

# 1...<sup>st</sup> meeting, ... 2021

1 General questions

## 1.1 Title

Abridged Report of the 93<sup>rd</sup> meeting of the Steering Committee for Human Rights (CDDH), via KUDO, 14–16 December 2020

For examination by the GR-... during its meeting of ... 2021...

### Information on the meeting

The Steering Committee for Human Rights (CDDH) held its 93<sup>rd</sup> meeting via KUDO due to the current health crisis, from 14 to 16 December 2020, with Mr Morten RUUD (Norway) in the Chair.

The agenda of the meeting appears in the Appendix. The full report of the meeting, as well as the list of participants, can be made available by the Secretariat (DGI-CDDH@coe.int).

### Items for decision by the Committee of Ministers

At this meeting, the CDDH decided to:

- (a) Submit to the Committee of Ministers, for possible adoption, the following two draft instruments:
  - (i) Draft Recommendation CM/Rec(2021)... of the Committee of Ministers to the member states on the development and strengthening of effective, pluralist and independent national human rights institutions. Having adopted this draft instrument, the CDDH considered that the work of its Drafting Group CDDH-INST had been completed;
  - (ii) Draft Recommendation CM/Rec(2021)... of the Committee of Ministers to member States on measures against the trade of goods used for the death penalty, torture or other cruel, inhuman or degrading treatment or punishment.
- (b) Propose to the Committee of Ministers to postpone the mandate for the CDDH in the field of human rights and artificial intelligence until 2022 in order for the CDDH to start its work in the light of the conclusions to be reached in 2021 by other bodies, in particular by the Ad Hoc Committee on Artificial Intelligence (CAHAI). Pending this period of time the CDDH will continue to follow and contribute, as appropriate, to the work of such relevant bodies.

### Items for information by the Committee of Ministers

- The CDDH re-elected the Chair Mr Morten RUUD (Norway) and the Vice-Chair Ms Kristīne LĪCIS (Latvia) and elected two Bureau members (Ms Brigitte OHMS (Austria) and Ms Babette KOOPMAN (the Netherlands)). It extended until the end of 2021 the mandate of the current Chairperson of its Committee of Experts on the system of the Convention (DH-SYSC, Mr Hans-Jörg BEHRENS (Germany)) and appointed Ms Krista OINONEN (Finland) Rapporteur on Human Rights in Culturally Diverse Societies and Ms Nicola WENZEL (Germany) Rapporteur on Human Rights and Business.

As regards the system of the European Convention on Human Rights, the CDDH:

- Took note of the decisions by the Committee of Ministers – “Securing the long-term effectiveness of the system of the European Convention on Human Rights: evaluation of the Interlaken Process and next steps” (4 November 2020);
- Took note of the progress made and the remaining difficulties in the work underway within the CDDH Ad Hoc negotiation Group on the Accession of the European Union to the European Convention on Human Rights (“Group 47+1”);

- Provided guidance to its Drafting Group on effective processing and resolution of cases relating to inter-State disputes (DH-SYSC-IV) regarding, in particular, the scope of its terms of reference and took note of the state of preparation of the High-level Conference on these issues which will take place in April 2021, organised by the German Chairmanship for the Committee of Ministers;
- Provided guidance to its Drafting Group on enhancing the national implementation of the system of the European Convention on Human Rights (DH-SYSC-V) in particular, concerning the scope of its terms of reference;
- Continued the preparation of the Seminar *Pluricourts – CDDH: National implementation of the European Convention on Human Rights – How to put the “shared responsibility” into practice?* (Strasbourg, June 2021);

As regards the other items on its agenda, the CDDH:

- Exchanged views and decided on the procedure for finalising, in early 2021, its Explanatory Memorandum concerning the future Recommendation CM/Rec(2021) ... of the Committee of Ministers to member States on measures against the trade in goods used for torture and other cruel, inhuman or degrading treatment or punishment and the death penalty;
- Exchanged views on the consequences of the current health crisis in member states in terms of the protection and promotion of human rights and expressed its readiness to examine these issues in greater depth in the light of any decisions to be taken by the Committee of Ministers;
- Adopted by written procedure before the present meeting its comments to the Committee of Ministers on the Parliamentary Assembly Recommendations 2166(2019) - *"Human rights and business - what follow-up to Recommendation CM/Rec(2016)3 of the Committee of Ministers"* and 2171(2020) - *"Concerted action against human trafficking and the smuggling of migrants"*;
- Took note of the follow-up envisaged in 2021 by the Secretary General to the work of the CDDH on strengthening the protection of social rights in Europe;
- Took note of the entry into force of the Council of Europe Convention on access to official documents (*Tromsø Convention*) and of the timetable for the establishment in 2021 of the monitoring mechanisms provided for by this Convention;
- Established its Drafting Group on Human Rights and the Environment (CDDH-ENV) entrusted with the finalisation of a revised Manual on Human Rights and the Environment and the preparation of a draft non-binding instruments of the Committee of Ministers (e.g. a Recommendation; Guidelines) on Human Rights and the Environment;
- Organised its work for 2021 on:
  - (i) the implementation of Recommendation CM/Rec(2016)3 on human rights and business;
  - (ii) the implementation of the CM Guidelines (2016) on the protection and the promotion of human rights in culturally diverse societies;
  - (iii) the impact of the Covid-19 pandemic on human rights;
  - (iv) the possible CDDH contribution to activities aimed at improving the protection of social rights;
  - (v) Migration and human rights;
  - (vi) the preparation of the draft Programme of activities of the CDDH and the DH-SYSC for 2022-2023;
- Exchanged views and supported the decisions of the Committee on bioethics (DH-BIO) concerning the organisation of its activities for 2021 in the framework of its Strategic Action Plan 2020-2025;
- Adopted a form to assist its committees and drafting groups to integrate gender equality in all their work;

- Took note of the information provided by its focal points in other fora;
- Decided on the personalities to be invited to its next meetings;
- Exchanged views on the status of signatures and ratifications of the conventions for which the CDDH is responsible;
- Took note of recent publications of the work of the CDDH and decided on the primary publications in 2021;
- Adopted its provisional calendar of meetings for 2021.

#### **Resource implications**

The CDDH urged that its Secretariat be provided with the necessary human resources to carry out the work entrusted to it, concerning in particular (i) the work carried out by the DH-SYSC on the system of the Convention and the various related events (Conferences, Seminars) for which the same Secretariat is solicited, and (ii) the implementation of the mechanisms provided for by the *Tromsø Convention* and a dedicated digital platform.

The CDDH also noted that the Committee of Ministers might entrust it with additional tasks in 2021, in particular as regards the consequences of the current health crisis in member States in terms of the protection and promotion of human rights.

#### **Evaluation of completed activities**

As foreseen, the CDDH finalized, before the end of the present biennium, two draft Recommendations (National Human Rights Institutions; Prohibition of the trade in goods used for torture) which it decided to submit to the Committee of Ministers.

The CDDH welcomed the recent publication of its Reports "*The place of the European Convention on Human Rights in the European and international legal order*", "*The Interlaken process*", "*Strengthening national implementation of the European Convention on Human Rights system*" and "*The European Convention on Human Rights in university education and professional training*" as well as the compilations of its work in the fields of (i) protection, promotion and development of the Ombudsman institution; (ii) the protection of human rights of older persons; (iii) the protection of victims of terrorist acts; (iv) environmental protection and human rights; (v) access to official documents.

The CDDH expressed regret at the considerable difficulties that the measures taken in view of the current health situation have brought to the intergovernmental work, in particular the absence of face-to-face meetings of the two Drafting Groups DH-SYSC-IV and DH-SYSC-V, the absence of a meeting of the DH-SYSC and the absence of the meeting of the CDDH in June 2020, as well as the delays that the situation has brought to the ongoing work.

Appendix I**Agenda**

(93<sup>rd</sup> meeting of the CDDH, 14–16 December 2020)

ITEM 1: OPENING OF THE MEETING, ADOPTION OF THE AGENDA AND ORDER OF BUSINESS

ITEM 2: RECOMMENDATIONS OF THE PARLIAMENTARY ASSEMBLY

ITEM 3: WORK ON THE SYSTEM OF THE CONVENTION

3.1. Follow-up to the Interlaken Declaration

3.2 CDDH ad hoc negotiation Group on the EU accession to the ECHR (“47+1 Group”)

3.3 Drafting Group on effective processing and resolution of cases relating to inter-State disputes (DH-SYSC-IV)

3.4 Drafting Group on enhancing the national implementation of the system of the European Convention on Human Rights (DH-SYSC-V)

3.5 Preparation of the Seminar *Pluricourts - CDDH : National implementation of the European Convention on Human Rights - How to put the “shared responsibility” into practice?*

ITEM 4: ENVIRONMENT AND HUMAN RIGHTS

ITEM 5: ARTIFICIAL INTELLIGENCE AND HUMAN RIGHTS

ITEM 6: CIVIL SOCIETY AND NATIONAL HUMAN RIGHTS INSTITUTIONS

ITEM 7: MIGRATION AND HUMAN RIGHTS

ITEM 8: PROHIBITION OF THE TRADE IN GOODS USED FOR TORTURE AND DEATH PENALTY

ITEM 9: HUMAN RIGHTS AND BUSINESS

ITEM 10: ACCESS TO OFFICIAL DOCUMENTS

ITEM 11: GENDER EQUALITY

ITEM 12: BIOETHICS

ITEM 13: *TOUR DE TABLE* ON THE INTEREST OF POSSIBLE CDDH WORK RELATED TO THE HEALTH CRISIS AND ITS CONSEQUENCES IN THE MEMBER STATES

ITEM 14: OTHER POSSIBLE CDDH WORK IN 2021

ITEM 15: CONVENTIONS

ITEM 16: FOCAL POINTS

ITEM 17: INVITEES

ITEM 18: ELECTIONS

ITEM 19: PUBLICATIONS

ITEM 20: CALENDAR

ITEM 21: ACKNOWLEDGEMENTS

ITEM 22: OTHER BUSINESS

## Appendix II

### Abridged report of the 17<sup>th</sup> meeting of the Committee on bioethics (DH-BIO) (3-6 November 2020)

#### **I. Adoption of the agenda**

1. The Committee on Bioethics (DH-BIO) held its 17<sup>th</sup> meeting online via the KUDO platform from 3-6 November 2020. The list of participants and the agenda of the meeting appear in Appendices I and II to this report.

#### **II. Opening – Introduction**

2. Mr Christophe Poirel, Director of Human Rights, informed the DH-BIO about latest relevant developments at the Council of Europe, in particular the Information document published by the Secretary General on public health crisis (SG/INF(2020)24) and the contribution of the Council of Europe to support member states. This was followed by an exchange with delegations.

#### **III. Strategic Action Plan implementation in the light of new priorities**

3. The Chair introduced the main proposals to update the Strategic Action Plan as proposed by the Bureau and reminded delegations about the priority proposals made by the Bureau in the light of the issues raised by the pandemic, which were supported by the DH-BIO, i.e. under the equity pillar:
  - extending the scope of the work on health literacy to other vulnerable groups than older persons;
  - to give priority to the development of guidelines on equitable access to vaccine, treatment and equipment, including ethical considerations concerning access to these as a limited resource;
  - in view of these new priorities and the additional workload this would create, the Bureau had also proposed to postpone until further notice the action to prepare an annual online newsletter.
4. The Committee welcomed the regular update of this document with a view to follow the continued implementation of the SAP.
5. The new proposals from the Bureau were discussed under point Equity of access to vaccine (see below).

#### **IV. Examination of draft Working method document**

6. The delegations welcomed the draft document on the working method of the Committee prepared by the Secretariat in coordination with the Bureau to improve the efficiency and facilitate the work of the Committee and the possible development of cooperation with other Council of Europe committees and other intergovernmental organisations.
7. In the absence of comments, the DH-BIO adopted the document on Friday 6 November 2020.

#### **V. Gender equality**

8. Dr Ina Wagner presented her report: "*Integrating a gender equality perspective*".
9. The report was welcomed by delegations. The dilemma regarding the inclusion and exclusion of women in clinical trials, the role of research ethics committees in promoting inclusion, the lack of comprehensive data and research on gender in biomedicine in member states, and the need for greater efforts to understand the differences between women and men in diagnosis and treatment, were highlighted.
10. The DH-BIO thanked Dr Wagner for her work. The importance of remaining attentive to the integration of a gender perspective in the Committee's work was underlined, especially regarding the implementation of the Strategic Action Plan.

## **VI. Information on progress in the collection of examples of practices aiming at promoting voluntary measures in mental health care**

11. The Secretariat informed delegations that Dr Piers Gooding, research fellow at Melbourne Social Equity Institute and Melbourne Law School (Australia), had agreed to support, as expert consultant, the Secretariat in the process of compiling the examples received. Dr Gooding would prepare a first outline of the compendium to be presented to the DH-BIO at its next plenary meeting.
12. **Delegations who had not yet done so were encouraged either to submit replies to the questionnaires or to forward contact details of experts in the area of mental health-care, social work and related areas, who would be ready to share their experiences in the area of preventing recourse to involuntary measures/promoting voluntary practices in mental health care to the Secretariat.**

## **VII. Additional Protocol concerning the protection of human rights and dignity of person with regard to involuntary placement and involuntary treatment within mental health care services**

13. The Secretariat presented the changes to the draft Additional Protocol proposed by the Bureau on the basis of comments made by Delegations; together with the draft Explanatory Report revised by the Secretariat in light of the changes proposed.
14. Ms De Bruijn-Wezeman, Rapporteur of Parliamentary Assembly of the Council of Europe (PACE) on the deinstitutionalisation of people with disabilities, addressed the DH-BIO on behalf of the PACE Committee on Social Affairs, Health and Sustainable Development. The text of her intervention is attached as Appendix III to this report.
15. The DH-BIO heard interventions from the representatives of the European Disability Forum, including of Mental Health Europe, ENUSP (European Network of (Ex-)Users and Survivors of Psychiatry) and Inclusion Europe. The texts of these interventions are attached as Appendix IV to this report.
16. Delegations congratulated the Bureau and its Rapporteur, Ms Sarah Rueda (France), for the work achieved. The Committee expressed its general support for the document as revised by the Bureau and introduced a few changes to the text.
17. Except for two delegations who were against and two who abstained, all the other delegations expressed their readiness to take a formal vote on the finalised draft at the 18th DH-BIO plenary meeting (1-4 June 2021).
18. **Delegations were invited to submit comments on the newly revised draft, together with its revised draft explanatory report, by 30 November 2020.** The finalized draft would be sent to delegations by the mid December 2020 in order to allow sufficient time for consultation within member States with a view to the formal vote at the 18<sup>th</sup> plenary meeting (1-4 June 2021).

## **VIII. Genome editing technologies**

19. Dr Ingo Härtel (Germany), Rapporteur on genetics and genomics, reminded about the origin and steps already achieved in the examination of ethical and legal issues raised by developments in genome editing technologies in relation to Article 13 of the Oviedo Convention. He also reminded about the current works by other bodies and organisations.
20. The Chair of the DH-BIO underlined the important role of the Committee in international discussion on the ethical and legal issues raised by genome editing technologies, in particular because of its responsibility for the Oviedo Convention which comprises the only legally binding provision on genome editing at the international level.

21. She then presented the different options identified by the Bureau on the way forward which are submitted to the Committee:
  - Option 1: There is a need for revision of Article 13 in accordance with Article 32 of the Oviedo Convention.
  - Option 2: There is a need for clarification of certain terms/aspects without modifying the text of Article 13.
  - Option 3: There is no need for revision or clarification of Article 13.
22. Except for two delegations who reserved their position, all the delegations who expressed their position supported the option providing for clarifications on terms of aspects of the provisions of article 13 without revising its wording.
23. **Delegations were invited to specify to the Secretariat the terms and/or aspects that would need to be clarified by 15 January 2021.**

#### **IX. Children's participation in decision-making on matters relevant to their health**

24. Dr Annagrazia Altavilla, consultant, presented the concept note and questionnaire on relevant legislation and practices relating to children's participation in decision-making on matters relevant to their health. This was followed by an exchange with delegations.
25. **Delegations were invited to share the concept note and questionnaire, as finalised by the Secretariat, with colleagues working on the relevant subject matter and to submit replies to the online questionnaire, as well as other useful information on the subject matter, by 31 March 2021.**
26. **Delegations were also invited to provide the Secretariat with the contact details of experts who would be ready to share their knowledge and experience in this area.**

#### **X. Equity of access to vaccines**

27. Taking into account the priorities agreed, the Bureau considered that in the current fast-moving scenario of vaccine development, DH-BIO could have more impact preparing, in a short time frame, a draft text focusing on equity of access to vaccines. The work will then continue on therapeutics and equipment, in particular in context of scarce resources.
28. The Secretariat presented its background document, providing delegations with an overview of the current scenario of development and regulation of vaccines against COVID19. Prof. Kristof Van Assche (Belgium), consultant, introduced the outline for a draft text on equity of access to vaccines providing an ethical framework on the basis in particular of the principles laid down in the Oviedo Convention.
29. During the discussion delegations supported the relevance of a work on vaccine while emphasising the need to ensure added value and not duplicate work already undertaken by other organisations such as WHO and EU.
30. Mrs Jennifer De Temmerman, Member of the Committee on Social Affairs, Health and Sustainable Development of the Parliamentary Assembly of the Council of Europe, reported on the work she is currently carrying out on ethical, legal and practical considerations in relation to COVID19 vaccines, with a fast-tracking process. The Committee will hold a hearing on this topic during the next Committee meeting on 1 December 2020.
31. With the exception of one delegation who abstained, all delegations supported the proposal to focus first on equity of access to vaccine. All delegations, except two who voted against, were in favor of drafting a statement.
32. Finally, delegations supported to work thereafter on guidelines on equity of access to treatments and equipment in the context of scarce resources, as a next step after the preparation of the statement on vaccines, except one who was against and five who abstained. A preliminary outline will be prepared for the June meeting which will be submitted to the DH-BIO for agreement on the way forward.

33. For the preparation of the statement on equity of access to vaccines, a drafting group will be established as soon as possible. **Members of Delegations were invited to express their interest in joining the drafting group, by Friday 13 November 2020.**
34. The Secretariat proposed to explore possible collaboration with the European Directorate for the Quality of Medicines (EDQM) for the quality aspects of medicinal products, on the basis of the requirement of "appropriate quality" laid down in Article 3 of the Oviedo Convention. The drafting group will discuss this issue and, where appropriate, the Secretariat will contact the EDQM.

#### **XI. Election to the Bureau**

35. The Committee elected Dr Ritva HALILA (Finland), as Chair for a one-year term, renewable once.
36. The Committee elected Dr Siobhan O'Sullivan (Ireland), as Vice-Chair for a one-year term renewable once.
37. The Committee then proceeded to the election of three Bureau members. Among the four candidates proposed, the Committee re-elected Dr Rodica Gramma (Moldova) and Prof Pierre Mallia (Malta), for a second two-years term, and Dr Assunta Morresi (Italy) for a two years-term renewable once.

#### **XII. Decisions taken by the DH-BIO at its 17th meeting**

38. In agreement with the delegations, the list of decisions taken during the meeting was sent to the Committee members and approved by written procedures.

#### **XIII. Dates of the next meetings**

39. The DH-BIO agreed on the following dates for its next meetings to be held in Strasbourg:
- 18<sup>th</sup> meeting of the DH-BIO: 1-4 June 2021
  - 19<sup>th</sup> meeting of the DH-BIO: 2-5 November 2021

#### **XIV. Other business**

Comments of DH-BIO on PACE recommendation 2176(2020) - "Ethics in science and technology: a new culture of public dialogue"

40. The delegations generally supported the recommendations made by the Parliamentary Assembly in its Recommendation 2176(2020) and adopted the comments prepared by the Secretariat based on relevant work carried out by the DH-BIO.

#### Representative and rapporteurs

41. Dr Assunta Morresi (Italy) was entrusted with the task of representing the DH-BIO in the Committee CD-P-TO.
42. Delegations were reminded that the Committee of Ministers, in addition to a rapporteur on Children Rights and a rapporteur on Gender Equality, had invited intergovernmental committees to consider the possibility of appointing rapporteurs on Disability issues and on Roma and travellers' issues. Prof. Constantinos Phellas (Cyprus), who had expressed his interest, was designated as Rapporteur on disability issues. **Members of Member states Delegations were invited to express their interest in becoming DH-BIO Rapporteur on Roma and travellers' issues by Friday 13 November 2020.**

#### Questions put to the ECHR under Article 29 of the Oviedo Convention

43. The Secretariat informed the DH-BIO that the European Court of Human Rights, in June 2020, had invited the Member States to submit written comments on the request lodged at the end of 2019 under Article 29 of the Oviedo Convention, in light of a number of questions formulated by the Court relating to the existence of jurisdiction of the Court and, for the Contracting Parties to the Oviedo Convention, on national provisions regulating the matters covered by the request for an advisory opinion. The Court had received written comments from 24 member States. The Court would keep the DH-BIO informed about the further developments of the procedure.