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Human rights and business

Recommendation 1936 (2010)

Reply from the Committee of Ministers
adopted at the 1118th meeting of the Ministers' Deputies (6 July 2011)

1. The Committee of Ministers has examined with interest Parliamentary Assembly Recommendation 1936 (2010) on "Human rights and business" and has brought it to the attention of member states' governments. It also sent it to the Steering Committee for Human Rights (CDDH), the European Committee on Legal Co-operation (CDCJ), the Consultative Committee of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (T-PD) and the Steering Committee on the Media and New Communication Services (CDMC), whose comments have been taken into account in the present reply.
2. The Committee of Ministers agrees with the Assembly that there could be an interest in exploring ways and means of enhancing the role of business in respecting and about promoting human rights and the fact that the Council of Europe is well placed to do this. In this context, it notes that many of the Committee of Ministers' standard-setting instruments concerning the Internet and the information society highlight these issues and underline the roles and responsibilities of the private sector in respecting human rights.¹
3. Internet governance is an exemplary area of the Council of Europe's activities where the relationship between human rights and roles and responsibilities of business has been articulated in an authoritative way. The notion of the public service value of the Internet, as laid down in Recommendation CM/Rec(2007)16,² provides inspiration for the development of Internet governance policies.³ The Declaration of the Committee of Ministers on network neutrality and the Declaration on the management of Internet protocol addresses in the public interest signal a commitment to the protection and promotion of human rights on the Internet.
4. Partnerships with the business community have produced tangible results such as the "Human Rights Guidelines for ISPs" and "Human Rights Guidelines for Online Games Providers" – developed by the Council of Europe in co-operation with the European Association of Internet Services Providers (EuroISPA) and the Interactive Software Federation in Europe (ISFE). Similar guidelines are under preparation in respect of Internet social network services and search engines. Further, the Council of Europe recently joined as observer the Governmental Advisory Committee of the Internet Corporation for Assigned Names and

¹ Recommendation CM/Rec(2007)11 of the Committee of Ministers to member states on promoting freedom of expression and information in the new information and communications environment, Recommendation CM/Rec(2008)6 on measures to promote the respect for freedom of expression and information with regard to Internet filters, etc.

² Recommendation CM/Rec(2007)16 of the Committee of Ministers to member states on measures to promote the public service value of the Internet.

³ The Internet Governance Forum (IGF) and the European Dialogue of Internet Governance (EuroDIG), two multi-stakeholder dialogue platforms, play an important role in shaping common views on Internet governance policies. ICANN's multi-stakeholder structural set-up also merits consideration. The Internet governance processes, which are examples of organisational innovation and mutual adaptation between society and technology around the world, facilitate the development and application of shared principles, norms, rules, decision-making procedures and programmes that shape the evolution and use of the Internet by governments, the public and private sectors and civil society in their respective roles.

Numbers⁴ (GAC) which is responsible for the management of critical Internet resources for the global Internet community, as a means of bringing the Organisation's core values into relevant discussions and decision-making processes.

5. The Committee of Ministers observes that there are already several non-legally binding international documents in the field of corporate human rights responsibilities adopted by other intergovernmental bodies, such as the Organisation for Economic Co-operation and Development's Guidelines for Multinational Enterprises adopted in 1976 and revised on several occasions, the International Labour Organisation's Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy, adopted in 1977, and the United Nations 2000 Global Compact. In particular, it welcomes the United Nations' recent endorsement of the "Guiding Principles on Business and Human Rights: Implementing the United Nations "Respect, Protect and Remedy" Framework", and the establishment of a new international working group to promote implementation of the Principles worldwide.

6. With regard to the Assembly's proposal to draft a convention or an additional protocol to the European Convention on Human Rights in this area, the Committee of Ministers considers that this is not the most appropriate solution. The Committee of Ministers notes the proposals by the Assembly to prepare a study and a draft recommendation on the human rights responsibilities of businesses, together with guidelines for national authorities, businesses and other actors or the introduction of a human rights "labelling" mechanism. It notes that some of these ideas had already been discussed by the Committee of Experts on the Development of Human Rights (DH-DEV) in April 2010 and by the CDDH in June 2010, and that in its comments, the CDDH emphasised the need to give priority in its work to the follow-up to the Interlaken Ministerial Conference on the reform of the European Court of Human Rights and the accession of the European Union to the European Convention on Human Rights. However, the CDDH could be asked to give its view, as of 2012, on the proposals made by the DH-DEV and in the Assembly's recommendation, taking into account, *inter alia*, the case law of the Court, while taking care that there should be no duplication of the work being carried out in other international organisations, in particular the United Nations, and taking into account the work carried out by the European Union.

7. In this context, the Committee of Ministers notes the work begun by the CDDH to update its manual on human rights and the environment, businesses having responsibilities in this area too.

8. At the same time, the Committee of Ministers attaches particular importance to the modernisation of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108) which fully applies to the public and private sectors. It invites the Assembly to continue monitoring this modernisation process which the T-PD is endeavouring to complete in the shortest time possible, taking into account the very complex nature of the work and the necessary consultation of external stakeholders, as well as the availability of human and financial resources. The Committee of Ministers notes the success of the public consultation on the modernisation process launched on 28 January 2011 and the large number of private-sector players (banking, insurance, e-commerce, marketing, broadcasting, socio-economic research, etc.) among the respondents. The Committee of Ministers further notes that the Ministers of Justice of Council of Europe member states reiterated their interest in this Convention at the 30th Council of Europe Conference of Ministers of Justice on 26 November 2010, by adopting Resolution No. 3 on data protection and privacy in the third millennium.

9. The Committee of Ministers takes note of the Assembly's request to strengthen the supervisory mechanism of the Revised European Social Charter (ETS No. 163) and wishes to inform the Assembly that it is currently examining proposals along these lines with a view to the 50th anniversary of the Charter in October 2011.

⁴ Declaration of the Committee of Ministers on the management of the Internet protocol address resources in the public interest (2010), Declaration of the Committee of Ministers on the enhanced participation of member states in Internet governance matters – Governmental Advisory Committee (GAC) of the Internet Corporation for Assigned Names and Numbers (2010).