

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 31 March 2016

DH-SYSC(2016)009

STEERING COMMITTEE FOR HUMAN RIGHTS
(CDDH)

**COMMITTEE OF EXPERTS ON THE SYSTEM OF THE
EUROPEAN CONVENTION ON HUMAN RIGHTS**

(DH-SYSC)

**Decisions adopted at the 1252nd meeting of the Ministers Deputies on
the CDDH Report on the longer-term future of the system of the
European Convention on Human Rights
(30 March 2016)**

*Item 4.3***Steering Committee for Human Rights (CDDH) –
Report on the longer-term future of the system of the European Convention on
Human Rights***Decisions*

The Deputies

1. welcomed the report of the CDDH on the longer-term future of the system of the European Convention on Human Rights (document CM(2015)176 add1final), containing the Steering Committee's opinions and proposals in response to paragraphs 35.c) to 35.f) of the Brighton Declaration;
2. took note of the Court's comments on the report as contained in document DD(2016)235 as well as its appreciation for the manner in which the CDDH conducted this exercise;
3. endorsed the solutions proposed in response to the present and future challenges identified in the CDDH report concerning (i) the authority of the Convention: its implementation at national level; (ii) the authority of the Court; (iii) the authority of the Court's judgments (execution of judgments and its supervision); and (iv) the place of the Convention mechanism in the European and international legal order; agreed on the follow-up to this report as it appears in Appendix 5 to the present volume of Decisions; and invited the relevant bodies specified in the appendix to report back to them by 31 December 2017 on the follow-up action taken;
4. agreed to reconsider the issue of resources to respond to the challenges identified by the CDDH in light of its conclusions in §§ 130 iii) and 204 of the CDDH report.

Appendix 5
(Item 4.3)

Measures to follow-up the CDDH report on the longer-term future of the system of the European Convention on Human Rights

On the authority of the Convention: its implementation at national level:

The Deputies

1. invited member States to implement the measures recommended in conclusions § 197 i) to ix) in the light of the relevant paragraphs of the report (§§ 37-64), regarding:
 - i. better taking into account of the general principles found in the Court's judgments in cases against other High Contracting Parties, even if not legally binding,
 - ii. improving or creating effective domestic remedies,
 - iii. verifying the compatibility of draft legislation and administrative practice with the Convention,
 - iv. awareness-raising activities and training concerning the Convention and the Court's judgments and decisions, and setting up "human rights" contact points, wherever appropriate, especially when a mainstreaming model is not sufficient, and
 - v. the role of national parliaments, domestic courts, national human rights structures bodies and civil society regarding the implementation of the Convention and, in this context, making available sufficient expertise on Convention matters to national parliaments and a better offer of adapted and targeted training to domestic courts ;

2. invited the Secretary General to:
 - i. develop activities to support member States, in the light of conclusions § 197 ii), iv) et vi) and § 198 iii) and the relevant paragraphs of the report,
 - ii. consider establishing a more effective strategy to enhance the capacity and involvement of all national stakeholders concerned with implementation of the Convention (conclusion § 197 x) in the light of paragraphs 60-63);

On the authority of the Court:

3. with regard to the challenge of the caseload, welcomed the efforts made by the Court to clear the backlog of clearly inadmissible cases and to address, within two or three years, the backlog of repetitive cases;

4. welcomed the Court's determination to devote as much of its resources as it can to clearing the backlog of non-repetitive pending cases, both priority and non-priority ones, and to reduce and process the annual influx of cases in general and systemic issues while

ensuring the appropriate quality of examination of all applications in clearing this backlog, and invited the Court to pursue its efforts to this end in light of conclusions § 198 ii), iii), v) and vi), read in conjunction with the relevant paragraphs of the report;

5. decided to further examine the question of large-scale violations and ways to solve the underlying problems in the States concerned in the light of conclusion § 198 iv) read in conjunction with § 88 of the report;

6. in response to the challenge of the authority of the case law, and in light of the Court's comments, invited the Court to act on the proposals as contained in conclusions § 199 i) to iv), read in conjunction with the relevant paragraphs of the report, regarding the selection of lawyers at all levels of the Registry, the reasoning in the judgments and decisions as well as and increased dialogue and interaction between the Court and national judicial systems;

7. deemed it essential that the judges of the Court enjoy the highest authority in national and international law and to this end instructed the CDDH to examine, while securing the participation of the Court and all other relevant actors concerned, the whole selection and election process, including all factors that might discourage possible candidates from applying, in the light of conclusion § 203 i) and the relevant paragraphs of the report;

On the authority of the Court's judgments (execution of judgments and its supervision):

8. with regard to the process of execution of judgments, invited the Court and member States to consider the measures recommended in, respectively, conclusions § 200 iii) (indications given by the Court concerning sources of the violations found in its judgments), § 200 iv) (greater transparency of the criteria regarding the awarding of just satisfaction by the Court) and § 200 v) (re-opening of domestic proceedings following a judgment of the Court); and agreed to follow up the measures recommended in relation to the supervision of the payment of just satisfaction, including the possibility of considering the updating or upgrading of the memorandum on "monitoring the payment of sums awarded by way of just satisfaction: an overview of the Committee of Ministers' present practice" (doc. CM/Inf/DH(2008)7 final, § 200 iv) ;

9. with regard to supervision of the execution of judgments, encouraged the Department for the Execution of Judgments of the Court to pursue its primary role including by assisting member States in the execution process bearing in mind conclusion § 201 i), in the light of the relevant paragraphs of the report;

10. decided to examine the question of extending Rule 9 of the Committee of Ministers' Rules for supervision of execution of judgments and terms of friendly settlements to include written communications from international organisations or bodies, and to examine in due course the practical modalities of the use of Rule 9 (conclusion § 201 ii);

11. decided, in addition, to further examine ways to enhance procedures for the implementation of judgments related to serious large-scale violations committed in the context of complex problems that call for political solutions and peaceful settlement, while emphasising the need for the Committee of Ministers to ensure adequate co-ordination and synergies with other instances and activities of the Council of Europe in these cases (conclusion § 203 ii);

On the place of the Convention in the European and international legal order:

12. stressed the importance of judicial dialogue among international courts and encouraged the Court to pursue regular meetings with representatives of relevant judicial and quasi-judicial bodies (see conclusion § 202 i) in the light of the relevant paragraphs of the report;

13. decided to engage in a more general debate on the framework for human rights protection in Europe, in particular in view of the importance of the accession by the European Union to the Convention (conclusion § 202 ii);

14. instructed the CDDH to carry out a detailed analysis of all questions relating to the place of the Convention in the European and international legal order and on the medium-term and longer-term prospects, in the light of the relevant paragraphs of the report (conclusion § 203 iii).