



Strasbourg, 16 October 2013

CDDH-CORP(2013)R1

STEERING COMMITTEE FOR HUMAN RIGHTS  
(CDDH)

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**DRAFTING GROUP ON HUMAN RIGHTS AND BUSINESS  
(CDDH-CORP)**

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**Meeting report**

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1<sup>st</sup> meeting  
14 October (9.30 a.m.) –16 October 2013 (1 p.m.)  
Council of Europe, Agora – Room G04

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**Item 1:      Opening of the meeting and adoption of the agenda**

1.     The CDDH Drafting Group on Human Rights and Business (CDDH-CORP) held its first meeting in Strasbourg from 14 to 16 October 2013 with Mr René LEFEBER (Netherlands) in the Chair. The list of participants can be found in [Appendix I](#). The agenda as adopted appears in [Appendix II](#).
2.     The Chair welcomed the participants, invited them to introduce themselves, and recalled the tasks that the group was entrusted to achieve in the framework of its terms of reference.

**Item 2:      Keynote speech (Prof. Willem Van Genugten) and presentation of the participants**

3.     The participants presented their respective activities, as well as their expectations with regard to the work of the CDDH-CORP. They expressed the wish to bring added value to existing standards in the field at the international level, notably by identifying the remaining gaps and providing solutions tailored to the specific European context. The Group also agreed that the promotion of a culture of corporate social responsibility in Europe is a crucial issue with a view to informing and raising the awareness of the public and of the business enterprises.
4.     Prof. Willem Van Genugten, from the Tilburg University (the Netherlands), addressed in his keynote speech the United Nations Guiding Principles on Business and Human Rights and the work already done by the Council of Europe in this field, as well as the interest and opportunities for the Council of Europe to pursue actions at the regional level in this respect.
5.     Prof. Van Genugten focused in particular on the following points:
  - the need to inform business enterprises about the UN Guiding Principles and other existing standards in the field;
  - the need for States to make efforts with a view to the effective implementation of the Guiding Principles, and to encourage cooperation among stakeholders;
  - the limits of States' power to regulate business activities and take action against business enterprises for human rights abuses outside their territory;
  - the need to strengthen and promote due diligence by enterprises throughout their operations, particularly in their activities abroad;
  - the sometimes difficult access for victims to effective judicial remedies and the promotion alternative dispute resolution.

**Item 3:      Information on recent relevant national and international developments**

6.     The representative of the United Kingdom presented the national action plan for the implementation of the UN Guiding Principles and the dissemination and awareness raising actions that accompany it. Other participants provided information on the status of preparation of their respective national action plans. The representatives of the European Union and of the Office of the United Nations High Commissioner for Human Rights presented the current status of their respective work in the field. The representative of the Office of the United Nations High Commissioner for Human Rights also invited the participants to register for the next UN Forum on Business and Human Rights from 2 to 4 December 2013.

**Item 4:      **Elaboration of a declaration of the Committee of Ministers supporting the UN Guiding Principles****

7. The Group agreed that the Committee of Ministers' Declaration should be general and only express support to the UN Guiding Principles, without referring to questions concerning possible remaining gaps and solutions. It agreed that these questions should be discussed in the context of the preparation of the non-binding instrument.

8. The Group examined, paragraph by paragraph, the draft Declaration as revised by the Secretariat and the Chair in the light of the comments submitted by some member states and of those expressed during the last meeting of the CDDH, in June 2013.

9. It agreed to make some amendments to the draft Declaration, in order to ensure full consistency with the obligations deriving from international human rights instruments and the wording of the UN Guiding Principles. The Group adopted the draft Declaration, as it appears in Appendix III to the present report, and decided to submit it to the CDDH for consideration with a view to its possible adoption at its next meeting and transmission to the Committee of Ministers.

**Item 5:      **Elaboration of a non-binding instrument****

10. The Group had a first exchange of views on the elements which might be included in the non-binding instrument which it is asked to prepare and on the most appropriate methods to identify the most relevant issues to be addressed.

11. The Group agreed that, following the listing of relevant issues, it should analyse each issue in order to identify possible gaps (be they normative, awareness or implementation gaps) and to propose possible measures to address them. It considers, in this respect, that the instrument should propose for each issue, if possible, concrete measures based on good practices existing in member states.

12. On the basis of the approach proposed, the CDDH-CORP drew up an indicative list of possible issues to be discussed with a view to their inclusion in the instrument (as it appears in Appendix IV), without taking a final decision as to whether all the issues on the list should be eventually included in the instrument and without prejudice to additional suggestions which may be made at a later stage of the work of CDDH-CORP. The Group noted in particular that the instrument should focus on areas in which the Council of Europe has a specific expertise, such as access to remedies for victims.

13. The Group noted that the results of this first meeting will be discussed by the CDDH at its next meeting in November 2013, and that the CDDH may provide new instructions to the Group for its next meeting. In this respect, the Group proposed that the CDDH:

- Exchanges views on the proposed approach and the issues listed in Appendix IV;
- Instructs the Secretariat to elaborate, with a view to the next meeting of the CDDH-CORP, a document on relevant case law of the European Court of Human Rights concerning the extraterritorial application of the European Convention on Human Rights;
- Invites all member states, participants and observers to the CDDH and the CDDH-CORP to provide comments on the issues listed in Appendix IV, possible proposals of other issues, and examples of good practices for consideration, by 17 January 2014 at the latest;
- In the light of the comments and proposals received, asks the Secretariat and the Chair of the CDDH-CORP to prepare a working document for consideration at the next meeting of the CDDH-CORP.

**Item 6: Other business**

14. The CDDH-CORP will hold its next meeting in Strasbourg from 12 to 14 February 2014. It proposes to hold its third meeting from 24 to 26 September 2014.

15. The Group noted the absence of representatives of the business community at this meeting and expressed the hope that they will attend the next meetings and actively contribute to the work of the Group in future. The Group also agreed to propose the CDDH to add the International Chamber of Commerce (ICC) to the list of observers to the CDDH-CORP.

16. The Group agreed to propose that the Chair of the CDDH-CORP represents the CDDH at the forthcoming UN Forum on Business and Human Rights.

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**APPENDIX II****AGENDA****Item 1: Opening of the meeting and adoption of the agenda****Item 2: Keynote speech (Prof. Willem Van Genugten) and presentation of the participants****Item 3: Information on recent relevant national and international developments****Information document**

UK Government's Action Plan: Good Business - Implementing the UN Guiding Principles on Business and Human Rights

CDDH-CORP(2013)05

**Item 4: Elaboration of a declaration of the Committee of Ministers supporting the UN Guiding Principles****Working Documents**

Draft revised Declaration of the Committee of Ministers on the United Nations Guiding Principles on Business and Human Rights

CDDH-CORP(2013)06

Preliminary draft Declaration of the Committee of Ministers on the United Nations Guiding Principles on Business and Human Rights

CDDH(2013)R78  
Appendix IV

Comments on the Preliminary draft Declaration of the Committee of Ministers on the United Nations Guiding Principles on Business and Human Rights

CDDH-CORP(2013)04

**Item 5: Elaboration of a non-binding instrument****Item 6: Other business**

- Participation of a representative of the CDDH to the 2013 United Nations Forum on Business and Human Rights (Geneva, 2-4 December 2013)
- Dates of the next meeting

**Reference Documents**

Feasibility study on corporate social responsibility in the field of human rights

CDDH(2012)R76  
Addendum VII

Draft preliminary study on corporate social responsibility in the field of Human Rights : existing standards and outstanding issues

CDDH(2012)12

CM decision

CDDH-CORP(2013)01

Terms of Reference of the CDDH-CORP

CDDH-CORP(2013)02

Pertinent extracts of the 77th and 78th CDDH reports

CDDH-CORP(2013)03

### **APPENDIX III**

#### **Draft revised Declaration of the Committee of Ministers on the United Nations Guiding Principles on Business and Human Rights**

The Committee of Ministers of the Council of Europe,

[1] Reaffirming its commitment to the protection of all human rights stated in the European Convention on Human Rights and the European Social Charter, including the revised European Social Charter;

[2] Recalling the member states' obligation to secure to everyone within their jurisdiction the rights and freedoms defined in the European Convention on Human Rights and to provide an effective remedy before a national authority for violation of those rights and freedoms, and their respective obligations arising from the European Social Charter, including the revised European Social Charter, and other European and international human rights instruments;

[3] Recognising that business enterprises have a responsibility to respect human rights, that they may have an adverse impact on the enjoyment of human rights, and that they may contribute to the realisation of human rights, including through creating employment, producing goods and rendering services sustainably, generating tax revenues and complying with relevant standards;

[4] Recognising the significant and continuous contribution of the United Nations to the protection and the promotion of human rights at the international level;

[5] Considering the United Nations "Protect, Respect and Remedy" Framework", welcomed by the United Nations Human Rights Council on 18 June 2008, and the United Nations "Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect, and Remedy" Framework", endorsed by the United Nations Human Rights Council on 16 June 2011 ("the UN Guiding Principles");

[6] Recalling the standards and activities in which the relationship between human rights and the role and responsibility of business enterprises has already been articulated in the Council of Europe and in other international fora;

[7] Welcomes the UN Guiding Principles, which have been taken up by intergovernmental organisations, governments, business enterprises and civil society organisations, and recognises them as the current globally agreed baseline for its own work in the field of business and human rights;

[8] Reaffirms its willingness to seek cooperation with the European Union and other international organisations, national human rights institutions, business and civil society in the dissemination and implementation of the UN Guiding Principles, at the European level and beyond;

[9] Stresses that the effective implementation, both by States and business enterprises, of the UN Guiding Principles is essential to ensure respect for human rights in the business context, and expresses its willingness to contribute to their effective implementation at the European level, by identifying and analysing specific gaps and proposing appropriate solutions.

[10] Expresses its strong support for the implementation of the UN Guiding Principles by member states and, to this end, calls on them to:

- (a) take appropriate steps to protect against human rights abuses by business enterprises;
- (b) formulate and implement policies and measures to promote that all business enterprises respect human rights throughout their operations, within and beyond their national jurisdictions;
- (c) take appropriate steps to ensure that when such abuses occur within their territory and/or jurisdiction those affected have access to effective remedy;
- (d) develop national action plans on the implementation of the UN Guiding Principles.

## **APPENDIX IV**

### **Indicative list of issues to be considered in preparation of a Council of Europe non-binding instrument on human rights and business**

Taking into account the “UN Framework to Protect, Respect and Remedy”, in particular the three pillars of the “UN Guiding Principles”, the expertise of the Council of Europe and existing feasibility studies, the Drafting Group on Human Rights and Business considers that in the elaboration of any additional policies and measures, identification of national good practices and review mechanisms to be included in a non-binding instrument of the Council of Europe on human rights and business consideration should be given to relevant awareness, implementation and normative gaps. To this end, the Drafting Group has identified the following indicative list of issues that merit further consideration:

- Existing obligations and engagements of member states (including as members of multilateral institutions) according to relevant European and international instruments in the context of human rights and business, including ECHR case law;
- Awareness-raising and communication activities, such as publications and workshops;
- Exercise of jurisdiction by member states, including extraterritorial jurisdiction, to prescribe, enforce and adjudicate with respect to human rights and business;
- Policies and measures requiring business enterprises to respect human rights or facilitating respect for human rights (e.g. on non-discrimination; data protection; protection of workers from exploitation; procurement; foreign investments; activities of State-owned companies; activities in conflict areas);
- Sector-specific guidance in areas in which the Council of Europe has specific expertise;
- The promotion of due diligence (e.g. through tort, corporate, administrative and/or criminal law, incentives and other measures) by business enterprises;
- Obstacles to access to justice and remedies for victims of business-related human rights abuses – both within business enterprises (e.g. internal complaint mechanisms) and outside business enterprises (e.g. individual and collective complaint mechanisms, administrative and criminal responsibility of business enterprises, legal aid, and alternative dispute resolution) – and ways to improve access to justice and remedies as well as their effectiveness;
- Establishment of benchmarks for national action plans and national baseline studies, including the involvement of stakeholders;
- The role of national human rights institutions;
- Appropriate mechanisms for the review of the implementation of the instrument (such as peer exchange mechanisms).