



Strasbourg, 6 December 2013

CDDH(2013)R79

**STEERING COMMITTEE FOR HUMAN RIGHTS  
(CDDH)**

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**REPORT**

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**79<sup>th</sup> meeting**

**Strasbourg, 26-29 November 2013**

## Summary

The Steering Committee for Human Rights (CDDH) held its 79<sup>th</sup> meeting from 26 to 29 November 2013 in Strasbourg with Mr Derek WALTON (United Kingdom) in the Chair. The agenda, as adopted, appears in Appendix II. At this meeting the CDDH, in particular:

1. concerning recommendations of the Parliamentary Assembly, adopted comments on the four following recommendations brought to its attention: 2021(2013) - *“Tackling discrimination on grounds of sexual orientation and gender identity”*; 2023(2013) - *“Children’s right to physical integrity”*; 2024(2013) - *“National security and access to information”*; and 2027(2013) - *“European Union and Council of Europe human rights agendas: synergies not duplication!”* (see Appendix III);
2. regarding the reform of the Court:
  - i. adopted its report on whether more effective measures are needed in respect of States that fail to implement Court judgments in a timely manner, and decided to transmit it to the Committee of Ministers (document CDDH(2013)R79 Addendum I);
  - ii. adopted its report on the review of the functioning of the Advisory Panel of experts on candidates for election as judge to the European Court of Human Rights, and decided to transmit it to the Committee of Ministers (document CDDH(2013)R79 Addendum II);
  - iii. adopted its report on the question of whether or not to amend the Convention to enable the appointment of additional judges to the Court, and decided to transmit it to the Committee of Ministers (document CDDH(2013)R79 Addendum III);
  - iv. gave guidance on the future work of its Committee of the Experts on the reform of the Court (DH-GDR) and its drafting Groups GT-GDR-F and GT-GDR-G, and in this regard:
    - decided on the composition and working methods of drafting Group “F” on the reform of the Court (GT-GDR-F) (see Appendix IV), elected as chair of GT-GDR-F Mr Martin KUIJER (The Netherlands) and gave guidance for its work;
    - took note of the launch of a public consultation on the question of the longer term future of the ECHR system and the Court;
    - gave guidance for the future work of drafting Group “G” on the reform of the Court (GT-GDR-G);
  - v. exchanged views on the Conference that will be organised by the *PluriCourts* academic network, in Oslo, Norway on 7-8 April 2014 and agreed to hold its next meeting in Oslo (8-11 April 2014);

3. concerning development and promotion of human rights:
  - i. adopted a draft Recommendation on the promotion of human rights of older persons (document CDDH(2013)R79 Addendum IV) and the draft explanatory memorandum thereto (document CDDH (2013)R79 Addendum V) and decided to transmit them to the Committee of Ministers;
  - ii. adopted a draft Declaration of the Committee of Ministers on the UN Guiding Principles on business and human rights and decided to transmit it to the Committee of Ministers (document CDDH (2013)R79 Addendum VI);
  - iii. gave guidance to its drafting Group on corporate social responsibility in the field of human rights (CDDH-CORP) for its further work and decided that the International Organization of Employers (IOE) and the International Chamber of Commerce (ICC) will be authorised to be represented, as observers, at the meetings of this Group;
  - iv. decided to appoint the chairperson of CDDH-CORP, Mr René LEFEBER, to represent it at the UN Forum on Human Rights and Business in Geneva on 2-4 December 2013;
  - v. decided on the organization of the work to be undertaken on the issue of human rights in culturally diverse societies during the 2014-2015 biennium, and in particular, on the creation and composition of a drafting group (CDDH-DC) for the elaboration of a document compiling existing Council of Europe standards relating to the principles of freedom of thought, conscience and religion and the link to other Convention rights, in particular freedom of expression, supplemented by a compendium of good practices;
  - vi. decided on the organisation of the work to be undertaken concerning:
    - the elaboration of a study on the feasibility of new activities, as well as the revision of existing instruments, on the impact of the economic crisis on human rights in Europe;
    - the identification of new themes for the development and promotion of human rights in the Council of Europe that the CDDH could carry out in the 2016-2017 biennium;
4. concerning bioethics, decided to consider the transmission to the Committee of Ministers the guide concerning the decision-making process regarding medical treatment in end-of-life situations by a written procedure, exchanged views and gave guidance on the current work of the Committee on bioethics (DH-BIO) and approved the re-election of Dr Anne FORUS (Norway) as Chair of DH-BIO;

5. concerning the Gender Equality Commission (GEC), exchanged views on the current work of the GEC and noted that in future supervision of the work of the GEC would be transferred to the new European Committee for Social Cohesion, Human Dignity and Equality (CDDECS);
6. concerning the review of Council of Europe conventions:
  - i. instructed the Secretariat to obtain information from Committee members on the prospects of their governments' ratifying Protocols No. 15 and 16 to the European Convention on Human Rights, including on any obstacles or difficulties encountered or anticipated, the results to be examined at its next meeting (8-11 April 2014);
  - ii. decided to review at its November 2014 meeting the situation concerning the two European Agreements relating to persons participating in proceedings of the European (Commission and) Court of Human Rights (CETS No. 67 and 161 respectively);
  - iii. decided to turn its attention in 2015 to the Council of Europe Convention on access to official documents (CETS No. 205);
7. exchanged views with the President of the European Commission for Democracy through Law (Venice Commission), Mr Gianni BUQUICCHIO (see [Appendix VI](#));
8. decided to appoint experts to represent it in the Steering Committee on Media and Information Society (CDMSI), the Committee of the Parties to the Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse ("the Lanzarote Convention"), the European Committee for Social Cohesion, Human Dignity and Equality (CDDECS), the Committee of Experts on Terrorism (CODEXTER) and the European Commission for Democracy through Law (Venice Commission) (see [Appendix VII](#));
9. held elections (see [Appendix VIII](#)) and clarified the procedures to be adopted for elections held within the CDDH;
10. adopted the provisional calendar of its meetings and of those of its subordinate bodies (see [Appendix IX](#)).

#### Appendices

- I. List of participants
- II. Agenda (as adopted)
- III. CDDH Comments on Recommendations of the Parliamentary Assembly
- IV. Composition of Drafting Group "F" on the reform of the Court (GT-GDR-F)
- V. CDDH comments on the draft Recommendation of the Committee of Ministers to member states on a guide on human rights for Internet users

- VI. Speech of the President of the European Commission for Democracy through Law (Venice Commission), Mr Gianni BUQUICCHIO
- VII. Experts representing the CDDH in other bodies
- VIII. Composition of the Bureau and Chairpersons of subordinate bodies
- IX. Calendar of meetings of the CDDH and subordinate bodies

Addenda

**CDDH(2013)R79 Addendum I** – CDDH Report on whether more effective measures are needed in respect of States that fail to implement Court judgments in a timely manner

**CDDH(2013)R79 Addendum II** – CDDH Report on the review of the functioning of the Advisory Panel of experts on candidates for election as judge to the European Court of Human Rights

**CDDH(2013)R79 Addendum III** – CDDH Report on the question of whether or not to amend the Convention to enable the appointment of additional judges to the Court

**CDDH(2013)R79 Addendum IV** - Draft Recommendation CM/Rec(2014)... of the Committee of Ministers to member states on the promotion of human rights of older persons

**CDDH(2013)R79 Addendum V** - Explanatory memorandum to the Recommendation on the promotion of human rights of older persons

**CDDH(2013)R79 Addendum VI** - Draft Declaration of the Committee of Ministers on the UN Guiding Principles on business and human rights

## Introduction

1. The Steering Committee for Human Rights (CDDH) held its 79<sup>th</sup> meeting from 26 to 29 November 2013 in Strasbourg with Mr Derek WALTON (United Kingdom) in the Chair. The list of participants appears at [Appendix I](#).<sup>1</sup> The agenda, as adopted, appears at [Appendix II](#). The CDDH took note of the general background information appearing in the reference document (CDDH (2013)021Rev2) and of the report of the last meeting of its Bureau (CDDH-BU(2013)R89).

## **ITEM 1: OPENING OF THE MEETING, ADOPTION OF THE AGENDA AND THE ORDER OF BUSINESS**

2. The CDDH adopted the agenda and order of business.

## **ITEM 2: RECOMMENDATIONS OF THE PARLIAMENTARY ASSEMBLY**

Texts of the relevant recommendations, and elements prepared by the Secretariat	CDDH(2013)023
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3. The CDDH exchanged views on Parliamentary Assembly Recommendations 2021(2013) - “*Tackling discrimination on grounds of sexual orientation and gender identity*”; 2023(2013) - “*Children’s right to physical integrity*”; 2024(2013) - “*National security and access to information*”; and 2027(2013) - “*European Union and Council of Europe human rights agendas: synergies not duplication!*”, transmitted to it by the Deputies for information and possible comments. It examined the comments proposed by the Bureau. Following its discussion, it adopted them as they appear in [Appendix III](#) to the present report.

## **ITEM 3: REFORM OF THE COURT (DH-GDR)**

Report of the 5th meeting of the Committee of experts on the reform of the Court (DH-GDR, 29-31 October 2013)	DH-GDR(2013)R5
Draft CDDH report on whether more effective measures are needed in respect of States that fail to implement Court judgments in a timely manner	DH-GDR(2013)R5 Addendum I
Draft CDDH report on the review of the functioning of the Advisory Panel of experts on candidates for election as judge to the European Court of Human Rights	DH-GDR(2013)R5 Addendum II
Draft CDDH report on the question of whether or not to amend the Convention to enable the appointment of additional judges to the Court	DH-GDR(2013)R5 Addendum III

### ***3.1 Completed work***

<sup>1</sup> Following Declaration CM(2009)68 - “Making gender equality a reality” and practical proposals elaborated by the Bureau of the Steering Committee on the media and new communication services (CDMC, document CDMC-BU(2010)001), the list of participants includes gender distribution figures for participants.

4. The Chairperson of the Committee of Experts on the reform of the Court (DH-GDR), Mr Vit SCHORM (Czech Republic), presented the work completed by the Committee at its 5<sup>th</sup> meeting (29-31 October 2013), which led to the completion of three draft reports that the CDDH was called upon to examine and adopt, namely: (i) a draft report on whether more effective measures are needed in respect of States that fail to implement Court judgments in a timely manner, (ii) a draft report on the review of the functioning of the Advisory Panel of experts on candidates for election as judge to the European Court of Human Rights, and (iii) a draft report on the question of whether or not to amend the Convention to enable the appointment of additional judges to the Court.

5. Following its examination, the CDDH adopted the texts as they appear in documents CDDH(2013)R79 Addenda I to III.

### **3.2 Future work**

6. With regards to drafting Group “F” on the reform of the Court (GT-GDR-F), the Committee decided its composition as it appears at Appendix IV, elected Mr Martin KUIJER (The Netherlands) as Chair of the Group, and confirmed the guidance it gave at its previous meeting, as well as those given by the DH-GDR at its 5<sup>th</sup> meeting.

7. The Secretariat informed the CDDH of the open-call for information, proposals and views (see [www.coe.int/reformECHR](http://www.coe.int/reformECHR)), the results of which will be examined by the GT-GDR-F at its 1<sup>st</sup> meeting in March 2014. It highlighted the importance of making this initiative known as widely and as efficiently as possible and recalled that the deadline for submitting contributions has been set at 27 January 2014.

8. Mr Morten RUUD (Norway) provided information on the draft programme and state of preparation of the Conference on the future of the European Court of Human Rights organized under the auspice of the Council of Europe by the network of academics *Pluricourts*, which will be held near Oslo, Norway; on the 7-8 April 2014 (<http://www.jus.uio.no/pluricourts/english/news-and-events/events/2014/coe-conference.html>). The Conference will be immediately followed by a CDDH meeting, which will be held in the city centre of Oslo, from 8 to 11 April, and the holding of which was formally approved by the CDDH.

9. With regards to the drafting Group “G” on the reform of the Court (GT-GDR-G), the CDDH endorsed the guidance given by the DH-GDR for its work (see document DH-GDR(2013)R5, paragraph 17).

## **ITEM 4: DEVELOPMENT AND PROMOTION OF HUMAN RIGHTS**

### **4.1 Rights of older persons (CDDH-AGE)**

Report of the 4 <sup>th</sup> meeting of the CDDH-AGE (23-25 September 2013)	CDDH-AGE(2013)R4
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Draft Recommendation on the promotion of the human rights of older persons	CDDH-AGE(2013)13 Final
Draft explanatory report to the Recommendation on the promotion of the human rights of older persons	CDDH-AGE(2013)02 Final

10. The Secretariat presented the draft Recommendation on the promotion of human rights of older persons (CDDH-AGE(2013)13 Final) and the draft explanatory memorandum thereto (CDDH-AGE(2013)02 Final), prepared by the CDDH-AGE, in the light of the results of the last meeting of the drafting group.

11. The CDDH discussed, *inter alia*, the question of follow-up to the Recommendation and, in particular, possible ways to provide and disseminate good practices which may develop on the basis of the Recommendation after its adoption, and to update the examples of good practices contained in the Recommendation.

12. At the end of the exchange of views, the CDDH adopted with a few amendments the draft Recommendation and the draft explanatory memorandum thereto, as they appear respectively in Addendum IV and Addendum V to the present report, and decided to transmit them to the Committee of Ministers for adoption and taking note respectively.

#### **4.2 Corporate social responsibility in the field of human rights**

Report of the 1 <sup>st</sup> meeting of the CDDH-CORP (14-16 October 2013)	CDDH-CORP(2013)R1
Feasibility study	CM(2012)164 add

13. The CDDH had an exchange of views with the Chairperson of the Drafting Group on corporate social responsibility in the field of human rights (CDDH-CORP), Mr René LEFEBER (the Netherlands), who presented the work carried out by the CDDH-CORP at its 1<sup>st</sup> meeting (14-16 October 2013).

14. The CDDH adopted the draft Declaration of the Committee of Ministers on the UN Guiding Principles on business and human rights, as it appears in Addendum VI to the present report, and agreed to transmit it to the Committee of Ministers for adoption.

15. The Committee also discussed in detail the list of issues to be considered in preparation of the future Council of Europe non-binding instrument on human rights and business, and provided guidance to the CDDH-CORP for its further work. In particular, the CDDH noted that the list was, at this stage, merely indicative and that – given its length – the CDDH-CORP should identify some priority issues on which it should concentrate its work. In this respect the question of obstacles to access to justice was felt as a particularly important issue to which the Council of Europe could provide specific added value; on the contrary, the question of sector specific guidance, was considered as one in which the Council of Europe may have limited value to add, compared to other bodies. As regards the question of extraterritorial jurisdiction, it was agreed that the item should remain in the list for further consideration, but taking into account its complexity and the lack of existing standards, it should not be the main focus of the future instrument, and should not detract the attention of the group from other equally relevant issues. It was also recommended to consider in the future work not only the role of national human rights



institutions, but also of other stakeholders and social partners. Finally, it was noted that given the diversity of the issues to be analysed, it may appear during the work that a plurality of instruments would be the most appropriate way to deal with them, and that should this be the case, the CDDH-CORP should not refrain from proposing more than one instrument, while bearing in mind the terms of reference that the Committee of Ministers gave to the CDDH.

16. The CDDH invited all member states, participants and observers to the CDDH and to the CDDH-CORP to provide to the Secretariat ([nicola-daniele.cangemi@coe.int](mailto:nicola-daniele.cangemi@coe.int)) possible other comments on the indicative list of issues or propose other issues, including where relevant examples of good practices, by 17 January 2014 at the latest. It instructed the Secretariat to transmit to the CDDH-CORP, with a view to its next meeting, existing material – such as the Court’s factsheet – on relevant case-law of the European Court of Human Rights concerning the extraterritorial application of the European Convention on Human Rights. The CDDH also asked the Secretariat and the Chair of the CDDH-CORP to prepare, in the light of the comments and proposals received, a new working document for consideration at the next meeting of the CDDH-CORP.

17. Finally, the CDDH authorised the International Organization of Employers (IOE) and the International Chamber of Commerce (ICC) to be represented, as observers, at the next meetings of the CDDH-CORP, and appointed the Chair of the CDDH-CORP to represent the CDDH at the UN Forum on Human Rights and Business (Geneva, 2-4 December 2013).

#### **4.3 Human rights in culturally diverse societies**

Feasibility study	CM(2013)93add2
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18. The CDDH had an exchange of views on the terms of reference given by the Committee of Ministers on the issue of human rights in culturally diverse societies for the biennium 2014-2015, and agreed on the organisation of its future work in this respect, having regard to the order of priority indicated by the Committee of Ministers for the various expected results.

19. As regards the elaboration of a document compiling existing Council of Europe standards relating to the principles of freedom of thought, conscience and religion and the link to other Convention rights, in particular freedom of expression, supplemented by a compendium of good practices, the CDDH agreed to instruct a small drafting group (CDDH-DC) composed of representatives of member states to prepare this compendium with the assistance of the Secretariat, and to present the results of its work for examination and possible adoption at the 82<sup>nd</sup> CDDH meeting, in November 2014. The CDDH designated the following 7 member States to participate in the work of the group at the expense of the Council of Europe: Czech Republic, France, Finland, Greece, Portugal, Turkey and Ukraine. The Chairperson will be appointed by the group. It was understood that any member State could send other representatives at its own expense. The CDDH noted that the Group would meet once or twice at the maximum in this composition, and carry out its work also by electronic means.

20. As regards the elaboration of guidelines on the promotion and protection of human rights in culturally diverse societies, with a possible specific focus on the issues related to human rights

education and training, the CDDH agreed that this work could be carried out by a larger drafting group composed of experts from Member States and observers, to be set up at its next meeting in order to begin its work in the second semester of 2014. Three meetings will be held between 2014 and 2015, with a view to the finalisation of this work by the CDDH in November 2015 at the latest. It was also noted that in order to facilitate the organisation of work, it may be desirable that members of the CDDH-DC be part also of this drafting group.

21. Finally, as regards the elaboration of a draft handbook on human rights in culturally diverse societies presenting principles and their application through good practices, the CDDH considered that it may be premature to decide at this stage whether such work may have real added value, having regard to the other two activities, and that a discussion on this may be held at a later stage, in the light of the results of the work mentioned above, possibly with a view to the 2016-2017 biennium.

#### 4.4 *Future work*

Study on future possible priority areas for the development and promotion of human rights within the Council of Europe	CM(2013)93 add3
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22. The CDDH had an exchange of views on the organisation of future work in other areas, and in particular, in accordance with its new terms of reference, on the work to be undertaken concerning:

- (i) the elaboration of a study on the feasibility of new activities, as well as the revision of existing instruments, on the impact of the economic crisis on human rights in Europe, and the formulation of specific proposals on its basis;
- (ii) the identification of new themes for the development and promotion of human rights in the Council of Europe that the CDDH could carry out in the 2016-2017 biennium.

23. As regards the impact of the economic crisis on human rights in Europe, the CDDH agreed to instruct the Secretariat to prepare a preliminary study on existing standards and outstanding issues, for consideration at its 81<sup>st</sup> meeting, in June 2014. It also agreed that at that meeting it will hold an exchange of views with an expert and appoint a rapporteur among its members, with a view to the elaboration of the feasibility study and of its submission to the CDDH in November 2014, for adoption and transmission to the Committee of Ministers.

24. As regards the identification of new themes for the development and promotion of human rights in the Council of Europe that the CDDH could carry out in the 2016/2017 biennium, the CDDH agreed to follow the same approach followed to carry out the same task during the current biennium, i.e. the organization of a preliminary exchange of views in November 2014 or at the first meeting in 2015, followed by the elaboration by the Secretariat of a draft study containing proposals and indicating, for each proposal, the expected objective, the added value, and the method to attain the objective, for discussion and adoption by the CDDH at its meeting in June 2015 at the latest.

### **ITEM 5: BIOETHICS (DH-BIO)**

Draft Annotated Agenda of the DH-BIO (26-28 November 2013)	DH-BIO(2013)OJ2 Prov1
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25. The CDDH decided to examine by written procedure the issue of the transmission to the Committee of Ministers of the Guide concerning the decision-making process regarding medical treatment in end-of-life situations. It exchanged views with its Secretary, Ms Laurence LWOFF, and gave guidance on the ongoing work of the Committee on Bioethics (DH-BIO).

### **ITEM 6: GENDER EQUALITY (GEC)**

Report of the 4 <sup>th</sup> meeting of the GEC (13-15 November 2013)	
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26 Concerning the Gender Equality Commission (GEC), the CDDH exchanged views with its Secretary, Ms Liri KOPACI-DI-MICHELE, on the ongoing work and noted that in the future, supervision of the work of the GEC will be transferred to the new European Committee for Social Cohesion, Human Dignity and Equality (CDDECS).

### **ITEM 7: EXPERTS REPRESENTING THE CDDH IN OTHER BODIES**

27. The CDDH exchanged views and appointed several experts to represent it in other bodies (see [Appendix VII](#) to this report).

### **ITEM 8: ELECTIONS**

Resolution (2011)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods	CM/Res(2011)24
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28. The CDDH held elections relevant to the current composition of the Bureau and Chairs of the subordinate bodies (see [Appendix VIII](#) to this report). This CDDH meeting being the last one in which Mr Derek WALTON (United Kingdom) participated, the CDDH expressed its highest appreciation for his contribution and dedication to its work for some ten years and, in particular, for the exemplary manner in which he chaired the work of the Steering Committee.

29. In order to ensure transparency and consistency in its election procedure, the Committee recalled Committee of Ministers' Resolution CM/Res(2013)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods, in particular Appendix I on 'rules of procedure for Council of Europe intergovernmental committees', and Articles 11 (Voting) and 12 (Chair) of it. On that basis, it clarified that the following arrangements would apply to elections held within the Steering Committee for the posts of Chairperson, Vice-chairperson, member of the Bureau and Chairperson of a subordinate body:<sup>2</sup>

- i. Elections will be by secret ballot, even if the number of candidates is equal to that of posts to be filled.
- ii. Should the number of candidates be equal to that of posts to be filled, the ballot slip will allow votes to be cast for or against. Should there be more candidates than posts to be filled, the ballot slip will only allow votes to be cast for.

<sup>2</sup> These rules apply also for elections in and to subordinate bodies of the CDDH, with the following exception: for subordinate bodies, election is by show of hands unless a member requests a secret ballot.

- iii. Those entitled to vote in a ballot may cast up to as many votes as there are posts to be filled.
- iv. A ballot slip on which more votes have been cast than there are posts to be filled will be void.
- v. Election of a candidate in the first ballot requires a two-thirds majority of the votes cast, i.e. the first whole number above two-thirds of the number of votes cast.
- vi. 'Votes cast' means valid votes cast for or against; abstentions and void ballot slips do not count.
- vii. If no candidate obtains a two-thirds majority in the first ballot, there will be a second ballot.
- viii. Election of a candidate in the second ballot requires a simple majority of the votes cast, i.e. the first whole number above 50% of the number of votes cast.
- ix. If no candidate obtains a simple majority in the second ballot, there will be a third ballot under the same conditions as the second.
- x. This process will continue until a candidate obtains a simple majority of the votes cast.

30. Noting that, at the present meeting, four ballots were required to elect members of its Bureau, the CDDH considers that the Committee of Ministers might examine the possibility of amending the rules on elections in intergovernmental committees so as to avoid such time-consuming processes in future. For example, a rule could be introduced to the effect that where no candidate is elected in a second ballot, the candidate receiving the lowest number of votes in that ballot be automatically excluded from the third ballot, and so on as necessary.

## **ITEM 9: EXCHANGE OF VIEWS WITH PERSONALITIES**

31. The CDDH held a very fruitful exchange of views with the President of the European Commission for Democracy through Law (Venice Commission), Mr Gianni BUQUICCHIO (see [Appendix VI](#)).

32. The CDDH asked the Secretariat to contact the following personalities in order to invite them to one or the other of its next meetings, according to their availability:

- The Director of *PluriCourts*, if possible at the 80<sup>th</sup> meeting of the CDDH which will be held in Oslo from 8 to 11 April 2014 ;
- The Director of the European Agency for Fundamental Rights (FRA), if possible at the 81<sup>st</sup> meeting of the CDDH;
- The President of the CPT ;
- a representative of the Office of the High Commissioner for Human Rights of the United Nations (OHCHR);
- the President of the Rapporteur Group on Human Rights (GR-H)
- the President of the Ad hoc Working Party on Reform of the Human Rights Convention system (GT-REF.ECHR).

## **ITEM 10: PREPARATION OF THE 2014/2015 BIENNIUM**

33. The CDDH took note of the terms of reference adopted by the Committee of Ministers for the Steering Committee and its subordinate bodies, for the 2014-2015 biennium. The text of these terms of reference will feature on the web page of the CDDH.

### **ITEM 11: CALENDAR OF MEETINGS**

34. The CDDH exchanged views on the calendar of meetings of the CDDH and its subordinate bodies for 2014 and adopted it as appears at Appendix IX.

### **ITEM 12: REVIEW OF COUNCIL OF EUROPE CONVENTIONS**

35. With regards to the review of Council of Europe conventions, the CDDH instructed the Secretariat to obtain information from Committee members on the prospects of their governments' ratifying Protocols No. 15 and 16 to the European Convention on Human Rights, including on any obstacles or difficulties encountered or anticipated, the results to be examined at its next meeting (8-11 April 2014). It decided to review at its November 2014 meeting the situation concerning the two European Agreements relating to persons participating in proceedings of the European (Commission and) Court of Human Rights (CETS No. 67 and 161 respectively), and decided to turn its attention in 2015 to the Council of Europe Convention on access to official documents (CETS No. 205).

### **ITEM 13: OTHER BUSINESS**

#### ***13.1 Exchange of views with the Secretary of the Lanzarote Committee***

36. The CDDH exchanged views with the Secretary of the Committee of the Parties to the Council of Europe Convention on Protection of Children Against Sexual Exploitation and Sexual Abuse (Lanzarote Committee), Ms Gioia SCAPPUCCI. She welcomed the CDDH's decision to appoint of a representative to the Committee: the expertise of the CDDH in the field of human rights will contribute positively to this monitoring process. She informed the CDDH that the first review cycle will focus on the situation of the State parties on the theme of "sexual abuse in the circle of trust". The questionnaires addressed to the State parties and representatives of civil society to collect information in this regard are available on-line ([www.coe.int/lanzarote](http://www.coe.int/lanzarote)). Ms Scappucci also indicated that the Lanzarote Committee is also a forum for exchanging good practices between State parties. In this regard, she drew attention to the Conference which will be held in Madrid on 10-11 December 2013 on "Preventing sexual abuse of children".

#### ***13.2 Request for comments by the CDDH on a draft recommendation of the Committee of Ministers on a Guide on Human Rights for Internet Users***

37. The CDDH noted that the comments it had adopted on a draft Recommendation of the Committee of Ministers on Human Rights for Internet Users, had been transmitted to the Secretariat of the Steering Committee on Media and Information Society (CDMSI) on 19<sup>th</sup> November 2013 (see Appendix V).

Appendix I**List of participants**

*The gender distribution of the 78 participants in the meeting was as follows: 31 women (40 %) and 47 men (60 %) including the Chairman.*

**MEMBERS / MEMBRES****ALBANIA / ALBANIE****ANDORRA / ANDORRE**

Mr Joan FORNER ROVIRA, Représentant permanent Adjoint d'Andorre auprès du Conseil de l'Europe

**ARMENIA / ARMENIE**

Mr Levon AMIRJANYAN, Chef du département des affaires juridiques, Ministère des affaires étrangères

**AUSTRIA / AUTRICHE**

Mrs Brigitte OHMS, Deputy Government Agent, Division for International Affairs and General Administrative Affairs, Federal Chancellery

**AZERBAIJAN / AZERBAIDJAN**

Mr Chingiz ASGAROV, Agent of the Government of the Republic at the European Court of Human Rights

**BELGIUM / BELGIQUE**

Mr Philippe WERY, Chef du Service des droits de l'homme, SPF Justice, Service des Droits de l'Homme

Ms Isabelle NIEDLISPACHER, co-Agent du Gouvernement, SPF Justice, Service des Droits de l'Homme

**BOSNIA AND HERZEGOVINA / BOSNIE-HERZEGOVINE**

Ms Zikreta IBRAHIMOVIC, Deputy Agent of the Council of Ministers before the European Court of Human Rights

**BULGARIA / BULGARIE**

Mr Dimitar Philipov SERAFIMOV, Directeur département DH, Ministère des Affaires Etrangères

**CROATIA / CROATIE**

Mrs Romana KUZMANIĆ OLUIĆ, Counsellor, Ministry of Foreign and European Affairs

**CYPRUS / CHYPRE**

Ms Theodora CHRISTODOULIDOU, Counsel of the Republic, Office of the Attorney-General, Human Rights sector

**CZECH REPUBLIC / REPUBLIQUE TCHEQUE**

Mr Martin BOUČEK, Human Rights and Transition Policy Department, Ministry of Foreign Affairs

Mr Vit SCHORM, Government Agent, Ministry of Justice

M. Ota HLINOMAZ, Office of the Government Agent, Ministry of Justice

**DENMARK / DANEMARK**

Mr Lars SOLSKOV LIND, Ministry of Justice, Constitutional Law and Human Rights Division

**ESTONIA / ESTONIE**

Mrs. Anneli KOLK, Head of the Legal Department, Ministry of Foreign Affairs

**FINLAND / FINLANDE**

Mr Arto KOSONEN, Government Agent, Director, Unit for Human Rights Court and Conventions, Legal Service, Ministry of Foreign Affairs

**FRANCE**

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**Amnesty International**

**International Commission of Jurists (ICJ) / Commission internationale de Juristes (CIJ)**

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Mr Massimo FRIGO, Legal Advisor at the Europe Programme of the ICJ

**Invited to this meeting / invités à cette réunion**

**European Trade Union Confederation (ETUC) / Confédération européenne des syndicats (CES)**

Mr Klaus LÖRCHER, Conseiller des droits de l'homme de la CES

**European Conference of Churches / Conférence des églises européennes (KEK)**

Mr Richard FISCHER

\* \* \*

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**INTERPRETERS / INTERPRÈTES**

Mrs Sally BAILEY-RAVET

Mrs Sylvie BOUX

Mr Derrick WORSDALE

Appendix II**Agenda**

Draft agenda and order of Business	CDDH(2013)OJ003Rev
Reference document	CDDH(2013)021Rev2
Report of the 89 <sup>th</sup> meeting of the Bureau of the CDDH (Venice, 7-8 November 2013)	CDDH-BU(2013)R89
Report of the 78 <sup>th</sup> meeting of the CDDH (25-28 June 2013)	CDDH(2013)R78

**ITEM 1: OPENING OF THE MEETING, ADOPTION OF THE AGENDA AND THE ORDER OF BUSINESS****ITEM 2: RECOMMENDATIONS OF THE PARLIAMENTARY ASSEMBLY**

Texts of the relevant recommendations, and elements prepared by the Secretariat	CDDH(2013)023
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**ITEM 3: REFORM OF THE COURT (DH-GDR)**

Report of the 5 <sup>th</sup> meeting of the Committee of experts on the reform of the Court (DH-GDR, 29-31 October 2013)	DH-GDR(2013)R5
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***3.1 Completed work***

Draft CDDH report on whether more effective measures are needed in respect of States that fail to implement Court judgments in a timely manner	DH-GDR(2013)R5 Addendum I
Draft CDDH report on the review of the functioning of the Advisory Panel of experts on candidates for election as judge to the European Court of Human Rights	DH-GDR(2013)R5 Addendum II
Draft CDDH report on the question of whether or not to amend the Convention to enable the appointment of additional judges to the Court	DH-GDR(2013)R5 Addendum III

***3.2 Future work***

Report of the 5 <sup>th</sup> meeting of the Committee of experts on the reform of the Court (DH-GDR, 29-31 October 2013)	DH-GDR(2013)R5
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**ITEM 4: DEVELOPMENT AND PROMOTION OF HUMAN RIGHTS*****4.1 Rights of older persons (CDDH-AGE)***



Report of the 4 <sup>th</sup> meeting of the CDDH-AGE (23-25 September 2013)	CDDH-AGE(2013)R4
Draft Recommendation on the promotion of the human rights of older persons	CDDH-AGE(2013)13 Final
Draft explanatory report to the Recommendation on the promotion of the human rights of older persons	CDDH-AGE(2013)02 Final

#### **4.2 Corporate social responsibility in the field of human rights**

Report of the 1 <sup>st</sup> meeting of the CDDH-CORP (14-16 October 2013)	CDDH-CORP(2013)R1
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#### **4.3 Human rights in culturally diverse societies**

Decision of the Minister's Deputies of the 18 September 2013	See CDDH(2013)021Rev2
Terms of reference of the CDDH	See CDDH(2013)021Rev2

#### **4.4 Future work**

Annotated list of possible items for future work - Document revised by the Secretariat	CDDH(2013)005Rev2
Decision of the Minister's Deputies of the 18 September 2013	See CDDH(2013)021Rev2

### **ITEM 5: BIOETHICS (DH-BIO)**

Draft Annotated Agenda (Strasbourg, 26-28 November 2013)	DH-BIO(2013)OJ2 prov1
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### **ITEM 6: GENDER EQUALITY (GEC)**

Report of the 4 <sup>th</sup> meeting of the GEC (Strasbourg, 13-15 November 2013)	GEC(2013)RAP2
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### **ITEM 7: EXPERTS REPRESENTING THE CDDH IN OTHER BODIES**

**ITEM 8: ELECTIONS**

Resolution (2011)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods	CM/Res(2011)24
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**ITEM 9: EXCHANGE OF VIEWS WITH PERSONALITIES**

Information on the Venice Commission	CDDH(2013)026
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**ITEM 10: PREPARATION OF THE 2014/2015 BIENNIUM**

Reference document	See CDDH(2013)021Rev2 Appendix II
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**ITEM 11: CALENDAR OF MEETINGS****ITEM 12: REVIEW OF COUNCIL OF EUROPE CONVENTIONS****ITEM 13 : OTHER BUSINESS****ITEM 14: DRAFT ORDER OF BUSINESS**

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Appendix III**CDDH Comments on Recommendations of the Parliamentary Assembly****CDDH comments<sup>3</sup> concerning Recommendation 2021 (2013) - *Tackling discrimination on the grounds of sexual orientation and gender identity***

1. The CDDH takes note with interest of this Recommendation, of the concerns expressed in it by the Assembly and of the proposals for further action contained therein.
2. The CDDH recalls that it was responsible for the drafting of Recommendation CM/Rec(2010)5 on measures to combat discrimination on grounds of sexual orientation or gender identity, and draws the attention to the relevant provisions of it concerning in particular freedom of association (Chapter II), freedom of expression and peaceful assembly (Chapter III) , education (Chapter VI) and sports (Chapter IX).
3. The CDDH was also entrusted by the Committee of Ministers in September 2012 to examine the implementation of the Recommendation, and in March 2013, at its 77th meeting, it adopted a report on the implementation of the Recommendation.
4. The report, based on the replies by 39 States to a questionnaire, and accompanied by comments by Amnesty International, ILGA Europe and the European Union Agency for Fundamental Rights, contains information on the implementation of the specific provisions contained in the Appendix to the Recommendation, including with respect to those provisions which are particularly relevant in the light of the issues mentioned in the PACE Recommendation. In its concluding remarks, the report contains comments on the level of implementation, on the positive achievements and on the remaining obstacles to the implementation of the Recommendation in the member States having replied. The report has been transmitted to the Committee of Ministers, which will decide on possible further follow-up action.
5. The CDDH also notes that, in the framework of the HELP programme and in particular of the distance-learning courses, a specific course on combating discrimination on grounds of sexual orientation or gender identity is available since October 2013.

**CDDH comments concerning Recommendation 2023 (2013) - “*Children’s right to physical integrity*”**

1. The CDDH takes note of this Recommendation and of the Parliamentary Assembly’s Resolution on Children’s right to physical integrity, both focused on the issue regarding acts concerning children’s physical integrity, including those not having medical purpose.
2. The CDDH highlights that the practices mentioned in Resolution 1952(2013) are by no means comparable: female genital mutilation, which falls within the scope of Article 3 of the European Convention on Human Rights and which according to the Istanbul Convention is among the most serious violations of human rights of girls and women, cannot be put on an equal footing with practices such as, and notably, circumcision. Even if the Resolution warns that there are distinctions to be made, the CDDH notes with concern that the formulation of this text is susceptible to cause confusion. It therefore

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<sup>3</sup> The Russian Federation disassociates itself from the content of the comments on this Recommendation, for the reasons explained in the declaration appended to the report of the 69th CDDH meeting (doc. CDDH(2009)019, Appendix IV), and has not participated in their adoption.

suggests that the Committee of Ministers proceed with the greatest caution with respect to the Recommendation and the Resolution.

**CDDH comments concerning Recommendation 2024 (2013) - *National security and access to information***

1. The CDDH takes note with interest of this recommendation, notably its references to the Council of Europe Convention on access to official documents (CETS No. 205), which was drafted by the CDDH. The CDDH recalls that this Convention, as highlighted by its explanatory report, “is the first binding international legal instrument to recognise a general right of access to official documents held by public authorities..., which finds its origins in the 1950 European Convention on Human Rights.” The CDDH regrets that Convention 205 has not yet come into force (of the ten required ratifications, only six<sup>4</sup> have been made so far), and encourages other member States to examine the possibility of soon ratifying this instrument.

2. The CDDH recalls that the Council of Europe Convention on access to official documents constitutes a basic minimum framework governing access to information held by public authorities, and encourages member States to go beyond those measures provided for by the Convention.

3. The CDDH recalls that following the ‘review of Council of Europe Conventions’ exercise, the Committee of Ministers has given it responsibilities, within the limits of the available resources and bearing in mind its priorities, for promotion and awareness-raising in relation to this convention. These responsibilities would include to “draw the attention of member States to [Convention 205]” and to “encourage States to regularly examine the possibility and/or desirability of becoming a Party to [it]”.<sup>5</sup> The CDDH further notes the requirement that it report back to the Committee of Ministers on any activities in this connection.

4. The CDDH also draws attention to the European Court of Human Rights recent case-law affirming that “*The right to receive and impart information explicitly forms part of the right to freedom of expression under Article 10*”<sup>6</sup>. Moreover, European Union Regulation regarding public access to European Parliament, Council and Commission documents, also states that “In principle, all documents of the institutions should be accessible to the public”<sup>7</sup>, thus further evidencing a trend in favour of greater openness.

**CDDH comments concerning Recommendation 2027 (2013) - *European Union and Council of Europe human rights agendas: synergies not duplication!***

1. The CDDH took note of Recommendation 2027(2013) – European Union and Council of Europe human rights agendas: synergies not duplication!

2. The CDDH shares the view expressed by the PACE in this Recommendation as regards notably the Council of Europe’s role as the benchmark for human rights, rule of law and democracy in Europe,

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<sup>4</sup> Bosnia and Herzegovina, Hungary, Lithuania, Montenegro, Norway, and Sweden.

<sup>5</sup> See Decisions of the Ministers’ Deputies of 10 April 2013, reproduced in doc. CDDH(2013)019.

<sup>6</sup> *Gillberg v Sweden* [Application no. 41723/06] 3 April 2012 [83]; *Youth Initiative for Human Rights v Serbia* [Application no. 48135/06] 25 June 2013 The European Court of Human Rights found that the refusal by the Serbian intelligence agency to provide a non-governmental organisation with information as to the use of electronic surveillance measures, despite a contrary order made by the Serbian Information Commissioner, was in violation of Article of the European Convention on Human Rights.

<sup>7</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001, regarding public access to European Parliament, Council and Commission documents [para (11)]

and in particular the pan-European importance of the European Convention of Human Rights as the cornerstone of an effective system of protection of human rights. The EU accession to the European Convention on Human Rights aims at enhancing coherence in the protection of human rights in Europe.

3. The CDDH also shares, in principle, the call to avoid duplication by setting up new mechanisms and to make use as much as possible of existing Council of Europe mechanisms. It considers, however, that the steps undertaken by the EU in building its own human rights protection system, including the establishment of the EU Agency for Fundamental Rights (FRA) and the appointment of a Special Representative for Human Rights should not be necessarily seen as a duplication but as a natural development of the EU's own human rights protection system, of which the accession to the Convention will be a further step. It recalls in particular, in this respect, the very good cooperation established between the Council of Europe and the FRA in various areas – including within the CDDH - on the basis of the respective strengths and skills, which constitutes, on the contrary, an example of positive synergies.

4. In the absence of detailed information about the contents and implications of possible future EU mechanisms monitoring EU member states' compliance with human rights and rule of law standards, the CDDH considers therefore that it would be premature, at this stage, to perceive these initiatives as undermining the role of the Convention system in the pan-European human rights architecture. Dialogue between the Council of Europe and the EU in this respect may lead to synergies also in this case, while fully respecting the principles set out in the 2007 Memorandum of Understanding where it is stated, *inter alia*, that the EU “regards the Council of Europe as the Europe-wide reference source for human rights” and that “while preparing new initiatives in this field, the Council of Europe and the European Union institutions will draw on their respective expertise as appropriate through consultations”.

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Appendix IV**Composition of Drafting Group “F”  
on the reform of the Court (GT-GDR-F)**

1. The Council of Europe will have a budget to reimburse the expenses of 15 permanent members of the GT-GDR-F. It will also be in a position to reimburse the expenses of external experts invited to participate on an ad hoc basis at particular meetings.
2. 8 of the permanent members would be national experts; the remaining 7 would be external experts.
3. GT-GDR-F will be an open group: other national experts may attend at the expense of their authorities.
4. In addition, the usual CDDH observers (Court, Parliamentary Assembly, Commissioner for Human Rights, civil society organisations, Conference of INGOs etc.) could attend at their own expense.
5. Of the 7 permanent external experts, the Court, the Venice Commission and the Consultative Council of European Judges (CCJE) would each nominate one and the Secretary General, after the close of the open call for contributions, the remaining four.
6. The CDDH would invite the relevant parties to nominate persons on the basis of the following criteria: expertise, independence from the nominating body, availability to participate fully in the work of the GT-GDR-F. The GT-GDR-F would need to have a balanced composition containing diverse views and having diverse experiences. Persons nominated would need to be able to participate fully in one of the official languages of the Council of Europe.
7. The first GT-GDR-F meeting (19-21/03/14) would consist of the 8 reimbursed national experts, other national experts, the 7 permanent external experts and the observers.
8. The first meeting would analyse contributions received following the open call and *inter alia* identify those of particular interest. On this basis, it would decide whether to invite ad hoc external experts to the second meeting (14-16/05/14) and if so, which.
9. The second meeting would analyse the results of the Oslo Conference. It would decide whether to invite ad hoc external experts to invite to the third meeting (24-26/09/14) and if so, which.
10. The third meeting would perform the same exercise for the fourth meeting (mid-December 2014) (and possibly so on, should there be a fifth meeting).

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Appendix V**CDDH comments on the draft Recommendation of the Committee of Ministers to member states on a guide on human rights for Internet users**

1. The CDDH takes note with interest of the draft Recommendation and welcomes the initiative to draft a guide on human rights for Internet users. It is grateful for the opportunity given to comment on the draft guide.
2. The CDDH shares the CDMSI's view that human rights apply online as well as offline, and that therefore they must be respected and protected in the context of the use of the Internet. It recalls that the CDDH has been entrusted in last January by the Committee of Ministers with the preparation of a non-binding instrument on human rights and business aiming at supporting the effective implementation of the UN Guiding Principles on Business and Human Rights at European level. It will examine and address possible awareness, implementation and normative gaps in this field, as identified in the CDDH feasibility study (CDDH(2012)R76Addendum VII) and through exchanges of national good practices.
3. The CDDH agrees with the CDMSI that the Internet should be made widely available and accessible. It indicated in the explanatory memorandum appended to its draft Recommendation on the promotion of human rights of older persons that information technology literacy could foster the social inclusion of older persons, their ability to experience active ageing and allow them to lead an independent life.
4. This being said, the CDDH underlines that access to the Internet has not yet been recognised as a human right as such. The same is true for access to education, cultural or scientific content online, as well as for digital education and knowledge. Therefore, when enouncing expectations individuals should have regarding the adoption of measures by member states to facilitate the exercise of the rights listed in the draft guide, consideration should be given to existing differences in national contexts, including domestic legislation and policy, in the concerned fields.
5. The CDDH appreciates the efforts made to draft a user-friendly guide on human rights for Internet users. Being well aware of the difficulties related to the simplification of the language to this effect, it would recommend proceeding to a thorough revision of the whole text in order to ensure the use of appropriate and accurate wording and terminology when:
  - referring to states' obligations and individuals' rights under relevant binding instruments;
  - paraphrasing relevant case-law of the European Court of Human Rights;
  - referring to non-binding indications (see, for instance, the way the UN Guiding Principles on Business and Human Rights are presented, fourth indent under "Freedom of expression and information").
6. The CDDH also draws the attention of the CDMSI, in this respect, to the recent Toolkit elaborated by the CDDH to inform public officials about the State's obligations under the European Convention on Human Rights (CM(2013)93 add4 final).

7. The CDDH sees the draft guide as a useful tool informing Internet users about their rights. In its opinion, further clarifications on possible restrictions and interferences to these rights should be considered. It notes, for instance, that the Convention provides for the possibility of restrictions only to certain rights, and that the justifications for these restrictions may differ according to the rights at stake.
8. In addition to the comments made above and to the amendments to the text that they may require, the CDDH would like to draw the attention of the CDMSI on the following specific issues:
  - i. In the first paragraph of the preamble, it would be preferable to stick to the title of Article 1 ECHR and say “The obligation to respect human rights taken by every member state under the European Convention on Human rights is also valid in the context...”
  - ii. In the third paragraph of the preamble the last sentence, as it stands, seems to refer to the exercise, by the internet users, of their human rights and fundamental freedoms in general, and not specifically when using the Internet. It is suggested to add the expression “when using the Internet” at the end of the sentence.
  - iii. In the last indent of the Recommendation, the Committee of Ministers invites civil society to “monitor compliance” with the Guide. However, insofar as the Guide is not a binding instrument, this message may be misleading.
  - iv. In the third indent of the “Freedom of expression and information” section, the expression “and not broader or maintained for longer than is strictly necessary” is unclear. It may also overlap with the second sentence.
  - v. The responsibilities of internet companies are presented in a potentially misleading manner. In accordance with the UN Guiding Principles on business and human rights (which are not a binding instrument *per se*), business enterprises have indeed a responsibility to respect human rights, which requires them to avoid causing or contributing to adverse human rights impacts, and to provide for or cooperate in the remediation of such adverse impacts. The duty to protect and to provide access to effective remedy is essentially incumbent on States. This consideration applies to several sections of the draft, and in particular to the fourth indent of the “Freedom of expression and information” section and to the whole of the “Effective remedies” section.
  - vi. The last paragraph of the “Privacy and data protection” section may lead to the wrong conclusion that the respect of data protection laws and principles may only be assured in states where specific data protection authorities exist. It may be preferable to use a more general wording to express the same principle.
  - vii. In the last sentence of the last indent of the “Children and young people” section, the word “measures” seems to be missing in the English version in order to make the expression “right to education to protect yourself ...” more understandable .

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Appendix VI**Speech of the President of the European Commission for Democracy through Law (Venice Commission), Mr Gianni BUQUICCHIO**

Mr Chairman, Ladies and Gentlemen,

It is a pleasure for me to meet with you today and share with you information about the Venice Commission's past, present and forthcoming activities and challenges.

I am proud to say that the Venice Commission has been increasingly recognised as an indispensable part of the European institutional architecture and as a key contributor to the democratic process, in Europe and beyond. What are the reasons for this success?

Let me start at the beginning. There was a great man, the Italian jurist La Pergola, who as Minister for European Affairs had a brilliant idea, to establish within the Council of Europe an advisory body of constitutional lawyers. His proposal was rejected twice by the Committee of Directors, but he had the good fortune that, history intervened.

The *annus mirabilis* 1989 reunited Europe and what had been an academic idea became a practical necessity. The countries of Central and Eastern Europe wanted to embrace the values of the Council of Europe: human rights, democracy, rule of law. Especially the countries further to the East clearly needed assistance from foreign experts to embody their new aspirations in constitutions and legislative texts.

The Venice Commission stood ready to carry out this task and we became influential advisers for the drafting of constitutions and legislative texts in the area of public law. While this has become a routine now, at the time it was a unique moment in history. I think never before had countries been so open to foreign advice and influence on issues which belong to the core of national sovereignty.

Before 1989 even human rights were considered largely as a domestic issue, despite existing international treaties. Much more so the main principles of democracy, the separation of powers, the functioning of the state institutions, constitutional justice, the organisation of the judiciary, electoral law, all areas which are at the core of national sovereignty and where it is difficult to draw a clear line between law and politics.

The Venice Commission managed to seize this opportunity and to become an appreciated and influential interlocutor for the national authorities when drafting or amending legislation. This was not easy, not least since in many areas there were no clear international standards.

We have the European Convention as regards human rights but there are no similar comprehensive texts as regards democracy and the rule of law. Therefore, from the beginning, we relied on comparative law and lessons learnt from national experience.

So it started with assistance to Central and Eastern European countries. Despite assumptions in the 1990s that such co-operation would remain temporary, it is continuing and there is no indication that it might end in the foreseeable future. Central and East European countries have recognised the usefulness of the sharing of experience and they continue to address requests to us and these tend to be increasingly complex.

Based on such requests, we have been examining, in the field of relevance for you, legislation on freedom of assembly (Armenia, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Serbia, Ukraine, but also Kyrgyzstan), freedom of religion (Armenia, but also Hungary and Kyrgyzstan), the right to conscientious objection to military service (Armenia), or national minority rights (Hungary, Romania, Slovakia, Ukraine). The recent opinion on defamation legislation in Azerbaijan was requested in the framework of the execution of two important judgments of the Strasbourg Court against Azerbaijan.

Another traditional main activity is the preparation of studies of a general character. We have dealt with very diverse issues in this respect, such as the control of security services, blasphemy and hate speech or models of constitutional jurisdiction.

While the Venice Commission cannot set binding international standards, one of our texts, the Code of Good Practice in Electoral Matters, was endorsed both by the Committee of Ministers and the Parliamentary Assembly of the Council of Europe and has become the most detailed and precise international reference document in the electoral field.

Our recent report on the rule of law has drawn particular interest within member States and other Council of Europe bodies.

We are currently preparing a report on the extremely important, but also highly sensitive topic of the protection of children's rights in constitutions. Also, a report on the lifting of parliamentary immunity is on the agenda of our plenary session next week.

From the very beginning the Venice Commission was also conscious of the need not only to work on the texts of constitutions and laws but also to co-operate with the bodies implementing these laws. We are therefore co-operating closely with constitutional courts and courts of equivalent jurisdiction and have initiated the establishment of the World Conference on Constitutional Justice with now 81 members.

In the framework of this co-operation we - from time to time - receive requests for *amicus curiae* from national constitutional courts on particularly interesting issues of principle, such as, in the area of interest for you: (in BiH), the issue of religious education, with the possibility for children to opt out and the content of alternative courses offered by states, or, (in the Republica Srpska) the potentially discriminatory nature of the selection of a specific day as the Day of the Republic.

But the Venice Commission has been for a long time more than a body co-operating with some European countries in constitutional matters. The Venice Commission has also

- Assumed an important role in the process of the monitoring of the commitments of Council of Europe member states by the Parliamentary Assembly;
- Become an influential partner for the European Union especially in its relations with candidate states;
- Expanded its geographical scope to Western Europe, Central Asia and the South Mediterranean.

As regards monitoring, the Venice Commission is not a monitoring body. But according to our Statute, the organs of the Council of Europe – Committee of Ministers, Parliamentary Assembly, Secretary General – can ask for an opinion of the Commission. This is done most frequently by the Monitoring Committee of the Parliamentary Assembly.

The Monitoring Committee as a political body asks for opinions of the Venice Commission in order to have a sound legal basis for its political assessment. In this manner issues, which countries would sometimes prefer to keep at the domestic level without foreign scrutiny, appear on our agenda.

As an example, when President Kuchma of Ukraine wanted to increase his powers through a constitutional referendum, the Monitoring Committee asked for our opinion, we provided it and his attempt failed. Experience shows that the most sensitive cases of this type concern the distribution of powers rather than human rights: frequently attempts by Presidents to increase their powers.

Among the opinions prepared upon request by the Parliamentary Assembly, I would mention, in the human rights sphere: the recent opinions on freedom of assembly legislation, the assessment of freedom of association legislation in Azerbaijan and Belarus, the opinion on the legislation regulating the protection of personal data and access to information in Hungary. Pending opinions requested by the Assembly are dealing with NGO legislation in the Russian Federation and protection against defamation in my own country.

A further important factor making the Venice Commission influential is our partnership with the European Union. While it is a general tendency of the European Union to use the Council of Europe as a tool for preparing candidate countries for membership, the European Union increasingly uses Venice Commission opinions as benchmarks in its relations with candidate and potential candidate countries.

More recently, the Venice Commission has also been an important reference for the European Union, when problems arose in EU member states. I am referring first of all to Hungary but also to Romania. The Hungarian crisis showed that the EU is badly equipped to deal with member states which take actions which are problematic from the point of view of basic EU values.

I am of course aware that reflections are currently being undertaken to fill this gap at EU level. While the European Commission can and does take action against member states violating the *acquis*, the Commission is reluctant to take a position on potential violations of basic values and principles.

As an example, the European Commission considered the lowering of the pension age for judges in Hungary from the point of view of age discrimination and not from the point of view of interference with judicial independence. In respect of such issues the European Commission asked the Hungarian authorities to comply with the recommendations of the Venice Commission.

Our co-operation with OSCE does not have the same scope as our co-operation with the EU. However, I cannot fail to mention our close co-operation with ODIHR, in relation to country-specific opinions, but also on general matters, including electoral issues.

This co-operation has led, in recent years, to the adoption of documents which are now being considered as texts of reference for governments and civil society in Europe and outside Europe, such as guidelines on political party regulation or - in the field of fundamental rights and freedoms - joint guidelines on freedom of assembly and freedom of religion. While these are currently being revised in the light of the most recent trends and developments, new guidelines are presently being developed on freedom of association.

I noted, in the preparatory documents to this meeting, that your future work includes preparation of guidelines, handbooks or compendiums of good practices in important areas of human rights protection such as freedom of thought, conscience and religion or ensuring human rights protection in culturally diverse societies. I see here scope for increased exchanges, coordination and co-operation between our two bodies.

As concerns our geographical scope, we have tried from the beginning to underline that we are a pan-European body at the disposal of all European states. We have had some requests from countries in Western Europe such as Luxembourg or Finland; however, the number of such requests remains limited.

Ladies and Gentlemen,

In 2002 the Committee of Ministers changed our Statute and it became possible for non-European states to become full members of the Venice Commission. Twelve countries have joined our Commission since then: Tunisia, Algeria and Morocco before the Arab Spring, Israel, Kazakhstan and Kyrgyzstan, Korea, Mexico, Brazil, Peru, Chile and most recently the United States.

While the countries of the Maghreb and Central Asia are mainly beneficiaries of our activities, countries such as Mexico, Korea and the US are rather assets, contributing financially and intellectually to our work.

This is particularly important for our extra-European activities which focus on the Council of Europe neighbourhood, i.e. the Southern Mediterranean and Central Asia.

As regards the South, we had established contacts with Arab countries even before the Arab Awakening and this proved very useful. Arab countries are now confronted with the challenges of a transition to democracy. These challenges are not the same as in Eastern Europe but lessons can be learnt from experience there and the Venice Commission is well placed to share the European experience with our neighbours.

This is not easy, as there is a lot of historical baggage and mistrust of Western influence and the path towards pluralistic democracy is not smooth. But all such transitions and post-revolutionary situations are difficult, there are always setbacks, and the glib formula that Arab spring has been replaced by Arab winter does not do justice to a very complex and differentiated situation.

We have patiently established contact and started co-operation, demonstrating that we offer our services as impartial lawyers not based on a political agenda and that we respect the respective national traditions.

In Tunisia we have had many discussions with representatives of the Constituent Assembly and an opinion on the draft Constitution was adopted during our last plenary meeting on October. A joint opinion OSCE/ODIHR – Venice Commission opinion was adopted on legislation regulating the National Human Rights institution and informal comments provided on freedom of assembly draft legislation.

The Egyptian Presidency asked us, following a proposal by EU Human Rights representative Lambrinidis, to help them improve the law on NGOs and this co-operation seemed quite fruitful before President Morsi was overthrown. The Moroccan authorities asked us to comment informally on a number of reform laws.

While it is too early to assess our role in the region, the signs are promising and I am confident that the Venice Commission will continue to play a leading role in the Council of Europe's neighbourhood policy.

Ladies and Gentlemen,

Are there any trends that indicate a change in the topics we are addressing? To a large extent, we continue to deal with our traditional issues: the balance and distribution of powers between President, Government and Parliament, elections, the independence of the judiciary, constitutional justice and the protection of fundamental freedoms.

All these issues directly concern the core values of the Council of Europe, remain very much on the agenda in our European member States and are crucial for the Eastern and Southern Neighbourhood.

Over the past twenty-three years, the Commission was first involved in the constitutional and legal transformation phase of several states, and subsequently in the implementation phase of the reforms. Both phases were in no way easy.

Now we are witnessing the consolidation phase of the new institutional settings brought about by the democratic transition; we now see more clearly than in the past the importance of legal, constitutional and political culture.

Cultural changes take time and we note with concern that in many new – and no longer so new – democracies, we still witness a “winner takes all” culture, where the majority which won the elections takes complete control of the State.

The Constitution is not considered a framework, in which politics take place and which reflects a consensus within society, but rather as an instrument of the majority to impose its will.

Often the understanding that the independence of the constitutional court and that of the judiciary and the autonomy of other institutions such as the Ombudsperson have to be respected is still missing. Checks and balances are regarded as an obstacle to and not as a necessary part of a democratic government and of good governance.

I think the Council of Europe in general, and our Commission in particular, has an important role to play in recalling the need for stable rules that also protect the rights of political minorities and in assisting countries to develop not only their legislation, but also their legal culture.

The consolidation phase of the democratic institutions is as important as the transition itself, as we should never think that democracy is an *acquis* and that democratic transitions are irreversible, particularly if the democratic mindset is not itself an irreversible *acquis*.

As it results from the examples that I mentioned today, we - both governments and European institutions within assistance, co-operation and monitoring activities - must continue to place the protection of human rights on the top of our priority agendas, as new threats and challenges are constantly noted in this field.

Ladies and Gentlemen,

I have provided you with a wide-ranging picture of our activities on many countries and on many topics. But you may ask – how effective is all this? Do countries really listen to your advice?

Obviously, countries do not always follow our recommendations. We address sensitive issues, there are vested interests which risk losing power in a more democratic environment and for a politician it may be more important to have, as an example, an electoral law making it easier to win the elections rather than a fair election law.

Therefore there is sometimes resistance to our proposals. We also have to respect democracy: in the end it is up to parliaments to decide and solutions cannot be, and should not be, imposed from abroad. If a national parliament seriously debates our position but comes to a different conclusion, this is something we have to accept, unless the solution chosen violates binding international standards.

Nevertheless, I can safely affirm that our opinions generally have considerable impact, for a number of reasons. To quote a few:

- In the States where we work regularly, the reputation of the Commission is very high. Governments are reluctant to position themselves against the Venice Commission and the opposition can refer to our opinions, which are public, as an important argument.
- While it is often not possible to push a country towards adopting a positive reform, we can mostly prevent a country from going into the wrong direction.
- We often come back to the same issue in the same country. We therefore contribute to shaping the debate and, even if our position is not accepted immediately, it may be implemented later.
- Our opinions are not based on theoretical considerations but we try to be realistic and take the situation on the ground into account.
- Important other actors, first of all the European Union but also the US often support explicitly our opinions. Countries are very much aware that the European Union expects them to be in line with Venice Commission recommendations.

I would add that, if the Venice Commission is a success story, we do not forget that we are part of the Council of Europe and our action is complementary to, and strengthened by, the action of other Council of Europe bodies. Our discussion today is part our joint effort to increase synergies and co-operation, while avoiding unnecessary overlapping.

I thank you for your attention and I am happy to answer your questions.

Appendix VII**Experts representing the CDDH in other bodies**  
(if the agendas of these require it)

- Committee on Bioethics (DH-BIO): Ms Brigitte KONZ (Luxembourg)
- Drafting Group of the DH-BIO for a preliminary draft of additional Protocol on the protection of the dignity and fundamental rights of persons with mental disorders with regard to involuntary treatment and placement: Mr Frank SCHÜRMAN (Switzerland)
- European Commission for the Efficiency of Justice (CEPEJ) : Mr Vít A. SCHORM (Czech Republic)
- Committee of Experts on Terrorism (CODEXTER): Mr Rob LINHAM (United Kingdom)
- Consultative Committee of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (T-PD): Ms Brigitte OHMS (Austria)
- Committee of Legal Advisers on Public International Law (CAHDI) : Mr Roeland BÖCKER (The Netherlands)
- European Committee on legal Co-operation (CDCJ): Mr Morten RUUD (Norway)
- Steering Committee on Media and Information Society (CDMSI): Ms Kristine LICE (Latvia)
- Committee of the Parties to the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (“the Lanzarote Committee”): Mr Joan FORNER ROVIRA (Andorra)
- European Committee for Social Cohesion, Human Dignity and Equality (CDDECS): Ms Nataliia SHAKURO (Ukraine)
- European Commission for Democracy through Law (Venice Commission): Mr Arto KOSONEN (Finland)

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UN Forum on Business and Human Rights: Mr René LEFEBER (The Netherlands)

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Appendix VIII**Composition of the Bureau and chairmanship of subordinate bodies following the elections at the 79<sup>th</sup> meeting of the CDDH (26-29 November 2013)**

<b>BUREAU DU CDDH</b>	<b>END OF THE MANDATE</b>	<b>REFERENCES</b>
Mr Vít A. SCHORM (Czech Republic), Chairman	31 December 2014 (elected for 1 year renewable once)	79 <sup>th</sup> meeting of the CDDH (November 2013)
Mr Frank SCHÜRMAN (Switzerland), Vice-Chairman	31 December 2014 (elected for 1 year not renewable)	79 <sup>th</sup> meeting of the CDDH (November 2013)
Mr Hans-Jörg BEHRENS (Germany), Member	31 December 2014 (elected for 2 years renewable once)	76 <sup>th</sup> meeting of the CDDH (November 2012)
Ms Maris KUURBERG (Estonia), Member	31 December 2014 (elected for 2 years renewable once)	76 <sup>th</sup> meeting of the CDDH (November 2012)
Mr Philippe WERY (Belgium), Member	31 December 2014 (elected for 2 years not renewable)	76 <sup>th</sup> meeting of the CDDH (November 2012)
Mr Vladislav ERMAKOV (Russian Federation), Member	31 December 2015 (elected for 2 years not renewable)	79 <sup>th</sup> meeting of the CDDH (November 2013)
Ms Brigitte OHMS (Austria), Member	31 December 2015 (elected for 2 years renewable once)	79 <sup>th</sup> meeting of the CDDH (November 2013)
Mr Levon AMIRJANYAN (Armenia), Member	31 December 2015 (elected for 2 years not renewable)	79 <sup>th</sup> meeting of the CDDH (November 2013)
<b>DH-GDR</b> Mr Morten RUUD (Norway), Chairperson	31 December 2014 (elected for 1 year renewable once)	79 <sup>th</sup> meeting of the CDDH (November 2013)
<b>DH-BIO</b> Dr Anne FORUS (Norway), Chairperson	31 December 2014 (elected for 1 year not renewable)	79 <sup>th</sup> meeting of the CDDH (November 2013)
<b>CDDH-CORP</b> Mr René LEFEBER (The Netherlands), Chairperson	31 December 2014 (term of office renewable once for 1 year)	78 <sup>th</sup> meeting of the CDDH (June 2013)

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Appendix IX**Provisional calendar of meetings of the CDDH and subordinate bodies**

<b>First Semester 2014</b>		
1 <sup>st</sup> meeting of Drafting Group “G” of the DH-GDR (GT-GDR-G)		12-14 February
2 <sup>nd</sup> meeting of Drafting Group on Human Rights and Business (CDDH-CORP)		12-14 February
1 <sup>st</sup> meeting of Drafting Group “F” on the Reform of the Court (GT-GDR-F – longer-term reform)		19-21 March
1 <sup>st</sup> meeting of Drafting Group on Human Rights in Culturally Diverse Societies (CDDH-DC)		24-25 March
90 <sup>th</sup> meeting of the Bureau of the Steering Committee for Human Rights (CDDH-BU)		27-28 March
<i>Conference on the longer-term reform of the Court</i>		<i>Oslo, Norway, 7 April-8 April ( morning)</i>
80 <sup>th</sup> meeting of the Steering Committee for Human Rights (CDDH)		Oslo, Norway, 8 April (afternoon) – 11 April (morning)
5 <sup>e</sup> meeting of the Committee on Bioethics (DH-BIO)		5-7 May
2 <sup>nd</sup> meeting of Drafting Group “F” on the Reform of the Court (GT-GDR-F – longer-term reform)		14-16 May
6 <sup>th</sup> meeting of the Committee of experts on the Reform of the Court (DH-GDR)		4-6 June
91 <sup>st</sup> meeting of the Bureau of the Steering Committee for Human Rights (CDDH-BU)		12-13 June
81 <sup>st</sup> meeting of the Steering Committee for Human Rights (CDDH)		24-27 June
<b>Second Semester 2014</b>		
3 <sup>rd</sup> meeting of Drafting Group “F” on the Reform of the Court (GT-GDR-F – longer-term reform)		24-26 September
3 <sup>rd</sup> meeting of Drafting Group on Human Rights and Business (CDDH-CORP)		24-26 September



2 <sup>nd</sup> meeting of Drafting Group on Human Rights in Culturally Diverse Societies (CDDH-DC)		[7]8-10 October
2 <sup>nd</sup> meeting of Drafting Group “G” of the DH-GDR (GT-GDR-G)		15-17 October
7 <sup>th</sup> meeting of the Committee of experts on the Reform of the Court (DH-GDR)		5-7 November
6 <sup>e</sup> meeting of the Committee on Bioethics (DH-BIO)		[12-14 November]
92 <sup>nd</sup> meeting of the Bureau of the Steering Committee for Human Rights (CDDH-BU)		13-14 November
82 <sup>nd</sup> meeting of the Steering Committee for Human Rights (CDDH)		18- 21 November
[4 <sup>th</sup> meeting of Drafting Group “F” on the Reform of the Court (GT-GDR-F – longer-term reform)]		[mid-December]

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