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# Regional diffusion, EU conditionality and Council of Europe treaty ratification 1949–2016

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## ABSTRACT


This paper investigates states' commitment to human rights, democracy and rule of law through ratifying Council of Europe treaties. We present a first comprehensive analysis of ratifications of all 221 Council of Europe treaties that opened for ratification since 1949 among the 47 current member states. Applying a multilevel Cox regression, we observe a strong influence of external sources for states' commitment and find evidence for both coercion and emulation mechanisms. First, upcoming EU membership is strongly and positively associated with treaty ratification, corroborating the relevance of accession conditionality in making countries to commit to human rights and democracy. Second, states are much more likely to ratify if a neighbouring country has ratified at the same time, which confirms a strong pattern of regional diffusion of rights acceptance in Europe. However, we find that this pattern of regional diffusion is stronger among states with lower levels of democracy, suggesting that emulation proceeds through mimicry. Finally, our analysis shows that Council of Europe treaty ratification is especially strong during the first years after treaty opening, suggesting that ratification reflects concerted efforts by states involved in the negotiation of regional treaties.

**KEYWORDS** Council of Europe; democracy; diffusion; EU; human rights; treaty

## Introduction

The international legal framework with respect to democracy, human rights and rule of law has developed rapidly in the aftermath of the Second World War. International human rights standards have proliferated both through an increasingly dense body of international treaties, as well as through an ever-growing number of states' acceding such treaties (Wotipka and Tsutsui 2008). Treaty membership makes countries accountable to the standards, potentially subject to scrutiny by various monitoring bodies typically in place to ensure observance with the provisions, and often requires changes in policy before ratification (Goodliffe and Hawkins 2006). The impact of ratification of human rights treaties on the observance of human rights

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internationally is largely considered positive, yet contested by some scholars (Elkins et al. 2013; Hafner-Burton et al. 2008; Neumayer 2005).

But why do countries bind themselves to international norms by signing up to and ratifying international treaties in the first place? What makes states want to be held accountable internationally for possible violations of their obligations under international human rights law? Various studies have addressed this puzzle at the global level in different areas, for example in the field of environmental protection (Biesenbender and Tosun 2014; Neumayer 2002; Schulze and Tosun 2013) or concerning human rights (Goodliffe and Hawkins 2006; Hathaway 2007; Wotipka and Ramirez 2008; Wotipka and Tsutsui 2008; Zhou 2014) – usually dealing with treaties opened by the United Nations (UN; e.g., von Stein 2018) or by the International Labor Organization (ILO; e.g., Baccini and Koenig-Archibugi 2014). Other studies have addressed the puzzle of treaty ratification at regional level, for example in Europe (Elsig et al. 2011; Milewicz and Elsig 2014; Moravcsik 2000). In this paper, we study how states' acceptance of norms spread in Europe by analysing patterns and determinants of Council of Europe treaty acceptance. Focusing on Council of Europe treaties allows us to contribute to the literature through an original study of regional treaty acceptance.

Whereas several quantitative studies make use of appropriate survival models to analyse time-to-event data (Milewicz and Snidal 2016), few studies fully recognise the hierarchical structure of the data where ratifications are embedded in both clusters of treaties and countries. We apply a multilevel survival model (Austin 2017) to the analysis of treaty ratification to accommodate the data structure including the country and treaty levels as well as the time component.

We study treaty acceptance at the regional level looking into treaties opened by a unique player in the (European) human rights landscape: the Council of Europe (henceforth CoE). This organisation was established in 1949, when 'a flurry of regional dynamics' took place as a consequence of war-stricken Europe, in search for pacifying the continent. The CoE, an inclusive regional and strictly intergovernmental organisation with limited powers and a non-threatening institutional structure, was created with the goal to promote and ensure the values of human rights, the rule of law and democracy in Europe. Only constrained weakly by regional limits, the CoE follows a flexible and integrative approach to membership. The CoE includes diverse members in terms of size and regional position in Europe, such as Turkey, Russia, Iceland or Monaco, and the organisation managed to fully incorporate most countries established after the fall of the Soviet Union. In its areas of work, the CoE opens and serves as the depository of conventions, protocols and other international instruments which states are open to sign and ratify, and thus committing to be bound by its content. Its integrative and soft policy approach has made the CoE into the uncontested main player in

the European human rights context. The European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR, ETS. 005) and its monitoring body, the European Court of Human Rights (ECtHR), laid the foundation for the most advanced international system of human rights (Stivachtis and Habegger 2011; Wouters et al. 2019: 308–313). Yet, apart from its main instruments, the CoE has substantial policy output in many other areas, most notably legal instruments, which are voluntary to accept for its members (MacMullen 2004).

The lack of empirical research on CoE treaty ratification is remarkable given that since its establishment in 1949 a total number of 221 legal instruments were adopted by the end of 2016. The last years have seen the list grow by 2–4 instruments per year, including revisions of existing treaties. In this paper, we analyse *all* treaties of the CoE for (nearly) all states in Europe.<sup>1</sup> We show that the general process of treaty ratification is clearly influenced by mechanisms of diffusion, most notably emulation and coercion.

The paper begins by outlining the main theoretical assumptions and hypotheses about why states commit to CoE treaties. This is followed by a section introducing the data and methodology. The subsequent section presents the results of the empirical analysis. We conclude by discussing the broader implications of our findings.

## **Why (European) states commit to human rights, democracy and the rule of law**

We are interested in studying the spread of norms since the Second World War in Europe through CoE treaties. The CoE's flexible approach to policy making, though along strictly predefined rules, agrees with different theoretical explanations of rights adoption through an international institution. The CoE is arguably the most integrated human rights system, with its enormous jurisprudence under the ECHR as well as the extensive list of human rights instruments and mechanisms. Contrary to the United Nations, the CoE constitutes a relatively homogeneous entity with its 47 Member States and, in addition, it has a much wider range of instruments related to human rights and other policy areas. Compared to the European Union (EU), the CoE has a much more inclusive approach to integration and bases much of its activities on treaties. While becoming a member of the EU is much more difficult in terms of access conditions and having to adopt the EU *acquis*, leading to an even more coherent set of member states, members of the CoE are free to choose, which of the conditions (i.e., treaties) are accepted – leading to what has been termed 'Europe à la carte' (MacMullen 2004). These conditions make the CoE a perfect place to study rights adoption in a regional context.

Rights adoption can be explained by a general global trend towards harmonisation of rights with a strong contribution by international organisations

and heavily influenced by key events such as the Second World War and the Cold War (Koo and Ramirez 2009; Meyer et al. 1997). We explain treaty ratification in Europe at three different but interlinked levels: international, domestic and treaty level. Firstly, the international context matters because states do not decide on treaty ratification in a vacuum. Norms and rights acceptance are driven by the international diffusion of rights, which may work through several mechanisms of norm adoption, including coercion, learning, competition and emulation (Gilardi 2012; Simmons et al. 2006; see also DiMaggio and Powell 1983; Moravcsik 2000; Wotipka and Tsutsui 2008). In the context of a first comprehensive analysis of CoE treaty ratification, we do not aim to exhaustively distinguish all possible diffusion mechanisms previously identified in the literature. We take a synthetic approach and focus on two broad theoretical perspectives on norm adoption. A first, rationalist perspective views treaty ratification as a ‘bargaining chip’ (Zhou 2014: 479) for other material payoffs; in the European context, we focus in particular on treaty ratification in view of upcoming EU membership. A second, sociological perspective focuses on normative pressure and legitimacy-seeking (Zhou 2014: 479). This perspective can distinguish between the mechanism of emulation that focuses on mimicry of neighbouring states and the mechanism of ‘social learning’ that assumes norm internationalisation through repeated interactions at international level. While both mechanisms, emulation and learning, are most likely at work at the CoE, we focus on the former, as explained below.<sup>2</sup>

However, the many treaties available differ not only with respect to their content, but also in terms of how difficult the treaties are to accept. Some treaties bring with them strong monitoring mechanisms, which ensure that countries can be held accountable for possible violations, making them more difficult to accept. Moreover, some treaties are considered to have a stronger normative weight, which makes accepting them more important in the international arena. Particularly the difference between core human rights and other treaties marks a difference, with the former carrying a stronger normative weight. Also, the empirical literature largely omits the fact that treaty making takes place before a treaty is opened for signature and ratification. Spreading (or ‘cascading’) of norms follows the emergence of norms in the norm ‘life cycle’ (Finnemore and Sikkink, 1998). This means that processes are ongoing far before a treaty is ready for opening. We aim to capture results of this process empirically in this study.

### ***Coercing norm adoption: EU conditionality***

The study of norm diffusion in the EU context has been advanced especially by Börzel and Risse (2012). Much of the work of the CoE is, in fact, complemented by the EU. The CoE shares with the EU ‘the same fundamental values –

human rights, democracy and the rule of law – but [they] are separate entities which perform different, yet complementary, roles'.<sup>3</sup> For EU membership, the ECHR 'and its main additional protocols' are required commitments.<sup>4</sup> The Copenhagen criteria stipulate that countries wishing to join the EU need to have 'stable institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities'.<sup>5</sup> Moreover, the strong normative foundation of the EU makes it an important player contributing to the extension of norms to its neighbours and – most notably – its future members (Cardwell 2017; Lacatus 2018; Manners 2002; Shyrokykh 2019). In this sense, the EU exerts a form of coercion, as it requires future member states to formally adopt international standards of rights. What is termed EU conditionality can be broken into two different aspects: democratic conditionality and *acquis* conditionality (Schimmelfennig and Sedelmeier 2004). The former refers to the adoption of fundamental principles of the EU, including human rights and liberal democracy. The latter means concrete pre-accession alignment of rules and norms to the EU framework in view of upcoming accession to the EU. Here countries *have to* adopt measures to comply with EU law and consequently bring national rules and procedures in line with the EU *acquis*, which also allows many states to ratify CoE treaties. Therefore, we hypothesise that countries with realistic prospects of becoming EU member states increasingly accept CoE treaties mainly a few years before becoming a member of the EU: *Upcoming EU membership increases countries' likelihood of ratification of treaties opened under the CoE (H1)*.

### ***Normative pressure, mimicry and learning: regional emulation of norm acceptance***

The diffusion of rights refers to the process of spatially and temporarily clustered acceptance of rights (Gilardi 2012; Simmons and Elkins 2004). Beyond the more direct form of diffusion hypothesised above, scholars have emphasised that norm adoption often reflects a more indirect normative pressure resulting from cooperation in international organisations.

The secretariat of the CoE and its institutions serve as a medium for international cooperation where social agents – representatives of countries, be it diplomats or experts – interact to increase cooperation and the diffusion of rights. Checkel (1999) describes diffusion as social practice and points to the example of the CoE contributing to domestic policy discussions in Germany. Chyzh (2017) shows the influence of membership in international (economic) organisations on spatial diffusion of rule of law.

Neighbouring countries have more influence and serve as role models or 'ice breakers' in becoming party early on, with some countries being more influential than others, particularly powerful and independent states (Milewicz and Snidal 2016). These are assumed to be mostly states that are

geographically closer. Countries get in contact with each other at the CoE, which allows them to adopt, or mimic and imitate other states' behaviour. This brings the benefit of other countries' acceptance and a better reputation if countries follow the practices of others, which can help countries to be more legitimate. While the conditions under which treaties are negotiated and ratification is promoted can reach all CoE member states equally, we assume that – even within a relatively homogeneous space – the normative pressure of treaty ratification affects especially countries that are closer to each other. We see similar behaviour among states in geographical proximity as an indicator of emulation, because geographically close countries are usually more similar in terms of language, culture, political situation and level of European integration. We assume that *ratification of a treaty in neighbouring countries in the past or same year increases the likelihood that a country ratifies the treaty as well (H2a)*.

This diffusion hypothesis, however, does not strongly distinguish between emulation that focuses on mimicry and social learning that assumes norm internationalisation through repeated interactions at international level. In order to do so, we focus on the domestic democracy level. The reason for doing so is that ratifying treaties does not come cheap. The costs of treaty ratification include policy change, potentially needed for ratification of a treaty, limited flexibility and consequences of ratification due to the binding elements of treaties (Goodliffe and Hawkins 2006). These costs are also related to the fact that domestic policies and conditions play an important role for treaty ratification. Notwithstanding important domestic processes that are at play between the signature and ratification of treaties (Baccini and Urpelainen 2014; Oomen 2018) studies have shown that it is easier for countries with higher levels of democracy to accept international standards and treaties (e.g., Neumayer 2002). The relationship between democracy and human rights treaty ratification may not be so straightforward, however. While democracy, or better, democratisation also follows spatial diffusion globally (Gleditsch and Ward 2006; O'Loughlin et al. 1998), we do not investigate recent changes in the level of democracy. Democratisation of countries might be driven strongly by domestic factors (Lidén 2011), diffusion of democratisation is conditional on the breakdown of autocracies due to economic reasons (Houle et al. 2016) and democratisation often takes place ahead of treaty ratification (Moravcsik 2000; Zhou 2014).

In the EU context, countries with higher levels of democracy also show higher levels of emulation in Europe, as institutional change is easier for countries with institutions that are already more in line with the international norms to be adopted (Börzel and Risse 2012) or higher levels of democracy might contribute to better diffusion (Linos 2011). At the same time, Börzel and Risse (2012) indicate that a lack of state capacity might induce state actors to adopt EU institutional solutions to increase legitimacy pointing

towards increased normative emulation or mimicry. Signing up to human rights treaties helps countries to ensure or 'lock in' their achieved but still weak level of democracy (Moravcsik 2000). Hence, in Europe, emulation of treaty acceptance might in fact work better for countries with lower levels of democracy, which are more likely to mimic other countries important for them. Since countries with less advanced democratic regimes are less likely to abide by the treaty standards due to weaker domestic institutions, their treaty acceptance in the area of human rights likely reflects a political quest for external legitimation (Hafner-Burton et al. 2008). As a result, from an emulation perspective as opposed to social learning we expect a negative interaction between diffusion and democracy. *Countries with lower levels of democracy are more prone to ratify following neighbouring countries (H2b).*

### ***Domestic human rights record and pre-opening negotiations***

In a similar vein to our argument on the relevance of democracy, Hathaway (2007) argues that democratic states with poor human rights records are less likely to ratify human rights treaties compared to non-democratic states with poor human rights records. There are, however, only very few observations of non-democratic countries in Europe and these countries do not show higher rates of human rights violations. This is in line with the difficulty to interpret the quantity of rights violations in a country found by courts. The number of rights violations brought to court against a country is related to the structural situation in the country, most notably the influence a state has over its institutions and courts. This allows repressive states to accept human rights at similar rates as other countries (Hafner-Burton et al. 2008). We see thus a higher number of rights violations in a country, found by the ECtHR, not just as an indicator of structural human rights problems, but especially as a reflection of the ability to be held responsible for these violations through strong enough institutions. In these situations, countries may be less likely to commit to international norms through treaty acceptance. We hypothesise that *countries with more human rights violations found by the ECtHR are more reluctant to ratify CoE treaties (H3).*

While largely omitted in existing research, treaties do not appear out of the blue, but are negotiated over often prolonged periods before they are opened for signature and ratification. As described in detail by Polakiewicz (1999), there are guiding rules of how treaties are drafted, which lead to quite different experiences in the time from preparation to entry into force. Treaties can be initiated from the CoE's Committee of Ministers, the Parliamentary Assembly (PACE), the Congress of Local and Regional Authorities of Europe, a conference of ministers or a steering committee. Most often the PACE initiates treaties. The initiation needs to be approved by the Committee of Ministers, which usually appoints a steering or expert committee for drafting



the text, consisting of experts appointed by the governments of member states. The committee approves the final text, which is submitted to the Council of Ministers for adoption before it is opened for signature (after a consultation with the PACE).<sup>6</sup>

Hence, there is a lot of potential involvement of member states before a treaty is opened for signature. We use two measures which indicate the outcome of this process. Firstly, the number of ratifications needed for a treaty to come into force, that is, the number of states that need to ratify a treaty before it can be considered as legally binding for the states that ratified the treaty. This is an indicator of how important it is considered that many countries ratify a certain treaty and to what extent states will push for other countries to ratify. Secondly, the success of the preparatory phase of a treaty can be measured through the number of signatory states on the day of the opening. This is a symbolic act, which sometimes takes place in an opening ceremony organised by the CoE's treaty office. These two indicators can be used to express the success of the pre-opening negotiations of a treaty. *We expect the number of ratifications needed and the number of states signing on the opening day to increase the probability of ratification (H4).*

## Data and methodology

There are over 220 CoE treaties that have been opened for ratification since 1949 (Council of Europe 2016a). These can be signed and ratified to express legal commitment by CoE member states, sometimes by other countries, and at least in some instances, also by the EU. Apart from some of its core treaties, members are 'free to decide', which treaties to accept and which not (MacMullen 2004). CoE treaties can be categorised into three broad categories. Foundational treaties, which serve to create the CoE and its administration, core human rights treaties and treaties which target general international harmonisation of other standards and rights. Based on Grimheden and Reichel (2017), we identified 36 core human rights treaties. These treaties set the bar for rights in different areas, including the core ECHR, its several additional protocols and other treaties targeting topics such as violence against women ('Istanbul Convention', CETS 210), privacy and data protection (e.g., ETS 108)<sup>7</sup> and other topics. These treaties are generally considered as key conventions due to the large number of ratifications they receive (Council of Europe 2016b) and as they are more foundational and wider in scope. The second category, which we label as 'harmonisation' treaties, covers various different topics, such as criminal matters, harmonisation of administrative matters, animal transportation, social security, culture and sports, topics related to migrants, child protection and victims of crime.

The dataset for this study was prepared using data from the Council of Europe (2016a) on the year of opening and the year of ratification of each

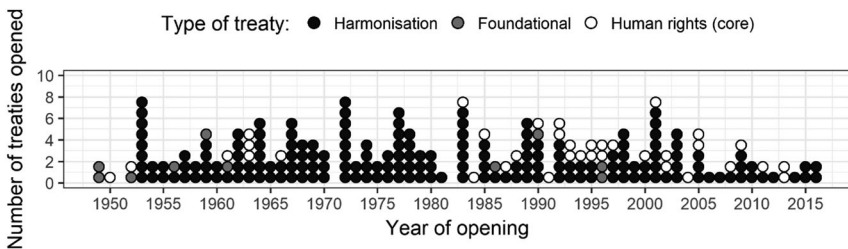
treaty by any of the current CoE member states, if ratified. We consider optional protocols as regular treaties and only focus on ratification, not on signature of treaties and protocols; we disregard reservations as well. Further details on the methodology, the dataset, sources and operationalisations of covariates can be found in the online appendix of this paper.

Determinants of treaty ratification are analysed using a multilevel Cox proportional-hazard regression models with varying covariates, which is a semi-parametric regression model. Cox proportional-hazard regression was used in several similar studies (e.g., Elsig et al. 2011; Neumayer 2002) and is known as a robust statistical method for dealing with time-to-event data (Box-Steffensmeier and Jones 2004 or Mills 2011). The data used for this study are clustered at two levels, the country level (41 countries) and the treaty level (221 treaties). Detailed information on the modelling strategy and results of robustness tests are available in the online appendix to the paper.

### Descriptive statistics

The 221 treaties the CoE has opened until the end of 2016 include foundational treaties, core human rights treaties, and other harmonisation treaties. The number of treaties opened by type and year is shown in Figure 1.

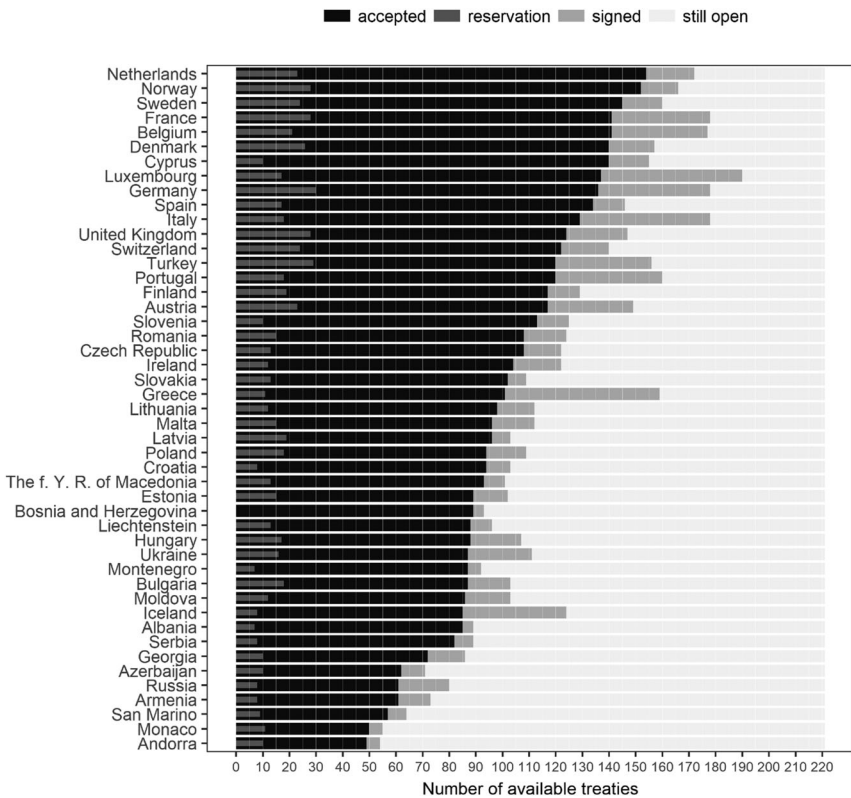
Out of the possible 10,315 ratifications the dataset records 4,769, which presents 46 per cent.<sup>8</sup> Additionally, there are 890 signatures without ratification (8.6 per cent) and the remaining 4,656 treaty-country combinations were neither signed nor ratified (45 per cent). Out of those ratified, 724 included reservations, which is 15 per cent of all ratifications. Overall, most treaties were ratified by the Netherlands with 154 ratifications, closely followed by Norway (152 ratifications). Other countries with higher numbers of ratifications are Sweden, France, Belgium, Denmark and Cyprus – all with 140 ratifications or more. Countries with the lowest number of ratifications are smaller countries, Andorra (49 ratifications), Monaco (50), San Marino (57) and Eastern European countries, Armenia (61), Russia (61) and Azerbaijan (62). Some countries show a large number of signed treaties, which have not (yet)



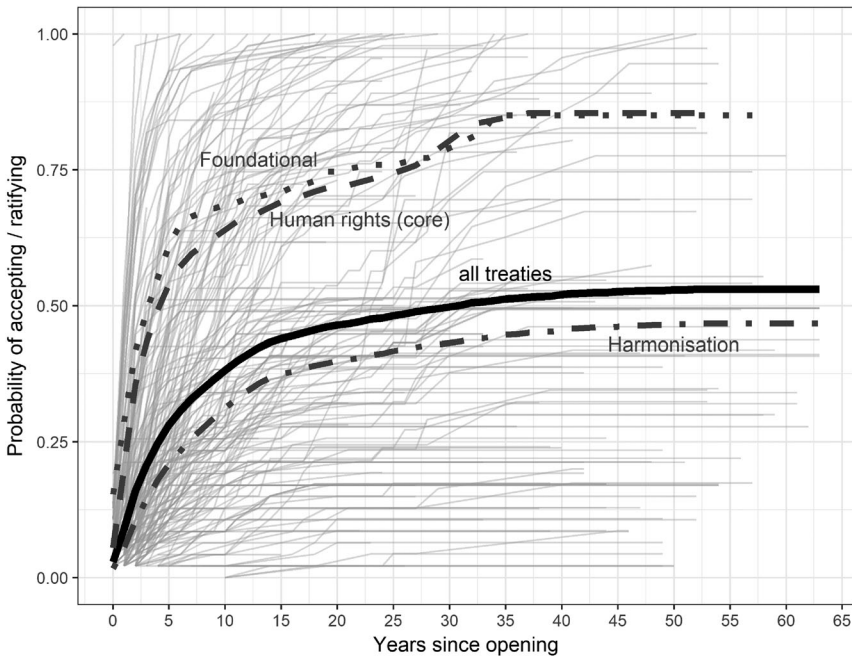
**Figure 1.** Number of treaties opened by the CoE by year and type of treaty.

been ratified, including Greece with 58 signed treaties and Luxembourg (53 signatures). Reservations of ratified treaties are most often observed in Germany (30 reservations), Turkey (29), United Kingdom, Norway and France (each 28). **Figure 2** provides an overview of the status of ratification by country.

Turning to ratifications at the level of conventions, **Figure 3** shows Kaplan-Meier survival curves of all treaties, including general curves for all treaties and by type of treaty. It shows the variety of ratifications treaties obtain, ranging from no ratification (8 treaties have zero ratifications) to full ratification of all current CoE states (achieved by 21 treaties). The average number of ratifications per treaty is 22 out of the 47 states. The average number of ratifications is considerably higher for foundational and human rights treaties (35.6 and 32.3 respectively) compared to other harmonisation treaties (19 ratifications). This already indicates the generally higher likelihood of ratification of core human rights treaties compared to harmonisation treaties. **Figure 3** exemplifies that treaties usually obtain most ratifications in the first years after opening and the number of ratifications levels off after a certain



**Figure 2.** Status of acceptance of all CoE treaties on 30 December 2016.



**Figure 3.** Kaplan-Meier survival rates of all CoE treaties, by type of treaty.

period. Most ratifications take place two years after opening (i.e., in the third year). In the fourth year after opening over 50 per cent of all ratifications have already taken place. The number of years until ratification range from zero up to 52 years with an average of 6.5 years (median 4). Foundational and core human rights treaties are quicker ratified with an average of 4 and 4.1 years until ratification, respectively, compared to harmonisation treaties (7.6 years).

These patterns, shown in [Figure 3](#), indicate that ratifications often take place together, meaning the countries ratify soon after opening a treaty. This momentum shows that ratification is a result of cooperation, whereby most countries have ratified together at one point with another country. CoE treaty ratification is a result of a concerted effort by its member states. This points towards a general trend of rights extension across countries, which, however, often stops after a certain number of ratifications and rarely picks up much pace later on. What is more, diffusion of ratification often takes place with regionally closer countries, as we will show in the next section.

To include the important covariate on democracy, the dataset was reduced to 142,336 country-treaty-year observations. [Table 1](#) provides an overview of descriptive statistics of the main dataset used for the multilevel Cox proportional-hazard regressions. Since some covariates are not available for

**Table 1.** Summary statistics.

Variable	mean	min	max
Upcoming EU membership	0.058	0	1
Ratification of the same treaty by neighbouring country	0.188	0	1
Democracy (polity 2)	7.693	-9	10
Logarithm of ECHR violations*	5.230	2.708	7.969
Number of ratifications needed to come into force**	3.759	0	14
No of countries signed on opening day**	7.049	0	36
Recent independence	0.043	0	1

Notes:  $n$  observations: 142,336;  $n$  treaties = 221;  $n$  countries = 41, The following countries are missing from the dataset due to unavailability of some of the covariates: Andorra, Iceland, Liechtenstein, Monaco, Malta and San Marino. \* time-invariant, fixed at country level. \*\* time-invariant, fixed at treaty level.

some countries and some country-year combinations, the dataset was limited to 41 countries, leaving out most of the smaller countries in Europe.

## Results

The results of the main Cox regression models are shown in [Table 2](#) for all treaties and separately for different types of treaties – core human rights and other harmonisation treaties. Model 1 includes the main covariates indicating the diffusion of ratification through coercion (upcoming EU accession) and ratification of neighbouring countries (emulation) as well as the level of democracy and the overall (logged) number of ECHR violations at country level. The second model adds the important interaction effect of democracy and ratification by a neighbouring country. The third model also includes the indicators related to the outcomes of the pre-opening negotiations: the number of ratifications needed for a treaty to enter into force and the number of countries signing on the opening day. The type of treaty is included and all models are run separately for core human rights treaties (HR) and for the other harmonisation treaties (HA).

First of all, it needs to be highlighted that there is more variation on the treaty level and less on the country level. The variance is much larger at the treaty level (around 0.8–1.25) compared to the country level (around 0.1–0.2). The median hazard ratio (MHR) is shown as well, which indicates the median effect of the ‘frailty’ on the hazard ratio scale, and allows comparing the random effect to the other covariates (Austin et al. 2017). It shows that the hazard ratio at the treaty level is higher than most of the co-variables, apart from the diffusion (for harmonisation treaties), which means that the variation left is still stronger than the influence of certain co-variables. The MHR for the country level is lower at ranging between 1.28 and 1.52, showing that the remaining variation at the country level is less important compared to the treaty level with an MHR ranging from 2.3 to 2.9.

Upcoming EU membership strongly increases the hazard of ratification of CoE treaties, which confirms H1. There are several examples that illustrate this

**Table 2.** Results of multilevel Cox regression models: hazard ratios including 95% confidence intervals in brackets.

Type of treaties	Model 1			Model 2			Model 3		
	All	HR	HA	All	HR	HA	All	HR	HA
Upcoming EU membership	1.76 (1.58–1.97)	1.52 (1.14–2.03)	1.95 (1.71–2.22)	1.77 (1.58–1.98)	1.52 (1.14–2.03)	1.96 (1.72–2.23)	1.77 (1.58–1.99)	1.5 (1.12–2)	1.97 (1.73–2.25)
Ratification in neighbouring country	2.33 (2.16–2.51)	1.72 (1.46–2.03)	2.56 (2.35–2.8)	4.39 (3.63–5.31)	2.64 (1.78–3.92)	5.13 (4.05–6.5)	4.3 (3.56–5.19)	2.66 (1.79–3.95)	4.99 (3.94–6.32)
Democracy (polity)	1.06 (1.05–1.08)	1.02 (0.99–1.05)	1.08 (1.06–1.1)	1.11 (1.09–1.13)	1.06 (1.02–1.11)	1.13 (1.11–1.16)	1.11 (1.08–1.13)	1.06 (1.02–1.11)	1.13 (1.1–1.16)
Interaction: rat. neighbour * polity	n/a	n/a	n/a	0.93 (0.91–0.95)	0.95 (0.91–0.99)	0.92 (0.9–0.95)	0.93 (0.91–0.95)	0.95 (0.91–0.99)	0.93 (0.9–0.95)
Recent independence	0.37 (0.3–0.46)	0.07 (0.03–0.21)	0.42 (0.32–0.54)	0.36 (0.29–0.45)	0.07 (0.03–0.2)	0.41 (0.32–0.53)	0.39 (0.31–0.48)	0.07 (0.03–0.21)	0.45 (0.34–0.58)
Number of ECHR violations (log)	0.89 (0.83–0.95)	0.84 (0.75–0.95)	0.9 (0.82–0.98)	0.89 (0.83–0.95)	0.84 (0.75–0.94)	0.89 (0.82–0.98)	0.89 (0.83–0.95)	0.84 (0.75–0.95)	0.89 (0.82–0.98)
Number of ratifications needed	n/a	n/a	n/a	n/a	n/a	n/a	1.09 (1.02–1.15)	1.23 (1.09–1.39)	1.04 (0.96–1.12)
Number of signatures on opening day	n/a	n/a	n/a	n/a	n/a	n/a	1.08 (1.05–1.1)	1.03 (0.98–1.08)	1.09 (1.06–1.11)
Type: Foundational	4.06 (2.14–7.68)	n/a	n/a	4.07 (2.14–7.74)	n/a	n/a	4.38 (2.45–7.83)	n/a	n/a
Type: Human Rights (core)	1.81 (1.18–2.78)	n/a	n/a	1.81 (1.18–2.78)	n/a	n/a	1.48 (1–2.2)	n/a	n/a
Variance*	0.07	0.19	0.13	0.07	0.20	0.13	0.07	0.19	0.13
Median hazard ratio*	1.28	1.52	1.41	1.29	1.52	1.41	1.29	1.52	1.41
Variance**	1.06	1.25	1.05	1.08	1.26	1.07	0.78	0.78	0.78
Median hazard ratio**	2.68	2.91	2.66	2.69	2.91	2.68	2.33	2.32	2.32
Number of observations	142,336	11,672	126,959	142,336	11,672	126,959	142,336	11,672	126,959

Notes: Based on 221 treaties and 41 countries; HR = Core Human Rights, HA = Harmonisation; \* country level, \*\* treaty level.

finding. For example, Bulgaria ratified 32 treaties in the four years before becoming an EU member in 2007, which is 37 per cent of all of its 87 ratifications. Finland made 28 per cent of all of its ratifications in the four years before EU accession in 1995. Consistently across all models, the hazard of ratification is almost twice the hazard in the four years before EU accession. It is somewhat lower for core human rights treaties compared to the other treaties, which we explain by most upcoming EU members having ratified many core human rights treaties earlier than four years before accession. The requirements to adopt the EU *acquis*, bringing a country up to the high standards needed for acceding the EU, makes countries increasingly agreeing to be bound by CoE treaties. The EU has the power to stimulate countries' ratification practices.

There are strong indicators of regional diffusion. When a neighbouring country ratifies in the previous or same year, the hazard of ratification increases by a factor of 2.33. This is stronger for all harmonisation treaties (2.56) and weaker for core human rights treaties (1.72). This confirms H2a and indicates that rights adoption follows regional patterns within Europe. While the CoE allows all states to equally cooperate, communicate, negotiate, convince and learn from each other, we see a strong pattern of emulation in the sense of diffusion among closer states. However, the results of regional diffusion are not straightforward as it interacts with democracy and mainly happens in the first years after opening.

In general, countries with higher levels of democracy are also more likely to ratify treaties of the CoE. Moving the polity 2 index up by one point increases the ratification hazard by a factor of about 1.06. This is less so and not statistically significant for core human rights treaties alone. If, however, a country has ratified in the year before or in the same year, the effect of democracy is less relevant anymore, as the interaction effect is negative and almost the same as the one for democracy. This is in line with H2b and indicates that regional diffusion is stronger among countries with lower levels of democracy. If no other country has ratified the year before or in the same year, the level of democracy plays a more important role; in other words, countries with higher levels of democracy are more prone to ratifying alone. This can be interpreted in terms of costs of ratification, since countries with higher levels of democracy might more easily fulfil the standards stipulated in any of the treaties; or, by contrast, countries with lower levels of democracy, potentially linked to limited capacity of institutions, more often sign together with others, as this can particularly increase their legitimacy (as other neighbouring countries do ratify this particular treaty). These patterns of emulation can also reflect regional European integration, since countries close by are usually countries in the same geographical and political regions in Europe.

Countries with overall higher numbers of violations of the ECHR have a somewhat lower hazard of ratification (H3). This could suggest that countries

with a large number of ECHR violations, as an indicator of relatively lower levels of rights protection but with strong enough institutions to be held accountable, are somewhat more careful in adopting treaties. However, this result requires cautious interpretation as it is based on a time-invariant measure of countries that are very often found to violate the ECHR. This effect is not perfectly consistent over time and slightly violates the proportional hazards assumption.

The outcomes of pre-opening negotiations have an impact on the number of ratifications. It shows that there is indeed an increase in the hazard of ratification with every additional ratification needed and every additional signature obtained on the opening day – confirming H4. The positive correlation of the number of ratifications cannot be confirmed though for the harmonisation treaties and is stronger for core human rights treaties. By contrast, the number of signatures on the opening day is only confirmed for harmonisation treaties, but not for core human rights treaties.

Finally, core human rights treaties are more likely to be ratified as compared to harmonisation treaties – reflecting the normative weight of core human rights treaties. The hazard of ratification of core human rights treaties is 1.8 times the hazard of harmonisation treaties. However, the coefficient reduces to 1.47 and does not remain statistically significant for model 3, when the number of signatures on the opening day is included. Not surprisingly, foundational treaties are much more likely to be ratified, as some of these are required for CoE membership. Nevertheless, the general pattern of coefficients holds for harmonisation and core human rights treaties; that is, we can use the same explanatory variables for core human rights treaties and for other treaties of the CoE. While we aimed at explaining factors working on the general ‘behaviour’ of states when committing to CoE treaties, the analysis shows that the content of the treaties still plays an important role for a country to become party. As a result, there is substantial unexplained variance on the treaty level due to the differences in the topics and content of the treaties, which indicates a need for further research in this area.

## Conclusions

Rights acceptance through ratification of CoE treaties has diffused geographically across European countries. Findings of the analysis hold true across different treaty types, including core human rights treaties and other harmonisation treaties. This means that there are general patterns of treaty acceptance through mechanisms of diffusion. However, we show that accounting for differences in treaties is necessary as well for explaining rights adoption. As a result, we argue that diffusion scholars in the field of treaty ratification should more systematically account for different types of treaties in order to identify what makes some treaties more or less successful. Our findings



suggest that much of the success is already negotiated ahead of the opening of treaties. Usually, there is a strong increase in ratifications in the years after opening a treaty. After an initial increase, ratifications decrease and often completely level off. The fact that countries often ratify at the same time indicates the political momentum created by the opening of a treaty. Many expert level discussions and negotiations by country representatives take place at the CoE. The negotiations before opening of a treaty at these levels and other ways of cooperation, such as events organised to stimulate 'collective' signatures to create momentum, determine the diffusion of rights acceptance.

This works particularly well for countries that are closer to each other – the Scandinavian countries being at the centre of treaty ratification. If rights do not diffuse to other countries right away, there is another factor that can contribute to ratification: the EU. EU conditionality has the impact to make countries ratify CoE treaties, particularly in the years before accession. This way, the EU and the CoE help each other to pursue their shared goals and complement their work.

Yet more research is needed to explain which types of treaties are more likely to be ratified, particularly by looking more into domestic factors, the roles of specific countries influencing other countries and treaty content. Further research should also look into how to revive a treaty by creating a political momentum to have treaties acquiring more ratifications after its levelling off. While the EU does play a role here, other factors have to be researched further still. One such aspect, concerns reservations, as they potentially limit the commitment to rights without limiting strongly the symbolic meaning of having ratified a treaty in the international arena.

While Europe is leading in many areas with respect to standard setting related to human rights, democracy and rule of law, many treaties remain 'unaccepted' by several European countries. Amidst current discussions and problems related to the rule of law in some European countries, there is yet no sign that commitment to human rights and rule of law treaties in Europe declines in the sense of renouncing treaties. By contrast, we observe a steady increase in ratifications and opening of treaties in the past decades – reflecting a strong process of international regional diffusion and integration in terms of human rights, democracy and the rule of law.

## Notes

1. Currently, all European states except Belarus are members of the CoE.
2. We do not expect that competition plays a major role for committing to treaties opened by the CoE.
3. <https://www.coe.int/en/web/portal/european-union>.
4. E.g., EC Communication on Croatia's application for membership of the EU, <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52004DC0257>.

5. [https://ec.europa.eu/neighbourhood-enlargement/policy/conditions-membership\\_en](https://ec.europa.eu/neighbourhood-enlargement/policy/conditions-membership_en)
6. Before 1993 a single state could block the opening of a treaty (Polakiewicz 1999: 26).
7. The modernised Convention 108+ was opened for signature in 2018.
8. We excluded countries which ratified treaties before they came into existence in its current form. This reduced the dataset by 72 country-treaty combinations. This concerns Czechia, Slovakia and Montenegro. Overall out of potential 10,387 ratifications, 4,841 took place (46.6%).

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No potential conflict of interest was reported by the authors.

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## Statistical replication materials and data

Supporting data and R code for this article available at <https://github.com/david-reichel/treaty-acceptance-paper>.

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