



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

Strasbourg, 26 March 2002
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STEERING COMMITTEE FOR HUMAN RIGHTS
(CDDH)

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

51st meeting, 20-22 March 2002

REPORT

Introduction

1. The Committee of Experts for the Improvement of Procedures for the Protection of Human Rights (DH-PR) held its 51st meeting at the Human Rights Building in Strasbourg (Directorate Room), from 20-22 March 2002. The meeting was chaired by Mr Roeland BÖCKER (Netherlands). 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 improvement of the implementation of the Convention in law and in practice in member States (item 2 of the agenda). In this context, it in particular elaborated a draft recommendation 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](#) (item 2 (i) and [Appendix III](#));
 - (ii) started to work on several items resulting from the report of the Evaluation Group set up by [the Committee of Ministers](#) to examine ways and means of guaranteeing the effectiveness of the European Court of Human Rights (item 3 of the agenda);
 - (iii) prepared its contribution to the monitoring exercise confided to [the CDDH](#) by the Ministers' Deputies (item 4 of the agenda).

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

3. See introduction.

Item 2: Improving the implementation of the Convention in law and in practice in member States

4. Consideration of this item was part of the follow-up to the texts adopted at the [European Ministerial Conference on Human Rights](#) (Rome, 3-4 November 2000), and in particular of the wide terms of reference given to the DH-PR during the 51st meeting of CDDH (27 February – 1 March 2002) concerning the follow up to paragraph 14 of Resolution No. I of the Conference.
5. The DH-PR observed that following the 109th Ministerial Session (7-8 November 2001), the Ministers' Deputies, during their 773rd meeting (21 November 2001), requested the CDDH to accelerate its work in this field.
6. With this background, the DH-PR discussed in turn (i) the publication and dissemination of the Court's judgments; (ii) the existence of effective remedies at national level, including means of compensation for violations found by national authorities; (iii) systematic screening of the compatibility of draft legislation, regulations and administrative practice with the standards laid down in the Convention; (iv) reservations and declarations to the Convention; (v) signatures and ratifications of the Convention and its protocols, with a round-the-table discussion on Protocol no. 12 (non- discrimination).
7. It was suggested that the DH-PR's considerations on these various items could result in a draft "*recommendation of the Committee of Ministers on the improvement of the implementation of the Convention in their law and practice*". This text could be completed during the next meeting (September 2002), including, on the one hand, the draft

recommendation elaborated during the present meeting on item (i) below and, on the other hand, two other drafts based on the elements that would be elaborated during the next meeting on items (ii) and (iii) below.

8. While requesting the Secretariat to prepare a draft text along these lines for its next meeting, the DH-PR did not reach a formal decision, at this stage, on the final result. Therefore, it would take a final stand in September 2002 as to whether one recommendation containing all its ideas on items (i), (ii) and (iii) would be preferable or, on the contrary, a specific recommendation on (i) and other texts (comparative study, activity report, etc) for items (ii) and (iii).

9. The DH-PR observed that it is called upon to complete its work on these items during its next meeting (September 2002), in order to transmit its results to the CDDH for examination by the latter at its meeting in October 2002, ie. approximately two years after the Rome Conference.

(i) Publication and dissemination of the text of the Convention and of the case-law of the Court

10. Further to the decision taken at its 50th meeting (26-28 September 2001, [DH-PR \(2001\) 10](#), paragraph 29), the DH-PR began work on a future draft recommendation in this field. It took as its basis the points drafted by the Secretariat (document [DH-PR \(2002\) 4](#)), which were a revised version of those set out in Appendix IV to the report of the 50th meeting.

11. The DH-PR was of the opinion that the emphasis should be placed on those judgments, awareness of which was essential if the Convention was to be implemented satisfactorily at national level. This meant that each contracting state needed to ensure that the main judgments and decisions affecting its national system (more often than not requiring the adoption of general measures) and the judgments and decisions representing significant developments in the case-law of the Court (at least in the form of a summary) were published and disseminated in its national language. In particular, it was up to the Court to sift through its judgments and decisions and highlight in the way it deemed appropriate those which it felt were particularly important.

Exchange of views with the Head of the Publications and Information Unit of the Registry of the Court

12. Mr Stanley NAISMITH, Head of the Publications and Information Unit of the Registry of the Court, provided information with regard to the publication of the Court's judgments and decisions. He explained that there had been no major changes since the last exchange of views he had with the Committee on this subject in September last year (50th meeting, 26-28 September 2001, see document (2001) 10). The response of the Court to the need for rapid access to its judgments was to make them available on the Internet on the day of their delivery. Admissibility decisions were put on the Internet within a month of their adoption. The Court's information note was published a couple of weeks after the end of each month. An Internet tool would soon be put into place that would classify the Court's judgments depending on their degree of importance. There would be three categories: (i) important judgments selected for publication, (ii) other judgments and (iii) less important judgments in follow-up or repetitive cases. This classification would in principle be made immediately when the judgment was put on the Internet. As he had already mentioned an annual report on the Court's activities would be published containing an analytical overview of the judgments rendered.

13. As regards translation of the Court's judgments, Mr NAISMITH explained that the Court cannot undertake to translate all judgments into the two official languages and certainly not any judgments into other languages. The delay for publication of a paper version of the judgments was now two years which was unacceptably long. Efforts were being made to reduce this delay but rapid results were unlikely because of the backlog built up at the time of the creation of the new Court and the large number of judgments rendered every year.

14. Work on the elaboration of a CD-Rom containing the most important judgments was at an advanced stage.

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15. During this discussion and recalling Article 12 of the Statute of [the Council of Europe](#) according to which the official languages of the organisation were English and French, several experts underlined the necessity to maintain this principle in the work of the Court. Its workload should not result in a practice according to which judgments were only delivered in one of the two languages.

16. At the end of this examination, the DH-PR adopted the text of a draft recommendation as it appears in [Appendix III](#).

17. The DH-PR charged the Secretariat with the task of preparing the draft explanatory memorandum, in consultation with the Chair, before 15 May 2002 and to send it to experts for any comments that should be transmitted to the Secretariat before 31 May 2002. A version revised in the light of these comments would be examined by the DH-PR with a view to its adoption during its 52nd meeting (11-13 September 2002).

18. The DH-PR requested the CDDH to take note of the draft recommendation during its 53rd meeting (June 2002), but not to proceed with its adoption on this occasion, pending any decision the DH-PR would take in September 2002 on the subject of a possible more global recommendation (see paragraph 8 above). The CDDH could thus formally examine the result of the work of the DH-PR during its 54th meeting (October 2002) with a view to a possible adoption.

(ii) Existence of an effective remedy at national level, including means of compensation for violations found by national authorities

19. The Chair recalled that this was an item that the Committee had discussed previously and that in addition to the information provided during its 49th and 50th meetings, seven countries had submitted written contributions on the national situation (document [DH-PR \(2002\) 1](#)).

20. The DH-PR decided not to discuss this item at the present meeting because of its heavy workload. It granted delegations a new time-limit, 30 April 2002, for submitting further contributions and instructed the Secretariat to prepare a working document for its next meeting that could form the basis of a draft recommendation and covering all the information available.

(iii) Systematic screening of the compatibility of draft legislation and regulations, as well as of administrative practice, with the standards fixed by the Convention

21. The background to this agenda item is set out under section II of document DH-PR (2002) 2.
22. At its 50th meeting (26-28 September 2001, [DH-PR \(2001\) 10](#), paragraphs 15-17), the Committee of Experts had held an exchange of views on this topic. The work had been based primarily on a Secretariat questionnaire reproduced in Appendix I to document [DH-PR \(2002\) 2](#). Twenty-eight experts had returned the questionnaire and their replies are set out in Appendix II to DH-PR (2002) 2. The Secretariat had summarised the replies in table form, in a separate document, [DH-PR \(2002\) 2 Addendum](#). In addition, at the last meeting of the DH-PR, it had been noted that no member state had mentioned any intention of modifying its current system for verifying compatibility with the Convention. Accordingly, the DH-PR had felt it appropriate to instruct the Secretariat to analyse “recent cases establishing violations of the Convention in order to see to what extent the violations related to recently adopted legislation, old legislation or to the interpretation of the law.” The results of the Secretariat’s research in response to this request are to be found in table form in document DH-PR (2002) 2 Addendum.
23. The DH-PR looked at the Secretariat’s conclusions and suggestions set out under section I of document DH-PR (2002) 2.
24. A certain number of rectifications were decided to the tables contained in document DH-PR (2002) 2 Addendum, notably to reflect more clearly the fact that the inclusion of a case in the table of recent court judgments did not necessarily imply that the legislation referred to in the judgment had been criticized by the Court. In many cases it had only been the application of the legislation in the circumstances of the applicant’s case which had led to the violation of the Convention.
25. Experts noted with interest the different procedures adopted in order to ensure the conformity of draft legislation with the standards of the Convention. In particular the different practices in ensuring the government bills conformed with the Convention attracted considerable interest. Certain experts expressed, however, hesitations to issue a recommendation aiming the parliamentary part of the legislative process. One expert felt that this was totally excluded in view of the sovereignty of parliament. The absence of any reference to the control of administrative practices was noted.
26. The Secretariat explained that the conclusions and suggestions were based on the Resolution adopted at the Ministerial Conference in Rome (3-4 November 2000) which had addressed itself to the “Member States” and not exclusively to governments. At this stage, the Secretariat had not, however, distinguished between the governmental and parliamentary procedures. On the one hand, information submitted had been less rich in respect of the latter, and on the other there appeared to be great similarities as regards the main procedures used (consultations between ministries/parliamentary commissions; possibility to seize independent bodies for advice; possibility of external consultations). In view of this situation experts were encouraged to submit further information to the Secretariat, in particular with regard to the parliamentary procedures in force. The dead-line for submitting such information was fixed at [30 April 2002](#).
27. It was stressed that a possible recommendation should be very carefully worded so as to take into account the variety of constitutional traditions and not be too prescriptive. Some experts stressed that most of the rights and freedoms protected by the Convention were also protected by the national constitutions so that the control of compliance with the ECHR would in most countries be integrated into the control of the constitutionality of draft legislation.

28. It was agreed to await the more detailed analysis and proposals to be presented by the Secretariat for the next DH-PR meeting before taking a final decision on the advisability of preparing a draft recommendation. At this stage, it could not be excluded that other forms of presenting the results of the DH-PR's work would eventually constitute a more adequate follow-up to the resolution adopted by the Ministerial Conference in Rome (3-4 November 2000). One such possibility would be to publish a set of good practices.

29. Bearing this in mind, experts expressed their global approval of the list of interesting practices for inclusion in a possible draft recommendation, presented by the Secretariat in document [DH-PR \(2002\)2](#).

30. A number of more specific remarks regarding different points in the list were also made.

31. Consequently, as regards a possible recommendation that a special responsibility for ensuring the conformity of draft legislation with the Convention should be given to certain ministries, some experts considered it inappropriate to give examples, as was done in the Secretariat outline, of possible ministries: governments had to remain totally free in this choice. In addition, some experts questioned the inclusion of a reference to university education and to professional training. In response attention was drawn to the fact that several experts had justified the absence of special procedures by the quality of such education and training. The point was left open.

32. The experts entrusted the Secretariat with the task of revising the list for the next DH-PR meeting, taking into account the remarks made and possible further contributions.

(iv) Reservations and declarations to the Convention

33. The Secretariat informed the DH-PR that to the extent that the ad hoc Committee of Legal Advisers on Public International Law (CAHDI), did not regularly and systematically review the situation as to reservations and declarations to the Convention and its Protocols¹, the CDDH wished to give this task to the DH-PR, as well as that of examining regularly the state of ratification of these instruments. The Committee took note of document DH-PR (2002) 5 reflecting the present situation in this respect. The Secretariat informed it that this document would be updated for each of its meetings

34. The DH-PR, proceeded with a "tour de table", during which the United Kingdom expert informed it that his country had made a derogation under Article 15 of the Convention from Article 5, paragraph 1.

35. The DH-PR was informed that [Protocol No. 13](#) to the Convention concerning the abolition of the death penalty in all circumstances, had been adopted by the Committee of Ministers on 21 February 2002 and would be opened for signature on the occasion of the 110th Session of the Committee of Ministers (Vilnius, 2-3 May 2002).

(v) State of signature and ratification of the Protocols to the Convention

¹ The CAHDI had set up a European observatory of reservations to international treaties dealing with reservations to treaties negotiated both within and outside the Council of Europe. In this context it had drawn up a list of outstanding reservations and declarations to international treaties, which it was studying. CAHDI was also active in promoting awareness about the issues concerned and had entered into a dialogue with specific countries concerning reservations. Its priority was human rights treaties.

36. The DH-PR observed that since its previous meeting, Croatia had signed Protocol No. 12 to the Convention on 6 March 2002. It was recalled that the Protocol had now been signed by 27 member States, had also been ratified by Georgia on 15 June 2001. The Finnish and Italian delegations stated that the procedure for ratification of [Protocol No. 12](#) to the Convention had started in their countries and that ratification could be expected this year.

Item 3: Guaranteeing the effectiveness of the European Court of Human Rights

37. The DH-PR proceeded with a first consideration of ways and means of guaranteeing the effectiveness of the European Court of Human Rights in the light notably of the report by the Evaluation Group set up for this purpose by the Committee of Ministers² and bearing in mind the report of the 4th meeting of [the CDDH Reflection Group](#) (28 February – 1 March 2002, document [CDDH-GDR \(2002\) 5](#)). It took note of document [DH-PR \(2002\) 7](#), containing (i) the decisions of the Ministers' Deputies on the follow-up to the report and (ii) the Secretariat's suggestions for future work to be carried out by the DH-PR.

38. The DH-PR noted the Secretariat's suggestions set out in document DH-PR (2002) which took account of the need to observe the different and separate roles of the DH-PR and the CDDH's Reflection Group on the reinforcement of the human rights protection mechanism (CDDH-GDR). The roles of both bodies were distinct; that of the DH-PR was more technical, relating in particular to legal drafting, whereas the CDDH-GDR was intended to act as a think-tank for new ideas. The activities of the one could and should influence those of the other. It was therefore essential for the DH-PR meeting reports to be forwarded to the members of the CDDH-GDR, and vice-versa.

39. The DH-PR concurred with this approach and decided to consider, in turn: (i) the conclusion of friendly settlements before the Court; (ii) a possible protocol to the Convention stipulating that judges to the Court be elected for a single term of office; (iii) how "clone cases" should be dealt with; and (iv) the possibility of transferring certain matters of lesser importance, at present dealt with in the Convention, to a separate instrument which could be amended in accordance with a more straightforward procedure.

(i) Friendly settlements

(Possible Resolution/Recommendation encouraging Governments to conclude [friendly settlements](#) before the European Court of Human Rights (Chapter VIII, §62 of Evaluation Group report))

40. In order to evaluate the opportunity of a possible Resolution/Recommendation on this issue, the DH-PR first engaged in a general discussion on the present practice of friendly settlements.

41. The experts considered that friendly settlements were very useful from a number of different perspectives. They could notably serve the purpose of alleviating the workload of the Court as they provided a simple and expeditious procedure in order to handle specific types of applications, most importantly so called clone-cases. Some experts stressed, however, that it was always up to the discretion of the State and the applicant whether or not to accept friendly

² Evaluation Group tasked with studying possible means guaranteeing the effectiveness of the European Court of Human Rights. The Evaluation Group's report is available on the Committee of Ministers' website: <http://cm.coe.int/stat/E/Public/2001/rapporteur/clcedh/2001egcourt1.htm>. The report is also reproduced in document DH-PR (2002) 7 [addendum](#).

settlements and that the possible advantage to the Court was only one element of a more complex set of considerations.

42. Experts also stressed the limits of any attempt to rely more on friendly settlements and most importantly the necessity to obtain the consent of the applicant. The latter's claims were not infrequently of such unrealistic size that any friendly settlement was excluded. Some experts also noted that friendly settlements posed problems in cases of presumed violations of the Convention as they might delay the taking of necessary reparative action and did not furnish the international obligation sometimes necessary to overcome possible national resistances to such action.

43. Experts also pointed at the important role played by the Registry of the Court in providing impetus for friendly settlements and at the differences in practices between the Sections of the Court. Some experts also pointed at the importance of the preliminary opinions on the violation issue. Several experts considered that these elements should also be included in a possible recommendation. Other experts considered that this is a domain reserved to the Court itself.

44. The experts noted the recent practice of agreements before admissibility which allowed the Court to strike the cases out of the list through a mere decision, and the unsolved question of how to control compliance with undertakings contained in such agreements, which were not subjected, as ordinary friendly settlements, to the Committee of Ministers' execution control. A number of experts considered that these cases were not friendly settlements in the sense of the Convention and were thus not concerned by the present request for an opinion from the DH-PR.

45. After this exchange of views most experts expressed hesitations as regards a recommendation to the member States. Possible alternatives such as a collection of good practices to be included as an appendix to the meeting report were mentioned. Some experts noted that the relevant Convention Articles and Rules of Court already provided considerable guidance.

46. However, the issue of a possible recommendation stays open. The experts would continue the examination of the matter at the next meeting notably in the light of possible further comments by experts to be submitted in writing before 31 May 2002.

47. It was also decided to invite the Registrar of the Court to the next meeting of the DH-PR for an exchange of views on the issue.

(ii) Election of judges

(Possible protocol to the Convention providing for the election of the judges of the Court for a single, fixed term of not less than nine years, without possibility of re-election (Chapter XI, § 20 (b) of Evaluation Group report)

(iii) Clone cases

(Treatment of "clone cases" ([CDDH-GDR \(2001\) 10](#), Activity report, Part A (i and ii), and Report [DH-PR \(2001\) 10](#), § 14))

(iv) Treatment of certain matters of lesser importance

(Possibility to transfer certain matters of lesser importance now dealt with in the ECHR to a separate instrument capable of amendment by a simpler procedure (Chapter XI, § 20 (c) of Evaluation Group report))

48. Due to a lack of time the examination of these items had to be postponed until the Committee's next meeting (11-13 September 2002). It decided, however, that the items would be prepared by a working group that would meet on 13-14 June 2002. It would be an open-ended working group, but the budget of the Council of Europe could only meet the travel and subsistence expenses of seven members (Croatia, the Czech Republic, Finland, France, Greece (Chair), Sweden and Turkey). The results of the reflection of the group would be sent to the Committee in time to prepare for the September meeting.

Follow-up of the work

49. In addition to the above-mentioned issues which the DH-PR will come back to in its next meeting, it took note of the other proposals contained in document [DH-PR \(2002\) 7](#). These suggest that the DH-PR, at the appropriate moment, might follow-up the activities carried out by the CDDH-GDR concerning:

- the feasibility of the means of reinforcing interaction between the European Court of Human Rights and national courts (cf. Deputies' decision, §5). Study the conclusions of the CDDH-GDR. Time-limit: 31 October 2002;
- the most appropriate way to conduct the preliminary examination of applications. Study the conclusions of the CDDH-GDR. An interim report is to be submitted before 31 October 2002. If the report concludes that a reform is feasible: examine and submit proposals for amendments of the European Convention on Human Rights (Time-limit 31 July 2003);
- a study of the admissibility criteria (empower the Court to decline to examine in detail applications raising no substantial issue under the Convention) and, in parallel, a study of a system for referral back to the national authorities (devise a mechanism whereby certain applications might be remitted back to the domestic authorities) (cf. conclusion 20 a of the Evaluation group).

50. The DH-PR made known its availability to the CDDH to decide in favour of this proposal, if the CDDH would find it suitable. It observed that the forthcoming meetings of the DH-PR and the CDDH-GDR and the CDDH are to be held as follows:

- 5th meeting of the CDDH-GDR : 22 – 24 May 2002
- Working Group of DH-PR : 13-14 June 2002
- 53rd meeting of the CDDH: 25 – 28 June 2002
- [- Seminar of the CDDH-GDR : 9-10 September 2002]
- 52nd meeting of the DH-PR : 11 – 13 September 2002
- 54th meeting of the CDDH: 1 – 4 October 2002

51. It was considered that if the CDDH decided in June 2002 to give the DH-PR the task of following up the proposals formulated by the Reflection Group, it should use part of its meeting in September 2002 for the practical organisation of its work (including the making of proposals for the creation of specific working groups) and in order to decide which would be the aims to attain.

Item 4: Contribution to the monitoring exercise on the functioning of the judicial system

(i) Fairness of prosecution proceedings in member States

52. It is recalled that the Ministers' Deputies have given the CDDH terms of reference to examine, before 31 December 2002, and in the light of the case-law of the Court, the situation prevailing in member States as regards the fairness of prosecution proceedings. The aim would be to make proposals to the Committee of Ministers on this issue.

53. At its last meeting the DH-PR, instructed the Secretariat to prepare a document outlining the state of the case-law of the European Court of Human Rights on the subject and, as far as possible, the action taken on ECHR judgments by the states in question. It also instructed the Secretariat to draw up a list of the various relevant situations existing. Account should also be taken of work in hand in the Monitoring Service of the Council of Europe's Directorate of Strategic Planning. Document (2002)8 rev contains an overview of the Court's case-law and indications on action taken by member States on the judgments in question. The case-law has been sorted in a manner that could be the beginning of a list of situations.³

54. The DH-PR held a brief discussion on what could be included in the possible suggestions the CDDH could send to the Committee of Ministers.⁴ Following this discussion, it considered it necessary that the Secretariat prepare a short questionnaire on the national situations to be transmitted to the experts of the DH-PR.⁵ Their contributions should reach the Secretariat before 15 June 2002.

(ii) Court proceedings before military courts in member States

55. At its last meeting the DH-PR decided that experts should inform the Committee about their national situation. National contributions have been received from Austria, Belgium, Croatia, the Czech Republic, and France. Three of these countries have replied that there are no military courts – and one that the legislation providing for military courts will be repealed (see information contained in documents [DH-PR \(2002\) 9](#) and [Addenda I and II](#)).

56. The DH-PR observed that there were judgments of the Court that applied to military courts. These could form a basis for suggestions to be made by the CDDH to the Committee of Ministers. However, these were rather general in character and related in particular to various aspects of the right to a fair trial.

57. It charged the Secretariat with providing draft suggestions for its next meeting based on the Court's case-law and on the national contributions received from experts before 15 June 2002.

Item 5: Exchange of views on the Committee of Ministers' reply to [Recommendation 1477 \(2000\)](#) of the Parliamentary Assembly concerning the execution of judgments of the European Court of Human Rights

³ The work of the Monitoring Service is referred to in two appendices. Although there was no decision on national contributions, the Former Yugoslav Republic of Macedonia, has submitted a contribution, which is appended.

⁴ In this context the DH-PR referred to the guiding principle in the conclusions adopted by the participants at a Regional Conference on Guiding Principles in the Field of Justice organised by the Council of Europe in Athens (27-28 January 2000). According to the Conference's principle XVII: "*The arbitrary use of executive or judicial power to prosecute or punish a person or to allow a person to escape without prosecution or punishment (impunity) should not be permitted.*"

⁵ The questionnaire could cover such issues as the obligation to take action of the prosecution service, unfair discriminatory prosecution and equality of arms/fair trial.]

58. The text of the Recommendation, the opinion of the CDDH and the Committee of Minister's reply to the Parliamentary Assembly are contained in document (2001) 3. The DH-PR was informed about the fact that the opinion of the CDDH was in essential parts identical to the text provided by the DH-PR. On the basis of that opinion the Committee of Ministers had transmitted a reply to the Parliamentary Assembly on 9 January 2002. The Assembly had then adopted a new Resolution and Recommendation on the execution of judgments on 22 January 2002⁶ to which the Committee of Ministers had replied on 6 February 2002.

Item 6: Election of the vice-chair of the DH-PR

59. According to the relevant provisions of article 17 of appendix 2 to [Resolution \(76\) 3](#) on Committee structures, terms of reference and working methods, Mr Linos-Alexander SICILIANOS (Greece) was re-elected unanimously as vice-president of the DH-PR for one year, starting on 1st January 2002. This term of office cannot be renewed.

Item 7: Other business

Observers

60. The DH-PR recalled the principle according to which observers participating in its meetings are only those that have received such a status following a formal decision by the CDDH approved by the Committee of Ministers.

Tours de table

61. The two "tours de table" (on (i) the implementation of [Recommendation n° R \(2000\) 2](#) and (ii) the revised Rules for the supervision of the execution of the Court's judgments) provided on this point of the agenda were postponed until the next meeting due to lack of time (see below, item 8).

Item 8: Items to be placed on the agenda of the next meeting

62. The DH-PR decided to place in particular the following items on the agenda of its next meeting:

1. Improvement of the implementation of the Convention in the law and practice of the member States

(i) Draft explanatory memorandum to the draft recommendation 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 the Publication and dissemination of the Court's judgments

(ii) Existence of an effective remedy at national level, including means of compensation for violations found by national authorities

(iii) Systematic screening of the compatibility of draft legislation and regulations, as well as of administrative practice, with the standards fixed by the Convention

2. Guaranteeing the effectiveness of the European Court of Human Rights

⁶ [Recommendation 1546 \(2002\)](#) and [Resolution 1268 \(2002\)](#) - on the implementation of decisions of the European Court of Human Rights.

(i) *Friendly settlements*

(ii) *Election of judges*

(iii) *Clone cases*

(iv) **Treatment of certain matters of lesser importance**

3. Possible contribution to the monitoring exercise on the functioning of the judicial system

(i) *Fairness of prosecution proceedings in member States*

(ii) *Court proceedings before military courts in member States*

4. Tours de table (subject to the time available)

(i) « *Tour de table* » *on the implementation of Recommendation n° R (2000) 2 of the Committee of Ministers to member States concerning the re-examination or re-opening of certain cases at the domestic level following judgments of the European Court of Human Rights*

(ii) *Exchange of views on recent developments concerning the application of the revised Rules (January 2001) of the Committee of Ministers for the supervision of the execution of the judgments of the Court*

63. A reminder of the various contributions expected from experts for the preparation of the next meeting is contained in Appendix IV.

Item 9: **Dates of the next meetings**

64. Subject to a favourable decision of the Bureau of the CDDH, the DH-PR decided that the Working Group created to prepare the 52nd meeting would meet on Thursday 13 and Friday 14 June 2002 (the work would end at 6 pm in the afternoon).

65. The DH-PR decided to hold its 52nd meeting from Wednesday 11 to Friday 13 September 2002.

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Appendix I**LIST OF PARTICIPANTS / LISTE DE PARTICIPANTS****ALBANIA / ALBANIE**

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* * *

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Apologised /Excusé

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* * *

Interpreters/Interprètes

Mme Nadine KIEFFER

Mr William VALK

* * *

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

Revised Draft agenda

[DH-PR \(2002\) OJ 1 rev.](#)

Report of the 50th meeting of the DH-PR (26-28 September 2001)

[DH-PR \(2001\) 10](#)

Report of the 52nd meeting of the CDDH (6-9 November 2001)

[CDDH \(2001\) 35](#)

Item 2: Improving the implementation of the Convention in law and in practice in member States**(i) Publication and dissemination of the text of the European Convention on Human Rights and of the case-law of the European Court of Human Rights**

Background information

[DH-PR \(2002\) 3](#)

Draft recommendation and explanatory memorandum elaborated by the Secretariat

[DH-PR \(2002\) 4](#)

(for memo) Rules of procedure of the European Court of Human Rights

(ii) Existence of an effective remedy at national level, including means of compensation for violations found by national authorities

Secretariat memorandum

[DH-PR \(2002\) 1](#)

(iii) Systematic screening of the compatibility of draft legislation and regulations, as well as of administrative practice, with the standards fixed by the Convention

Secretariat memorandum

[DH-PR \(2002\) 2](#)

(iv) Reservations and declarations to the Convention_(subject to the time available)

Secretariat memorandum

DH-PR (2002) 5

(v) State of signature and ratification of the Protocols to the Convention (subject to the time available)

Secretariat memorandum

DH-PR (2002) 5

Item 3: Guaranteeing the effectiveness of the European Court of Human Rights

Report of the 4th meeting of the Reflection group of the CDDH
CDDH-GDR (27 February – 1 March 2002)

[CDDH-GDR \(2002\) 5](#)

Secretariat memorandum

[DH-PR \(2002\) 7](#)

- (i) **Friendly settlements**
- (ii) **Election of the judges of the Court**
- (iii) **Clone cases**
- (iv) **Treatment of certain matters of lesser importance**

Follow-up of the work

Item 4: Contribution to the monitoring exercise on the functioning of the judicial system

- (i) **Fairness of prosecution proceedings in member States**

Overview of the case-law of the Court and the follow-up by the States concerned

[DH-PR \(2002\) 8](#)

- (ii) **Court proceedings before military courts in member States**

National information

[DH-PR \(2002\) 9](#)

Item 5: Exchange of views on the Committee of Ministers' reply to Recommendation 1477 (2000) of the Parliamentary Assembly concerning the execution of judgments of the European Court of Human Rights**Item 6: Election of the vice-chair of the DH-PR****Item 7: Other business**

- (i) (subject to the time available) «Tour de table» on the implementation of Recommendation n° R (2000) 2 of the Committee of Ministers to member States concerning the re-examination or re-opening of certain cases at the domestic level following judgments of the European Court of Human Rights

- Text of the Recommendation and the Explanatory Memorandum

- (ii) (subject to the time available) Exchange of views on recent developments concerning the application of the revised Rules (January 2001) of the Committee of Ministers for the supervision of the execution of the judgments of the Court

- Rules adopted in January 2001 by the Ministers' Deputies for the application of Article 46, paragraph 2 of the Convention

Item 8: **Items to be placed on the agenda of the next meeting**

Item 9: **Dates of the next meetings**

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Appendix III

**Draft Recommendation of the Committee of Ministers
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**

prepared by the DH-PR at its 51st meeting , 20-22 March 2002

The Committee of Ministers, in accordance with Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and facilitating their economic and social progress ;

Considering the importance of the European Convention on Human Rights and Fundamental Freedoms (“the Convention”) as a constitutional instrument for the European public order, including the case-law of the European Court of Human Rights (“the Court”) ;

Considering that easy access to the Court’s case-law is essential for the effective implementation of the Convention at national level, in particular to ensure the conformity of national decisions with this case-law and to prevent violations;

Considering the respective practices of the Court, of the Committee of Ministers in the framework of its control of the execution of the Court’s judgments and of the member States with respect to publication and dissemination of the Court’s case-law;

Considering that member States have been encouraged at the European Ministerial Conference on Human Rights (Rome, 3-4 November 2000) to “*ensure that the text of the Convention is translated and widely disseminated to national authorities, notably the courts, and that the developments in the case-law of the Court are sufficiently accessible in the language(s) of the country;*”⁷

Taking into account the diversity of traditions and practice in the member States as regards the publication and dissemination of judicial decisions;

Recalling Article 12 of the Statute of the Council of Europe according to which the official languages of the organisation are English and French,

INVITES

the Court to review its practice on publication and dissemination of its judgments and decisions;

the member States to review:

⁷ Resolution I “Institutional and functional implementation of the protection of human rights at national and European levels”, part A, paragraph 14 iii.

- (i) their practice on publication and dissemination of the text of the Convention in the language(s) of the country ;
- (ii) their practice on publication and dissemination of the Court's judgments and decisions,

in the light of the following considerations.

* * *

(a) *The importance attaching to the Court:*

- (i) making immediately available its judgments and decisions in an electronic database on the Internet;
- (ii) making rapidly accessible, in both paper and electronic form (CD-Rom, DVD, etc.), its judgments, important decisions on admissibility and information notes on case-law;
- (iii) indicating rapidly and in an appropriate manner, in particular in its electronic database, the judgments and decisions which constitute significant developments of its case law;

(b) *The importance attaching to the member States rapidly :*

- (i) ensuring that the text of the Convention, in translation into 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, notably the courts, can apply it;
- (ii) ensuring that, whether as a result of private or state initiatives, judgments and decisions which constitute relevant case-law developments, or which require special implementation measures on their part as respondent States, are widely published, in their entirety or at least in the form of substantial summaries or excerpts (together with adequate references to the original texts) in the language(s) of the country, in particular in official gazettes, Internet sites, information notes from competent ministries, law journals and other media commonly used by the legal community;
- (iii) encouraging where necessary the production of text books and other publications in the language(s) of the country facilitating knowledge of the Convention system and the main case-law of the Court with a view to ensuring that such works are regularly published and sufficiently accessible, in paper and / or electronic form;
- (iv) publicising the Internet address of the Court's site (<http://www.echr.coe.int>), notably by ensuring that links to this site exist in the national sites commonly used for legal research;
- (v) ensuring that the judiciary has copies of relevant case-law in paper and / or electronic form (CD-Rom, DVD, etc.), or the necessary equipment to access to this case-law through the Internet;
- (vi) ensuring, where necessary, rapid dissemination to public bodies such as courts, police authorities, prison administrations or social authorities, as well as, where appropriate, to private bodies such as bar associations, professional associations etc.), of those judgments and decisions which may be of specific relevance for their activities, where appropriate together with an explanatory note or a circular;

(vii) ensuring that the domestic authorities or other bodies directly involved in a certain case are rapidly informed of the Court's judgment or decision, e.g. by receiving copies thereof.

(viii) considering the possibility to co-operate with a view to including, in a common database, all Court judgments or decisions available in the same non-official language of the Council of Europe.

* * *

Appendix IV

Contribution expected from experts

(to be sent by e-mail to Mrs Ulrika FLODIN-JANSON)

Before **30 April 2002**

- Existence of an effective remedy at national level, including means of compensation for violations found by national authorities : Further contributions (§ 20).
- **Systematic screening of the compatibility of draft legislation and regulations, as well as of administrative practice, with the standards fixed by the Convention: Further information, concerning in particular parliamentary procedures in force (§ 26).**

Before **31 May 2002**

- Draft recommendation (publication and dissemination of the text of the Convention and the Court's case-law): Comments on draft explanatory memorandum (§ 17).
- **National experiences on friendly settlements before the European Court of Human Rights: Further written comments (§ 46).**

Before **15 June 2002**

- **"Monitoring" on the fairness of prosecution proceedings in member States: Responses to a questionnaire with a view to setting up a list of national situations (§ 54).**
- **"Monitoring" on Court proceedings before military courts in member States: National contributions (§ 57).**

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