



CDDH(2023)R98 Addendum
30/06/2023

STEERING COMMITTEE FOR HUMAN RIGHTS
(CDDH)

**COMMENTS ADOPTED BY THE CDDH ON RECOMMENDATIONS
OF THE PARLIAMENTARY ASSEMBLY**
(at its 98th meeting, 27 – 30 June 2023)

Recommendations [2251 \(2023\)](#) “Political strategies to prevent, prepare for, and face the consequences of natural disasters” ; [2252 \(2023\)](#) “Implementation of judgments of the European Court of Human Rights” and [2254 \(2023\)](#) – “Safeguarding democracy, rights and the environment in international trade”

Recommendation [2251 \(2023\)](#) “Political strategies to prevent, prepare for, and face the consequences of natural disasters”

1. The Parliamentary Assembly refers to its [Resolution 2493 \(2023\)](#) “Political strategies to prevent, prepare for, and face the consequences of natural disasters”. It deplores the destruction, suffering and insecurity that every natural disaster brings. Because of the human causes of the climate crisis, these disasters are set to become a chronic threat with serious repercussions on human well-being, including high human and economic costs.

2. Natural disasters have a broad impact on most human rights, such as the rights to life and physical integrity, rights related to basic necessities of life, security of property, economic, social, and cultural rights, and civil and political rights. Any natural disaster radically affects society and in particular its resilience, namely, its ability to overcome risks, conflicts, and political change. The consequences of the earthquake in Türkiye and in Syria will be felt for decades to come, including through migratory flows.

3. In the midst of this profound change of era and paradigm shift that we are experiencing, the Council of Europe remains the guardian of the rule of law in Europe and a bulwark against threats to human rights and democracy, including against the effects of the Anthropocene. The Assembly underlines the need to learn from each disaster in order to improve the continent’s climate resilience. Referring to [Recommendation 2214 \(2021\)](#) “The climate crisis and the rule of law”, it stresses the role of the rule of law in building the capacity of institutions to play their role with due regard for the separation of powers and when faced with adversity.

4. In its [Recommendation 2211 \(2021\)](#) “Anchoring the right to a healthy environment: need for enhanced action by the Council of Europe”, the Assembly called on Europe to protect the right to a “safe, clean, healthy and sustainable environment”. In view of the 4th Summit of the Council of Europe in Reykjavík (Iceland) which will set the Organisation’s strategy in the 21st century, including in relation to the climate crisis, the Assembly firmly reiterates this call and asks the Committee of Ministers to:

- 4.1** draw up an additional protocol to the European Convention on Human Rights (ETS No. 5) on the right to a safe, clean, healthy, and sustainable environment, based on the terminology used by the United Nations and on the text appended to [Recommendation 2211 \(2021\)](#);
- 4.2** draw up an additional protocol to the European Social Charter (ETS Nos. 35 and 163) on the right to a safe, clean, healthy, and sustainable environment;
- 4.3** finalise the feasibility study for a “Five Ps” convention on environmental threats and technological hazards threatening human health, dignity and life;
- 4.4** revise Recommendation CM/Rec(2016)3 on human rights and business with a view to strengthening corporate environmental responsibility for the adequate protection of the human right to a safe, clean, healthy and sustainable environment.

5. Recalling the ground-breaking role played by EUR-OPA, the European and Mediterranean Major Hazards Agreement of the Council of Europe, the Assembly emphasises the value of the agreement in preparing standards: its approach founded on human rights and democratic participation and its regional dimension are still appropriate today, as they ensure that no one is isolated or without assistance.

6. The Assembly regrets the general lack of investment by member States in Council of Europe instruments focusing on nature, landscape and major hazards, and the inexorable withdrawal of investment over the past 20 years. It therefore invites the Committee of Ministers to consider these activities as part of the core mandate of the Organisation and accordingly to incorporate funding for such activities in the ordinary budget of the Council of Europe, while at the same time ensuring that its work benefits all member States. It calls on the Committee of Ministers to put the right to a safe, clean, healthy and sustainable environment at the top of the agenda of the 4th Summit of the Heads of State and Government of the Council of Europe.

7. The Assembly congratulates the European Commission on the speed and efficiency of the European Union Civil Protection Mechanism mobilised a few hours after the earthquake on 6 February 2023 and on the organisation of the donors' conference on 20 March 2023. In the light of the experience gathered on the ground and as proof of sincere co-operation with international humanitarian organisations, it invites the European Commission to consider introducing co-operation without intermediaries, including for funding, so as to facilitate such organisations' deployment in the emergency phase of extreme events.

8. The Assembly wishes that, beyond the 4th Summit, the Council of Europe will remain a forum at the forefront, with its working method based on human rights, co-operation between peers, and democratic participation, where solutions based on nature, landscape, and major hazards are discussed. The Assembly calls on the Committee of Ministers to step up co-operation with the United Nations in setting standards for the prevention, forecasting and monitoring of extreme events and to co-ordinate its work with that of the European Union. Such co-operation should promote the sharing of good practice and strengthen solidarity between peers, whether professionals or volunteers, in the fight against extreme events. It should aim to improve the management of natural hazards and to further empower those directly affected by disasters to help themselves.

CDDH COMMENTS

1. The CDDH takes note of Recommendation [2251\(2023\)](#). It shares the Parliamentary Assembly's concern at the threat posed by natural disasters, including on the full enjoyment of human rights. It notes the emphasis given to environmental issues in the Reykjavík Declaration adopted at the Fourth Summit of Council of Europe Heads of State and Government in May 2023, which underscored "the role that the Council of Europe may play as an organisation working not only in the area of human rights, democracy and the rule of law, but with a longstanding and widely acknowledged track record in protecting the environment, environmentally friendly landscape management and public health".

2. As regards the right to a clean, healthy and sustainable environment, the CDDH notes that the Reykjavík Declaration affirmed that human rights and the environment are intertwined and that a clean, healthy and sustainable environment is integral to the full enjoyment of human rights by present and future generations, and noted that the right to a healthy environment is enshrined in several member States' national constitutions and increasingly recognised in international, regional, and national instruments. On this basis, the Declaration noted the political recognition of the right to a clean, healthy and sustainable environment as a human right,¹ and reiterated the call in Recommendation CM/Rec(2022)20 on member States to reflect on the nature, content and implications of this right and actively to consider recognising it at the national level.

3. As regards paragraph 4 of the Recommendation, which calls on the Committee of Ministers to protect the right to a clean, healthy and sustainable environment, the CDDH recalls the decision taken by the Committee of Ministers in November 2021 in response to Parliamentary Assembly Recommendation 2211(2021), which had made the same proposals. Further to the Committee of Ministers' decision, the CDDH Drafting Group on human rights and the environment (CDDH-ENV) has begun work on a draft report on the need for and feasibility of a further instrument or instruments in this field, bearing in mind the proposals made in Recommendation 2211(2021) for additional protocols to the European Convention on Human Rights and the European Social Charter. The CDDH underlines that these proposals raise complex and sensitive technical and political questions, including on the nature, scope and implications of the right to a clean, healthy and sustainable environment

¹ See Appendix V, paragraph i. of the Reykjavík Declaration.

and on its procedural accommodation within the system of the European Convention on Human Rights. The CDDH notes that the Reykjavík Declaration committed to concluding as soon as possible the report currently under preparation by the CDDH-ENV, and confirms its intention to meet this commitment.

4. The CDDH welcomes the Parliamentary Assembly's ongoing engagement with the work of the CDDH-ENV. It recalls that at its 5th meeting in September 2022, the CDDH-ENV organised an exchange of views with independent experts and representatives from the Parliamentary Assembly and the European Committee of Social Rights; the Assembly was represented by the rapporteur for Recommendation 2211(2021), Simon MOUTQUIN. The CDDH further recalls the May 2023 High-level Conference on the right to a clean, healthy and sustainable environment in practice, organised by the Icelandic Presidency of the Committee of Ministers with the support of the CDDH-ENV secretariat, in which participated Rik DAEMS, Chairperson of the Parliamentary Assembly's Network of Contact Parliamentarians for a healthy environment. The CDDH looks forward to continuing its constructive collaboration with the Parliamentary Assembly on this issue, as well as with other partners including the Office of the Commissioner for Human Rights, the European Court of Human Rights, the European Committee on Social Rights, the Conference of International NGOs, the Advisory Council on Youth, the Office of the UN High Commissioner for Human Rights, and the European Network of National Human Rights Institutions.

5. The CDDH further notes the ongoing work of its Drafting Group on human rights in situations of crisis (CDDH-SCR), which has the potential to be relevant also to situations covered by Recommendation 2251(2023). It recalls its Report on member States' practice in relation to derogations from the European Convention on Human Rights in situations of crisis, noting that derogations may arise also as a result of natural disasters.

6. As regards paragraph 8 of the Recommendation, the CDDH notes that the Reykjavík Declaration states a commitment to initiating the "Reykjavík process" of strengthening the work of the Council of Europe in the field of the environment, with the aim of making it a visible priority for the Organisation.

Recommendation [2252 \(2023\)](#) "Implementation of judgments of the European Court of Human Rights"

1. Referring to its [Resolution 2494 \(2023\)](#) "Implementation of judgments of the European Court of Human Rights", the Parliamentary Assembly welcomes the measures taken by the Committee of Ministers to fulfil its tasks arising under Article 46, paragraph 2, of the European Convention on Human Rights (ETS No. 5, "the Convention") and to improve the efficiency of its supervision of the implementation of the judgments of the Court.

2. As the implementation of the Court's judgments still presents many challenges, the Assembly recommends that the Committee of Ministers:

2.1 continue to use all available means (including interim resolutions) to fulfil its tasks arising under Article 46, paragraph 2, of the Convention;

2.2 undertake further work to develop a clear toolkit for assisting co-operation as well as for increasing pressure on States, in order to encourage them to take timely action to implement the judgments of the European Court of Human Rights; this toolkit should include a range of different measures and techniques that could be potentially deployed, as required, in different situations depending on the seriousness and complexity of the issue as well as on the type of

barriers that might exist to timely and effective implementation; such a toolkit should be an evolving document to include new techniques and best practice as experience develops; a creative approach should be applied in terms of tools and bodies that might assist in these endeavours;

- 2.3** increase the focus and priority for implementing leading cases; noting in particular that whilst significant progress has been made in tackling repetitive cases – which has improved the overall statistics – this is no substitute for addressing the underlying root causes of a series of violations, through implementing the leading cases; to this end more of a focus should be given to analysing and publicising the barriers to implementing leading cases as well as deploying the necessary tools to implement them successfully;
- 2.4** ensure that priority is given to tackling pockets of resistance and particularly complex cases, including by providing guidance and assistance to domestic authorities in the execution process to address the root causes underlying a violation;
- 2.5** take action to ensure that all States have adequate, effective national co-ordination mechanisms, with sufficient hierarchy and resources to be able to implement judgments; this could include the provision of expertise on the organisation of the workload and any reforms required to ensure the correct levels of resourcing and hierarchy in order to effectively co-ordinate the implementation of the judgments of the European Court of Human Rights;
- 2.6** consider developing new mechanisms to motivate and, if need be, sanction States that fail to take timely action, including the supply of information, especially where delays or obstacles in execution were readily avoidable, for example by more effective co-ordination; this could include using financing options from the Council of Europe Development Bank to help to fund projects relevant to the implementation of the Convention rights;
- 2.7** use the procedures provided for in Article 46, paragraphs 3 to 5, of the Convention, in the event of implementation of a judgment encountering strong resistance from the respondent State; however, this should continue to be done sparingly and in exceptional circumstances;
- 2.8** having regard to Recommendation 2245 (2023) “The Reykjavík Summit of the Council of Europe: United around values in the face of extraordinary challenges”, develop further the options available to the Committee of Ministers, and indeed the Council of Europe as a whole, following a judgment of the Court under Article 46, paragraph 4, with the aim of ensuring respect for the rule of law and the Convention system; such work should include careful consideration of the potential role for the Assembly within such mechanisms, such as through the complementary joint procedure;
- 2.9** ensure that thematic debates on the execution of the Court’s judgments, are carefully targeted with the relevant participation, including carefully selected external experts, where appropriate, in order to have a meaningful debate on the topic with openness to ideas for resolving difficult issues;
- 2.10** continue to improve synergies and make best use of all available resources and organs within the Council of Europe, in particular the Court and its Registry, the Assembly, the Secretary General, the Commissioner for Human Rights, the Steering Committee for Human Rights, the European Commission for Democracy through Law (Venice Commission), the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and the Human Rights Trust Fund;
- 2.11** ensure adequate resources for the Department for the Execution of Judgments of the European Court of Human Rights, in light of the significant workload of cases, the necessity of ensuring its strong Convention and country-specific expertise in order to provide assistance to the Committee of Ministers and the member States within its mandate, and the importance of the timely implementation of judgments for the Organisation;
- 2.12** further elaborate the modalities of its strategy for ensuring the continued supervision over the execution of judgments pending implementation in respect of the Russian Federation, as well as those to be adopted in the future by the Court, within the limits of its jurisdiction;
- 2.13** develop structured processes to regularly inform the Assembly about judgments of the Court whose implementation reveals complex or structural problems and requires legislative action;
- 2.14** engage in a process of dialogue with the Assembly to ensure that the Assembly and the rapporteur for the implementation of the judgments of the European Court of Human Rights can be in a position to facilitate, as best possible, the work of the Department for the Execution of Judgments and the Committee of Ministers, for example by organising conferences and

exchanges with national parliaments, where this could be useful to bolster domestic institutional capacity for implementing judgments or where political engagement might be helpful, such as where legislative or other significant reform is needed to address a judgment;

2.15 as part of this process of dialogue with the Assembly, establish a yearly communication of the Committee of Ministers to the Assembly during a part-session, to set out the progress achieved in the implementation of leading and other important cases; this could be similar to the addresses of the Commissioner for Human Rights to the Assembly when presenting the his/her Annual Report;

2.16 to this end, pilot the organisation of country-specific meetings between the Department for the Execution of Judgments and Assembly members during the Assembly's part-sessions on how best to improve the implementation of judgments within a given country; such meetings could be with a view to an ensuing country visit involving parliamentarians to improve the national mechanisms for the implementation of judgments as well as democratic engagement in supporting such measures;

2.17 continue to take measures aimed at ensuring greater transparency of the process of supervision of the implementation of the Court's judgments and a greater role for the Assembly, the applicants, civil society and national human rights institutions in this process, including by improving the accessibility of information on the status of the implementation of judgments on the HUDOC-EXEC website;

2.18 ensure that all interim and final resolutions contain clear, specific reasoning to justify closing the supervision of a case (or elements of a case), in accordance with transparent criteria, in order to improve the transparency and accountability of decision making, so that European citizens can understand and have confidence in this core part of the European system of protecting human rights, democracy and the rule of law;

2.19 elaborate a process for the supervision of the respect of interim measures indicated by the Court.

CDDH COMMENTS

1. The CDDH takes note of Parliamentary Assembly Recommendation [2252\(2023\)](#), "Implementation of judgments of the European Court of Human Rights". It underlines its longstanding commitment to supporting member States' fulfilment of their obligation to execute the judgments of the Court, in the context of both its standard-setting and other activities.

2. The CDDH notes that Recommendation [2252\(2023\)](#) addresses mainly the aspect of supervision by the Committee of Ministers of execution of the Court's judgments by respondent States, whilst also touching upon the links between this process and domestic processes and actors. It recalls that many of the issues raised in the recommendation are addressed in the Reykjavík Declaration, including continuing the reform process to achieve greater transparency, efficiency, and effectiveness.

3. As regards the latter aspect, the CDDH recalls the 2022 [Guidelines](#) of the Committee of Ministers on the prevention and remedying of violations of the Convention for the protection of human rights and fundamental freedoms, drafted by the CDDH, which set out wide-ranging measures that member States should undertake to improve their domestic capacities to execute the Court's judgments effectively and rapidly. Of particular relevance to Recommendation 2252 (2023), especially its paragraphs 2.5 and 2.17, are the measures on strengthening the national structures charged with co-ordinating national action to execute the Court's judgments, ensuring prompt and effective dissemination of judgements to all actors relevant to the execution process, supporting national courts in ensuring individual redress, and promoting the participation all relevant authorities and stakeholders, such as national human rights institutions and civil society organisations, in the execution process.

4. The CDDH continues to engage with the Department for the Execution of Judgements, the Venice Commission and Council of Europe cooperation programmes in dialogues aimed at identifying good practices in the context of execution of judgments, recently including the [Seminar](#) on "*Effective implementation of the European Convention on Human Rights - enhancing domestic dialogue and co-ordination*" (15 June 2021), the [Roundtable](#) on "Effective national co-ordination: a key factor in reinforcing the domestic capacity for rapid execution of the ECHR judgments" (8 March 2022), and the [Conference](#) on "The Subsidiarity Principle: National Implementation of the European Convention on Human Rights" (4 May 2023). The CDDH will continue to make full use of opportunities to promote the existing standards of the Committee of Ministers on the execution of the Court's judgments.

5. As regards paragraph 2.10 of the Recommendation, the CDDH recalls its previous work relative to the Committee of Ministers' supervision of the execution of the Court's judgments, including various reports prepared under the Interlaken Process, and stands ready to make further contributions to such work in future, where appropriate.

Recommendation [2254 \(2023\)](#) – “Safeguarding democracy, rights and the environment in international trade”

1. The Parliamentary Assembly refers to its [Resolution 2496 \(2023\)](#) “Safeguarding democracy, rights and the environment in international trade”. It underscores the close interdependence between policies pursued by the Council of Europe member States in the area of trade and investment and the implementation of shared values “in the interests of economic and social progress” as stated in the Organisation’s Statute (ETS No. 1). International trade arrangements must evolve with society and reflect its increased attention to human dignity and sustainable development.

2. Considering the imperative for the Council of Europe and its member States to contribute to the achievement of the United Nations Sustainable Development Goals aimed at promoting human prosperity worldwide while protecting the planet, the Assembly emphasises the need to rebalance States’ economic, social, and environmental commitments at global and domestic levels, including through trade policies and agreements.

3. The Assembly therefore reiterates its proposals for action by member States, as contained in its [Resolution 2496 \(2023\)](#), and urges the Committee of Ministers to recommend in turn that member States’ governments:

- 3.1** support multilateral negotiations towards the reform of the Dispute Settlement mechanism for interstate trade disputes of the World Trade Organization (WTO) on the one hand, and the establishment of a Multilateral Investment Court under the auspices of the United Nations for enterprise versus State disputes on the other hand;
- 3.2** ensure that all new trade and investment agreements contain comprehensive provisions on sustainable development and protection of fundamental rights and strengthen enforcement mechanisms for these provisions commensurate with those protecting investors;
- 3.3** assess existing trade and investment commitments under the “old generation” treaties and, where necessary, launch their revision with a view to upgrading them with provisions on sustainable development and protection of fundamental rights so as to ensure that they contribute to the implementation of global environmental treaties and the Sustainable Development Goals;
- 3.4** use trade and investment agreements as tools to promote democratic norms and human rights, including social rights, on a global scale;

- 3.5 systematically involve parliaments in negotiations towards the conclusion or reform of any trade and investment treaties in order to enhance democratic scrutiny and transparency of the process from the negotiation mandate to the final ratification of such agreements;
- 3.6 where necessary, consider taking lawful unilateral measures in international trade to enforce domestic environmental standards at the border based on the European Union's carbon border adjustment mechanism, and consider extending such measures to also cover fundamental rights, including labour rights, and public health;
- 3.7 promote corporate due diligence obligations through trade with regard to the protection of the environment, fundamental rights, and public health;
- 3.8 work together for a co-ordinated revision of the Energy Charter Treaty, in order to minimise the length of the sunset clause and its negative impact on the environment, climate change, and fundamental rights.

CDDH COMMENTS

1. The CDDH takes note of Parliamentary Assembly Recommendation [2254\(2023\)](#) – “Safeguarding democracy, rights and the environment in international trade”.
2. With particular reference to point 3.7 of this Recommendation, the CDDH recalls that the Council of Europe has established standards on corporate responsibility to identify and address actual and potential adverse impacts to human rights.
3. In particular, Recommendation [CM/Rec\(2016\)3](#) of the Committee of Ministers to member States on human rights and business encourages member States to embed human rights protection in international trade agreements. Accordingly, “[w]hen concluding and during the term of trade and investment agreements or other relevant conventions, member States should consider possible human rights impacts of such agreements and take appropriate steps, including through the incorporation of human rights clauses, to mitigate and address identified risks of adverse human rights impacts” (paragraph 23).
4. Recommendation [CM/Rec\(2016\)3](#) further states that “member States should ensure that business enterprises domiciled within their jurisdiction do not trade in goods which have no practical use other than for the purpose of capital punishment, torture, or other cruel, inhuman or degrading treatment or punishment” (paragraph 24). More detailed standards in this field are set out in Recommendation [CM/Rec\(2021\)2](#) of the Committee of Ministers to member States on measures against the trade in goods used for the death penalty, torture and other cruel, inhuman or degrading treatment or punishment.
5. Two recent Council of Europe instruments have underlined the need for member States’ action to enable and reinforce corporate due diligence. Committee of Ministers Recommendation [CM/Rec\(2022\)20](#) on human rights and the environment encourages member States to apply a smart mix of measures, national or international, mandatory and voluntary, on business enterprises’ human rights responsibilities. Recommendation [CM/Rec\(2022\)21](#) on preventing and combatting trafficking in human beings for the purpose of labour exploitation encourages member States to provide guidance and tools for business on how to lower risks of being involved directly and indirectly in such trafficking. To promote this recommendation, on 17 May 2021 a webinar was jointly organised by Amnesty International, the Omega Research Foundation, the German Chairmanship of the Committee of Ministers and the CDDH.
6. At its 97th meeting (6-9 December 2022), the CDDH organised a multi-stakeholder workshop on “Implementing human rights and environmental due diligence”. This event raised

the participants' awareness on national and regional legislative initiatives introducing mandatory corporate due diligence in relation to human rights and the environment.
