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CDDH(2016)R85

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

**REPORT**

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85<sup>th</sup> meeting  
Strasbourg, 15-17 June 2016

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### **ADDENDA**

#### CDDH(2016)R85 Addendum I

Report on the measures taken by the member States to implement the relevant parts of the Brighton Declaration

#### CDDH(2016)R85 Addendum II

Analysis of the legal situation at international level and in Council of Europe member States on combatting and preventing female genital mutilation and forced marriage

#### CDDH(2016)R85 Addendum III

Draft Recommendation of the Committee of Ministers to Member States on the processing of personal health-related data for insurance purposes, including data resulting from genetic tests

### SUMMARY

The Steering Committee for Human Rights (CDDH) held its 85<sup>th</sup> meeting from 15 to 17 June 2016 in Strasbourg with Ms Brigitte KONZ (Luxembourg) as the Chair. The list of participants appears in [Appendix I](#). The agenda, as adopted, appears in [Appendix II](#).

At this meeting the CDDH, in particular:

1. welcomed the holding of the high-level Seminar on protection and promotion of human rights in culturally diverse societies (Strasbourg, 13-14 June 2016);
2. took note of information provided by Mr Ambassador Jari VILÉN, Head of the Delegation of the European Union to the Council of Europe, and Mr Jörg POLAKIEWICZ, Director of the legal advice and international public law of the Council of Europe, concerning the European Union accession process to the European Convention on Human Rights (see [Appendix X](#));
3. adopted its comments on Parliamentary Assembly Recommendations 2085(2016) “Strengthening the protection and role of Human Rights defenders in Council of Europe member States” and 2091(2016) “ The case against a Council of Europe legal instrument on involuntary measures in psychiatry“ (see [Appendix IV](#));
4. concerning the reform of the Court:
  - i. adopted its report on the measures taken by member States to implement the relevant parts of the Brighton Declaration and decided to transmit it to the Committee of Ministers (document CDDH(2016)R85 [Addendum I](#));
  - ii. endorsed the guidance given by the Committee of experts on the system of the European Convention on Human Rights (DH-SYSC) to its Drafting Group DH-SYSC-I regarding the follow-up on the question of the judges of the European Court of Human Rights;
  - iii. endorsed the guidance given by the DH-SYSC to its Drafting Group DH-SYSC-REC on the work on Recommendation CM/Rec(2008)2 on efficient domestic capacity for rapid execution of judgments of the European Court of Human Rights and took note of the results of the 1<sup>st</sup> meeting of the DH-SYSC-REC (23-25 May 2016);
  - iv. welcomed the exchange of views held by the DH-SYSC on the verification of the compatibility of legislation with the Convention and of the follow-up to this work ;
5. concerning development and promotion of human rights:
  - i. adopted the analysis of the legal situation at international level and in Council of Europe member States on combating and preventing female genital mutilation and forced marriage (document CDDH(2016)R85 [Addendum II](#)) and gave guidance to the Drafting Group CDDH-MF for further work;
  - ii. examined the outlines prepared by the Rapporteurs for the analyses to be conducted on: (i) social rights; (ii) freedom of expression and links to other human rights; (iii) human rights and migration ; (iv) civil society and national human rights institutions and provided guidance for further work;
6. concerning bioethics, adopted the draft Recommendation of the Committee of Ministers to Member States on the processing of personal health-related data for insurance purposes, including data resulting from genetic tests and took note of its explanatory memorandum (document CDDH(2016)R85 [Addendum III](#)), finalised by the Committee on Bioethics (DH-BIO), and decided to transmit it to the Committee of Ministers;
7. exchanged views on the information provided by experts representing the CDDH in other bodies and appointed representatives to participate in meetings of the European Social Cohesion Platform (PECS), the Ad hoc Committee for the Rights of the Child (CAHENF) and the European Committee on Democracy and Governance (CDDG) (see [Appendix XIII](#));

8. exchanged views with Mr. Guido RAIMONDI, President of the European Court of Human Rights (see Appendix XII) and with Professor Frédérique DREIFUSS-NETTER (France), lawyer and specialist in bioethics (see Appendix XI), and decided on possible invitees for its upcoming meetings;
9. exchanged views on the Conventions for which it is responsible, welcomed the *tour de table* held by the DH-SYSC on the state of signatures and ratifications of Protocols Nos. 15 and 16 to the Convention and on the European Agreement relating to Persons Participating in Proceedings of the European Court of Human Rights, and proposed that the DH-SYSC focuses, at its next tour de table, on the difficulties encountered;
10. constituted four Drafting Groups (see Appendix XIV);
11. adopted the calendar of meetings of the CDDH and its subordinate bodies (see Appendix XV).

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## REPORT

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

1. The CDDH observed one minute of silence in memory of Mr Nikolay MIKHAYLOV (Russian Federation), who died on the 3<sup>rd</sup> May 2016, and Mr Jakub WOLASWIECZ (Poland), who died on the 7<sup>th</sup> June 2016. The former actively participated in various meetings of the steering committee from 2009. The latter contributed significantly to the work of the CDDH especially during the period 2007-2013 and, notably, chaired two Drafting Groups<sup>1</sup>.
2. The CDDH expressed its condolences to the national authorities and to the families of these two experts who will keep their memory alive.
3. The CDDH welcomed the holding of the high-level Seminar on protection and promotion of human rights in culturally diverse societies (Strasbourg, 13-14 June 2016) and congratulated the contact person for the preparation of this event in cooperation with the Secretariat, Ms Krista OINONEN (Finland).
4. The CDDH endorsed the concluding remarks presented by the Chair of the CDDH at the end of the Seminar and noted that the proceedings will be published. It suggested that, for other Seminars of this sort, there should be a smaller number of speakers in order to devote more time to the exchange of views with the participants.
5. With the organisation of such an event, the CDDH considered that has fulfilled the mandate given by the Committee of Ministers as it appears in the general terms of reference for the current biennium (it appears in Appendix III hereafter).

### **ITEM 2: RECOMMENDATIONS OF THE PARLIAMENTARY ASSEMBLY**

6. Regarding Recommendation 2085(2016) “Strengthening the protection and role of human rights defenders in Council of Europe member States”, the CDDH endorsed the approach of the Bureau to elaborate very brief comments referring to the ongoing work within the CDDH-INST. The CDDH adopted its comments as they appear in Appendix IV hereafter.
7. Concerning Recommendation 2091(2016) “The case against a Council of Europe legal instrument on involuntary measures in psychiatry”, the CDDH examined the draft comments prepared by the Bureau. It added additional details from the case-law of the Court.

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<sup>1</sup> The work resulted in the adoption by the Committee of Ministers of Recommendation CM/Rec(2010)3 on effective remedies for excessive length of proceedings and Recommendation CM/Rec(2010)2 on the promotion of human rights of older persons.

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8. While sharing the comments adopted by the DH-BIO during its meeting from 31<sup>st</sup> May to 3<sup>rd</sup> June 2016, the CDDH does not consider necessary to echo the DH-BIO in its own comments since the two sets of comments (CDDH and DH-BIO) will be sent at the same time to the Secretariat of the Committee of Ministers. The latter will combine the comments in view of preparing a draft response of the Committee of Ministers to the Parliamentary Assembly. The text as it was adopted by the CDDH appears in Appendix IV hereafter.

**ITEM 3:      SYSTEM OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS (DH-SYSC)**

9. The Chair of the Committee of experts on the system of the European Convention on Human Rights (DH-SYSC), Ms Isabelle NIEDLISPACHER (Belgium), presented the outcome of the 1<sup>st</sup> meeting (25-27 April 2016). On this occasion, the Committee elected Mr. Paul McKELL (United Kingdom) Vice-Chair of the DH-SYSC, Mr. Vít A. SCHORM (the Czech Republic) Chair of the Drafting Group DH-SYSC-I and Ms Emanuela TOMOVA (Bulgaria) Chair of the Drafting Group DH-SYSC-REC. The Committee also appointed members of these two groups whose participation will be at the expense of the Council of Europe budget (see meeting report DH-SYSC(2016)R1, §§ 17-19).

***3.1 Draft report on the measures taken by member States to implement the relevant parts of the Brighton Declaration***

10. The CDDH examined the draft report on measures taken by the member States to implement the relevant parts of the Brighton Declaration, as transmitted by the DH-SYSC, and adopted it with a view to its submission to the Committee of Ministers by 30<sup>th</sup> June 2016 (document CDDH(2016)R85 Addendum I).

***3.2 Follow-up to the CDDH report on the longer-term future of the system of the European Convention on Human Rights***

11. The CDDH was informed of the Ministers' Deputies' decision taken at their 1252<sup>nd</sup> meeting (30 March 2016) on the follow-up to the report on the longer-term future of the system of the European Convention on Human Rights, as well as the comments of the Court on the report. Concerning work entrusted to the CDDH, the Deputies agreed on the following:

- *"[Agreed that] it is essential that judges of the Court enjoy the highest authority in national and international law and, to this end, instruct the CDDH to examine, while securing the participation of the Court and all other relevant actors concerned, the whole selection and election process, including factors that might discourage possible candidates from applying, in light of its conclusions in § 203 i) and the relevant paragraphs of the report;*
- *[Instruct] 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 light of the relevant paragraphs of the report (conclusion § 203 iii);"*

12. It was recalled that preliminary work for the first analysis has been entrusted to the DH-SYSC-I which will hold three meetings (29<sup>th</sup> June-1<sup>st</sup> July 2016; 19-21 October 2016; 29 February-1<sup>st</sup> March 2017) and that work related to the 2<sup>nd</sup> analysis has been entrusted to the

DH-SYSC-II which will meet in March, June and September 2017 (see meeting report DH-SYSC(2016)R1, item 3).

13. Concerning the follow-up on the issue relating to judges of the Court, the CDDH was informed of the exchange of views held by the DH-SYSC with all actors concerned invited to its meeting, and endorsed the guidance provided by the DH-SYSC to its Group DH-SYSC-I (see meeting report DH-SYSC(2016)R1, §§ 6-8). It further underlined that:
- the working methods of the DH-SYSC I should correspond to those which are normally followed by the other groups working under the CDDH or the DH-SYSC;
  - the DH-SYSC asked the DH-SYSC I to take into consideration the work and reflections of all the actors concerned, while ensuring the appropriate level of confidentiality. The Chair of the Group and the Secretariat will ensure this, notably when drafting the meeting reports but all the participants to this work also bear the responsibility for this.
  - States that wish to participate in the work of the DH-SYSC-I are invited to appoint an experienced representative.

***3.3 Work on Recommendation CM/Rec(2008)2 on efficient domestic capacity measures taken for rapid execution of judgments of the European Court of Human Rights***

14. The CDDH endorsed the guidance given by the DH-SYSC on work on Recommendation CM/Rec(2008)2 on the efficient measures taken for rapid execution of judgments of the European Court of Human Rights, namely to “*take stock of its implementation, and make an inventory of good practices relating to it and, if appropriate, provide for updating the recommendation in the light of practices developed by the States Parties (deadline: 30 June 2017)*”; (specific task iv) and took note of the results of the 1<sup>st</sup> Drafting Group meeting DH-SYSC-REC (23-25 May 2016).

***3.4 Exchange of information on the verification of the compatibility of legislation with the Convention***

15. The CDDH welcomed the exchange of views held by the DH-SYSC on the verification of the compatibility of legislation with the Convention and the follow-up to this work (see meeting report DH-SYSC(2016)R1, §§ 13-14).

***3.5 « Tour de table » on the state of signatures and ratifications of Protocols Nos. 15 and 16 to the Convention and the European Agreement relating to persons participating in proceedings of the European Court of Human Rights***

16. The CDDH welcomed the “tour de table” held by the DH-SYSC on the state of signatures and ratifications of Protocols Nos. 15 and 16 to the Convention and on the European Agreement relating to Persons Participating in Proceedings of the European Court of Human Rights, and proposed that the DH-SYSC focuses, at its next “tour de table”, on the difficulties encountered.

**ITEM 4:      **ACCESSION OF THE EUROPEAN UNION TO THE EUROPEAN CONVENTION ON HUMAN RIGHTS****

17. The CDDH noted that the issue of the accession of the EU to the European Convention on Human Rights is one of the matters to be analyzed by the Drafting Group DH-SYSC II in the framework of its work on the place of the Convention in the European and international legal order and on the medium-term and longer-term prospects (see 3.2 above; see also the report of the CDDH on the longer-term future of the system of the European Convention on Human Rights, document CDDH (2015)R84 Addendum I, §§ 177-181, 187, 190-191, 193, 202 and 203 iii.).
18. For information, the CDDH exchanged views with the Head of the European Union's Delegation to the Council of Europe, Ambassador Jari VILEN. The text of his statement is enclosed in Appendix X hereafter.
19. It also exchanged views with the Director of the legal advice and public international law of the Council of Europe, Mr. Jörg POLAKIEWICZ. He mentioned the public hearing organised by the Committee on constitutional issues of the European Parliament on 20 April 2016 during which he presented his speech "*Accession to the European Convention on Human Rights (ECHR): stocktaking after the ECJ's opinion and way forward*" (enclosed in Appendix X hereafter).

**ITEM 5:      **DEVELOPMENT AND PROMOTION OF HUMAN RIGHTS****

20. The CDDH held a comprehensive discussion of the five themes in the field of development and promotion of human rights that have been entrusted to it for the present biennium (see the terms of reference of the Committee of Ministers in Appendix III hereafter).
21. Concerning social rights, freedom of expression and links to other human rights, human rights and migration and civil society and national human rights institutions, the CDDH examined the draft outlines presented by the respective Rapporteurs for the preparation of the analyses which will be the basis for the work of the future Drafting Groups. These draft outlines appear in Appendices V, VII, VIII and IX hereafter. The CDDH agreed that:
- CDDH participants who wish to make written suggestions on any of the draft outlines are invited to send them before 15<sup>th</sup> July 2016 to the Secretariat (DGI-CDDH@coe.int) who will transmit them to the concerned Rapporteur;
  - each Rapporteur will assess the opportunity to take into account suggestions received, by consulting the Chair of the Drafting Group if needed.
  - on the basis of the consolidated outline, the Rapporteurs will compose their respective draft analysis with a view to be examined by the CDDH in December 2016.

***5.1 Social rights (CDDH-SOC)***

22. The Rapporteur of the CDDH on social rights, Ms Chantal GALLANT (Belgium), presented the draft outline of the analysis she will carry out as a basis for the future work of the Drafting Group CDDH-SOC. The CDDH welcomed the work already done. An expert, supported by others, made several suggestions that were noted by the Rapporteur in the amended outline as it appears in Appendix V hereafter.
23. The Rapporteur referred to the need to send a short questionnaire to Member States in autumn to meet the mandate of the Committee of Ministers, namely to identify good practices and make proposals to improve the implementation of social rights. Its contents and the identification of recipients of the questionnaire (not necessarily participants of the CDDH) will be defined in consultation with the Department of the European Social Charter and the Bureau of the CDDH.
24. The Rapporteur will prepare her analysis notably in coordination with the Secretariat of the Department of the European Social Charter, which is notably in charge of the secretariat of the European Committee of Social Rights, as well as with the Secretariat of the Conference of INGOs.
25. Concerning meetings of the Drafting Group on social rights (CDDH-SOC), the CDDH decided its composition<sup>2</sup> and its schedule<sup>3</sup> (see Appendices XIV and XV hereafter).
26. The CDDH noted that the European Network of National Human Rights Institutions (ENNHRI) will be involved in this work. It also noted that the European Network of Equality Bodies (EQUINET) will be consulted via the appropriate methods.

### ***5.2 Female genital mutilation and forced marriage (CDDH-MF)***

27. The Rapporteur of the CDDH on female genital mutilation and forced marriage (CDDH-MF) and President of the Drafting Group, Mr Rob LINHAM (United Kingdom), presented the analysis of the legal situation at international level and in Council of Europe member States on combatting and preventing female genital mutilation and forced marriage, prepared by the Drafting Group during its 1<sup>st</sup> meeting (27-29 April 2016, Appendix III of the document CDDH-MF(2016)R1). The CDDH welcomed the quality of this analysis and adopted it as it appears in document CDDH(2016)R85 Addendum II.
28. The CDDH gave guidance to the CDDH-MF for the next step (preparation of a guide to good practices). It took note of comments provided by the Group on the fight against domestic violence (GREVIO) concerning the relevance of the ongoing work. For its part, the CDDH stressed that female genital mutilation and forced marriage are to be regarded as among the most serious human rights violations against women and girls, and also in respect of the rights of the child, which call for urgent action.
29. In order to facilitate coordination between the work the CDDH-MF has to conduct in order to complete the mandate given by the Committee of Ministers and the work the GREVIO is

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<sup>2</sup> Austria, Belgium, the Czech Republic (Chair), Greece, Italy, Republic of Moldova, Poland, Portugal, Russian Federation, Slovenia.

<sup>3</sup> The CDDH-SOC will meet three times (March, April, October 2017).

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undertaking further to the entry into force of the Istanbul Convention, the CDDH agreed that it would be appropriate that the Chair of the CDDH-MF participate in the next meeting of the GREVIO and that the Chair of the latter, in turn, is invited to participate at the next CDDH meeting, December 2016. The CDDH is convinced of the complementarity of the respective work and of the possibility to achieve such work in a constructive and coordinated way.

30. The CDDH adopted a modification in the composition of the CDDH-MF<sup>4</sup>. Concerning the Group meeting, the CDDH:

- considered very useful that the CDDH-MF will invite at its two next meetings the following bodies : the Committee of the Parties on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Committee), the Ad hoc Committee for the Rights of the Child (CAHENF), the Office of the United Nations High Commissioner for Human Rights (OHCHR), the European Union Agency for Fundamental Rights (FRA) and European Institute for Gender Equality (EIGE);
- agreed that the CDDH-MF will invite, if it wishes so, other relevant bodies to be represented in its meetings, in particular non-governmental organisations such as the Women's Rights Information Center, as well as belief and religious communities interested in the work on female genital mutilation and forced marriage;
- noted that the same person has been appointed Chair and Rapporteur of the CDDH-MF, and decided consequently that the potential participation of a second representative of his country to the work of the Group will also be at the expense of the CDDH budget;
- responded positively to the CDDH-MF request to hold its next meeting on 21-23 September and its 3<sup>rd</sup> and final meeting at the beginning of 2017 (see Appendix XV hereafter).

### ***5.3 Freedom of expression and links to other human rights (CDDH-EXP)***

31. The Rapporteur of the CDDH on freedom of expression and links to other human rights (CDDH-EXP), Ms Kristine LICE (Latvia), presented the outline of the analysis she will carry out as a basis for the future work of the Drafting Group CDDH-EXP. Such analysis will deal in particular with the relevant case-law of the European Court of Human Rights and with other Council of Europe instruments. The analysis will provide additional guidance on how to reconcile freedom of expression with other rights and freedoms, particularly in the context of culturally diverse societies.

32. The CDDH welcomed the draft outline which could allow the Rapporteur to draft an analysis concentrated on the practicalities of balancing freedom of expression with other rights.

- During the discussion, one expert stressed the importance of political discourse and combatting hate speech.

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<sup>4</sup> States participating in the Group at the expense of the CDDH's budget are the following: Belgium, Bulgaria, Croatia, Finland, France, the Netherlands, Norway, Switzerland, Turkey, United Kingdom (Chair + one expert).

- Another expert thought that, instead of mentioning already in the preamble concrete examples of recent events in Europe where freedom of expression appeared as a central issue, it would be preferable to entrust the CDDH-EXP with the task of selecting such examples.
  - This last remark is already drawn up in the draft outline as it appears Appendix VII hereafter. It was recalled that the CDDH participants who wish to make suggestions are invited to send them by 15 July 2016 to the Secretariat, who will transmit them to the Rapporteur (see below, § 21).
  - The analysis which will be drafted by the Rapporteur on the basis of the consolidated outline will be examined by the CDDH in December 2016. On this basis, a guide of good national practices will be drafted for discussion by the CDDH in June 2017 and possible adoption in December 2017.
33. Concerning meetings of the Drafting Group on freedom of expression and links to other human rights (CDDH-EXP), the CDDH decided its composition<sup>5</sup> and its schedule<sup>6</sup> (see Appendices XIV and XV hereafter).

#### ***5.4 Human rights and migration (CDDH-MIG)***

34. The Rapporteur of the CDDH on human rights and migration, Mr Frank SCHÜRMAN (Switzerland), presented the outline of the analysis he will carry out as a basis for the future work of the Drafting Group CDDH-MIG. The outline he suggested appears in Appendix VIII hereafter.
35. The Rapporteur noted that he had a constructive meeting with the Secretariats of the Committee of experts on administrative detention of migrants (CJ-DAM) and the Ad hoc Committee for the Rights of the Child (CAHENF) in order to coordinate and ensure synergies in the field. The Rapporteur emphasized that continued coordination and complementarity with these two entities would be ensured in ongoing work.
36. Noting that the work at hand will entail both legal and practical analyses, the Rapporteur encouraged the inclusion of not only legal experts in the Drafting Group, but also specialists with practical experience on the ground.
37. In the discussion, the need to complete the outline bearing in mind specifically vulnerable individuals and groups was highlighted. The point was reiterated that vulnerability did not only extend to children but a much wider spectrum of individuals, including victims of human trafficking, and that this needed to be fully reflected in ensuing work.

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<sup>5</sup>Azerbaijan, Estonia, France, Hungary, Republic of Moldova, Montenegro, Russian Federation, “The former Yugoslav Republic of Macedonia”, Turkey, United Kingdom. Chair: Germany (defrayal of the Presidency will also be at the expense of the CDDH’s budget).

<sup>6</sup> The CDDH-EXP will meet three times (March, May, September 2017).

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38. The CDDH considered that the outline is a good basis for the preparation of the draft analysis. It asked the Rapporteur to draft the text in coordination in particular with the Secretariats of CJ-DAM and CAHENF.
39. As for the meetings of the Drafting Group on human rights and migration (CDDH-MIG), the CDDH decided on its composition<sup>7</sup> and its schedule<sup>8</sup> (see Appendices XIV and XV hereafter). It is suggested that representatives of the CDCJ and CAHENF participate in the three meetings of the CDDH-MIG. Finally it noted that it is foreseen that the 2<sup>nd</sup> meeting of the Group be held in tandem with the CJ-DAM meeting in Cyprus in February 2017, as part of the forthcoming Cyprus Presidency of the Committee of Ministers.

### ***5.5 Civil society and national human rights institutions (CDDH-INST)***

40. The Rapporteur of the CDDH on civil society and national human rights institutions and Chairperson of the future Drafting Group CDDH-INST, Ms Krista OINONEN (Finland), presented the outline of the analysis she will carry out as a basis for the future work of the Drafting Group, as it appears in Appendix IX hereafter. The outline deals with the impact of current national legislation, policies and practices on the activities of civil society organisations, human rights defenders and national institutions for the promotion and protection of human rights.
- The Rapporteur underlined the need for two meetings in order to finalize the study, implying also the identification of best practices through an assessment of member States' contributions. The third meeting would be devoted to its follow-up, namely the submission to the CDDH by 30 June 2017 of concrete proposals to member States on how to protect and promote the civil society space.
  - The Rapporteur insisted on close coordination with other institutions (the Commissioner for Human Rights, the Parliamentary Assembly, the ECtHR, and the Conference of INGOs) and Steering Committees (such as CDDG and CDCJ) with closely related activities in order to avoid any unnecessary overlap. While putting emphasis on the need to address the topic from a legal point of view, including a thorough analysis of the relevant jurisprudence of the European Court of Human Rights and a comprehensive stocktaking of existing standards, the Rapporteur recalled that the evaluation of national legislative and policy frameworks would require active input from member States. She finally stressed the complementary nature of national human rights institutions (NHRIs) and civil society organisations.
  - Regarding the final structure of the study, the Rapporteur suggested that a separate section be devoted to Human Rights Defenders, while mentioning the other alternative would be to merge this section with the chapter on national human rights institutions.

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<sup>7</sup> Arménia, Bulgaria, Czech Republic, Greece, Island, Italia, Latvia, Norway (Chair), Spain, Turkey.

<sup>8</sup> The CDDH-MIG will meet three times (September 2016, February and May 2017).

41. Concerning the meeting of the Drafting Group on civil society and national institutions (CDDH-INST), the CDDH decided its composition<sup>9</sup> and its schedule<sup>10</sup> (see Appendices XIV and XV hereafter).

### ***5.6 Future event on Human Rights and business***

42. The CDDH welcomed the adopted Recommendation CM/Rec(2016)3 of the Committee of Ministers on human rights and business on 2 March 2016. It noted that its current terms of reference (see Appendix III hereafter) instructed it to organise or participate in an event in 2017 in order to highlight and raise awareness of the work carried out in 2014-2015 on corporate social responsibility in terms of human rights. Thereupon, the CDDH:
- Envisaged to organise a High-level Seminar on the first day (9:30-15:00) of the CDDH meeting in June 2017, with a small number of speakers and a longer period of time for discussion with the participants. The former Chair of the Drafting Group CDDH-CORP, Mr Prof. René LEFEBER (Netherlands) will be the contact person to prepare this event with the Secretariat;
  - with a view to prepare this event, the CDDH deemed it useful that Mr Lefebber and one member of the Secretariat participate in the event that the Danish Institute for Human Rights will organise in Copenhagen this autumn in order to raise awareness of the above-mentioned Recommendation.

## **ITEM 6:      **BIOETHICS (DH-BIO)****

### ***6.1 Work conducted under the CDDH authority***

43. The Chairman of the Committee on Bioethics (DH-BIO), Mr Mark BALE (United-Kingdom) presented to the CDDH the draft recommendation on the processing of personal health-related data for insurance purposes, including data resulting from genetic tests. This draft instrument is the result of numerous consultations, including with the Committee of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (T-PD), in order to address concerns relating to the right to protection of privacy and non-discrimination in access to insurance. It was adopted unanimously by the DH-BIO.
44. The CDDH welcomed the work of the DH-BIO, endorsed the draft recommendation<sup>11</sup> and decided to forward it to the Committee of Ministers for possible adoption (document CDDH(2016)R85, Addendum III).

### ***6.2 Other ongoing work***

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<sup>9</sup> Armenia, Azerbaijan, Finland (Chair + one expert), Ireland, Montenegro, the Netherlands, Russian Federation, “The former Yugoslav Republic of Macedonia”, Slovenia, Spain.

<sup>10</sup> The CDDH-INST will meet three times (October 2016, March, June 2017).

<sup>11</sup> Regarding the comments of the expert from Denmark about mediation procedures in the text in case of dispute, the CDDH proposed to the expert to raise the issue, if necessary, in the discussion of the draft Recommendation by Ministers' Deputies.

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45. The CDDH exchanged views with the President of the DH-BIO on the results of the 9<sup>th</sup> meeting (31 May-2 June 2016) and in particular noted that the Committee has:

- decided, subject to the decision to be taken by the Committee of Ministers in response to Recommendation 2091 (2016) - to continue its work on an Additional Protocol to the Convention on Human Rights and Biomedicine on the protection of the human rights and dignity of people suffering from mental disorders, with regard to involuntary placement and treatment, based on the draft made public in 2015 for consultation, and taking into account comments received in this context<sup>12</sup> ; decided the possible involvement in this work of INGOs focused on rights of disabled people; and adopted its comments, for the Committee of Ministers, concerning the approach advocated by the Parliamentary Assembly concerning this work;
- undertook a study on practices in the field of awareness raising and promotion of public debate on ethical issues of emerging technologies at a national and international levels<sup>13</sup>;
- discussed the follow-up to the statement of the Committee of Ministers on the prohibition of any form of commercialisation of human organs; exchanged views on developments in the field of bioethics; and reviewed the state of signatures and ratifications of the instruments that the DH-BIO monitors;
- continued to prepare the Seminar on international jurisprudence in the field of bioethics<sup>14</sup> scheduled for 5 December 2016 as part of the preparation of the conference to be held in November 2017 at the 20th anniversary of the Oviedo Convention;
- updated and supplemented the replies from member States to a questionnaire on medically assisted procreation (MAP), the right to know about their origin for children born after MAP and surrogacy.

46. The CDDH stressed the particular relevance of this work and thanked the Chairman of the Committee for his presentation.

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<sup>12</sup> This work will aim to strengthen safeguards to ensure that involuntary measures are only used in exceptional circumstances and as a last resort if there is no alternative. It also agreed on the importance of exchanging information and good practices in order to develop guidelines to reduce the use of involuntary measures.

<sup>13</sup> The reference for this work is the Conference on emerging technologies and human rights held on 4-5 May 2015 under the auspices of the Belgian Presidency of the Committee of Ministers.

<sup>14</sup> This seminar is part of the preparation of a Conference in late 2017. It will mark the 20<sup>th</sup> anniversary of the Oviedo Convention (Strasbourg, 5 December 2016, Court's room); it is planned that the CDDH participants who wish so can participate in this event (the CDDH meeting will be held from 6 to 9 December 2016).

**ITEM 7:      REVIEW OF THE GUIDELINES ON PROTECTION OF VICTIMS OF TERRORIST ACTS**

47. The CDDH noted that, further to the report of the Secretary General “Fighting against violent extremism and radicalization that leads to terrorism” (CM (2016) 64) presented at the 126<sup>th</sup> Session of the Committee of Ministers (Sofia, 18 May 2016), the Guidelines from March 2005 on the protection of victims of terrorist acts will have to be revised to include additional items in light of the new forms of terrorism we are facing today<sup>15</sup>.

- The Secretariat will prepare a new draft of the revised Guidelines.
- It will be first presented to the CODEXTER to comment on it in writing.
- On this basis, a consolidated draft will be submitted to the CDDH for further written comments in view to its discussion and possible adoption at its next meeting (December 2016).

**ITEM 8:      EXPERTS REPRESENTING THE CDDH IN OTHER BODIES**

48. The CDDH exchanged views with its representatives in other bodies in light of information they sent concerning their participation in meetings since December 2015 (CDDH(2016)002). In particular, the Chair of the CDDH outlined the results of the events she participated in<sup>16</sup>.

49. The Rapporteur on the Roma and Traveller Issues, Ms Svetlana GELEVA (“The former Yugoslav Republic of Macedonia”) reported on her participation to the 11<sup>th</sup> meeting of the CAHROM<sup>17</sup>.

50. Concerning the representation of the CDDH to three new Council of Europe bodies in charge of issues close to its mandate, the CDDH appointed the following experts:

- its Rapporteur of the CDDH on social rights, Ms Chantal GALLANT (Belgium), to participate to the Platform on European Social Cohesion (PECS);

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<sup>15</sup> See Chapter "Action of the Council of Europe in order to involve victims' associations in member States." The revision of the Guidelines should be to provide recommendations to member States on the following aspects in light of the following challenges: (a) establishment of a comprehensive legal framework for assistance to victims; (b) assistance to victims in judicial proceedings; (c) raising public awareness to the need for social recognition of victims, including the role of the media; (d) involvement of victims of terrorism in the fight against terrorism."

<sup>16</sup> Turin Forum on social rights (Turin, 18 March 2016), accompanied by the Rapporteur of the CDDH on social rights, Ms Chantal GALLANT (Belgium); High-level Conference on Children’s Rights (Sofia, 5-6 April 2016); High-level Conference of Ministers of Justice and Representatives of the Judiciary (Sofia, 21-22 April 2016).

<sup>17</sup> Ad hoc Committee on Roma and Travellers Issues (Sofia, 27-29 April 2016). This committee has notably discussed forced marriage. The Rapporteur of the CDDH, Ms Svetlana GELEVA (“The former Yugoslav Republic of Macedonia”) will communicate information on this issue to the Drafting Group on female genital mutilation and forced marriage (CDDH-MF).

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- its Rapporteur of the CDDH on human rights and migration, Mr Frank SCHÜRMAN (Switzerland), to participate to the Ad hoc Committee for the rights of the child (CAHENF);
- its Rapporteur of the CDDH on civil society and national institutions on human rights, Ms Krista OINONEN (Finland), to participate on the European Committee on Democracy and Governance (CDDG).

51. The table of the representatives appears in Appendix XIII hereafter.

**ITEM 9: INVITEES**

52. The CDDH met Ms Professor Frederique DREIFUSS-NETTER (France), lawyer and specialist in bioethics. She presented a number of issues, in terms of human rights, on the current developments in the bioethics field and in particular in the field of genetics.

- She presented some current questions which judges are confronted with, like surrogacy and legal status of children born from this practice, and underlined the benefit of a dialogue between national courts and the judges of the Strasbourg's Court concerning this sensitive issue.

53. The CDDH thanked Professor Dreifuss-Netter for her speech (it appears in Appendix XI hereafter) and for her answers to the questions of the participants.

54. The President of the European Court of Human Rights, Mr Guido RIAMONDI, addressed the CDDH and held a comprehensive exchange of views with the participants. In this context, the President of the Court:

- reported a consistent effort to decrease the number of pending cases in front of the Court and referred to the important contentious issues related to migration as one of the challenges the Court is facing;
- announced that arrangements were taken last October by the Court in order to expound on decisions on inadmissibility by a single judge in accordance with the action plan provided by the Brussels Declaration. However, the Court is less favourable to expound on decisions rejecting request for referral and decided not to proceed with this issue, also provided by the same Declaration;
- raised the recent launch of a network and a website to facilitate the exchange of case-law with the highest national jurisdictions. The initiative is at the experimental stage regarding the French jurisdiction and will be soon developed in other States which have showed their interest;
- mentioned (i) his meeting with the new President of the Court of Justice of the European Union, Mr Koen LENAERTS, and his wish to keep regular contacts with the Luxembourg Court; (ii) his visit in July to the United Nations Human Rights Committee in Geneva and (iii) the possibility to meet the President of the European Committee of Social Rights (ECSR) in the near future.

55. The CDDH thanked the President of the Court for his speech (it appears in Appendix XII hereafter) and for his answers to the questions of the participants.
56. Concerning persons to be invited at its next meeting (December 2016), the CDDH decided to invite :
- in the framework of its work regarding the CDDH-MF : the President of the Group of Experts on action against violence against women and domestic violence (GREVIO), Ms Feride ACAR (Turkey) (see above, §29);
  - in the framework of its work on the protection of victims of terrorist acts, the President of the Committee of Experts on terrorism (CODEXTER), Mr Alexandros STAVROPOULOS (Greece) (see above, §47).
57. [Furthermore, the CDDH decided to invite the Head of the European Union for Fundamental Rights Agency (FRA), Mr Michael O'FLAHERTY, at the beginning of its meeting in December 2016].
58. For its next meetings, the CDDH will continue to give priority to Presidents of other Council of Europe committees which have activities linked with those currently conducted by the CDDH. The purpose of such meetings will be to encourage good cooperation in the implementation of the respective mandates.

#### **ITEM 10: REVIEW OF THE COUNCIL OF EUROPE CONVENTIONS**

59. The CDDH took note on information provided by the DH-SYSC on the state of signatures and ratifications of Protocols Nos. 15 and 16 (document DH-SYSC(2016)008REV; see item 3.5 above). Concerning the Council of Europe Convention on access to official documents (2009)<sup>18</sup>, it welcomed the recent ratification by Estonia and noted information contained in document CDDH(2016)003.
60. The CDDH endorsed the proposals of the Secretariat to redraft the long list of treaties placed under its responsibility (see the terms of reference in Appendix III hereafter) by classifying treaties in light of their level of relevance.

#### **ITEM 11: ELECTIONS**

61. The CDDH noted with satisfaction that, during its 1<sup>st</sup> meeting (25-27 April 2016), the DH-SYSC elected Mr Paul McKELL (United-Kingdom) as Vice-Chair.
62. In order to carry out the mandate given by the Committee of Ministers (see Appendix III), the CDDH proceeded with the composition of the four Drafting Groups respectively on social rights (CDDH-SOC), freedom of expression and links to other human rights (CDDH-EXP), human rights and migration (CDDH-MIG) and civil society and national human rights institutions (CDDH-INST).

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<sup>18</sup> Document CDDH(2015)009 contains information on this convention.

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63. For each Group, it appointed ten member States which may send an expert at the expense of the CDDH's budget (see Appendix XIV), it being understood that other member States may send an expert at their own expense. The CDDH reminded that all experts are placed on an equal footing in each respective Group, regardless of the terms of their participation. The CDDH appointed by acclamation :

- Chair of the CDDH-SOC : Mr Vít A. SCHORM (Czech Republic);
- Chair of the CDDH-EXP : Mr Hans-Jörg BEHRENS (Germany);
- Chair of the CDDH-MIG : Mr Morten RUUD (Norway);
- Chair of the CDDH-INST : Ms Krista OINONEN (Finland).

64. The CDDH adopted the rule whereby in case where the same person acts as Chair and Rapporteur, the potential participation of a second representative of that State is at the expense of the CDDH's budget.

65. Appendix XIV hereafter presents the current composition of the Bureau, the list of Chairs of the various committees and groups, the list of Rapporteurs as well as the list of member States entitled to send an expert to one or another Group at the expense of the CDDH's budget.

## **ITEM 12: CALENDAR OF MEETINGS**

66. The CDDH adopted the calendar for 2016 and 2017 as it appears in Appendix XV hereafter. It noted that :

- the duration of the next CDDH meeting (3 or 4 days) remains open for now; the decision will depend on the progress of the work being conducted by its various committees and groups;
- the CDDH will reconvene in December and reassess the planned dates for 2017 in light of the progress made on the various activities.

## **ITEM 13: OTHER ISSUES**

67. The CDDH took note of the table distributed by the Secretariat to present briefly the current structure of intergovernmental committees within the Council of Europe. It was underlined that the CDDH will be called to work in particular with the European Committee on Legal Co-operation (CDCJ) and the Steering Committee on Media and Information Society Meetings (CDMSI).

68. In respect of its future work, the CDDH noted the following items:

- (i) it is called to examine during the current biennium the implementation of Recommendation CM/Rec(2010)4 of the Committee of Ministers on the human rights of members of armed forces. The CDDH consequently decided to put this item on the agenda for its December meeting, with a view to work to be carried out in 2017;

- (ii) concerning follow-up to Recommendation CM/Rec(2010)5 of the Committee of Ministers to member States on measures to combat discrimination on the grounds of sexual orientation or gender identity, the Committee of Ministers will reconvene on this issue in 2018;
- (iii) the CDDH is called to examine in 2019 the implementation of Recommendation CM/Rec(2010)2 of the Committee of Ministers to member States on the promotion of human rights of older persons;
- (iv) the prenatal sex selection issue appears among the potential work that the CDDH should conduct at an appropriate stage<sup>19</sup>. Consequently, the CDDH keeps this question in mind for a further meeting.

#### **ITEM 14:    AKNOWLEDGMENTS**

69. The CDDH warmly thanked Mr Arto KOSONEN (Finland), who participated for the last time in the CDDH meeting after a long career in which he established himself as one of the most active members of the Steering Committee. The Committee expressed its deep gratitude for his outstanding contribution to its work and wished him all the best in future.
70. Noting that Ms Corinne GAVRILOVIC will leave the Secretariat of the CDDH in July 2016, the CDDH warmly thanked her for the excellent way she fulfilled her tasks and wished her lots of success in her new functions within the Secretariat of the Council of Europe.

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<sup>19</sup> During their 1270<sup>th</sup> meeting (17<sup>th</sup> September 2014) the Ministers' Deputies instructed the CDDH, with the support of the DH-BIO and in cooperation with the Gender Equality Commission (GEC), to analyse and make proposals of concrete action to undertake by the Council of Europe in this field. The deadline for this work is left at the discretion of the CDDH.

Appendix I**LIST OF PARTICIPANTS****MEMBERS / MEMBRES****ALBANIA / ALBANIE**

Mr Roden HOXHA, Permanent Representative of the Government Agent to the European Court of Human Rights, State Advocature Office of the Republic

**ANDORRA / ANDORRE**

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

**ARMENIA / ARMENIE**

Ms Satenik ABGARIAN, Directrice du Département juridique, Ministère des Affaires étrangères

**AUSTRIA / AUTRICHE**

Ms 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, Government Agent before the European Court of Human Rights

**BULGARIA / BULGARIE**

Ms Maria SPASSOVA, Director, Human Rights Directorate, Ministry of Foreign Affairs

**CROATIA / CROATIE** (*Apologised*)**CYPRUS / CHYPRE**

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

**CZECH REPUBLIC / REPUBLIQUE TCHEQUE**

Mr Vit SCHORM, Government Agent, Ministry of Justice

**DENMARK / DANEMARK**

Ms Yassmina AMADID, Head of Section, Ministry of Justice, Constitutional Law and Human Rights Division

**ESTONIA / ESTONIE**

Ms Maris KUURBERG, Government Agent before the European Court of Human Rights

**FINLAND / FINLANDE**

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

**FRANCE**

Ms Florence MERLOZ, Sous-directrice des droits de l'homme, Ministère des Affaires Etrangères et du Développement international, Direction des affaires juridiques

**GEORGIA / GEORGIE** (*Apologised*)**GERMANY / ALLEMAGNE**

Mr Hans-Jörg BEHRENS, Head of Unit IVC1, Human Rights Protection; Government Agent before the European Court of Human Rights

**GREECE / GRECE**

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

Ms Ourania PATSOPOULOU, membre du Bureau de l'Agent du gouvernement, 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**

Ms Ragna BJARNADÓTTIR, Legal Advisor, Department of Human Rights and Local Government, Ministry of the interior

**IRELAND / IRLANDE**

Mr Peter WHITE, Government Agent, 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**

Ms 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, Government Agent before the European Court of Human Rights, Ministry of Justice

**LUXEMBOURG**

Ms Brigitte KONZ, Juge de Paix directrice, Présidente du CDDH

Ms Camille BESANCON, Stagiaire, Représentation Permanente auprès du Conseil de l'Europe

**MALTA / MALTE**

Dr Maurizio CORDINA, Lawyer at the Civil and Constitutional Unit at the Office of the Attorney General

**REPUBLIC OF MOLDOVA / REPUBLIQUE DE MOLDOVA**

Mr Marin GURIN, Agent du gouvernement, Ministère de la Justice de la République

**MONACO**

Mr Jean-Laurent RAVERA, Département des Relations Extérieures /Cellule Droits de l'Homme, Agent du Gouvernement près la Cour Européenne des Droits de l'Homme

**MONTENEGRO**

Ms Valentina PAVLICIC, Government Agent before the European Court of Human Rights

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**THE NETHERLANDS / PAYS-BAS**

Ms Kanta ADHIN, Deputy Agent to the European Court of Human Rights, Ministry of Foreign Affairs, International Law Division

Mr Paul VAN SASSE VAN YSSELT, Ministry of the Interior and Kingdom Relations

**NORWAY / NORVEGE**

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

**POLAND / POLOGNE**

Ms Joanna PILASEK, Attaché, Department for the Proceedings before International Human Rights Protection Bodies, Ministry of Foreign Affairs

**PORTUGAL**

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

**ROMANIA / ROUMANIE**

Ms Catrinel BRUMAR, Government Agent 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**

Ms Ilaria SALICIONI, First Secretary, Directorate of political and diplomatic affairs, Department of Foreign Affairs

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Ms Nataša PLAVŠIĆ, Government Agent before the ECHR, The State Attorney's Office, Agency Sector before the European Court of Human Rights

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Mr Milan KOLLAR, Director of the Human Rights Department, Ministry of Foreign and European Affairs

**SLOVENIA / SLOVENIE**

Mr Matija VIDMAR, Ministry of Justice and Public Administration of the Republic

**SPAIN / ESPAGNE**

Mr Francisco SANZ, Agente du Gouvernement, Service juridique des Droits de l'Homme, Ministère de la Justice

**SWEDEN / SUEDE**

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

**SWITZERLAND / SUISSE**

Mr Frank SCHÜRMAN, Agente 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**

Mr Hacı Ali AÇIKGÜL, Judge, Head of the Human Rights Department, Ministry of Justice

Mr Ibrahim ALPER TABANOĞLU, Rapporteur Judge, Ministry of Justice, Mustafa Kemal

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

Ms Burcu EKIZOĞLU, Experte Juridique, Ministère des Affaires Etrangères

**UKRAINE** (*Apologised*)**UNITED KINGDOM / ROYAUME-UNI**

Mr Rob LINHAM, Assistant Director for Europe and Domestic Human Rights, Ministry of Justice

Mr Paul McKELL, Legal Counsellor, Foreign and Commonwealth Office

**PARTICIPANTS**

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Ms Chantal GALLANT (*Rapporteur CDDH-SOC*), Attachée, Service des Droits de l’Homme, Ministère de la justice, Belgique

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Mr Guido RAIMONDI, Président de la Cour européenne des droits de l’Homme

Mr Mark BALE, (*Chair/Président DH-BIO*)

**Parliamentary Assembly / Assemblée parlementaire**

Mr Günter SCHIRMER

**Registry of the European Court of Human Rights / Greffe de la Cour européenne des droits de l’homme**

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**Secretariat of the Committee of Ministers / Secrétariat du Comité des Ministres****European Committee on Legal Co-operation / Comité européen de coopération juridique****CDCJ**

Mr Artyom SEDRAKYAN, Head of Department for Relations with the European Court of Human Right, Ministry of Justice

**Gender Equality Commission / Commission pour l’égalité entre les femmes et les hommes (GEC)****Directorate of Legal Advice and Public International Law/Directeur du Conseil Juridique et du droit international public (DLAPIL)**

Mr Jörg POLAKIEWICZ, Director

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**Department for the Execution of Judgments of the Court/ Service de l'Exécution des Arrêts de la Cour**

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**Committee of Legal Advice and Public International Law/ Comité du Conseil juridique et du droit international public / (CAHDI)**

**Office of the Commissioner for Human Rights of the Council of Europe / Bureau du Commissaire aux droits de l'homme du Conseil de l'Europe**

**European Roma and Travellers Forum / Forum européen des Roms et des gens du voyage**

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

Mr Jean-Bernard MARIE

**European Union / Union Européenne**

<b>OBSERVERS / OBSERVATEURS</b>
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**HOLY SEE / SAINT-SIÈGE**

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

**JAPAN / JAPON**

Ms Wakana FUJITA, Chargée de Mission, Consulat général du Japon à Strasbourg

**MEXICO / MEXIQUE**

**Non-member State / Pays non-membre**

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Mr Andrei YAROSHKIN, Head of the OSCE and CoE Unit, Deputy Head of the European cooperation Department, Ministry for Foreign Affairs

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

**Commission nationale consultative des droits de l'homme (CNCDH)**

<b>Non governmental Organisations / Organisations non-gouvernementales</b>
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**Amnesty International**

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

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

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

<b>Invitees to this meeting / invités à cette réunion</b>
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**Conference of European Churches (CEC) / Conférence des églises européennes (KEK)**

Ms Elizabeta KITANOVIĆ, Human Rights and Religious Freedom Secretary,

Ms Maria POMAZKOVA

Mr Richard FISCHER

<b>SECRETARIAT</b>
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**DG I – Human Rights and Rule of Law / Droits de l’Homme et État de droit  
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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

Ms Merete BJERREGAARD, Head of Unit on Human Rights Law and Policy / Chef de l’unité droit et politique des droits de l’Homme, Human Rights Intergovernmental Cooperation Division / Division de la coopération intergouvernementale en matière de droits de l’Homme

Ms Irène KITSOU-MILONAS, Head of the Unit on the reform of the Court / Chef de l’Unité sur la réforme de la Cour, Human Rights Intergovernmental Cooperation Division / Division de la coopération intergouvernementale en matière de droits de l’Homme, Secretary of the DH-SYSC / Secrétaire du DH-SYSC

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

Ms Marjan JANSSENS, Administrator/Administrateur, Cooperation with International institutions and Civil Society Division / Division de la coopération avec les institutions internationales et la société civile

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

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

Ms Haldia MOKEDDEM, Assistant / Assistante, Human Rights Intergovernmental Cooperation Division / Division de la coopération intergouvernementale en matière de droits de l’Homme

**INTERPRETERS / INTERPRÈTES**

Ms Corinne McGEORGE

Ms Isabelle MARCHINI

Mr Christopher TYCZKA

Appendix II**AGENDA****ITEM 1: OPENING OF THE MEETING, ADOPTION OF THE AGENDA AND ORDER OF BUSINESS****ITEM 2 : RECOMMENDATIONS OF THE PARLIAMENTARY ASSEMBLY****ITEM 3: SYSTEM OF THE CONVENTION (DH-SYSC)**

- 3.1 Draft report on the measures taken by member States to implement the relevant parts of the Brighton Declaration
- 3.2 Follow-up to the CDDH report on the longer-term future of the system of the European Convention on Human Rights
- 3.3 Work on Recommendation CM/Rec(2008)2 on efficient domestic capacity measures taken for rapid execution of judgement of the European Court of Human Rights
- 3.4 Exchange of information on the verification of the compatibility of legislation with the Convention
- 3.5 State of signatures and ratifications of Protocols Nos. 15 and 16 to the Convention and the European Agreement relating to persons participating in proceedings of the European Court of Human Rights

**ITEM 4: ACCESSION OF THE EUROPEAN UNION TO THE CONVENTION****ITEM 5: DEVELOPMENT AND PROMOTION OF HUMAN RIGHTS**

- 5.1 Social rights (CDDH-SOC)
- 5.2 Female genital mutilation and forced marriage (CDDH-MF)
- 5.3 Freedom of expression and links to other human rights (CDDH-EXP)
- 5.4 Human rights and migration (CDDH-MIG)
- 5.5 Civil society and national human rights institutions (CDDH-INST)
- 5.6 Future event on human rights and business

**ITEM 6: COMMITTEE ON BIOETHICS**

- 6.1 Work conducted under the CDDH authority
- 6.2 Other ongoing work within the DH-BIO

**ITEM 7: REVIEW OF THE GUIDELINES ON THE PROTECTION OF VICTIMS OF TERRORIST ACTS****ITEM 8: EXPERTS REPRESENTING THE CDDH IN OTHER BODIES****ITEM 9: INVITEES****ITEM 10: REVIEW OF THE COUNCIL OF EUROPE CONVENTIONS****ITEM 11: ELECTIONS****ITEM 12: CALENDAR OF MEETINGS****ITEM 13: OTHER ISSUES****ITEM 14 : AKNOWLEDGMENTS**

## **TERMS OF REFERENCE OF THE CDDH AND ITS SUBORDINATE BODIES FOR THE BIENNIUM 2016-2017**

*(As adopted by the Committee of Ministers at their 1241<sup>st</sup> meeting, 24–26 November 2015)*

### **Steering Committee for Human Rights (CDDH)**

Set up by the Committee of Ministers under Article 17 of the Statute of the Council of Europe and in accordance with Resolution CM/Res(2011)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods.

**Type of committee:** Steering Committee

Terms of reference valid from: **1 January 2016 until 31 December 2017**

#### **MAIN TASKS**

Under the authority of the Committee of Ministers, and bearing in mind the Council of Europe legal standards as well as the relevant jurisprudence of the European Court of Human Rights, the CDDH will conduct the intergovernmental work of the Council of Europe in the human rights field and will advise and give its legal expertise to the Committee of Ministers on all questions within its field of competence. In particular, the CDDH will:

- (i) work on the protection, development and promotion of human rights in Europe to:
  - (a) contribute to enhancing the protection of human rights by improving the effectiveness of the control mechanism of the European Convention on Human Rights and the implementation of the Convention at national and European levels, this work being a permanent priority for the CDDH;
  - (b) provide effective responses at the normative and general policy levels to the challenges posed to human rights in European societies;
- (ii) follow the implementation of the non-binding instruments that it has prepared as well as conventions for which it has been given supervision by the Committee of Ministers;
- (iii) advise other bodies of the Organisation to ensure that their activities concerning human rights duly reflect the requirements of the Convention and the relevant jurisprudence of the Court;
- (iv) contribute to co-operation and support activities to national initiatives in the field of the protection, development and promotion of human rights;
- (v) without prejudice to the missions of intergovernmental committees of the Council of Europe that already follow the work of monitoring mechanisms, follow the activities of the relevant monitoring and other bodies protecting human rights;
- (vi) where necessary, co-ordinate transversal intergovernmental activities in the field of human rights including bioethics;
- (vii) take due account of a gender perspective and to building cohesive societies in the performance of its tasks;
- (viii) in accordance with decisions CM/Del/Dec(2013)1168/10.2 of the Committee of Ministers, carry out, at regular intervals, within the limits of the available resources and bearing in mind its priorities, an examination of some or all of the conventions for which it has been given responsibility, in co-operation, where appropriate, with the relevant convention-based bodies, and report back to the Committee of Ministers.

#### **PILLAR/SECTOR/PROGRAMME**

**Pillar:** Human Rights

**Sector:** Protecting Human Rights / Ensuring Social Rights

**Programme:** Enhancing the Effectiveness of the ECHR System at national and European level / Bioethics

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**SPECIFIC TASKS**

## 1. Protection of human rights:

Oversee the work of the Committee of experts on the reform of the Court (DH-SYSC) (see terms of reference of the DH-SYSC).

## 2. Development and promotion of human rights:

If necessary, and to avoid any duplication, appropriate co-ordination and co-operation with relevant conventional and monitoring bodies and other Council of Europe bodies involved is to be ensured.

**Social rights**

- (i) Undertake an analysis of the legal framework of the Council of Europe for the protection of social rights in Europe, in particular the jurisprudence of the European Court of Human Rights as well as other relevant sources e.g. reports and decisions of those Council of Europe bodies having a mandate relating to social rights and their implications for the respective States Parties (deadline: 31 December 2016);
- (ii) On this basis, identify good practices and make, as appropriate, proposals with a view to improving the implementation of social rights and to facilitate in particular the relationship between the various European instruments for the protection of social rights (deadline: 31 December 2017).

**Female genital mutilation and forced marriage**

- (i) Further to work already conducted in the area of human rights and culturally diverse societies, undertake work to combat and prevent female genital mutilation and forced marriage, which are serious violations of human rights. To this end, conduct an analysis of the legal situation at international level and in the Council of Europe member States (deadline: 30 June 2016).
- (ii) On this basis, prepare a guide to good national practices aimed at combatting and preventing these affronts and, if necessary, make proposals to (a) ensure coherent policies and better implementation of the legislation aimed at preventing these affronts; (b) reinforce the national and European legal framework as well as co-operation between member States; (c) raise awareness of this issue. These proposals may result in, inter alia the preparation of a draft recommendation of the Committee of Ministers (deadline: 31 December 2017). This activity is to be carried out ensuring appropriate co-ordination and co-operation with the relevant bodies involved, in particular the GEC, GREVIO, GRETA and the CDPC.

**Freedom of expression and links to other human rights**

- (i) Following the work already carried out by the CDDH in promoting pluralism and tolerance and contributing to maintaining cohesive societies, conduct an analysis of the relevant jurisprudence of the European Court of Human Rights and other Council of Europe instruments to provide additional guidance on how to reconcile freedom of expression with other rights and freedoms, in particular in culturally diverse societies (deadline: 31 December 2016).
- (ii) On this basis, prepare a guide to good national practices on reconciling the various rights and freedoms concerned (deadline: 30 June 2017). If necessary, a draft recommendation of the Committee of Ministers on “cyber security and human rights” is prepared (deadline: 31 December 2017).

**Migration**

In light of the Court’s relevant jurisprudence and other Council of Europe instruments, conduct an analysis on the legal and practical aspects of specific migration-related human rights issues, in particular effective alternatives to detention, and the need for further work in the field by the CDDH is explored (deadline: 31 December 2017).

**3. Civil Society and National Human Rights Institutions**

- (i) Conduct a study on the impact of current national legislation, policies and practices on the activities of civil society organisations, human rights defenders and national institutions for the promotion and protection of human rights, and identifying the best examples thereof (deadline: 31 December 2016).
- (ii) On this basis, submit proposals to ensure that member States, through their legislation, policies and practices, effectively protect and promote the civil society space (deadline: 30 June 2017).

**4. Dissemination and awareness-raising:** hold an event in 2016 on the initiative / with the participation of the CDDH to ensure the visibility, and raise awareness, of the work conducted in 2014–2015 on human rights in culturally diverse societies. Hold a similar event in 2017 on the work conducted in 2014–2015 on corporate social responsibility in the field of human rights.

**5. Bioethics:** oversee from the human rights perspective the intergovernmental work in the field of bioethics (see terms of reference of the DH-BIO).

## COMPOSITION

### Members:

Governments of member States are invited to designate one or more representatives of the highest possible rank in the field of human rights.

The Council of Europe will bear the travel and subsistence expenses of one representative from each member State (two in the case of the State whose representative has been elected Chair).

Each member of the committee shall have one vote. Where a government designates more than one member, only one of them is entitled to take part in the voting.

In accordance with decisions CM/Del/Dec(2013)1168/10.2 of the Committee of Ministers, in cases where there is no convention-based body including all the Parties, non-member States are invited to take part, with a right to vote, in the committee meetings pertaining to the conventions to which they are Parties.

### Participants:

The following may send representatives, without the right to vote and at the charge of their corresponding administrative budgets:

- Parliamentary Assembly of the Council of Europe;
- Congress of Local and Regional Authorities of the Council of Europe;
- European Court of Human Rights;
- Council of Europe Commissioner for Human Rights;
- Conference of INGOs of the Council of Europe;
- Committees or other bodies of the Council of Europe engaged in related work, as appropriate.

The following may send representatives, without the right to vote and without defrayal of expenses:

- European Union (one or more representatives, including, as appropriate, the European Union Agency for Fundamental Rights (FRA));
- Observer States to the Council of Europe: Canada, Holy See, Japan, Mexico, United States of America;
- Representatives of other international organisations (Organisation for Security and Co-operation in Europe (OSCE) / Office for Democratic Institutions and Human Rights (ODIHR), Office of the United Nations High Commissioner for Human Rights).

### Observers:

The following may send representatives, without the right to vote and without defrayal of expenses:

- Belarus;
- Non-member States with which the Council of Europe has a Neighbourhood Partnership including relevant cooperation activities;
- Non-governmental organisations (Amnesty International, International Commission of Jurists (ICJ), European Trade Union Confederation (ETUC), International Federation of Human Rights (FIDH), European Roma<sup>20</sup> and Travellers Forum), as well as the European Network of National Human Rights Institutions (ENNHRI).

## WORKING METHODS

### Plenary meetings

48 members, 2 meetings in 2016, 4 days

48 members, 2 meetings in 2017, 4 days

### Bureau

8 members, 2 meetings in 2016, 2 days

8 members, 2 meetings in 2017, 2 days

The Committee will also appoint a Gender Equality Rapporteur from amongst its members.

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<sup>20</sup> The terms “Roma and Travellers” are being used at the Council of Europe to encompass the wide diversity of the groups covered by the work of the Council of Europe in this field: on the one hand a) Roma, Sinti/Manush, Calé, Kaale, Romanichals, Boyash/Rudari; b) Balkan Egyptians (Egyptians and Ashkali); c) Eastern groups (Dom, Lom and Abdal); and, on the other hand, groups such as Travellers, Yenish, and the populations designated under the administrative term “*Gens du voyage*”, as well as persons who identify themselves as Gypsies.

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The rules of procedure of the Committee are governed by Resolution CM/Res(2011)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods.

Subject to the agenda, the Chairs of the subordinate structures to the CDDH may be invited to attend CDDH Bureau and/or plenary meetings.

**SUBORDINATE STRUCTURE(S) TO THE CDDH**

The CDDH has a coordinating, supervising and monitoring role in the functioning of its subordinate bodies:

- Committee of experts on the system of the European Convention on Human Rights (DH-SYSC) (see separate terms of reference) and Drafting Groups;
- Committee on Bioethics (DH-BIO) (see separate terms of reference)

CDDH	
5	Convention for the Protection of Human Rights and Fundamental Freedoms
9	Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms
12	European Interim Agreement on Social Security Schemes Relating to Old Age, Invalidity and Survivors
13	European Interim Agreement on Social Security other than Schemes for Old Age, Invalidity and Survivors
14	European Convention on Social and Medical Assistance
20	Agreement on the Exchange of War Cripples between Member Countries of the Council of Europe with a view to Medical Treatment
35	European Social Charter
40	Agreement between the Member States of the Council of Europe on the issue to Military and Civilian War-Disabled of an International Book of Vouchers for the repair of Prosthetic and Orthopaedic Appliances
46	Protocol No. 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms, securing certain rights and freedoms other than those already included in the Convention and in the first Protocol thereto
48	European Code of Social Security
67	European Agreement relating to Persons participating in Proceedings of the European Commission and Court of Human Rights
68	European Agreement on Au Pair Placement
78	European Convention on Social Security
078A	Supplementary Agreement for the Application of the European Convention on Social Security
83	European Convention on the Social Protection of Farmers
93	European Convention on the Legal Status of Migrant Workers
114	Protocol No. 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the Abolition of the Death Penalty
117	Protocol No. 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms
126	European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
139	European Code of Social Security (Revised)
142	Protocol amending the European Social Charter
148	European Charter for Regional or Minority Languages
154	Protocol to the European Convention on Social Security
157	Framework Convention for the Protection of National Minorities
158	Additional Protocol to the European Social Charter Providing for a System of Collective Complaints
161	European Agreement relating to persons participating in proceedings of the European Court of Human Rights

CDDH	
163	European Social Charter (revised)
164	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
168	Additional Protocol to the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine, on the Prohibition of Cloning Human Beings
177	Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms
186	Additional Protocol to the Convention on Human Rights and Biomedicine concerning Transplantation of Organs and Tissues of Human Origin
187	Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty in all circumstances
195	Additional Protocol to the Convention on Human Rights and Biomedicine, concerning Biomedical Research
197	Council of Europe Convention on Action against Trafficking in Human Beings
203	Additional Protocol to the Convention on Human Rights and Biomedicine concerning Genetic Testing for Health Purposes
205	Council of Europe Convention on Access to Official Documents
210	Council of Europe Convention on preventing and combating violence against women and domestic violence
213	Protocol No. 15 amending the Convention for the Protection of Human Rights and Fundamental Freedoms
214	Protocol No. 16 to the Convention for the Protection of Human Rights and Fundamental Freedoms

## **Committee of experts on the system of the European Convention on Human Rights (DH-SYSC)**

Set up by the Committee of Ministers under Article 17 of the Statute of the Council of Europe and in accordance with Resolution CM/Res(2011)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods

**Type of committee:** Subordinate body

Terms of reference valid from: **1 January 2016 until 31 December 2017**

### **MAIN TASKS**

Under the supervision of the Steering Committee for Human Rights (CDDH), the DH-SYSC will conduct the intergovernmental work intended to enhance the protection of human rights by improving the effectiveness of the control mechanism of the European Convention on Human Rights and the implementation of the Convention at national level, as assigned by the Committee of Ministers to the Steering Committee.

### **PILLAR/SECTOR/PROGRAMME**

Pillar: Human Rights

Sector: Protecting Human Rights

Programme: Enhancing the effectiveness of the ECHR System at national and European level

### **SPECIFIC TASKS**

- (i) Concerning the measures taken by member States to implement the relevant parts of the Brighton Declaration: prepare a draft report for the Committee of Ministers containing (a) an analysis of the responses given by member States in their national reports, and (b) possible recommendations for follow-up (deadline: 30 June 2016);

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- (ii) Concerning the longer term future of the Convention system and the Court: achieve any results expected on the basis of decisions that may be taken by the Committee of Ministers further to the submission of the CDDH report containing opinions and possible proposals on this issue (deadline: 31 December 2017);
- (iii) Concerning the implementation of the Convention and execution of the Court's judgments: ensure that information is exchanged regularly - in order to assist member States in developing their domestic capacities and facilitate their access to relevant information (see paragraph 29 (a) i) of the Brighton Declaration and paragraph C. 1. g) of the Brussels Declaration);
- (iv) Concerning Recommendation CM/Rec(2008)2 on efficient domestic capacity for rapid execution of judgments of the European Court of Human Rights: take stock of its implementation, and make an inventory of good practices relating to it and, if appropriate, provide for updating the recommendation in the light of practices developed by the States Parties (deadline: 30 June 2017);
- (v) Submit, if appropriate, proposals to the Committee of Ministers regarding the following recommendations (deadline: 31 December 2017):
  - Recommendation Rec(2004)4 on the Convention in university education and professional training, along with the development of guidelines on good practice in respect of human rights training for legal professionals;
  - Recommendation CM/Rec(2010)3 on effective remedies for excessive length of proceedings and its accompanying Guide to Good Practice.

**COMPOSITION****Members:**

Governments of member States are invited to designate one or more representatives of the highest possible rank in the field of human rights.

The Council of Europe will bear the travel and subsistence expenses of one representative from each member State (two in the case of the State whose representative has been elected Chair).

Each member of the committee shall have one vote. Where a government designates more than one member, only one of them is entitled to take part in the voting.

**Participants:**

The following may send representatives, without the right to vote and at the charge of their corresponding administrative budgets:

- Parliamentary Assembly of the Council of Europe;
- Congress of Local and Regional Authorities of the Council of Europe;
- European Court of Human Rights;
- Council of Europe Commissioner for Human Rights;
- Conference of INGOs of the Council of Europe;
- HELP Network Consultative Board;
- Committees or other bodies of the Council of Europe engaged in related work, as appropriate.

The following may send representatives, without the right to vote and without defrayal of expenses:

- European Union (one or more representatives, including, as appropriate, the European Union Agency for Fundamental Rights (FRA));
- Observer States to the Council of Europe: Canada, Holy See, Japan, Mexico, United States of America;
- representatives of other international organisations (Organisation for Security and Co-operation in Europe (OSCE) / Office for Democratic Institutions and Human Rights (ODIHR), Office of the United Nations High Commissioner for Human Rights, Office of the United Nations High Commissioner for Refugees).

**Observers:**

The following may send representatives, without the right to vote and without defrayal of expenses:

- Belarus;
- Non-member States with which the Council of Europe has a Neighbourhood Partnership including relevant cooperation activities;
- Non-governmental organisations (Amnesty International, European Trade Unions Confederation (ETUC), International Commission of Jurists (ICJ), International Federation of Human Rights (FIDH), European

Roma and Travellers Forum, Open Society Justice Initiative (OSJI), as well as the European Network of National Human Rights Institutions (ENNHRI).

#### **WORKING METHODS**

##### **Plenary meetings:**

48 members, 2 meetings in 2016, 3 days

48 members, 2 meetings in 2017, 3 days

The Committee will also appoint a Gender Equality Rapporteur from amongst its members.

The rules of procedure of the Committee are governed by Resolution CM/Res(2011)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods.

#### **Committee on Bioethics (DH-BIO)**

Set up by the Committee of Ministers under Article 17 of the Statute of the Council of Europe and in accordance with Resolution CM/Res(2011)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods

**Type of committee:** Subordinate body

Terms of reference valid from: **1 January 2016 until 31 December 2017**

#### **MAIN TASKS**

Under the authority of the Committee of Ministers, the DH-BIO shall carry out the tasks assigned to the Steering Committee on Bioethics (CDBI) by the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine.

Under the supervision of the Steering Committee for Human Rights (CDDH), the DH-BIO will conduct intergovernmental work on the protection of human rights in the field of biomedicine assigned to it by the Committee of Ministers. The DH-BIO will in particular:

- (i) conduct regular re-examinations foreseen in the Convention and its Additional Protocols;
- (ii) develop further the principles laid down in the Convention on Human Rights and Biomedicine, as appropriate;
- (iii) contribute to raising awareness and facilitating the implementation of these principles;
- (iv) assess ethical and legal challenges raised by developments in the biomedical field;
- (v) co-operate with the European Union and relevant intergovernmental bodies, in particular with a view to promoting consistency between the normative texts;
- (vi) in accordance with decisions CM/Del/Dec(2013)1168/10.2 of the Committee of Ministers, carry out, at regular intervals, within the limits of the available resources and bearing in mind its priorities, an examination of some or all of the conventions<sup>21</sup> for which it has been given responsibility and report back to the Committee of Ministers.

#### **PILLAR/SECTOR/PROGRAMME**

Pillar: Human Rights

Sector: Ensuring Social Rights

Programme: Bioethics

#### **SPECIFIC TASKS**

- (i) Subject to the carrying out of consultations on a draft text, finalise an additional protocol on the protection of the human rights and dignity of persons with mental disorders with regards to involuntary treatment and involuntary placement.

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<sup>21</sup> Cf. Relevant decision of the Committee of Ministers (CM/Del/Dec(2013)1168/10.2)

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- (ii) On the basis of the outcome of the International Conference on Emerging Technologies and Human Rights, prepare a White Paper on challenges for human rights raised by emerging technologies and their convergence.
- (iii) Re-examine, and where appropriate, revise the Additional Protocol concerning Biomedical Research.
- (iv) Contribute to the re-examination of Recommendation (97)5 on the protection of medical data carried out by the T-PD
- (v) Provide support to possible work on prenatal sex selection undertaken by the CDDH in co-operation with the Gender Equality Commission.
- (vi) Finalise a survey on the Oviedo Convention – impact, relevance and challenges.
- (vii) Organise an International Conference for the 20<sup>th</sup> anniversary of the Oviedo Convention.

**COMPOSITION****Members:**

Governments of the member States are invited to designate one or more representatives of the highest possible rank, with appropriate expertise in the various aspects of bioethics, including in relation to emerging technologies, and able to consider these from a human rights perspective.

The Council of Europe will bear the travel and subsistence expenses of one representative from each member State (two in the case of the State whose representative has been elected Chair).

Each member of the committee shall have one vote. Where a government designates more than one member, only one of them is entitled to take part in the voting.

In accordance with decisions CM/Del/Dec(2013)1168/10.2 of the Committee of Ministers, in cases where there is no convention-based body including all the Parties, non-member States are invited to take part, with a right to vote, in the committee meetings pertaining to the conventions to which they are Parties.

**Participants:**

The following may send representatives, without the right to vote and at the charge of their corresponding administrative budgets:

- Parliamentary Assembly of the Council of Europe;
- Consultative Committee of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (T-PD), Committee (Partial Agreement) on Transplantation of Organs and Tissues (CD-P-TO) and Committee (Partial agreement) on Blood Transfusion (CD-P-TS);<sup>22</sup>
- Council of Europe Commissioner for Human Rights;
- Conference of INGOs of the Council of Europe;
- Committees or other bodies of the Council of Europe engaged in related work, as appropriate.

The following may send representatives, without the right to vote and without defrayal of expenses:

- European Union;
- Observer States to the Council of Europe: Canada, Holy See, Japan, Mexico, United States of America;
- Other international organisations: European Science Foundation (ESF), OECD, UNESCO and WHO.

**Observers:**

The following may send representatives, without the right to vote and without defrayal of expenses:

- Australia, Israel;
- the Conference of European Churches (KEK);
- Other non-governmental organisations, including professional organisations, which could be invited by the DH-BIO to attend specific meetings of the DH-BIO in accordance with CM/Res(2011)24.

**WORKING METHODS****Meetings:**

48 members, 2 meetings in 2016, 4 days

48 members, 2 meetings in 2017, 4 days

**Bureau**

<sup>22</sup> European Directorate for the Quality of Medicines and Healthcare.

7 members, 2 meetings in 2016, 2 days

7 members, 2 meetings in 2017, 2 days

The Chair or vice-Chair of DH-BIO may be invited to attend the meetings of the CDDH and its Bureau in order to inform on progress with its work.

The Committee will also appoint a Gender Equality Rapporteur from amongst its members.

The rules of procedure of the Committee are governed by Resolution CM/Res(2011)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods.

DH-BIO	
164	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
168	Additional Protocol to the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine, on the Prohibition of Cloning Human Beings
186	Additional Protocol to the Convention on Human Rights and Biomedicine concerning Transplantation of Organs and Tissues of Human Origin
195	Additional Protocol to the Convention on Human Rights and Biomedicine, concerning Biomedical Research
203	Additional Protocol to the Convention on Human Rights and Biomedicine concerning Genetic Testing for Health Purposes

Appendix IV**CDDH COMMENTS ON TWO PARLIAMENTARY ASSEMBLY RECOMMENDATIONS***(As adopted by the CDDH at its 85<sup>th</sup> meeting, 15-17 June 2016)***CDDH comments on Parliamentary Assembly Recommendation 2085(2016)  
“Strengthening the protection and role of human rights defenders in Council of Europe member States”**

1. The Steering Committee for Human Rights (CDDH) takes note of Recommendation 2085(2016) of the Parliamentary Assembly “Strengthening the protection and role of Human Rights defenders in Council of Europe member States”.
2. It recalls that, within the framework of the terms of reference received from the Committee of Ministers for this biennium, the CDDH is called on to conduct a study on the impact of current national legislation, policies and practices on the activities of, notably, Human Rights defenders, and to identify the best examples thereof. On this basis, the CDDH will submit proposals to ensure that member States, through their legislation, policies and practices, effectively protect and promote the space of Human Rights defenders and other actors of civil society.

**CDDH comments on Parliamentary Assembly Recommendation 2091(2016)  
“The case against a Council of Europe legal instrument on involuntary measures in psychiatry”**

1. The Steering Committee for Human Rights (CDDH) notes that Article 14 of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) is interpreted by the committee established under this convention as prohibiting any deprivation of liberty on the basis of a mental disability. Consequently, according to the committee established by the CRPD, any national mental health law providing for a deprivation of liberty on the basis of such a criterion is incompatible with the convention.
2. The CDDH also notes that, stemming from this interpretation, the Parliamentary Assembly of the Council of Europe, recommends the Committee of Ministers to<sup>23</sup> :
  - (i) withdraw the proposal to draw up an additional protocol concerning the protection of human rights and dignity of persons with mental disorders with regard to involuntary placement and involuntary treatment;
  - (ii) instead focus its work on promoting alternatives to involuntary measures in psychiatry, including by devising measures to increase the involvement of persons with psychosocial disabilities in decisions affecting their health.
3. Whilst the CDDH shares the Assembly’s willingness to do the utmost to promote alternatives, it nevertheless notes that under certain circumstances, involuntary measures may be warranted in order to prevent the patient causing harm to him/herself or other persons. The Court has said that “a mental disorder may be considered as being of a degree warranting compulsory confinement if it is found that the confinement of the person concerned is necessary as the person needs therapy, medication or other clinical treatment to cure or alleviate his/her condition, but also where the person needs control and supervision to prevent him/her from, for example, causing harm to him/herself or other persons.”<sup>24</sup> For this reason involuntary measures in psychiatry continue to be provided for in the

<sup>23</sup> Recommendation 2091(2016) of the Parliamentary Assembly “The case against a Council of Europe legal instrument on involuntary measures in psychiatry”.

<sup>24</sup> *Bergmann v. Germany*, No. 23279/14, judgment of 7 January 2016, § 97.

laws of member States and regularly applied. Bearing in mind this reality, the CDDH notes the need to ensure that in all circumstances, involuntary measures are embedded with the guarantees required by the European Convention on Human Rights so as to (i) safeguard the human rights of the person concerned<sup>25</sup>, and in particular provide the possibility for the right to an effective remedy against such a measure and (ii) prevent violations of the Convention similar to those already found by the European Court of Human Rights in many occasions. It underlines that this is the purpose of the additional Protocol under discussion in the DH-BIO<sup>26</sup>.

4. Given that the Court regularly receives applications revealing violations of the ECHR as a result of involuntary measures, the CDDH considers that an additional Protocol to the Oviedo Convention could be an effective tool to define the indispensable legal guarantees to prevent such violations in our member States. Such an instrument would aim at better protecting the rights of the persons concerned both in law and in practice.

5. Finally, if the CDDH is convinced that involuntary measures should be exceptional and only be envisaged in the absence of alternatives, it is also convinced that the possible drawing up of a legal instrument to lay down such measures within the Council of Europe would not diminish in any way the credibility of the Organisation, but would on the contrary encourage the progressive transition to a more uniform application of voluntary measures in psychiatry by the member States, in accordance with the spirit of the United Nations Convention on the Rights of Persons with Disabilities.

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<sup>25</sup> Involuntary measures, in particular placement, raise important human rights questions especially concerning Article 5 §1(e) (right to liberty and security), but also in some cases Articles 3 (prohibition of torture and inhuman or degrading treatment) and 8 (protection of private and family life) of the European Convention on Human Rights.

<sup>26</sup> The CDDH has already had the opportunity to express its opinion on the preparation of such a protocol in 2009 (document CDDH (2009)008).

Appendix V

**MANDATE AND DRAFT OUTLINE  
FOR THE ANALYSIS ON SOCIAL RIGHTS  
IN VIEW OF THE WORK OF THE CDDH-SOC**

*(Draft outline as modified by the Rapporteur following the debate of the CDDH, 15-17 June 2016)*

Under the authority of the CDDH, the CDDH-SOC is called to:

- (i) Undertake an analysis of the legal framework of the Council of Europe for the protection of social rights in Europe, in particular the jurisprudence of the European Court of Human Rights as well as other relevant sources e.g. reports and decisions of those Council of Europe bodies having a mandate relating to social rights and their implications for the respective States Parties (deadline: **31 December 2016**);
- (ii) On this basis, identify good practices and make, as appropriate, proposals with a view to improving the implementation of social rights and to facilitate in particular the relationship between the various European instruments for the protection of social rights (deadline: **31 December 2017**).

**Composition:** 10 members at the expense of the Council of Europe's budget (Austria, Belgium, Czech Republic (**Chair**), Greece, Italy, Republic of Moldova, Poland, Portugal, Russian Federation, Slovenia). Any other member State can be member of the drafting Group at its own expense.

This activity is to be carried out ensuring appropriate co-ordination and co-operation with the relevant bodies involved, in particular the European Committee of Social Rights and the European Social Cohesion Platform (PECS). The Group is authorised to invite representatives of other bodies relevant to its work.

Rapporteur on Social Rights: Ms Chantal GALLANT (Belgium).

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## **I. Introduction**

1. Reminder of the principle of indivisibility of Human Rights
2. Reminder of the two main legal instruments: ECHR and ESC
3. The impact of socio-economic transformations on numerous social rights
4. A growing awareness on the need to reinforce the social protection
  - CM Statement in 2011 concerning ESC
  - Priority No. 5 of the SG/CoE mandate for 2014-2019 : reinforcement of the Charter in the Council of Europe
  - Turin Process launched in this regard by the SG/CoE in 2014
5. Initiatives and measures at the European Union level CDDH work on social rights
  - Reminder of previous work
  - Current terms of reference further to, in particular, the Turin process
  - CM decision inviting the CDDH to take into account in its work, if appropriate, its feasibility study on the impact on Human Rights of the economic crisis and austerity measures

## **II. The two main Conventions of the Council of Europe**

### **A. European Convention on Human Rights (ECHR)**

- a. ECtHR illustrative case-law concerning social rights
  - Direct protection of some social rights
  - Mostly indirect protection of a number of social rights

- b. ECHR facing the economic crisis and austerity measures
- c. Illustrative examples of execution of judgments in the field of social rights
- d. Findings
- e. Possible action

**B. European Social Charter (ESC)**

- a. State of signatures, ratifications and number of legal provisions accepted
- b. Conclusions and decisions from the European Committee of Social Rights (ECSR)
  - Reporting procedure
  - Collective complaints system
- c. Norms and practices concerning the functioning of these procedures
- d. Illustrative decisions and conclusions of the ECSR
- e. The ECSR facing the economic crisis and austerity measures
- f. Illustrative examples of ESC national implementation, in particular responses to the crisis
- g. Exchange of good practices between the States concerning ESC
- h. Findings
- i. Possible action

**III. Other action in the field of social rights within the Council of Europe**

**A. Committee of Ministers**

- a. Main activities related to social rights/the ESC

**B. Parliamentary Assembly**

- a. Main activities related to social rights/the ESC
- b. Findings
- c. Possible action

**C. Congress of Local and Regional Authorities**

- a. Main activities related to social rights/the ESC
- b. Findings
- c. Possible action

**D. Human Rights Commissioner**

- a. Main activities related to social rights/the ESC
- b. Findings
- c. Possible action

**E. Conference of the INGOs**

- a. Main activities related to social rights/the ESC
- b. Findings
- c. Possible action

**IV. Relations between the European Union and the ESC**

- A. From the ESC perspective
- B. From the UE law perspective
- C. Findings
- D. Possible action

**V. Conclusions and suggestions**

- A. Identification of national good practices (terms of reference of the CM) : Compilation and/or guide of good practices + difficulties experienced by member States in the implementation of social rights
- B. Proposition to improve the implementation of social rights (terms of reference of the CM) : Recommendation and/or Resolution to member States + relevant stakeholders of the Council of Europe

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Appendix VI**MANDATE OF THE DRAFTING GROUP ON FEMALE GENITAL MUTILATION  
AND FORCED MARRIAGE (CDDH-MF)**

*(As adopted by the CDDH at its 84<sup>th</sup> meeting, 7-11 December 2015  
and completed at its 85<sup>th</sup> meeting, 15-17 June 2016)*

Under the authority of the CDDH, the CDDH-MF is called to:

- (i) Further to work already conducted in the area of human rights and culturally diverse societies, undertake work to combat and prevent female genital mutilation and forced marriage, which are serious violations of human rights. To this end, conduct an analysis of the legal situation at international level and in the Council of Europe member States (deadline: **31 March 2016**).
- (ii) On this basis, prepare a guide to good national practices aimed at combatting and preventing these affronts and, if necessary, make proposals to (a) ensure coherent policies and better implementation of the legislation aimed at preventing these affronts; (b) reinforce the national and European legal framework as well as co-operation between member States; (c) raise awareness of this issue. These proposals may result in, inter alia the preparation of a draft recommendation of the Committee of Ministers (deadline: **31 March 2017**<sup>27</sup>).

Composition: 10 members at the expense of the Council of Europe's budget (Belgium, Bulgaria, Croatia, Finland, France, the Netherlands, Norway, Switzerland, Turkey, United Kingdom (Chair)). Any other member State can be member of the drafting Group at its own expense.

Since the same person assumes the capacity of Chair and Rapporteur, the potential participation of a second representative of his country will also be at the expense of the CDDH budget.

This activity is to be carried out ensuring appropriate co-ordination and co-operation with the relevant bodies involved, in particular the Gender Equality Commission (GEC), the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), the Group of Experts on Action against Trafficking in Human Beings (GRETA), the European Committee on Crime Problems (CDPC) and the Ad hoc Committee for the Rights of the Child (CAHENF). The Group is authorised to invite representatives of other bodies relevant to its work.

Rapporteur on female genital mutilation and forced marriage: Mr Rob LINHAM (United Kingdom)

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Appendix VII


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<sup>27</sup> Further to the CDDH's decision to authorise the CDDH-MF to meet in January 2017.

**MANDATE AND DRAFT OUTLINE  
FOR THE ANALYSIS ON FREEDOM OF EXPRESSION AND LINKS  
TO OTHER HUMAN RIGHTS IN VIEW OF THE WORK OF THE CDDH-EXP**

*(Draft outline as modified by the Rapporteur following the debate of the CDDH, 15-17 June 2016)*

Under the authority of the CDDH, the CDDH-EXP is called to:

- (i) Following the work already carried out by the CDDH in promoting pluralism and tolerance and contributing to maintaining cohesive societies, conduct an analysis of the relevant jurisprudence of the European Court of Human Rights and other Council of Europe instruments to provide additional guidance on how to reconcile freedom of expression with other rights and freedoms, in particular in culturally diverse societies (deadline: **31 December 2016**).
- (ii) On this basis, prepare a guide to good national practices on reconciling the various rights and freedoms concerned (deadline: 30 June 2017). If necessary, a draft recommendation of the Committee of Ministers on “cyber security and human rights” is prepared (deadline: **31 December 2017**).

Composition: 10 members at the expense of the Council of Europe’s budget (Azerbaijan, Estonia, France, Hungary, Republic of Moldova, Montenegro, Russian Federation, “The former Yugoslav Republic of Macedonia”, Turkey, United Kingdom). Any other member State can be member of the drafting Group at its own expense. Chair: Germany<sup>28</sup>.

This activity is to be carried out ensuring appropriate co-ordination and co-operation with the relevant bodies involved, in particular the Steering Committee on Media and Information Society (CDMSI). The Group is authorised to invite representatives of other bodies relevant to its work.

Rapporteur on Freedom of Expression and links to other Human Rights: Ms Kristine LICE (Latvia).

\* \* \*

**I. Introduction**

- i. Brief presentation
  - a) Mandate
  - b) The international legal context
    - Relevant UN mechanisms
    - Different competent bodies and instruments of the Council of Europe
- ii. Method / Approach

**II. General principles and definitions**

- i. The protection offered by Paragraph 1 of Art. 10  
[briefly description of all forms of expression protected by Article 10, including action [e.g. burning of flag], artistic work and display of symbols; and also the “negative right”, namely, the right not to express an opinion]
- ii. General principles pertaining to freedom of expression
  - State responsibility
  - Duties and responsibilities of “private actors”  
[including a first introduction of Article 17, while the in-depth analysis of the implications of this Article would follow later]
  - Possible interferences (formalities, conditions, restrictions or sanctions)
    - Prescribed by law
    - Legitimate aim

<sup>28</sup> The expense of the Chair will be covered by the budget of the Council of Europe.

- Necessary in a democratic society
- iii. Margin of appreciation

### III. **Freedom of expression and links to other Human Rights: Seeking balance between the rights at stake**

[Enumerate the relevant “other Human Rights and Freedoms” to be developed in this section, including a reference to the “right to information”. Evoke the role and impact of new communication technologies (how to exercise Human Rights and freedoms in the “digital world”, notably in the context of social networks: (i) challenges of digital media for the protection of private life; (ii) potential of digital media as tools for debate and political participation]

1. Freedom of expression and right to private life
  - i. Mass media and private life
  - ii. Other aspects
2. Freedom of expression and freedom of thought, conscience and religion
  - i. Restrictions to freedom of expression in the field of religion
  - ii. States’ margin (freedom) to apply censorship measures in cases where expression is perceived as an attack to religious convictions
  - iii. The limits to freedom of expression as accepted by the ECtHR to protect religious convictions of others (+ article 17)
    - ⇒ Abuse of rights and hatred based on religious intolerance
      - a. Apology of a pro-Nazi policy
      - b. Negationist and revisionist speech
      - c. Antisemitic / islamophobic / ... speech
  - iv. Balancing between public communication of ideas on religion / religious doctrine and the respect of religious feelings
3. Freedom of expression and freedom of assembly and association
  - i. Links between Articles 10 and 11 in a dispute regarding industrial action
  - ii. Freedom of expression and freedom of association in connection with measures against terrorism
4. Freedom of expression and prohibition of discrimination
  - i. The balance between freedom of expression and the prohibition of discrimination
  - ii. Racial discrimination and religious discrimination
  - iii. Freedom of expression and racism
  - iv. The special features of social networking
5. Freedom of expression and restrictions to political activity of foreigners
  - i. The right of non-nationals to freedom of expression
  - ii. Other aspects
6. Freedom of expression in political discourse  
[see paragraph 21 of the Guidelines on Human Rights in culturally diverse societies]

### IV. **Conclusion**

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Appendix VIII

**MANDATE AND DRAFT OUTLINE FOR THE ANALYSIS  
ON HUMAN RIGHTS AND MIGRATION  
IN VIEW OF THE WORK OF THE CDDH-MIG**

*(Draft outline as examined by the CDDH, 15-17 June 2016)*

Under the authority of the CDDH, the CDDH-MIG is called to:

In light of the Court's relevant jurisprudence and other Council of Europe instruments, conduct an analysis on the legal and practical aspects of specific migration-related human rights issues, in particular effective alternatives to detention, and the need for further work in the field by the CDDH is explored (deadline: **31 December 2017**).

Composition: 10 members at the expense of the Council of Europe's budget (Armenia, Bulgaria, Czech Republic, Greece, Iceland, Italy, Latvia, Norway (Chair), Spain, Turkey). Any other member State can be member of the drafting Group at its own expense.

This activity is to be carried out ensuring appropriate co-ordination and co-operation with the relevant bodies involved, in particular the European Committee on Legal Co-operation (CDCJ) and the Ad hoc Committee for the Rights of the Child (CAHENF). The Group is authorised to invite representatives of other bodies relevant to its work.

Rapporteur on Migration and Human Rights: Mr Frank SCHÜRMAN (Switzerland).

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**Introductory remarks**

**I. Human Rights standards on alternatives to migration detention: selective presentation**

1. The Council of Europe
  - 1.1. Committee of Ministers
    - 1.1.1. The case of unaccompanied children and children with their parents or guardian
  - 1.2. European Court of Human Rights ("the Court")
    - 1.2.1. The case of unaccompanied children and children with their parents or guardian
  - 1.3. Parliamentary Assembly ("PACE")
    - 1.3.1. The case of unaccompanied children and children with their parents or guardian
  - 1.4. European Committee for the Prevention of Torture ("CPT")
    - 1.4.1. The case of unaccompanied children and children with their parents or guardian
  - 1.5. Commissioner for Human Rights
    - 1.5.1. The case of unaccompanied children and children with their parents or guardian
2. The United Nations
  - 2.1. General Assembly
  - 2.2. High Commissioner for Refugees ("UNHCR")
  - 2.3. Human Rights Committee ("CCPR")
  - 2.4. Committee on the Elimination of Discrimination against Women ("CEDAW")
  - 2.5. Committee on the Rights of the Child ("CRC")
  - 2.6. Special Rapporteur on the Human Rights of Migrants
    - 2.6.1. The case of unaccompanied children and children with their parents or guardian
3. The European Union
  - 3.1. European Union Law
    - 3.1.1. The case of unaccompanied children and children with their parent or guardian

**II. Types of alternatives to migration detention****III. Methodological issues of the analysis and the work to be carried out by the CDDH-MIG**

1. Defining the groups concerned
  - a. Asylum-seekers and other persons in need of international protection
  - b. Irregular migrants
2. The analysis needs to cover CoE, UN and EU standards and the active involvement of relevant UN and EU agencies in the work of the CDDH-MIG needs to be considered
  - a. Council of Europe
  - b. United Nations
  - c. European Union

**IV. Preliminary observations regarding the legal and practical aspects identified**

1. Legal aspects that need to be addressed
2. Practical aspects that need to be addressed
3. Benefits of the use of alternatives to detention according to studies (see selective bibliography)

**V. The way forward: exploring the need for future work**

*Selective bibliography*

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Appendix IX

**DRAFT OUTLINE  
FOR THE ANALYSIS ON CIVIL SOCIETY AND NATIONAL  
HUMAN RIGHTS INSTITUTIONS IN VIEW OF THE WORK OF THE CDDH-INST**

*(Draft outline as examined by the CDDH, 15-17 June 2016)*

Under the authority of the CDDH, the CDDH-INST is called to:

- (i) Conduct a study on the impact of current national legislation, policies and practices on the activities of civil society organisations, human rights defenders and national institutions for the promotion and protection of human rights, and identifying the best examples thereof (deadline: **31 December 2016**).
- (ii) On this basis, submit proposals to ensure that member States, through their legislation, policies and practices, effectively protect and promote the civil society space (deadline: **30 June 2017**).

Composition: 10 members at the expense of the Council of Europe's budget (Armenia, Azerbaijan, Finland (Chair), Ireland, Montenegro, Netherlands, Russian Federation, Slovenia, Spain, "The former Yugoslav Republic of Macedonia"). Any other member State can be member of the drafting Group at its own expense.

Since the same person assumes the capacity of Chair and Rapporteur, the potential participation of a second representative of her country will also be at the expense of the CDDH budget.

This activity is to be carried out ensuring appropriate co-ordination and co-operation with the relevant bodies involved, in particular the European Committee on Democracy and Governance (CDDG). The Group is authorised to invite representatives of other bodies relevant to its work.

Rapporteur on Civil Society and National Human Rights Institutions: Ms Krista OINONEN (Finland).

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## **I. Introduction**

The crucial role of civil society organisation, Human Rights defenders ("HRDs") and national Human Rights institutions ("NHRIs") in a living democracy, including the promotion and protection of human rights and fundamental freedoms: the need to create an enabling environment at national level

- Definitions
- Civil society organisations, Human Rights defenders and national Human Rights institutions' role as vital counterweight to the Government
- Numerous challenges to the work of civil society organisations, Human Rights defenders (numerous potential violations of rights guaranteed by the European Convention on Human Rights ("the Convention"), tendency to more and more restrictive environments
- National frameworks as the main reference frameworks : the importance of identifying best practices in all Council of Europe member States

## **II. Overview of existing standards and relevant tools [relating to an enabling environment]**

- 1) Existing Council of Europe standards and tools
- 2) Other relevant regional and international standards and tools

## **III. Civil Society Organisations: the impact of national legislation, policies and practices**

(This section currently includes a specific sub-section on Human Right defenders: who certainly have specific individual needs and are targeted by specific threats, but structurally speaking, their actions have many similarities with the collective and organized action of NGOs. Alternatively, a specific and entirely separate section could be envisaged)

### **1) Supportive legal regulatory framework at domestic level (normative and judicial framework)**

#### 1.1 Standards / Regulation at domestic level

- a) Freedom of association and assembly (Art. 11), the right to associate (de jure)
  - Legality, legitimacy, proportionality of restrictions
- b) Legislation and administrative rules establishing civil society organisations' activities (criteria and aspects composing an "enabling framework")

#### 1.2 Mechanisms at domestic level (offering protection and redress)

- a) Access to effective remedy [access to justice] for civil society actors affected by acts or omissions by public authorities
- b) Protection mechanisms
- c) Examples of best practices

#### 1.3 Specific focus on Human Rights defenders

- Protection from threats, attacks and other abuses, right to private life...
- Legislation to protect whistle-blowers
- Examples of best practices

### **2) Conducive political and public environment (policies and practices)**

#### 2.1 The right to associate (de facto), advocacy ability

#### 2.2 Public attitudes, statements and media portrayal of civil society actors (perception)

#### 2.3 Public awareness and recognition of civil society organisations' work (ex. training for public servants on engagement with civil society organisations)

#### 2.4 Specific focus on Human Rights defenders (practice with regard to personal rights)

#### 2.5 Examples of best practices

### **3) Right to (access) information , freedom of expression**

#### 3.1 Right to freedom of expression and information (Art. 10) applied to civil society organisations / Human Rights defenders

#### 3.2 Free access to official data, reports, initiatives, decisions

#### 3.3 Specific focus on Human Rights defenders' right to information / expression

#### 3.4 Examples of best practices

### **4) Effective participation in decision-making / participation in public life**

#### 4.1 Types of civil participation (at the various levels of the political decision-making process: agenda-setting, drafting, decision, implementation, monitoring, reformation, see INGO Conference Matrix)

#### 4.2 Mechanisms for meaningful participation

#### 4.3 Tools enabling civil participation: e-participation, capacity-building (training courses, exchange programmes, co-coordinating structures, framework documents laying out the basis for the relationship between public authorities and NGOs)

#### 4.4 Examples of best practices

### **5) Resources and long-term support (Trust, credibility, transparency as precondition for effective participation in decision-making)**

## **IV. NHRI's: The impact of national legislation, policies and practices**

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**1) Supportive regulatory framework (established by law, access to NHRIs, broad and solid mandates), compliance with the Paris Principles**

1.1 Competence and responsibilities

1.2 Composition and guarantees of independence and pluralism

1.3 Methods of operation / Models of NHRI's / Role and Activities

1.3.1 Typologies: commissions, ombudsmen, institutes

1.3.2 Promote human rights and contribute to the application of the Convention at domestic level

1.3.3 Protect human rights

1.3.4 Cooperation with other mechanisms

1.3.5 Examples of best practices

**2) Conducive political and public environment, compliance in practice with the Paris Principles**

2.1 Public political support

2.2 Encouragement of the role of NHRIs in the application of the Convention

**V. Conclusion**

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Appendix X**EUROPEAN UNION ACCESSION PROCESS  
TO THE EUROPEAN CONVENTION ON HUMAN RIGHTS****Speech of Mr Jari VILEN,  
Head of the Delegation of the European Union to the Council of Europe**

1. Let me start by thanking you for giving me the opportunity to present an update on the developments concerning the process of the EU accession to the European Convention on Human Rights. It has been almost exactly one year on 17 June 2015 when I last came before your committee to update you on the state-of-play of EU accession to ECHR. Unfortunately I was not able to join you for your meeting on 7 December 2015, but my Deputy informed you at the time about the latest news on this topic which evidently remains of great importance for both our organisations.

2. Before going into details concerning discussions at EU level in the relevant working group, I would like to draw your attention the recent messages relating to EU accession to ECHR that have been made by the President of the Commission, Mr. Jean-Claude Juncker, during his speech at the Parliamentary Assembly of the Council of Europe on 19 April 2016 and by the High Representative of the European Union and Vice President of the European Commission Mme Federica Mogherini, during her exchange views with the Committee of Ministers on 11 May 2016.

3. In his speech in April Mr. Juncker reaffirmed that the accession to the European Convention on Human Rights remains not only a political priority for his Commission but also a personal commitment. He strongly insisted that EU is working on a solution to that accession and I quote: "*we will not rest until we have found a solution to the EU's accession to the Convention.*"

4. Commission First Vice President Timmermans, who is responsible for ECHR accession within the Commission, has equally repeatedly stressed the EU's continued commitment to ECHR accession. Let's not forget that EU accession to ECHR is a binding treaty obligation, introduced by the Member States of the European Union in the Lisbon Treaty.

5. On the other hand we must also face the realities and challenges that still lie before us. Opinion 2/13 of the European Court of Justice on the compatibility of the Draft Accession Agreement with EU law has raised serious legal issues. Some of these issues are legally and political highly complex. This is why a reflection period was necessary in order to examine the best way forward in both legal and political terms. But the time has now come to work on a position on how the EU considers that the different issues raised by the Court should be addressed. Therefore, the European Commission, in its capacity as the EU negotiator, continues to consult with the special committee designated by the Council of the European Union, namely the Working Party on Fundamental Rights, Citizens Rights and Free Movement of Persons (FREMP). Since the last CDDH meeting in December 2015 the FREMP working party met twice to discuss EU accession to the ECHR.

6. So far the discussions have focused on the more technical and procedural issues such as the co-respondent mechanism and the prior involvement of the ECJ. Other issues such as "mutual trust" will be tackled under the incoming Slovak Presidency of the Council of the European Union.

7. In this context I would like to thank the Latvian, Luxembourg, Netherlands and Slovakian presidencies for their willingness and support for dedicating the required time and attention to EU accession to ECHR on the agenda of the FREMP working party, of COREPER and of the Council.

8. To sum up, please allow me to assure you that the EU remains fully committed to strengthen fundamental values and enhance the coherence of fundamental rights protection in Europe by acceding to the ECHR. We are fully aware that there might be still a bumpy road ahead of us, but rest reassured we are not afraid to face the

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challenges in order to achieve our common goal. In the end, both our organisations share the same values and principles. Thank you very much for your attention.

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**Speech of Mr Jörg POLAKIEWICZ,  
Director of the legal advice and public international law of the Council of Europe**

1. You asked me to inform you about my participation in the hearing of the European Parliament's constitutional affairs committee on 20 April.

2. When I received the invitation, I found myself confronted with a dilemma: what to say from the Council of Europe's point of view when nothing has happened in Strasbourg since the finalisation of the draft accession agreement back in April 2013?

3. I think the metaphor that I also used during the hearing expresses quite well our common understanding in the Council of Europe secretariat: "Using tennis language, the ball is within the EU's court." Since the delivery of opinion 2/13, we are waiting for the European Commission's proposals on how to overcome the various objections.

4. On the other hand, I do not divulge any secrets by saying that we have analysed this opinion internally. When I say "we", I mean in particular the Directorate of Legal Advice and Public International Law.

5. However, neither your committee nor the Committee of Ministers has held any substantive discussion on the various objections formulated in the opinion. It is thanks to your brilliant report on the longer-term future of the ECHR system that the Committee of Ministers finally decided on 30 March 2016 "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."<sup>29</sup> I am very much looking forward to such a debate.

6. In Brussels, I used the opportunity kindly offered by the constitutional affairs committee (AFCO) to "explore ways of relaunching the process of accession taking into account the objections formulated by the Court in its opinion."

7. I thus proceeded as if I had been asked to give a legal opinion, which is my daily bread and butter work since I left DG1 and the CDDH.

8. You find the result of my reflections in the written contribution that I submitted to the European Parliament. It is available online and has been distributed to you.<sup>30</sup>

9. I shall therefore not waste your precious time with repeating myself. I would like to highlight only two points.

10. **First point:** On the basis of my personal experience during the negotiations, the ECJ hearing on 5-6 May 2013 and thereafter, I have come to the conclusion that there is a profound '**clash of perspectives**' between the ECJ judges on the one hand, the member states, Commission, Council and Parliament on the other.

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<sup>29</sup> CM/Del/Dec(2016)1252/4.3-app5 - Measures to follow-up the CDDH report on the longer-term future of the system of the European Convention on Human Rights.

<sup>30</sup> The contribution is available at <http://www.europarl.europa.eu/committees/en/afco/events.html?id=20160420CHE00201> & <http://www.coe.int/en/web/dlapil/speeches-of-the-director>.

11. I am always reminded of judge André Potocki's graphic description of the vision that Luxembourg judges have of their Strasbourg colleagues:

12. « Les juges de Strasbourg sont animés d'un humanisme généreux, potentiellement déstructurant pour le dynamisme de l'intégration européenne » (Strasbourg judges appear to be motivated by a generous humanism that is potentially destructive for the dynamism of European integration).

13. At the ECJ hearing on 5-6 May 2013, this clash was palpable: while the judges openly questioned the obligation under article 6 (2) TEU and raised questions about the added value of accession, all intervening parties stressed that these were issues decided in the Lisbon treaty and not to be addressed in the opinion. Indeed, the opinion did not address them explicitly, but raised a series of objections which are not only of an exceptional magnitude, but also, at least partially, of questionable legal relevance.

14. In fact, as also many EU lawyers acknowledged, the ECJ based some of its objections on interpretations and principles that it had never or, at least never with such meaning or scope, used before in its case law. To give just one example, the concept of the autonomy of EU law as developed in opinion 2/13 "borders on autarky."<sup>31</sup> One is inevitably reminded of a passage of Lewis Carroll's 'Alice in Wonderland': "'When I use a word,' Humpty Dumpty said ..., 'it means just what I choose it to mean, neither more nor less.' 'The question is,' said Alice, 'whether you can make words mean so many different things.' 'The question is,' said Humpty Dumpty, 'which is to be the master – that's all.'"

15. With its **objection regarding the EU's Common Foreign and Security Policy (CFSP)**, the ECJ practically said that accession is not possible without amending the EU treaties. The ECJ thereby ignored that the drafters of the Lisbon Treaty had intentionally created a situation where national courts takes, at least to some extent, the place of the EU Courts. But this should not be seen as an obstacle for EU accession, which the same drafters included as an obligation into the EU treaties. National courts which are also Union courts are perfectly suited to ensure effective judicial protection of individuals.

16. On another point, **mutual trust and recognition**, the ECJ seems to require the inclusion of an exception or, at least, some special rules in the accession agreement. However, in its case law, both before and after opinion 2/13, the ECJ has upheld respect for fundamental rights also in this policy field. It did so in many cases concerning child abductions or the recognition of civil judgments. It is true that the ECJ had been more cautious when it came to the execution of European arrest warrants (EAW) or the return of refugees under the Dublin regulations.

17. At least for the EAW, the ECJ has eventually recognised in a judgment of 5 April 2016 that the execution of an EAW must be deferred if there is a real risk of inhuman or degrading treatment because of the conditions of detention of the person concerned in the EU member state where the warrant was issued. In that context, the ECJ specifically acknowledged that the risk analysis may be based on ECHR judgments, judgments of other international and national courts as well as decisions or reports of organs of the Council of Europe or the United Nations.

18. How can it be otherwise? EU law and ECHR are based on the same principles and values. Respect for fundamental rights is a key component of the area of freedom, security and justice and EU member states are not immune from being occasionally found in violation of even the most serious human rights violations.

19. As the ECJ's AG Cruz Villalón had already observed in 2010, "[a]lthough mutual recognition is an instrument for strengthening the area of security, freedom and justice, it is equally true that the protection of fundamental rights and freedoms is a precondition which gives legitimacy to the existence and development of this area."

20. Along the same lines, the ECtHR held in *Avotiņš v. Latvia* that "[l]imiting to exceptional cases, the power of the State in which the recognition is sought to review the observance of fundamental rights by the State of origin of the judgment could, in practice, run counter to the requirement imposed by the Convention according to which the court in the State addressed must at least be empowered to conduct a review commensurate with the gravity of

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<sup>31</sup> P. Eeckhout "Opinion 2/13 on EU Accession to the ECHR and Judicial Dialogue: Autonomy or Autarky?" 38 Fordham International Law Journal 955 at 992 (2015).

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any serious allegation of a violation of fundamental rights in the State of origin, in order to ensure that the protection of those rights is not manifestly deficient.”<sup>32</sup>

21. **Second point:** I know that my colleagues in the European Commission are currently doing their best to present proposals to overcome the ECJ’s objections. It is however clear that they will never criticise the ECJ in the same way this is done in academic writing.

22. At the hearing, the EU negotiator Hannes Kraemer referred several times to the fact that opinion 2/13 should be respected as an expression of the rule of law. In my view, it is an essential hallmark of a democracy based on the rule of law that judges’ reasoned decisions should be open to public debate and scrutiny. Judge Sachs J of the South Africa Constitutional Court once observed “... as the ultimate guardians of free speech, the judiciary [should] show the greatest tolerance to criticism of its own functioning.”<sup>33</sup>

23. If you take all the ECJ’s objections at face value and try to overcome them one by one by amendments to the draft accession agreement, there is a real risk that, as a result, the ECtHR’s jurisdiction over EU legal acts will be more restricted than it is today. Such a solution would not only undermine the whole purpose of accession, but may also be unacceptable to non-EU member states. It must not be forgotten that whatever proposals the European Commission will eventually come up with, they will be subject of negotiations in Strasbourg. As Prof Jacqué remarked in an early comment to opinion 2/13, it “needs two to tango.”

24. There have been no formal conclusions at the EP hearing of 20 April. Last week, I was informed that the constitutional affairs committee intends to ask the European Commission to report back on progress made in view of the accession, this possibly to be followed by an oral question.

25. I think Prof Jacqué’s final observations reflect quite well the general mood at the end of the hearing:

*“Si une réflexion approfondie sur les conséquences de l’avis 2/13 est en cours au sein de l’Union, il semble qu’elle doive prendre du temps. En attendant, la situation de l’Union au regard de la Convention est malheureusement objectivement moins bonne qu’elle ne l’aurait été après une adhésion sur la base du projet d’accord. Il est donc temps d’accélérer sans tarder la reprise des débats.”*<sup>34</sup>

26. What needs to be done is to address the objections one by one, identifying solutions which respect both the requirements of EU constitutional law and the integrity of the ECHR system. Since it seems inevitable to ultimately return to the ECJ for a new opinion, the finalisation of a revised package of legal instruments should be accompanied by a strong political message to be adopted at the highest level, for example by the Council of the EU or even by an European Council, that these instruments have the political backing of all EU member states, the European Parliament and the European Commission.

27. Immediately after the publication of ECJ opinion 2/13, in January 2015, Secretary General Thorbjørn Jagland declared before the Committee of Ministers: “I remain fully committed and will continue to do what I can to help bring the process forward.” Your committee has also reiterated its readiness to assist in achieving the EU’s accession to the ECHR.<sup>35</sup>

28. Indeed, I am convinced that we need to work together, over and above dividing institutional lines, EU, Council of Europe, the governments of all 47 member states. When introducing me at the hearing, the AFCO chair,

<sup>32</sup> ECtHR, no. 17502/07, Avotiņš v. Latvia, Grand Chamber judgment of 23 May 2016, para. 114.

<sup>33</sup> *The State v Mamabolo* (2001) 3 SA 409 at para. 78.

<sup>34</sup> [‘L’adhésion à la Convention européenne des droits de l’homme après l’avis 2/13 de la Cour de justice de l’Union européenne’](#).

<sup>35</sup> ‘Comments from the Steering Committee for Human Rights (CDDH) on Parliamentary Assembly Recommendation 2065(2015) “European institutions and human rights in Europe’, adopted by the Committee at its 83rd meeting (17–19 June 2015), document CDDH(2015)R83, Appendix III, para. 2.

Ms Danuta Hübner, referred to me as the “representative of the other side”. But are there really two sides? At least 28 of the 47 states are in reality on both sides, they are members of the EU and the Council of Europe, sharing the same values.

29. Let us work together, “*l’union fait la force*”, the task is momentous. If we want to bring this “*never-ending story*”<sup>36</sup> to a happy end, it will require robust and sustained political will.

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<sup>36</sup> S. Leutheusser-Schnarrenberger ‘Der Beitritt der EU zur EMRK: Eine schier unendliche Geschichte’ in: C. Hohmann-Dennhardt/P. Masuch/M. Villiger *Grundrechte und Solidarität. Festschrift für Renate Jaeger* (Kehl, Engel 2010), 135-146.

Appendix XI**SPEECH OF MS PROFESSOR DREIFUSS-NETTER,  
JURIST AND SPECIALIST IN BIOETHICS**

1. Honoured as I am to appear before such a prestigious body, I should however make clear that since my departure from academia in 2010 the focus of my work is no longer research into bioethics law and this subject represents only a very small share of national litigation, which is also to be welcomed, as this means that the law tends to prevent disputes.

2. I have nevertheless retained an interest in the issues for which your committee is responsible, since I have been appointed by the President of the Court of Cassation to sit, firstly, on the French National Consultative Ethics Committee, where I recently completed my term, and, secondly, on the Steering Committee of the French Biomedicine Agency, the agency responsible for applying bioethics laws and regulations regarding assisted reproductive technology, donation of body parts and products of the human body, and genetics.

3. Above all, I have become increasingly aware of the importance in terms of human rights of the issues raised by scientific, medical and technological progress and the urgent need for legal measures to ensure that these advances are not abused and used in violation of the fundamental rights of the people concerned.

4. I shall first offer a few reflections prompted by my participation in these committees before broaching one or two issues that have been taken to the French courts and the European Court of Human Rights, in order to show the effect of European case-law – which is usually concordant but sometimes less so – in our court practice.

**I. Science and technology developments requiring a reassessment of the current legal framework**

5. Since adoption of the Oviedo Convention and even its additional protocols a number of scientific and technological developments have **proved difficult to fit into the legal categories** laid down in existing provisions to secure protection of individuals in terms of human rights. There are many such developments and most are familiar, but I have chosen a few to which I have given some personal thought.

**A. Transplants**

6. The Oviedo Convention and its Additional Protocol No. 186 of 24 January 2002, as well as French legislation, are based on a distinction between **removal and transplantation of organs** on the one hand **and tissues or cells** on the other. Yet for a number of years we have been witnessing development of limb transplants and even face transplants – sometimes known as ‘**composite tissue transplants**’. These transplants raise ethical problems very different from those associated with single tissues or even limbs inasmuch as they change a person’s appearance and affect that person’s innermost identity. This calls into question the **basic distinction between the self and the other** with regard to the recipient and the donor.

7. The Steering Committee of the French Biomedicine Agency has set up a working party to establish the specific ethical problems raised by these techniques, particularly as they entail a very special risk/benefit assessment owing to the risk of extremely serious psychological or physiological complications.

8. Furthermore, in my opinion these techniques weaken the **distinction between research and treatment**, since, because of their relative urgency, they are required more as **experimental treatment** rather than coming under a research protocol, inasmuch as it is only once a certain number of such transplants have been completed that it is really possible to assess them. I am not sure that ethical research committees are properly equipped to authorise protocols for this very special type of research. It seems to me, more generally, that the current provisions on biomedical research, developed after the Second World War on the basis of the Nuremberg principles, which are the mainstay of human rights in the medical field, are ill-suited to these cases. The same is true of all matters relating to cell therapy and gene therapy.

9. Lastly, still in the field of transplants, the traditional categories of living donors and deceased donors – that is donors who are brain dead – have been put to the test by development of **removals from non-heart-beating**

**donors.** We know that the work of the Maastricht conference has allowed doctors to remove organs from deceased persons after withdrawal of treatment amounting to unreasonable obstinacy, for example from persons for whom it is decided to discontinue resuscitation (Maastricht category 3). In France, the law clearly dissociates the prior decision to discontinue treatment on grounds of unreasonable obstinacy from the subsequent decision to remove organs from the deceased person, and the French Biomedicine Agency has published recommendations on this subject, but is this the case everywhere in Europe?

## **B. Research on embryos and embryonic stem cells**

10. The Steering Committee of the French Biomedicine Agency has the statutory role of providing prior opinions on research projects concerning embryos and embryonic stem cells – research authorised in France, subject to certain conditions, under the law of 7 July 2011 amended by the law of 6 August 2013. The Oviedo Convention prohibits creation of embryos for research purposes and requires suitable embryo protection in cases where research is permitted.

11. However, since the Oviedo Convention was drafted, and even since the Additional Protocol on cloning, there have been innovations which, in my view, call for further reflection. Some of this thinking is already well under way, such as that regarding the prospects held out by iPS cells, or reprogrammed adult cells, which are familiar, or the ethical problems associated with the Crispr technique of targeted genome modification, on which a great deal of work is in progress, particularly in Washington at the international level.

12. Other issues have yet to be discussed, including those raised by research into embryos created through in vitro fertilisation where the nucleus is then transferred from a donor female into a previously enucleated egg cell to avoid transmission of mitochondrial diseases (three-parent babies). At the French Biomedicine Agency we have discussed whether introduction of mitochondrial DNA could be viewed as a genome modification, resulting in the creation of a transgenic embryo, which is prohibited by French law, with some experts, such as the biologist Jacques Testart, even drawing parallels with human cloning.

13. How to reconcile the interests of scientific research with the basic principles of bioethics, as required by any research in this field, is a question that would be informed by the work of your committee, particularly regarding the HFEA arguments for authorising mitochondria replacement in the United Kingdom or its restriction to male embryos by the Food and Drug Administration in the United States.

## **C. Whole-genome analysis and personalised medicine**

14. In the human rights field this is probably one of the most wide-ranging areas of work in the coming decades. As the French National Consultative Ethics Committee has shown in its Opinion No. 124, the change of scale in analysis technology from testing of known DNA mutations causing single-gene diseases to what is known as “whole-genome” analysis has transformed the legal and ethical approach to genetic testing. This technology holds out enormous hope for diagnosis and treatment. However, it raises a number of ethical problems, regarding which I refer you to the above opinion, while I shall here confine myself to just a few lines of inquiry.

1) **Consent to genetic tests:** From the outset, practitioners have been very uncomfortable about the interrelationship between their patients’ right to know and their right not to know. To date, they have been concerned about the situation regarding **incidental findings**, that is, anomalies other than those originally investigated and for which the persons concerned gave their consent.

This distinction between primary information and incidental findings is not really relevant any longer, since “big data” consists in powerful bioinformatics systems analysing a plethora of correlations in a multitude of cohorts, without its always being possible to know beforehand what is going to be found. This being so, the content of consent ought to be rethought.

2) Current rules distinguish between **diagnostic tests and tests on individuals with no symptoms, known as predictive tests** (for Huntington’s disease, for example), **or merely showing a predisposition** (such as *BRCA1* and *BRCA2* genes for breast cancer). But whole-genome analysis is revealing new links between some mutations and **multifactorial diseases**, meaning that, depending on the epigenetic and environmental factors to which they are

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exposed, persons carrying particular mutations may or may not develop such diseases, sooner or later, to varying extents. This information is complex to manage.

3) **Data processing and retention** are key issues in genetics owing to the economic value of this information for some companies and the risk of discrimination that it poses to individuals and their families. This is why the regulation that your body adopted with the European Parliament on 27 April of this year considers genetic information to be sensitive data and has made it subject to stronger rules in order to protect the privacy of individuals and their families. But, as has been recently demonstrated, with the help of a few Internet searches an anonymised database can be used to trace an individual's identity. This being so, the effect of the safeguards introduced by the regulation must surely be limited.

4) **The distinction between public and private:** In the previously mentioned EU regulation, there is an exception to mandatory consent for the processing of sensitive data if they are **data manifestly made public by the data subject**. This exception could reduce privacy protection, given the propensity, particularly in young people, to make personal information public without being aware of the use to which it may subsequently be put. In the field of health, and genetics in particular, data collected by recreational websites or websites claiming to provide information on people's predisposition to certain diseases are then reused for other purposes over which these people have no control.

5) More generally, above and beyond genetics proper, I have some reason to fear that the drive towards disease prevention, particularly by providing healthy people with information or applications supposed to prevent them from contracting disease, may result sooner or later – ostensibly in order to **control health spending** – in penalisation of people who fail to use these methods or do not follow recommended lifestyles, through either limiting or ending reimbursement of medical expenses or even ceasing to make available to “bad patients” the treatment that they require. Such insidious tendencies – **human rights violations under the guise of health savings** – are more than just health insurance discrimination, about which I know the Committee on Bioethics is rightly concerned at present. They are not confined to genetics, but it is to be feared that this trend will be strengthened by the still widespread belief that an individual's health is determined by that individual's genome.

15. I believe that yours are the only bodies able to take effective action to ensure that new technology is developed with due regard for fundamental rights, since, without these bodies, individual efforts by states will probably be to no avail.

To these summary impressions based on some joint work with researchers, I should like to add a few remarks arising out of my work in court.

## II. A few comments on dialogue between judges

16. As a law officer of six years' standing, I first practised in the First Civil Division of the Court of Cassation, where I worked mainly on cases relating to medical law, before requesting a transfer to the Criminal Division, which took place last September. The judges of the Court of Cassation are more than ever aware of the importance of dialogue between judges, especially with the European Court of Human Rights.

17. Indeed, after a sometimes difficult period of adjustment, the contribution made by the European Court's case-law is almost universally recognised wherever fundamental human rights and freedoms have been weakened, whether in the case of police brutality, police custody, pre-trial detention, prisoners' rights, or individuals admitted to hospital without their consent, and more generally for asserting the need for due process and trial within a reasonable time. The Court of Cassation is responsible for giving effect to the Convention in its decisions, combining review of compliance with international conventions with review of compliance with the French Constitution, and, as required by law since 2010, it refers to the Constitutional Council matters raised by court users that necessitate priority preliminary rulings on constitutionality, such as disregard of a principle set out in the 1789 Declaration of the Rights of Man, which coincides with the fundamental rights recognised by the European Convention on Human Rights.

18. This dialogue, which is actually tripartite, tends to work well. We have absorbed your Court's way of thinking to such an extent that current divisional and cross-divisional working parties are considering how to improve the statement of reasons in our judgments, especially with regard to the concept of proportionality so often

raised to argue violation of a right covered by the Convention. However, there are still situations in which the Court's case-law can make us uncomfortable. Speaking only for myself, I would readily single out a couple of cases.

19. Firstly, when the European Court of Human Rights rules that **a French law contravenes a fundamental right** – for example, when French law failed to allow for the presence of a lawyer from the very start of police custody – it is up to Parliament to amend it and, where necessary, for the courts not to enforce it until the new law comes into effect. This situation has the virtue of clarity and takes account of legal certainty. On the other hand, it is more awkward when the European Court of Human Rights rules that the law in itself does not contravene the Convention **but orders the courts to enforce it differently according to circumstances or even not to enforce it at all.**

20. I shall explore in more detail the latter situation, which raises real problems in terms of **the authority of the law and the predictability of the law in a democratic state**, which I say not for the sake of argument but in the hope of fostering dialogue, since the road to hell is often paved with good intentions. I shall take an example with which I was concerned as a judge, namely **assisted reproduction**, and more specifically **surrogacy**.

21. In France –for those of you who are not familiar with the system – assisted reproductive technology (ART), whether used within the couple or requiring gamete donation, is highly developed but subject to fairly strict conditions: firstly, it is used only in cases of **medically certified infertility**, which is logical enough given that such cases are covered by health insurance, and, secondly, it is based on a fairly traditional view of the family, since only **couples consisting of a man and a woman** can make use of it, thus excluding not only homosexual couples but also single women.

22. Of course, as in other countries, these restrictions are currently being challenged by a section of civil society. I believe we can expect to see an increase in such cases before the European Court of Human Rights, particularly to obtain **access to ART for single women or female couples with no therapeutic indications**, especially since the French Parliament, through its law of 17 May 2015 known as the Marriage Equality Act, has authorised marriage between same-sex couples as well as joint adoption. This change has allowed female couples in which one partner has resorted to artificial insemination, usually in Belgium, to be mothers of the child thus conceived, as the courts are willing to grant adoption by the spouse, which the Court of Cassation, asked for its opinion by a court, confirmed on 22 September 2014, provided that the adoption was in the child's best interests.

23. Male couples do not have the same right, because, since 1994, as the law has remained the same on this point over the course of successive amendments, **surrogacy is subject to a prohibition** enshrined in the French Civil Code (Article 16-7) and is a matter of public policy (Article 16-9). There is a consensus that a contract for abandonment of a child to allow for its adoption would lead to a **commodification of human beings** and that the entire process of being separated from the women who had carried them in pregnancy in order to be brought up by other women would be against the best interests of children in general (all the other techniques, including egg donation, which is permitted, result in pregnancy and delivery by the woman who is the child's mother).

24. It is specifically the question of surrogacy that has been taken to the European Court of Human Rights, which delivered two judgments in the cases of *Mennesson* and *Labassée* respectively on 26 June 2014. Each case concerned a heterosexual couple in which the wife had a condition making pregnancy impossible. These couples, to whom the law on ART offered no solution in France, entered into surrogacy agreements in the United States in states where, following a judgment, **they were given a birth certificate naming them as the child's parents**. They then applied **to have the particulars of the US birth certificates entered in the French register of births, marriages and deaths, entitling the children to French nationality and French identity documents**. However, the Court of Cassation ruled against this registration, which contravened international public policy, for reasons including – although this does not appear specifically in the judgment – the fact that **the US birth certificates named as the mother a woman who had not given birth**.

25. The Court of Cassation also noted that there was no infringement of the right to a **normal family life as well as the best interests of the child within the meaning of Article 3 of the International Convention on the Rights of the Child**, since these children were living in France with their parents, the parent-child relationship was recognised in US law, and they were treated (for education, medical care, etc.) in the same way as all children of foreign nationality resident in France.

26. The European Court of Human Rights, however, held that (and I here quote the heading of its press release) **“totally prohibiting the establishment of a relationship between a father and his biological children born following surrogacy arrangements abroad was in breach of the Convention”** and that in this case the French ruling **adversely affected the children’s private life**. From its appraisal it can be inferred that the prohibition of surrogacy in France comes under a state’s margin of appreciation, but this margin of appreciation disappears if one of the parents is also the child’s biological parent **“given the importance of biological parentage as a component of each individual’s identity”**. Of course it is understandable that, for the European Court of Human Rights, registration of the Mennesson and Labassée children’s birth details was in these children’s best interests, and this cannot be gainsaid. The fact remains that these two judgments, although they do not challenge the actual law prohibiting surrogacy, require the French courts not to enforce it, asserting a genetics-based approach to parentage, which is not that of French law.

27. In the Roman law tradition, with its presumption of paternity (“the father is he who is married to the mother”), the husband is held to be the father of the children to whom his wife gives birth, and this presumption can be challenged only subject to certain conditions, since, for example, contestation of paternity is no longer possible when there is *de facto* enjoyment of a certain civil status between the lawful father and the child, that is, a social and emotional relationship that has lasted five years. Lawful descent is based on this balance between the biological and the social.

28. The ruling by the European Court of Human Rights, which places a blood relationship above a social relationship, and fatherhood above motherhood, has met with quite a negative reception from many jurists, who have also raised the question of what happens to the biological criterion for motherhood in the case of egg donation, where the genetic share of motherhood is dissociated from the biological share.

I should also like to draw your attention to the ambiguity of the concept of a child’s best interests: not only is its application in the Mennesson and Labassée judgments debatable, since, in the name of these interests a child can have a father but not a mother, but also, and above all, I question the consequences of systematically applying the best interests of the individual child when, as in this case, it leads to non-enforcement of a law based on public-policy considerations, passed in order to protect what Parliament held to be the best interests of children in general. This is because the more children are conceived in countries where surrogacy takes place in unethical conditions, exploiting poverty, with no action on the part of the courts and without these children acquiring the nationality of their country of birth, the more it will be in their individual interests to normalise their situation in France, so that, even if it seems paradoxical, **a child’s best interests may result in legitimising serious human rights violations**. They could even frustrate other international conventions, such as those on adoption or human trafficking.

29. In this particular case, since France is a “model student”, the Court of Cassation, sitting in full court, altered its position in two judgments dated 3 July 2015 ordering registration in the French register of births, marriages and deaths of the birth certificate details of surrogate children conceived in Russia for French fathers, naming Russian women as the mothers, who claimed no parental rights. This was because the object of the surrogacy was to enable these men to marry their male partners and have the children adopted by them, thus both becoming fathers, on an equal footing with lesbians, who have been able to become joint mothers since “marriage equality”. The situation may seem to have balanced out inasmuch as surrogacy is still prohibited in France but the children do not have to suffer the consequences of their parents’ actions, although this is not quite true for different-sex couples, where it seems that only unilateral descent can be established. However this balance is illusory in the long term and encourages a surrogacy “business” contrary to human dignity.

30. This example illustrates the fact that, while it is unrealistic to attempt to standardise assisted reproduction practice across Europe owing to the diversity of cultures, there is a pressing need for common rules to resolve conflicts of law, thus helping to protect citizens’ freedom in a globalised world, as well as human rights, especially in the regions where they are most at risk, without weakening the laws of states that are expressing their own values. More generally, as European case-law now stands, there is a not inconsiderable risk that, with flexible concepts such as proportionality and a child’s best interests, French court rulings could become unpredictable and sometimes even inconsistent, without regard to the equality of citizens before the law, which is a human right.

31. In conclusion, our great respect for the decisions of the European Court of Human Rights, especially in fields relating to bioethics, does not prevent us, on occasion, from expressing reservations about its case-law, and I should like to thank you for having given me one such opportunity.

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Appendix XII**SPEECH OF MR. GUIDO RAIMONDI,  
PRESIDENT OF THE EUROPEAN COURT OF HUMAN RIGHTS**

1. This is the first time since I took up office that I have had the opportunity to accept your invitation and from the outset I would like to say that I am very pleased to be with you today. First of all, as you can imagine, for personal reasons: I was for many years a member of your Committee and had the honour of chairing it in 1999 and 2000. Some of you and some members of the secretariat are old friends. The Steering Committee for Human Rights has always been of valuable assistance to our Court in helping to improve the functioning of the mechanisms of the European Court of Human Rights and especially in preparing protocols to the Convention. And that is why our meeting today is so important.

2. I am accompanied by the Court Registrar, Roderick Liddell, whom you know very well but who is here today for the first time since he took on this role.

3. Since I mentioned the protocols, I wish to inform you that Protocol N° 15 has been signed by 41 States and ratified by 28. As you know this treaty must be signed and ratified by all member states before it can come into force.

4. As for Protocol N° 16, it has been signed by 16 states and ratified by 6. Given that its entry into force depends on its ratification by only 10 states, we're very close to achieving that and I suggest that you speed up your domestic procedures so that this major dialogue protocol, as it is often called, can begin to function as soon as possible. As you already know, the Court's Rules Committee has prepared a number of amendments to our Rules with a view to the entry into force of this protocol. These texts have been forwarded to you and I would like to thank the delegations which have sent us their comments.

5. As you will remember, a similar step was taken with regard to the amendments to the Rules required by Protocol N° 15. This consultation with the government agents proved to be very useful.

6. Since I have mentioned Protocol 16 and the dialogue between our Court and the supreme courts, I would like to say a few words about the network of exchanges with supreme courts on case-law, launched by my predecessor, Dean Spielmann, at the Solemn Hearing for the official opening of Court's judicial year in January 2015. We are currently trying out this new system with French supreme courts. In the next few days we will contact the twenty or so supreme courts which have expressed the wish to take part in this network and officially invite them to join. I welcome the considerable interest aroused by this initiative, which was also welcomed in the Brussels Declaration.

7. At this stage, I would like to give you a few statistics to illustrate the situation of the Court.

8. First of all the number of cases pending on 1 June was 69 850.

9. The largest number of cases concern Ukraine: 16 850 applications, i.e.: 24.1% of the pending applications. Next comes Russia with 9 200 applications, i.e. 13.2% of the total volume and Turkey, with 8 400 applications, i.e. 12%. Next in line is Italy with 7 250 applications, i.e. 10.7 % i.e. a 50% reduction in the number of applications in approximately 2 years, given that over 15 000 applications were pending against Italy was in July 2014. Finally, the fifth country is Hungary with 6 800 applications, i.e. 9.7 % of the total number of applications pending. This is a 47.8 % increase since the beginning of 2016. Most of these applications concern conditions of detention.

10. We now have only 3 550 single-judge cases pending. It is mainly the decrease in the number of such cases which has led to the very impressive decrease in outstanding cases over the past four years. This means that we should not expect a substantial drop in numbers over the next few months. Indeed we will have to tackle the priority cases, of which there are currently 13 500, and the normal chamber cases, of which there are just under 20 650. There is no doubt that dealing with these cases, which are by definition complex, will be our main challenge over the coming years. Whatever happens, we will have to reduce the number of such cases to an acceptable level.

11. 81% of the priority cases come from the following countries: Hungary (5 250), Russia, (2 700), Romania (2 000) and Ukraine (1 100). The increase in the number of priority cases mainly concerns the Hungarian applications relating to conditions of detention and the cases which resulted from the situation in Ukraine.

12. You have received a memorandum from the Registrar, detailing the Court's workload. This document is particularly interesting because it not only provides figures but also gives details of the type of case according to each country.

13. Generally speaking, the reforms undertaken at the Court since Protocol No. 14 came into force have made significant inroads into reducing the backlog of cases. If this situation is to continue to progress, two conditions must be met: first of all we must continue to improve our working methods so as to always become more efficient without sacrificing quality. However, this considerable effort can only continue if states show genuine commitment. That is what shared responsibility, a concept enshrined in the Brussels Declaration last year, is all about.

14. This shared responsibility can take different forms: first of all, with regard to litigation procedure, and then through material assistance, and finally through improved implementation of our judgments.

15. Let me look first at litigation procedure. There is undoubtedly some room for improvement in this field and I am thinking, in particular, of the simplified communication procedure which we are currently trying out with a number of countries and which could yield very positive results. I hope that such a procedure will facilitate friendly settlements and unilateral declarations.

16. Secondly, in material terms, through an active policy of secondment of lawyers: we currently benefit from the assistance of 26 lawyers from thirteen different countries. This is very important and I can but encourage you to continue this policy, which is positive both for the Court, and for the countries which second lawyers because they benefit from the person's experience on their return.

17. In material terms there are other ways of helping us: As you know, a special account was set up in the wake of the Brighton conference to help tackle the backlog of cases, and states which so wish can pay funds into it. We have, since its establishment, received contributions from twenty-four countries for a total of over 3 700 000 euros. These funds are currently being used to recruit Russian, Ukrainian, Turkish, Latvian, Romanian, Italian, Hungarian and Austrian lawyers, of whom there are currently 14, who may remain with us until mid-2017.

18. I would like to thank the states which have, once again, shown their confidence in us either by seconding lawyers or by contributing to the special account and I encourage all the others to do likewise.

19. In more substantive terms, states' role in implementing the Convention is absolutely decisive, as our Court pointed out in its observations on your report.

20. This first requires that domestic remedies be further developed. Then the European Human Rights Convention and our case-law must be taken into account in the national legislative process. In this connection, I am always extremely interested to meet parliamentary delegations and to explain to them how the Court functions. Finally, it is essential that our judgments be fully implemented. Matters such as the translation of judgments and the training of national judges are also crucial and the Court plays its part by receiving judges from our member states for training sessions. You may be interested to know that over 1 800 judges attended training sessions at the European Court of Human Rights in 2015.

21. Just over a year ago, the member states, meeting in Brussels, adopted an action plan in which they welcomed the intention expressed by the Court to provide brief reasons for the inadmissibility decisions of a single judge. I can now tell you that the means of doing this were approved at our plenary session on 5 October 2015 and that this will come into force as from October 2016. Although this will mean a substantial increase in the Court's work, it is of great importance for the applicants, who, as things stand, do not know the reasons for which their application has been rejected. It will be a major step forward.

22. In its Action Plan, the Brussels Declaration also invited us to give brief reasons for the inadmissibility decisions of a single judge. We met in plenary on 18 April 2016 and decided not to accede to this request. Without listing in detail the legal arguments, which, in our opinion, oppose the idea of giving reasons for such decision, for

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example the risk of undermining the authority of judgments handed down by the Chamber, the outcome for our Court would be an increased workload, something that we cannot accept. I will have the opportunity to reiterate this before the Committee of Ministers.

23. I know that the question of our relationship with the EU Court of Justice is of interest to you. I am therefore pleased to say that a delegation from our Court made a visit to the Court of Justice in Luxembourg on 7 March 2017 at the invitation of its new President, Koen Lenaerts. I welcome the fact that the regular meetings between the two European courts have resumed. The previous visit dates back to November 2013 and it is a good thing that this tradition has been resumed.

24. By way of information, a delegation from our Court will travel to Geneva on 1 July for a working meeting with the United Nations Human Rights Committee. These are useful and important contacts and they also correspond to the wish expressed by member states in your report on the long-term future of the Convention system.

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Appendix XIII**EXPERTS REPRESENTING THE CDDH IN OTHER BODIES**

*(further to the decisions taken at the 85<sup>th</sup> meeting of the CDDH, 15-17 June 2016)*

1. Committee on Bioethics (DH-BIO): Ms Brigitte KONZ (Luxembourg)
2. Commission for Democracy through Law (Venice Commission): Mr Arto KOSONEN (Finland)
3. European Commission for the Efficiency of Justice (CEPEJ): Mr Vít A. SCHORM (Czech Republic)
4. Committee of Legal Advisers on Public International Law (CAHDI): Mr Roeland BÖCKER (The Netherlands)
5. European Committee on Legal Co-operation (CDCJ): Ms Maria de Fátima GRAÇA CARVALHO (Portugal)
6. Steering Committee on Media and Information Society (CDMSI): Ms Kristine LICE (Latvia)
7. Ad hoc Committee of experts on Roma and Traveller Issues (CAHROM): Ms Svetlana GELEVA (“The former Yugoslav Republic of Macedonia”)
8. European Consultative Committee of the Convention for the protection of individuals with regard to automatic processing of personal data (T-PD): Ms Brigitte OHMS (Austria)
9. Committee of Experts on Terrorism (CODEXTER): Mr Rob LINHAM (United Kingdom)
10. Ad hoc Committee to elaborate an additional protocol to the Convention on the Prevention of Terrorism (CETS No 196): Mr Rob LINHAM (United Kingdom)
11. Drafting Group on a Committee of Ministers draft recommendation on the “foreign terrorist fighters”: Ms Krista OINONEN (Finland)
12. 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)
13. UN Forum on Human Rights and Business: Prof. René LEFEBER (The Netherlands)
14. European Social Cohesion Platform (PECS) : Mme Chantal GALLANT (Belgium)
15. Ad hoc Committee for the Rights of the Child (CAHENF) : M. Frank SCHÜRMAN (Switzerland)
16. European Committee on Democracy and Governance (CDDG) : Mme Krista OINONEN (Finland)

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17. Mr Roeland BÖCKER (Pays-Bas) is the CDDH Gender Equality Rapporteur
18. Ms Svetlana GELEVA (“The former Yugoslav Republic of Macedonia”) is the CDDH Rapporteur on Roma and Traveller Issues

Appendix XIV**COMPOSITION OF THE BUREAU, CHAIRMANSHIPS AND RAPPORTEURS***(further to the decisions taken at the 85<sup>th</sup> meeting of the CDDH, 15-17 June 2016)*

<b>BUREAU OF THE CDDH</b>	<b>END OF THE MANDATE</b>	<b>REFERENCES</b>
Ms Brigitte KONZ (Luxembourg), Chair	31 December 2016 (elected for 1 year renewable once)	84 <sup>th</sup> meeting of the CDDH (December 2015)
Mr Hans-Jörg BEHRENS (Germany), Vice-Chair	31 December 2016 (elected for 1 year renewable once)	84 <sup>th</sup> meeting of the CDDH (December 2015)
Mr Rob LINHAM (United Kingdom), Member	31 December 2016 (elected for 2 years renewable once)	82 <sup>nd</sup> meeting of the CDDH (November 2014)
Mr Morten RUUD (Norway), Member	31 December 2016 (elected for 2 years renewable once)	82 <sup>nd</sup> meeting of the CDDH (November 2014)
Ms Brigitte OHMS (Austria), Member	31 December 2017 (elected for 2 years not renewable)	84 <sup>th</sup> meeting of the CDDH (December 2015)
Ms Kristine LICE (Latvia), Member	31 December 2017 (elected for 2 years renewable once)	84 <sup>th</sup> meeting of the CDDH (December 2015)
Ms Zinovia STAVRIDI (Greece), Member	31 December 2017 (elected for 2 years renewable once)	84 <sup>th</sup> meeting of the CDDH (December 2015)
Mr Joan FORNER ROVIRA (Andorra), Member	31 December 2016 (elected for 1 year renewable once)	84 <sup>th</sup> meeting of the CDDH (December 2015)
<b>DH-BIO</b> Mr Mark BALE (United Kingdom), Chair	31 December 2016 (elected for 1 year not renewable)	84 <sup>th</sup> meeting of the CDDH (December 2015)
<b>DH-SYSC</b> Ms Isabelle NIEDLISPACHER (Belgium), Chair	31 December 2016 (elected for 1 year renewable once)	84 <sup>th</sup> meeting of the CDDH (December 2015)
<b>CDDH-SOC</b> Mr Vít A. SCHORM (Czech Republic), Chair	31 December 2017	85 <sup>th</sup> meeting of the CDDH (June 2016)
<b>CDDH-MF</b> Mr Rob LINHAM (United Kingdom), Chair	31 March 2017	84 <sup>th</sup> and 85 <sup>th</sup> meetings of the CDDH (December 2015 and June 2016)
<b>CDDH-EXP</b> Mr Hans-Jörg BEHRENS (Germany), Chair	31 December 2017	85 <sup>th</sup> meeting of the CDDH (June 2016)
<b>CDDH-MIG</b> Mr Morten RUUD (Norway), Chair	31 December 2017	85 <sup>th</sup> meeting of the CDDH (June 2016)
<b>CDDH-INST</b> Ms Krista OINONEN (Finland), Chair	30 June 2017	85 <sup>th</sup> meeting of the CDDH (June 2016)

<b>RAPPORTEURS</b>		
<b>CDDH-SOC</b> Ms Chantal GALLANT (Belgium)	31 December 2017	84 <sup>th</sup> meeting of the CDDH (December 2015)
<b>CDDH-MF</b> Mr Rob LINHAM (United Kingdom)	31 March 2017	84 <sup>th</sup> meeting of the CDDH (December 2015)
<b>CDDH-EXP</b> Ms Kristine LICE (Latvia)	31 December 2017	84 <sup>th</sup> meeting of the CDDH (December 2015)
<b>CDDH-MIG</b> Mr Frank SCHÜRMAN (Switzerland)	31 December 2017	84 <sup>th</sup> meeting of the CDDH (December 2015)
<b>CDDH-INST</b> Ms Krista OINONEN (Finland)	30 June 2017	84 <sup>th</sup> meeting of the CDDH (December 2015)

<b>CDDH-SOC</b>	<b>CDDH-MF</b>	<b>CDDH-EXP<sup>37</sup></b>	<b>CDDH-MIG</b>	<b>CDDH-INST</b>
Austria	Belgium	Azerbaijan	Armenia	Armenia
Belgium	Bulgaria	Estonia	Bulgaria	Azerbaijan
Czech Republic	Croatia	France	Czech Republic	Finland
Greece	Finland	Hungary	Greece	Ireland
Italy	France	Republic of Moldova	Iceland	Montenegro
Republic of Moldova	Netherlands	Montenegro	Italy	Netherlands
Poland	Norway	Russian Federation	Latvia	Russian Federation
Portugal	Switzerland	"The former Yugoslav Republic of Macedonia"	Norway	Slovenia
Russian Federation	Turkey	Turkey	Spain	Spain
Slovenia	United Kingdom	United Kingdom	Turkey	"The former Yugoslav Republic of Macedonia"

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<sup>37</sup> Chair: Germany. The expense of the Chair will be covered by the budget of the Council of Europe.

Appendix XV**CALENDAR OF MEETINGS OF THE CDDH  
AND SUBORDINATE BODIES FOR 2016-2017***(as adopted by the CDDH at its 85<sup>th</sup> meeting, 15-17 June 2016)*

<b>2016</b>		
1 <sup>st</sup> meeting of the Committee of experts on the system of the European Convention on Human Rights (DH-SYSC)		25-27 April
1 <sup>st</sup> meeting of the CDDH Drafting Group on female genital mutilation and forced marriage (CDDH-MF)		27-29 April
1 <sup>st</sup> meeting of the DH-SYSC Drafting Group on Recommendation CM/REC(2008)2 (DH-SYSC-REC)		23-25-May
95 <sup>th</sup> meeting of the Bureau of the Steering Committee for Human Rights (CDDH-BU)		Paris, 26-27 May
9 <sup>th</sup> meeting of the Committee on Bioethics (DH-BIO)		31 May-3 June
<i>HELP Conference</i>		<i>Strasbourg, 15-17 June</i>
High-level Seminar on Human rights in culturally diverse societies		13-14 June
85 <sup>th</sup> meeting of the Steering Committee for Human Rights (CDDH)		15-17 June
1 <sup>st</sup> meeting of the DH-SYSC Drafting Group I on the follow-up to the CDDH report on the longer-term future of the Convention (DH-SYSC-I)		29 June - 1 <sup>st</sup> July
1 <sup>st</sup> meeting of the CDDH Drafting Group on human rights and migration (CDDH-MIG)		14-16 September
2 <sup>nd</sup> meeting of the CDDH Drafting Group on female genital mutilation and forced marriage (CDDH-MF)		21-23 September
1 <sup>st</sup> meeting of the CDDH Drafting Group on civil society and national human rights institutions (CDDH-INST)		12-14 October
2 <sup>nd</sup> meeting of the DH-SYSC Drafting Group I on the follow-up to the CDDH report on the longer-term future of the Convention (DH-SYSC-I)		19-21 October
2 <sup>nd</sup> meeting of the Committee of experts on the system of the European Convention on Human Rights (DH-SYSC)		8-10 November

96 <sup>th</sup> meeting of the Bureau of the Steering Committee for Human Rights (CDDH-BU)		Paris, 24-25 November
Seminar on case-law of the Court relevant to bioethical issues		5 December
10 <sup>th</sup> meeting of the Committee on Bioethics (DH-BIO)		6-8 December
86 <sup>th</sup> meeting of the Steering Committee for Human Rights (CDDH)		6-9 December
<b>2017</b>		
3 <sup>rd</sup> meeting of the CDDH Drafting Group on female genital mutilation and forced marriage (CDDH-MF)		[24-26 January]
2 <sup>nd</sup> meeting of the CDDH Drafting Group on human rights and migration (CDDH-MIG)		Cyprus, 15-17 February
3 <sup>rd</sup> meeting of the DH-SYSC Drafting Group I on the Follow-up to the CDDH report on the longer-term future of the Convention (DH-SYSC-I)		27 February – 1 March
1 <sup>st</sup> meeting of the CDDH Drafting Group on social rights (CDDH-SOC)		[8-10] March
2 <sup>nd</sup> meeting of the CDDH Drafting Group on civil society and national human rights institutions (CDDH-INST)		[8-10] March
1 <sup>st</sup> meeting of the CDDH Drafting Group on freedom of expression and links to other human rights (CDDH-EXP)		[22-24] March
1 <sup>st</sup> meeting of the DH-SYSC Drafting Group II on the follow-up to the CDDH report on the longer-term future of the Convention (DH-SYSC-II)		29-31 March
2 <sup>nd</sup> meeting of the CDDH Drafting Group on social rights (CDDH-SOC)		[End of April]
3 <sup>rd</sup> meeting of the Committee of experts on the system of the European Convention on Human Rights (DH-SYSC)		10-12 May
3 <sup>rd</sup> meeting of the CDDH Drafting Group on human rights and migration (CDDH-MIG)		[May]
2 <sup>nd</sup> meeting of the CDDH Drafting Group on freedom of expression and links to other human rights (CDDH-EXP)		[May]
3 <sup>rd</sup> meeting of the CDDH Drafting Group on civil society and national human rights institutions (CDDH-INST)		[June]
97 <sup>th</sup> meeting of the Bureau of the Steering Committee for Human Rights (CDDH-BU)		[Paris, 1-2 June]

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11 <sup>th</sup> meeting of the Committee on Bioethics (DH-BIO)		[6-8 June]
High-level Seminar on human rights and business 87 <sup>th</sup> meeting of the Steering Committee for Human Rights (CDDH) [40 <sup>th</sup> anniversary of the CDDH]		[6 June (9:30-15:00)] [6 June 15:30 - 9 June]
2 <sup>nd</sup> meeting of the DH-SYSC Drafting Group II on the follow-up to the CDDH report on the longer-term future of the Convention (DH-SYSC-II)		21-23 June
3 <sup>rd</sup> meeting of the DH-SYSC Drafting Group II on the follow-up to the CDDH report on the longer-term future of the Convention (DH-SYSC-II)		[September]
3 <sup>rd</sup> meeting of the CDDH Drafting Group on freedom of expression and links to other human rights (CDDH-EXP)		[September]
3 <sup>rd</sup> meeting of the CDDH Drafting Group on social rights (CDDH-SOC)		[October]
4 <sup>th</sup> meeting of the Committee of experts on the system of the European Convention on Human Rights (DH-SYSC)		[November]
International Conference for the 20 <sup>th</sup> anniversary of the Oviedo Convention and 12 <sup>th</sup> meeting of the Committee on Bioethics (DH-BIO)		[November/December]
98 <sup>th</sup> meeting of the Bureau of the Steering Committee for Human Rights (CDDH-BU)		[November]
88 <sup>th</sup> meeting of the Steering Committee for Human Rights (CDDH)		[December]

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