



Strasbourg, 14 November 2017

DH-SYSC(2016)008Rev6

STEERING COMMITTEE FOR HUMAN RIGHTS
(CDDH)

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

(DH-SYSC)

**Chart of signatures and ratifications of
Protocols Nos. 15 and 16 to the Convention**

Introduction

1. At its 84th meeting, the CDDH decided to entrust the DH-SYSC with the systematic follow-up of the prospects of signatures and ratifications of Protocols Nos. 15 and 16 to the Convention as well as the follow-up of the European Agreement relating to Persons Participating in Proceedings of the European Court of Human Rights and specified that, in addition to request of information from concerned experts, awareness-raising actions could be envisaged to reach a higher number of signatures and ratifications of these instruments (see CDDH(2015)R84, § 10).

2. At its 1st meeting (25–27 April 2016), the DH-SYSC concentrated its examination on Protocols No. 15 (Amending Protocol) and No. 16 (optional Protocol) and held a ‘tour de table’ on their prospects of signature and ratification as well as on reasons of non-ratification, on the basis of the document prepared by the Secretariat (doc. DH-SYSC(2016)008).¹ It then instructed the Secretariat to amend this document setting out the information gathered and to submit it to the CDDH. On the basis of the information transmitted to it (doc. DH-SYSC(2016)008) at its 85th meeting (15–17 June 2016), the CDDH welcomed the ‘tour de table’ held and proposed that the DH-SYSC focuses, at its next ‘tour de table’, on the difficulties encountered. At its 2nd (8–10 November) and 3rd meetings (10–12 May 2017), the DH-SYSC held a new ‘tour de table’.² At its 86th (6–8 December 2016) and 87th (6–9 June 2017) meetings, the CDDH took note of the progress made and encouraged member States to pursue their efforts with a view to the signature and/or ratification of the said instruments and invited the DH-SYSC to pursue this exercise regularly in that format.³ The latest information regarding the signatures and ratifications of Protocols Nos. 15 and 16 to the Convention were transmitted by the member States during the ‘tour de table’ held at the 4th DH-SYSC meeting on 9 November 2017.

3. The present document, which is a revised version of the document that served as a basis for the last ‘tours de table’, was prepared according to the procedure agreed upon by the Committee. It contains the new signatures and ratifications and presents the results of the four ‘tours de table’ held by the DH-SYSC.

4. In light of the information communicated during the four ‘tours de table’ concerning Protocol No. 15, the ratification process seems to be well under way in several States parties. Following instructions given by the DH-SYSC at its 4th meeting, in light of the continued absence of information supplied by Malta and Ukraine as to when they will sign and/or ratify Protocol No. 15, the Secretariat has contacted these two countries directly in view of the 88th meeting of the CDDH (5–7 December 2017).

5. Concerning Optional Protocol No. 16, the process of signature/ratification is underway in certain States, with two new signatures and two new ratifications in 2017. States parties that have ratified the Protocol have pointed out that during the process of consultation preceding ratification, their highest courts had noted that the possibility to ask for advisory

¹ This document presented the relevant table of signatures and ratifications published by the Treaty Office of the Council of Europe for each instrument, as well as the information contained in document CDDH(2014)005 (last updated on the 28/7/2015). The Secretariat made also some more researches in order to complement this information but as there was little public information available, the document remained incomplete.

² See DH-SYSC(2016)R2, §24; DH-SYSC(2017)R3 § 21.

³ See CDDH (2016) R86, §13; CDDH(2016)R87, § 88).

opinions from the Court would help them understand how to correctly apply the Convention and prevent violations of the latter.

6. The following difficulties were mentioned during the four “tours de table” concerning the ratification of this instrument:

- Technical difficulties in relation to the calendar, to the need to modify domestic procedures or in relation to the status, in national law, of the opinions of the Court that would be delivered in English or French;
- Concerns related to the possible prolongation of domestic proceedings before the highest courts or of the proceedings before the Court;
- Questions related to the division of competences of the highest courts;
- The possible impact of the opinion 2/13 of the Court of Justice of the European Union (CJEU) of 18 December 2014.

7. However, States that have not signed and/or ratified this optional protocol have pointed out that this does not affect in any way the implementation of the Convention at national level. Certain States have indicated that they prefer to wait to see how the Protocol will operate in practice.

	Signature	Ratification	Entry into Force	Notes	R.	D.	A.	T.	C.	O.
Malta										
Monaco	13/11/2013	13/11/2013								
Montenegro	08/11/2013	08/11/2013 s								
Netherlands	22/10/2013	01/10/2015						T.		
Norway	24/06/2013	17/06/2014								
Poland	09/04/2014	10/09/2015								
Portugal	24/06/2013	16/01/2017								
Republic of Moldova	18/11/2013	14/08/2014								
Romania	24/06/2013	28/05/2015								
Russian Federation	19/09/2016	25/09/2017								
San Marino	24/06/2013	06/11/2013								
Serbia	13/12/2013	29/05/2015								
Slovak republic	24/06/2013	07/02/2014								
Slovenia	24/06/2013	04/07/2017								
Spain	24/06/2013									
Sweden	25/06/2013	29/03/2016								
Switzerland	20/03/2015	15/07/2016								
“The former Yugoslav Republic of Macedonia”	21/11/2013	16/06/2016								
Turkey	13/09/2013	02/05/2016								
Ukraine	20/06/2014									
United Kingdom	24/06/2013	10/04/2015								

International Organisations

	Signature	Ratification	Entry into Force	Notes	R.	D.	A.	T.	C.	O.
European Union										

a: Accession s: Signature without reservation as to ratification su: Succession r: Signature “ad referendum”.

R.: Reservations D.: Declarations A.: Authorities T.: Territorial Application C.: Communication O.: Objection.

Information received by 9 November 2017

BELGIUM / BELGIQUE	La Belgique a signé le protocole le 7 octobre 2013. Il est escompté que la ratification du Protocole n°15 aura lieu au fin de l'année 2017.
BOSNIA AND HERZEGOVINA / BOSNIE-HERZEGOVINE	Activities with a view to signing and ratifying Protocols No. 15 and No. 16 have been accelerated. Two ministries are in charge of the process: the Ministry of Human Rights and the Ministry of Foreign Affairs. It is expected that Protocol No. 15 will be signed and ratified soon.
CROATIA / CROATIE	Croatia signed Protocol No. 15 on 12 July 2016. A specific timeframe for ratification has been prepared by MFA. It is expected that the Protocol will be ratified soon.
GREECE / GRECE	La Grèce a signé le protocole le 2 mars 2017. Il est escompté que la ratification aura lieu avant la fin de l'année 2017.
ITALY / ITALIE	La loi de ratification du Protocoles n ^{os} 15 et 16 est déjà adopte par le Parlement et doit encore passer au Senat.
LATVIA / LETTONIE	Latvia has signed the Protocol on 9 May 2017. It is expected that the Protocol will be ratified by the end of 2017.
LUXEMBOURG	La ratification du Protocole n°15 est envisagée.
MALTA / MALTE	Aucune information présentée à ce jour.
SPAIN / ESPAGNE	Signed on 24 June 2013. Ratification proceedings are underway, but due to internal problems the ratification process is delayed. It is however expected that the process will be concluded soon.
UKRAINE	Aucune nouvelle information présentée à ce jour.

	Signature	Ratification	Entry into Force	Notes	R.	D.	A.	T.	C.	O.
Monaco										
Montenegro										
Netherlands	07/11/2013									
Norway	27/06/2014									
Poland										
Portugal										
Republic of Moldova	03/03/2017									
Romania	14/10/2014					D.				
Russian Federation										
San Marino	02/10/2013	16/02/2015				D.				
Serbia										
Slovak Republic	02/10/2013									
Slovenia	02/10/2013	26/03/2015				D.				
Spain										
Sweden										
Switzerland										
“The former Yugoslav Republic of Macedonia“										
Turkey	20/12/2013									
Ukraine	20/06/2014									
United Kingdom										

International Organisations

	Signature	Ratification	Entry into Force	Notes	R.	D.	A.	T.	C.	O.
European Union										

a: Accession s: Signature without reservation as to ratification su: Succession r: Signature “ad referendum”.

R.: Reservations D.: Declarations A.: Authorities T.: Territorial Application C.: Communication O.: Objection.

Information received by 9 November 2017

ANDORRA / ANDORRE	Andorra has expressed its intention to consider the possibility to sign. However, no further information is available at present.
AUSTRIA / AUTRICHE	The National Parliament works to ratify Protocol No. 16 soon.
AZERBAIJAN / AZERBAIDJAN	Consultations between all stakeholders (Supreme Court, Ministry of Justice and Constitutional Court) are taking place. These consultations also address the possibility to make certain amendments to the national legislation to this end.
BELGIUM / BELGIQUE	La Belgique n'a pas encore signé le Protocole. Les hautes juridictions (Conseil d'Etat, Cour de cassation et Cour constitutionnelle) ont été consultées et ont exprimé des réserves. Il a été suggéré de ne pas suivre l'avis précité; des réflexions sont en cours.
BOSNIA AND HERZEGOVINA / BOSNIE- HERZEGOVINE	Activities with a view to signing and ratifying Protocols Nos. 15 and 16 have been accelerated. It is expected that the Protocol No. 16 will be signed very soon.
BULGARIA / BULGARIE	La ratification du Protocole n°16, qui met en place un dialogue judiciaire qui n'a pas de caractère contraignant, n'est pas à l'ordre du jour. Cela n'affectera pas la façon dont la Bulgarie applique la Convention.
CROATIA / CROATIE	Croatia is not considering the signing of Protocol No. 16 at this stage.
CYPRUS / CHYPRE	Cyprus has not signed and / or ratified Protocol No. 16 and does not intend to for the time being, mainly due to the judiciary's concerns.
CZECH REPUBLIC/ REPUBLIQUE TCHEQUE	La première consultation des juridictions suprêmes a mis en avant des questions et difficultés liées à la répartition des compétences entre ces dernières. Le processus sera relancé en vue d'examiner la possibilité de signature et de ratification.
DENMARK / DANEMARK	The Danish government has no concrete plans to ratify Protocol No. 16 at this stage.

FRANCE	<p>Signé le 2 octobre 2013. Deux difficultés principales ont été évoquées. La première est une difficulté de calendrier, puisque des modifications législatives et réglementaires doivent être intégrées dans le code de procédure civile et le code de justice administrative. L'échéancier dans lequel ces modifications pourraient intervenir n'est pas connu.</p> <p>La seconde difficulté concerne les consultations des hautes juridictions qui seraient susceptibles d'être intéressées par cette procédure de demandes d'avis. Le Conseil d'Etat et la Cour de cassation ont donné des réponses très favorables. Demeure la question de la participation du Conseil constitutionnel. Les consultations nécessaires sont en cours afin de désigner l'ensemble des juridictions qui seraient susceptibles d'être saisies. Il est à noter que lors de sa visite à la Cour européenne des droits de l'homme le 31 octobre 2017, le Président de la République française a indiqué que la France a engagé le processus de ratification du Protocole n°16.</p>
GERMANY / ALLEMAGNE	The consultation process on Protocol No. 16 has been completed. At present, Germany does not envisage the signature or the ratification of this optional Protocol.
GREECE / GRECE	La Grèce a signé le Protocole n°16 le 2 mars 2017. La finalisation de la ratification n'est pas encore envisageable.
HUNGARY / HONGRIE	Consultations are underway but the situation is not promising at present (consultations with foreign supreme courts were not conclusive). The ratification of Protocol No. 16 is not on the agenda.
ICELAND / ISLANDE	Iceland is initiating domestic legislation procedures for signature and ratification of the Protocol.
IRELAND / IRLANDE	Currently no steps have been taken towards its ratification. Ireland wishes to see how it will work in practice; it has concerns about the Protocol's impact on the caseload of the Court.
ITALY / ITALIE	L'Italie a signé le Protocole n°16 le 2 octobre 2013 et a l'intention de le ratifier. La loi de ratification du Protocoles n ^{os} 15 et 16 est déjà adopte par le Parlement et doit encore passer au Senat.
LATVIA / LETTONIE	The courts are still very hesitant.
LIECHTENSTEIN	Liechtenstein has not signed it yet. Liechtenstein was a strong supporter of the Protocol during the drafting process. With regard to the ratification of the Protocol, the evaluation of the Ministry of Foreign Affairs is a very positive one. This positive evaluation may be confirmed by the Ministry of Justice, but consultations are still on-going. It is expected that the ratification process will be concluded in the near future.

LUXEMBOURG	Ratification of Protocol No. 16 is not envisaged at the moment.
MALTA / MALTE	Aucune information présentée.
REPUBLIC OF MOLDOVA/ REPUBLIQUE DE MOLDOVA	Protocol No. 16 was signed on 3 March 2017.
MONACO	Aucune décision n'a encore été prise sur une éventuelle signature et ratification.
MONTENEGRO	This issue is under consideration in domestic law.
THE NETHERLANDS / PAYS-BAS	The draft bill on the ratification of Protocol No. 16 is currently pending before the Senate. The Government will soon submit its reply to the Senate's written questions. After approval by the Senate the Protocol will be ready for ratification.
NORWAY / NORVEGE	Signed on 27 June 2014. A draft bill will soon be subject to public consultation before being presented to the Parliament. Besides minor delays, no specific obstacles are identified as regards the ratification process of Protocol No. 16. The process is expected to be completed soon.
POLAND / POLOGNE	<p>The Government has consulted the highest courts, the administration, the national Council of the Judiciary and legal professions. However, the entry into force of the Protocol will require substantial legislative changes. Therefore, the Government is now analysing the scope of the necessary amendments to the civil, criminal and administrative procedures. For the moment, the ratification of the Protocol is not on the agenda.</p> <p>In addition, the Supreme Administrative Court pointed out certain serious problems related to the question of languages. Namely, the fact that advisory opinions of the Court should be issued either in English or in French, could be contrary to the Polish regulations and even to constitutional ones related to the use, in domestic procedures, of judgments or rulings in foreign languages, even if translated.</p>
PORTUGAL	<p>L'Etat portugais réfléchit encore quant à la position à adopter. L'application du modèle prévu au niveau interne suscite quelques questions.</p> <p>La ratification n'est pas prévue pour l'instant.</p>
ROMANIA / ROUMANIE	La Roumanie a signé le Protocole n°16 le 14 octobre 2014. Pour pouvoir le ratifier, une modification législative est requise et nécessite du temps. Le projet de loi de ratification est toujours en cours de rédaction et les autorités compétentes analysent des détails techniques.
RUSSIAN FEDERATION / FEDERATION DE RUSSIE	Aucune procédure n'a été engagée car, à ce stade, la question d'adhésion de la Fédération de Russie à cet instrument ne se pose pas.

SERBIA / SERBIE	The signature of Protocol No. 16 is still under consideration.
SLOVAK REPUBLIC / REPUBLIQUE SLOVAQUE	Signé le 2 octobre 2013. Le Protocole n°16 n'a pas encore été ratifié. Par le biais d'une résolution du gouvernement de la République slovaque, le Ministre de la Justice a été chargé de la préparation des projets d'amendements requis pour la mise en œuvre du Protocole. Deux amendements du Code de procédure civile et de procédure administrative sont déjà entrés en vigueur.
SPAIN / ESPAGNE	Spain has not yet signed Protocol No. 16. The question is still under consideration because there are problems concerning the competencies of the highest courts and the need to accommodate all procedures. Several doubts remain regarding the compatibility with the internal system in Spain.
SWEDEN / SUEDE	Sweden does not envisage ratification at this stage. It prefers to see how the system will operate in practice and what effects it will have on the workload of the Court.
SWITZERLAND / SUISSE	Pour instant, ce n'est pas une priorité politique. Par ailleurs, la question de la valeur ajoutée de la ratification de cet instrument a été soulevée par des juridictions.
“THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA” / “L'EX-RÉPUBLIQUE YOUGOSLAVE DE MACÉDOINE”	Protocol No. 16 is on the agenda at present and “The Former Yugoslav Republic of Macedonia” expects to sign it soon. The national authorities are working towards the ratification.
TURKEY / TURQUIE	Signé le 20 décembre 2013. Le processus de ratification est encore en cours.
UKRAINE	Aucune nouvelle information présentée à ce jour.
UNITED KINGDOM / ROYAUME-UNI	The United Kingdom has long taken the position that it does not oppose advisory opinions in principle so long as they are optional, but equally has expressed itself as unconvinced of their value, particularly for addressing the fundamental problems facing the Court and the Convention system. The United Kingdom will therefore neither sign nor ratify Protocol No. 16 at this time. It will instead observe how the system operates in practice, having regard particularly to the effect on the workload of the Court, and to how the Court approaches the giving of opinions.

**European Agreement relating to persons participating in proceedings of
the European Court of Human Rights
CETS No.: 161**

Treaty open for signature by the member States of the Council of Europe

Opening for signature

Place: Strasbourg

Date : 5/3/1996

Entry into force

Conditions: 10 Ratifications.

Date : 1/1/1999

Status as of: 14/11/2017 (as it appears on the Treaty Office website)

Total number of signatures not followed by ratifications	2
Total number of ratifications/accessions	39

Member States of the Council of Europe

	Signature	Ratification	Entry into Force	Notes	R.	D.	A.	T.	C.	O.
Albania	21/09/2000	26/02/2003	01/04/2003							
Andorra	24/11/1998	24/11/1998	01/01/1999							
Armenia										
Austria	07/05/1999	10/01/2001	01/03/2001							
Azerbaijan										
Belgium	19/06/1997	29/06/2000	01/08/2000							
Bosnia and Herzegovina										
Bulgaria	03/07/2000	31/05/2001	01/07/2001			D.				
Croatia	26/01/1998	02/12/1999	01/02/2000			D.				
Cyprus	12/01/1999	09/02/2000	01/04/2000							
Czech Republic	10/10/1997	24/06/1998	01/01/1999			D.				
Denmark	05/03/1996	28/08/1998	01/01/1999							
Estonia	19/05/2000	09/01/2012	01/03/2012			D.				
Finland	19/06/1998	23/12/1998	01/02/1999							
France	31/03/1998	17/11/1998	01/01/1999		R.	D.				
Georgia	10/05/2001	10/05/2001 s	01/07/2001			D.				
Germany	23/10/1996	11/09/2001	01/11/2001							
Greece	26/06/1996	07/02/2005	01/04/2005			D.				
Hungary	06/05/1997	01/04/1998	01/01/1999			D.				
Iceland	27/06/1996	04/11/1998	01/01/1999							
Ireland	03/06/1998	07/05/1999	01/07/1999							
Italy	05/03/1996	06/03/1998	01/01/1999			D.				
Latvia	31/01/2006	27/07/2006	01/09/2006			D.				
Liechtenstein	21/01/1999	21/01/1999 s	01/03/1999			D.				
Lithuania	11/02/2000	18/02/2003	01/04/2003							
Luxembourg	05/03/1996	12/03/1999	01/05/1999							
Malta	03/11/1998	05/02/2015	01/04/2015			D.				

	Signature	Ratification	Entry into Force	Notes	R.	D.	A.	T.	C.	O.
Monaco	19/03/2007	19/03/2007	01/05/2007			D.				
Montenegro										
Netherlands	02/05/1996	21/01/1997	01/01/1999					T.		
Norway	12/12/2001	12/12/2001 s	01/02/2002							
Poland	02/04/2008	06/12/2012	01/02/2013		R.	D.				
Portugal	29/04/1997									
Republic of Moldova	04/05/1998	08/11/2001	01/01/2002		R.	D.				
Romania	28/05/1998	09/04/1999	01/06/1999							
Russian Federation										
San Marino	07/09/1998	28/08/2015	01/10/2015							
Serbia										
Slovakia	04/09/2002	21/05/2003	01/07/2003			D.				
Slovenia	07/05/1999	29/11/2001	01/01/2002							
Spain	24/01/2000	19/01/2001	01/03/2001			D.				
Sweden	30/04/1996	30/09/1998	01/01/1999							
Switzerland	27/08/1998	27/08/1998 s	01/01/1999			D.				
“The former Yugoslav Republic of Macedonia”	16/11/1998									
Turkey	03/07/2002	06/10/2004	01/12/2004			D.				
Ukraine	22/05/2003	04/11/2004	01/01/2005							
United Kingdom	27/10/1999	09/11/2001	01/01/2002				A.			

Notes: a: Accession - s: Signature without reservation as to ratification - su: Succession - r: Signature “ad referendum”. R.: Reservations - D.: Declarations - A.: Authorities - T.: Territorial Application - C.: Communication - O.: Objection.

Information received by 9 November 2017 from members of the CDDH concerning the European Agreement relating to persons participating in proceedings of the Court of human rights

(CETS No. 161) (see also document CDDH(2014)005, last updated on 28/07/2015)

AMENIE / ARMENIA	No information provided
AZERBAIJAN / AZERBAIDJAN	No information provided
BOSNIA AND HERZEGOVINA / BOSNIE - HERZEGOVINE	No information provided
MONTENEGRO	No information provided
PORTUGAL	Le processus de ratification de l'Accord européen sur les personnes participant aux procédures devant la Cour est dans le stade de finalisation. Il est escompté que la ratification aura lieu dans un bref délai.
RUSSIAN FEDERATION / FEDERATION DE RUSSIE	No information provided
SERBIA / SERBIE	The Agreement is not on the agenda at present.
“THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA” / “L'EX- RÉPUBLIQUE YUGOSLAVE DE MACÉDOINE”	Signed on 16 November 1998.
UNITED KINGDOM / ROYAUME-UNI	The United Kingdom has ratified the 1996 European Agreement relating to persons participating in proceedings of the European Court of Human Rights (ETS 161), and has also extended its application to the Isle of Man. The older 1969 European Agreement relating to Person participating in Proceedings of the European Commission and Court of Human Rights (ETS 67) continues to apply to the Bailiwick of Jersey and the Bailiwick of Guernsey. In a declaration dated 23 February 2015, registered at the Secretariat General on 3 March 2015, the Government of the United Kingdom of Great Britain and Northern Ireland declared that the United Kingdom's ratification of the 1996 Agreement (ETS 161) shall be extended (as of 1 May 2015) to the territory of the Bailiwick of Guernsey, for whose international relations the United Kingdom is responsible.