

CDDH(2020)11  
15/12/2020

## **STEERING COMMITTEE FOR HUMAN RIGHTS (CDDH)**

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### **Implementation of Recommendation CM/Rec(2016)3 on Human Rights and Business**

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#### Introduction

1. Recommendation CM/Rec(2016)3 of the Committee of Ministers on Human Rights and Business ("the Recommendation") was adopted on 2 March 2016. This instrument invites Council of Europe member states to implement the UN Guidelines in the European region.
2. The Recommendation provides that the governments of member states shall review the implementation of this instrument no later than five years after its adoption.
3. The CDDH, which is at the origin of the text, is called upon to examine in 2021 the implementation of this instrument and to report to the Committee of Ministers, if necessary with proposals for further follow-up.
4. It is foreseen that the CDDH, at its 93<sup>rd</sup> meeting (14-16 December 2020), will hold a general exchange of views on how it could organise in 2021 its evaluation of the implementation of the Recommendation.
5. To this end, this document contains information and proposals provided by the Secretariat.

## The dispositive part of the Recommendation

6. The 2016 Recommendation invited governments of member states to (i) **share examples of good practices** on its implementation; (ii) **share national action plans** on national implementation of the UN Guidelines on Business and Human Rights, including revised national action plans, as well as good practices on the development and review of such plans.
7. For these two tasks, a shared information system, created and managed by the Council of Europe, has been envisaged and has started to be operational.

## Collection of national information

8. A questionnaire was sent to Member States in 2018 to gather national information. Document CDDH(2019)01 contains the responses received from the fourteen Member States that replied: Belgium, Czech Republic, Denmark, France, Georgia, Germany, Ireland, Netherlands, Poland, Portugal, Spain, Sweden, Switzerland and Slovenia. In addition, four National Human Rights Institutions (NHRIs) also responded (National Consultative Commission on Human Rights (CNDH, France); NHRI of Denmark, NHRI of Slovakia, Ombudsman of Portugal).
9. All of these responses have been compiled and made available online on the Platform for Human Rights and Business managed within the Council of Europe.
10. It is envisaged that the Secretariat, under the aegis of a potential Rapporteur appointed by the CDDH (see proposal in paragraph 16 below), will circulate in January a compilation of the responses received from member states and the various committees for further comments or contributions from delegations that have not yet done so, in order to prepare a report on the implementation of the Recommendation (envisaged deadline: end of March 2021).
11. That the Secretariat re-circulate document CDDH(2019)01 to the participants in the CDDH meetings in order to complete it (envisaged deadline: end of February 2021).
12. On the basis of the document thus consolidated, the Secretariat will prepare a document to assess implementation at the national level, with possible proposals for consideration by the CDDH at its 94th meeting (June 2021). At this stage, the Secretariat intends to present the available information according to the following outline:
  - (i) *States that already have a national action plan<sup>1</sup> for the implementation of the UN Guidelines on Business and Human Rights;*
  - (ii) *Main content of national action plans. Common points, good practices*
  - (iii) *Dissemination and translation of the text of the Recommendation at national level*
  - (iv) *Inter-institutional coordination*
  - (v) *Internal training*
  - (vi) *National measures that assist, encourage and provide effective guidance to business on respect for human rights*
  - (vii) *Government measures that require companies to respect human rights*
  - (viii) *Cooperation with third countries*

<sup>1</sup> It is recalled that these action plans are supposed to define the priorities and measures to be taken by the State to comply with international and national standards relating to business and human rights. As of September 24, 2020, nineteen Member States had a National Action Plan: Belgium, Czech Republic, Denmark, Finland, France, Georgia, Germany, Ireland, Italy, Lithuania, Luxembourg, Netherlands, Norway, Poland, Slovenia, Spain, Sweden, Switzerland and the United Kingdom.

See: <https://www.ohchr.org/EN/Issues/Business/Pages/NationalActionPlans.aspx>

- (ix) *Access to remedies (through judicial and non-judicial state or non-state complaint mechanisms)*
- (x) *National measures taken to provide additional protection to certain categories (workers, children, indigenous populations; measures to ensure gender equality; measures to protect the environment, etc.).*

### **Gathering information on ongoing work within the Council of Europe related to the Recommendation**

13. At its 103<sup>rd</sup> meeting (May 19, 2020), the Bureau of the CDDH instructed the Secretariat to organize consultations with the Steering Committees, Treaty Monitoring Bodies and other sectors of the Organization responsible for cooperative activities to ensure a comprehensive and cross-cutting approach to the collection of information on the Recommendation.
14. To this end, a specific questionnaire on access to remedies was sent in July 2020 to the different committees of the Council of Europe (CDDH(2020)26, 30 June 2020). The following five committees replied: Steering Committee on the Media and the Information Society (CDMSI); Consultative Committee on the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (T-PD); Committee on Gender Equality (GEC); Steering Committee on the Rights of the Child (CDENF); Group of Experts on Action against Trafficking in Human Beings (GRETA).
15. Relevant information gathered through these bodies will also be included in the national implementation assessment document, together with possible proposals for consideration by the CDDH at its 94th meeting (June 2021). At this stage, the Secretariat intends to present the information collected through the Council of Europe bodies according to the following format:
  - (i) *Parliamentary Assembly of the Council of Europe*
  - (ii) *European Committee of Social Rights (ECSR)*
  - (iii) *Steering Committee for the Rights of the Child (SCRC)*
  - (iv) *Steering Committee on Media and the Information Society (CDMSI)*
  - (v) *Advisory Committee of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (T-PD)*
  - (vi) *Group of Experts on Action against Trafficking in Human Beings (GRETA)*
  - (vii) *Gender Equality Commission (GEC)*

### **Proposal by the Secretariat**

16. The possibility for the CDDH to designate a National Rapporteur working in cooperation with the Secretariat could be considered.