



Strasbourg, 18 September 2009

DH-RE(2009)005

STEERING COMMITTEE FOR HUMAN RIGHTS
(CDDH)

**COMMITTEE OF EXPERTS ON EFFECTIVE REMEDIES FOR
EXCESSIVE LENGTH OF PROCEEDINGS
(DH-RE)**

REPORT

1st meeting

16 – 18 September 2009

Summary

The Committee, in particular:

- elected Mr João Manuel DA SILVA MIGUEL (Portugal) as its Vice-chairperson;
- held an exchange of views on the terms of reference received from the Ministers' Deputies;
- prepared a first draft recommendation on effective remedies for excessive length of proceedings;
- held an exchange of views on the document that would be annexed to the draft recommendation and gave guidance to the Secretariat on preparation of a first draft.

Item 1: Opening of the meeting, adoption of the agenda and order of business, election of the Vice-Chairperson

1. The Committee of experts on effective remedies for excessive length of proceedings (DH-RE) held its first meeting in Strasbourg from 16-18 September 2009 with Mr Jakub WOLASIEWICZ (Poland) in the chair. It elected Mr João Manuel DA SILVA MIGUEL (Portugal) as its Vice-chairperson. The list of participants appears at Appendix I. The agenda, as adopted, appears at Appendix II.

2. The Committee heard a statement from Mr Jan KLEIJSEN, Director of Standard Setting, in which he stressed the importance of its work on drafting a recommendation on effective remedies for excessive length of proceedings, in particular in the context of the large number of applications to the Court involving the issue.

Item 2: Terms of reference

3. The Committee proceeded to exchange views on the terms of reference received from the Ministers' Deputies (see Appendix III), with particular attention to the question of the possible structure and respective contents of the draft documents requested.

4. Mr Alfonso DE SALAS, Secretary of the Steering Committee for Human Rights, provided information on the distinction between a recommendation (which had been specifically requested by the Ministers' Deputies), guidelines (which had a similar non-binding legal status but which were intended to be also of interest to and potential application by non-member States) and a handbook or guide to good practice, which were terms that could be used for the requested annex to the recommendation. He underlined the fact that such an annex could in future be updated to reflect, in particular, developments in the Court's case law.

5. The Committee underlined the fact that the recommendation should not seek to prescribe a "perfect" remedy in all its aspects but rather define the broad conceptual characteristics, as identified by the Court, of a system of remedies that would be effective in addressing the overall problem of excessive length of proceedings. In this respect, it should include both preventive measures to ensure respect for the requirements of article 6 ECHR as well as remedies introduced in pursuance of article 13 ECHR, since, as underlined by the Court, prevention is itself the best remedy and a recommendation that failed to acknowledge the importance of prevention would be incomplete and less effective than might be.

Item 3: Possible elements for a draft recommendation

6. The Committee then turned its attention to a background document prepared by the Secretariat containing possible elements for a draft recommendation.¹

7. As regards the title, the Committee provisionally agreed that it should reflect the title of the Committee itself, even if the eventual draft recommendation would include also preventive measures.

¹ See doc. DH-RE(2009)001

8. As mentioned above, the Committee considered it important to refer to preventive measures and also the significance of systemic causes, and furthermore that these issues appear at the beginning of the operative provisions, thus emphasising their primary importance. This would allow the recommendation to be structured by reference, first, to preventing the occurrence of excessive length of proceedings, second, to expediting proceedings that risked becoming excessively lengthy and third, to remedying violations of the right to trial within a reasonable time by expediting proceedings, affording redress for disadvantage or, preferably, allowing for a combination of the two. Nevertheless, the Committee was mindful of the fact that the terms of reference implied a need for balance between preventive measures and remedies in the sense of measures intended to address excessive length of proceedings once arisen.

9. One particular issue discussed by the Committee was whether the recommendation should call on States to introduce a remedy to expedite excessively long proceedings, a remedy to redress disadvantage or a combination of the two. On the basis of the Court's past acceptance of the potential sufficiency of reparatory remedies alone, along with the fact that, on account of their domestic legal situations, certain member States might have difficulty in supporting a recommendation that proposed only the combined approach, wording was agreed that provided the necessary flexibility. In arriving at this solution, the Committee considered that the situation could be further explored in the annexed document, which could provide more detailed guidance as to the Court's position on the issue and the preferable approach for States to follow.

10. Discussion also focused on how best to reflect the Court's use of the term "remedy" in relation to a measure intended to expedite proceedings so as to avoid their becoming excessively lengthy. The Committee noted that certain member States would have difficulty in transposing this concept into their domestic legal systems and therefore agreed upon a formulation that would achieve the same result whilst avoiding this problem.

11. The Committee also agreed upon language that would allow the necessary flexibility in addressing the issue of the use of various forms of non-monetary redress in criminal or administrative proceedings. It noted that although such measures were already to be found in several member States, there may be legal difficulties associated with their introduction in others.

12. The Committee also considered it important to include an element concerning retroactivity, noting its importance, where appropriate, in enhancing the impact of new measures on the case-load of the Court and reflecting the fact that several member States' legislation already included such a provision.

13. The Committee also decided to include an element concerning translation, publication and dissemination of the recommendation and annexed document. As a starting point, it followed the approach previously proposed by the CDDH when drafting Recommendation Rec(2002)13 of the Committee of Ministers to member states on the publication and dissemination in the member states of the text of the European Convention on Human Rights and of the case-law of the European Court of Human Rights.

14. The results of this work, in the form of a draft recommendation, can be found at Appendix IV.

Item 4: Future working methods

15. The Committee then discussed the document that would be annexed to the recommendation, giving guidance to the Secretariat for preparing a first draft:

- the annexed document should follow the structure and order of the recommendation;
- it should explain why each element of the recommendation had been included as well as how it could best be implemented;
- the focus should be on practical measures rather than analysis;
- the annexed document should contain only the number of examples of existing measures necessary for illustrative and pedagogical purposes, and should not be a compilation of all member States' practices;
- there should be sufficient detail of existing measures to allow other States to understand how they operated in practice and take useful inspiration from them;
- insofar as possible, there should be an indication of the likely cost of different measures;
- the Court's findings and comments on existing practices should be included, with only measures that the Court had approved being presented as examples of good practice;
- relevant work of other bodies, such as the Venice Commission and CEPEJ, should be summarised, bearing in mind that whilst certain factual details may have been outdated the conclusions and recommendation remained generally valid.

16. The Committee also considered it important that, following its adoption, there be follow-up to the recommendation and agreed to return to this issue at its next meeting, with a view to making a proposal to the CDDH.

Item 5: Other business

17. The Committee took note that its next meeting would take place in Strasbourg on 2-4 November 2009.

Appendix I**List of participants / Liste de participants****BELGIUM / BELGIQUE**

Mme Isabelle NIEDLISPACHER, Co-agent du Gouvernement, Attaché au Service des Droits de l'Homme, Service Public Fédéral Justice, Service des droits de l'homme, Boulevard de Waterloo 115, B-1000 BRUXELLES

CROATIA / CROATIE

Ms Vesna Batistić KOS, Counsellor, Department for International Organisations and Human Rights, Ministry of Foreign Affairs and European Integration, N. Š. Zrinskog 7-8, 10000 ZAGREB

FINLAND / FINLANDE

Mr Arto KOSONEN, Government Agent, Director of the Unit for Human Rights Court and Conventions, Legal Service, Ministry of Foreign Affairs, P.O. Box 411, FI-00023 VALTIONEUVOSTO

FRANCE

Mme Marie SIRINELLI, Rédactrice, Ministère des affaires étrangères, Direction des affaires juridiques, 57 boulevard des Invalides, F-75007 PARIS

GEORGIA / GEORGIE

Mr Levan MESKHORADZE, Government Agent of Georgia to the European Court of Human Rights, Head of Department of the State Representation to the International Courts of Human Rights, Ministry of Justice, Rustaveli Avenue 30, TBILISI 0146

GERMANY / ALLEMAGNE

Mr Hans Jörg BEHRENS, Permanent Deputy Agent for Human Rights, Bundesministerium der Justiz, Mohrenstr. 37, D-10117 BERLIN

ICELAND / ISLANDE

Ms Björg THORARENSEN, Chairperson of the DH-PR / Présidente du DH-PR, Professor of Law, University of Iceland, 150 REYKJAVIK

ITALY / ITALIE

M. Giuseppe ALBENZIO, Avocat d'Etat, Presidenza del Consiglio dei Ministri Italia, Via dei Portoghesi n. 12, 00186 ROMA

LATVIA / LETTONIE

Ms Inga REINE, Government Agent, Representative of the Government of Latvia before International Human Rights Organizations, Ministry of Foreign Affairs, Brivibas blvd 36, RIGA LV 1395

NORWAY / NORVEGE

Mr Michael REIERTSEN, Adviser, The Royal Norwegian Ministry of Justice and the Police, Legislation Department, P.O. Box 8005 Dep., N-0030 OSLO

POLAND / POLOGNE

Mr Jakub WOLASIEWICZ, Chairperson of the DH-RE / Président du DH-RE, Government Agent, Ministry of Foreign Affairs, Aleja Szucha 23, WARSAW 00580

Ms Agnieszka KOZIŃSKA, expert, Ministry of Foreign Affairs, Aleja Szucha 23, WARSAW 00580

PORTUGAL

M. João Manuel DA SILVA MIGUEL, Vice-Chairperson of the DH-RE / Vice-Président du DH-RE Agent du Gouvernement, Magistrat, Procuradoria-Geral da República, R. Escola Politécnica, N° 140 , 1249-269 LISBOA

ROMANIA / ROUMANIE

Ms Irina CIOPONEA, Judge, Ministry of Foreign Affairs, Governmental Agent for the ECHR, Modrogan Alley, n° 14, BUCHAREST

RUSSIAN FEDERATION / FEDERATION DE RUSSIE

Ms Tatiana KLEIMENOVA, Department for Humanitarian Cooperation and Human Rights, Ministry of Foreign Affairs, 32/34, Smolenskaya-Sennaya sq., 119200 MOSCOW

Mr Nikolay MIKHAILOV, Office of the Representative of the Russian Federation at the European Court of Human Rights, Deputy Minister of Justice of the Russian Federation, Zhitnaya St., 14, 119991 MOSCOW

SLOVAK REPUBLIC / REPUBLIQUE SLOVAQUE

Mrs Marica PIROŠIKOVÁ, Agent of the Slovak Republic before ECHR, Ministry of Justice, Zupne nam. 13, 813 11 BRATISLAVA

SLOVENIA / SLOVENIE

Mr Peter PAVLIN, Secretary, Head of Sector, Ministry of Justice of the Republic of Slovenia, Directorate for the Legislation on the Justice System, Žvpančičeva 3, SI-1000 LJUBLJANA

SWEDEN / SUEDE

Ms Charlotte HELLNER, Deputy Director, Department for International Law, Human Rights and Treaty Law, Ministry for Foreign Affairs, Malm Morgsgatan 3, SE-103 39 STOCKHOLM

SWITZERLAND / SUISSE

M. Adrian SCHEIDEGGER, Agent suppléant du Gouvernement suisse devant la Cour européenne des droits de l'Homme et le CAT, Département fédéral de la justice et police, Office fédéral de la justice, Représentation de la Suisse devant la Cour européenne des droits de l'Homme et le CAT, Bundesrain 20, CH-3003 BERNE

UNITED KINGDOM / ROYAUME-UNI

Mr Rob LINHAM, Head of Litigation, Legislation and the Council of Europe, Human Rights Division, Ministry of Justice, 5th Floor Area 5.16, 102 Petty France, LONDON, SW1H 9AJ

Ms Rebecca CROSIER, Policy Adviser, Human Rights Division, Ministry of Justice, 5th Floor Area 5.16, 102 Petty France, LONDON, SW1H 9AJ

* * *

PARTICIPANTS**European Commission for the Efficiency of Justice (CEPEJ) / Commission européenne pour l'efficacité de la justice (CEPEJ)**

M. Stéphane LEYENBERGER, Administrateur / Administrateur, Secretary of the CEPEJ / Secrétaire du CEPEJ

European Commission for Democracy through Law (« Venice Commission ») / Commission européenne pour la démocratie par le droit (« Commission de Venise »)

Ms Dubravka BOJIC, Administrator / Administrateur, Division of Democratic Institutions and Fundamental Rights / Division des institutions démocratiques et des droits fondamentaux

European Committee on Legal Cooperation (CDCJ) / Comité européen de coopération juridique (CDCJ)

Ms Sabrina CAJOLY, Secretary of the CJ-S-CH / Secrétaire du CJ-S-CH, Public and Private Law Unit / Unité du droit public et privé, Law Reform Department / Service des réformes législatives, Directorate General of Human Rights and Legal Affairs / Direction générale des droits de l'Homme et des affaires juridiques (DG-HL)

Parliamentary Assembly/Assemblée parlementaire

Mr Andrew DRZEMCZEWSKI, Head of the Secretariat / Chef du Secrétariat, Committee on Legal Affairs & Human Rights / Commission des questions juridiques & des droits de l'homme

Office of the Commissioner for Human Rights of the Council of Europe / Le Bureau du Commissaire aux droits de l'homme du Conseil de l'Europe

Ms Irene KITSOU-MILONAS, Legal Adviser, Office of the Commissioner for Human Rights / Conseillère juridique, Bureau du Commissaire aux Droits de l'Homme

European Court of Human Rights / Cour européenne des droits de l'homme

Mme Paola TONARELLI-LACORE, Chef de Division gestion des requêtes et méthodes de travail

* * *

Non governmental Organisations / Organisations non-gouvernementales**European Roma and Travellers Forum / Forum européen des Roms et des Gens du voyage**

Mr Alajos LANGI, Expert

* * *

SECRETARIAT

Directorate General of Human Rights and Legal Affairs, Directorate of Standard Setting Council of Europe, F-67075 STRASBOURG Cedex

Direction générale des droits de l'Homme et des affaires juridiques, Direction des Activités normatives

Conseil de l'Europe, F-67075 STRASBOURG Cedex

Fax : 0033 3 88 41 37 39

Mr Jan KLEIJSEN, Director / Directeur, Directorate of Standard-Setting / Direction des Activités normatives

M. Alfonso DE SALAS, Head of the Human Rights Intergovernmental Cooperation Division / Chef de la Division de la coopération intergouvernementale en matière de droits de l'Homme, Secretary of the CDDH / Secrétaire du CDDH

Mr David MILNER, Administrator / Administrateur, Human Rights Intergovernmental Cooperation Division / Division de la coopération intergouvernementale en matière de droits de l'Homme, Co-Secretary of the CDDH / Co-Secrétaire du CDDH / Secretary of the DH-RE / Secrétaire du DH-RE

Mme Virginie FLORES, Lawyer / Juriste, Human Rights Intergovernmental Cooperation Division / Division de la coopération intergouvernementale en matière de droits de l'Homme

Mme Michèle COGNARD, Assistant / Assistante, Human Rights Intergovernmental Cooperation Division / Division de la coopération intergouvernementale en matière de droits de l'Homme

Interpreters/Interprètes:

M. Nicolas GUITTONNEAU

Mme Pascale MICHLIN

Mr Christopher TYCZKA

* * *

Appendix II**Agenda (as adopted)****Item 1: Opening of the meeting, adoption of the agenda and order of business, election of the Vice-Chairperson**Working document

- Draft annotated agenda DH-RE(2009)OJ001

Item 2: Terms of referenceBackground document

- Terms of reference of the DH-RE as adopted by the Ministers' Deputies CM/Del/Dec(2009)1055/4.4c,
Appendix 5

Item 3: Possible elements for a draft recommendation and material for the content of an accompanying textWorking document

- Secretariat background document, including possible elements for a draft recommendation DH-RE(2009)001

Background documents

- Table of existing domestic remedies for excessive length of proceedings DH-RE(2009)003
- Contribution of the Czech Republic DH-RE(2009)004 bil.
- Secretariat document containing elements for a possible recommendation of the Committee of Ministers on domestic remedies with respect to excessive length of judicial proceedings DH-S-GDR(2009)001
- Venice Commission Report on the effectiveness of national remedies in respect of excessive length of proceedings CDL-AD(2006)036rev
- CEPEJ report on the length of proceedings in the member States of the Council of Europe based on the case law of the European Court of Human Rights CEPEJ(2006)15
- CEPEJ Time Management Checklist (Checklist of indicators for the analysis of lengths of proceedings in the justice system) CEPEJ(2005)12 REV.
- SATURN Guidelines for Judicial Time Management CEPEJ(2008)8
- PACE Committee on Legal Affairs and Human Rights Progress Report on implementation of judgments of the European Court of Human Rights AS/Jur (2009) 36
- Some examples of improvements achieved or under way as regards effective remedies for excessively lengthy judicial proceedings (working document prepared by the Department for the execution of judgments of the European Court of Human Rights)

- CCJE Opinion No. 6 on fair trial within a reasonable time and judge's role in trials taking into account alternative means of dispute settlement
- Proceedings of the Workshop on the improvement of domestic remedies with particular emphasis on cases of unreasonable length of proceedings (held at the initiative of the Polish Chairmanship of the Committee of Ministers, Strasbourg, 28/4/05)

CCJE (2004) OP No. 6

Item 4: Future working methodsBackground document

- Table of existing domestic remedies for excessive length of proceedings
- Terms of reference of the DH-RE as adopted by the Ministers' Deputies

DH-RE(2009)003

CM/Del/Dec(2009)1055/4.4c
Appendix 5**Item 5: Other business**

Appendix III**Terms of reference**

1. **Name of Committee:** Committee of Experts on effective remedies for excessive length of proceedings (DH-RE)
2. **Type of Committee:** Committee of Experts
3. **Source of terms of reference:** Committee of Ministers on the proposal of the Steering Committee for Human Rights (CDDH)

4. **Terms of reference:**

Having regard to:

- Resolution Res(2005)47 on committees and subordinate bodies, their terms of reference and working methods, adopted by the Committee of Ministers on 14 December 2005;
- the Declaration and the Action Plan adopted at the Third Summit of Heads of State and Government of the Council of Europe member states (Warsaw, 16-17 May 2005; CM(2005)80 final, 17 May 2005), in particular chapter I.1. “Ensuring the continued effectiveness of the European Convention on Human Rights”;
- the Convention for the Protection of Human Rights and Fundamental Freedoms (1950, ETS No. 5);
- the Recommendation Rec(2004)6 of the Committee of Ministers to member states on the improvement of domestic remedies;
- the Declaration of the Committee of Ministers on sustained action to ensure the effectiveness of the implementation of the European Convention on Human Rights at national and European levels (adopted on 19 May 2006 at its 116th Session).

Under the authority of the Steering Committee for Human Rights (CDDH) and in relation with the implementation of the project 2008/DGHL/1403 “Enhancing the control system of the ECHR” of the Programme of Activities, the Committee is instructed to draft a recommendation and supporting documents on existing effective domestic remedies concerning excessive length of proceedings, by giving examples of good practices, in particular those already mentioned by the European Court of Human Rights in its case law.

The draft recommendation and/or supporting documents should notably include concrete examples under Article 13 of the ECHR of effective domestic remedies to accelerate the proceedings and/or to compensate for the delays and, if possible to expand the aforementioned Recommendation Rec(2004)6 by pointing out practical modalities allowing national authorities to regularly assess the efficiency of existing remedies.

If the Committee finds it advisable, it could also include in the draft recommendation and/or supporting documents structural measures at national level to prevent violations of Article 6 of the ECHR resulting from an excessive length of proceedings.

The recommendation should in particular be based on the relevant case law of the Court and also reflect the work and conclusions of the CEPEJ and the Venice Commission on good practices and omissions in this field.

The recommendation itself should be succinct. The Committee should present the examples of good practice and other explanatory material in the most appropriate manner, whether as an appendix to the recommendation or as a separate guide.

5. Composition of the Committee:

5.A Members

Governments of member states are entitled to appoint representatives with the relevant qualifications concerning procedures in the framework of international human rights protection instruments, in particular the European Convention on Human Rights.

The Council of Europe budget will bear the travel and subsistence expenses of 16 members appointed by the following member states: Belgium, Croatia, Finland, France, Germany, Georgia, Iceland, Latvia, Norway, Poland, Portugal, Russian Federation, Slovak Republic, Sweden, Switzerland and United Kingdom.

The above-mentioned states may send (an) additional representative(s) to meetings of the Committee at their own expense. Representatives appointed by other member states may participate in the meetings of the Committee at the expense of these states.

Each member state participating in the meetings of the Committee has the right to vote in procedural matters.

5.B Participants

- i. The following committees may each send a representative to meetings of the Committee, without the right to vote and at the expense of the corresponding Council of Europe budgetary article:
 - European Commission for the Efficiency of Justice (CEPEJ);
 - European Commission for Democracy through Law ("Venice Commission");
 - European Committee on Legal Co-operation (CDCJ);
 - European Committee on Crime Problems (CDPC).
- ii. The Parliamentary Assembly may send (a) representative(s) to meetings of the Committee, without the right to vote and at the expense of its administrative budget.
- iii. The Council of Europe Commissioner for Human Rights may send (a) representative(s) to meetings of the Committee, without the right to vote and at the expense of its administrative budget.
- iv. The Registry of the European Court of Human Rights may send (a) representative(s) to meetings of the Committee, without the right to vote and at the expense of its administrative budget.
- v. The Conference of INGOs of the Council of Europe may send (a) representative(s) to meetings of the Committee, without the right to vote and at the expense of the body that they represent.

5.C Other participants

- i. The European Commission and the Council of the European Union may send (a) representative(s) to meetings of the Committee, without the right to vote or defrayal of expenses.
- ii. States with observer status of the Council of Europe (Canada, Holy See, Japan, Mexico, United States of America) may send (a) representative(s) to meetings of the Committee, without the right to vote or defrayal of expenses.
- iii. The following bodies and intergovernmental organisations may send (a) representative(s) to meetings of the Committee, without the right to vote or defrayal of expenses:
 - Organisation for Security and Co-operation in Europe (OSCE);
 - Office for Democratic Institutions and Human Rights (ODIHR);
 - Office of the United Nations High Commissioner for Human Rights.

5.D Observers

The following non member state:

- Belarus;

and the following non-governmental organisations:

- Amnesty International;
- International Commission of Jurists (ICJ);
- International Federation of Human Rights (FIDH);
- European Roma and Travellers Forum;

and the European Group of National Institutions for the Promotion and Protection of Human Rights;

may send (a) representative(s) to meetings of the Committee, without the right to vote or defrayal of expenses.

6. Working structures and methods:

In order to fulfil its tasks, the Committee is:

- entitled to invite other participants and/ or observers to meetings of the Committee, without the right to vote or defrayal of expenses. The DH-RE will have to ask the CDDH for the authorisation necessary to admit observers (other than those already listed in these terms of reference);
- authorised to seek, as appropriate and within its budgetary appropriations, the advice of experts, to have recourse to studies prepared by consultants and to consult relevant non-governmental organisations and other members of civil society.

7. Duration:

These terms of reference will expire on 31 December 2009.

Appendix IV**Draft recommendation of the Committee of Ministers to member States
on effective remedies for excessive length of proceedings**

(as prepared by the DH-RE at its first meeting, 16-18 September 2009)

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

- a. Recalling that the Heads of State and Government of the Council of Europe member states, meeting at the Third Council of Europe Summit in Warsaw on 16-17 May 2005, expressed their determination to ensure that effective domestic remedies exist for anyone with an arguable complaint of a violation of the Convention for the Protection of Human Rights and Fundamental Freedoms (hereafter referred to as “the Convention”);
- b. Recalling Recommendation Rec(2004)6 of the Committee of Ministers to member states on the improvement of domestic remedies and intending to build upon this by giving practical guidance to member States in the specific context of excessive length of proceedings;
- c. Recalling also the Declaration of the Committee of Ministers on sustained action to ensure the effectiveness of the implementation of the Convention at national and European levels (adopted on 19 May 2006 at its 116th Session);
- d. Welcoming the work of other Council of Europe bodies, notably the European Commission for Democracy through Law and the European Commission for the Efficiency of Justice;
- e. Emphasising High Contracting Parties’ obligations under the Convention to secure to everyone within their jurisdiction the rights and freedoms protected thereby, including the right to trial within a reasonable time contained in article 6(1) and that to an effective remedy contained in article 13;
- f. Recalling that the case law of the European Court of Human Rights (hereinafter “the Court”), notably its pilot judgments, provides important guidance and instruction to member States in this respect;
- g. Reiterating that excessive delays in the administration of justice constitute a grave danger, in particular for respect for the rule of law and access to justice;
- h. Concerned that excessive length of proceedings, often caused by systemic problems, is by far the most common issue raised in applications to the Court and that it thereby represents a threat to the long-term effectiveness of the Court and hence the human rights protection system based upon the Convention;
- i. Convinced that the introduction of measures to address the excessive length of proceedings will contribute, in accordance with the principle of subsidiarity, to enhancing the protection of human rights in member states and to preserving the

effectiveness of the Convention system, including by helping to reduce the number of applications to the Court;

RECOMMENDS that member States:

1. take all necessary steps to ensure that all stages of domestic proceedings, irrespective of their domestic characterisation, in which there may be determination of civil rights and obligations or of any criminal charge are determined within a reasonable time;
2. to this end, ensure that mechanisms exist to identify proceedings that risk becoming excessively lengthy, as well as the underlying causes, with a view also to preventing future violations of Article 6;
3. recognise that when an underlying systemic problem is causing excessive length of proceedings, measures may be required that address this problem as well as its effects in individual cases;
4. ensure that means exist whereby those proceedings may be expedited in order to prevent them from becoming excessively lengthy;
5. take all necessary steps to ensure that effective remedies before national authorities exist for all arguable claims of violation of the right to trial within a reasonable time;
6. ascertain that such remedies exist in respect of all stages of proceedings in which there may be determination of civil rights and obligations or of any criminal charge;
7. to this end, where proceedings have become excessively lengthy, ensure that the violation is acknowledged either expressly or in substance and that either:
 - the proceedings are expedited, where possible;
 - redress is afforded to the victims for disadvantage they have suffered; or, preferably,
 - allowance is made for a combination of the two measures;
8. ensure that requests for expediting proceedings or affording redress will be dealt with rapidly by the competent authority and that they represent an effective, adequate and accessible remedy;
9. ensure that amounts of compensation that may be awarded are reasonable and compatible with the case law of the Court and recognise, in this context, a strong but rebuttable presumption that excessively long proceedings will occasion non-pecuniary damage;
10. consider providing for specific forms of non-monetary redress, such as reduction of sanctions or discontinuance of proceedings, as appropriate, in criminal or administrative proceedings that have been excessively lengthy;
11. where appropriate, provide for the retroactivity of new measures taken to address the problem of excessive length of proceedings, so that applications pending before the Court may be resolved at national level;

12. take inspiration and guidance from the annexed [Guide to Good Practice] when implementing the provisions of this recommendation;
13. ensure that the text of this Recommendation and of the annexed [Guide to Good Practice], in the language(s) of the country, is published and disseminated in such a manner that it can be effectively known and that the national authorities can take account of it.