the treaty: 07/06/1968 Entry into force: 17/12/1969 Signature: 03/02/2003 Ratification: 21/02/2003 Entry in force for Mexico: 25/06/2003
Additional Protocol to the European Convention on Information on Foreign Law (ETS No. 097)	Opening of the treaty: 15/03/1978 Entry into force: 31/08/1979 Approved by the Mexican Senate: 31/10/2002 Ratification: 21/02/2003 Entry in force for Mexico: 22/05/2003

Source: Taken from Council of Europe, "Treaty list for a specific State [Mexico]" at <https://www.coe.int/en/web/conventions/by-non-member-states-of-the-coe-or-the-european-union?module=treaties-full-list-signature&CodePays=MEX&CodeSignatureEnum=RATIFIED&DateStatus=04-11-2023&CodeMatteres> (date consulted: March 18, 2023).

The Mexican government also signed the Criminal Law Convention on Corruption (ETS No. 173) on May 15, 2002, whose ratification is pending, and is a party to two partial agreements: the Pompidou Group, since January 1, 2017, and the Venice Commission, since February 3, 2010.

Mexico's participation in the Pompidou Group has been focused on helping the group achieve its mission of incorporating the health perspective into drug policies and the social dimension into discussions. Cooperation with the group forms part of Mexico's international strategy in this field and complements its work with the United Nations Commission on Narcotic Drugs and the Organization of American States' Inter-American Drug Abuse Control Commission, in addition to supplementing discussions at major political forums, such as the North American Leaders' Summit.¹⁴

The Venice Commission is a consultative body of the Council of Europe that advises Member States on constitutional matters, draft bills and laws in effect that are submitted for examination. Mexico participates as a Member State via the Supreme Court of Justice of the Nation and the Electoral Court of the Federal Judiciary.¹⁵

In the area of parliamentary diplomacy, PACE discussions are an opportunity for Mexican lawmakers to forge closer ties with their counterparts and bring relevant positions and issues of importance to the country to the table.¹⁶ Such was the case during the first session of PACE in 2020, where, at the initiative of the Mexican delegation, violations of the human rights of migrants and unaccompanied minors on the border between Mexico

¹⁴ Government of Mexico, "3 Informe de la Estrategia Nacional de Seguridad Pública," April 2022, at <https://seguridad.sspc.gob.mx/uploads/documentos/146/3er-inensp.pdf> (date consulted: March 8, 2023).

¹⁵ For information on membership, workings and scope of action, see Venice Commission, "The Venice Commission of the Council of Europe," at https://www.venice.coe.int/WebForms/pages/?p=01_Presentation&lang=EN (date consulted: April 2, 2023).

¹⁶ The Mexican delegation to the four PACE sessions scheduled for 2023 is comprised of six members of congress and six alternates. For more information on the Mexican delegation, see PACE, "Mexico," at <https://pace.coe.int/en/aplist/countries/50/mexico> (date consulted: April 2, 2023).

and the United States were discussed. PACE also acted as an international observer at Mexico's federal elections of 2000 and 2006.¹⁷

Internal discussions aimed at strengthening the Council of Europe

A good practice employed by the Council of Europe is the process of self-analysis it has undertaken in the runup to the Fourth Summit of Heads of State and Government on May 16-17, 2023, in Reykjavik, Iceland.¹⁸ The decision to embark on such an exercise came from the Committee of Ministers, which felt it was of the utmost importance to take stock of the Council's performance and efficacy in light of recent events, namely Russia's invasion of Ukraine on February 24, 2022.

With a view to defining a critical path that will strengthen the organization, in February 2023 the Council of Europe initiated a process of consultations among Member States and its partners from other international institutions, civil society organizations, think-tanks, academia and interested parties to sound out their opinions and elicit recommendations as to the best way to continue guaranteeing and promoting the organization's fundamental values; its role in holding the Russian government accountable for war crimes against Ukraine; other priorities the Council should be focusing its efforts on; and its role in building the architecture of Europe and multilateral governance. The goal is to announce this critical path at the Reykjavik summit.

¹⁷ "Parliamentary Assembly of the Council of Europe (PACE)," in Centro de Estudios Internacionales Gilberto Bosques, at <https://centrogilbertobosques.senado.gob.mx/apce> (date consulted: April 8, 2023).

¹⁸ The Council of Europe has held three summits of heads of state and government since it was created 74 years ago. The first of these was held in October 1993 in Vienna, Austria; the second in Strasbourg, France, in October 1997, and the third in Warsaw, Poland, in May 2005. See Council of Europe, "Summits of Heads of State and Government of the Council of Europe" at <https://www.coe.int/en/web/cm/summits> (date consulted: April 10, 2023). Iceland is to host the fourth summit because it has held the chairmanship of the Committee of Ministers since November 2022. The chairmanship is rotated every six months between Member States in English alphabetical order. After the fourth summit in mid-May 2023, Lithuania will hold chairmanship of the Committee until November 2023.

The strategic partnership between Mexico and the Council of Europe

In October 2020, marking its 20th anniversary as an Observer State, Mexico and the Council of Europe entered into a strategic partnership to strengthen bilateral collaboration. Under the terms of the partnership, the Mexican government will continue to proactively participate in discussions on issues of mutual interest and seek joint solutions to the challenges facing the multilateral system.¹⁹ It is also a strategic opportunity for Mexico to further the goals of its foreign policy, engage in more in-depth political dialogue, strengthen legal cooperation and undertake cooperation projects.

This new phase in its membership of the organization requires that the Mexican government ratify the aforementioned Criminal Law Convention on Corruption signed in May 2002, and that it promote the legal instruments of the Council of Europe among its Latin-American partners.

It would also be a fitting point in time for the Mexican government to analyze the foreign policy benefits of entering into other relevant international agreements, like the Convention on Preventing and Combatting Violence Against Women and Domestic Violence (Istanbul Convention), the Convention on the Protection of Children Against Sexual Exploitation and Sexual Abuse (Lanzarote Convention), the Convention on the Counterfeiting of Medical Products (MEDICRIME Convention), the Budapest Convention on Cybercrime (Budapest Convention), and the Enlarged Partial Agreement on Cultural Routes, to mention just a few.

Mexico also has an opportunity to make its mark by proactively participating in negotiations on two international instruments of the Council of Europe that are currently underway—one to regulate respect for human rights in the use of artificial intelligence and another for the penalization of environmental crimes.

¹⁹ See SRE, “México y el Consejo de Europa establecen una Asociación Estratégica,” comunicado no. 298, October 7, 2020, at <https://www.gob.mx/sre/prensa/mexico-y-el-consejo-de-europa-establecen-una-asociacion-estrategica> (date consulted: March 8, 2023).

It would be advisable to reaffirm this commitment to a strategic partnership by conducting high-level consultations among officials of the Mexican Chancellery and the Council of Europe in May 2023, within the framework of the Reykjavik Summit, with a view to drawing up a plan of action for the short to medium terms.

In the area of legal cooperation, such a partnership opens up the possibility of working more closely with the CAHDI to develop joint training programs in human rights and establish technical assistance mechanisms. The courses already provided for officials of the Mexican judiciary on aspects of criminal law could be extended to officials of the Chancellery and other agencies of the federal public administration on matters related to the protection of human rights, migration, asylum and refugees, which are all topics on which the European Programme for Human Rights Education for Legal Professionals (HELP) provides training for Member States.²⁰

Conclusions

The world order of today is a multipolar one marred by aggressive geopolitical competition, menaces and conflicts, both conventional and non-conventional. At a time like this, it is important to reposition multilateralism as the most effective way of addressing threats to peace, human rights, the rule of law and democracy. An organization like the Council of Europe, with its technical know-how and wide experience, is the ideal partner for Mexico.

Multilateralism, specifically the brand of multilateralism Mexico benefits from as an observer to the Council of Europe, stands to strengthen the country's positioning as an actor of substance on the international arena, and will serve as a solid platform for promoting the priorities of its national and international agendas in the interests of the Mexican people.

²⁰ See Council of Europe, "Human Rights Education for Legal Professionals HELP Online Courses," at <https://help.elearning.ext.coe.int/> (date consulted: April 13, 2023).