

**“The state of human rights in Europe: the need to eradicate impunity” – Parliamentary Assembly Recommendation 1876 (2009)**

(Reply adopted by the Committee of Ministers on 21 April 2010 at the 1083rd meeting of the Ministers' Deputies)

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1. The Parliamentary Assembly's Recommendation 1876 (2009) on “The state of human rights in Europe: the need to eradicate impunity” raises serious issues to which the Committee of Ministers pays considerable attention. It has communicated the recommendation to the governments of member states and to the Steering Committee for Human Rights (CDDH), to the European Commission against Racism and Intolerance (ECRI) and to the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), for information and comments. The recommendation has also been transmitted to the Ad hoc Committee on preventing and combating violence against women and domestic violence (CAHVIO) for information.
2. The Committee of Ministers considers that the eradication of impunity is a priority for Council of Europe action. It recalls that it has instructed the CDDH to examine the feasibility of guidelines in this field. The latter has reported back that such guidelines would be feasible and a committee of experts subordinated to the CDDH<sup>1</sup> has been instructed to draft the guidelines on the basis of the indications provided by the CDDH at its last meeting. The instrument is intended to send a clear signal of Europe's willingness to end impunity regarding serious human rights violations. The CDDH has taken note of the Assembly's views concerning state secrecy, immunities and measures and remedies to tackle all forms of impunity, which will be taken into account in its future work. The committee of experts has held two meetings and completed a first reading of the draft guidelines. The guidelines are to be completed by the end of 2010.
3. The Committee of Ministers refers to its reply to Parliamentary Assembly Recommendation 1872 (2009) on “The rights of today's girls: the rights of tomorrow's women” and underlines that the future Council of Europe convention under elaboration by CAHVIO will cover the severest and most widespread forms of violence against women, including domestic violence and so-called “honour crimes”.
4. Referring to its role in supervising the execution of judgments of the European Court of Human Rights, the Committee of Ministers notes that it is encouraged by the Assembly to explore the possibility for states to re-open domestic legal proceedings subsequent to a ruling of the European Court of Human Rights finding the domestic investigations or proceedings fundamentally flawed, to prevent criminals from being granted impunity by virtue of the *ne bis in idem* rule.
5. As to the Assembly's invitation to the Committee of Ministers to examine the advisability of establishing an independent European committee to investigate serious allegations of gross and systematic violations of human rights, the Committee stresses the role of the existing Council of Europe monitoring mechanisms, of the Secretary General and of the Commissioner for Human Rights. It sees no need to create an additional structure at this stage.

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<sup>1</sup> The Committee of Experts on Impunity (DH-I).

*Appendix 1 to the reply***Comments by the Steering Committee for Human Rights (CDDH)**

1. The Steering Committee for Human Rights (CDDH) fully shares concerns expressed by the Parliamentary Assembly in its Recommendation 1876 (2009) on “The state of human rights in Europe: the need to eradicate impunity”.
2. Following the request addressed by the Parliamentary Assembly to the Committee of Ministers to speed up and intensify its work on elaborating Council of Europe guidelines on human rights and the fight against impunity, the CDDH recalls that it was instructed by the Committee of Ministers to examine the feasibility of guidelines in this field. The CDDH set up its Committee of Experts on Impunity (DH-I), which held its first meeting from 9 to 11 September 2009. The latter had concluded that guidelines against impunity for human rights violations would be feasible. Whilst leaving a number of questions open regarding the definition of impunity and the scope of the guidelines, the Committee had drawn up a preliminary list of possible topics to be examined. The guidelines would reflect the standards derived from the Court’s case law and those of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), as well as, if necessary, other standards which could prove relevant in the fight against impunity. This instrument could send a clear signal of Europe’s willingness to end impunity regarding human rights violations. At its November meeting, the CDDH had the opportunity to examine the first conclusions of the DH-I and instructed the latter to start to elaborate the guidelines.
3. The CDDH takes note of the views given by the Parliamentary Assembly concerning state secrecy, immunities and measures and remedies to tackle all forms of impunity. These will be taken into account in the future work of the DH-I, which should be completed during 2010.

*Appendix 2 to the reply***Comments by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)**

The CPT has taken note with great interest of Parliamentary Assembly Recommendation 1876 (2009). The Committee shares the Assembly’s view that the eradication of impunity should be a priority for Council of Europe action. The CPT has emphasised on many occasions, most recently in its 19th general report, that the credibility of the prohibition of torture and inhuman or degrading treatment or punishment is undermined each time officials responsible for such offences are not held to account for their actions. The CPT is contributing to the ongoing work on elaborating Council of Europe guidelines against impunity for human rights violations and hopes that work will soon be successfully completed.