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Item 3 of the agenda

**STEERING COMMITTEE  
FOR CULTURE, HERITAGE AND LANDSCAPE  
(CDCPP)**

**GENERAL QUESTIONS, WORKING METHODS AND  
THEMATIC SESSIONS**

**CDCPP Terms of Reference  
Elections including of thematic rapporteurs at the plenary session in November  
Reporting by Committees  
Meeting dates and recourse to written procedures  
by the Council of Europe intergovernmental committees**

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**Preparation of the November plenary session agenda and information on the  
thematic sessions on “Climate change and Sustainable Development”  
and  
“AI and culture, creativity and cultural heritage”**

For information and action

Secretariat Memorandum  
prepared by the  
Directorate of Democratic Participation  
Culture, Nature and Heritage Department

## Introduction

The intergovernmental structure and terms of reference, together with the Programme and Budget for 2020-2021, were adopted by the Committee of Ministers of the Council of Europe on 21 November 2019. In addition to the Terms of Reference (see Appendix 1), the present document also contains information on the election of thematic rapporteurs, the expected reporting by Committees, this year's meeting dates, as well as recent Council of Europe legal opinions on COVID-19 (see Appendices II and III that relate to the issue of postponing the elections of the CDCPP Bureau to the plenary session and on recourse to written procedures by intergovernmental committees). It also anticipates the 2020 thematic sessions planned on the occasion of the CDCCP plenary.

The Bureau of the CDCPP, at its session on 28 April, agreed to contribute to updating documents on working methods, in view of the requirements of the Committee's new Terms of Reference and the need to evaluate its work and set priorities for future priorities.

In addition, the Bureau noted the proposal to compile an inspirational reader with contributions from member States regarding culture in times of the COVID-19 crisis, and asked the Secretariat to provide methodological guidelines to enable the CDCPP to produce an inspiring and multi-faceted account of how Europe's cultural sector reacted convincingly and creatively to the situation and how citizens were thus empowered. The Secretariat requested contributions to this initiative in an e-mail to CDCPP members on 16 June.

## Terms of Reference of the CDCPP

The 2020-21 Terms of Reference for the Steering Committee for Culture, Heritage and Landscape appear in Appendix I.

## Election of thematic rapporteurs

Under the "Main Tasks" of the CDCPP's Terms of Reference, the Committee is instructed to:

"(xiii) take due account of a **gender perspective**, building cohesive societies, and promoting and protecting rights of **persons with disabilities** in the performance of its tasks;"

Similarly, under the Terms of Reference's "Working methods", the Committee "will also appoint a Gender Equality Rapporteur and a Rapporteur on the rights of persons with disabilities from amongst its members".

The role of the rapporteurs is to ensure that the issues in question remain visible in the committees concerned, that these dimensions are integrated into committee work where relevant and that any follow-up is ensured. Support is available from the Gender Equality Division that has developed specific training tools (handbook, etc).<sup>1</sup>

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<sup>1</sup> The CDCPP itself produced a document in 2016 on gender issues "[Making equality a reality: mainstreaming CDCPP activities](#)". Various other projects under the CDCPP offer specific gender-related actions, such as Strategy 21's [factsheet on gender equality](#) in cultural heritage.

The Compendium cultural policy information system created a dedicated chapter on gender equality in culture ([www.culturalpolicies.net](#) chapter 2.5.5.) many years ago. It could be interesting to run an inquiry with Ministries of Culture/Heritage/Environment to collect information on measures taken by them for ensuring gender equality in these sectors, so as to provide the CDCPP with an updated picture of the situation, and allow it to report back on this in the framework of Committees' reporting tasks. The same could be envisaged as regards the rights of persons with disabilities. Again, as a first information base, the Compendium offers information on policies and practices on access to culture/ heritage in its chapter on disability (2.5.6.).

Within the wider cultural field at the Council of Europe, [Eurimages](#) has been considering the issue of gender equality in the film industry for some years now. In September 2017, the Committee of Ministers adopted a [Recommendation on gender equality in the audio-visual sector](#), in interaction with the CDCPP. Last year Eurimages produced a powerful [promotional clip](#) on the subject.

As regards the CDCPP, the Bureau members appointed Giuliana De Francesco and Andrei Chistol as Gender Equality Rapporteurs at their meeting on 22-23 November 2016. These rapporteurs will either have to be confirmed in their roles, or new gender equality rapporteurs appointed, as well as a rapporteur on the rights of persons with disabilities.

### **Election of Bureau members**

At its 2018 plenary session, the Committee elected Ms Giuliana De Francesco (Italy) as Chair of the Committee and Mr Levan Kharatishvili (Georgia) as Vice Chair of the Committee, together with four new members of the Bureau: Mr Terje Birkrem Hovland (Norway); Mr Alfredas Jomantas (Lithuania); Mr Peter Miladinov (Bulgaria); Ms Flora Van Regteren Altena (the Netherlands).

At its 2019 plenary session, the CDCPP re-elected its Chair (Ms Giuliana De Francesco) and Vice-Chair (Mr Levan Kharatishvili) for one year and elected two new Bureau members (Ms Orane Proisy, France and Ms Monica Redondo Alvarez, Spain) for two years.

In 2020, the Committee needs to elect a new Chair and Vice-Chair, as well as a minimum of two new Bureau members. It could renew the terms of office of four Bureau members for another two years (Mr Terje Birkrem Hovland (Norway); Mr Alfredas Jomantas (Lithuania); Mr Peter Miladinov (Bulgaria); Ms Flora Van Regteren Altena (the Netherlands)).

In anticipation of the 2020 Committee elections, the Secretariat requested legal advice to ascertain the most appropriate procedures to follow, given the unprecedented circumstances created by COVID-19. The Legal Opinion appears in Appendix II and has been duly taken into account in the preparation of the CDCPP's work, through a tacit approval procedure under the authority of the Chair of the CDCPP, with a view to holding the elections at the face-to-face plenary session of the Committee in November 2020 (see also below under meeting dates).

### **Reporting by Committees**

For all steering and *ad hoc* committees, the following main task was included in the Terms of Reference in line with Articles 17 and 21 of [Resolution CM/Res\(2011\)24](#):

*“[the committee will] hold an exchange of views annually in order to evaluate its activities and advise the Committee of Ministers and the Secretary General on future priorities in its sector, including possible new activities and those that might be discontinued”.*

Committees are hence asked to evaluate their activities in the abridged reports submitted to the Committee of Ministers. An annual exchange of views is proposed to strengthen this dimension, in line with recommendation 11 of the [Evaluation of the Intergovernmental Committees](#) (the evaluation), and add elements on possible future priorities in the sector, to contribute to the preparation of future terms of reference of committees in line with recommendation 3 of the evaluation.

Other points to be dealt with by Committees under the item “working methods” include:

- the holding of an exchange round on the use of Council of Europe (sector-specific) standards in member States and on recent and forthcoming signatures and ratifications of these standards;
- the production of an overview report on the respective Committees' contribution to the SDGs;
- the production of an overview report on the work of the thematic rapporteurs (here: gender equality and rights of persons with disabilities).

The Committee may suggest sending out a questionnaire to collect relevant information prior to its face-to-face plenary session in 2020 to prepare for these exchanges and overview reports. Results can then be drawn soon after the plenary session and included in the Abridged Report of the Committee session.

## **Meeting dates and recourse to written procedures by the Council of Europe inter-governmental committees**

With the unwelcome arrival of the COVID-19 virus, plenary meetings of intergovernmental committees in 2020 have in some cases been cancelled or postponed.

At its online meeting on 28 April 2020, the CDCPP Bureau decided to postpone the plenary session to a two-day meeting on 12-13 November, travel possibilities permitting. The on-line CDCPP meeting of 30 June allows some important issues to be discussed in advance of the November session and will help to ensure the continuity of the Steering Committee's work.

The **Legal Opinion** in Appendix III was prepared by the Directorate of Legal Advice and Public international Law of the Council of Europe, outlining written procedure possibilities. The Committee was invited on 19 June to a tacit agreement procedure as regards the postponement of the 2020 elections to the face-to-face plenary session of the CDCPP in November 2020.

All efforts undertaken by the Chair and Secretariat of the CDCPP are in line with the circular letter from the Secretary General and the President of the Ministers' Deputies (dated 9 June and shared with CDCPP delegates on 19 June) to the Chairs of the Steering Committees, encouraging them to explore all possibilities to ensure the continuity of committees' work by adapting working methods with the use of new technologies, videoconferences, participation in meetings via video-link and written procedures in order to pursue the implementation of 2020-2021 terms of reference, respecting the legal framework set by [Resolution CM/Res\(2011\)24](#).

## **Preparation of the plenary session agenda and the thematic sessions on "Climate change and Sustainable Development" and "AI and culture, creativity and cultural heritage"**

At the meeting in April, the Bureau members discussed the 2020 plenary session and possible thematic sessions on "Climate change and Sustainable development" and "AI and culture, creativity and cultural heritage". They advised on the choice of keynote speakers and the best preparation of the thematic sessions, building on the work of previous sessions.

In line with a reference included in the main tasks of Steering Committees in 2020-2021 (see part 2, paragraph 2 of the ToR) and the Sustainable Development aspirations of the [UN Agenda 2030 for Sustainable Development](#) (see [dedicated webpage](#)) and as a follow-up to last year's thematic session on sustainable development and climate change as related to human rights and democracy, the plenary session of the CDCPP in November will hence include a thematic session on "Climate change and sustainable development".

The ambition, following on from last year's brainstorming, is to focus on the role of relevant tools under the responsibility of the CDCPP and their best use and applications. The session could be structured in one/two panels, directly involving CDCPP members, and following an expert intervention. The speaker of choice would be Mr Andrew Potts. This session would cover the first half of Day 1 of the plenary session (12 November).

In the second half, a thematic session on AI would be held, updating the CDCPP on this transversal CoE priority and the role that culture and heritage can play there. The aim is to engage an expert speaker who would be able to connect the culture/cultural heritage/landscape sector with technical issues. The Director of Ars Electronica, Mr Gerfried Stocker, would be the speaker of choice, possibly supported by other protagonists in the field of culture and AI.

This session would also offer the context to the envisaged launch of the Council of Europe publication on "E-Relevance - the role of arts and culture in the age of AI". This work derives from the 2018 expert seminar held in Rijeka, Croatia and brings together a number of essays by renowned researchers, writers and arts/culture/heritage practitioners experimenting with AI in these sectors in a human-rights driven perspective.

### **Action required**

The CDCPP is invited to:

- take note of the information provided on general questions, working methods and thematic sessions, including on the Terms of Reference, elections including of thematic rapporteurs at the plenary session in November, reporting by Committees, meeting dates and recourse to written procedures by the Council of Europe intergovernmental committees; preparation of the plenary session agenda and the thematic sessions on "Climate change and Sustainable development" and "AI and culture, creativity and cultural heritage";
- record the tacit agreement for elections to be held in November, as communicated to delegates by the Secretariat on 19 June;
- advise the Secretariat on steps to be taken, with a view to preparing the CDCPP's plenary session and its optimal follow-up for the benefit of member States.

## APPENDIX I

### CDCPP Terms of Reference

# Steering Committee for Culture, Heritage and Landscape

*Set up by the Committee of Ministers under Article 17 of the Statute of the Council of Europe and in accordance with Resolution [CM/Res\(2011\)24](#) on intergovernmental committees and subordinate bodies, their terms of reference and working methods.*

**Type of committee:** Steering Committee

Terms of reference valid from: **1 January 2020 until 31 December 2021**

PILLAR/PROGRAMME/SUB-PROGRAMME
<p><b>Pillar:</b> Democracy</p> <p><b>Programme:</b> Democratic Participation</p> <p><b>Sub-programme:</b> Culture, Nature and Heritage</p>
MAIN TASKS
<p>Under the authority of the Committee of Ministers, in the framework of the European Cultural Convention, building notably on the outcomes of relevant ministerial conferences and having regard to the Secretary General's reports on the State of Democracy, Human Rights and the Rule of Law and the relevant decisions by the Committee of Ministers, the CDCPP will oversee the Council of Europe's intergovernmental work in the field of culture, heritage and landscape, and advise the Committee of Ministers on all questions within its area of competence. Taking due account of relevant transversal perspectives, the overall aim is to provide States Parties to the European Cultural Convention and other relevant Conventions with standards, policies and good practices to sustainably manage cultural, heritage and landscape resources, as a basis for democratic societies in a digitally evolving environment.</p> <p>With this purpose, the Committee is instructed to:</p> <ul style="list-style-type: none"> <li>(i) develop standards as appropriate and act as a forum where States share information and good practices, devise and follow-up innovative policies and strategies related to the sustainable management of culture, heritage and landscape, meet the challenges and opportunities of digitisation and artificial intelligence in these sectors and promote intercultural dialogue;</li> <li>(ii) take the pertinent aspects of the European Convention on Human Rights into consideration in its thematic work;</li> <li>(iii) facilitate the use of and implementation by member States of tools and guidelines (including Committee of Ministers' recommendations) on landscape, culture and cultural heritage policies at national, regional and local level, as appropriate;</li> <li>(iv) contribute to co-operation and support activities of national initiatives in these fields;</li> <li>(v) at the request of member States, facilitate the delivery of peer reviews, policy and legal advice, technical assistance, co-operation and capacity-building initiatives in the areas covered by these terms of reference and the relevant Council of Europe conventions;</li> <li>(vi) maintain, further develop and/ or make the best use of European platforms, conferences and networks – including electronic networks (in particular HEREIN, ELCIS, IFCD, Compendium of Cultural Policies and Trends in Europe) – with a view to collecting best practice, exchanging experience and developing new approaches to policies and strategies on culture, cultural heritage and landscape and their value for society;</li> </ul>

- (vii) follow up existing standards of the Council of Europe and, where necessary, develop new ones for culture, heritage and landscape or adapt existing ones taking into account the outcomes of the platforms and conferences and as appropriate, the review of technical co-operation, Joint Projects and field projects on cultural heritage and integrated socio-economic development;
- (viii) continue to follow up the relevant ministerial conferences (Culture/Moscow, 2013; Cultural Heritage/Namur, 2015) in line with Committee of Ministers' decisions;
- (ix) promote high-level dialogue with representatives of the European Union, the United Nations/UNESCO, OSCE and other international organisations with a view to making use of each other's know-how and experience and identifying opportunities for co-operation and synergies in view of the Council of Europe's position as a unique pan-European Organisation for intergovernmental co-operation in the field of culture;
- (x) act as a catalyst for associating partner and observer organisations in the achievement of the goals of the Council of Europe in the fields of culture, cultural heritage and landscape, through synergies and collaborations;
- (xi) without prejudice to the mandates of intergovernmental committees of the Council of Europe that already follow the work of monitoring mechanisms, follow the activities of the relevant monitoring and other bodies or convention mechanisms;
- (xii) hold an exchange of views annually in order to evaluate its activities and advise the Committee of Ministers and the Secretary General on future priorities in its sector, including possible new activities and those that might be discontinued;
- (xiii) take due account of a gender perspective, building cohesive societies, and promoting and protecting rights of persons with disabilities in the performance of its tasks;
- (xiv) in accordance with decisions [CM/Del/Dec\(2013\)1168/10.2](#) of the Committee of Ministers, carry out, within the limits of the available resources and bearing in mind its priorities, an examination of some or all of the conventions for which it has been given responsibility,<sup>[29]</sup> in co-operation, where appropriate, with the relevant convention-based bodies, and report back to the Committee of Ministers;
- (xv) contribute to the achievement of the UN 2030 Agenda for Sustainable Development, in particular with regards to Goal 3: Good Health and well-being; Goal 11: Sustainable Cities and Communities; Goal 13: Climate action, Goal 15: Life on land and Goal 16: Peace, Justice and Strong Institutions.

**SPECIFIC TASKS**

- (i) Promote policy measures on the digitisation of culture, cultural heritage and the audiovisual sector in view of protecting their diversity and meeting the challenges and opportunities of artificial intelligence in this sector and help share best practices.
- (ii) Follow up and guide the implementation of the Faro Convention on the value of cultural heritage for society, including the Faro Convention Action Plan.
- (iii) Promote the Council of Europe Convention on Offences relating to Cultural Property and guide its implementation.
- (iv) Assist in the implementation of the European Cultural Heritage Strategy for the 21<sup>st</sup> Century.
- (v) Follow up and guide the implementation of the European Landscape Convention, including the preparation of its 11<sup>th</sup> Conference (2021) and the Council of Europe Landscape Award.
- (vi) Review progress towards the United Nations Sustainable Development Goals (UNSDGs), as evidenced by monitoring mechanisms and promoted through standard-setting and exchange of experiences and good practices.

**COMPOSITION****Members:**

Governments of member States of the Council of Europe and of other States having acceded to the European Cultural Convention are invited to appoint one or more high ranking representatives with top responsibilities for the development and management of policy in the fields of culture, cultural heritage and landscape.

The Council of Europe will bear the travel and subsistence expenses of one representative from each State Party (two in the case of the State whose representative has been elected Chair).

States Parties to the European Landscape Convention may send representatives without defrayal of expenses.

Each member of the Committee shall have one vote. Where a government designates more than one member, only one of them is entitled to take part in the voting.

In accordance with decisions [CM/Del/Dec\(2013\)1168/10.2](#) of the Committee of Ministers, in cases where there is no convention-based body including all the Parties, non-member States are invited to participate, with a right to vote, in the committee meetings pertaining to the conventions to which they are Parties.

**Participants:**

The following may send a representative, without the right to vote and at the charge of their corresponding administrative budgets:

- Parliamentary Assembly of the Council of Europe;
- Congress of Local and Regional Authorities of the Council of Europe;
- Conference of INGOs of the Council of Europe;
- Council of Europe Development Bank (CEB);
- Steering Committee on Media and Information Society (CDMSI);
- Steering Committee for Education Policy and Practice (CDPPE);
- European Committee on Crime Problems (CDPC);
- other committees or bodies of the Council of Europe engaged in related work, as appropriate.



The following may send representatives, without the right to vote and without defrayal of expenses:

- European Union;
- Observer States to the Council of Europe not party to the European Cultural Convention: Canada, Japan, Mexico, United States of America;
- United Nations Educational, Scientific and Cultural Organisation (UNESCO);
- Organisation for Economic Co-operation and Development (OECD);
- Organisation for Security and Co-operation in Europe (OSCE);
- European Free Trade Association (EFTA);
- Nordic Council of Ministers;
- Arab League Educational, Cultural and Scientific Organisation (ALECSO);
- United Nations Economic Commission for Europe (UN-ECE);
- International Centre for the Study of the Preservation and Restoration of Cultural Property (ICCROM).

#### **Observers:**

The following may send representatives, without the right to vote and without defrayal of expenses:

- Israel;
- European Cultural Foundation (ECF);
- European Cultural Centre in Delphi;
- Culture Action Europe;
- European Network of Cultural Administration Training Centres (ENCATC);
- European Roma and Travellers Forum (ERTF);
- European Association of Archaeologists (EAA);
- Europae Archaeologiae Consilium (EAC);
- Europa Nostra;
- International Council of Monuments and Sites (ICOMOS);
- Organisation of World Heritage Cities (OHWC);
- International Federation for Housing and Planning (IFHP);
- European Federation of Landscape Architects (EFLA);
- European Council of Town Planners (ECTP);
- European Council of Landscape Architecture Schools (ECLAS);
- International Association of the European Heritage Network (AISBL);
- European Confederation of Conservator-Restorers' Organisations (ECCO);
- European Federation for architectural heritage skills (FEMP);
- Civilscape.

#### **WORKING METHODS**

##### **Plenary meetings:**

51 members, 1 meeting in 2020, 2.5 days

51 members, 1 meeting in 2021, 2.5 days

##### **Bureau meetings:**

9 members, 2 meetings in 2020, 1.5 days

9 members, 2 meetings in 2021, 1.5 days

The Committee will also appoint a Gender Equality Rapporteur and a Rapporteur on the rights of persons with disabilities from amongst its members.

The rules of procedure of the Committee are governed by Resolution [CM/Res\(2011\)24](#) on intergovernmental committees and subordinate bodies, their terms of reference and working methods.

Whenever appropriate, it will prioritise environmentally sound working methods, such as virtual meetings

facilitated by information technology and written consultations.

#### BUDGETARY INFORMATION\*

	Meetings per year	Number of days	Members	Plenary €K	Bureau €K	Working groups	Secretariat (A, B)
2020	1	2.5	51	58.6	10.2	-	0.5 A; 0.5 B
2021	1	2.5	51	58.6	10.2	-	0.5 A; 0.5 B

\*The costs include the per diem, travel costs, interpretation, translation and document printing. These costs are calculated on the basis of the 2020 standard costs.

## APPENDIX II

01 June 2020

**LEGAL OPINION**

**For the attention of  
Ms Kathrin MERKLE – DGII – Democracy**

**u/c Mr Jörg POLAKIEWICZ, Director of Legal Advice and Public International Law**

**Subject: COVID-19 – Consequences of adjourned Plenary Session to elections of the Bureau of the Steering Committee for Culture, Heritage and Landscape (CDCPP)**

1. Due to the COVID-19 pandemic the three-day plenary meeting of the Steering Committee for Culture, Heritage and Landscape (CDCPP) planned to take place from 30 June to 2 July 2020 has had to be postponed to 12-13 November 2020. The CDCPP will, however, hold a 1-day online KUDO meeting on 30 June to advance some urgent projects. With your request for legal opinion dated 27 May 2020 you enquire, whether the expiring mandates of the Chair, Vice-Chair and other Bureau members of the Steering Committee, can simply be considered prolonged as a consequence of the current emergency situation and the need to postpone the actual plenary and elections to November, or, whether elections should and could be held electronically already before that.

2. Neither the prolongation of the mandates of the members of the Bureau of intergovernmental committees nor the possibility to hold elections electronically is provided for under the applicable Resolution CM/Res(2011)24 on intergovernmental committees and subordinate bodies and its Appendix 1 containing the Rules of Procedure for Council of Europe intergovernmental committees. Yet it appears justifiable to maintain that under the current circumstances intergovernmental committees should exceptionally have the possibility to have recourse to these options given that an intergovernmental committee can hardly be considered functional without a Chair and/or Bureau in office. The threat posed by COVID-19 can be qualified as a situation of *force majeure*, i.e. an occurrence of an exceptional event beyond the parties' control, such as a natural disaster, major weather problems or war, which prevents or hinders the adherence to the agreed rules and which could not have been foreseen at the time the rules were adopted. The Committee of Ministers, when drafting CM/Res(2011)24, could not have foreseen that a highly contagious virus would one day hinder the holding of meetings of intergovernmental committees for an undefined period of time with the consequence of paralysing the functioning of the intergovernmental work of the Organisation. Against this backdrop, both proposed alternatives, prolongation of the mandates of the current Bureau members and the holding of electronic elections for new ones, appear as legally possible avenues under the current circumstances.

3. You should, however, bear in mind that the use by intergovernmental committees of alternative working methods not expressly mentioned in CM/Res(2011)24, such as decision-making via videoconference or written procedure, is currently heavily debated within the Committee of Ministers.<sup>2</sup> Although the Secretary General's recent idea of a joint letter by her and the Chair of the Committee of Ministers setting out working methods during the pandemic<sup>3</sup> has seemingly been well received by most delegations, it is recommended that you exercise caution in this area at least until a temporary (for instance in the form of the mentioned joint letter) or a more permanent solution (e.g. via amendments to CM/Res(2011)24) applying to all Council of Europe intergovernmental committees has been found. Already this aspect prevents a reading of CM/Res(2011)24 that would allow for an automatic prolongation of the expiring mandates based on the impossibility to hold a physical plenary meeting. Instead, the Bureau could use the channel of electronic consultation foreseen by Article 13.b.2<sup>nd</sup> sentence of the Rules of Procedure appended to CM/Res(2011)24 to explore whether the extension of the expiring mandates until the CDCPP plenary meeting in November would find the tacit approval of all members of the Steering Committee. The prolongation would appear to represent the more pragmatic and possibly less contested solution in comparison to holding electronic elections either in the midst of the virtual meeting on 30 June 2020 or via a written procedure. Should, however, only one member object to the extension of the mandates within the set deadline, delegations should be consulted anew to find out whether, instead, a consensus on resorting to electronic elections could be reached among them.

Irene Suominen

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<sup>2</sup> See, documents distributed at the request of the Russian Federation, DD(2020)121 dated 16 April 2020 and DD(2020)222 dated 27 May 2020.

<sup>3</sup> SG/Inf(2020)15 dated 27 May 2020.

**APPENDIX III****DIRECTORATE OF LEGAL ADVICE AND  
PUBLIC INTERNATIONAL LAW  
25 March 2020****LEGAL OPINION**

**Subject: COVID-19 - Recourse to written procedures by the Council of Europe intergovernmental committees**

1. As part of the necessary measures to be taken within the Council of Europe to slow down the spreading of the COVID-19 virus, plenary meetings of intergovernmental committees have had to be cancelled or postponed. It is currently uncertain when the situation will allow for meetings *face-to-face* to take place again. It is, moreover, impracticable to organise plenary meetings encompassing all Council of Europe member states via videoconference.

**DLAPIL considers it acceptable from the legal point of view for intergovernmental committees to resort to decision-making by written procedure in cases where reasons of urgency do not allow for postponement until the next plenary meeting of the committee.**

2. The applicable regulations – Resolution CM/Res(2011)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods and the Rules of procedure for Council of Europe intergovernmental committees appended to it - do not explicitly provide for a general rule on written procedures, the premise clearly being that decisions are taken at plenary meetings.

3. The only stipulation as regards the use of written procedures by intergovernmental committees can be found in Article 13.b of the said Rules of procedure according to which “*[i]n exceptional cases and due to time constraint, the Bureau may have recourse to the tacit approval of all the members of the committee through electronic communication, in order to expedite procedure on decisions requested by the Committee of Ministers*”. In the absence of such request by the Committee of Ministers, no written procedure is foreseen.

4. Yet written procedures are also not prohibited by the said regulations. and it appears justifiable, under the exceptional circumstances at hand, to allow recourse to alternative methods of decision-making where necessary. The threat posed by COVID-19 can be qualified as a situation of *force majeure*, i.e. the occurrence of an exceptional event beyond the parties’ control, such as a natural disaster, major weather problems or war, which prevents or hinders the adherence to the agreed rules and which could not have been foreseen at the time the rules were adopted. It was not foreseeable for the Committee of Ministers when adopting the Resolution on intergovernmental committees that a highly contagious virus would one day make the holding of meetings *face-to-face* impossible for an unknown period of time with the consequence of paralysing the functioning of the intergovernmental work of the Organisation.

5. Priority should still be given to traditional decision-making at plenary meetings where issues can be discussed in detail and written procedures should only be employed in cases of urgency where it is not conceivable to wait for the possibility to convene the next plenary meeting.

**If such an urgency is likely to arise the Secretariat should inform the committee members of the possibility of resorting to written procedures by e-mail as soon as possible.**

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**DLAPIL recommends observing the following steps when resorting to a written procedure:**

i. Initiation by the Bureau

Written procedures may be initiated by the Bureau and carried out under the Chair's authority by the Secretariat. Bureau meetings to this end can be organised by videoconference, or, where this is not feasible, by means of electronic communication.

ii. Elaboration of a working document and a ballot paper by the Secretariat

The Secretariat, following the instructions of the Bureau, should elaborate a working document presenting the question(s) to be decided and prepare a separate ballot paper containing the option of casting a vote "for" or "against" a specific proposal as well as including the option of abstention. The ballot papers of committees other than steering committees should indicate that their conclusions are to be stated in the form of unanimous recommendations and that votes against will be considered as dissenting opinions.

iii. Circulation of both documents to committee members

The Secretariat should circulate both documents to members of the committee by e-mail. To the extent possible, the Secretariat should satisfy itself that the documents have been properly received by each recipient.

iv. Casting and transmission of written votes back to the Secretariat

Written votes should be cast by members by way of the ballot paper and must reach the Secretariat within 15 working days of the circulation of the working document. Members are responsible for their ballot papers being correctly transmitted to the Secretariat. If the Secretariat does not receive a member's vote within the prescribed time limit, that member is deemed not to have voted.

v. Quorum

A valid decision is reached when the number of votes cast are equal to or in excess of the quorum requirement of two-thirds of the members of the Committee as specified in Article 5 of the Rules of procedure. For the purpose of calculating the quorum an abstention should be seen as evidence of the committee member's participation within the meaning of Article 5.

vi. Voting

Article 11 of the Rules of procedure should apply to voting by written procedure and, therefore:

a. Abstentions will not be counted in deciding the outcome of the vote (i.e. votes cast include only votes for or against).

b. All decisions on procedural matters are settled by a majority of the votes cast. Where the question arises whether or not a matter is procedural in nature, it may not be regarded as such unless the committee decides to that effect by a majority of two-thirds of the votes cast.

c. Non-procedural decisions of steering committees are taken by a two-thirds majority of the votes cast.

d. Non-procedural decisions of other committees are taken in the form of unanimous recommendations unless one or several members have cast a vote against the decision. In this case a majority recommendation indicating the dissenting opinion(s) is made.

The Secretariat will keep the ballot papers received as a record of the written procedure.

vii. Notification of the outcome of the vote

The Secretariat should notify the members by e-mail about the outcome of the vote at latest on the fifth working day after the deadline for casting votes has expired.

viii. Procedural motions

Procedural motions may be raised against a written procedure within five working days after the transmission of the working documents. Procedural motions shall be addressed to the Chair with a copy to the Secretariat. Such motions will suspend the written procedure until the procedural motion has been put to the vote, by written procedure, by the Chair. As a procedural matter the issue is settled by a majority of the votes cast.

ix. Elections

These rules can be applied, *mutatis mutandis*, to elections of the Chair, Vice-Chair and other Bureau members of intergovernmental committees after the Secretariat has, as a first step, announced a call for candidates with a reasonable deadline.