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Human rights and business – what follow-up to Committee of Ministers' Recommendation CM/Rec(2016)3?

Reply to Recommendation¹: Recommendation 2166 (2019)
Committee of Ministers

1. The Committee of Ministers has carefully examined Parliamentary Assembly [Recommendation 2166 \(2019\)](#) "Human rights and business – what follow-up to Committee of Ministers' Recommendation [CM/Rec\(2016\)3](#)", which it forwarded to the Steering Committee for Human Rights (CDDH) for information and possible comments.
2. The Committee of Ministers welcomes the interest and support given by the Parliamentary Assembly to its Recommendation [CM/Rec\(2016\)3](#) to the member States on human rights and business. The Committee attaches great importance to the respect of human rights by businesses while States remain responsible to protect, respect and fulfil human rights. It also reiterates its commitment to contribute to the effective implementation of the United Nations Guiding Principles on Business and Human Rights at the European level.
3. Businesses can contribute positively to the realisation of human rights but some of their activities may also have negative consequences for the enjoyment of these rights. The Committee continues to work on standard-setting in this multifaced field. On 12 February 2020, it instructed the CDDH to draft a recommendation on the trade of goods used for torture and other cruel, inhuman or degrading treatment or punishment and for the death penalty.
4. The CDDH ensures regular follow-up of the implementation of Recommendation [CM/Rec\(2016\)3](#), as shown in the detailed information contained in the appendix to this reply. The Committee of Ministers welcomes the fact that the [Online Platform for Human Rights and Business](#) is operational since 27 November 2019. It invites the Assembly to disseminate Recommendation [CM/Rec\(2016\)3](#) and promote its implementation to the national parliaments of the member States.
5. As regards the implementation of the recommendation, the Committee of Ministers has instructed the CDDH to examine this and report back to it by the end of 2021. The Committee of Ministers will consider, in the light of this report, the feasibility and advisability of revising the recommendation. It will inform the Assembly of developments in this respect.

1. Adopted at the 1375th meeting of the Ministers' Deputies (6 May 2020).



Appendix to the reply

For transmission to the Parliamentary Assembly

Comments of the Steering Committee on Human Rights (CDDH)

1. The CDDH takes note with interest of the Parliamentary Assembly's [Recommendation 2166 \(2019\)](#) on "Human rights and Business – What follow-up to Committee of Ministers' Recommendation [CM/Rec\(2016\)3](#)?". The CDDH finds the text of 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. Recommendation [CM/Rec\(2016\)3](#) is available in three languages, English, French and Polish on the CDDH website.
3. Other 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 case law of the European Court of Human Rights.
 - i. The Course has been launched in Albania, France, Italy, Ireland and Serbia and is currently in the process of being updated and re-designed.
 - ii. 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 regarding issues of human rights and business.
4. 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

5. The CDDH will be invited to discuss at its upcoming 93rd meeting (9-12 June 2020), on the basis of proposals by the Secretariat, questions related to the scope, process, stakeholders' participation and timeframe of the examination of the implementation of Recommendation [CM/Rec\(2016\)3](#) as required under this recommendation. The [CDDH's Online Platform](#) for Human Rights and Business (hereinafter the Platform, see also paragraph 8 below) provides a good basis for preparatory reflections and related discussions.

Paragraph 1.3

6. The CDDH's discussion mentioned in the previous paragraph may address, *inter alia*, the desirability and feasibility of conducting reviews of the implementation of Recommendation [CM/Rec\(2016\)3](#) beyond 2021.

Paragraph 1.4

7. 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

8. 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 continues to contribute to update the Platform with information. A compilation of replies by member States on a questionnaire regarding the implementation of [CM/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

9. 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 5 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

10. The CDDH Secretariat has engaged in co-operation 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 ties to the top on business and human rights: the role of regional organisations” featured a panel comprising officials from 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 co-operate and collaborate with counterparts in other international organisations and will seek to ensure our work is complementary and mutually supportive.

Paragraph 1.8

11. The Secretariat follows the outcomes of relevant processes in the open-ended intergovernmental working group (OEIGWG) on transnational corporations and other business enterprises with respect to human rights and takes them into account, as appropriate, into its work. The relevance of the Council of Europe’s participation in the OEIGWG may be considered in the context of reflections and discussions regarding the examination of the implementation of [CM/Rec\(2016\)3](#) (see paragraph 5 above).

Paragraph 1.9

12. The CDDH process of examination of the implementation of Recommendation [CM/Rec\(2016\)3](#) (see paragraph 5 above) may provide an opportunity to consider and assess the desirability and/or feasibility of revising this recommendation.