

CDDH comments on the Parliamentary Assembly Recommendation 2166(2019) – HUMAN RIGHTS AND BUSINESS – WHAT FOLLOW-UP TO COMMITTEE OF MINISTERS RECOMMENDATION CM/Rec(2016)3?

93rd meeting – 14 – 16 December 2020 - CDDH(2020)R93

1. The CDDH takes note with interest of Parliament – “ Human rights – ~~What follow-up to~~ Committee of Ministers Recommendation CM/ Rec (2 0 1 6) CDDH’ finds the text sent the Assembly very timely, since the Committee of Ministers is expected to review the implementation of its Recommendation to member States on Human Rights and Business (hereinafter CM/Rec(2016)3) during the present biennium. At this stage, and as a preliminary response to the recommendations put forward by the Assembly, the CDDH would like to inform on the following concerning the various paragraphs of the Assembly’s text :

Paragraph 1.1 of the Assembly’s text

2. Council of Europe activities aimed at raising awareness on and promoting this text include the *HELP Course on Business and Human Rights* which introduces participants to the relevant existing international legal framework and explores the applicable jurisprudence of the European Court of Human Rights. A page in the [HELP Online Platform](#) has also been created where member States can register their relevant representatives or interlocutors in order to upload information or engage with other users.
3. In addition, a *Handbook for Legal Practitioners* was published in 2019.
 - i. This introduces the regional and international standards and mechanisms relevant to addressing business and human rights issues in Europe.
 - ii. It is intended to serve as a resource for legal practitioners, and others, across government, business, civil society, the media and in independent bodies, such as ombudsmen and national human rights institutions.

Paragraph 1.2

4. The CDDH will be invited to discuss questions participation and time-frame of the examination of the implementation of CM/Rec(2016)3 as required under this rec [Online Platform](#) for Human Rights and Business provides a good basis for preparatory reflections and related discussions.

Paragraph 1.3

5. The CDDH’s discussion mentioned in *intehad*, the ~~evi~~ o desirability and feasibility of conducting reviews of the implementation of CM/Rec(2016)3 beyond 2021.

Paragraph 1.4

6. The CDDH welcomes the support for its work on Human Rights and Business. It underlines the need to reinforce its human resources available to enable to carry out its work, notably the examination of the implementation of CM/Rec(2016)3 and ensuring the continuous operations of the Platform.

Paragraph 1.5

7. The Platform was published on 27 November 2019.
 - i. Information contained on its public pages includes links to relevant standards and guidance in the field of business and human rights at the level of the UN, Council of

- Europe, the Organisation for Economic Co-operation and Development (OECD), and the International Labour Organisation (ILO).
- ii. Also, an index of the published National Action Plans on Business and Human Rights is available and searchable by State.
 - iii. CDDH members have also provided information regarding actions taken to implement CM/Rec(2016)3; this information is searchable by State or by pillar of the UN Guiding Principles on Business and Human Rights.
 - iv. The Platform features information covering 21 States, 19 National Action Plans and 30 selected practices.
 - v. The CDDH contributes to update the Platform with information. A compilation of replies by member States on a questionnaire regarding the implementation of Rec(2019)6 is available in the document [CDDH\(2016\)06](#).
 - vi. The Platform is intended to serve as a continually updated resource. States and National Human Rights Institutions are still encouraged to submit responses to the questionnaire and to contribute implementation practices and relevant information to the Platform.

Paragraph 1.6

8. At present 19 member States have published a National Action Plan, with two more in the process of developing a plan. All of these are featured in the Platform. The CDDH discussions that will take place in the context of examining the implementation of CM/Rec(2016)3 (see paragraph 4 above) may create opportunities for encouraging remaining States to develop national action plans, and those States that have already adopted such plans, to share their expertise and experience and support other members in drafting national action plans.

Paragraph 1.7

9. The CDDH Secretariat has engaged in cooperation with other international organisations and will continue to do so.
 - i. The Secretariat [co-organised a session](#) with the European Union External Action Service (EEAS) at the 2019 UN Forum on Business and Human Rights, on 27 November 2019 in Geneva.
 - ii. The session “ Strengthening regional roles to the role of regional organisations ” featured the Council of Europe, African Union, European Union, and the Belgian and Finnish Governments.
 - iii. The Secretariat attended in a speaking capacity the Business & Human Rights Peer Learning Meeting (Brussels, 23 May 2019), organised by the Belgian Government.
 - iv. Additionally, it contributed to a [perspectives paper](#) which was published in connection with the conference *Business and Human Rights: Towards a Common Agenda for Action* organised by the Finnish Presidency of the Council of the European Union (Brussels, 2 December 2019). The perspectives paper underlined, *inter alia*, the complementarity of action between the Council of Europe and the EU in ensuring the implementation of the UN Guiding Principles on Business and Human Rights throughout the European region.
 - v. The Secretariat also maintains regular contact with counterparts at the UN, EU and OECD, and welcomes further and more sustained collaboration. A representative from the European Union Agency for Fundamental Rights (FRA) is envisioned to attend the next working group meeting for the update of the HELP online course on Human Rights and Business.
 - vi. The CDDH Secretariat remains open to cooperate and collaborate with counterparts in other International Organisations and will seek to ensure our work is complementary and mutually supportive.

Paragraph 1.8

10. The Secretariat follows the outcomes of relevant processes and takes them into account, as appropriate, into its work. The relevance OEIGWG may be considered in the context of reflections and discussions regarding the examination of the implementation of CM/Rec(2016)3.

Paragraph 1.9

11. The CDDH process of examination of the implementation of CM/Rec(2016)3 may provide an opportunity to consider and assess the desirability and/or feasibility of revising CM/Rec(2016)3.

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Text of Recommendation 2166(2019)

HUMAN RIGHTS AND BUSINESS – WHAT FOLLOW-UP TO COMMITTEE OF MINISTERS RECOMMENDATION CM/Rec(2016)3?

Parliamentary Assembly

1. Referring to its Resolution 2311 (2019) “ Human rights – what follow-ups to n e s Committee of Ministers Recommendation CM/ Rec (2 0 1 6) recommends that the Committee of Ministers:

- 1.1** take all necessary measures to ensure a wide dissemination of Recommendation CM/Rec(2016)3 on human rights and business;
- 1.2** examine the implementation of Recommendation CM/Rec(2016)3 as soon as possible and, in any event, not later than five years after its adoption;
- 1.3** consider conducting further reviews of the implementation of Recommendation CM/Rec(2016)3 on a regular basis;
- 1.4** continue to support the work of the Steering Committee for Human Rights (CDDH) on human rights and business;
- 1.5** take all the necessary measures to make the C Rights and Business operational without delay;
- 1.6** take all the necessary measures to encourage Council of Europe member States to adopt, review and/or update action plans on the implementation of United Nations Guiding Principles on Business and Human Rights, if they have not yet done so, and to share them with other Council of Europe member States, in particular through the Online Platform for Human Rights and Business;
- 1.7** step up the co-operation between the Council of Europe and other international organisations, in particular the United Nations, the International Labour Organization (ILO), the Organisation for Economic Co-operation and Development (OECD) and the European Union, with a view to promoting consolidation of coherent standards on business human rights and the implementation of the United Nations Guiding Principles, as well as exchanging good practices in this area;
- 1.8** engage in the work of the United Nations open-ended intergovernmental working group on transnational corporations and other business enterprises with respect

to human rights on a legally binding instrument on business activities and human rights;

- 1.9 consider revising Recommendation CM/Rec(2016)3 with a view to more explicitly covering gender-based human rights abuses and vulnerable population groups such as migrant workers, minorities and persons with disabilities, and referring to member States towards the ~~segg~~tips under the European Social Charter (ETS Nos. 35 and 163).