



European Observatory
for Non-Discrimination
and Fundamental Rights



ANALYSIS NOTE — CIVIL SOCIETY

HUMAN RIGHTS AND BUSINESS AT THE COUNCIL OF EUROPE

Ten years after CM/Rec(2016)3:
implementation, case law
and priorities for 2026-2028

Contribution of the European Observatory
for Non-Discrimination and Fundamental Rights
on the implementation of Recommendation
CM/Rec(2016)3

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Executive Summary

Ten years after its adoption, Recommendation CM/Rec(2016)3 remains the Council of Europe’s principal specific instrument on human rights and business. Based on the United Nations Guiding Principles on Business and Human Rights (UNGPs), it translates the “Protect, Respect and Remedy” framework into the pan-European context, linking it to the Council of Europe’s own standards: the European Convention on Human Rights, the European Social Charter and access-to-remedy mechanisms. [Official source](#) · [Official source](#)

This analysis note examines the Recommendation in the light of the case law of the European Court of Human Rights, the European Social Charter system and implementation work carried out since 2016. It identifies five operational priorities for 2026–2028: updating the implementation baseline, making access to remedy more effective, clarifying interactions with European developments in human rights due diligence, structuring stakeholder participation, and developing sector-specific implementation tools.

The tenth anniversary of CM/Rec(2016)3 provides a useful opportunity to move from a primarily normative approach towards one more focused on measuring implementation, identifying obstacles and disseminating practical tools.

I. CM/Rec(2016)3 — the Council of Europe’s specific normative framework

Adopted by the Committee of Ministers on 2 March 2016, CM/Rec(2016)3 builds on the 2011 United Nations Guiding Principles and the Committee of Ministers’ Declaration of 16 April 2014 supporting their implementation. It provides member States with targeted guidance to prevent and remedy human rights abuses related to business activities.

Paragraphs	Section	Scope
§§ 1–12	Implementation of the UN Guiding Principles	Policy coherence, action plans, information and awareness-raising.
§§ 13–19	State duty to protect	Legislative and regulatory framework and integration of human rights into economic policies.
§§ 20–30	State action enabling businesses to respect human rights	Measures promoting corporate responsibility and human rights due diligence.
§§ 31–57	Access to remedy	Judicial and non-judicial remedies, liability, procedural barriers, legal aid and collective mechanisms.
§§ 58–60	Additional protection for workers	Enhanced protection for workers exposed to risks of human rights abuses.
§§ 61–64	Additional protection for children	Children’s rights, human rights due diligence and access to justice.
§§ 65–68	Enhanced protection for indigenous peoples	Rights to lands and resources and participation in decisions affecting them.
§§ 69–70	Protection of human rights defenders	Protection against interference and support for defenders documenting business impacts.

Source: Council of Europe, Recommendation CM/Rec(2016)3 and Explanatory Memorandum

II. The ECHR — positive obligations and State responsibility in relation to private actors

The European Convention on Human Rights binds States. The Court's case law nevertheless shows that a State may incur responsibility under the Convention where it fails to put in place an adequate framework, to take measures reasonably expected to prevent certain abuses committed by private actors, or to ensure an effective investigation and remedy. In the context of economic activities, this doctrine provides an essential legal foundation for the implementation of CM/Rec(2016)3.

Case	Article	Positive obligation	Relevance to CM/Rec(2016)3
Rantsev v. Cyprus and Russia	Art. 4	Adequate legal and administrative framework against trafficking; effective investigation.	Duty to protect where exploitation is committed by private actors.
Chowdury and Others v. Greece	Art. 4 § 2	Effective protection against forced labour and trafficking in a private employment relationship.	Concrete application of the duty to protect in the economic exploitation of migrant workers.
Cordella and Others v. Italy	Arts. 8 and 13	Protection against serious industrial pollution and an effective remedy.	Link between industrial activity, private and family life and the effectiveness of remedies.

III. The European Social Charter — the social and collective dimension

The Council of Europe framework is not limited to the ECHR. The European Social Charter complements Convention protection in areas directly affected by business activity: working conditions, health and safety, remuneration, protection of children and young people, non-discrimination and trade union rights.

The collective complaints procedure is of particular interest to civil society: in States that have accepted the procedure, certain authorised organisations may bring alleged situations of non-compliance with the Charter before the European Committee of Social Rights. This collective dimension usefully complements the individualised approach to litigation before the European Court of Human Rights.

Any future assessment of CM/Rec(2016)3 would therefore benefit from more explicitly incorporating the findings, decisions and good practices arising from the European Social Charter system, particularly with regard to migrant workers, children and other groups exposed to heightened risks.

IV. Ten years of implementation: from normative follow-up to operational tools

1. Political follow-up: no specific mandate, but renewed attention

In 2021, the CDDH reviewed the implementation of CM/Rec(2016)3. Its work highlighted, in particular, the need for continued examination of human rights due diligence and effective access to remedy. However, the CDDH terms of reference for 2024–2027 do not provide for a specific deliverable devoted to a new assessment or revision of the Recommendation.

The subject has nevertheless remained on the agenda. In 2025, the CDDH resumed discussions on human rights and business. A report prepared at the request of the Council of Europe, “Human Rights and Competitiveness: Reframing the Business Case for Human Rights”, notably recommended reassessing Section III of CM/Rec(2016)3 in consultation with relevant stakeholders. [Council of Europe report](#)

2. Operational implementation: tools, capacity and cooperation

From 1 October 2024 to 30 September 2025, the project “[Human Rights and Environmentally Responsible Business Practices](#)”, funded by the Human Rights Trust Fund, was explicitly guided by CM/Rec(2016)3 and CM/Rec(2022)20. It aimed to strengthen States’ capacity to design and implement measures relating to human rights, social rights and the environment in business activities, as well as companies’ capacity to identify, prevent and remedy adverse impacts.

Recent work demonstrates thematic continuity between the 2016 normative framework and current needs: comparative analysis, training, human rights due diligence, remedy mechanisms, exchange of good practices and tools for public authorities, practitioners and businesses.

3. An evolving European environment

The Council of Europe framework is evolving alongside that of the European Union. [Directive \(EU\) 2026/470](#) of 24 February 2026 amended, in particular, the EU framework on corporate sustainability due diligence. This development reinforces the importance of clearly identifying the Council of Europe’s specific added value: States’ Convention obligations, case law, social rights, access to remedy and the protection of groups particularly exposed to risk.

V. Five priorities for 2026–2028

1. Update the implementation baseline

Update the 2021 follow-up through a common framework capable of identifying, State by State, legislative developments, action plans, oversight mechanisms, human rights due diligence practices and persistent gaps.

2. Make access to remedy measurable and operational

Map the practical obstacles faced by affected persons: cost, evidence, delays, jurisdiction, parent-company liability, legal aid, collective remedies and non-judicial mechanisms. Develop indicators capable of measuring effectiveness rather than the mere formal existence of remedies.

3. Clarify the interaction with European developments in human rights due diligence

Provide States and businesses with a clear understanding of the complementarities between CM/Rec(2016)3, the UNGPs, European Union instruments and other international standards, while preserving the Council of Europe's distinctive Convention-based added value.

4. Structure stakeholder participation

Involve NGOs, national human rights institutions, trade unions, employers' organisations, businesses, practitioners and, wherever possible, affected persons and communities from the outset of the work. Consultation should contribute to identifying obstacles and designing tools, rather than taking place only at the end of the process.

5. Develop sector-specific implementation tools

Complement general guidance with tools tailored to sectors in which risks are particularly well documented: supply chains, agriculture, extractive industries and critical minerals, the environment, digital technologies and AI, migrant labour and children's rights.

Conclusion

Ten years after its adoption, CM/Rec(2016)3 continues to play a structuring role: it connects the United Nations Guiding Principles with the Council of Europe's own standards and places access to remedy at the heart of responses to business-related human rights abuses. Its potential now depends less on adopting new general principles than on the ability to measure their implementation, document obstacles, articulate the various European mechanisms and provide stakeholders with directly usable tools.

For civil society, the next step should therefore be twofold: contribute to an evidence-based assessment of implementation and participate, from the design stage, in methodological and operational work aimed at turning standards into effective practice.

Annex — main sources and references

- Council of Europe — [Recommendation CM/Rec\(2016\)3](#), 2 March 2016, and Explanatory Memorandum. [Recommendation CM/Rec\(2016\)3](#)
- [United Nations Guiding Principles on Business and Human Rights, 2011](#).
- [ECtHR — Rantsev v. Cyprus and Russia, no. 25965/04, 7 January 2010](#).
- [ECtHR — Chowdury and Others v. Greece, no. 21884/15, 30 March 2017](#).
- [ECtHR — Cordella and Others v. Italy](#), nos. 54414/13 and 54264/15, 24 January 2019.
- CDDH — report on the implementation of CM/Rec(2016)3, 2021.
- Parliamentary Assembly — [Resolution 2311 \(2019\)](#) and [Recommendation 2166 \(2019\)](#).
- [Council of Europe — CDDH terms of reference for 2024–2027](#).
- Council of Europe — [“Human Rights and Competitiveness: Reframing the Business Case for Human Rights”](#), 2025.

- Council of Europe — [project “Human Rights and Environmentally Responsible Business Practices”](#), 1 October 2024 – 30 September 2025.
- European Union — [Directive \(EU\) 2026/470](#) of the European Parliament and of the Council of 24 February 2026.

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