

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

DH-SYSC-V(2022)R4
25/03/2022

STEERING COMMITTEE FOR HUMAN RIGHTS
(CDDH)

COMMITTEE OF EXPERTS ON THE SYSTEM OF THE EUROPEAN
CONVENTION ON HUMAN RIGHTS
(DH-SYSC)

**DRAFTING GROUP ON ENHANCING THE NATIONAL
IMPLEMENTATION OF THE SYSTEM OF THE EUROPEAN
CONVENTION ON HUMAN RIGHTS**

(DH-SYSC-V)

MEETING REPORT

4th meeting, hybrid format

24-25 March 2022

ITEM 1: OPENING OF THE MEETING AND ADOPTION OF THE AGENDA

1. The Drafting Group on enhancing the national implementation of the system of the European Convention on Human Rights (DH-SYSC-V/the Drafting Group) held its 4th meeting in Strasbourg from 24 to 25 March 2022 in a hybrid format with 8 participants present in the meeting room and 27 participating via the KUDO online platform. The meeting was chaired from Strasbourg by Mr Vit A. SCHORM (Czech Republic). The list of participants appears in Appendix I.
2. The Drafting Group adopted the agenda as it appears in Appendix II.
3. The Chair welcomed the participants to the meeting. He noted that the Committee of Ministers on 16 March 2022 decided, in the context of the procedure launched under Article 8 of the Statute of the Council of Europe, that the Russian Federation ceased to be a member of the Council of Europe as from 16 March 2022. As regards the work of the DH-SYSC-V, the current situation underlined the consequences of failure to implement the Convention and abide by the values of the Council of Europe.

ITEM 2: DRAFT GUIDELINES OF THE COMMITTEE OF MINISTERS TO MEMBER STATES ON THE PREVENTION AND REMEDYING OF VIOLATIONS OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS

4. The Chair recalled that the CDDH at its 95th meeting (23-26 November 2021) had asked the Chair and the Secretariat, in cooperation with the consultant, to prepare a revised version of the draft Guidelines in line with the guidance provided by the DH-SYSC at its 4th meeting (26– 28 October 2021). The draft Guidelines tabled at the present meeting (document DH-SYSC-V(2022)01) had been revised on this basis so as to ensure their overall coherence, avoiding repetitions and some of the formulations which had previously raised questions.
5. The Drafting Group proceeded to an examination of the draft Guidelines in the light of comments submitted before and during the meeting (see compilation of comments in document DH-SYSC-V(2022)02). The DH-SYSC-V adopted the draft Guidelines as they appear in Appendix III, with two paragraphs considered still provisional,¹ and decided to transmit them to DH-SYSC for its consideration and possible transmission to the CDDH.

ITEM 3: GENDER EQUALITY

6. The DH-SYSC-V agreed on the need to reflect gender and wider equality issues in the preamble of the draft Guidelines, noting that the corresponding wording is subject to further consideration by the DH-SYSC on the basis of further proposals by the Secretariat to reflect existing wording as far as possible.

ITEM 4: ORGANISATION OF FUTURE WORK

7. Considering the progress made at this meeting, the Drafting Group decided that it was not necessary to hold the 5th meeting scheduled from 5 to 6 October 2022.

¹ Paragraph 8bis of the Preamble and paragraph 17.2.

ITEM 5: ANY OTHER BUSINESS

8. No other business was discussed.

ITEM 6: ADOPTION OF THE MEETING REPORT

9. At the end of its meeting, the Drafting Group adopted the present meeting report in the two official languages of the Organisation.

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Appendix I**List of participants****MEMBERS**

ALBANIA	Ms Monika LAMCE Deputy to the Permanent Representative of Albanian to the Council of Europe Representative of the Albanian Advocature in Strasbourg
ARMENIA	Ms Karine VARDANYAN Attaché, Division des Traités Multilatéraux Internationaux Département des Traités et du Droit International Ministère des Affaires Étrangères d'Arménie
AZERBAIJAN	Ms Zhala IBRAHIMOVA
BOSNIA AND HERZEGOVINA	Ms Jelena CVIJETIĆ Acting Agent of the Council of Ministries of Bosnia and Herzegovina before the European Court of Human Rights
CZECH REPUBLIC	Mr Vít A. SCHORM (CHAIR) Government Agent before the EctHR, Ministry of Justice
ESTONIA	Ms Helen-Brigita SILLAR Lawyer, International Law Division of Legal Department, Ministry of Foreign Affairs
FINLAND	Ms Mia SPOLANDER Legal Counsellor Unit for Human Rights Courts and Conventions (OIK-40) Legal Service, Ministry for Foreign Affairs
FRANCE	Ms Karen ROCHET Consultante juridique, Sous-direction des droits de l'homme Direction des Affaires juridiques Ministère de l'Europe et des Affaires étrangères
GERMANY	Dr. Malek RADEIDEH Legal Officer Division IV C 1 (Human rights) - Federal Ministry of Justice
GEORGIA	Mr Irakli LIKLIKADZE Head of the Supervisory Division over the Execution of Judgments, Department of State Representation to International Courts, Ministry of Justice of Georgia Ms Tamta SHAMATAVA Chief Specialist/Legal Adviser of the Litigation Unit of the Department of State Representation in International Courts, Ministry of Justice of Georgia
HUNGARY	Ms Monika WELLER Senior legal adviser Ministry of Justice, Budapest
ITALY	Ms Maria AVERSANO Legal Counselor Permanent Representation of Italy

REPUBLIC OF MOLDOVA	<p>Mr Andrei URSU Second Secretary of the Council of Europe and Human Rights Division of the Ministry of Foreign Affairs and European Integration</p> <p>Ms Doina MAIMESCU</p> <p>Mr Oleg ROTARI Governmental Agent</p> <p>Mr Victor LAPUSNEANU Expert</p>
NORWAY	<p>Ms Astrid RIKHEIM Adviser, Department of Legislation, Ministry of Justice and Public Security</p>
POLAND	<p>Ms Agata ROGALSKA-PIECHOTA Co-Agent of the Government of Poland in cases and proceedings before the European Court of Human Rights Head of Criminal Proceedings Section Legal and Treaty Department, Ministry of Foreign Affairs</p>
PORTUGAL	<p>Ms Ana GARCIA MARQUES Lawyer, Portuguese Government Agent's Office</p>
ROMANIA	<p>Ms Adriana-Mihaela BARBIERU Co-agent of the Government before the ECHR</p>
SPAIN	<p>Ms Heide NICOLÁS Agent of the Kingdom of Spain before de ECtHR Area of Human Rights of the Constitutional & Human Rights department, Ministry of Justice, Madrid</p>
SWEDEN	<p>Ms Helen LINDQUIST Deputy Director, Ministry for Foreign Affairs, Department for International Law, Human Rights and Treaty Law, Stockholm</p>
SWITZERLAND	<p>Mr Adrian SCHEIDEGGER Agent suppléant du Gouvernement suisse devant la Cour européenne des droits de l'Homme le CAT, le CEDR, le CEDAW et le CDE Département fédéral de justice et police DFJP Office fédéral de la justice OFJ Représentation de la Suisse devant la Cour européenne des droits de l'Homme, le CAT, le CEDR, le CEDEF et le CDE</p>
TURKEY	<p>Mr Yakup YILDIRIM Legal Counselor Représentation Permanente de Turquie</p> <p>Ms Aysen EMÜLER Legal Expert</p>
UNITED KINGDOM	<p>Mr Thibault DUFÉTEL Senior Policy Advisor, International Human Rights Team, Ministry of Justice of the United Kingdom</p> <p>Mr Michael JOHNSTONE Policy Advisor and Co-ordinator for the Execution of Judgments of the European Court of Human Rights, International Human Rights Team, Ministry of Justice of the United Kingdom</p>

PARTICIPANTS

Conference of INGOs of the Council of Europe	Mr Jeremy McBRIDE
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OBSERVERS

European Network of National Human Rights Institutions (ENNHRI)	Ms Simona DRENIK-BAVDEK Human Rights Ombudsman Slovenia
	Ms Katrien MEUWISSEN ENNHRI Secretariat, Brussels
	Ms Paula NOWEK ENNHRI Secretariat, Brussels
Holy See	Mr Grégor PUPPINCK

SECRETARIAT

DGI – Human Rights and Rule of Law Council of Europe F-67075 Strasbourg Cedex	Mr David MILNER Secretary of the CDDH Head of the Human Rights Intergovernmental Co-operation Division
	Ms Elvana THACI Administrator Secretary of the DH-SYSC-V Human Rights Intergovernmental Cooperation Division
	Ms Sarah BELHADJMILED Assistant lawyer Human Rights Intergovernmental Cooperation Division
	Mr Nicolas DOMAGALSKI Assistant Human Rights Intergovernmental Cooperation Division

INTERPRETERS

Ms Barbara GRUT
Mr Luke TILDEN
Mr Grégoire DEVICTOR

Appendix II**Agenda**

1. Opening of the meeting and adoption of the agenda	DH-SYSC-V(2022)OJ1
2. Examination of the Draft Guidelines on the prevention and remedying of violations of the European Convention on Human Rights	DH-SYSC-V(2022)01
3. Discussion of gender equality aspects of the work of DH-SYSC-V	CDDH(2020)13
4. Exchange of views on preparatory work for the next meeting of DH-SYSC-V	
5. Other business	
6. Approval of the meeting report	DH-SYSC-V(2022)R4

Reference documents

Resolution [CM/Res\(2021\)3](#) on intergovernmental committees and subordinate bodies, their terms of reference and working methods

Terms of reference of DH-SYSC and of DH-SYSC-V[DH-SYSC-V\(2020\)01](#)

Report of the 95th meeting of the CDDH (23-26 November 2021)

[CDDH\(2021\)R95](#)

Report of the 94th meeting of the CDDH (15-18 June 2021)

[CDDH\(2021\)R94](#)

Report of the 6th SYSC meeting of DH-SYSC (26-28 October 2021)

[DH-SYSC\(2021\)R6](#)

Report of the 3rd meeting of DH-SYSC-V (12-14 October 2021)

[DH-SYSC-V\(2021\)R3](#)

Report of the 2nd meeting of DH-SYSC-V (29-31 March 2021)

[DH-SYSC-V\(2021\)R2](#)

Report of the 1st meeting of DH-SYSC-V (14-16 October 2020)

[DH-SYSC-V\(2020\)R1](#)

Compilation of comments on draft Guidelines to prevent and remedy violations of the Convention at the national level (with reference to document [DH-SYSC-V\(2021\)02REV2](#))

[DH-SYSC-V\(2021\)05REV](#)

Appendix III**DRAFT GUIDELINES OF THE COMMITTEE OF MINISTERS TO MEMBER STATES ON
THE PREVENTION AND REMEDYING OF VIOLATIONS OF THE EUROPEAN
CONVENTION ON HUMAN RIGHTS**

*Adopted by the Committee of Ministers on ...202...at the 1...st meeting of the Ministers'
Deputies*

The Committee of Ministers,

1. Considering that the Interlaken process, in 2010-2019, has confirmed the central role played by the European Convention on Human Rights ("the Convention") in maintaining and fostering democratic stability across the European continent;

2. Recalling that acceptance of the Convention, including the compulsory jurisdiction of the European Court of Human Rights ("the Court") and the binding nature of its judgments against the State which is a party to the dispute, is a requirement for membership of the Organisation and that in accordance with the principle of subsidiarity, the member States have the primary responsibility to secure the rights and freedoms set out in the Convention and that in doing so they enjoy a margin of appreciation, subject to the supervisory jurisdiction of the Court;

3. Recalling that, in 2004, the Committee of Ministers noted that the Convention had become part of the domestic legal orders of all member States;

4. Recalling that the Court's case-law serves to elucidate, safeguard and develop the rules instituted by the Convention, thereby contributing to the observance by the member States of their engagements;

5. Recalling that all member States have undertaken to abide by the final judgments rendered in cases to which they are parties, that their obligation to execute such judgments is an obligation of result and in accordance with the principle of subsidiarity the member States concerned are free to choose the appropriate means to execute the judgments;

6. Recalling the important results achieved during the Interlaken process as regards the national implementation of the Convention, including improved incorporation, domestic remedies and parliamentary procedures as well the domestic capacity for rapid implementation by domestic authorities of the judgments and decisions of the Court;

7. Bearing in mind that, despite the progress achieved at national level, the Convention system continues to face significant and enduring challenges, including delays at different stages of its functioning, the persistence of serious or widespread violations, systemic and structural problems in the member States, and the situation in Europe's unresolved conflict or post-conflict zones;

8. Bearing in mind also the steady influx of cases revealing important new structural or other complex problems, and the large number of repetitive applications to the Court and applications related to matters covered by well-established case-law that also often reflect structural problems;

[8bis. Conscious that the full enjoyment of human rights and fundamental freedoms and that effective access to justice for all entail removing potential socio-economic, cultural, legal, and procedural barriers, notably by taking into account the specific situation of women and persons belonging to vulnerable groups, in particular in the context of the prevention and remedying of violations of the Convention;]

9. Recalling the Committee of Ministers' decision "*Securing the long-term effectiveness of the system of the European Convention on Human Rights*", adopted in Athens on 4 November 2020, which reiterated a firm and enduring commitment to the Convention system and stressed the need for further efforts, calling upon all member States to give full effect to the principle of subsidiarity by complying with their obligations to secure to everyone within their jurisdiction the rights and freedoms defined in the Convention, and to abide by the Court's judgments rendered against them and honour their undertakings in friendly settlements, whilst agreeing to continue to enhance the efficiency of the process of supervision of the execution of the Court's judgments and decisions;

10. Recalling the recommendations it has adopted with a view to assisting member States in ensuring efficient domestic implementation of the Convention and the judgments of the Court, and to facilitating the adoption, by member States, of responses to the numerous challenges facing their societies respectful of the values of the Council of Europe and the rights and freedoms protected by the Convention;

11. Recalling also the Recommendations and Resolutions of the Parliamentary Assembly of the Council of Europe ("the Parliamentary Assembly") to improve parliamentary procedures and the numerous relevant indications and recommendations given by other Council of Europe institutions and bodies;

12. Strongly encouraging national decision-makers to take the Convention requirements more proactively into account, so as better to prevent all violations foreseeable on the basis of the Court's case-law and provide redress to victims without the need for a specific Court judgment against the State in each case;

13. Stressing that such a proactive attitude from member States involves in particular the development of parliamentary, executive and judicial capacity to respond to relevant well-established case-law of the Court, including structures for identifying such case-law and ensuring the translation and dissemination of relevant judgments and decisions or other materials, in line with Recommendation CM/Rec(2021)4 of the Committee of Ministers to member States on the publication and dissemination of the European Convention on Human Rights, the case-law of the European Court of Human Rights and other relevant texts;

14. Convinced of the importance for member States of:

- (i) Encouraging a wide national dialogue to discuss matters related to the national implementation of the Convention in the face of both continuing and new challenges, including both prevention of and redress for violations;
- (ii) Encouraging experience sharing with other member States and full use, where appropriate, of the many possibilities offered by the Council of Europe to assist national efforts to secure the effective implementation of the Convention and the rapid execution of the Court's judgments and decisions;
- (iii) Maintaining a continued dialogue with Council of Europe institutions and expert bodies, including in the framework of the execution of judgments and decisions of the Court and of the Council of Europe's cooperation activities;

15. Recalling the Committee of Ministers' commitment to a more intensive and effective dialogue with respondent States when supervising the execution of the Court's judgments and decisions, and stressing the collective dimension of the supervision process which implies an active approach by all member States, primarily within the Committee of Ministers;

16. Noting the necessity of reinforcing the domestic execution process and the resources devoted thereto with a view to resolving persistent problems revealed in the context of the Committee of Ministers' supervision thereof, including slowness in developing

effective remedies to prevent repetitive cases, and frequent problems related to the effective handling of not only more important complex or structural problems, but also other cases remaining for lengthy periods under the Committee's standard supervision;

17. Noting that a number of situations have also revealed that the judiciary or executive authorities may not be capable of providing redress for violations established within the existing legal and/or constitutional framework, and that it is therefore necessary to ensure that legislative or other pertinent action is taken so that these obstacles can be overcome;

18. Recalling the close links between good national implementation of the Convention and the good functioning of the supervisory system set up, and the responsibility shared by the States Parties, the Court and the Committee of Ministers to ensure the proper functioning of the Convention system as a whole;

19. Convinced that it is necessary to adopt general guidelines for the further improvement of the national implementation of the Convention, including as regards the domestic capacity to abide by judgments of the Court in cases to which States are parties;

20. Adopts the following guidelines providing practical advice and recommendations aimed at assisting the member States in their efforts to:

- give full effect to the principle of subsidiarity by complying with their obligations to secure to everyone within their jurisdiction the rights and freedoms defined in the Convention;
- abide by the Court's judgments rendered against them and honour their undertakings in friendly settlements and unilateral declarations.

I. PREVENTION OF VIOLATIONS THROUGH EFFECTIVE NATIONAL IMPLEMENTATION

Guideline 1 – Ensure a positive global framework

1.1. Member States should ensure a legal and policy environment which is favourable to the exercise and enjoyment of human rights and fundamental freedoms under the Convention and conducive to respect for the rule of law and the principles of democracy inherent in the Convention. Member States should develop their capacity to deal swiftly with systemic or other structural human rights problems identified by the Court or revealed through domestic proceedings. This encompasses a wide range of actions which are set out in the following guidelines.

1.2. Member States should continue to implement recommendations and guidelines adopted by the Committee of Ministers concerning the prevention of violations of the Convention at the national level and the improvement of domestic remedies, notably:

- Recommendation CM/Rec(2000)2 of the Committee of Ministers on the re-examination or reopening of certain cases at domestic level following judgments of the European Court of Human Rights;
- Recommendation Rec(2004)5 of the Committee of Ministers to member States on the verification of the compatibility of draft laws, existing laws and administrative practice with the standards laid down in the European Convention on Human Rights;
- Recommendation CM/Rec(2004)6 of the Committee of Ministers to member states on the improvement of domestic remedies;

- Recommendation CM/Rec(2008)2 of the Committee of Ministers to member States on efficient domestic capacity for rapid execution of judgments of the European Court of Human Rights;
 - Recommendation CM/Rec(2010)3 of the Committee of Ministers to member states on effective remedies for excessive length of proceedings
 - Recommendation CM/Rec(2018)11 of the Committee of Ministers to member States on the need to strengthen the protection and promotion of civil society space in Europe;
 - Recommendation CM/Rec(2019)5 of the Committee of Ministers to member States on the system of the European Convention on Human Rights in university education and professional training;
 - Recommendation CM/Rec(2019)6 of the Committee of Ministers to member States on the development of the Ombudsman institution;
 - Recommendation CM/Rec(2021)1 of the Committee of Ministers to member States on the development and strengthening of effective, pluralist and independent national human rights institutions;
 - Recommendation CM/Rec(2021)4 of the Committee of Ministers to member States on the publication and dissemination of the European Convention on Human Rights, the case-law of the European Court of Human Rights and other relevant texts;
 - Committee of Ministers' Guide to good practice in respect of domestic remedies (2013);
 - Committee of Ministers' Guidelines on the efficiency and the effectiveness of legal aid schemes in the areas of civil and administrative law (2021);
 - Other relevant texts of the Committee of Ministers which contribute to enhancing the national capacity to execute judgments of the Court as rapidly as possible.
- 1.3. Member States' special attention is also required vis-à-vis all situations in which they exercise jurisdiction under the Convention outside their national territory, especially in Europe's conflict zones or post conflict zones, to ensure that all individuals under their jurisdiction in such areas are guaranteed Convention protection.

Guideline 2 – Extend awareness-raising of, and training on, the Convention system

- 2.1. Member States should make greater efforts to publish and disseminate the Convention, the case-law of the Court, including case-law relating to other States when pertinent, as well as other relevant texts, in the language(s) of the State concerned, in line with the standards of Recommendation CM/Rec(2021)4.
- 2.2. Member States should, where appropriate, support university education and professional training in the Convention system, in line with Recommendation CM/Rec(2019)5, paying special attention to the well-established case-law of the Court and the execution of its judgments (see also paragraph 14.4 below).
- 2.3. Member States should, raise awareness of cooperation and assistance activities offered by the Council of Europe in relevant university and training events, as deemed appropriate. They should also support the participation of Council of Europe experts in such training, possibilities for exchanging experience with other States, and promotion of knowledge-building activities such as moot court competitions with the participation of relevant stakeholders such as civil society organisations, national

human rights institutions (NHRIs), legal practitioners, and judges, including those of the Court (see also Guideline 9).

- 2.4. Member States should raise awareness within their domestic authorities, NHRIs, representative organs of the legal profession, and where appropriate, civil society organisations about the resources and tools offered by the European Programme for Human Rights Education for Legal Professionals (the HELP programme) on issues concerning the implementation of the Convention (see also paragraph 14.6 below), including by translating these resources and tools into their national language(s), whenever necessary.
- 2.5. Member States should, where appropriate, encourage, and provide material support for study visits, notably of parliamentarians, parliamentary legal advisers, judges, prosecutors, senior police officers, senior prison officers, government agents, representatives of NHRIs, legal professional associations, to the Court, other Council of Europe bodies as well as departments engaged in the implementation of the Convention and the execution of the Court's judgments.

Guideline 3 – Improve domestic remedies

- 3.1. Member States should ensure provision of efficient domestic remedies that allow individuals to submit any arguable claim of a violation of the Convention to an independent authority providing adequate procedural safeguards, obtain a decision on the merits of the claim taking full account of relevant case-law of the Court, or obtain adequate redress for any violation established, in the form of monetary compensation or specific individual measures as appropriate² (see also Guideline 15 below).
- 3.2. Member States should ensure that all persons have effective access to legal services provided by well-trained and independent lawyers, taking into account, *inter alia*, the Committee of Ministers' Guidelines on the efficiency and the effectiveness of legal aid schemes in the areas of civil and administrative law.
- 3.3. Member States should encourage, whenever appropriate and with due respect for judicial independence, sufficient reasoning by courts or other independent bodies for decisions taken in the framework of effective remedies, with a view to inspiring the confidence of the individuals concerned in particular and the public in general, promoting the development of coherent domestic practices and positions, and providing a good basis for any potential subsequent review by the Court.
- 3.4. Member States are encouraged to consider the generally positive experiences of States which have put in place a general remedy applicable to all kinds of Convention complaints.
- 3.5. Member States should enhance their efforts to ensure a prompt and efficient response to systemic or structural problems, whether revealed through domestic proceedings or a judgment of the Court. This should aim at preventing repetitive applications, expediting the solution of other cases, effectively overcoming obstacles and offering other efficient solutions.³ Member States should devote particular

² Examples include release from unlawful detention, the resumption of criminal investigations with a view to rectify shortcomings established, or the annulment of extradition or expulsion orders adopted notwithstanding serious risks of violations of Articles 2 or 3 of the Convention in the receiving country.

³ Examples of frequent *ad hoc* measures include friendly settlements and unilateral declarations, including in relation to large numbers of repetitive cases or otherwise clearly foreseeable cases, as well as special structures to facilitate the rapid adoption of such measures. Other special measures in response to large numbers of victims may imply legislative changes, e.g. the adoption of amnesty legislation erasing consequences of unjust criminal

attention to providing remedies for the main general problems revealed in the cases brought before the Committee of Ministers for supervision of their execution.

- 3.6. Member States should enhance, wherever appropriate and with due respect for judicial independence, the capacity of courts and other domestic authorities to proactively address clearly foreseeable violations in a Convention-compliant manner, bearing in mind the continuing high numbers of new systemic violations in areas covered by well-established case-law of the Court.
- 3.7. Member States should ensure that in addition to providing effective remedies for violations, they also resolve any underlying general problem.
- 3.8. Member States are encouraged to consider whether the means to address general problems revealed when executing the Court's judgments could be extended also to general problems of Convention compliance revealed by judgments of domestic courts.

Guideline 4 – Further action to facilitate the domestic application of the Convention and relevant case-law of the Court

- 4.1. Member States should ensure that the Convention rights are effectively incorporated into the domestic legal order, having regard to the relevant case-law of the Court.
- 4.2. Member States should, with due respect for judicial independence, take all other measures necessary to promote the active implementation of the Convention in their domestic judicial system, having regard to the relevant case-law of the Court, so as to improve its capacity to prevent foreseeable violations of the Convention.
- 4.3. Member States should more closely follow developments in terms of newly communicated cases brought against other member States, with a view to intervening as third parties, where deemed appropriate, in order to ensure that their national concerns are considered by the Court.
- 4.4. Member States should ensure a Convention compliant solution to any conflict between Convention rights and the national legal framework.
- 4.5. Member States should ensure an environment which encourages the judicial system to take account of Convention requirements as developed in relevant case-law of the Court.
- 4.6. Member States should also encourage the good training of lawyers in the Court's case-law and in the functioning of the Convention system, enabling them to efficiently assist individuals and authorities to secure respect for Convention rights and freedoms.

Guideline 5 – Improve verification of the Convention conformity of draft laws, existing laws and administrative practices

- 5.1. Member States should maintain and where necessary enhance their efforts to give full effect to the Convention by ensuring continued conformity of national norms and practices with the Convention, in the light of the case-law of the Court.

convictions; the restitution of rights, e.g. citizen or residence rights, unjustly taken away or measures otherwise erasing more generally the consequences of violations.

5.2. Draft laws

- 5.2.1. Member States should ensure that draft legislation prepared by the Government, especially that which may affect the rights and freedoms protected by the Convention, is sent to Parliament only after a thorough scrutiny of its Convention conformity, taking into account the relevant case-law of the Court.
- 5.2.2. Member States should to this end ensure timely consultations with NHRIs and, as appropriate, different bodies such as relevant civil society organisations and representative organs of the legal profession.
- 5.2.3. Member States should consider establishing parliamentary structures with special responsibility for human rights in general and the Convention in particular, including the Convention conformity of draft legislation, and that such structures have access to independent expertise.
- 5.2.4. Member States should consider applying a special parliamentary procedure, or adopting other safeguards, if the bodies entrusted with assessing the Convention conformity of draft legislation conclude that a proposal would violate the Convention.

5.3. Existing laws

- 5.3.1. Member States should ensure that there are mechanisms to verify the compatibility of existing laws and administrative practice with the Convention⁴, whenever necessary by virtue of Article 46 or appropriate following a judgment of the Court concerning another State.
- 5.3.2. Member States should ensure the existence of procedures allowing for the adoption of the changes necessary to achieve compatibility of existing legislation or administrative practice with the Convention.

5.4. Practice

- 5.4.1. Member States should ensure that all major central, regional and local authorities regularly confronted with Convention issues⁵ have easy access to quality advice on Convention matters and that internal policies promote the integration of the Court's well-established case-law in day-to-day work. They should also have the necessary resources to assess the Convention conformity of existing regulations, practice directions or unwritten procedures.
- 5.4.2. Member States are encouraged to ensure that the examination of the Convention conformity of draft laws, existing laws and domestic practices is carried out wherever deemed appropriate on the basis of Council of Europe expertise (see also Guideline 9 below).

⁴ For example, such assessment may take place in the context of judicial proceedings, or through other procedures, most notably in the context of ordinary governmental or parliamentary scrutiny of the adequacy of legislation, but possibly also through the putting in place of specialised procedures, e.g. within the coordination structures adopted to facilitate the execution of the judgments of the Court or special parliamentary committees and procedures (see also Guideline 13 below).

⁵ Examples include courts, prosecutors, police, customs, NHRIs, authorities competent for the registration of churches or more generally of associations, or the handling of announced peaceful assemblies, broadcasting authorities, immigration authorities, authorities responsible for protecting privacy or public access to official documents, or social authorities responsible for child and family questions.

Guideline 6 – Better parliamentary involvement

- 6.1. Member States should continue to promote the important role parliaments play in safeguarding human rights and monitoring the State's compliance with international human rights obligations, in line with the resolutions of the Parliamentary Assembly.
- 6.2. Member States are encouraged to support Parliamentary Assembly activities to enhance the knowledge of the Convention system and the case-law of the Court of parliamentarians and the legal staff of all relevant parliamentary committees and departments. Independent expertise on Convention matters should be available to parliamentary committees responsible for assessing human rights compliance and oversight of the implementation of the execution of Court's judgments (see also paragraph 5.2.3.).
- 6.3. Member States should encourage the further development of parliamentary mechanisms and procedures for effective oversight of the execution of the Court's judgments, for example on the basis of the regular circulation of action plans and reports, parliamentary debates on outstanding issues, with presentations by responsible ministries/ministers as appropriate, or annual presentations by the Government of an overview of the execution situation.

Guideline 7 – Strengthen the role of NHRIs, civil society organisations and other key bodies

- 7.1. Member States which have not already done so are encouraged to establish, and, when established, maintain and strengthen effective, pluralist and independent NHRIs in accordance with the Paris Principles.
- 7.2. Member States should, to the extent possible, promote the engagement of, and interaction with, NHRIs, relevant civil society organisations, and representative organs of the legal profession when implementing the Convention.
- 7.3. Member States should continue to give full effect to Recommendation CM/Rec(2021)1 and Recommendation CM/Rec(2019)6 (see paragraph 1.3. above). In this context, they should ensure a safe and enabling environment for human rights, effectively protecting Ombudsmen and NHRIs against threats, unlawful actions and arbitrary reprisals, including from State authorities. Member States should ensure rapid and efficient investigations into any such unlawful action.
- 7.4. Member States should continue, to the extent deemed possible, to encourage meaningful participation of NHRIs, relevant civil society organisations, and representative organs of the legal profession in the activities of the Council of Europe related to the implementation of the Convention, for example in specialised fora and events.

Guideline 8 – Promote experience-sharing

- 8.1. Member States should, when confronted with issues related to the implementation of the Convention, promote exchanges of experiences and the development of synergies between their national authorities concerned wherever a solution could be facilitated by common or concerted action.
- 8.2. Member States should make full use of national coordinators or co-ordinating structures for the implementation of the Court's judgments and decisions to facilitate

experience sharing (see also Guideline 13 below). They should also consider making use of the capacities of relevant civil society organisations and NHRIs and legal professional associations to this end (see also paragraph 7.2. above). The integration of Council of Europe expertise should be promoted.

- 8.3. Member States are encouraged to raise new Convention issues with a pan-European dimension in appropriate Council of Europe inter-governmental fora with a view to possible joint action.⁶
- 8.4. Member States are encouraged to promote the use of Council of Europe specialised fora⁷ and to provide similar arrangements for other important institutions or stakeholders, notably senior police officers or legal professional associations.
- 8.5. Member States should promote and enhance dialogue between their national courts and the Court, for example through the Superior Courts Network, visits and conferences.

Guideline 9 – Enhance cooperation programmes with the Council of Europe

- 9.1. Member States should consider using the support offered by the Council of Europe's cooperation and assistance programs when undertaking more important Convention-related reforms, for example to obtain general expertise on Convention standards, more specific expertise on different pieces of legislation, assistance in finding the root causes of important systemic problems to ensure the adequacy of reforms, facilitated exchange of experience with other States, assistance in the organisation of training activities or of fora to promote experience exchanges, and synergies between domestic authorities.
- 9.2. Member States should in this context support and promote, where appropriate, any specific initiatives by competent State institutions to seek advice from relevant Council of Europe institutions, such as the Commissioner for Human Rights, or expert bodies, such as the Venice Commission.
- 9.3. Member States should also consider possibilities for contributing to the Council of Europe's capacity to offer such cooperation programmes, whether through voluntary contributions or contributions to the Human Rights Trust Fund.

Guideline 10 – Other measures to secure the effective functioning of the Convention system

- 10.1. Member States should consider providing additional human and financial resources, beyond providing all necessary assistance to, and ensuring efficient interaction with, the Court and the Committee of Ministers in the context of ongoing proceedings.
- 10.2. Member States should endeavour to (a) attract persons of the highest calibre to serve as judge on the Court, so as to continue to safeguard its authority; (b) continue to guarantee by all possible means the independence and impartiality of the Court's judges; and (c) consider providing necessary additional safeguards also after the end of the judges' terms of office, notably by due recognition of their status as judges and their service on the Court.
- 10.3. Member States should cooperate with the Secretary General in case of requests under Article 52 of the Convention.

⁶ For example, in the form of recommendations, guidelines or collections of best practices

⁷ For example, the councils or conferences of judges, prosecutors, heads of detention and probation centres, the Conference of INGOs.

Guideline 11 – Consideration of ratification of Protocol No. 16 to the Convention

- 11.1. All Member States which have not signed or ratified Protocol No. 16 are invited to consider doing so, with a view to further enhancing the interaction between the Court and national courts, thereby reinforcing the implementation of the Convention, in accordance with the principle of subsidiarity.
- 11.2. Member States are also encouraged to exchange experiences with regard to the use of the new procedure, in cooperation with the Court and other Council of Europe bodies concerned.

II. THE REMEDYING OF VIOLATIONS FOUND BY THE COURT

Guideline 12 – Strengthen domestic capacity for rapid and effective remedial action

- 12.1. Member States should further improve their domestic capacities for effective execution of the Court's judgments and decisions in all cases to which they are parties.
- 12.2. Member States should, wherever necessary, enhance their procedures guaranteeing the payment of any just satisfaction awarded by the Court and rapidly erase, to the extent possible, the consequences for applicants of violations established and ensure *restitutio in integrum*.
- 12.3. Member States should ensure that violations established by the Court are duly recognised by the authorities involved, and action is rapidly taken to provide individual redress and prevent similar violations; and that all possible measures, including temporary or interim ones are taken to limit as far as possible the effects of the violation(s) where more extensive reforms are necessary but would take time.
- 12.4. Member States should take into account and implement the relevant standards of the Council of Europe (see paragraph 1.3. above), notably Recommendation CM/Rec(2000)2 and Recommendation CM/Rec(2008)2, in view of the close links between the measures required for rapid execution of judgments of the Court and those necessary for effective general implementation of the Convention.

Guideline 13 - Strengthen co-ordination structures

- 13.1. Member States should enhance the support provided to co-ordinators or co-ordinating structures, in the form of improved resources, status or authority, and capacity-building in co-operation with relevant national authorities and the Council of Europe's *Department for the Execution of Judgments*, with a view to these structures contributing to the timely development, presentation and implementation of action plans, the solution of more important structural or complex problems, in particular those placed under enhanced supervision, as well as the speedy solution of cases placed under standard supervision.
- 13.2. Member States should ensure that co-ordinators or co-ordinating structures, where appropriate, establish contacts with relevant parliamentary committees or departments and judicial authorities, as well as NHRIs, and that the continuity of their work and structures over time is safeguarded, as interruptions may have very negative effects on the handling of important execution issues and lead to unnecessary violations of the Convention and applications to the Court.

- 13.3. Member States should ensure protection of co-ordinators from unjustified attacks and from any form of harassment or threat linked to the performance of their duties.

Guideline 14 – Improved publication and dissemination of information on the execution of judgments of the Court

- 14.1. Member States should ensure that action plans and reports on implementation of judgments of the Court explain how the changes proposed or the measures taken have remedied the violation found and ensured compliance with the Convention. They should take into account the Guide for the drafting of action plans and reports for the execution of judgments of the European Court of Human Rights and, as appropriate, also draw on other relevant recommendations and advice by Council of Europe institutions and expert and monitoring bodies when defining execution measures.
- 14.2. Member States should ensure a prompt and effective dissemination to relevant actors of all judgments and decisions of the Court that they are obliged to execute, in line with Recommendation CM/Rec(2021)4 (see paragraph 1.3 above). They should ensure that these actors are also promptly informed, in a format deemed appropriate, of the decisions and resolutions of the Committee of Ministers in the context of the execution of judgments of the Court, as well as action plans they have submitted. Member States should also publish these texts of the Committee of Ministers and action plans in a format deemed appropriate.
- 14.3. Member States should ensure more general awareness of the requirements of execution of the Court's judgments, notably by the dissemination of information in the relevant language(s) on appropriate execution practices and on the scope and expected results of the Committee of Ministers' supervision procedure. In so doing, they may be inspired by the *Vademecum*, the general overviews of achievements made in the Committee of Ministers Annual Reports and by the Parliamentary Assembly, and the fact sheets published by the *Department for the Execution of Judgments*.
- 14.4. Member States are also encouraged to widely publicise the special web sites developed by the Committee of Ministers to present both the general execution requirements and the state of execution of cases.
- 14.5. Member States should also encourage wide use of the special HELP course on execution designed to assist national authorities, legal professional associations, civil society organisations, NHRIs, and others interested in better understanding the execution process and its supervision by the Committee of Ministers.

Guideline 15 – Ensure that remedies are fully effective in the execution context

- 15.1. Member States should ensure, with due respect for judicial independence, that courts and other relevant authorities have appropriate means to fully implement, within the limits of their competence, the Court's findings, and secure the enforcement of judgments in the national legal system (see also paragraphs 3.1. and 3.2.).
- 15.2. Member States should ensure that all judgments and decisions of the Court that they are required to execute, including those which are important for applicants to obtain individual redress, are duly and promptly disseminated to relevant actors in the execution process, in line with Recommendation CM/Rec(2021)4 (see paragraph 1.3. above).

- 15.3. Member States should encourage, to the extent possible and with due respect for judicial independence, an open and constructive approach on the part of courts and other relevant authorities when a judgment of the Court may imply a need to provide individual redress, so as to prevent unnecessary delays in providing such redress and ensure that all applicants receive redress without discrimination.
- 15.4. Member States are encouraged to ensure that competent authorities may enter into friendly settlements in cases pending at the national level as part of the measures taken to address systemic problems identified in a judgment of the Court whose execution is under the Committee of Ministers' supervision.
- 15.5. Member States could also consider whether, beyond the existing integration of a number of specific execution obligations into domestic law, other such obligations, notably the payment of sums due by virtue of judgments of the Court, could also be integrated, in particular in the case of friendly settlements or unilateral declarations.
- 15.6. Member States should ensure remedies capable of preventing, as far as possible, repetitive applications to the Court, through legislative action, constructive judicial practice or otherwise, and seek other solutions erasing more generally the consequences of violations of the Convention found in their respect (see also paragraph 3.4. above).

Guideline 16 – Enhanced efforts to deal with technical and other obstacles regarding the execution of Court's judgments

- 16.1. Member States should consider preparing during the proceedings before the Court, as appropriate in cooperation with relevant Council of Europe bodies, for possible findings of violations likely to generate significant execution problems, in order to anticipate constructive reactions on the part of those concerned and explore possible avenues forward.
- 16.2. Member States should, when faced with important technical or other obstacles to execution, ensure wherever possible means for securing durable political support, coordination of action and allocation of resources necessary for the problems to be overcome.
- 16.3. Member States should, when confronted with important structural and/or complex problems, provide all necessary support to the coordinators or coordinating structures (see also Guideline 13 above). They should also explore all possibilities of assistance from relevant Council of Europe institutions and bodies, whether in the form of fora for dialogue or expertise and cooperation programs.
- 16.4. Member States are encouraged, when faced with structural problems, to explore possible synergies with the activities and programmes engaged or planned with the EU, other international organisations such as the UN, the IMF, the World Bank, or other States.

Guideline 17 – Promote stakeholders' participation in the execution process

- 17.1. Member States should encourage the involvement of all authorities concerned by a certain problem revealed by a judgment of the Court and promote, through meetings, liaison officers, joint working groups, or in other ways the development of synergies between them, whether in the reflection on necessary action or in the implementation of action plans decided and the assessment of results obtained.
- 17.2. [Member States are encouraged to include NHRIs, relevant civil society organisations, and legal professional associations, when the nature of the violation

makes it necessary, in consultations on the development of action plans and reports on the execution of judgments at the earliest possible stage, and inform them of the results of their involvement.].

- 17.3. Member States are encouraged to associate relevant Council of Europe structures in the above processes. They are also encouraged to ensure that the experience of other States is taken into account.
- 17.4. Member States should, if need be, ensure the presence of representatives of relevant authorities in Strasbourg when execution problems relating to their field of competence are being debated in the Committee of Ministers and, where appropriate, the presence of responsible ministers, which may be especially important to reassure the Committee of the domestic political will to overcome major problems.
- 17.6. Member States should consider encouraging their national authorities and stakeholders to take note of relevant ongoing execution processes concerning other States and of the experiences of the Committee of Ministers supervision process, in order to foster a better understanding of the collective nature of the Convention system as well as a climate of openness, dialogue and mutual support and experience sharing.