



Strasbourg, 24 September 2004  
DH-PR(2004)008

STEERING COMMITTEE FOR HUMAN RIGHTS  
(CDDH)

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

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**REPORT**

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56th meeting, 8-10 September 2004

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## **Introduction**

1. The Committee of Experts for the Improvement of Procedures for the Protection of Human Rights (DH-PR) held its 56<sup>th</sup> meeting at Strasbourg, on 8-10 September 2004. The meeting was chaired by Mr Linos-Alexander SICILIANOS (Greece). The list of participants appears in [Appendix I](#). The agenda, as adopted, appears in [Appendix II](#).
2. During the present meeting, the DH-PR in particular:
  - i. started its work on the follow-up of the implementation of five recommendations quoted in the Declaration “Ensuring the effectiveness of the implementation of the [European Convention on Human Rights](#) at national and European level”;
  - ii. examined, following the adoption of [Protocol No.14](#) to the Convention, the possible additions/adjustments to the Rules adopted by [the Committee of Ministers](#) for the application of Article 46 §2 of the European Convention, and made suggestions for possible consideration by its Working Group GT-DH-PR (Appendix III);
  - iii. examined issues with regard to: (a) the rapid execution of judgments revealing a systemic problem; (b) the publicity during the execution process; (c) the possible action of [the Parliamentary Assembly](#) in the process;
  - iv. held a tour de table on the perspectives of signatures and ratifications of Protocol No 14 to the Convention (Appendix IV)

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

3. See the introduction.

## **Item 2: Implementation of the texts adopted at the 114th Session of the Committee of Ministers**

### ***Implementation of the European Convention on Human Rights at national level***

4. The DH-PR noted that, at their 114th session (12-13 May 2004), the Ministers had instructed their Deputies to undertake a review, on a regular and transparent basis, of the implementation of the recommendations mentioned in the Declaration “*Ensuring the effectiveness of the implementation of the European Convention on Human Rights at national and European levels*”, namely the following five recommendations:
  - i. [Recommendation Rec\(2000\)2](#) on the re-examination or reopening of certain cases at domestic level following judgments of [the European Court of Human Rights](#);
  - ii. [Recommendation Rec\(2002\)13](#) 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;
  - iii. [Recommendation Rec\(2004\)4](#) on the European Convention on Human Rights in university education and professional training;

iv. [Recommendation Rec\(2004\)5](#) on the verification of the compatibility of draft laws, existing laws and administrative practice with the standards laid down in the European Convention on Human Rights;

v. [Recommendation Rec\(2004\)6](#) on the improvement of domestic remedies.

5. At their 886th meeting (3 June 2004), the Ministers' Deputies had issued ad-hoc terms of reference to the CDDH (see [CDDH\(2004\)019](#)) instructing it to submit regular progress reports on implementation of these recommendations "so as to enable the Deputies to undertake an effective, transparent review of their implementation". These terms of reference would expire on 31 May 2006. As the CDDH had assigned responsibility for activities in this area to the DH-PR, the latter discussed the methodology to be applied for drawing up these progress reports.

6. The DH-PR considered it necessary to maintain a global approach to the five recommendations, which present evident interconnections, and the implementation of which is crucial in order to achieve the aim of reinforcing the efficiency of the Convention at the domestic level and of alleviating the workload of the Court.

7. At the present meeting, the DH-PR held a general exchange of views on the five recommendations. It considered it preferable to limit itself, until its next meeting in April 2005, to the follow-up of the first three recommendations. It considered that the follow-up of the two last recommendations could be carried out in a better way after the two seminars (Norwegian and Polish) scheduled for 2004 and 2005 (see point 3 of the agenda).

8. The discussion was based on suggestions prepared by the Secretariat ([DH-PR \(2004\)004](#)). During the general exchange of views, the DH-PR noted that, for the five recommendations:

a) The exercise had to be efficient, flexible and transparent, without the establishment of monitoring machinery. The aim was in particular to identify good practices in the implementation of the recommendations at national level, without engaging in an exercise of country-by-country criticism. The practices which the DH-PR deemed to be most appropriate could be presented, without indication of the relevant countries, as useful models for other states. This would not prevent the DH-PR, when identifying good practices, from highlighting in a general manner such or such shortcoming or from underlining the interest of setting-up such or such practice.

b) For the purpose of the exercise, it was first necessary to supplement available national information by updating that already included in relatively recent Secretariat documents (information collected during the preparation of the recommendations) and to identify those practices which it might be worth to signal as a "*good practices*". To these ends, the Secretariat was invited to circulate available information among the experts. Apart from states themselves, the DH-PR believed that national institutions for the protection and promotion of human rights could play a very useful role regarding the collection of information. The final conclusions would be made by the DH-PR in the draft

progress report. The role of NGOs was also underlined in this connection, further to the Deputies' decision no 8 (see [CDDH \(2004\)019](#))<sup>1</sup>.

c) The DH-PR agreed that there was a need for member states whose language was not one of the Council of Europe's two official languages to translate the five recommendations (without the appendices) into their national language(s). That was in line with the Deputies' decision no 7. The DH-PR agreed to discuss the state of translation of the five recommendations at its meeting in April 2005. It was pointed out that the texts of the recommendations were set out in document [CDDH \(2004\)015](#).

d) In addition, the DH-PR noted that it would be most useful for it to be able to examine good practices in terms of the dissemination of the recommendations at national level, including among lower-level authorities and courts. It could set out such good practices in the draft progress report. To this end, it was proposed to hold a "tour de table" on progress achieved in April 2005.

9. At the end of this examination, the DH-PR agreed to take the necessary action to enable it to adopt a draft progress report in April 2005 concerning in particular the first three [Recommendations \(\(2000\)2](#), [\(2002\)13](#) and [\(2004\)4](#)).

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10. As regards the more precise questions raised at this stage with respect to the follow-up of the five recommendations, the following points were noted.

*Recommendation Rec(2000)2 on the re-examination or reopening of certain cases at domestic level following judgments of the European Court of Human Rights*

11. The DH-PR welcomed the progress achieved in many member states following the recommendation and noted that the possibility of reopening proceedings was now widespread in criminal cases and that significant advances had been made in civil and administrative cases. Nevertheless, it would be necessary to examine in greater detail the way in which the reopening of cases was implemented at national level and any relevant good practices.

12. The DH-PR took note of the information contained in Secretariat document DH-PR(2004)007. The experts were invited to send the Secretariat any additional information to the document, as well as any comments they might have on the existence of good practices which regard to the implementation of the recommendation which they wished to highlight. The representatives of the national institutions and NGOs were also invited to send information. Contributions should reach the Secretariat by 15 December 2004.

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<sup>1</sup> The Deputies agreed to transmit these texts to the Parliamentary Assembly, the Council of Europe Commissioner for Human Rights, national institutions for the promotion and protection of human rights and the relevant non-governmental organisations, encouraging them "to facilitate their dissemination and implementation as far as possible, within their respective fields of competence."

*[Recommendation Rec\(2002\)13](#) 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*

13. The DH-PR noted the wide range of national approaches in this area. It believed that, regardless of the source (private/public) of the publication and dissemination of the texts and judgments at national level, it was important for the authorities in the member states, to which the recommendation was addressed, to ensure that the courts and authorities, including those of a lower level, were sufficiently familiar with the texts and judgments and that they were effectively publicised.

14. The question of finding ways of facilitating the very involved and costly task of translating the case-law into member states' languages was raised. While noting with satisfaction that the Court sought to indicate the judgments and decisions which it believed to be most relevant, several experts believed that the member states' task would be facilitated if the Court extended this practice to the press releases and if it indicated, by means of a regular publication (2 or 3 times a year, for instance in electronic form), the excerpts from judgments which it believed might be of importance to all states.

15. The DH-PR agreed that the Secretariat would send the Committee members (including observers) the consolidated document DH-PR(2004)009 containing national information already gathered during the preparation of the recommendation and on this occasion would ask them to indicate examples of good national practices relating to the publication and dissemination. They would be asked to send their replies and any additional information / corrections which they deemed appropriate to the Secretariat by 15 December 2004.

*[Recommendation Rec\(2004\)4](#) on the European Convention on Human Rights in university education and professional training*

16. The DH-PR agreed that the Secretariat would send the Committee members (including observers) the consolidated document DH-PR(2004)010 containing national information already gathered during the preparation of the recommendation and, on this occasion, would ask them to indicate examples of good national practices relating to the university education and professional training. They would be asked to send their replies and any additional information / corrections which they deemed appropriate to the Secretariat by 15 December 2004.

*[Recommendation Rec\(2004\)5](#) on the verification of the compatibility of draft laws, existing laws and administrative practice with the standards laid down in the European Convention on Human Rights*

17. Even though the DH-PR would not decide on the methodology for assessing follow-up to this recommendation until April 2005, it believed that it would be possible at this stage for the experts to check, complete or rectify, if necessary, information contained in the document DH-PR(2004)011 which was gathered during the preparation of the recommendation. The Secretariat was asked to take the necessary steps to send the documents to the members of the committee (and to the observers) experts and ask them to reply in time for April 2005.

*Recommendation Rec(2004)6 on the improvement of domestic remedies*

18. The DH-PR took note with interest of a seminar held by the Romanian authorities in Bucharest in July 2004 on domestic remedies and the excessive length of proceedings. It believed that the conclusions of the seminar would make a most useful contribution to the preparation of the seminar due to be held in Strasbourg in April 2005 under the Polish Chairmanship of the Council of Europe (see item 3 below).

19. The DH-PR agreed that the Secretariat would send the Committee members (including observers) document DH-PR(2004)012 containing national information already gathered during the preparation of the recommendation and, on this occasion, would ask them to indicate examples of good national practices in time for April 2005.

***Reinforcing the long-term effectiveness of the Court and execution of judgments***

*General exchange of views with the Registry of the Court and the Secretariat of the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly*

20. The experts held a general exchange of views with Mr Michael O'BOYLE, Section Registrar and Mrs Renata DEGENER, as well as with Mr Günter SCHIRMER, Secretary to the Assembly's Committee on Legal Affairs and Human Rights.

21. During the debate, the following points were highlighted as far as the "pilot" judgment practice was concerned:

- no special procedure had been applied vis à vis the parties in the "Broniowski" case, but the Government had been put on notice of the Court's intentions vis à vis the general measures problem in the course of the pleadings (it was pointed out that the Court's approach was not new but a development of earlier case-law);
- it would be of interest for the Court to have the views of the experts as to the different questions linked with the implementation of the "pilot" judgments of the "Broniowski" type, notably regarding the procedure before the Court in such cases;
- when the Court intends to deliver a pilot judgment, it would be desirable that it notifies it to the State concerned in an appropriate manner;
- also the Deputies had under the Norwegian Chairmanship adopted measures in order to speed the execution of appropriate cases, including those revealing systemic problems in the form of more efficient working methods, and the relevant documents would soon be available to the public; further reflections on the measures to be taken notably in response to cases of delay and negligence would also soon be published;
- it was acknowledged, however, that further efforts appeared necessary at the level of the Deputies and that these could be reflected in the form of improvements also of the Rules adopted for the control of execution.

22. As regards associating the Assembly more closely with the execution process, the following points were made:

- there was general acknowledgment of the fact that the Assembly's assistance (recommendations, questions, actions by the presidency, rapporteur's or national delegations) in ensuring execution in certain problematic cases had proven of great importance, and that in particular the potential of the national delegations ought to be further investigated;
- the proposals contained in document [DH-PR\(2004\)006](#) were found interesting and it was pointed out that these would be submitted to the Committee for Legal Affairs and Human Rights within the near future;
- it was pointed out that the special concern regarding replies to recommendations and questions had in part recently been alleviated as it had been accepted under the Netherlands' Chair that in case several diverging opinions in the Committee prevented a pertinent consensus answer, the Chair could reply stating the different positions taken;
- despite its clear interest in having rapid and efficient execution of Court judgments it was unlikely that the Assembly would wish to institutionalise its links with the Committee of Ministers; it would rather concentrate its efforts to appropriate cases or situations.

*Rapid execution of judgments revealing systemic problems, improved publicity of the execution process and improved association of the Parliamentary Assembly to the execution process*

23. The important interconnection between rapid execution of judgments revealing systemic problems, improved publicity of the execution process and improved association of the Parliamentary Assembly was underlined. Also the important links with the different recommendations adopted by the Committee of Ministers as part of its efforts to guarantee the long-term effectiveness of the Convention system were emphasised.

24. It was also stressed that the efforts undertaken to improve the handling of judgments revealing systemic problems must not be at the detriment of the priority to be given to the execution also of judgments involving grave consequences for the applicant him- or herself as a result of the violations of the Convention.

25. The general approach and proposals contained in document DH-PR(2004)006 were accepted by the experts as a good basis for their examination of these problems. The differences in importance between different judgments as well as the differences in national practices and legal situations were highlighted and the ensuing need to combine efficiency with flexibility and transparency stressed.

26. It was agreed that the result of the examination could take the form both of proposals for formal amendments to the Rules of the Committee of Ministers and of a special report with suggestions as to other improvements not requiring such formal changes. It was not excluded that, during this exercise, some views could be expressed on problems which could be resolved by amendments to the Rules of the Court.

*Suggestions regarding a possible revision of the Rules adopted by the Committee of Ministers for the application of Article 46 § 2 of the ECHR*

27. The experts examined possible revisions of the Rules adopted by the Committee of Ministers for the application of Article 46 § 2 of the ECHR on the basis of document [DH-PR\(2004\)005](#). At the end of the first general exchange of views, they identified a series of issues which should be further examined before taking decision as to future work. These issues appear in Appendix III.

28. With a view to examining more in-depth the issue mentioned in paragraphs 23 to 27 above, the DH-PR decided to set up a Working Group (GT-DH-PR). Its terms of reference concern three items:

i. Following the adoption of [Protocol No.14](#), the GT-DH-PR should give priority to the elaboration of specific proposals concerning the possible revision of the Rules adopted by the Committee of Ministers on the application of Article 46 §2 of the Convention, in the light of the new Article 46 of the Convention. To this aim, and as a starting point, the GT-DH-PR was invited to examine the suggestions of the DH-PR as they appear in the Appendix III to this document;

ii. The GT-DH-PR was also invited to look further into the questions relating to the rapid execution of judgments which reveal systemic problems, to the improvement of the publicity of the process of execution and to the closer association of the Parliamentary Assembly to this process. In this context, it was invited to examine whether these questions require amendments of the current Rules of the Committee of Ministers and, if necessary, to make drafting proposals;

iii. The GT-DH-PR was invited to outline suggestions on other possible improvements (for example concerning working methods) likely to contribute to improving supervision of the execution of judgments and to accelerating this execution.

29. The DH-PR hoped to be able to examine at its next meeting (April 2005) the proposals of the Working Group, if possible on the three items indicated in paragraph 28 above and, at least, on the item (i).

30. It was decided that the cost of the participation in the Working Group of the following members States would be borne by the Organization: Austria (Ms Ingrid SIESS-SCHERZ, Chair), France (Mr Gilles DUTERTRE), Italy (Mr Mario REMUS), Netherlands (Mr Roeland BÖCKER), Turkey (Ms Deniz AKCAY) and United Kingdom (Mr John GRAINGER). Experts of other States could take part in it, the costs of their participation being borne by their authorities.

**Item 3: Information about current work**

*State of preparation of the seminar which will be organised on the initiative of the Norwegian authorities (Oslo, 18 October 2004)*

31. The DH-PR noted that the Norwegian Ministry of Foreign Affairs was organising, with the assistance of the Council of Europe, a high level seminar relating to the reform of the European Human Rights protection system. It will be held in Oslo on

18 October 2004. The President of the European Court of Human Rights, Mr Luzius WILDHABER, the Director General of Human Rights, Mr Pierre-Henri IMBERT, the Norwegian Minister of Foreign Affairs, Mr. Jan PETERSEN, experts from different member States, as well as representatives of NGOs will take part to this event. The programme will include the key elements of the reform (Protocol No.14, Declaration of the Committee of Ministers, Recommendations and Resolution).

***State of preparation of the seminar which will be organised on the initiative of the Polish authorities on the occasion of the next DH-PR meeting***

32. The DH-PR noted that the Polish Ministry of Justice was organising, with the assistance of the Council of Europe, a high level seminar relating in particular to the question of effective remedies. It will be held in Strasbourg on the occasion of the next DH-PR meeting in April 2005 and will be structured around three working sessions over one day and a half. It was notably envisaged to examine the question of the introduction of an effective remedy in case of unreasonable length of proceedings in view of Articles 5 and 6 of the Convention as well as, in this context, the implications for the member States of the Council of Europe of the “*Kudła v. Poland*” judgment.

**Item 4: *Tour de table on the perspectives of signatures and ratifications of Protocol No 14 to the Convention***

33. The DH-PR noted that, at 9 September 2004, twenty States had signed Protocol No.14. A *tour de table* showed that many States already translated the instrument in their respective languages and that the signature of the Protocol would be taking place in the near future. As for the ratification, many States announced that it would taking place before the end of 2004 or during the first half of 2005. A table reflecting the *tour de table* appears in Appendix IV.

**Item 5: Election of the Vice-Chair of the DH-PR**

34. The DH-PR elected by acclamation Ms Ingrid SIESS-SCHERZ (Austria) as Vice-Chair.

**Item 6: Dates of the next meetings**

35. Having learned that, for budgetary reasons, the Committee would only be able to meet once in plenary session in 2005, the DH-PR urged the CDDH to take measures so that:

- i. the DH-PR could hold its two ordinary meetings in 2005;
- ii. the GT-DH-PR could meet at least once between the ordinary meetings of the DH-PR, and this until the end of the follow-up work on the reform (measures to be taken at national level, control of the execution of judgments);
- iii. the seminar which will be organised by the Polish authorities could take place the day before the meeting of the DH-PR in April 2005 and the first morning of its meeting.

36. Taking into account that the CDDH decided to give priority to the follow-up of the reform and the complexity of this work, the DH-PR considered as essential that these three requests be granted so that it could carry out the necessary work with the needed rigour and within the deadlines of the terms of reference entrusted to the CDDH by the Committee of Ministers (end of the terms of reference: 31 May 2006).

37. In this perspective, and subject to the decisions of the CDDH, the DH-PR decided on the following dates for its next meetings:

- 1<sup>st</sup> GT-DH-PR (3 days): 9-11 February 2005
- Seminar organised by Polish authorities (1 ½ day): 26 – 27 April 2005 (Strasbourg)
- 57<sup>th</sup> DH-PR : 27-29 April 2005
- 2<sup>nd</sup> GT-DH-PR (3 days): May/June 2005
- 58<sup>e</sup> DH-PR: 21-23 September 2005

**Item 7: Other business**

38. In the name of the Committee and in her own name, the Vice-Chair addressed to the Chair, Mr Linos-Alexander SICILIANOS (Greece) whose second mandate will end this year, her gratitude for the exemplary manner with which he conduct work of the DH-PR during the crucial period of preparation and follow-up of the texts concerning the reform of the Human Rights protection system.

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Apologised/Excusé

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L'HOMME**

Apologised/Excusé

**EUROPEAN COORDINATING GROUP FOR NATIONAL INSTITUTIONS  
FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS/  
GROUPE EUROPEEN DE COORDINATION DES INSTITUTIONS  
NATIONALES DE PROMOTION ET DE PROTECTION DES DROITS DE  
L'HOMME**

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\* \* \*

**SECRETARIAT**

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**Council of Europe/Conseil de l'Europe, F-67075 Strasbourg Cedex**

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Mme Michèle COGNARD, Assistant/Assistante

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Interpreters/Interprètes

Mme Chloé CHENETIER  
Mme Corinne McGEORGE  
Mr Philippe QUAINÉ

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Appendix II**Agenda****Item 1: Opening of the meeting and adoption of the agenda**Working documents

- Agenda [DH-PR\(2004\)OJ002](#)
- Report of the 58th meeting of CDDH (15-18 June 2004) [CDDH\(2004\)020](#) (extracts)
- Report of the 55th meeting of DH-PR (18-20 February 2004) [DH-PR\(2004\)003](#)

**Item 2: Implementation of the texts adopted at the 114th Session of the Committee of Ministers***i. Implementation of the European Convention on Human Rights at national level*Working documents

Ad hoc terms of reference assigned to the CDDH by the Ministers' Deputies [CDDH\(2004\)019](#)

Suggestions regarding the methodology to be adopted for the drafting of progress reports on the implementation of texts concerning the national aspect of the reform [DH-PR\(2004\)004](#)

Collection of texts on the reform of the human rights protection system [CDDH\(2004\)015](#)

*ii. Reinforcing the long-term effectiveness of the Court and execution of judgments*Working documents

Suggestions regarding the possible revision of the Rules adopted by the Committee of Ministers for the application of Article 46 § 2 of the ECHR [DH-PR \(2004\)005](#)

Suggestions regarding to work to be accomplished concerning : (i) the rapid execution of judgments revealing a systemic problem; (ii) the publicity during [DH-PR \(2004\)006](#)

the execution process; (iii) the possible action of the Parliamentary Assembly in the process

Survey of existing legislation and case-law: reopening of proceedings before domestic courts following findings of violations by the Court DH-PR (2004)007

**Item 3: Current activities of the DH-PR**

- i. State of preparation of the seminar which will be organised on the initiative of the Norwegian authorities (Oslo, 18 October 2004)*
- ii. State of preparation of the seminar which will be organised on the initiative of the Polish authorities on the occasion of the next DH-PR meeting*

**Item 4: *Tour de table* on the perspectives of signatures and ratifications of Protocol No 14 to the Convention**

**Item 5: Election of the Vice- Chair of the DH-PR**

**Item 6: Dates of the next meetings**

**Item 7: Other business**

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### Appendix III

#### **Suggestions for the meeting of the GT-DH-PR (beginning of 2005)**

#### **Possible additions/adjustments to be made, following the adoption of Protocol No.14 to the Convention, to the current *“Rules adopted by the Committee of Ministers for the application of Article 46 § 2 of the European Convention on Human Rights”***

1. It is suggested that the GT-DH-PR could consider possible additions/adjustments to the current rules following the adoption of Protocol No.14 and to make any drafting proposals it deems advisable for consideration by the DH-PR at its 57<sup>th</sup> meeting (27-29 April 2005). Its discussion will cover in particular the following points:

- The supervision by the Committee of Ministers of the execution of the terms of friendly settlements
- The Committee of Minister’s optional power to ask the Court to interpret a judgment
- The Committee of Minister’s optional power to bring infringement proceedings before the Court.

2. The GT-DH-PR is accordingly invited to consider the following elements as a possible basis for its discussion.

#### **TITLE OF THE RULES**

3. In view of the changes made following the adoption of Protocol No.14, the GT-DH-PR will have to make proposals for amending the current title of the Rules.

4. The GT-DH-PR is invited to consider this question only on completion of its work, in the light of the preliminary draft rules that it will have decided to submit to the DH-PR.

#### **I. SUPERVISION BY THE COMMITTEE OF MINISTERS OF THE EXECUTION OF THE TERMS OF FRIENDLY SETTLEMENTS**

5. Bearing in mind current practice, the GT-DH-PR is required to consider whether it is advisable to specify, among the rules on supervision of the execution of judgments, those that apply to supervision of the execution of friendly settlements.

6. If the GT-DH-PR considers it necessary, it may also draft specific rules on supervision by the Committee of Ministers of the execution of the terms of friendly settlements.

## **II. THE COMMITTEE OF MINISTER'S OPTIONAL POWER TO ASK THE COURT TO INTERPRET A JUDGMENT**

7. The GT-DH-PR is required to draw up any proposals it deems necessary to reflect, under the current rules, the procedural consequences of the new power conferred on the Committee of Ministers following the adoption of Protocol No.14.

8. To this end, it may in particular discuss whether it is advisable to introduce the following elements:

i. The power conferred on the Committee of Ministers by Article 46, paragraph 3 of the Convention to ask the Court to interpret a judgment should not on any account be exercised to ask the Court to give a ruling on the measures taken by a High Contracting Party to comply with the judgment

ii. The proposal to make such a request of the Court may be made at any juncture in the supervision process of the Committee of Ministers. It may be put forward by a single member State

ii. Form to be given to the request (decision or resolution)

iii. Content of the request (reasoned or otherwise)

iv. Appointment, where appropriate, of the person required to argue the case before the Court (orally or in writing)

v. Definition of the terms of reference within which all pleadings should to be made

vi. Position in this procedure of the High Contracting Party concerned by the judgment.

## **III. THE COMMITTEE OF MINISTERS' OPTIONAL POWER TO BRING INFRINGEMENT PROCEEDINGS BEFORE THE COURT**

9. The GT-DH-PR is required to draw up any proposals it deems necessary to reflect, under the current rules, the procedural consequences of the new power conferred on the Committee of Ministers following the adoption of Protocol No.14.

10. To this end, it may in particular discuss whether it is advisable to introduce the following elements:

The Committee of Ministers might have recourse to the infringement proceedings provided for by Article 46, paragraph 4 of the Convention only in the event of a serious and persistent failure to fulfil an obligation arising from a judgment of the Court, whether it be payment of just satisfaction or the adoption of an individual or general measure

i. Recourse to this procedure should always be exceptional

- ii. Recourse to this procedure should not on any account be intended to reopen before the Court the issue of the violation which has already been settled by the first judgment
- iii. Before any such proceedings are brought, formal notice should be served on the High Contracting Part concerned by means of an interim resolution
- iv. Form to be given to the application (decision or resolution)
- v. Content of the application (reasoned or otherwise)
- vi. Appointment, where appropriate, of the person required to argue the case before the Court (orally or in writing)
- vii. Definition of the terms of reference within which all pleadings must be made
- viii. Position in this procedure of the High Contracting Party concerned by the judgment.

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Appendix IV

**Protocol No. 14 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending the control system of the Convention**  
**CETS No.: 194**

Treaty open for signature by the member States signatories to Treaty ETS

5

**Opening for signature**

Place: Strasbourg  
 Date : 13/5/2004

**Entry into force**

Conditions: Ratification by Parties to Treaty ETS 005.  
 Date : //

**Status as of: 9/9/2004**

Member States of the Council of Europe

States	Signature	Ratification
Albania	In progress	Before May 2006
Andorra		
Armenia	<b>13/5/2004</b>	Envisaged for end 2004
Austria	Envisaged for autumn 2004	
Azerbaijan	In progress	
Belgium		Possible for September 2005
Bosnia and Herzegovina	Before end 2004	
Bulgaria		Before May 2006
Croatia	<b>13/5/2004</b>	Before May 2006
Cyprus	Envisaged in the near future	Envisaged in the near future
Czech Republic	Envisaged for autumn 2004	Before May 2006
Denmark	<b>13/5/2004</b>	Envisaged for spring 2005
Estonia	<b>13/5/2004</b>	Before May 2006
Finland	In progress	Envisaged for 2005
France	<b>13/5/2004</b>	Before May 2006
Georgia	<b>13/5/2004</b>	Envisaged for 2005
Germany	Possible before end	Before May 2006

	2004	
Greece	<b>13/5/2004</b>	Before May 2006
Hungary	Envisaged for 2005	Before May 2006
Iceland	<b>13/5/2004</b>	Envisaged for 2005
Ireland	<b>13/5/2004</b>	Envisaged in the near future
Italy	<b>13/5/2004</b>	Envisaged for 2005
Latvia	<b>13/5/2004</b>	Before May 2006
Liechtenstein		
Lithuania	Envisaged for November 2004	Envisaged for 2005
Luxembourg	<b>13/5/2004</b>	
Malta	Before end 2004	Before end 2004
Moldova	Before end 2004	
Netherlands	<b>13/5/2004</b>	Before May 2006
Norway	<b>13/5/2004</b>	Envisaged for 2005
Poland		Before May 2006
Portugal	<b>27/5/2004</b>	Before May 2006
Romania	<b>13/5/2004</b>	Before May 2006
Russia		
San Marino		
Serbia and Montenegro		
Slovakia	Before end 2004	Before May 2005
Slovenia	<b>13/5/2004</b>	
Spain	In progress	
Sweden	<b>3/9/2004</b>	Envisaged for 2005
Switzerland	<b>13/5/2004</b>	Before end 2005
the former Yugoslav Republic of Macedonia	Envisaged for September 2004	Envisaged for beginning of 2005
Turkey	Envisaged for October 2004	Before May 2006
Ukraine	Envisaged for November 2004	
United Kingdom	<b>13/7/2004</b>	Envisaged for 2004 -2005

Total number of signatures not followed by **20**

ratifications:	
Total number of ratifications/accessions:	