

Strasbourg, 12 May 2010

DH-PR(2010)002

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

65<sup>th</sup> meeting

10-12 May 2010

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**Summary**

During its meeting, the Committee in particular:

- adopted a preliminary draft Committee of Ministers' Resolution on member States' duty to respect and protect the right of individual application to the European Court of Human Rights (Addendum I) and decided to submit it to the CDDH for consideration at the latter's next meeting;

and, concerning follow-up to the Interlaken Declaration,

- adopted a draft report on proposals for making it possible to simplify amendment of the Convention's provisions on organisational issues (Addendum II) and decided to submit it to the CDDH for consideration at the latter's next meeting;
- expressed its willingness to assist with work on execution of Court judgments and its supervision by the Committee of Ministers, possibly by way of a restricted body of "hybrid" composition involving also persons designated by the Committee of Ministers and representatives of the Department for the Execution of Judgments of the Court;
- exchanged views on issues concerning implementation of the Convention at national level, including as regards the possible future role of the DH-PR in this connection.

**Item 1: Opening of the meeting and adoption of the order of business**

1. The Committee of experts for the improvement of procedures for the protection of human rights (DH-PR) held its sixty-fifth meeting in Strasbourg from 10-12 May 2010 with Mrs Björg THORARENSEN (Iceland) in the chair. The list of participants appears at Appendix I. The agenda, as adopted, appears at Appendix II.

**Item 2: Preparation of a draft Committee of Ministers' Resolution on member States duty to cooperate with the European Court of Human Rights**

2. The Committee adopted a preliminary draft Committee of Ministers' Resolution under the revised title of "member States' duty to respect and protect the right of individual application to the European Court of Human Rights," for transmission to the CDDH with a view to finalisation of the draft and its subsequent submission for possible adoption to the Committee of Ministers. It recalled that the deadline set for submission of the draft resolution to the Committee of Ministers was 30 June 2010. The preliminary draft Resolution appears at Addendum I.

**Item 3: Implementation of the Interlaken Declaration – exchange of views on the CDDH's ad hoc terms of reference and on the DH-PR's possible role**

3. The Committee exchanged views on the Interlaken Declaration and Action Plan and the CDDH's ad hoc terms of reference, taking into account also discussions and decisions at the meetings of the Ministers' Deputies' GT-SUIVI/Interlaken working group (13 April, 23 April, 4 May and 5 May 2010) as well as of the CDDH Bureau (23 March 2010) and the Committee of Experts on the reform of the Court (DH-GDR, 24-26 March 2010 and 5-7 May 2010). At the conclusion of this exchange of views, it concurred with the view expressed by the CDDH Bureau concerning the allocation of tasks to the DH-PR and noted with interest the proposals for working methods on these issues made by the DH-GDR.

**Item 4: Implementation of the Interlaken Declaration – proposals for making it possible to simplify amendment of the Convention's provisions on organisational issues**

4. The Committee considered that the instruction given to it by the CDDH to exchange views on the advisability of beginning work on a possible Statute for the Court and to make propositions to the CDDH for examination in June 2010 should be understood in the light of the subsequent CDDH's ad hoc terms of reference, which go further in requiring the latter to elaborate proposals for making it possible to simplify amendment of the Convention's provisions on organisational issues. The Committee therefore held a preliminary exchange of views on various substantive and procedural questions, including an intervention by Ms Ramona TOMA of the Registry of the Court.

5. The scope of future work would depend on the interpretation of the CDDH's ad hoc terms of reference concerning the issue. Some experts considered that it would be useful to adopt a broad interpretation so as to allow other issues found outside the Convention, including those not relating to organisational matters, to be included. The Committee therefore decided to propose to the CDDH that the latter seek clarification from the

Committee of Ministers of the correct approach to be taken in future work. It also decided to propose the creation of a body of restricted composition for undertaking future work.

6. The Committee then adopted a draft report on the issue, reflecting the above and other questions that it considered would have to be resolved in the course of future work. It decided to transmit this draft report to the CDDH for consideration at the latter's next meeting (15-18 June 2010), with a view to its inclusion in the first report on implementation of the Interlaken Declaration, due to be submitted to the Committee of Ministers before the end of June 2010. The draft report appears at Addendum II.

### **Item 5: Implementation of the Interlaken Declaration – execution of Court judgments and its supervision by the Committee of Ministers**

7. The Committee exchanged views on the relevant paragraphs of the Interlaken Declaration. It noted with interest that the French delegation intended to make concrete reform proposals at the next Committee of Ministers' "human rights" (CM/DH) meeting (1-3 June 2010). It heard a presentation by Mrs Geneviève MAYER, Head of the Department for the Execution of Judgments of the Court, concerning possible issues to be addressed in the context of reform of the supervision of execution of judgments. It considered that Committee of Ministers' supervision of execution of judgments was one of the great achievements of the Convention system but that the current rules and working methods were no longer suitable to present-day realities and had yet to respond to recent developments. In particular, there was a need for greater prioritization of cases and flexibility in the supervision exercised at different levels of priority. The opinion was expressed that supervision by the Committee of Ministers must also be seen as part of a wider system in relation to the execution of judgments by Respondent States, that also incorporates elements of oversight at national level; this was partly a question of subsidiarity.

8. On the basis of the foregoing, the Committee expressed its interest in contributing to further work on implementation of the relevant parts of the Interlaken Declaration. It recalled that it had in the past prepared practical proposals for the supervision of execution of judgments in situations of slow execution, with work initially taking place in a working group of restricted, "hybrid" composition, including also experts designated by the Committee of Ministers and co-operating closely with the Department for the Execution of Judgments of the Court. It considered that such an approach had the advantage of bringing together experts on the execution of judgments at national level, experts on supervision of execution at Council of Europe level and the Execution Department, with experience at both levels and in the connections between the two. Recalling that the CDDH Bureau had already supported the idea, it decided to express its willingness to operate a similar structure in the present context, with a view to this message being transmitted to the Committee of Ministers. In this connection, it noted that the Committee of Ministers would consider implementation of these aspects of the Interlaken Declaration at its CM/DH meeting of 1-3 June 2010 (see also above).

### **Item 6: Implementation of the Interlaken Declaration – action at national level**

9. The Committee noted the particular importance of implementation of the relevant parts of the Interlaken Declaration, given the emphasis placed on subsidiarity before, during and after the Conference itself. It recalled the extensive work done by the DH-PR and the CDDH on related issues in the past, including the adoption of a series of resolutions and recommendations subsequently adopted by the Committee of Ministers and extensive work

on their follow-up. It did not consider that there was in general any immediate need for further non-binding texts on implementation of the Convention at national level, although it noted that proposals might be made for other recommendation(s) on general domestic remedies and/ or, recalling the recent Recommendation Rec(2010)3 on effective remedies for excessive length of proceedings, effective domestic remedies for violations of specific Convention provisions that were widespread, generated significant numbers of applications and on which the Court's case-law was well-established. Neither did it consider that there was any immediate utility in a further study by the CDDH of the state of implementation of existing recommendations across all 47 member States.

10. Instead, it considered that there should be more effective targeting of activities on those states in which particular issues were recognised as being especially acute. It recalled paragraph 5 of the Interlaken Declaration Action Plan, which stressed "the need to enhance and improve the targeting and coordination of other existing mechanisms, activities and programmes of the Council of Europe." It considered that a flexible approach should be taken when designing cooperation and assistance programmes, so that the greatest possible use be made of the full range of expertise available within the Council of Europe system, perhaps in the form of ad hoc "task forces" derived from various bodies. It also considered that the DH-PR, as the committee of experts for the improvement of procedures for the protection of human rights, had itself a potential role to play in facilitating the exchange of information on existing good practices and thereby assisting States in responding to the particular problems with which they might be faced. It therefore decided to retain the issue on its agenda and to follow developments elsewhere in the Council of Europe.

### **Item 7: Other business**

11. The Committee noted that government agents could hold further discussions via their dedicated Forum ([https://government-agents-forum.cws.coe.int/tiki-login\\_scr.php](https://government-agents-forum.cws.coe.int/tiki-login_scr.php)). It therefore invited those interested government agents who had not yet done so to register with the Forum's moderator via the "Contact" link on the Forum's web-site.

12. The Committee took note with interest of the following forthcoming events relevant to its work:

- (i) The Polish authorities were organising the "Fourth Warsaw Seminar on the Concepts of General Domestic Remedy and the Simplified Procedure for Amending the Convention in the post-Interlaken process," to take place on 16-17 September 2010;
- (ii) The Committee of Ministers' Chairmanship of "the former Yugoslav Republic of Macedonia" was planning a Conference on "Strengthening subsidiarity: integrating the Court's case-law into national law and judicial practice," to take place in Skopje on 4-5 November 2010.

13. The Committee took note that its next meeting was provisionally foreseen for 29 September – 1 October 2010, to be confirmed by the CDDH at its next meeting (15-18 June 2010).

Appendix I**List of participants / Liste de participants****ALBANIA / ALBANIE**

Apologised / excusé

**ANDORRA / ANDORRE**

Apologised / Excusé

**ARMENIA / ARMENIE**

Ms Varduhi MELIKYAN, Third Secretary, Legal Department, Ministry of Foreign Affairs, Republic Square, Government House 2, YEREVAN 375010

**AUSTRIA / AUTRICHE**

Ms Brigittte OHMS, Deputy Government Agent, Division for International Affairs and General Administrative Affairs, Federal Chancellery, Dpt. V/5, Constitutional Service, Ballhausplatz 2, 1010 WIEN

**AZERBAIJAN / AZERBAIDJAN**

Mr Hasan BAGHIROV, the President Administration of the Republic of Azerbaijan, Prezident Sarayi, 19, Istiglaliyyat Street, AZ-1066 BAKU

**BELGIUM / BELGIQUE**

Mme Isabelle NIEDLISPACHER co-Agent du Gouvernement, Service Public Fédéral Justice, Service des droits de l'homme, Boulevard de Waterloo 115, B-1000 BRUXELLES

**BOSNIA AND HERZEGOVINA / BOSNIE-HERZEGOVINE**

Ms Monika MIJIĆ, Government Agent, Ministry for Human Rights and Refugees, The Office of the Government Agent, Kulovića 4, SARAJEVO

**BULGARIA / BULGARIE**

Mrs Ludmila BOJKOVA, Director, Directorate « Human Rights and International Humanitarian Organizations » Ministry of Foreign Affairs, 2 Alexander Jendov, SOFIA

**CROATIA / CROATIE**

Ms Stefica STAJNIK, Government Agent, Directorate of Government Agent before the European Court of Human Rights and other EU courts, Ministry of Justice, Dalmatinska 1, ZAGREB

**CYPRUS / CHYPRE**

Ms Theodora CHRISTODOULIDOU, Lawyer of the Human Rights Sector of the Legal Service, Counsel for the Republic, Appelli Street, CY – 1403 NICOSIA

**CZECH REPUBLIC / REPUBLIQUE TCHEQUE**

Mr Vit SCHORM, Government Agent, Ministry of Justice, Vyšehradská 16, 128 10 PRAHA 2

**DENMARK / DANEMARK**

Ms Lene STEEN, Ministry of Justice, Slotsholmsgade 10, DK - 1216 COPENHAGEN K

**ESTONIA / ESTONIE**

Ms Maris KUURBERG, Government Agent before the European Court of Human Rights, Human Rights Division, Legal Department, Ministry of Foreign Affairs, Islandi väljak 1, 15049 TALLINN

**FINLAND / FINLANDE**

Ms Päivi ROTOLA-PUKKILA, Legal Officer, Legal Department, Unit for Human Courts and Conventions, Ministry for Foreign Affairs, P.O. Box 411, FI-00023 VALTIONEUVOSTO

**FRANCE**

M. Benoît COMBOURIEU, Rédacteur, Direction des affaires juridiques, sous-direction des droits de l'homme, Ministère des affaires étrangères et européennes, 57 boulevard des Invalides, F-75700 PARIS 07 SP

Mme Mélanie BILOCQ, Adjointe au Représentant permanent de la France auprès du Conseil de l'Europe, 40, rue de Verdun, F-67000 STRASBOURG

**GEORGIA / GEORGIE**

Apologised / excusé

**GERMANY / ALLEMAGNE**

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

**GREECE / GRECE**

Mme Vasileia PELEKOU, Attaché juridique, Représentation permanente de la Grèce auprès du Conseil de l'Europe, 21, place Broglie, F-67000 STRASBOURG

**HUNGARY / HONGRIE**

Mr Lipot HÖLTZL, Head of Department, Agent of the Government, Ministry of Justice and Law Enforcement, Kossuth tér 4., H-1055 BUDAPEST

**ICELAND / ISLANDE**

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

**IRELAND / IRLANDE**

Mr Peter WHITE, Legal Adviser, Department of Foreign Affairs, Hainault House, 69-71 St Stephen's Green, DUBLIN 2

**ITALY / ITALIE**

Apologised / Excusé

**LATVIA/ LETTONIE**

Ms Sandra KAULINA, Lawyer of the Office of Representative of the Government of the Republic of Latvia before International Human Rights Organizations, Ministry of Foreign Affairs, Valdemara Str. 3, RIGA Lv-1395

**LIECHTENSTEIN**

Apologised / Excusé

**LITHUANIA / LITUANIE**

Ms Elvyra BALTUTYTE, Agent of the Government of Lithuania to the European Court of Human Rights, Ministry of Justice, Gedimino str. 30/1, LT-01104 VILNIUS

**LUXEMBOURG**

Mme Tatiana VICOL, Stagiaire, Représentation permanente du Luxembourg auprès du Conseil de l'Europe, 65, allée de la Robertsau, F-67000 STRASBOURG

**MALTA / MALTE**

Apologised / excusé

**MOLDOVA**

M. Vladimír GROȘU, Agent du Gouvernement auprès de la Cour européenne des Droits de l'Homme, Ministère de la Justice, 31 August 1989 Street, 82 MD 2012 CHISINAU

**MONACO**

Apologised / excusé

**MONTENEGRO**

Ms Ivana JELIC, Professor in Human Rights Law and Legal expert to the Ministry, Law Faculty of University of Montenegro, Ministry for Human and Minority Rights of Montenegro, Pravni fakultet, Univerzitet Crne Gore, Ul. 13. jula br. 2, 81000 PODGORICA

**NETHERLANDS / PAYS-BAS**

Ms Liselot EGMOND, Deputy Agent for the Government of the Netherlands, Ministry of Foreign Affairs, Dept. DJZ/IR, P.O. Box 20061, 2500 EB THE HAGUE

**NORWAY / NORVEGE**

Mr Michael REIERTSEN, Higher Executive Officer, Legislation Department, The Ministry of Justice and the Police, P.O Box 8005 Dep., N-0030 OSLO

**POLAND / POLOGNE**

Mr Jan SOBCZAK, II. Secretary, Office of the Plenipotentiary for the Proceedings before the International Organs of the Protection of Human Rights, Ministry of Foreign Affairs, Al. J. Ch. Szucha 23, 00-580 WARSAW

**PORTUGAL**

Mme Maria de Fátima GRAÇA CARVALHO, Agent du Gouvernement, Procureur-General adjointe, Procuradoria Geral da Republica, rua de Escola Politécnica, N° 140, P-1249-269 LISBOA

**ROMANIA / ROUMANIE**

Ms Cristina MORARIU, Referent Relations I, Ministry of Foreign Affairs, Allée Modrogan, n° 14, 1<sup>er</sup> arrondissement, BUCAREST

**RUSSIAN FEDERATION / FEDERATION DE RUSSIE**

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

Ms Maria MOLODTSOVA, Ist Secretary, Department for International Humanitarian Cooperation and Human Rights, Ministry of Foreign Affairs, 32/34, Smolenskaya-Sennaya sq., 119200 MOSCOW

M. Vladislav ERMAKOV, Représentation permanente de la Fédération de Russie auprès du Conseil de l'Europe, 75 allée de la Robertsau, F-67000 STRASBOURG

**SAN MARINO / SAINT MARIN**

Apologised / excusé

**SERBIA / SERBIE**

Mr Slavoljub CARIC, Government Agent, Ministry for Human and Minority Rights, Office of the Agent before the ECHR, Boul. Mihaola Pupina 2, 11000 BELGRADE

**SLOVAKIA / SLOVAQUIE**

Ms Marica PIROŠIKOVÁ, Agent of the Slovak Republic before the European Court of Human Rights, Office of the Agent of the Slovak Republic before the ECHR, Ministry of Justice, Župné nám. 13, 813 11 BRATISLAVA

**SLOVENIA/SLOVENIE**

Apologised / excusé

**SPAIN / ESPAGNE**

M. Fernando IRURZUN MONTORO, Chef du Service juridique des Droits de l'Homme, Ministère de la Justice, MADRID

**SWEDEN / SUEDE**

Ms Charlotte HELLNER, Deputy Director, Ministry for Foreign Affairs, Department for International Law, Human Rights and Treaty Law (FMR), Malmtorgsgatan 3, SE-103 39 STOCKHOLM

**SWITZERLAND / SUISSE**

M. Adrian SCHEIDEGGER, Office fédéral de la justice, Agent suppléant du gouvernement suisse, Bundesrain 20, CH-3003 BERNE

**"THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA"/  
"L'EX-RÉPUBLIQUE YOUGOSLAVE DE MACÉDOINE"**

Ms Veronika STANOJEVSKA, Junior associate, Department of justice, Unit for support of the Government Agent, Ministry of justice, ul. Dimitrije Cupovski bb, 1000 SKOPJE

**TURKEY / TURQUIE**

Apologised / excusé

**UKRAINE**

Mr Yuriy ZAYTSEV, Government Agent before the European Court of Human Rights, Ministry of Justice, Horodetskogo street, 13, 01001 KYIV

**UNITED KINGDOM / ROYAUME-UNI**

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

\* \* \*

**PARTICIPANTS**

**Parliamentary Assembly/Assemblée parlementaire**

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

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

Ms Anne WEBER, Adviser / Conseillère

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

Ms Ramona TOMA, Administrateur au Greffe de la Cour européenne des droits de l'homme

**Department for the Execution of judgments of the Court / Service Exécution des Arrêts de la Cour**

Mme Geneviève MAYER, Head of Department / Chef de Service

Mme Corinne AMAT, Head of Division / Chef de Division

**Conference of INGOs of the Council of Europe / Conférence des OING du Conseil de l'Europe**

Apologised / excusé

\* \* \*



**States with observer Status of the Council of Europe**  
**Etats ayant le statut d'observateur auprès du Conseil de l'Europe**

**MEXICO / MEXIQUE**

Mme María-Fernanda GONZÁLEZ, Attachée à la Mission du Mexique auprès du Conseil de l'Europe, 8 Boulevard du Président Edwards, F-67000 STRASBOURG

**OBSERVERS**

**European Group of National Human Rights Institutions / Groupe européen des institutions nationales des droits de l'homme**

Ms Mary CUNNEEN, senior lawyer with the UK's Equality and Human Rights Commission

**Non governmental Organisations / Organisations non gouvernementales**

**Amnesty International**

Apologised / excusé

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**SECRETARIAT**

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

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

**Conseil de l'Europe, F-67075 STRASBOURG Cedex**

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

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

Mr Petr HNÁTÍK, Administrator / Administrateur, Human Rights Intergovernmental Cooperation Division / Division de la coopération intergouvernementale en matière de droits de l'Homme,

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

**Interpreters/Interprètes:**

Mme Corinne MCGEORGE

Mme Nadine KIEFFER

Mme Christine TRAPP-GILL

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Appendix II**Agenda (as adopted)****Item 1:       Opening of the meeting and adoption of the order of business**General background documents

- Draft annotated agenda DH-PR(2010)OJ001
- Report of the 69<sup>th</sup> meeting of the CDDH (24-27 November 2009) CDDH(2009)019
- Report of the 64<sup>th</sup> meeting of DH-PR (22-24 October 2008) DH-PR(2008)006

**Item 2:       Preparation of a draft Committee of Ministers' Resolution on member States' duty to co-operate with the European Court of Human Rights**Background documents

- Parliamentary Assembly Recommendation 1809(2007) – member States' duty to co-operate with the European Court of Human Rights; including the Committee of Ministers' Reply of 7 October 2009 & the CDDH Opinion (adopted at its 68<sup>th</sup> meeting, 24-27 March 2009) CDDH(2009)010
- Ad hoc terms of reference for the CDDH with a view to examining human rights protection in the context of member States' duty to co-operate with the European Court of Human Rights CM/Del/Dec(2009)1067/4.3b  
Appendix 8
- Elements for a draft Committee of Ministers Resolution on member States' duty to co-operate with the European Court of Human Rights (prepared by the Secretariat) DH-PR(2010)001

**Item 3:       Implementation of the Interlaken Declaration – exchange of views on the CDDH's ad hoc terms of reference and on the DH-PR's possible role**Background documents

- Interlaken Declaration CDDH(2010)001
- Decisions of the Committee of Ministers on the action to be taken following the Interlaken Declaration & Terms of reference of the CDDH and subordinate bodies involved in follow-up work to the Declaration CDDH(2010)002
- Report of the 79<sup>th</sup> meeting of the CDDH Bureau (Strasbourg, 23 March 2010) CDDH-BU(2009)001
- Report of the 2<sup>nd</sup> meeting of the Committee of Experts on the reform of the Court (Strasbourg, 24-26 March 2010) DH-GDR(2010)002

**Item 4: Implementation of the Interlaken Declaration – proposals for making it possible to simplify amendment of the Convention’s provisions on organisational issues**

Background documents

- Interlaken Declaration CDDH(2010)001
- Decisions of the Committee of Ministers on the action to be taken following the Interlaken Declaration and Terms of reference of the CDDH and subordinate bodies involved in follow-up work to Interlaken CDDH(2010)002
- Terms of reference (Addendum to the report of the 67<sup>th</sup> CDDH meeting, Strasbourg, 25-28 November 2008) CDDH(2008)014  
Add. III rev.
- CDDH Activity Report on guaranteeing the long-term effectiveness of the control system of the European Convention on Human Rights CDDH(2009)007 Add. I

**Item 5: Implementation of the Interlaken Declaration – execution of Court judgments and its supervision by the Committee of Ministers**

Background documents

- Interlaken Declaration CDDH(2010)001
- Decisions of the Committee of Ministers on the action to be taken following the Interlaken Declaration & Terms of reference of the CDDH and subordinate bodies involved in follow-up work to the Declaration CDDH(2010)002
- Report of the 79<sup>th</sup> meeting of the CDDH Bureau (Strasbourg, 23 March 2010) CDDH-BU(2009)001
- Report of the 2<sup>nd</sup> meeting of the Committee of Experts on the reform of the Court (Strasbourg, 24-26 March 2010) DH-GDR(2010)002

**Item 6: Implementation of the Interlaken Declaration – action at national level**

Background documents

- Interlaken Declaration CDDH(2010)001
- Decisions of the Committee of Ministers on the action to be taken following the Interlaken Declaration & Terms of reference of the CDDH and subordinate bodies involved in follow-up work to the Declaration CDDH(2010)002
- Report of the 79<sup>th</sup> meeting of the CDDH Bureau (Strasbourg, 23 March 2010) CDDH-BU(2009)001
- Report of the 2<sup>nd</sup> meeting of the Committee of Experts on the reform of the Court (Strasbourg, 24-26 March 2010) DH-GDR(2010)002

**Item 7: Other business**