



Strasbourg, 28 August 2014

CDDH(2014)R81

**STEERING COMMITTEE FOR HUMAN RIGHTS
(CDDH)**

REPORT

81st meeting

Strasbourg, 24 - 27 June 2014

Introduction

1. The Steering Committee for Human Rights (CDDH) held its 81th meeting from 24 to 27 June 2014 in Strasbourg, with Mr Vít A. SCHORM (Czech Republic) in the Chair. The list of participants appears at Appendix I.¹ The agenda, as adopted, appears at Appendix II.

ITEM 1: OPENING OF THE MEETING, ADOPTION OF THE AGENDA AND ORDER OF BUSINESS

2. The CDDH adopted the agenda and order of business as proposed by the Bureau. A summary of the deadlines set for sending comments on various issues of the agenda, to the Secretariat appears at Appendix IX of the present report.

ITEM 2: RECOMMENDATIONS OF THE PARLIAMENTARY ASSEMBLY

3. The CDDH exchanged views on Parliamentary Assembly Recommendation 2043 (2014) "*Urgent need to deal with new failures to co-operate with the European Court of Human Rights*" and adopted its comments as they appear at Appendix III of this report.

ITEM 3: REFORM OF THE COURT (DH-GDR)

3.1 On-going work

4. Mr Morten RUUD (Norway), Chair of the Committee of experts on the reform of the Court (DH-GDR), presented the work carried out by the Committee at its 6th meeting (4-6 June 2014). The CDDH welcomed the progress made to date in the on-going work being carried out by Drafting Group "F" (GT-GDR-F) on longer-term reform of the Convention system and the Court. It noted that the final report might also include proposals to the Committee of Ministers for a strategic work programme for the DH-GDR on the implementation of the Convention over the next biennium (2016-2017). Pursuant to the suggestion made by the DH-GDR with regard to the work schedule, given the complexity and scope of the issues to be addressed, it invited the Committee of Ministers to extend the deadline for presentation of its final report to 31 December 2015.

5. With regard to the work on the legal status and the procedure for changing the Rules of Procedure of the Court, being carried out by Drafting Group "G" (GT-GDR-G), the CDDH approved the guidance given by the DH-GDR to the GT-GDR-G concerning the preparation of a draft final report, which would be finalised in the autumn then forwarded for consideration and possible adoption at the 82nd meeting of the CDDH. The Chair recalled that the experts were invited to submit any comments or proposals on these issues to the Secretariat (virginie.flores@coe.int) before 29 August 2014, taking due account of the structure of the draft report as adopted at the 1st meeting of the GT-GDR-G (doc. GT-GDR-G(2014)R1 Appendix III)

¹ Following Declaration CM(2009)68 - "Making gender equality a reality" and practical proposals elaborated by the Bureau of the Steering Committee on the media and new communication services (CDMC, document CDMC-BU(2010)001), the list of participants includes gender distribution figures for participants.

so that they could be taken into account by the rapporteur and distributed in due time before the next meeting of the GT-GDR-G.

6. The CDDH also took note of the proposed work to be done by the DH-GDR with regard to information concerning the implementation of the Convention and the execution of the Court's judgments, in keeping with the fourth element of its terms of reference for 2014-2015 (see doc. DH-GDR(2014)R6, paragraphs 9 to 12).

3.2 Baku Conference

7. The CDDH took note of the information on progress made in preparing the international Conference on "*Implementation of the ECHR at national level and the role of national judges*" (Baku, 10-11 October 2014) to be held in the context of the Azerbaijani chairmanship of the Committee of Ministers.

3.3 Further issues

8. Mr Philippe WERY (Belgium) said that his authorities had offered to organise a conference in the context of the Belgian chairmanship of the Committee of Ministers on "the implementation of the ECHR, our shared responsibility" in late March 2015. The CDDH noted the direct connection of the conference's subject to its own work, and indicated its readiness to help prepare the event.

9. The Secretariat also drew attention to the role that member states would be expected to play by translating and disseminating the Toolkit to inform public officials of governments' obligations with regard to the application of the European Human Rights Convention (<http://echr-toolkit.coe.int>), the Guide to good practice in respect of domestic remedies, and Committee of Ministers Recommendation CM/Rec (2010)3 on effective remedies for excessive length of proceedings. The Secretariat said that it would have these texts translated into some non-official languages. To avoid any duplication of work, it invited the experts to inform the Secretariat (virginie.flores@coe.int), before 15 August 2014, if these documents were to be translated in their country. It was pointed out that the experts could also forward to the Secretariat the personal details of contact persons, for example the heads of training establishments, to whom a copy of the printed version of the Toolkit could be sent in either French or English².

10. Finally, the CDDH granted the status of observer within the GT-GDR-F and the DH-GDR to the non-governmental organisation *Open Society Justice Initiative* (OSJI).

ITEM 4: DEVELOPMENT AND PROMOTION OF HUMAN RIGHTS

11. The CDDH took note of the information provided by the Secretariat concerning the dissemination of the Committee of Ministers Recommendation CM/Rec(2014)2 on the

² NB: the Toolkit is intended mainly for public officials working in the judicial system and for those responsible for law and order and the enforcement of prison sentences; it is not designed for lawyers, judges or senior officials but rather for staff working on "the frontline".

promotion of the human rights of older persons, in particular its publication and its presentation at the 2nd International Forum on the Human Rights of Older Persons (Mexico City, 3-6 June 2014) and at a seminar co-organised by the Council of Europe, the European Commission and *AGE Platform Europe* (Brussels, 23 June 2014).

4.1 Corporate social responsibility in the field of human rights

12. The Secretariat informed the CDDH about the additional comments received (document CDDH-CORP(2014)007rev), and indicated that on this basis a first draft of a non-binding instrument would be circulated early September with a view to its discussion at the third meeting of the CDDH-CORP (24-26 September 2014). The CDDH also took note of the information provided by the Secretariat concerning recent developments on the topic in the United Nations Human Rights Council. The CDDH would resume the discussion on the topic at its 82nd meeting in November, in the light of the results of the third meeting of the CDDH-CORP.

4.2 Human rights in culturally diverse societies

13. With the presence of Ms Krista OINONEN (Finland), Chairperson of the Drafting Group on human rights in culturally diverse societies (CDDH-DC), the CDDH exchanged views on the ongoing work under this topic which involved two separate tasks:

- a) *Compilation of existing Council of Europe standards relating to the principles of freedom of thought, conscience and religion and the links with other Convention rights, supplemented by a compendium of good practices*

14. The Secretariat informed the CDDH that preparation of the compilation of existing standards was already underway, according to the structure proposed by the CDDH-DC and approved by the CDDH at its 80th meeting in April. A first part of the compilation will be made available shortly, via the ad-hoc restricted webpage, to the members of the Drafting Group for comments, and the rest will progressively be made available by the end of July.

15. The CDDH delegations had been requested, by 13 June 2014, to provide examples of national good practices on the implementation of the existing standards, which would be used to supplement the compilation of existing standards. The CDDH was informed that 13 contributions had been received by the Secretariat (document CDDH-DC(2014)004). A few more delegations indicating that they would soon send in a contribution or supplement the contribution already submitted were invited to do so as soon as possible. This work would be finalised by the Drafting Group in its restricted composition during the first part of its next meeting, on 21 and 22 October 2014.

- b) *Guidelines on the promotion and protection of human rights in culturally diverse societies*

16. The CDDH exchanged views on the objectives and added-value of the elaboration of Guidelines on the promotion and protection of human rights in culturally diverse societies, bearing in mind the proposals contained in the 2013 feasibility study. Support was expressed for focusing the work – bearing in mind the general mandate of the CDDH - on the legislative framework which should underpin human rights in culturally diverse societies and the relevant

case-law of the Court (e.g. on protection of cultural minorities, relations between the State and cultural majorities, balancing of the rights concerned, non-discrimination etc.), while some doubts were expressed as to the added value of CDDH work focusing on education and training, compared to other Council of Europe bodies more specialised in this field. Particular attention should also be paid to avoiding duplication of other relevant international instruments, while ensuring that the Council of Europe's contribution in this field be as detailed and focused as possible. The Drafting Group in its enlarged composition would further discuss the structure and content of the draft Guidelines during the second part of its next meeting, on 23 and 24 October 2014.

4.3 Future work

17. The CDDH discussed the preliminary study on existing standards and outstanding issues prepared by the Secretariat (document CDDH(2014)011) and exchanged views with Ms Françoise TULKENS, former Vice-President of the European Court of Human Rights, on the impact of the economic crisis and austerity measures on human rights in Europe.

18. In accordance with its terms of reference, the CDDH agreed to examine at its next meeting in November 2014, with a view to its adoption, a draft study on the feasibility of new activities as well as on the revision of existing instruments to deal with this matter. The CDDH appointed Ms Zinovia STAVRIDIS (Greece) as Rapporteur for this activity.

19. With regard to the expected contents and outcome of the study, the CDDH considered that any option should be left open for the time being, including the possibility that no further activity be carried out, depending on whether any gaps could be identified that would sufficiently justify the proposal of any activity by the CDDH. In this respect, some delegations stressed that the standards dealing with this topic may be sufficient, and that it was rather their lack of implementation that deserved attention. It was also argued that many of the problems currently linked to the economic crisis and to austerity measures, including poverty, have not been created but merely exacerbated by the crisis. The CDDH also agreed that the emphasis of the study should be rather on the impact of the economic crisis on human rights than on its root causes.

20. The Secretariat underlined that the feasibility study should not be limited to possible activities to be carried out by the CDDH, but could also include proposals concerning other bodies within the Council of Europe whose competencies or mandate might be more appropriate to deal with particular aspects of the impact of the crisis. In addition to those indicated in the conclusions of the Secretariat preliminary study, the CDDH indicated as possible issues for further consideration gender equality-related issues and the question of the indivisibility of human rights in this particular context.

ITEM 5: BIOETHICS (DH-BIO)

5.1 Examination of the draft Additional Protocol to the Convention on Human Rights and Biomedicine

21. The CDDH held an exchange of views with Ms Laurence LWOFF, Head of the Bioethics Unit and Secretary of DH-BIO, on the preliminary draft additional Protocol to the Oviedo Convention relating to the protection of human rights and dignity of persons with mental

disorders with regard to involuntary placement and involuntary treatment, in the light of the comments submitted by the experts. The exchange of views within the CDDH concerned the wording of the field of application of the instrument, its scope with regard to minors, and the role of the person of trust in the procedures. An exchange of views was also held on the issue of the compatibility between the new Protocol and the United Nation's Convention on the rights of persons with disabilities. Generally speaking, the CDDH thought that the preliminary draft Protocol, prepared by the Drafting Group DH-BIO/Psy, was a good working basis.

22. The CDDH invited members to send any further comments they might have on the draft to the Secretariat as soon as possible and, at all events, before 15 August 2014 (laurence.lwoff@coe.int; DGI-CDDH-Bioethics@coe.int; cc. alfonso.desalas@coe.int; corinne.gavrilovic@coe.int). It instructed the Secretariat to forward these comments to the Drafting Group DH-BIO/Psy in charge of preparing a draft consolidated text.

5.2 Prenatal sex selection

23. The CDDH examined the conclusions reached by DH-BIO at its 5th meeting (5-7 May 2014, DH-BIO/abr RAP 5, paragraphs 21-23) with regard to prenatal sex selection. It pointed out that this issue, which also included a cultural dimension, had an important social impact and seemed to take on particular significance in certain countries. Like DH-BIO, it was prepared to contribute, in its field of competence, to possible activities concerning this issue, which challenged the principle of gender equality. At the end of the discussion, it adopted its reply to the Committee of Ministers as it appears at Appendix IV.

5.3 Other issues

24. The CDDH took note of the Statement on the prohibition of any form of commercialisation of human organs adopted by the DH-BIO and the European Committee on Transplantation of Organs (CD-P-TO) for the attention of the Committee of Ministers and the Parliamentary Assembly.

25. The CDDH held an exchange of views on the on-going work being done on (i) predictivity, genetic testing and insurance and (ii) ethical issues raised by emerging technologies and their convergence.

ITEM 6: YOUNG PEOPLE'S ACCESS TO FUNDAMENTAL RIGHTS

26. The CDDH met Mr Paulo PINHEIRO, Chairperson of the Advisory Council on Youth (CCJ) and Ms Anna TRIGONA, Secretary of this body. It was informed about the preparatory work being carried out by the Joint Council on Youth (CMJ) with a view to the preparation of a Committee of Ministers Recommendation to member states on young people's access to fundamental rights. It took special note of the outcome of the meeting held on 26 and 27 May 2014 by an enlarged working group in charge of examining the added value and defining the aims of such an instrument, as well as proposing possible working methods for the first meeting of the ad hoc working group, to be held on 28 and 29 August 2014 (see document CDDH(2014)009). It expressed its interest in this important activity and appointed Mr Vladislav

ERMAKOV (Russian Federation) and Ms Nataliia SHAKURO (Ukraine) to attend the group's meetings.

ITEM 7: EXPERTS REPRESENTING THE CDDH IN OTHER BODIES

27. The CDDH held an exchange of views with the experts who had represented it in other bodies since its 80th meeting, namely Mr Rob LINHAM (United Kingdom), who had attended the 26th meeting of Committee of Experts on Terrorism (CODEXTER, 6-7 May 2014) and Ms Nataliia SHAKURO (Ukraine), who had attended the 1st meeting of the European Committee for Social Cohesion, Human Dignity and Equality (CDDECS, 3-5 June 2014). It thanked the experts for the very comprehensive written reports they had sent. The summary table of meetings and events of various bodies in 2014, and the experts appointed by the CDDH to attend them if the agenda so requires, is set out at Appendix V.

ITEM 8: EXCHANGE OF VIEWS WITH LEADING FIGURES

28. The CDDH held an exchange of views with Ambassador Carl-Henrik EHRENKRONA (Sweden), Chair of the Ad hoc Working Party on reform of the Human Rights Convention system (GT-REF.ECHR). His presentation is set out at Appendix VI.

29. The CDDH also held an exchange of views with Mr Morten KJAERUM, Director of the European Union Agency for Fundamental Rights (FRA). His presentation is set out at Appendix VII.

30. The CDDH noted that, at its 82nd meeting (18-21 November 2014), it would meet Mr Lätif HÜSEYNOV, President of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), and a representative of the Office of the United Nations High Commissioner for Human Rights (OHCHR). The Secretariat was invited to inform the CDDH in due time as to who had been appointed to represent the OHCHR at the exchange of views.

31. The CDDH took note of the Bureau's suggestions regarding possible future invitations and decided to resume consideration of this point at its meeting in November 2014, in the light of the information which the Secretariat would provide concerning the availability of leading figures to attend any of its meetings.

ITEM 9: CALENDAR OF MEETINGS

32. The CDDH adopted the calendar of its meetings and those of its subordinate bodies for the second half of 2014 and provisionally adopted the calendar for 2015, on which it decided to resume its discussion at its meeting in November 2014. The calendar is set out at Appendix X.

ITEM 10: REVIEW OF COUNCIL OF EUROPE CONVENTIONS

33. The CDDH was informed about the state of signatures and ratifications of Protocols No. 15 and No. 16 to the Convention. It discussed the situation with regard to European

Agreements CETS No. 67 and No. 161. It decided that, at its meeting in November 2014, it would discuss the state of signatures and ratifications of these instruments and also of the Council of Europe Convention on Access to Official Documents (CETS No. 205). With this in mind, it invited its members to submit any corrections and information that should appear in the updated document CDDH(2014)005 before 29 August 2014 (alfonso.desalas@coe.int; corinne.gavrilovic@coe.int).

ITEM 11: CDDH WORK BEYOND THE CURRENT BIENNIUM

34. The CDDH continued its preliminary exchange of views on how it might consider its role and priorities beyond the current biennium, taking into account the evolution of its current work and challenges to the Council of Europe. This was a future-looking exercise, which the CDDH was undertaking on its own initiative and which it considered necessary and stimulating, not only with an eye to the next biennium but also to the more distant future.

35. By way of introduction, it met Ms Tatiana TERMACIC, Head of the “Support to Human Rights National Implementation” Unit and was informed about current co-operation activities and possible synergies between these activities and the CDDH’s intergovernmental activities. In this context, possible ways in which the CDDH and/or its members might be involved were also discussed:

- Concerning the shortcomings in terms of legislation, awareness-raising, and implementation, among other things, it was underlined that the activities of the CDDH and the co-operation and monitoring activities could become part of a sort of “virtuous circle” in which the CDDH would analyse such shortcomings. Its analysis could, in turn, lead to the development of capacity-building or awareness-raising programmes focusing on one issue, one country or one specific region.
- It was nevertheless clear that although the CDDH might “inspire” some of these activities and contribute in one way or another, it was by no means expected to steer them.

36. Mr Mikhail LOBOV, Head of the Human Rights Policy and Development Department, presented document CDDH(2014)006 revised, which provided the basis for the general discussion, and underlined two key ideas to be borne in mind, i.e.:

(i) *Interaction*, which transcended the traditional division between standard-setting, monitoring and co-operation activities. Although it was quite clear that the future of the system of the Convention and the Court remained the focus of the work of the CDDH, the latter needed to adopt a flexible approach, transcending the distinction between standard-setting activities and the other activities. The CDDH was increasingly frequently required to interact with the bodies responsible for the implementation of the Convention at national level and those responsible for supervising the execution of judgments.

(ii) The *sharing of knowledge and information*, which required more representation of the CDDH on other committees and bodies and, conversely, that the latter become more familiar with the activities of the Steering Committee, taking them beyond the idea that the CDDH was the committee specialising in the reform of the system of the Convention and the Court. This second

aspect would require more action on the part of the Secretariat to ensure that the other bodies were informed of the CDDH's agenda and could, where appropriate, be represented at its meetings. Such sharing of knowledge and information would enable the CDDH to clearly identify the subjects that fell within its remit, existing standards, gaps that needed to be filled and good practices that should be promoted.

37. During the discussion, the following points, among others, were highlighted:

- The terms of reference for the next biennium should more clearly underline the eminently legal profile of the CDDH, which distinguished it from other bodies whose terms of reference comprise activities relating to human rights. For the CDDH, reference to the Court's case-law was and must remain one of the main contributions it could make, with a view to both fulfilling its terms of reference and contributing to the work of other bodies. Its firm rooting in Convention law should not, however, limit its future activities to procedural issues or prevent it from considering legal issues that fall outside the scope of the Convention if they concerned the effective implementation of human rights.
- In the cross-sectoral activities in which the CDDH would be increasingly required to take part, its task should not be to supervise, and even less to direct, the action taken by other committees which had received their mandate directly from the Committee of Ministers, but to provide legal expertise in human rights issues ("legislative assistance" or assistance in drafting standard-setting texts to ensure that the drafts were compatible with the provisions of the Convention) and also, of course, to take full advantage in its own activities of the expertise acquired by other committees.
- Although the CDDH would not, in future, be involved exclusively in drafting standard-setting texts, it should always be borne in mind that this was a major aspect of its work: the Committee must be able to rapidly adapt existing standards or to propose new, more specific standards if and when the need arose.
- Although the CDDH might hold general discussions and decide, for example, to devote more time to its meetings with leading figures (sometimes half a day on one theme), it was important that it should always have specific objectives (with clear and appropriate time-limits and working methods), leading to tangible results: for example the publication of guides of good practices or other concrete texts, including texts for the general public, taking stock of an issue that was of particular interest to member states. On the subject of good practices, the CDDH believed that the considerations set out in document CDDH(2014)006Rev, paragraphs 15-16 were steps in the right direction.
- With regard to working methods:
 - While noting the usefulness of electronic means of communication during certain stages of its work, the CDDH underlined the need for plenary meetings, the number and duration of which must remain flexible, depending on its workload;

- It also underlined the need for its Bureau to meet for the sole purpose of preparing the plenary meetings, as it currently did, without increasing the frequency of its meetings in the future;
- It noted the relevance of developing the role assigned to the CDDH expert in the capital (see document CDDH(2014)006Rev, paragraph 29, second indent);
- With regard to further reflection, it would, at a later stage, resume discussion of the idea of setting up a small group of members of the CDDH tasked with making more concrete proposals (see document CDDH(2014)006Rev, paragraph 34).

38. With a view to continuing its discussion at its next meeting in November 2014, the CDDH asked the Secretariat to consolidate document CDDH(2014)006Rev as a document showing the state of the Steering Committee's discussions. In particular, the document would focus more on the ideas expressed at this meeting. With a view to defining the current role of the CDDH within the Organisation more clearly, the document would include a list of steering committees and ad hoc committees whose activities might be of relevance to the CDDH, as well as a compendium of their terms of reference.

39. Finally, the CDDH noted that, in the light of the terms of reference assigned to it by the Committee of Ministers for the current biennium, it would be required in November or at its first meeting in 2015 to hold a preliminary exchange of views on new themes concerning the development and promotion of human rights within the Council of Europe, which it might address during the 2016-2017 biennium (see item 4.3 above).

ITEM 12: REQUEST FOR ADMISSION AS OBSERVER IN THE CDDH

40. The CDDH granted by acclamation observer status to the European Trade Union Confederation (ETUC/CES) and welcomed its very constructive contribution to its work and to that of several of its subordinate bodies.

ITEM 13: OTHER BUSINESS

41. The Chair reminded members that elections would be held in November and invited them to prepare for these elections in the light of the information set out in the table which appears at Appendix VIII.

42. The CDDH was informed that its former Chair Mr Derek WALTON (United Kingdom), who had been assigned to another post, would no longer be the UK government agent before the Court. It wished him every success in his new duties.

Appendix I**List of participants**

The gender distribution of the 70 participants in the meeting was as follows: 32 women (46%) and 38 men (54%) including the Chair

MEMBERS / MEMBRES**ALBANIA / ALBANIE**

Ms Alma HICKA, Ministry of Justice

ANDORRA / ANDORRE

Mr Joan FORNER ROVIRA, Représentant permanent Adjoint auprès du Conseil de l'Europe

ARMENIA / ARMENIE

Mr Levon AMIRJANYAN, Chef du département des affaires juridiques, Ministère des affaires étrangères

AUSTRIA / AUTRICHE

Mrs Brigitte OHMS, Deputy Government Agent, Division for International Affairs and General Administrative Affairs, Federal Chancellery

AZERBAIJAN / AZERBAIDJAN

Mr Chingiz ASGAROV, Head of the sector on protection of human rights, Department for Coordination of Law Enforcement Agencies, Administration of the President of the Republic

BELGIUM / BELGIQUE

Mr Philippe WERY, Chef du Service des droits de l'homme, SPF Justice, Service des Droits de l'Homme

BOSNIA AND HERZEGOVINA / BOSNIE-HERZEGOVINE

Ms Monika MIJIC, Agent of the Council of Ministers before the European Court of Human Rights

BULGARIA / BULGARIE

Mr Dimitar Philipov SERAFIMOV, Directeur du département des droits de l'homme, Ministère des Affaires Etrangères

CROATIA / CROATIE

Mrs Romana KUZMANIĆ OLUIĆ, Counsellor, Ministry of Foreign and European Affairs, Directorate General for Multilateral Affairs and Global Issues, Division for Human Rights and Regional International Organisations and Initiatives

CYPRUS / CHYPRE

Ms Theodora CHRISTODOULIDOU, Counsel of the Republic, Office of the Attorney-general (Human Rights sector)

CZECH REPUBLIC / REPUBLIQUE TCHEQUE

Mr Vít Alexander SCHORM, Government Agent, Ministry of Justice, Chairman of the CDDH / Président du CDDH

Mr Martin BOUČEK, Human Rights and Transition Policy Department, Ministry of Foreign Affairs

DENMARK / DANEMARK

Mr Lars SOLSKOV LIND, Ministry of Justice, Constitutional Law and Human Rights Division

ESTONIA / ESTONIE

Mrs Maris KUURBERG, Government Agent before the European Court of Human Rights, Ministry of Foreign Affairs

FINLAND / FINLANDE

Mr Arto KOSONEN, Government Agent, Director, Unit for Human Rights Court and Conventions, Legal Service, Ministry of Foreign Affairs

FRANCE

M. Rodolphe FERAL, Rédacteur à la Sous-direction des droits de l'homme, Ministère des affaires étrangères

GEORGIA / GEORGIE

Mr Levan MESKHORADZE, Governmental Agent to the ECHR, Department of State Representation in International Court of Human Rights, Ministry of Justice

GERMANY / ALLEMAGNE

Mr Hans-Jörg BEHRENS, Head of Unit IVC1, Human Rights Protection; Government Agent before the European Court of Human Rights, Bundesministerium der Justiz und für Verbraucherschutz

GREECE / GRECE

Ms Zinovia STAVRIDIS, Head of the Public International Law Department/Special Legal Department, Ministry of Foreign Affairs

Mme Ourania PATSOPOULOU, Membre du Conseil Juridique de l'État, Attachée à la Représentation Permanente auprès du Conseil de l'Europe

HUNGARY / HONGRIE

Mr Zoltan TALLODI, Agent before ECHR, Ministry of Public Administration and Justice

ICELAND / ISLANDE (*Apologised*)**IRELAND / IRLANDE**

Mr Peter WHITE, Agent for the Government, Assistant Legal Adviser, Legal Division, Department of Foreign Affairs and Trade

ITALY / ITALIE

Ms Stefania ROSINI, Ministère des Affaires Etrangères, Directrice adjointe du service des affaires juridiques

LATVIA / LETTONIE

Mrs Kristine LICE, Government Agent, Representative of the Government before International Human Rights Organizations, Ministry of Foreign Affairs

LIECHTENSTEIN

Mr Manuel FRICK, Deputy Permanent Representative to the Council of Europe, Office for Foreign Affairs

LITHUANIA / LITUANIE

Ms Karolina BUBNYTE, Head of the Representation Division to the European Court of Human Rights, Ministry of Justice

LUXEMBOURG

Mme Brigitte KONZ, Juge de Paix directrice, Cité judiciaire

MALTA / MALTE

Dr Victoria BUTTIGIEG, Head of Civil and Constitutional Law Unit, Office of the Attorney General

REPUBLIC OF MOLDOVA/ REPUBLIQUE DE MOLDOVA

Mr Lilian APOSTOL, Agent for the Government

MONACO

Mr Jean-Laurent RAVERA, Département des Relations Extérieures/Cellule Droits de l'Homme

MONTENEGRO

Mr Zoran PAZIN, State Agent to the ECHR

THE NETHERLANDS / PAYS-BAS

Ms Liselot EGMOND, Deputy Agent for the Government, Ministry of Foreign Affairs

NORWAY / NORVEGE

Mr Morten RUUD, Ministry of Justice and the Police, Legislation Department

POLAND / POLOGNE

Ms. Agnieszka KOZINSKA, Head of the Civil Procedure Unit, Department of proceedings before International Human Rights Protection at the Ministry of Foreign Affairs

PORTUGAL

Mme Maria de Fátima GRAÇA CARVALHO, Agente du Gouvernement, Procureur-Général adjointe

ROMANIA / ROUMANIE

Ms Catrinel BRUMAR, Agent for the Government before the European Court of Human Rights, Ministry of Foreign Affairs

RUSSIAN FEDERATION / FEDERATION DE RUSSIE

Mr Grigory LUKIYANTSEV, Deputy Director, Department for Humanitarian Cooperation and Human Rights, Ministry of Foreign Affairs

Mr Vladislav ERMAKOV, Ministry of Foreign Affairs

SAN MARINO / SAINT-MARIN**SERBIA / SERBIE**

Ms Vanja RODIC, Assistant Minister – Agent before the ECHR, Ministry of Justice and Public Administration

SLOVAK REPUBLIC / REPUBLIQUE SLOVAQUE

Ms Anna MURINOVA, Ministry of Foreign Affairs, Human Rights Department

SLOVENIA/SLOVENIE

Ms Irena VOGRINCIC, Adviser, Ministry of Justice and Public Administration

SPAIN / ESPAGNE

Mr Rafael Andrés LEON CAVERO, State Attorney-Human Rights Area, Office of the State Attorney, Ministry of Justice

SWEDEN / SUEDE

Mrs Charlotte HELLNER KIRSTEIN, Senior Legal Advisor, Department for International Law, Human Rights and Treaty Law, Ministry for Foreign Affairs

SWITZERLAND / SUISSE

Mr Frank SCHÜRMAN, Agent du Gouvernement, Chef de l'Unité Droit européen et Protection Internationale des droits de l'Homme, Office fédéral de la justice

“THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA” / “L’EX-RÉPUBLIQUE YOUGOSLAVE DE MACÉDOINE”

Ms Svetlana GELEVA, Head of Department for Multilateral affairs, Ministry of Foreign Affairs

TURKEY / TURQUIE

Ms Aysen EMÜLER, Legal Expert, Représentation permanente auprès du Conseil de l'Europe

Mr Harun SAĞLAM, Conseiller, Ministère de la Justice - Représentation Permanente auprès du Conseil de l'Europe

UKRAINE

Ms Nataliia SHAKURO, Head of Human Rights and the Council of Europe Division, Department for International Organisations, Ministry of Foreign Affairs

UNITED KINGDOM / ROYAUME-UNI

Mr Rob LINHAM, Head of Council of Europe Human Rights Policy, Ministry of Justice

Ms Ekim BIREROGLU, Council of Europe Human Rights Policy Team, Ministry of Justice

Ms Indira RAO, Assistant Legal Adviser, Foreign and Commonwealth Office

PARTICIPANTS

Ambassador Carl-Henrik EHRENKRONA, Chairman of the Ministers' Deputies Ad hoc Working Party on reform of the Human Rights Convention system (GT-REF.ECHR)

Mr Morten KJAERUM, Director of the European Union Agency for Fundamental Rights (FRA)

Ms Krista OINONEN, (*Chair/Présidente CDDH-DC*), Legal Counsellor, Deputy Director, Unit for Human Rights Courts and Conventions, Legal Service, Ministry for Foreign Affairs

M. Paulo PINHEIRO, Chair of the Advisory Council on Youth (CCJ) / Président du Conseil consultatif pour la jeunesse (CCJ)

Ms Françoise TULKENS, Former Judge and vice-President of the European Court of Human Rights, Chair of the Board of Governors of the King Baudouin Foundation

Secretariat of the Committee of Ministers / Secrétariat du Comité des Ministres

Ms Ulrika FLODIN-JANSON, Head of Division / Chef de Division, Secretary of the GT-REF.ECHR / Secrétaire du GT-REF.ECHR

Conference of INGOs of the Council of Europe / Conférence des OING du Conseil de l'Europe

Mr Jean-Bernard MARIE

European Union / Union Européenne

Mr Giovanni Carlo BRUNO, Deputy to the Head of delegation, European Union Delegation, European Union Delegation to the Council of Europe

Mr Dennis VAN DER VEUR, Seconded National Expert, Equality and Citizens' Rights Department, European Union Agency for Fundamental Rights

OBSERVERS / OBSERVATEURS

HOLY SEE / SAINT-SIÈGE

Mme Christine JEANGÉY, Chargée des Droits de l'Homme au Conseil Pontifical Justice et Paix

JAPAN / JAPON

Mr Takaaki SHINTAKU, Consul (Attorney), Consulate-General

Ms Emiko SAITO, Chargée de mission, Consulate-General

MEXICO / MEXIQUE

Mr Santiago OÑATE LABORDE, Observateur Permanent, Représentation Permanente auprès du Conseil de l'Europe

Mr Diego SANDOVAL PIMENTEL, Adjoint à l'Observateur Permanent, Représentation Permanente auprès du Conseil de l'Europe

Non-member State / Pays non-membre

BELARUS

Mr Andrei SUKHORENKO, OSCE and CoE Unit, European Cooperation Department

European Network of Human Rights Institutions (ENNHRI) / Réseau européen des institutions nationales des droits de l'Homme

Ms Sinead FITZPATRICK, Senior Enquiry and Legal Officer, Irish Human Rights and Equality Commission

European Trade Union Confederation (ETUC) / Confédération européenne des syndicats (CES)

Mr Klaus LÖRCHER, Conseiller des droits de l'homme de la Confédération européenne des syndicats

Non governmental Organisations / Organisations non-gouvernementales

Amnesty International (*Apologised*)

International Commission of Jurists (ICJ) / Commission internationale de Juristes (CIJ)

Massimo FRIGO, Legal Advisor at the Europe Programme of the ICJ

Invitees to this meeting / invités à cette réunion

European Conference of Churches / Conférence des églises européennes (KEK/CEC)

Mr John MURRAY

SECRETARIAT

**DG I – Human Rights and Rule of Law / Droits de l’Homme et État de droit
Council of Europe / Conseil de l’Europe, F-67075 Strasbourg Cedex**

Mr Philippe BOILLAT, Director General / Directeur Général, Directorate General of Human Rights and Rule of Law / Direction Générale droits de l’Homme et Etat de droit

Mr Mikhail LOBOV, Head of Human Rights Policy and Development Department / Chef du Service des politiques et du développement des droits de l’Homme

Mr Alfonso DE SALAS, Head of Division / Chef de Division, Human Rights Intergovernmental Cooperation Division / Division de la coopération intergouvernementale en matière de droits de l’Homme, Secretary of the CDDH / Secrétaire du CDDH

Mr David MILNER, Head of Unit / Chef d’Unité, Human Rights Intergovernmental Cooperation Division / Division de la coopération intergouvernementale en matière de droits de l’Homme, Co-Secretary of the CDDH / Co-secrétaire du CDDH

Mr Daniele CANGEMI, Head of Division / Chef de Division, Human Rights Law and Policy Division / Division du droit et de la politique des droits de l’Homme

Ms Laurence LWOFF, Head of Unit / Chef d’Unité, Secretary of the DH-BIO / Secrétaire du DH-BIO

Ms Tatiana TERMACIC, Head of Unit / Chef d’Unité / Support to Human Rights National Implementation / Soutien à la mise en œuvre nationale des droits de l’Homme

Mr Matthias KLOTH, Administrator / Administrateur, Human Rights Law and Policy Division / Division du droit et de la politique des droits de l’Homme

Ms Merete BJERREGAARD, Administrator / Administratrice, Human Rights Law and Policy Division / Division du droit et de la politique des droits de l’Homme

Mme Virginie FLORES, Administrator / Administratrice, Human Rights Intergovernmental Cooperation Division / Division de la coopération intergouvernementale en matière de droits de l’Homme

Ms Anna TRIGONA, Administrator / Administratrice, Directorate General of Democracy / Direction Générale de la Démocratie, Coopération intergouvernementale / Intergovernmental co-operation, Secretary of the Advisory Council on Youth (CCJ) / Secrétaire du Conseil consultatif pour la jeunesse (CCJ)

Ms Naomi FENWICK, Lawyer / Juriste, Human Rights Intergovernmental Cooperation Division / Division de la coopération intergouvernementale en matière de droits de l’Homme

Mme Corinne GAVRILOVIC, Assistant / Assistante, Human Rights Intergovernmental Cooperation Division / Division de la coopération intergouvernementale en matière de droits de l'Homme

Mme Haldia MOKEDDEM, Assistant / Assistante, Human Rights Intergovernmental Cooperation Division / Division de la coopération intergouvernementale en matière de droits de l'homme

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INTERPRETERS / INTERPRÈTES

Mme Lucie DE BURLET
Mme Isabelle MARCHINI
M. Didier JUNGLING

Appendix II**Agenda****ITEM 1: OPENING OF THE MEETING, ADOPTION OF THE AGENDA AND ORDER OF BUSINESS****ITEM 2: RECOMMENDATIONS OF THE PARLIAMENTARY ASSEMBLY**

Texts of the recommendations 2043 (2014)	CDDH(2014)007
Elements prepared by the Bureau (12-13 June 2014)	CDDH-BU(2014)R91 Appendix...

ITEM 3: REFORM OF THE COURT (DH-GDR)***3.1 Ongoing work***

Report of the 1 st meeting of the GT-GDR-G (12-14 February 2014)	GT-GDR-G(2014)R1
Report of the 2 nd meeting of the GT-GDR-F (14-16 May 2014)	GT-GDR-F(2014)R2
Report of the 6 th meeting of the Committee of experts on the reform of the Court (4-6 June 2014)	DH-GDR(2014)R6

3.2 Baku conference***3.3 Further issues*****ITEM 4: DEVELOPMENT AND PROMOTION OF HUMAN RIGHTS*****4.1 Corporate social responsibility in the field of human rights***

Report of the 2 nd meeting of the CDDH-CORP (12-14 February 2014)	CDDH-CORP(2014)R2
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4.2 Human rights in culturally diverse societies

Report of the 1 st meeting of the CDDH-DC (24-25 March 2014)	CDDH-DC(2014)R1
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ITEM 5: BIOETHICS (DH-BIO)***5.1 Examination of the draft Additional Protocol to the Convention on Human Rights and Biomedicine***

Abridged report of the 5 th meeting of the DH-BIO (5-7 May 2014)	DH-BIO/abr RAP 5
Preliminary draft Additional Protocol	DH-BIO (2014)6
Comments by members of the CDDH	CDDH(2014)008

5.2 Prenatal sex selection

Abridged report of the 5 th meeting of the DH-BIO (5-7 May 2014)	DH-BIO/abr RAP 5
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5.3 Further issues

Abridged report of the 5 th meeting of the DH-BIO (5-7 May 2014)	DH-BIO/abr RAP 5
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2014)	
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ITEM 6: YOUNG PEOPLE'S ACCESS TO FUNDAMENTAL RIGHTS

Information document	CDDH(2014)009
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ITEM 7: EXPERTS REPRESENTING THE CDDH IN OTHER BODIES

Information provided by the experts	CDDH(2014)010
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ITEM 8: EXCHANGE OF VIEWS WITH PERSONALITIES**ITEM 9: CALENDAR OF MEETINGS****ITEM 10: REVIEW OF COUNCIL OF EUROPE CONVENTIONS**

Review of Council of Europe Conventions (document updated)	CDDH(2014)005
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ITEM 11: CDDH WORK BEYOND THE CURRENT BIENNIUM**ITEM 12: REQUEST FOR ADMISSION AS OBSERVER IN THE CDDH****ITEM 13: FURTHER ISSUES**

Appendix III

**CDDH comments on
Parliamentary Assembly Recommendation 2043 (2014)
- "Urgent need to deal with new failures to co-operate
with the European Court of Human Rights"**

Opinion by the CDDH

(as adopted by the CDDH at its 81st meeting, 24-27 June 2014)

1. The Steering Committee for Human Rights (CDDH) takes note of Parliamentary Assembly [Recommendation 2043\(2014\)](#) on the ‘urgent need to deal with new failures to co-operate with the European Court of Human Rights’. It recalls Committee of Ministers’ Resolution CM/Res(2010)25 on member States’ duty to respect and protect the right of individual application to the European Court of Human Rights, which called upon the member States to “take prompt and effective action with regard to any interim measures indicated by the Court so as to ensure compliance with their obligations under the relevant provisions of the Convention”. It also recalls its own earlier work on the issue, notably its report on interim measures under Rule 39 of the Rules of Court, which reiterated that “member States should be reminded that Article 34 of the Convention entails an obligation for States Parties to comply with an indication of interim measures made under Rule 39 of the Rules of Court and that non-compliance normally implies a violation of Article 34 of the Convention”.³

2. The CDDH notes that certain of the failures to respect indications of interim measures occurred after the adoption of Committee of Ministers’ Resolution CM/Res(2010)25 and that some involved action that is illegal under domestic law. This underlines the need for the Committee of Ministers and the member States to continue searching for adequate responses to such incidents, as implied by paragraphs 2 and 3 of the Parliamentary Assembly’s recommendation. The CDDH emphasises the importance of full implementation of the relevant measures contained in the 2011 Committee of Ministers’ Guidelines on eradicating impunity for serious human rights violations, where appropriate on account of the nature of the actions occurring at the domestic level.⁴

3. Finally, the CDDH notes the Assembly’s call for speedy treatment by the Court of applications in the context of which interim measures have been indicated, and recalls its own recommendation in this sense made in its 2013 Report.

* * *

³ See paragraph 54 of doc. CDDH(2013)R77 Addendum III: under examination by the Committee of Ministers at the time of writing.

⁴ Doc. CM/Del/Dec(2011)1110/4.8, Appendix 5.

Appendix IV
**Reply by the CDDH to the Committee of Ministers
 regarding prenatal sex selection**

(adopted by the CDDH at its 81st meeting, 24-27 June 2014)

Introduction

- (i) In reply to [Recommendation 1979 \(2011\)](#) of the Parliamentary Assembly on prenatal sex selection, the Committee of Ministers, at its 1146th meeting at Deputies' level (20 June 2012), invited the Steering Committee for Human Rights (CDDH) to « to take account of the suggestion made by the Assembly in paragraph 3.2⁵ of its recommendation when carrying out intergovernmental work on the protection of human rights in the sphere of biomedicine, subject to available resources. »
- (ii) Following this decision, the CDDH invited the Committee on Bioethics (DH-BIO) to conduct a comparative study on prenatal sex selection and consider, where appropriate, the elaboration of guidelines and good practices on prenatal sex selection in the context of Article 14 of the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine (ETS No164) (Oviedo Convention).
- (iii) A questionnaire on prenatal sex selection sent to all the member states made it possible to collect information on the situation in 38 member states and 2 non-member states. The information collected showed a sex ratio in some states that could not be explained by natural biological reasons. Some states also indicated that they have started examining this phenomenon in more detail.
- (iv) The DH-BIO examined all the information provided and discussed, on that basis, possible initiative that could be taken to address this problem, including the drafting of guidelines and good practices. In this context, an exchange of views on the problem of prenatal sex selection with other intergovernmental organisations working on this issue was held at the 13th meeting of the UN Inter-Agency Committee on Bioethics (UNIACB) organised in Strasbourg on 25-26 March 2014.
- (v) At its 5th plenary meeting (5-7 May 2014), the DH-BIO adopted its conclusions which were presented to CDDH. On that basis, at its 81st meeting (24-27 June 2014), the CDDH adopted the following reply to the request made by the Committee of Ministers :

⁵Recommendation 1979 (2011) of the PACE on prenatal sex selection

“3. The Assembly therefore invites the Committee of Ministers to:

...

3.2 instruct the Steering Committee on Bioethics to conduct a comparative study on prenatal sex selection and consider the elaboration of guidelines and good practices on prenatal sex selection in the context of Article 14 of the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine (ETS No. 164);

...”

Reply

1. The CDDH fully shared the important concerns raised for the protection of human rights by prenatal sex selection. It recalled, in this respect, the prohibition established in Article 14 of the Oviedo Convention, to allow the use of techniques of medically-assisted procreation for the purpose of choosing a future child's sex, except where serious hereditary sex-related disease is to be avoided.
2. However, as underlined by the DH-BIO, as well as the World Health Organisation (WHO) and the United Nations Population Fund (UNFPA) at the 13th UNIACB meeting, the root cause of this problem is not related to the biomedical field, but to the issue of gender equality.
3. Consequently, the CDDH agreed with the DH-BIO⁶, that an initiative on this topic in the field of biology and medicine, in the form for example of guidelines intended to professionals, would have a limited added value to properly address the problem, which also includes a cultural dimension, has an important social impact and seems to take on particular significance in certain countries.
4. Considering the importance of the fundamental concerns raised by prenatal sex selection, it considers it necessary to engage in a more thorough and targeted examination within the Council of Europe, so as to address this challenge to the principle of equality between women and men.
5. The CDDH, as well as the DH-BIO, are ready to contribute, in their fields of competence, to any activity that could be undertaken on this issue, whether by relevant bodies of the Council of Europe or at the possible request of a member state.

* * *

⁶ However, in the continuity of its work on genetic testing, the DH-BIO plans to go into the reflection more closely on the proposed tests directly to consumers, especially those which, through a simple blood test on pregnant women to determine the fetal sex at a very early stage of pregnancy.

Appendix V

**Meetings / events in 2014 in which CDDH
representatives/experts could participate depending on the relevance
of the agenda and of their own availability**

JULY		
3-4 (Baku)	European Commission for the Efficiency of Justice (CEPEJ)	Mr Vít A. SCHORM (Czech Republic)
SEPTEMBER		
1 st -2 (Paris)	Drafting Group of the DH-BIO (DH-BIO/Psy)	Mr Frank SCHÜRMANN (Switzerland)
24-26 (Strasbourg)	CAHDATA	Ms Brigitte OHMS (Austria)
OCTOBER		
29-31 (Strasbourg)	European Committee on Legal Co-operation (CDCJ)	Mr Morten RUUD (Norway)
NOVEMBER		
12-14 (Strasbourg)	DH-BIO	Ms Brigitte KONZ (Luxembourg)
18-21 (Strasbourg)	CDMSI	Ms Kristine LICE (Latvia)
19-21 (Strasbourg)	CDDECS	Ms Nataliia SHAKURO (Ukraine)
DECEMBER		
10-11 (Strasbourg)	Committee of the Parties to the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (“the Lanzarote Committee”)	Mr Joan FORNER ROVIRA (Andorra)
11-12 (Strasbourg)	CEPEJ	Mr Vít A. SCHORM (Czech Republic)

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Appendix VI**Intervention of Ambassador Carl-Henrik EHRENKRONA,
Chair of the ad hoc drafting Group on the reform of the convention system under the
European Convention on Human Rights (GT-REF.ECHR)**Long term reform of the supervisory system under the ECHR

- Express thanks for having been given this opportunity to comment on this theme in our discussion. As I understand it I am invited under two hats;
as chairman of the CM special working group on the reform of the convention system under the ECHR that is what is known as the GT-REF-ECHR;
and more in my private capacity to share some more personal ideas on the long term future of the supervisory system set up under the ECHR.

I start with the GT- REF- ECHR.

- It is simply a working party that has continued the previous work of what was known earlier as the GT-SUIVI- INTERLAKEN. During my three years in office we have focused primarily on the implementation of the Brighton declaration which of course has to a large extent continued on the route paved in the Interlaken and Izmir declarations. It has not been so difficult for the working party since we have been able to rely on the excellent preparatory work of your committee. Most important so far of course the preparations of protocols 15 and 16, which are now open for signature and ratification. But we have also made a follow up with regard to issues for which you have not been directly responsible. What now remains is mainly Chapter G in the Brighton Declaration "The long term future of the Convention System and the Court". I am now leaving Strasbourg this summer so it will be for someone else to take responsibility for this work as chairman of this working party at the level of CM. But first it is for you to do some thinking and see if you can come up with some ideas worth pursuing.

- And that makes me continue with addressing the main topic for our discussion here today and perhaps give you some food for thought.

- As some of you might know I have worked as a practitioner with the European Convention for several years since the mid of the 1980-ies, both as Government Agent of Sweden and in the Steering Committee for Human Rights and before I took up office as the Swedish Ambassador here in Strasbourg I served as Director General for Legal and Consular Affairs in the Swedish MFA. But by my background is originally not that of a diplomat but that of a judge having served in the national courts in Sweden. In my previous work at the MFA I took active part in the rather difficult negotiations which led to the adoption of protocol 11 merging the Commission and the Court to one permanent body. I was and am still not convinced that that was the best solution for the future of the system. There are those who mean that what we achieved in practice was rather transforming the old European Commission of Human Rights to a permanent European Court than a merger of the two institutions. But that is history now.

- The years passed from the entering into force of Protocols 11 and 14 until the two protocols adopted last year as a result of the Brighton Declaration, the reform work has been very focused on the work of the Court and the concerns raised about the ever increasing back log of cases since the late 1980-ies up to recent years. It now appears as if the Court has been able to take control of the great number of cases which should be declared inadmissible without being examined on their merits. This should of course be welcomed and if you look at the statistics and the figures this is a remarkable achievement. But the

challenge remains how to deal with the more substantial complaints within reasonable time limits – including what we call repetitive cases. I have certain sympathy for those who say that today we should focus and concentrate more on other issues and let the Court do its work peacefully following the new instruments it now has at its disposal. But in view of the serious budget restraints that states have put on the whole organization and which will most probably remain and the fact that a huge part of the budget goes to keeping the Court running, I do not think we can leave the Court untouched when we talk about long term reforms of the system. And we have a situation where we can see an increased unwillingness or inability to comply with the Courts judgments in some member states; and indeed there are judgments the legitimacy of which have been questioned not only by politicians or others who simply do not like them, but also by scholars and senior judges in member states.

- So in my view we should start our thinking from the beginning. Perhaps a restart of the whole system is called for as long term measure?

- Some of you took part in the Wilton Park seminar in November 2011 which preceded Brighton. And most of you attended the Oslo conference earlier this year. From these conferences a number of ideas have emanated – some new some older. But now we have to think a little outside the box.

- I think one should start by thinking; what kind of system would we have set up today if we were to create an efficient supervisory system for the protection of Human Rights in Europe in the years to come? Taking into account the huge number of states and individuals for which such a system should be designed. The origin of the present system with the European Commission and the Court was actually designed for a very limited number of at the time well established democratic states. And we are of course in a quite different situation today with different human rights challenges in different states, different both when it comes to the nature of the problems and their magnitude.

- I think the following questions could be asked?

- Would we have based a supervisory system on an unconditional right to individual petition to a Court for more than 800 milj. citizens? Are there other ways of securing rights for individuals in a judicial system? Could a more developed right to collective complaints serve as an alternative? Should the right for the Human Rights Commissioner to bring cases be strengthened?

- Must we not see to it that more focus is put on the severe human rights violations causing people severe suffering. For instance the protection against torture and inhuman treatment; the death penalty and expulsion; arbitrary and unlawful detention; abuse of justice and fair trial; serious forms of discrimination; unlawful expulsion. And should the Court perhaps restrict its jurisprudence when it comes to violations of purely procedural rights for instance under Articles 5 and 6, in particular where it cannot be seen that these violations have affected the outcome of the case at national level? Here there is room for increased application of the principle of subsidiarity.

- Could other important rights be addressed by the Court more as a constitutional problem by giving the Court a more constitutional role not necessarily based on a right to individual petition. For instance the rights under Articles 8 – 13, the right to property just to mention some examples.

- Should the possibility for private companies to bring complaints in order to protect their property be restricted or abolished.

- Should the right to just satisfaction be restricted to cases of non-pecuniary damage where an individual has suffered substantial serious damage and in some cases be totally abolished? Should states instead be fined for serious violations to be paid to the Council of Europe?

- These are just some ideas which I think should be looked into in order to maintain a credible and realistic supervisory system in the future.

- But we also have the problem with the execution of judgments. And here I wish to reiterate what I said in Oslo. Having taken up office as Swedish ambassador here in Strasbourg I have rather carefully followed the CM in its role as supervisor of the execution of the Court's judgments. And this has made me worried. Loyal implementation or execution of judgments is crucial to the credibility of the whole convention system, also of those judgments you dislike or disapprove of. Without a proper implementation of judgments, the system will serve no purpose but be of more academic interest without any political significance. This must of course be avoided.

- Since the Court has increased its capacity in delivering judgments the workload of the Committee of Ministers in supervising the execution will also increase. There are at present about 11 000 cases pending on the table of the Committee of Ministers. Most of them are of course not so controversial or difficult and most judgments are executed without major difficulties.

- But I believe that in recent years we have seen a worrying development in that quite a number of judgments have not been implemented within the prescribed time limits. And the task of the Committee of Ministers in this field has become increasingly more difficult. We are talking here not about payment of compensation which has been afforded applicants in the judgment, but about what we call general measures to prevent similar violations to occur in the future.

- In my view there are three main reasons for not implementing judgments:

- The state lacks the resources necessary to finance a proper implementation of a judgment
- The issues become so complex for a state so it does not really know how to handle the situation through legislation and/or by other means.
- There is no political will to implement a judgment since the Court's findings are not really accepted in the state concerned, by its Government and/or by its Parliament.

- It is of course the third reason for non-implementation that poses the real challenge for the Committee of Ministers. But also lack of financial resources might constitute real difficulties.

- In my view the Committee of Ministers does not really have the tools for dealing with serious cases of non-implementation. There are no real sanctions that can be used. Article 46 p.4 of the Convention could be seen as such a tool, but it has so far never been applied. Since we are diplomats sitting in the Committee of Ministers there is a special sensitivity to express open criticism against a member state which have not done its homework. Sometimes aspects not really relevant for the problem of execution affect the decision making. And there is a difference in the CM on how you look at the role of the CM in this area. Some see it as purely political while others underline CM:s legal responsibility under the Convention.

- I would like to outline a few suggestions with a view to improving the situation.

- Could the routine examination of execution be formally entrusted with the SG (i.e. the Secretariat) without involvement of any other state than the respondent state(s) and the role of the Committee of Ministers be limited only to controversial cases in which there are problems with the execution, following a referral to it from the Secretariat or a member State?

- Should Article 46, para. 4, be made use of more frequently in cases of non-execution? Should the requirements of this article be alleviated to allow more easy use of the infringement procedure in cases of non-execution? In particular should the majority requirements for making decisions in this field be eased.
- Should such decisions be supplemented with a possibility to impose financial sanctions in cases where there is a flagrant political unwillingness to implement a judgment to be decided by the Court upon request by the Committee of Ministers?
- Should the Parliamentary Assembly be given a role in the supervision of the execution of judgments?
- Should there be a different procedure for the supervision of the execution of judgments in interstate cases as compared to ordinary cases?
- Should the Committee of Ministers be involved at all in the supervision of the execution or should that task be entrusted with some other body? Could for instance a special execution department be set up within the Court to deal with this issue? Should such a (judicial) body be entrusted with the task of imposing financial sanctions as above?

- These are some ideas which I think merits further consideration. Some of these are already under consideration; and some of them will probably meet rather fierce resistance at political level. And I understand that the CDDH has already looked into some of them, but that it has been quite difficult to reach agreement on what to do. Nevertheless, I think we have to think outside the box in order to address the challenge in how to create a more functional system for addressing the system with the supervision of judgments in order to make it more credible. As the system works today I do not think it is realistic at all to refer so called repetitive cases directly to the CM as was suggested in Oslo.

- But as a first step I would appeal to member states to take this task of the Committee of Ministers seriously. This is not always the case and there are only about 12- 15 states or so that actively participate in the supervisory work. The supervision is not only about engaging in the examination of judgments against your own country. The Convention system provides for a collective responsibility of the Convention states to secure that the judgments of the Court are implemented. However, when it comes to general measures it is not always so easy to assess what measures are actually required in order to be able to conclude that the judgment has been actually executed. And sometimes perhaps the Committee requires more from the state than is actually required according to the judgment. The examination is carried out under Article 46 of the Convention and should not be widened to take into account also the states' general obligations under Article 1, which is a different matter. In order to be able to follow discussions of this kind and to read and interpret the judgments you need to have some basic knowledge about the Convention and the Court's jurisprudence. That kind of experience you find in most states in the office of Government Agents in capitals. There is nothing preventing states from reinforcing the judicial competence of delegations for instance by letting their agents participate in meetings of the Committee of Ministers when dealing with the supervision of the execution of judgments or involve their agents more closely in the work. Indeed there are states who do that already today. And that should be encouraged. This work is quite time consuming and competes with all other tasks on the table of the CM.

- So these are my general reflections of what could be done. However I am quite humble to yours and the CM:s task to deal with these issues in the future and I have certainly no patent solutions.
Thank you.

Appendix VII

**Intervention by Mr Morten KJAERUM,
Director of the European Union Agency for Fundamental Rights
(FRA)**

Dear Chair, members of the steering committee,

Thank you for the invitation to address the Committee and exchange views on the cooperation with the Council of Europe and how I see human rights issues developing over the next couple of years.

Cooperation

Cooperation with the Council of Europe goes from strength to strength. This will be my third meeting this year with either an intergovernmental committee or a committee from the Parliamentary Assembly. We have received visits in Vienna from the Council of Europe. The FRA chairperson delivered a speech to the Congress of Local and Regional Authorities in March. I also look forward to the regular exchanges with the Committee of Ministers Group on External relations.

And our cooperation will be particularly important this year. The European Union is undergoing a period of transition. We have just elected a new European Parliament. A new Commission will be in place in the Autumn. At the operational level, the Strategic Guidelines for the justice and home affairs will be adopted this week. This will feed into our cooperation with you. Our cooperation should therefore aim at continuing the complementarity. And we have a solid foundation to take things forward. “You can hardly find two organisations working more closely than we are”. These are not my words but those of a Council of Europe staff member interviewed in the context of an external evaluation of the Agency.

Let me pick out some highlights from our projects that illustrate our cooperation.

Together with the European Court of Human Rights and the Council of Europe we published three handbooks: 1) Handbook on European non-discrimination law 2) Handbook on European Asylum, Borders and Immigration last year; 3) Handbook on European Data Protection Law this year. A Handbook on Child Rights and a Handbook on access to justice are already in the pipeline.

The Council of Europe and FRA cooperate closely on issues related to the most vulnerable group in Europe namely the Roma population. Finally, FRA cooperated with the previous Commissioner for Human Rights when he published his 2011 report on discrimination on grounds of sexual orientation and gender identity.

FR Challenges:

Looking ahead I would like to highlight in particular fundamental rights challenges in four areas: equality and non-discrimination; data protection; asylum and migration; the rule of law.

A. Equality and Non-Discrimination

We are still dealing with the legacy of the economic crisis. The high levels of unemployment, the fears relating to the arrival of migrants and the gradual loss of trust in the democratic process fuelled racism, xenophobia and related intolerance in the European Union.

We witnessed murders motivated by racism and extremism in a number of Member states, the open expression of racist and extremist ideology, and discriminatory ethnic profiling, including in the context of immigration checks. In response, there was a call by the EU Council for member states and the European Commission to take more effective action to counter hate crime, including that motivated by racism, homophobia and anti-Semitism. The high prevalence of hate crime has been well documented by FRA surveys. And let us not forget, hate crime breeds fear. Nearly a third of Jews surveyed had considered emigrating because they did not feel safe as a Jew. The recent tragic event in Brussels will certainly heighten this fear.

Victims' Rights

The need for stronger action to protect victims' rights was evidenced by the findings of three EU-wide FRA surveys on lesbian, gay, bisexual and transgender (LGBT) people; on violence against women; and on anti-Semitism. They have consistently pointed to underreporting. From our findings, it is clear that many victims are not in a position to access justice unless they receive practical and targeted support. Certain types of victims also need to be considered specifically:

For example: Only 15% of women who are victims of violence report to the police. We saw a similar pattern in our LGBT and previous ethnic minority surveys. Why? Most victims felt the police would do nothing.

The transposition of the EU Victims' Directive by 2015 has given added impetus to establishing minimum standards on the rights, support and protection of victims of crime. The Victims directive is a big step ahead as it insists that each and every victim has a right to access support services.

We expect to cooperate very closely with the Council of Europe in tackling these issues. And already we have witnessed a strong synergy between the CoE work on hate speech and the FRA work on hate crime.

Before concluding on equality and Non-Discrimination I will also mention disability as another key issue. Our research reveals that many people with disabilities still face barriers to participating fully in economic, social and political life. Whether it is access to labour markets or political participation, physical, legal and social barriers still exist in many Member States. For example in most EUMS people deprived of their legal capacity cannot vote. With the UN CRPD the core concepts of self-determination, participation and inclusion have been expressly linked to people with disabilities.

FRA has contributed to processes at the Council of Europe as part of the EU response on the preliminary draft Additional Protocol to the Convention on human rights and biomedicine. Drawing on our work on involuntary placement and treatment of people with mental health problems, FRA highlighted the importance of reflecting the profound changes in human rights protection for persons with disabilities brought about by the UN CRPD. All States Parties to the CRPD will need to harmonise their existing legislation with CRPD standards. In our view, this could make adopting the draft Additional Protocol in its current form a challenge for those Member States which have ratified the CRPD.

I would also add that from our experience in the Agency, consulting and involving stakeholder groups working on disability is critical for success of any policy or legislative instrument. FRA can present our work on this issue to your committee at a later stage in the drafting process.

B. Data protection

The Snowden revelations of mass surveillance highlighted among other that the protection of our privacy and personal data is under threat. They also revealed the weakness of national oversight structures.

FRA's own research highlighted the impact of the use of new technology on the rights of citizens. Online activities, direct marketing, or video surveillance, for example, caused most data protection violations. This raises questions to what extent public and private organisations that we trust are actually protecting our right to privacy and personal data.

Some of the intermediaries' main criticisms of national data protection authorities focus on poor communication, and insufficient transparency and contribution to public awareness-raising. Some also question the independence of the authorities, mainly because of possible political appointments.

The Agency will also conduct research on the protection of fundamental rights in the context of large-scale surveillance. It should particularly look into the remedies available to individuals in relation to surveillance practices.

To respond to these concerns it is important to raise public awareness on privacy rights and on the existence of complaint mechanisms. Furthermore we need to strengthen the independence and increase resources of data protection authorities. The possibilities of the intelligence services and amount of data that is stored in general about each us with public and private institutions have increased many fold in the last decade. However, the mechanism that we have intrusted to control the intelligence services and data holders are basically the same as before if indeed not weaker today than ten years ago. This needs to be address in order to create a proper balance and not least to regain trust.

C. Asylum and Migration

366 migrants died in the Lampedusa tragedy in October 2013. Just last month we again witnessed yet another tragedy. Far too many people are dying as they escape persecution or simply seek a better life.

The Task Force Mediterranean was a swift and important response which set out a line of action to address many of the issues that we face. We must keep that momentum and implement the Task Force's proposals. But we need more solidarity and closer cooperation in Europe. Council of Europe members outside the EU can help to improve the safeguards for people who need protection. The catch words for asylum and migration policies are the need to ensure that they are rights based, consistent and coherent.

We are also aware of the Demographic challenges for the Union. The Union faces falling birth rates, a shrinking working-age population and a growing retired population. In 1990 there were four working-age people — those aged 15 to 64 — for every person 65 or over in the EU. By 2060, those 65 and over are forecast to account for over 53% of the population. Migration, especially from non-EU countries, could provide a temporary respite from population ageing, since most people migrate primarily as young adults. We then need to ensure that migrant employment rates are high and their engagement in the labour market is at all skill levels. They also need to be given the opportunity for entrepreneurial participation in the economy.

Other factors are that so far, immigration both from third countries and within the EU has substantially increased the proportion of EU inhabitants who do not live in their own native country. By 2060, persons of all nationalities with at least one foreign born parent are expected to account for close to a third of the EU population. Living with cultural diversity and new forms of identity will become a key factor in building cohesive societies. Innovative and effective policies aimed at integration of migrants and their descendants will therefore become crucial for the Union's growth and global competitiveness.

In light of the migration pressures, in light of the demographic changes and in light of the recent election to the European parliament we need a European wide discussion on how we perceive Europe on migration issues. We need to build a consensus on how we see ourselves.

D. Rule of Law

The EU has proposed a framework to strengthen the rule of law. This framework needs to put the rule of law alongside the other Article 2 values – respect for human dignity, freedom, democracy, equality and respect for human rights – and discuss how they can fit into a broader approach to ensure respect for all fundamental rights.

This and other issues identified in our annual report need a stronger strategic framework at EU level to address them. I have long argued for an internal strategic framework which matches the Union's external human rights strategy. Better legislation in conformity with fundamental rights would be one of the outcomes. The recent judgment of the Court on the data retention directive highlights this point.

Firstly, improve the policy making and legislative development process. Establish an EU fundamental rights policy cycle that brings all human rights actors together. This would help to focus their work and assist in creating synergies. It would need input from the EU, Council of Europe, governments and national parliaments, as well as ombudsmen, NHRIs and equality bodies, and civil society.

Secondly, set up a system to measure progress, gain efficiencies, and actually tell you what is happening on the ground, what has been achieved, how effective have been the interventions and what more needs to be done. Peer review mechanisms and the enhanced exchange of experiences, promising practices and reviews would be critical in this regard.

Conclusion

We face many challenges but by continuing the excellent cooperation between our organisations, making use of the added value of our respective strengths, I believe that we can meet the challenges and ensure that Europe remains a bastion of fundamental rights respect and protection.

Thank you.

Appendix VIII**Composition of the Bureau and chairmanship of subordinate bodies**

BUREAU DU CDDH	END OF THE MANDATE	REFERENCES
Mr Vít A. SCHORM (Czech Republic), Chair	31 December 2014 (elected for 1 year renewable once)	79 th meeting of the CDDH (November 2013)
Mr Frank SCHÜRMAN (Switzerland), Vice-Chair	31 December 2014 (elected for 1 year not renewable)	79 th meeting of the CDDH (November 2013)
Mr Hans-Jörg BEHRENS (Germany), Member	31 December 2014 (elected for 2 years renewable once)	76 th meeting of the CDDH (November 2012)
Ms Maris KUURBERG (Estonia), Member	31 December 2014 (elected for 2 years renewable once)	76 th meeting of the CDDH (November 2012)
Mr Philippe WERY (Belgium), Member	31 December 2014 (elected for 2 years not renewable)	76 th meeting of the CDDH (November 2012)
Mr Vladislav ERMAKOV (Russian Federation), Member	31 December 2015 (elected for 2 years not renewable)	79 th meeting of the CDDH (November 2013)
Ms Brigitte OHMS (Austria), Member	31 December 2015 (elected for 2 years renewable once)	79 th meeting of the CDDH (November 2013)
Mr Levon AMIRJANYAN (Armenia), Member	31 December 2015 (elected for 2 years not renewable)	79 th meeting of the CDDH (November 2013)
DH-BIO Dr Anne FORUS (Norway), Chair	31 December 2014 (elected for 1 year not renewable)	79 th meeting of the CDDH (November 2013)
DH-GDR Mr Morten RUUD (Norway), Chair	31 December 2014 (elected for 1 year renewable once)	79 th meeting of the CDDH (November 2013)
GT-GDR-F Mr Martin KUIJER (The Netherlands), Chair	31 December 2014 (elected for 1 year renewable once)	79 th meeting of the CDDH (November 2013)
GT-GDR-G Mr Vít A. SCHORM (Czech Republic), Chair	31 December 2014 (elected for 1 year renewable once)	1 st meeting of the GT-GDR-G (February 2014)
CDDH-CORP Mr René LEFEBER (The Netherlands), Chair	31 December 2014 (elected for 1 year renewable once)	78 th meeting of the CDDH (June 2013)
CDDH-DC Ms Krista OINONEN (Finland), Chair	31 December 2015	1 st meeting of the CDDH-DC (March 2014)

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Appendix IX

Deadlines for the submission of comments to the Secretariat

As soon as possible and at the latest 25 July 2014:

Further examples of national good practices to be used for the compendium of current Council of Europe standards and national good practices under preparation by the CDDH-DC, in accordance with the letter sent to delegations after the 80th meeting of the CDDH (doc. CDDH(2014)R80, Appendix IV) :
merete.bjerregaard@coe.int; evangelia.vratsida@coe.int

8 August 2014:

Suggestions for substantial corrections to the draft meeting report (CDDH(2014)R81) that the Secretariat will send to all participants by 10 July 2014 – comments to:
VSchorm@msp.justice.cz ; alfonso.desalas@coe.int

As soon as possible and at the latest 15 August 2014:

Further comments on the preliminary draft Additional Protocol to the Oviedo Convention on Human Rights and Biomedicine relating to the protection of human rights and dignity of persons with mental disorders with regard to involuntary placement and involuntary treatment – comments to:
laurence.lwoff@coe.int ; DGI-CDDH-Bioethics@coe.int
alfonso.desalas@coe.int ; corinne.gavrilovic@coe.int

15 August 2014 :

Information concerning the possible translation of the Toolkit to inform public official about the State's obligations under the European Convention on Human Rights and the Guide to good practice in respect of domestic remedies:
virginie.flores@coe.int

Details of contact persons, including heads of training institutions, to whom a copy of the printed version of the Toolkit, in French or English, could be addressed: virginie.flores@coe.int

29 August 2014:

Information from members of the CDDH concerning Protocols No. 15 and 16 and European Agreement CETS no. 161 and Convention CETS no. 205 (document CDDH(2014)005) – comments to:
alfonso.desalas@coe.int ; corinne.gavrilovic@coe.int

29 August 2014 :

Comments and proposals on the ongoing work within GT-GDR-G, on the basis of the structure for the draft final report (doc. GT-GDR-G(2014)R1, Appendix III) :
virginie.flores@coe.int

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Appendix X**Draft calendar of meetings of the CDDH
and subordinate bodies for the biennium 2014-2015**(as adopted by the CDDH at its 81st meeting, 24-27 June 2014)

First Semester 2014		
1 st meeting of Drafting Group “G” of the DH-GDR (GT-GDR-G)		12-14 February
2 nd meeting of Drafting Group on Human Rights and Business (CDDH-CORP)		12-14 February
1 st meeting of Drafting Group “F” on the Reform of the Court (GT-GDR-F – longer-term reform)		19-21 March
1 st meeting of Drafting Group on Human Rights in Culturally Diverse Societies (CDDH-DC)		24-25 March
90 th meeting of the Bureau of the Steering Committee for Human Rights (CDDH-BU)		Prague, 27 March
<i>Conference on the longer-term reform of the Court</i>		<i>Oslo, 7 April- 8 April (morning)</i>
80 th meeting of the Steering Committee for Human Rights (CDDH)		Oslo, 8 April – 10 April
5 ^e meeting of the Committee on Bioethics (DH-BIO)		5-7 May
2 nd meeting of Drafting Group “F” on the Reform of the Court (GT-GDR-F – longer-term reform)		14-16 May
6 th meeting of the Committee of experts on the Reform of the Court (DH-GDR)		4-6 June
91 st meeting of the Bureau of the Steering Committee for Human Rights (CDDH-BU)		12-13 June
81 st meeting of the Steering Committee for Human Rights (CDDH)		24-27 June
Second Semester 2014		
<i>Meeting of Government Agents</i>		<i>Strasbourg, 23 September</i>
3 rd meeting of Drafting Group “F” on the Reform of the Court (GT-GDR-F – longer-term reform)		24-26 September

3 rd meeting of Drafting Group on Human Rights and Business (CDDH-CORP)		24-26 September
2 nd meeting of Drafting Group "G" of the DH-GDR (GT-GDR-G)		15-17 October
2 nd meeting of Drafting Group on Human Rights in Culturally Diverse Societies (CDDH-DC)		21-24 October ⁷
<i>International Conference "Implementation of the ECHR at national level and the role of the national judges"</i>		<i>Baku, 10-11 24-25 October</i>
7 th meeting of the Committee of experts on the Reform of the Court (DH-GDR)		5-7 November
6 th meeting of the Committee on Bioethics (DH-BIO)		12-14 November
92 nd meeting of the Bureau of the Steering Committee for Human Rights (CDDH-BU)		12 November (afternoon)-13 November (morning)
<i>Meeting of Government Agents with the Court</i>		<i>Strasbourg, 17 November</i>
82 nd meeting of the Steering Committee for Human Rights (CDDH)		18- 21 November
4 th meeting of Drafting Group "F" on the Reform of the Court (GT-GDR-F – longer-term reform)		10-12 December
First Semester 2015		
5 th meeting of Drafting Group "F" of the DH-GDR (GT-GDR-F – longer-term reform)		[18-20 February]
4 th meeting of Drafting Group on Human Rights and Business (CDDH-CORP)		[end of February]
3 rd meeting of Drafting Group on Human Rights in Culturally Diverse Societies (CDDH-DC)		[end of March]
<i>Conference on "the implementation of the ECHR: our shared responsibility"</i>		<i>Brussels, [26-27 March]</i>
6 th meeting of Drafting Group "F" on the Reform of the Court (GT-GDR-F – longer-term reform)		[15-17 April]
8 th meeting of the Committee of experts on the Reform of the Court (DH-GDR)		[27-29 May]
7 th meeting of the Committee on Bioethics (DH-BIO)		2-5 June

⁷ 21-22 October 2014 : CDDH-DC in its current composition; 23-24 October 2014: CDDH-DC in its enlarged composition

93 rd meeting of the Bureau of the Steering Committee for Human Rights (CDDH-BU)		[4-5 June]
83 rd meeting of the Steering Committee for Human Rights (CDDH)		[17-19 June]
Second Semester 2015		
7 th meeting of Drafting Group “F” on the Reform of the Court (GT-GDR-F – longer-term reform)		[2-4 September]
5 th meeting of Drafting Group on Human Rights and Business (CDDH-CORP)		[end of September]
8 th meeting of Drafting Group “F” on the Reform of the Court (GT-GDR-F – longer-term reform)		[14-16 October]
4 th meeting of Drafting Group on Human Rights in Culturally Diverse Societies (CDDH-DC)		[end of October]
9 th meeting of the Committee of experts on the Reform of the Court (DH-GDR)		[17-20 November]
8 th meeting of the Committee on Bioethics (DH-BIO)		[November]
94 th meeting of the Bureau of the Steering Committee for Human Rights (CDDH-BU)		[26-27 November]
84 th meeting of the Steering Committee for Human Rights (CDDH)		[8-11 December]

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