



COUNCIL OF EUROPE    CONSEIL DE L'EUROPE

Strasbourg, 25 May 2000  
DH-PR(2000)006

STEERING COMMITTEE FOR HUMAN RIGHTS  
(CDDH)

---

**COMMITTEE OF EXPERTS FOR THE IMPROVEMENT  
OF PROCEDURES FOR THE PROTECTION  
OF HUMAN RIGHTS  
(DH-PR)**

---

47th meeting, 12 – 14 April 2000

---

**REPORT**

---

**TABLE OF CONTENTS**

Introduction

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

Item 2 of the agenda: Continuation of work on the revision of the Rules of Procedure of the Committee of Ministers concerning Article 54, further to the entry into force of Protocol No. 11 to the European Convention on Human Rights

Item 3 of the agenda : Implementation of the Convention

Item 4 of the Agenda: Exchange of views with the Council of Europe Commissioner for Human Rights

Item 5 of the Agenda : Information on the state of preparations for the European Ministerial Conference on Human Rights (Rome, 3 – 4 November 2000)

Item 6 of the Agenda : Publication and circulation of DH-PR documents

Item 7 of the Agenda: Items for the Agenda of the next meeting

Item 8 of the Agenda: Dates of the next meetings

APPENDICES

Appendix I / Annexe I : LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS

Appendix II : AGENDA

Appendix III: RULES ADOPTED BY THE COMMITTEE OF MINISTERS FOR THE APPLICATION OR ARTICLES 54 [see current Article 46 (2)] OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS

Appendix IV: Elements to be examined in view of the revision of the Rules adopted by the Committee of Ministers for the application of the European Convention on Human Rights

\* \* \*

## **Introduction**

1. The Committee of Experts for the Improvement of Procedures for the Protection of Human Rights (DH-PR) held its 47th meeting at the Human Rights Building in Strasbourg (Directorate Room), from 12 to 14 April 2000. The meeting was chaired by Mr Carl Henrik EHRENKRONA (Sweden). The list of participants appears in Appendix I. The agenda as adopted appears in Appendix II.
2. During the meeting, the DH-PR in particular:
  - i. continued its work on the revision of the [Committee of Ministers' Rules of Procedure](#), further to the entry into force of [Protocol No. 11](#) to the [European Convention on Human Rights](#) (item 2 of the agenda).
  - ii. held an exchange of views and information with Mr A. GIL-ROBLES, [Commissioner for Human Rights](#) of the [Council of Europe](#) (item 4 of the agenda);

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

3. See introduction.

## **Item 2 of the agenda: Continuation of work on the revision of the Rules of Procedure of the Committee of Ministers concerning Article 54, further to the entry into force of Protocol No. 11 to the European Convention on Human Rights**

4. It was recalled that, at its 46th meeting (7-10 September 1999, [DH-PR\(99\) 18](#), paragraph 41), the Committee decided to direct the Secretariat, in co-operation with the Chair, to draw up a consolidated document containing preliminary points for discussion at the present meeting, during elaboration of a draft revised version of the Rules of Procedure of the Committee of Ministers, further to the entry into force of Protocol N° 11 to the European Convention on Human Rights.
5. The relevant rules of the Committee of Ministers appear as Appendix III. The document prepared on this subject by the Secretariat ([DH-PR \(00\)1](#)) appears as Appendix IV.
6. During a general exchange of views, the DH-PR concluded that this document, drawn up by the Secretariat in the light of the existing Rules of Procedure and the Committee of Ministers' practice, constituted a good basis for discussion. The DH-PR examined the Secretariat's various proposals in turn, with the purpose of deciding on the appropriateness of their inclusion in the new Rules to be proposed to the Committee of Ministers. At the present meeting, the DH-PR decided to restrict itself to providing guidelines on this matter to the drafting group (GT-DH-PR), which would be assigned the task of elaborating a formal draft text in June 2000.
7. After presentation of general comments, discussion focussed on the various elements contained in document DH-PR (00)1 (Appendix IV to this document). The different points of view expressed on this matter are set out below. A revised version of the document, taking account of the various amendments agreed to, appears in document [GT-DH-PR \(00\) 2](#). It will serve as the basis for discussions by the Drafting Group, due to meet on 8-9 June 2000.

## ***General comments***

8. A number of points concerning the Committee of Ministers' powers were raised:
9. The experts agreed that it was necessary to bear in mind the difference between the powers of [the Court](#), a judicial organ, and the Committee of Ministers, the organ responsible for supervising the execution of judgments. In this respect, the need to maintain a certain flexibility with regard to the Committee of Ministers' approach to cases was underlined. A few experts felt that the role of the Committee of Ministers was essentially political. Others, on the other hand, emphasised that judgements were binding and that the Committee's role was to ensure that this binding nature was respected. However, one expert noted that the declaratory nature of judgments could make it difficult to define the scope of the State's obligations, in particular the State's obligation to adopt measures of a general nature (amendments to legislation) following one single and unique judgment. In certain cases, these obligations could only be defined in the light of other subsequent judgments by the Court.
10. One expert wondered whether the entry into force of Protocol N° 11 justified going further than the Committee of Ministers' current practice - this Protocol not having changed the wording of the key article, Article 46, paragraph 2, by comparison to its predecessor, Article 54 of the Convention. Other experts pointed out, however, that most of the elements contained in document DH-PR (00) 1 are mere codifications of existing rules and practice. They pointed out, however, the necessity of now ensuring transparency also at the Committee of Ministers level. They referred to the important change that Protocol N° 11 has introduced by stressing the judicial nature of findings of violation, all of which are now established by the Court. They also pointed to the Council of Europe's general policy of openness and transparency.
11. Following this exchange of views, the DH-PR concluded that it was unnecessary to raise these general aspects in the draft revised Rules.
12. Some experts considered it appropriate to introduce more precise explanations on States' obligations following findings of violation, particularly with regard to individual and general measures. However, the majority of experts considered that this was unnecessary.
13. Finally, the experts agreed to examine more closely the idea of preparing an explanatory report to accompany the draft revised Rules.

#### *Comments on various elements proposed*

##### *Inscription of cases on the agenda*

14. The experts felt that it was important that there should be no delay in placing final judgments on the Committee of Ministers' agenda and suggested that the wording of the present *Rule 1* of the Rules of Procedure should be retained.
15. A discussion was held on the need to make special provisions for an urgent procedure and on which cases could justify such a procedure. The experts concluded that there was no need to deal specifically with this issue in the draft rules, as the wording proposed in Rule 1 was sufficiently general to enable those cases which needed to be dealt with urgently.

##### *Duty to inform the Committee of measures taken in compliance with judgments*

16. One expert questioned the relevance of the wording of the present rule: was there really a formal invitation to inform the Committee of Ministers? Other experts considered it

appropriate to introduce references to individual measures and to the possibilities open to applicants of communicating directly with the Committee of Ministers.

17. After a brief discussion, it was decided that the text of document [DH-PR \(00\) 1](#) provided a good working basis for examination by the GT-DH-PR.

#### *Control intervals*

18. The experts wondered whether it was necessary to go into the various control intervals in such detail as in document DH-PR (00) 1. Having noted that the rules proposed in this document were based on Committee of Ministers' practice and that they always gave the Committee the opportunity to adapt its decision to the specific circumstances of each situation, the DH-PR agreed to keep the text appearing in document DH-PR (00) 1 as a working basis for the GT-DH-PR. One expert suggested deleting the reference to six months, to allow the Committee of Ministers more flexibility.

19. One expert suggested that one way of putting more pressure on states to enforce the judgments of the Court swiftly would be to gradually reduce the intervals allowed: the first interval could be six months long, the following intervals would be shorter.

#### *Interim resolutions*

20. Most of the experts considered that these resolutions were useful and that they deserved to be included in the draft revised rules. However, it was noted that this term covered at least three types of resolution: resolutions of an informative nature, encouraging resolutions and resolutions of a critical nature, even going as far as concluding that a judgment had not been enforced in violation of the Convention. Several experts suggested different titles for these different resolutions.

21. Some experts said that the Committee of Ministers was not empowered to use these resolutions to dictate the measures to be taken by the defending state. The state should always remain free to choose the means which seem appropriate of ensuring that the Court's judgment was carried out. Without going into the question further, other experts nevertheless pointed out that the Committee of Ministers could, as it had done on several occasions, use these interim resolutions to give indications/suggestions of appropriate measures that could be taken to this end.

22. The experts agreed to ask the GT-DH-PR to base its work on the text of document DH-PR (00) 1, whilst trying to avoid the problem of the extent to which the Committee could give specific indications of the enforcement measures required.

#### *Right to address the Committee of Ministers*

23. One expert considered that individual applicants should not have the right to address the Committee of Ministers. Others thought that the heading "Right to address the Committee of Ministers" could be confusing. What had been intended, and codified in the present rules (drawn up in 1972), was not that a quasi-judicial procedure should be set up whereby applicants could discuss the scope of the defending state's obligations towards them with the Committee of Ministers. The aim was rather to enable them to give a factual indication of the direct consequences of the violation observed on their personal situations.

24. Most of the experts considered that the present footnote 1 to Rule 2a. could provide a basis for the new rule to be drawn up.

### *Publicity*

25. Most of the experts felt that a reform of the rules on publicity was urgent in order to ensure the transparency of the Committee of Ministers' activities in the field of the convention, as pointed out in document DH-PR (00) 1. It was pointed out that the vast majority of the information which is brought to the attention of the Committee of Ministers is public (draft legislation, court judgments, etc.).

26. One expert insisted on the need to submit the request for confidentiality promptly. Another stressed that the committee should accept the anonymity of an applicant insofar as that had already been accepted by the Court.

27. Another expert wondered whether the publicity rule was necessary at the Committee of Ministers' level, insofar as the proceedings before the Court had been public. It stressed that there was a need to ensure the confidentiality of the Committee of Ministers' deliberations and at least make sure that no information was divulged without the consent of the state concerned. He also wondered about the feasibility of the proposed system considering the mass of information supplied to the Committee of Ministers each year.

28. The experts agreed to ask the GT-DH-PR to draw up a new rule based on the text which appears in document DH-PR (00) 1.

### *End of control*

29. The experts noted that the Committee of Ministers had ceased the practice of merely taking note of the information supplied by the respondent government. On the contrary, the Committee continues to keep a case under review until it has concluded that the state concerned has taken all the necessary measures to comply with the judgment. They therefore asked the working party to base its discussion on the proposed text contained in document DH-PR (00) 1.

30. It was also pointed out that even if the document DH-PR (00) 1 did not mention the present Rule 4, the latter deserved to be included in the draft revised rules.

### *Sanctions*

31. Several experts expressed their concern that there are no intermediate solutions between the issuing of an interim resolution and the opening of the ultimate procedure under the Council of Europe Statute (see Article 8 thereof).

32. One expert suggested referring to Parliamentary Assembly [Resolution 1115 \(1997\)](#), paragraph 12 of which proposed measures of an intermediate nature, for example in the form of a withdrawal of the powers of parliamentary delegations of respondent states. Other experts felt that such sanctions could not be applied by the Committee of Ministers under its powers under the Convention.

33. Certain experts wondered whether the Committee of Ministers at Deputies level was in fact authorised to invoke Article 8 of the Statute of the Council of Europe. The majority of experts considered however that, in the light of the Committee's practice, the Deputies did have the necessary competence.

34. The experts noted that the question of sanctions would perhaps be raised in the relevant report under preparation in the [Parliamentary Assembly](#), the draft version of which had been submitted to the Venice Commission and the Court for comment.

35. Some experts insisted that judgments could not be enforced with sanctions, but that it was rather by means of political co-operation that a positive change of attitude had some chance of being achieved. According to these experts, it was therefore necessary to give preference to practice within the Committee of Ministers rather than that of the Parliamentary Assembly.

36. Several experts also pointed out that there was no need to describe the enforcement measures to be taken as either “necessary” or “appropriate”, as proposed in document DH-PR (00) 1.

37. The experts agreed that the working party could base its examination of this item on document DH-PR (00) 1, while taking into account any ideas recorded in the above-mentioned report of the Assembly and in the opinions which will be given by the Court and by the Venice Commission. They also agreed that it would be advisable to replace the heading of this item by the wording “Measures in the event of persistent refusal to execute a Court judgment”. A definite decision should be taken at the next meeting of the DH-PR in September 2000.

#### ***Membership of the working party (GT-DH-PR)***

38. The DH-PR agreed on the membership of the working party instructed to prepare a draft text: Mr A. KOSONEN (Finland), Mr P.-F. BOUSSAROQUE (France), Mr G. SABEONE (Italy), Mr Z. TODOROV (F.Y.R. of Macedonia), Mr R. BÖCKER (Netherlands)(Chair), Mr K. DRZEWICKI (Poland), Mr Y. BERESTNEV (Russian Federation), Ms Y. OSVALD (Sweden), Mr F. SCHÜRMAN (Switzerland), an expert from Turkey, Ms R. MANDAL (United Kingdom).

#### ***Procedure***

39. On the basis of the wording to be submitted by the drafting group, the DH-PR will finalise this text at its 48th meeting (6-8 September 2000) and submit it to the CDDH for possible adoption at its 49th meeting (3-6 October 2000). This will enable the Steering Committee to complete its terms of reference by the appointed date, namely 31 December 2000.

#### **Item 3 of the agenda : Implementation of the Convention**

##### ***a. Publication and circulation of the case-law of the Convention organs in the Contracting States***

40. The discussion concerned on the one hand the means necessary to ensure an adequate knowledge of the Court's case-law at the national level, and on the other the continuous problems encountered by Governments in having access to the judgments and decisions of the new Court.

41. The experts agreed about the fundamental importance of efficient publication and dissemination of the judgments of the Court in the different states. It was noted, however, that practice varied substantially between states and that the availability of the Court's case-law

differed greatly between the different States. A number of experts raised the idea of drawing up a set of guide-lines for consideration by the responsible state departments.

42. Many experts remarked that a question of major importance was that of translation, an issue which, among others, is linked to that of selecting the judgments which merit publication and diffusion. In general it was felt that it was difficult to follow the case law of the Court, even in broad terms, as in particular, there is no official report published of judgments and there are no summaries provided of the judgments.

43. Some experts suggested that a special department be set up within, or linked to the Court, with the sole task of ensuring translations of the most important judgments. Others suggested that the Registry of the Court could ensure a publication of summaries of leading cases, which could then be translated by the Governments. The Secretariat pointed to the possibility of using the order of business of the Committee of Ministers which contained an indication of those leading cases in which a violation of the Convention had been found. Further experts inquired into the development of the Court's own publication practice: Rule 78 stated that the Court would ensure the publication of an official report with selected judgments and decisions. Experts awaited with interest the first judgments from the new Court to be issued by Carl Heymann's Verlag.

44. Several experts also complained about the difficulty of getting inadmissibility decisions in cases which were rejected by the Court before communication with the governments concerned. One expert proposed that the Court could facilitate access on the internet by using bold type to draw attention to the most significant cases.

45. The idea was raised that the Committee should forward its concerns to the Committee of Ministers via the Steering Committee so as to ensure that a strengthening of the Court's resources on this point could be included in the budgetary programme for the next year. The idea was also raised of sending a letter to the Court, indicating the practical problems experienced by the Governments.

46. Following this exchange of views, the DH-PR:

- requests the Secretariat to prepare, in cooperation with the Chairman, a draft letter to be submitted to the Chairman of [the CDDH](#) in order that the latter, if he sees fit, may send it to the President of the Court and the Chairman of the Committee of Ministers. This letter should reflect the concerns expressed by the experts of the DH-PR in the course of the present meeting and the possible solutions proposed;
- considers that these questions should also be reflected in an appropriate manner in the political texts to be submitted to the Ministerial Conference, under the heading relating to the work of the Court.]

***b. Possibility for action by the DH-PR to ensure that there exists at national level adequate mechanisms to ensure that draft legislation is in conformity with the Convention***

47. It was indicated that the purpose of such an exercise would be to strengthen the subsidiarity of the Convention system. In this respect the exercise would be closely linked to that of ensuring adequate publication and dissemination of the Court's case-law.

48. Some experts were reluctant to engage in any such action as the implementation of the Convention required a certain flexibility and should not be overburdened by international procedures. Some were reticent on the ground that all States appeared already to have

adequate mechanisms in this area. Many others stressed that the aim was not to create new international procedures, but to exchange ideas about good practices, and found the idea interesting. An exchange of views demonstrated a variety of solutions found in different States - the pre-enactment control of the Convention conformity of new legislation could be reviewed by the Constitutional Court, the Council of State or by a Special Law Council, or the Government itself could be called upon to certify before Parliament that proposed legislation had been examined and found to comply with the Convention etc.

49. Some experts also referred to the problem posed by old inherited legislation. Even if certain compatibility exercises were organised by the Council of Europe already today, the problems posed by such legislation, and practices developed thereunder, both in new and old member States, were still important. A Council of Europe initiative to improve the means of ensuring the conformity of this kind of legislation with the Convention could be well received.

50. Some experts saw a link with the old idea of giving the Court the right to give preliminary rulings.

51. Many experts considered it necessary to have a comparative study of the situation in the different States before deciding whether or not to pursue this question. Some thought that already at this stage it could be envisaged to have a very short recommendation encouraging states to adopt efficient mechanisms to ensure the compatibility of draft legislation with the Convention, and providing a list of examples of good practices drawn from the experience already gained by many states in this area.

52. Following this exchange of views, the DH-PR:

- requested the Secretariat to prepare, in cooperation with the Chairman, a questionnaire to be sent to the members of the DH-PR, aiming at obtaining information on the measures and mechanisms which exist at national level in order to ensure that draft legislation is in conformity with the Convention. The questionnaire will be sent out in time to obtain the replies before 30 June 2000;

- informs the CDDH of its intention to examine subsequently, notably in the light of the replies to the questionnaire, the opportunity to propose further action (including the elaboration of a short draft recommendation);

- considers that these questions should also be reflected in an appropriate manner in the political texts to be submitted to the Ministerial Conference, under the heading relating to the implementation of the Convention at the national level.

*c. Possibility for action by the DH-PR to ensure that national legislations allow for compensation for violations found by national authorities, thus avoiding the case being referred to Strasbourg*

53. The experts decided to resume consideration of this point at their next meeting in the light of further elements to be presented by the Secretariat indicating notably the number and nature of the cases concerned and also the nature of the problems encountered in obtaining compensation before the national authorities.

**Item 4 of the Agenda: Exchange of views with the Council of Europe Commissioner for Human Rights**

54. The DH-PR held an exchange of views with the Council of Europe Commissioner for Human Rights, Mr Alvaro Gil-ROBLES. It was recalled that the office of the Commissioner for Human Rights was set up by [Resolution \(99\) 50](#).

55. Mr Gil-Robles gave a brief presentation on the role of the Commissioner for Human Rights and on his activities during the first few months of office. He pointed out that, in his view, there are three main spheres of activities which emerge from his terms of reference :

- (i) the promotion of education and awareness of human rights,
- (ii) the task of identifying possible shortcomings in the law and practice of member States concerning the compliance with human rights as embodied in the instruments of the Council of Europe, promoting the effective implementation of these standards by member States and assisting them, with their agreement, in their efforts to remedy such shortcomings ;
- (iii) the task of contributing to the promotion of the effective observance and full enjoyment of human rights in the member States.

56. For the moment the Commissioner's activities have mainly centred on the third function mentioned above, in particular with regard to the situation in North Caucasus. Once further budgetary and human resources will have been allocated to the Office of the Commissioner, the other functions, and in particular the analysis of national legislation, will be more fully addressed.

57. Mr Gil-Robles also emphasised the importance of the Commissioner being able to function with complete independence and impartiality. Full co-operation with the other international organisations concerned with human rights issues (and in particular the United Nations, the UNHCR, the Red Cross and the OSCE) was also essential as was communication with other Ombudsmen and the Commissioner for Minorities, and dialogue with governments of member States.

58. The issue of individual complaints was raised. The Commissioner confirmed that he has already received a high number of such letters, but as the office does not have the competence to deal with individual complaints, it directs, where possible, the applicant to the appropriate body which may be able to help him. He mentioned that individual complaints may highlight a « general » problem in a member State which the Commissioner may then decide to investigate.

#### **Item 5 of the Agenda :Information on the state of preparations for the European Ministerial Conference on Human Rights (Rome, 3 – 4 November 2000)**

59. The DH-PR were informed of the activities currently being prepared within the various Council of Europe departments to mark the 50th anniversary of the opening for signature of the European Convention on Human Rights (Rome, 4 November 2000). In particular, it noted that an attractive and striking publication, containing 50 significant judgments by the [European Court of Human Rights](#), would be issued by the Council of Europe, destined primarily for members of national parliaments, leaders of political parties and editors and producers in the major media. This publication would be distributed in at least four languages (English, French, German and Italian).

60. Accordingly, the DH-PR took note of the state of preparations for the European Ministerial Conference on Human Rights and the ceremony to commemorate the 50th anniversary of the opening for signature of the ECHR:

- These events would take place in Rome on 3 and 4 November 2000, in the premises of the Italian Ministry of Foreign Affairs (*Palazzo La Farnesina*), with the participation, in particular, of the ministers responsible for human rights (Ministers of Justice and/or Foreign Affairs) of the 41 member States and the 9 States enjoying observer status with the Council of Europe, as well as representatives of the European Court of Human Rights, the Parliamentary Assembly, relevant NGOs, etc.;
- The theme and sub-themes chosen for the Conference were as follows: theme: *"The European Convention on Human Rights at 50: What future for the Protection of Human Rights in Europe?"*; sub-theme N° 1: *"Institutional and Functional Arrangements for the Protection of Human Rights at European Level"*; sub-theme N° 2: *"Respect for Human Rights as a Key Factor for Democratic Stability and Cohesion in Europe: Current Issues"*.
- The CDDH had set up its Drafting Group (CDDH-GR) to continue elaboration of the draft texts to be submitted to the Conference. The group would hold its next meeting on 17-19 May 2000.

61. The DH-PR noted that several of its members were also members of this drafting group. It noted that, in the draft text to be submitted to the Conference regarding sub-theme n° 1, there were references to questions that also concerned the DH-PR (for example, the need for member States to undertake, using measures they considered appropriate, systematic checking of draft legislation, in the light of the Convention system, to ensure that they were compatible with the latter's standards).

62. On completion of this exchange of views, and in so far as certain of the texts being prepared concerned the work of the DH-PR, the latter informed the CDDH of its availability to exchange views on the texts that the CDDH is currently preparing. This exchange of views could take place, both during the meeting of the GT-DH-PR (8-9 June 2000) and at the next plenary meeting of the DH-PR (6-8 September 2000).

#### **Item 6 of the Agenda : Publication and circulation of DH-PR documents**

63. The DH-PR decided that the documents it had adopted during its 46th meeting, on general measures ([DH-PR \(00\)4](#)) and on national legislation and case-law concerning the reopening of proceedings ([DH-PR \(99\)10](#)) respectively should, if possible, be published during the current year as official Council of Europe documents. It instructed the Secretariat to inform the CDDH of this and, pending the latter's authorisation, to take the necessary measures in this respect.

#### **Item 7 of the Agenda: Items for the Agenda of the next meeting**

64. The DH-PR decided to put the following items on its agenda for the next meeting:

- (i) Opening of the meeting and adoption of the agenda
- (ii) Continuation of work on the revision of the Rules of procedure of the Committee of Ministers further to the entry into force of [Protocol N° 11](#) to the European Convention on Human Rights
- (iii) Implementation of the Convention

- a. *Publication and circulation of the case-law of the Convention organs in the Contracting States*
  - b. *Possibility for action by the DH-PR to ensure that there exists at national level adequate mechanisms to ensure that draft legislation is in conformity with the Convention*
    - *comparative study of the existing mechanisms in certain member States*
    - *possible follow-up to this activity*
  - c. *Possibility for action by the DH-PR to ensure that national legislations allow for compensation for violations found by national authorities, thus avoiding the case being referred to Strasbourg*
    - *Examination of a document by the Secretariat concerning compensation at national level for violations found by national authorities, thus avoiding the case being referred to Strasbourg.*
  - d. *Publication of judgments.*
- (iv) European Ministerial Conference on Human Rights (Rome, 3-4 November 2000)
- a. *Information on the state of preparations for the Conference*
  - b. *Exchange of views on draft texts to be submitted to the Conference that have a connection with the work of the DH-PR*
- (v) Items for the Agenda of the next meeting
- (vi) Dates of the next meetings

**Item 8 of the Agenda: Dates of the next meetings**

65. The DH-PR decided on the following dates for its next meetings:

- Working Group GT-DH-PR: 8-9 June 2000
- 48th meeting: 6-8 September 2000

\* \* \*

**APPENDICES****Appendix I / Annexe I :LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS****ALBANIA/ALBANIE**

Mr Riza PODA, Government Agent, Ministry of Foreign Affairs, Bd "Zhan d'Ark", No 230  
TIRANA

**ANDORRA/ANDORRE****AUSTRIA / AUTRICHE**

Ms Brigitte OHMS, Deputy to the Head of Division for International Affairs and General  
Administrative Affairs, Bundeskanzleramt-Verfassungsdienst, Ballhausplatz 2, 1014 WIEN

**BELGIUM / BELGIQUE**

Mme Nathalie LECLERCQ, Conseiller adjoint, Ministère de la Justice, Direction générale de la  
législation pénale et des droits de l'homme, Service des Droits de l'Homme, Boulevard de  
Waterloo 115, B-1000 BRUXELLES

**BULGARIA/BULGARIE**

Mr Andrey TEHOV, Acting Director, Directorate of human Rights, Ministry of Foreign Affairs,  
2 Alexander Zhendov str, SOFIA - 1113

**CROATIA/CROATIE**

Mr Branko SOCANAC, Head of Human Rights Department, Ministry of Foreign Affairs, Trg  
N.S. Zrinskog 7-8, 10000 ZAGREB

**CYPRUS / CHYPRE**

Mr Demetrios STYLIANIDES, Former President Supreme Court, 3 Macedonia street,  
Lycavitos, NICOSIA

**CZECH REPUBLIC / REPUBLIQUE TCHEQUE**

Mr Jiří MALENOVSKÝ, Judge of the Constitutional Court, Joštova 8, 60200 BRNO

**DENMARK / DANEMARK**

Ms Christina Toftegaard NIELSEN, Head of Section, Ministry of Justice, Slotsholmsgade 10,  
DK-1216 COPENHAGEN K

**ESTONIA / ESTONIE**

Mrs Mai HION, 1st Secretary, Division of Human Rights, Ministry of Foreign Affairs, Rävåla  
pst 9, 15049 TALLINN

**FINLAND / FINLANDE**

Mr Arto KOSONEN, Director, Co-agent for the government, Legal Department, Ministry of  
Foreign Affairs, P.O. Box 176, SF-00161 HELSINKI

**FRANCE**

M. Pierre-François BOUSSAROQUE, Magistrat détaché, Ministère des affaires étrangères, 37 Quai d'Orsay, 75007 PARIS

**GEORGIA/GEORGIE**

Mr Gela BEZHUASHVILI, Director, International Law Department, Chitadze Str. 6, 380018 TBILISI

**GERMANY / ALLEMAGNE**

Apologised/excusé

**GREECE / GRECE**

Mr Linos-Alexander SICILIANOS, Professeur agrégé, Université d'Athènes, Département d'études internationales, 14 Sina Street, 10672 ATHENES

**HUNGARY / HONGRIE**

Mr Lipot HÖLTZL, Deputy Secretary of State, Ministry of Justice, Kossuth Ter 4., H-1055 BUDAPEST

**ICELAND / ISLANDE**

Apologised/excusé

**IRELAND / IRLANDE**

Mr James GAWLEY, Legal Adviser to the Council of Europe and Human Rights Sections, Department of Foreign Affairs, 80 St Stephen's Green, IRL-DUBLIN 2

**ITALY / ITALIE**

Mr Gerardo SABEONE, Magistrate, Legislative service, Ministry of Justice, Via Arenula 70, 00186 ROMA

**REPUBLIC OF LATVIA / REPUBLIQUE DE LETTONIE**

Mrs Ieva BILMANE, Head of Administrative Law Division, Ministry of Foreign Affairs, Brivibas Blvd 36, RIGA Lv-1395,

**LIECHTENSTEIN**

apologised/excusé

**LITHUANIA / LITUANIE**

Mr Darius GAIDYS, Head of International Economic Treaties Division, Ministry of Foreign Affairs, J. Tumo-Vaizganto 2, 2600 VILNIUS

**LUXEMBOURG**

Apologised/Excusé

**MALTA / MALTE**

Dr Patrick VELLA, The Superior Courts, Courts of Justice, Republic Street, VALLETTA

**REPUBLIC OF MOLDOVA/REPUBLIQUE DE MOLDAVIE**

M. Vitalie NAGACEVSCHI, Directeur, Direction Agent gouvernemental et relations internationales, 31 August, 82, MD 2012 CHISINAU

**NETHERLANDS / PAYS-BAS**

Mr Roeland BÖCKER, Ministry of Foreign Affairs, Dept. DJZ/IR P.O. Box 20061 - 2500 EB THE HAGUE

**NORWAY / NORVEGE**

Mr Eirik Heggstad VINJE, Senior Executive Officer, Legislation Department of the Royal Norwegian Ministry of Justice, Post Box 8005 Dep, N-0030 OSLO

**POLAND / POLOGNE**

Mr Piotr NOWOTNIAK, Expert, Ministry of Foreign Affairs, Legal Department, Al. Szucha 23, 00-580 WARSZAWA 7

**PORTUGAL**

Apologised/excusé

**ROMANIA / ROUMANIE**

Mme Roxana RIZOIU, Agent du Gouvernement, Ministère de la Justice, Bucaresti, Strada Apolodor nr. 17, BUCAREST RO-70 663 BUCAREST

**RUSSIAN FEDERATION / FEDERATION DE RUSSIE**

M. Yuri BERESTNEV, Chef du Bureau de l'Agent de la Fédération de Russie auprès de la Cour européenne des Droits de l'Homme, oulitsa Ilynka, 8/4, pod.20 GGPU, Présidenta Rossii, 103 132 MOSCOW

**SAN MARINO / SAINT MARIN**

/

**SLOVAKIA / SLOVAQUIE**

Mr Fedor ROLL, Deputy Director, Human Rights Department, Ministry of Foreign Affairs, Hlboká cesta 2, 833 36 BRATISLAVA

**SLOVENIA/SLOVENIE**

Mr Lucijan BEMBIČ, Attorney General, Drzavno pravobranilstvo, Trdinova 4, 1000 LJUBLJANA

**SPAIN / ESPAGNE**

Apologised/excusé

**SWEDEN / SUEDE**

Mr Carl Henrik EHRENKRONA, Chairman/Président, High Court Judge, Vice-Chairman of Chamber, Svea Court of Appeal, Svea hovrätt, avd.5, Box 2290, S-103 17 STOCKHOLM

Ms Ylva OSVALD, Legal Adviser, Ministry for Foreign Affairs, S-103 39 STOCKHOLM

**SWITZERLAND / SUISSE**

M. Frank SCHÜRMAN, Chef de Section, Section des droits de l'homme et du Conseil de l'Europe, Office fédéral de la justice, Département fédéral de Justice et Police, Taubenstrasse 16, CH - 3003 BERNE

**"The former Yugoslav Republic of Macedonia"/"L'Ex-République yougoslave de Macédoine"**

Mr Zoran TODOROV, Third Secretary, Human Rights Department, Ministry of Foreign Affairs, Dame Gruev, St. No 4 and 6, 91000 SKOPJE

**TURKEY / TURQUIE**

Mme Deniz AKÇAY, Adjoint au Représentant permanent de la Turquie auprès du Conseil de l'Europe, 23, boulevard de l'Orangerie, F-67000 STRASBOURG

Mlle Alev GÜNYAKTI, Adjoint au Représentant permanent de la Turquie auprès du Conseil de l'Europe, 23, boulevard de l'Orangerie, F-67000 STRASBOURG

**UKRAINE**

Mr.Olexandre SAVENKO, Third Secretary, OSCE and Council of Europe Division, Ministry of Foreign Affairs, 1, Mykhaylivskg sq., KYIV, 252018

**UNITED KINGDOM / ROYAUME-UNI**

Ms Ruma MANDAL, Assistant Legal Adviser, Foreign and Commonwealth Office, King Charles Street, Room K200B, GB - LONDON SW1A 2AH

\* \* \*

**EUROPEAN COMMISSION/COMMISSION EUROPEENNE**

Apologised/Excusé

\* \* \*

**OBSERVERS/OBSERVATEURS**

**HOLY SEE/SAINT-SIEGE**

**UNITED STATES OF AMERICA**

**CANADA**

**JAPAN/JAPON**

M. Pierre DREYFUS, Assistant, General Consulate of Japan, "Tour Europe" 20, Place des Halles, F-67000 STRASBOURG

**MEXICO/MEXIQUE**

\* \* \*

**AMNESTY INTERNATIONAL**

Apologised/Excusé

**INTERNATIONAL COMMISSION OF JURISTS/COMMISSION INTERNATIONALE DE JURISTES**

/

**INTERNATIONAL FEDERATION OF HUMAN RIGHTS (FIDH)**

**FEDERATION INTERNATIONALE DES LIGUES DES DROITS DE L'HOMME (FIDH)**

/

\* \* \*

**SECRETARIAT**

**Directorate General of Human Rights - DG II/Direction Générale des droits de l'homme - DG II**  
**Council of Europe/Conseil de l'Europe, F-67075 Strasbourg Cedex**

Mr S. Günter NAGEL, Head of the Department for the execution of judgments of the European Court of Human Rights/Chef du Service de l'exécution des arrêts de la Cour européenne des Droits de l'Homme

Mr Fredrik SUNDBERG, Principal Administrator/Administrateur principal/Department for the execution of judgments of the European Court of Human Rights/Service de l'exécution des arrêts de la Cour européenne des Droits de l'Homme

M. Alfonso DE SALAS, Principal Administrator/Administrateur principal, Head of the Intergovernmental Cooperation Unit/Chef de l'Unité de la coopération intergouvernementale

Mrs Katherine ANDERSON-SCHOLL, Administrative Assistant/Assistante administrative

Mme Michèle COGNARD, Administrative Assistant/Assistante administrative

\* \* \*

Interpreters/Interprètes

Mlle Sylvie BOUX

Mr Philippe QUAINÉ

Mlle Isabelle MARCHINI

\* \* \*

**Appendix II : AGENDA****1. Opening of the meeting and adoption of the agenda**

- Draft agenda  
[DH-PR \(00\) OJ 1](#)
- Report of the 46<sup>th</sup> meeting of the DH-PR  
(7 – 10 September 1999)  
[DH-PR \(99\) 18](#)

**2. Continuation of work on the revision of the Rules of procedure of the Committee of Ministers concerning Article 54, further to the entry into force of Protocol No.11****Working Documents**

- Rules of procedure of the Committee of Ministers
- Secretariat memorandum  
[DH-PR \(00\) 1](#)
- Secretariat memorandum on the practices of the Committee of Ministers concerning the control of the implementation of the judgements of the Court  
[DH-PR \(00\) 2](#)
- Ad hoc terms of reference given by the Ministers Deputies to the CDDH at their 653<sup>rd</sup> meeting (16-17 December 1998)  
[DH-PR \(99\) 1](#)
- Report of the 46th meeting of the DH-PR (7 – 10 September 2000)  
[DH-PR \(99\) 18](#)

**Information Documents**

- Information documents prepared by the Directorate General of Human Rights for each HR meeting of the Committee of Ministers  
[DH-PR \(00\) 3](#)
- Secretariat document on general measures  
[DH-PR \(00\) 4](#)
- Rules of procedure of the European Court of Human Rights
- Reply from the Committee of Ministers to written question raised on 10 September 1998 by a number of members of the Parliamentary Assembly concerning the execution of certain judgements forwarded to, or certain cases pending before the Committee of Ministers  
[Doc. 8253](#) Assemblée

**3. Implementation of the Convention**

- a. Publication and circulation of the case-law of the Convention organs in the Contracting States*

- Overview of the existing situation  
[DH-PR \(00\) 5](#)
  - Rules of procedure of the European Court of Human Rights
  - Report of the 46th meeting of the DH-PR  
(7 – 10 September 1999)  
[DH-PR \(99\) 18](#)
- b. Possibility for action by the DH-PR to ensure that there exists at national level adequate mechanisms to ensure that draft legislation is in conformity with the Convention*
- c. Possibility for action by the DH-PR to ensure that national legislations allow for compensation for violations found by national authorities, thus avoiding the case being referred to Strasbourg*
4. **Exchange of views with the Council of Europe Human Rights Commissioner**
  5. **Information on the state of preparations for the European Ministerial Conference on Human Rights (Rome, 3 – 4 November 2000)**
    - Information will be given orally by the Secretariat on the preparations for the Conference
  6. **Publication and circulation of DH-PR documents on :**
    - General measures  
[DH-PR \(00\) 4](#)
    - National legislation and case-law on the reopening of proceedings  
[DH-PR \(99\) 10](#)
  7. **Items for the Agenda of the next meeting**
  8. **Dates of the next meetings**

\* \* \*

**Appendix III: RULES ADOPTED BY THE COMMITTEE OF MINISTERS FOR THE APPLICATION OR ARTICLES 54 [see current Article 46 (2)] OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS**

*(Text approved by the Committee of Ministers at the 254<sup>th</sup> meeting of the Ministers' Deputies in February 1976)*

Rule 1

When a judgment of the Court is transmitted to the Committee of Ministers in accordance with Article 54 of the Convention, the case shall be inscribed on the agenda of the Committee without delay.

Rule 2

a. When, in the judgment transmitted to the Committee of Ministers in accordance with Article 54 of the Convention, the Court decides that there has been a violation of the Convention and/or affords just satisfaction to the injured party under Article 50 of the Convention, the Committee shall invite the state concerned to inform it of the measures which it has taken in consequence of the judgment, having regard to its obligation under Article 53 of the Convention to abide by the judgment.

b. If the state concerned informs the Committee of Ministers that it is not yet in a position to inform it of the measures taken, the case shall be automatically inscribed on the agenda of a meeting of the Committee taking place not more than six months later, unless the Committee of Ministers decides otherwise; the same rule will be applied on expiration of this and any subsequent period.

Rule 3

The Committee of Ministers shall not regard its functions under Article 54 of the Convention as having been exercised until it has taken note of the information supplied in accordance with Rule 2 and, when just satisfaction has been afforded, until it has satisfied itself that the state concerned has awarded this just satisfaction to the injured party.

Rule 4

The decision in which the Committee of Ministers declares that its functions under Article 54 of the Convention have been exercised shall take the form of a resolution.

\* \* \*

**Appendix IV: Elements to be examined in view of the revision of the Rules adopted by the Committee of Ministers for the application of the European Convention on Human Rights**

(Document [DH-PR \(00\) 1](#) prepared by the Secretariat for examination by the DH-PR at its 47<sup>th</sup> meeting (12 – 14 April 2000))

1. On the basis of the existing Rules of Procedure and the practice developed by the Committee of Ministers, the following main points could be considered by the DH-PR for possible inclusion in the new Rules of Procedure to be proposed to the Committee of Ministers.

**Inscription on the agenda**

2. Cases shall be placed on the agenda without delay - (see present *rule 1* – this means, in practice, that the definitive judgment should be put on the agenda of the first HR meeting following the judgment being given, taking into account the time necessary (2-3 weeks) for the production and distribution in good time of the documents required for the Committee's examination. In urgent cases, this period of time can be shortened.

**Duty to inform the Committee of measures taken in compliance with the judgments**

3. After a judgment has been transmitted to the Committee of Ministers, the latter shall invite the state concerned to inform it of the measures that have been taken following the judgment, having regard to its obligation under Article 46, para.2, to abide by the judgment (*see present Rule 2 a*)

**Control intervals**

4. Until the state concerned has provided information on the payment of any just satisfaction awarded by the Court the case shall be placed on the agenda of each HR meeting of the Committee unless the Committee decides otherwise. The same rule shall apply with regard to information concerning any other measure, besides the payment of just satisfaction, which could in certain circumstances be required in order to erase the consequences of the violation for the individual applicant. A new rule of this type would only codify what is existing practice in the Committee of Ministers.

5. If the state concerned informs the Committee of Ministers that it is not yet in a position to inform it that all the necessary measures have been taken to ensure compliance with the judgment, and in particular, in order to avoid new similar violations, the case shall be automatically placed on the agenda of a meeting of the Committee of Ministers taking place no more than six months later, unless the Committee decides otherwise ; the same rule shall apply when this period expires and for each subsequent period (*present Rule 2 b*)

**Interim resolutions**

6. The Committee of Ministers may adopt interim resolutions when supervising the execution of the judgment in order to provide detailed information on progress made or to

give specific indications for its proper execution. A new rule of this type would only codify what is existing practice in the Committee of Ministers

### **Right to address the Committee of Ministers**

7. The Committee of Ministers is entitled to consider any communication from an individual who claims that he has not received any just satisfaction awarded by the Court under Article 41 of the Convention, as well as any other information furnished concerning the direct consequences of the violation(s) on his or her individual situation. Any such communication should therefore be brought to the attention of the Committee of Ministers (*see present footnote 1 to Rule 2 a*).

8. Other communications to the Committee of Ministers will be taken into consideration by the latter in if they provide relevant information for the supervision of the execution of the Court's judgment. A new rule of this type would only codify what is existing practice in the Committee of Ministers.

### **Publicity**

9. Reform of the publicity rules is urgent in order to ensure transparency in the Committee of Ministers' performance of its supervisory activities under the Convention, in accordance with the general logic of Protocol N° 11 (cf Article 40, para. 2, of the present European Convention on Human Rights) and the general information policy of the Council of Europe. In this regard, it could be considered to draw up a new rule emphasising that information provided to the Committee of Ministers and documents relating thereto shall be accessible to the public unless the Committee decides otherwise upon a reasoned request by the State or States concerned or in order to protect the legitimate interest of an applicant who does not wish to disclose his identity.

### **End of control**

10. The Committee of Ministers shall not regard its functions under Article 46, para. 2, as having been completed until it has concluded that the state concerned has taken all the necessary measures to abide by the judgment (*see present Rule 3*).

### **Sanctions**

11. In case a State has not executed a judgment of the Court within a reasonable time, the Committee shall denounce the situation in a resolution and take appropriate measures to ensure that the State respects its obligations under the Convention. If the situation persists, the matter shall be examined by the Committee of Ministers under the provisions of the Statute of the Council of Europe and in particular under Article 8. A new rule of this type would codify what is existing practice in the Committee of Ministers.

\* \* \*