

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 17 November 2017

DH-SYSC(2017)R4

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

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

**(DH-SYSC)**

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**MEETING REPORT**

**4<sup>th</sup> meeting**

**9–10 November 2017**

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**Item 1:      Opening of the meeting, adoption of the agenda and order of business**

1.      The Committee of Experts on the system of the European Convention on Human Rights (DH-SYSC) held its 4<sup>th</sup> meeting in Strasbourg from 9 to 10 November 2017 with Ms Isabelle NIEDLISPACHER (Belgium) in the Chair. The list of participants appears in Appendix I. The agenda, as it was adopted, appears in Appendix II.

2.      Mr Mikhail LOBOV, Head of the Human Rights Policy and Cooperation Department, held a welcome speech and emphasized the importance of the work of the Committee.

3.      The Committee reelected Ms Katja BEHR (Germany) Vice-Chair of the DH-SYSC for a renewable mandate of one year.

**Item 2:      Recommendation 2110 (2017) of the Parliamentary Assembly on the implementation of judgments of the European Court of Human Rights**

4.      The Committee elaborated draft comments on Recommendation 2110 (2017) of the Parliamentary Assembly on the implementation of judgments of the European Court of Human Rights to be submitted to the CDDH for adoption at its 88<sup>th</sup> meeting (5–7 December 2017) in view of the reply of the Committee of Ministers to the Parliamentary Assembly. The text of these comments, as it was adopted, appears in Appendix III.

**Item 3:      Follow-up of the CDDH report on the longer-term future of the system of the European Convention on Human Rights*****3.1      Work of the Drafting Group I on the follow-up to the CDDH report on the longer-term future of the European Convention on Human Rights (DH-SYSC-I)***

5.      The Chairperson of the DH-SYSC-I, Mr Vít A. SCHORM (Czech Republic), presented to the Committee the results of the Group's work during its 4<sup>th</sup> meeting (18–20 October 2017), in which the draft Report on the process of selection and election of judges of the European Court of Human Rights was finalised. In this regard, he highlighted in particular the Group's decision to include only a short conclusion at the end of the draft Report and present all the substantive conclusions in its executive summary.

6.      The Committee adopted the draft Report on the process of selection and election of judges of the European Court of Human Rights, with a view to its transmission to the CDDH for adoption at its 88<sup>th</sup> meeting (5–7 December 2017) and to its possible transmission to the Committee of Ministers. The draft Report appears in document DH-SYSC(2017)R4 Addendum. The Committee concluded by thanking the DH-SYSC-I and its Chairperson for the quality of the work accomplished.

**3.2 Work of the Drafting Group II on the follow-up to the CDDH report on the longer-term future of the European Convention on Human Rights (DH-SYSC-II)**

7. The Chairperson of the DH-SYSC-II, Ms Florence MERLOZ (France), presented to the Committee the Group's work to date, in particular the appointment of Rapporteurs and Contributors for its work at its 2<sup>nd</sup> meeting (20–22 September 2017).

8. The Chairperson of the Group recalled to the Committee that the objective of the Group's work was to avoid fragmentation of the international legal order. In this context, she highlighted in particular:

- (i) the Group's wish to invite two *ad hoc* experts to its upcoming 3<sup>rd</sup> meeting (3–5 April 2018) to participate in discussions covering respectively the subtopics of (a) state responsibility and extraterritorial application of the Convention, and (b) the interaction between international humanitarian law and the European Convention on Human Rights;
- (ii) the importance for the experts participating in the work to arrive well-prepared to the Group's meetings due to the scope of the topics discussed;
- (iii) the necessity for Rapporteurs and Contributors to work together in close consultation during the drafting process;
- (iv) the importance of dialogue and synergy with other instances of the Council of Europe in the work of the Group. In this way, the Committee noted the nomination of M. Petr VÁLEK, the Vice-Chairperson of the Committee of Legal Advisers on Public International Law (CAHDI) to represent this body at the forthcoming meetings of the Group.

9. The Committee thanked the Chair for her presentation and stressed the importance and the scope of the Group's work. The Committee deemed necessary to hold a 7<sup>th</sup> DH-SYSC-II meeting in order for it to finalise its work during the next biennium. The Committee hoped the CDDH will be able to proceed favourably to this request. The outline of the future report of the CDDH on the place of the Convention in the European and international legal order, as it was adopted, appears in Appendix IV.

10. The Committee recalled the deadline of 20 December 2017 set by the Group concerning suggestions of names of *ad hoc* experts to be invited to the 3<sup>rd</sup> meeting of the Group. Furthermore, the Chair and the Committee jointly encouraged all participants involved in the Group to take part in the work through written contributions at any time during the drafting process.

11. The Committee proceeded to re-elect Ms Florence MERLOZ (France) as the Group's Chairperson and Mr Alfonso BREZMES MARTÍNEZ DE VILLARREAL (Spain) as its Vice-Chairperson.

**Item 4: Presentation from Judge Linos-Alexandre Sicilianos (Greece) of the publication *Filing an application to the European Court of Human Rights. The Procedure in virtue of the ECHR – Practical Guide***

12. Judge Linos-Alexandre SICILIANOS (Greece), Vice-President of the European Court of Human Rights, presented the publication *Filing an application to the European Court of Human Rights. The Procedure in virtue of the ECHR – Practical Guide*, which he co-authored with Ms Maria Andriani KOSTOPOULOU. The Committee thanked Judge Linos-Alexandre SICILIANOS for his presentation and expressed its interest to include the publication in its work, in the manner it deems appropriate. In particular, the Committee noted the relevance of the topic of this publication in its on-going and future work concerning the updating of Recommendation Rec(2004)4 of the Committee of Ministers on the ECHR in university education and professional training.

**Item 5: Exchange of information on the implementation of the Convention and the execution of judgments of the Court**

13. The Committee held an exchange of views to decide on a new theme in view of an exchange of information on the implementation of the Convention and the execution of the Court's judgments, based on the list of themes identified at the 8<sup>th</sup> DH-GDR meeting.<sup>1</sup> The Committee agreed to hold its next exchange of information on the theme of *third-party interventions (who may make third-party interventions, content of observations, procedures for identifying judgments of the European Court of Human Rights justifying a third-party intervention by the member States...)*.<sup>2</sup>

**Item 6: 'Tour de table' on chart of signatures and ratifications of Protocols Nos. 15 and 16 to the Convention**

14. The Committee held a 'Tour de table' on the prospects of signatures and ratifications of the different instruments as well as possible obstacles on the basis of the document prepared by the Secretariat (doc. DH-SYSC(2016)008REV5). The Committee instructed the Secretariat to revise this document setting out the information gathered and to submit it to the CDDH for information.

15. The Committee took note of the continued absence of information supplied by Malta and Ukraine as to when they will ratify Protocol No. 15, and asked the Secretariat to contact these two countries directly before the 88<sup>th</sup> meeting of the CDDH.

**Item 7: Organisation of future work**

**7.1 Possible updating of Recommendation Rec(2004)4 of the Committee of Ministers on the ECHR in university education and professional training**

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<sup>1</sup> See Appendix II of doc. DH-GDR(2015)007.

<sup>2</sup> Theme proposed by France.

16. The Committee decided to set up a new Drafting Group, DH-SYSC-III, to update the Recommendation Rec(2004)4 of the Committee of Ministers on the ECHR in university education and professional training.

17. The Committee agreed that the Group will hold its meetings in 2018 through electronic means in combination with the use of written contributions and, if appropriate, in the form of video conferences.

18. The Committee elected Ms Vasileia PELEKOU (Greece) as the Chair of this Drafting Group.

### ***7.2 Exchange of views on Rec(2010)3 of the Committee of Ministers on effective remedies for excessive length of proceedings***

19. The Committee took note of the contribution from the Venice Commission in view of the work on the possible update of the Guide to good practice accompanying Recommendation CM/Rec(2010)3 on effective remedies for excessive length of proceedings (doc. DH-SYSC(2017)006), and noted that work concerning this topic will be continued in 2018.

### ***7.3 Analysis of national reports on the implementation of the Brussels' Declaration***

20. In view of the analysis of the national reports on the implementation of the Brussels' Declaration by the member States, the Secretariat invites the States that have not yet transmitted their national report to the Secretariat of the Committee of Ministers ([clare.ovey@coe.int](mailto:clare.ovey@coe.int)) to do so as soon as possible.

## **Other business**

21. The Committee took note of the Seminar on “The Developing Remedial Practice of the European Court of Human Rights”, held on 8 November 2017 in Strasbourg and organised by Middlesex University (London) in the framework of the *Human Rights Law Implementation Project*. Furthermore, the Committee welcomed the diversity of the perspectives represented during the Seminar.

## **Acknowledgements**

22. The Committee warmly thanked its Chair Ms Isabelle NIEDLISPACHER for the exemplary manner in which she has fulfilled her tasks during the 2016–2017 biennium.

23. The Committee took note of the upcoming departure of Ms Simona MARINA from the Secretariat, thanked her for the support she has provided to this Committee and wished her all the best for her future professional activities.

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Appendix I**List of participants****MEMBERS / MEMBRES****ALBANIA/ALBANIE**

Ms Eva DYRMISHI, State Advocate

Ms. Evi SADUSHAJ, Permanent Representative of the Albanian Government Agent to the European Court of Human Rights

**ARMENIA/ARMÉNIE**

Ms Varduhi MELIKYAN, Second Secretary at the Legal Department, Ministry of Foreign Affairs

**AUSTRIA/AUTRICHE**

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

**AZERBAIJAN/AZERBAÏDJAN**

Mr Çingiz ƏSGƏROV, Agent of the Government before the Court

**BELGIUM/BELGIQUE**

Mme Isabelle NIEDLISPACHER, **Chairperson of the DH-SYSC/Présidente du DH- SYSC**, Co-Agent du Gouvernement auprès de la Cour, SPF Justice, Service des Droits de l'Homme

**BOSNIA AND HERZEGOVINA/BOSNIE HERZÉGOVINE**

Ms Belma SKALONJIĆ, Agent of the Council of Ministers, Government Agent before the ECHR

**BULGARIA/BULGARIE**

Mme Emanuela TOMOVA, Adjointe au Représentant Permanent de la République de Bulgarie  
Au Conseil de l'Europe

**CROATIA/CROATIE**

Mr Krešimir NIKOLIĆ, Senior Advisor at the Office of the Representative of the Republic of Croatia

**CYPRUS/CHYPRE**

Ms Ioanna DEMOSTHENOUS, Legal Officer, Permanent Representation in Strasbourg

**CZECH REPUBLIC/REPUBLIQUE TCHÈQUE**

Mr Vít A. SCHORM, Government Agent before the Courts, Ministry of Justice

**DENMARK/DANEMARK**

Mr Martin BANG, Senior advisor, Department of Law, Ministry of Justice

Mr Afshin BERAHMAND, Head of section, Ministry of Justice

**ESTONIA/ESTONIE**

Ms Katri LÕHMUS, Lawyer, Legal Department, Ministry of Foreign Affairs

**FINLAND/FINLANDE**

Ms Päivi ROTOLA-PUKKILA, Legal Counsellor, Unit for Human Rights Courts and Conventions, Legal Service, Ministry for Foreign Affairs

Ms Mia SPOLANDER, Deputy to the Permanent Representative

**FRANCE**

Mme Marie-Noémie PRIVET, Ministère de l'Europe et des Affaires étrangères, Direction des affaires juridiques,  
Sous-direction des droits de l'Homme

Mme Florence MERLOZ, Sous-directrice des droits de l'homme, Direction des affaires juridiques, Ministère de l'Europe et des Affaires étrangères

**GEORGIA/GÉORGIE**

Ms Shorena MEZURNISHVILI, Deputy Head of the Department of State Representation to the International Courts of Human Rights, Ministry of Justice

**GERMANY/ALLEMAGNE**

Ms Katja BEHR, Head of Unit IV C 1, Government Agent before the Court, Ministry of Justice

**GREECE/GRÈCE**

Mme Vasileia PELEKOU, Assesseur au Conseil Juridique de l'Etat, membre du Service de l'Agent du gouvernement grec

**ICELAND/ISLANDE**

Ms Berglind Bára SIGURJÓNSDÓTTIR, Office Manager / Director, Office of the Rights of Individuals, Ministry of Justice

**IRELAND/IRLANDE**

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

**ITALY/ITALIE**

Mrs Paola ACCARDO, Co-agent du gouvernement de l'Italie auprès de la Cour européenne des droits de l'homme, Représentation permanente de l'Italie auprès du Conseil de l'Europe

Mme Maria Giuliana CIVININI, Co-agent du gouvernement devant la CEDH, Représentation permanente de l'Italie auprès du Conseil de l'Europe

M. Giulio VEGGI, stagiaire

**LATVIA/LETTONIE**

E. Emilija PLAKSINS, Office of the Government Agent, Ministry of Foreign Affairs

**LIECHTENSTEIN**

Mr Martin HASLER, Deputy Permanent Representative of Liechtenstein to the Council of Europe, Office for Foreign Affairs

**LITHUANIA/LITUANIE**

Ms Karolina BUBNYTE, Agent of the Government to the Court, Ministry of Justice

**LUXEMBOURG**

Mme Brigitte KONZ, Juge de Paix directrice, Cité judiciaire

**REPUBLIC OF MOLDOVA/RÉPUBLIQUE DE MOLDOVA**

Mr Oleg ROTARI, Agent for the Government, Ministry of Justice

**MONTENEGRO/MONTÉNÉGRO**

Ms Valentina PAVLIČIĆ, Representative of Montenegro before the Court

**NETHERLANDS/PAYS-BAS**

Ms Kanta ADHIN, Deputy Agent to the Court, Legal Affairs Department, International Law Division, Ministry of Foreign Affairs

Ms Johanna PALM, Human Rights Advisor at the Ministry of Security and Justice

**NORWAY/NORVÈGE**

Ms Helle Aase FALKENBERG, Acting Legal Adviser, Norwegian Ministry of Justice and Public Security, Department of Legislation

**PORTUGAL**

Ms Ana GARCIA MARQUES, Lawyer within the Office of the Agent of the Portuguese Government before the ECHR

**ROMANIA/ROUMANIE**

Mr Florin VLAD, Director of the Office for the Agent of the Government Ministry of Foreign Affairs

**RUSSIAN FEDERATION / FEDERATION DE RUSSIE**

M. Stanislav KOVPAK, Représentant du Ministère de la Justice de la Fédération de Russie, Représentation de la Fédération de Russie auprès du Conseil de l'Europe

M. Vladislav ERMAKOV, Adjoint au Représentant permanent de la Fédération de Russie auprès du Conseil de l'Europe

Ms Olga ZINCHENKO, attaché in the Ministry of Foreign Affairs of the Russian Federation

**SERBIA/SERBIE**

Ms Nataša PLAVŠIĆ, Agent of the Republic of Serbia before the Court, The State Attorney's Office Agency Sector before the Court

**SLOVAK REPUBLIC/RÉPUBLIQUE SLOVAQUIE**

Ms Marica PIROŠÍKOVÁ, Agent of the Government before the ECHR

**SLOVENIA/SLOVÉNIE**

Mr Matija VIDMAR, Secretary, Office for International Cooperation and Mutual Legal Assistance, Ministry of Justice

**SPAIN/ESPAGNE**

Mr Rafael Andrés LEON CAVERO, Agent of the Kingdom of Spain before the Court, Senior State Attorney, Head of the Human Rights Department, Ministry of Justice

**SWEDEN/SUÈDE**

Ms Katarina FABIAN, Deputy Director, Department for International Law, Human Rights and Treaty Law, Ministry for Foreign Affairs

**"THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA" / « L'EX-RÉPUBLIQUE YOUGOSLAVE DE MACÉDOINE »**

Ms Danica DJONOVA, Acting Agent of the Government before the Court, Ministry of Justice

**TURKEY/TURQUIE**

Ms Aysun AKCEVİZ, Deputy Head of the Department of Human Rights, Ministry of Justice

M. Basri YILDIZ, Expert Juridique, Ministère des Affaires Etrangères

M. Mustafa Tayip ÇIÇEK, Counsellor (Rapporteur Judge), Représentation Permanente de la Turquie auprès du Conseil de l'Europe

**UNITED KINGDOM/ROYAUME-UNI**

Mr Rob LINHAM, Assistant Director, Human Rights and Intergovernmental Relations, Ministry of Justice

**OBSERVERS / OBSERVATEURS****HOLY SEE/ SAINT SIÈGE,**

Ms Tiziana FANTUCCHIO, c/o Permanent Mission of the Holy See to the Council of Europe

**CONFERENCE OF INGOS OF THE COUNCIL OF EUROPE / CONFÉRENCE DES OING DU CONSEIL DE L'EUROPE**

M. Jean-Bernard MARIE, Représentant de la Conférence des OING auprès du CDDH



**EUROPEAN TRADE UNION CONFEDERATION (ETUC) / CONFEDERATION EUROPEENNE DES SYNDICATS (CES)**

Mr Stefan CLAUWAERT, Senior Researcher at the European Trade Union Institute (ETUI) and ETUC Representative in the Governmental Committee of the European Social Charter

**REGISTRY OF THE EUROPEAN COURT OF HUMAN RIGHTS / GREFFE DE LA COUR EUROPÉENNE DES DROITS DE L'HOMME**

Mr John DARCY, Adviser to the President and the Registrar, Private Office of the President, European Court of Human Rights

**INVITEES TO THIS MEETING / INVITÉS À CETTE RÉUNION**

Ms Dorothee VON ARNIM, Greffe de la Cour européenne des droits de l'homme, Division 24

Ms Irena MARKOVA, Greffe de la Cour européenne des droits de l'homme, Division 20

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**SECRETARIAT**

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

Mr Mikhail LOBOV, Head of Department

**Human Rights Intergovernmental Cooperation Division/ Division de la coopération intergouvernementale en matière de droits de l'Homme**

M. Alfonso DE SALAS, Head of the Division, Secretary of the CDDH / Secrétaire du CDDH

Ms Grazia SCOCCA, Stagiaire

Mme Chloé GUERIN, Stagiaire

**Unit on the System of the ECHR / Unité sur le système de la CEDH (DH-SYSC)**

M. Jérémie SPEISER, Assistant Administrator / Administrateur Assistant, Secretary of DH-SYSC / Secrétaire du DH-SYSC

Ms Elisa SAARI, Assistant Lawyer / Juriste Assistant

Ms Simona MARINA, Assistant/Assistante

Ms Kemo WEIBEL, Editor responsible of publications

**INTERPRETERS/INTERPRETES**

Mr Michael HILL

Ms Lucie DE BURLET

Ms Christine TRAPP

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Appendix II**Agenda (as adopted)**

<p><a href="#">DH-SYSC(2017)OJ004</a></p> <p><a href="#">DH-SYSC(2017)OT004</a></p> <p><a href="#">CDDH(2017)R87</a></p> <p><a href="#">CDDH(2015)R84 Addendum I</a></p> <p><a href="#">DH-SYSC(2017)R3</a></p> <p><a href="#">DH-SYSC(2016)R2</a></p> <p><a href="#">DH-SYSC(2016)R1</a></p> <p><a href="#">CDDH(2015)004</a></p> <p><a href="#">CDDH(2012)007</a></p> <p><a href="#">CDDH(2011)010</a></p> <p><a href="#">CDDH(2010)001</a></p> <p><a href="#">DH-SYSC(2016)003</a></p> <p><a href="#">DH-SYSC(2016)009</a></p> <p><a href="#">CDDH(2011)012</a></p> <p><a href="#">CM/Res(2011)24</a></p>	<p><b><u>Item 1: Opening of the meeting, adoption of the agenda and order of business</u></b></p> <p>Draft annotated agenda</p> <p>Draft order of business</p> <p>Report of the 87<sup>th</sup> CDDH meeting (6–9 June 2017)</p> <p>CDDH report on the longer-term future of the system of the European Convention on Human Rights</p> <p>Report of the 3<sup>rd</sup> DH-SYSC meeting (10–12 May 2017)</p> <p>Report of the 2<sup>nd</sup> DH-SYSC meeting (8–10 November 2016)</p> <p>Report of the 1st DH-SYSC meeting (25–27 April 2016)</p> <p>Brussels Declaration</p> <p>Brighton Declaration</p> <p>Izmir Declaration</p> <p>Interlaken Declaration</p> <p>Rome Declaration</p> <p>Terms of reference of the Committee of experts on the system of the European Convention on Human Rights (DH-SYSC) for 2016-2017</p> <p>Decisions adopted at the 1252<sup>nd</sup> meeting of the Ministers' Deputies on the CDDH Report on the longer-term future of the system of the European Convention on Human Rights (30 March 2016)</p> <p>10<sup>th</sup> Annual Report of the Committee of Ministers on the supervision of the execution of judgments and decisions of the European Court of Human Rights, 2016</p> <p>Committee of Ministers' Resolution CM/Res(2011)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods</p>
<p><a href="#">Recommendation 2110 (2017)</a></p> <p><a href="#">DH-SYSC(2017)005</a></p>	<p><b><u>Item 2: Recommendation 2110 (2017) of the Parliamentary Assembly on the implementation of judgments of the European Court of Human Rights</u></b></p> <p>Recommendation 2110 (2017) of the Parliamentary Assembly on the implementation of judgments of the European Court of Human Rights</p> <p>Recommendation 2110 (2017) of the Parliamentary Assembly</p>

	of the Council of Europe on <i>the implementation of judgments of the European Court of Human Rights</i> – [Draft] comments for consideration by the DH-SYSC in view of their possible submission to the CDDH
<a href="#">CDDH(2015)R84 Addendum I</a>  <a href="#">#5281071</a>  <a href="#">DH-SYSC(2016)009</a>  <a href="#">DH-SYSC(2016)003</a>  <a href="#">DH-SYSC-I(2017)R4</a> <a href="#">DH-SYSC-I(2017)R3</a>  <a href="#">DH-SYSC-I(2016)R2</a> <a href="#">DH-SYSC-I(2016)R1</a>  <a href="#">DH-SYSC-I(2017)020</a>  <a href="#">DH-SYSC-I(2017)018</a>  <a href="#">DH-SYSC-I(2017)017</a>  <a href="#">DH-SYSC-I(2017)021</a>  <a href="#">DH-SYSC-I(2017)019</a>  <a href="#">DH-SYSC-I(2017)016</a>	<p><b><u>Item 3: Follow-up of the CDDH report on the longer-term future of the system of the European Convention on Human Rights</u></b></p> <p>CDDH report on the longer-term future of the system of the European Convention on Human Rights</p> <p>Comment from the Court on the report of the CDDH on the longer-term future of the Convention system</p> <p>Decisions adopted at the 1252<sup>nd</sup> meeting of the Ministers' Deputies on the CDDH Report on the longer-term future of the system of the European Convention on Human Rights (30 March 2016)</p> <p>Terms of reference of the Committee of Experts on the System of the European Convention on Human Rights (DH-SYSC) for 2016–2017</p> <ul style="list-style-type: none"> <li>• <b><u>Item 3.1 Work of the SYSC-I</u></b></li> </ul> <p>Report of the 4<sup>th</sup> DH-SYSC-I meeting (18–20 October 2017)</p> <p>Report of the 3<sup>rd</sup> DH-SYSC-I meeting (27 February–1 March 2017)</p> <p>Report of the 2<sup>nd</sup> DH-SYSC-I meeting (19–21 October 2016)</p> <p>Report of the 1<sup>st</sup> DH-SYSC-I meeting (29 June–1 July 2016)</p> <p><u>Working documents:</u></p> <p>Revised draft report on the process of selection and election of judges of the European Court for Human Rights in view of the 4th DH-SYSC-I meeting (prepared by the Chair and the Secretariat)</p> <p>Tables on the recognition of service as a judge of the European Court of Human Rights (prepared by the Secretariat)</p> <p>Selection of candidates for Election as Judge to the European Court of Human Rights: procedure and selection criteria in member States (prepared by the Secretariat)</p> <p><u>Reference documents (selective list):</u></p> <p>Research on the appointment procedures of judges at the highest national courts by national parliaments (prepared by the Secretariat)</p> <p>Contribution submitted in view of the 4th DH-SYSC-I meeting</p> <p>Exchange of views between Mr John Murray, President of the</p>

<p><a href="#">DH-SYSC-I(2017)015</a></p> <p><a href="#">DH-SYSC-I(2017)011</a></p> <p><a href="#">DH-SYSC-I(2016)008</a></p> <p>DH-SYSC-I(2016)006 <u>Restricted</u></p> <p><a href="#">DH-SYSC-I(2016)004</a></p> <p><a href="#">DH-SYSC-II(2017)R2</a></p> <p><a href="#">DH-SYSC-II(2017)R1</a></p> <p><a href="#">DH-SYSC-II(2017)002</a></p> <p><a href="#">DH-SYSC-II(2017)001</a></p> <p><a href="#">DH-SYSC(2016)011</a></p>	<p>Advisory Panel of Experts on Candidates for Election as Judge to the European Court of Human Rights and the Ministers' Deputies</p> <p>Legal opinion from the Directorate of legal advice and public international law</p> <p>Contribution from the European Court of Human Rights</p> <p>Exchange of views with Mr Wojciech Sawicki, Secretary General to the Parliamentary Assembly of the Council of Europe, during the 2<sup>nd</sup> meeting of DH-SYSC-I (summary prepared by the Secretariat)</p> <p>Information regarding the various opinions and experiences concerning the national processes of selection of the candidates for the post of judge at the Court and of election of the judges of the Court</p> <p>Relevant provisions relating to other International or Regional Courts or tribunals</p> <ul style="list-style-type: none"> <li>• <b><u>Item 3.2 Work of the SYSC-II</u></b></li> </ul> <p>Report of the 2<sup>nd</sup> DH-SYSC-II meeting (20–22 September 2017)</p> <p>Report of the 1<sup>st</sup> DH-SYSC-II meeting (30–31 March 2017)</p> <p>Context of the work</p> <p>Draft outline</p> <p>Proceedings of the Seminar organised for the launching of the work of the DH-SYSC-II [to be published]</p> <p>Proposal by Norway for a kick-off brainstorming seminar for DH-SYSC-II</p>
	<p><b><u>Item 4: Presentation from Judge Linos-Alexandre Sicilianos (Greece) of the publication <i>Filing an application to the European Court of Human Rights. The procedure in virtue of the ECHR – Practical Guide</i></u></b></p>
<p><a href="#">DH-SYSC(2016)013 Rev</a></p> <p><a href="#">DH-SYSC(2017)003 Rev</a></p>	<p><b><u>Item 5: Exchange of information on the implementation of the Convention and the execution of judgments of the Court</u></b></p> <p><u>Reference documents</u></p> <p>Overview of the exchange of views held by the DH-SYSC at its 1<sup>st</sup> meeting on the verification of the compatibility of legislation with the Convention (arrangements, advantages, obstacles)</p> <p>Contributions on document DH-SYSC(2016)013 submitted with a view to the 3<sup>rd</sup> DH-SYSC meeting</p>

<p><a href="#">DH-SYSC(2017)R3</a></p> <p><a href="#">DH-SYSC(2016)R2</a></p> <p><a href="#">DH-SYSC(2016)R1</a></p> <p><a href="#">DH-GDR(2015)007</a></p>	<p>Report of the 3<sup>rd</sup> DH-SYSC meeting (10–12 May 2017)</p> <p>Report of the 2<sup>nd</sup> DH-SYSC meeting (8–10 November 2016)</p> <p>Report of the 1<sup>st</sup> DH-SYSC meeting (25–27 April 2016)</p> <p>Possible planning and working methods of the Committee of Experts on the system of the European Convention on Human Rights (DH-SYSC) during the biennium 2016-2017, including proposals for possible themes for future exchanges of information concerning the implementation of the Convention and the execution of the Court's judgments</p>
<p><i>In view of its 9<sup>th</sup> meeting (17–20 November 2015), the DH-GDR identified possible themes for future exchanges of information on the implementation of the Convention and the execution of the Court's judgments. The themes identified are the following<sup>3</sup>:</i></p> <ul style="list-style-type: none"> <li>- <i>The States' practice concerning friendly settlements and unilateral declarations (procedures for establishing compensation, contents of friendly settlements, etc.);<sup>4</sup></i></li> <li>- <i>Third-party interventions (quality of third-party interventions, content of observations, procedures for identifying judgments of the European Court of Human Rights justifying a third-party intervention by the member States...);<sup>5</sup></i></li> <li>- <i>Mechanisms for ensuring compatibility of legislation with the Convention (arrangements, advantages, obstacles);<sup>6</sup></i></li> <li>- <i>Drafting and implementing action plans to execute the Court's judgments (arrangements, advantages, obstacles);<sup>7</sup></i></li> <li>- <i>Ensuring access to a lawyer in criminal proceedings from their outset, including in case of arrest or detention (legal and practical arrangements, advantages, obstacles) (reference cases: <i>Salduz v. Turkey</i>, <i>Płonka v. Poland</i>);<sup>8</sup></i></li> <li>- <i>Prevention and effective investigation in cases of excessive use of force by Police (legal and practical arrangements, advantages and obstacles);<sup>9</sup></i></li> <li>- <i>Recommendation (2004)4 on the European Convention on Human Rights in university education and professional training and good practice in respect of human rights training for legal professionals;<sup>10</sup></i></li> <li>- <i>Good practices on the kind of practical measures that may be adopted to better take into account the general principles found in the Court's judgments in cases against other High Contracting Parties.<sup>11</sup></i></li> </ul>	

<sup>3</sup> See Appendix II of doc. [DH-GDR\(2015\)007](#).

<sup>4</sup> Theme proposed by France.

<sup>5</sup> Theme proposed by France.

<sup>6</sup> Theme proposed by Poland. See 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.

<sup>7</sup> Theme proposed by Poland.

<sup>8</sup> Theme proposed by Poland.

<sup>9</sup> Theme proposed by Poland.

<sup>10</sup> Theme proposed by the Secretariat, in the light of specific task v) of the DH-SYSC Terms of Reference.

<sup>11</sup> Theme proposed by the Secretariat, on the basis of the CDDH draft Report on the longer-term future of the Convention system, as prepared by the GT-GDR-F (doc. GT-GDR-F(2015)020).

Please note that the theme "Mechanisms for ensuring compatibility of legislation with the Convention (arrangements, advantages, obstacles)" has been covered during the 2016-2017 biennium.

<a href="#">DH-SYSC(2016)008REV5</a>	<p><b><u>Item 6: 'Tour de table' on the chart of signatures and ratifications of Protocols Nos. 15 and 16 to the Convention</u></b></p> <p>Chart 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</p>
<p><a href="#">DH-SYSC(2017)R3</a></p> <p><a href="#">CM/Rec(2004)4</a></p> <p><a href="#">DH-SYSC(2017)001Rev</a></p> <p><a href="#">DH-SYSC(2016)012Rev</a></p> <p><a href="#">CM/Rec(2010)3</a></p> <p><a href="#">DH-SYSC(2017)006</a></p>	<p><b><u>Item 7: Organisation of future work</u></b></p> <p><u>Reference document:</u></p> <p>Report of the 3<sup>rd</sup> DH-SYSC meeting (10-12 May 2017)</p> <ul style="list-style-type: none"> <li>• <b><u>Item 7.1 Possible updating of Rec(2004)4</u></b></li> </ul> <p>Recommendation Rec(2004)4 of the Committee of Ministers to member States on the European Convention on Human Rights in university education and professional training</p> <p>Working document containing proposals on Recommendation (2004)4</p> <p>Information on the implementation of Recommendation Rec(2004)4 of the Committee of Ministers to member States on the European Convention on Human Rights in university education and professional training</p> <ul style="list-style-type: none"> <li>• <b><u>Item 7.2 Exchange of views on Rec(2010)3</u></b></li> </ul> <p>Recommendation Rec(2010)3 of the Committee of Ministers to member States on remedies for excessive length of proceedings</p> <p>Contribution from the Venice Commission in view of the work on updating the Guide to Good Practice accompanying Recommendation CM/Rec(2010)3 on effective remedies for excessive length of proceedings.</p>
<p>DH-SYSC(2017)R4</p>	<p><b><u>Item 8: Adoption of the conclusions and the meeting report</u></b></p> <p><u>Working document:</u></p> <p>Report of the 4<sup>th</sup> DH-SYSC meeting (9-10 November 2017)</p>

### Appendix III

## **Recommendation 2110 (2017) of the Parliamentary Assembly on the implementation of judgments of the European Court of Human Rights in view of the reply of the Committee of Ministers**

### **Introduction**

At its 1291<sup>st</sup> meeting (5 July 2017), the Committee of Ministers decided to communicate the Parliamentary Assembly Recommendation 2110 (2017) on *the implementation of judgments of the European Court of Human Rights* to the CDDH for information and possible comments. In this text, adopted on 29 June 2017, the Parliamentary Assembly urged the Committee of Ministers to use all available means to fulfil its tasks arising under Article 46.2 of the European Convention on Human Rights (hereafter “the Convention”). Accordingly, it gave certain recommendations to the Committee of Ministers regarding the supervision of execution of judgments of the European Court of Human Rights (hereafter “the Court”).

The following comments, prepared by the Committee of experts on the system of the European Convention on Human Rights (DH-SYSC) at its 4<sup>th</sup> meeting (9–10 November 2017), were sent to the CDDH in view of their possible adoption at its 88<sup>th</sup> meeting (5–7 December 2017) and subsequent transmission to the Committee of Ministers.

### **Comments by the DH-SYSC in view of their submission to the CDDH**

1. The Steering Committee on Human Rights (CDDH) takes note of the Parliamentary Assembly Recommendation 2110 (2017) on *the implementation of judgments of the European Court of Human Rights*.
2. The CDDH notes that the issue of implementation of the Convention, including the execution of the Court’s judgments, was highlighted in the 2015 Brussels Declaration. The issue of execution of judgments and its supervision by the Committee of Ministers is one of the main themes of the CDDH’s on-going work under its terms of reference to examine the longer-term future of the Convention system and the Court.<sup>12</sup>
3. In 2013, the CDDH identified three general causes of failure to execute judgments in a timely manner: (i) reluctance on the part of either the executive to propose measures or parliament to adopt legislation; (ii) substantive problems and technical complexity, e.g. need for a wide range of measures requiring co-ordination or extensive legal reforms; and (iii) inertia, being a simple failure to take action not linked to any particular political or technical consideration but, for example, to a shortage of staff.<sup>13</sup>

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<sup>12</sup> See the terms of reference for the biennium 2018–2019 for the CDDH and the DH-SYSC. In the 2015 CDDH report on the longer-term future of the system of the European Convention on Human Rights, execution of judgments and its supervision were identified as one of four overarching areas that are crucial for the longer-term effectiveness and viability of the Convention system. In its contribution to the Brussels Conference, the CDDH affirmed that full and rapid execution of judgments of the Court, in accordance with Article 46, is essential for the effective functioning of the Convention system.

<sup>13</sup> CDDH report on whether more effective measures are needed in respect of States that fail to implement Court judgments in a timely manner, 2013, document CDDH(2013)R79 Addendum I, §§ 6–7.

4. Since 2014, regular exchanges of information on various issues connected to the execution of judgments have taken place within the relevant bodies of the CDDH, regarding, *inter alia*, the re-examination or reopening of cases following judgments of the Court<sup>14</sup> as well as verification of the compatibility of legislation with the Convention.<sup>15</sup> The CDDH has also taken an active part in a number of extraordinary events concerning execution.<sup>16</sup>

5. Concerning in particular rapid execution of judgments of the Court, the CDDH has in 2017 elaborated a *Guide to good practices on the implementation of the Recommendation (2008)2 on efficient domestic capacity for rapid execution of judgments of the European Court of Human Rights*. The Guide includes an inventory of good practices relating to implementation of the Recommendation.<sup>17</sup>

6. Regarding the ideas put forward by the Assembly in its Recommendation 2110 (2017) to the Committee of Ministers, the CDDH wishes to submit the following comments:

- **2.1. give renewed consideration to the use of the procedures provided for in Article 46, paragraphs 3 to 5, of the Convention, in the event of implementation of a judgment encountering strong resistance from the respondent State**

7. It is worth recalling the CDDH's 2008 *Practical proposals for the supervision of the execution of judgments of the Court in situations of slow execution*.<sup>18</sup> This text contributed to the Committee of Ministers' introduction of the 'twin-track' (standard and enhanced) supervision process. In 2013, the CDDH submitted its report on whether more effective measures are needed in respect of States that fail to implement Court judgments in a timely manner.<sup>19</sup> The 2017 *Guide to good practices on the implementation of the Recommendation CM/Rec(2008)2* examined in particular the role of the co-ordinator in identifying execution measures, practices ensuring the visibility of and promoting sufficient acquaintance with the execution process, the co-operation of member States with the Committee of Ministers and the Department for the Execution of Judgments, as well as the means to prevent or resolve a significant persistent problem in the execution process.

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<sup>14</sup> See document DH-GDR(2014)R6, Item 5.

<sup>15</sup> "Overview of the exchange of views held by the DH-SYSC at its 1<sup>st</sup> meeting (25–27 April 2016) on the verification of the compatibility of legislation with the Convention (arrangements, advantages, obstacles)", document DH-SYSC(2016)013REV.

<sup>16</sup> In particular, the Multilateral Round Table on "Reopening of proceedings following a judgment of the European Court of Human Rights" (Strasbourg, 5–6 October 2015) and the International Conference "Enhancing national mechanisms for effective implementation of the European Convention on Human Rights" (Saint-Petersburg, 22–23 October 2015). In addition, a conference on "The long-term future of the European Court of Human Rights" was organized in Oslo in April 2014 by the Norwegian research center *PluriCourts* under the aegis of the Council of Europe with the active participation of the CDDH.

<sup>17</sup> See document CDDH(2017)R87 Addendum I.

<sup>18</sup> See document CDDH(2008)014 Addendum II.

<sup>19</sup> See document CDDH(2013)R79 Addendum I. The text was examined by the Ministers' Deputies following receipt of comments by the Court. For the Court's comments, see "Reply of the European Court of Human Rights to Committee of Ministers request for comments on the CDDH Report on Execution", document DD(2014)650.



8. The CDDH is following with interest the recent developments in the area the of procedures provided for in Article 46, paragraphs 3 to 5, of the Convention, regarding both individual measures<sup>20</sup> relating to individual applicants and general measures<sup>21</sup> to address systemic shortcomings.

9. In its work on civil society and National Human Rights Institutions, the CDDH has noted that in the case of systemic shortcomings in the protection and promotion of human rights, many of the judgments of the Court concerning such situations have yet to be implemented through the adoption of general measures.<sup>22</sup>

10. At the same time, the CDDH is continuing its work by producing a compilation of good practices regarding the general measures taken by member States aimed at executing judgments of the Court concerning human rights defenders, national institutions for human rights, and freedom of assembly and association.<sup>23</sup>

- ***2.5 give applicants, civil society, national human rights protection bodies and international organisations a greater role in this process***

11. The Brussels Declaration<sup>24</sup> reiterated the need to involve National Human Rights Institutions and civil society, where appropriate, in the supervisory mechanism established by the Convention. In the same light, the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements<sup>25</sup> make provision for the involvement of national human rights protection bodies and civil society in the process of the supervisory mechanism concerning the implementation of judgments of the Court. The CDDH relied significantly upon the jurisprudence of the Court in its analysis 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. Applicants could be invited, when appropriate, to actively collaborate in the execution of judgments.

- ***2.6. continue to strengthen synergies, within the Council of Europe, between all the stakeholders concerned, in particular the European Court of Human Rights and its Registry, the Assembly, the Secretary General, the Commissioner for Human***

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<sup>20</sup> See notably the case of *Ilgar Mammadov v. Azerbaijan*, Application no. 15172/13, Judgment of 22 May 2014, European Court of Human Rights.

<sup>21</sup> See notably the case of *Burmych and Others v. Ukraine*, Applications nos. 46852/13 et al., Judgment of 12 October 2017 (Grand Chamber), European Court of Human Rights.

<sup>22</sup> “Analysis 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”, see document CDDH(2017)R87 Addendum IV, § 276.

<sup>23</sup> *Ibid.*, § 277.

<sup>24</sup> Brussels Declaration, 2015, Preamble, Recital 7.

<sup>25</sup> Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements, Rule 9 – Communications to the Committee of Ministers, as amended by the Ministers’ Deputies at their 1275<sup>th</sup> meeting, 18 January 2017.

***Rights, the Steering Committee for Human Rights, the European Commission for Democracy through Law (Venice Commission) and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment***

12. The CDDH, through its subcommittee the DH-SYSC, will work in close synergy and cooperation with other relevant Council of Europe instances and activities.<sup>26</sup> One example of such synergy in practice, albeit in a different area than the execution of the Court's judgments, is the close interaction between the CDDH, the Court and its Registry, the PACE and the Advisory Panel of Experts on Candidates for Election as Judge to the Court in the work undertaken within the CDDH concerning the process of selection and election of judges of the Court.<sup>27</sup> The CDDH and its subcommittees work in their activities in close synergy with the Department for the Execution of Judgments. One example of this cooperation is the latter's presentation of the search tool HUDOC-EXEC and of information on the state of execution of the Court's judgments prior to the 2<sup>nd</sup> meeting of the DH-SYSC in 2016.<sup>28</sup>

- ***2.7. increase the resources of the Department for the Execution of Judgments of the European Court of Human Rights***

13. In its 2015 report on the longer-term future of the Convention system, the CDDH has underlined the significance of the bodies dealing with the supervision of the execution of judgments of the Court (e.g. the Committee of Ministers assisted by its Secretariat and the Department for the Execution of Judgments of the Court) having sufficient capacity to process effectively the high number of cases decided by the Court.<sup>29</sup> Support for increased resources for the Department of Execution of Judgments was also expressed in the 2015 Brussels Declaration.

## **Conclusion**

The CDDH emphasises to the Parliamentary Assembly that the long-term efficacy of the Convention, including the implementation of the Court's judgments, rests on the enhanced dialogue between all actors of the Convention. In this regard, the Council of Europe will continue its work in the upcoming months with the aim of enhancing, at every stage of the process, this dialogue which is beneficial to the execution of judgments.

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<sup>26</sup> CDDH report on the longer-term future of the system of the European Convention on Human Rights, 2015, document CDDH(2015)R84 Addendum I, §§ 158, 170 ii), vi).

<sup>27</sup> This work is currently being undertaken within the framework of follow-up to the 2015 CDDH report on the longer-term future of the system of the Convention, which in turn is the result of intergovernmental work undertaken in response to §§ 35.c-f of the Brighton Declaration.

<sup>28</sup> See document DH-SYSC(2016)R2, § 3.

<sup>29</sup> CDDH report on the longer-term future of the system of the European Convention on Human Rights, 2015, document CDDH(2015)R84 Addendum I, §§ 136, 156, 170 iii).

## Appendix IV

### **Outline of the future report of the CDDH on the place of the Convention in the European and international legal order**

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### **Appendix: List of reference documents**

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Appendix V**Draft calendar of meetings of the CDDH and the DH-SYSC**

(for consideration by the Bureau in November 2017  
and by the CDDH in December 2017)

<b>Reminder: 2<sup>nd</sup> semester 2017</b>	
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)	20-22 September
<i>Informal meeting of the Agents of Government before the European Court of Human Rights</i>	<i>Prague, 13 October</i>
4 <sup>th</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)	18-20 October
4 <sup>th</sup> meeting of the Committee of experts on the system of the European Convention on Human Rights (DH-SYSC)	9-10 November
98 <sup>th</sup> meeting of the Bureau of the Steering Committee for Human Rights (CDDH-BU)	Copenhagen 21-22 (morning) November
High-level expert Conference " <i>2019 and beyond - taking stock and moving forward from the Interlaken process</i> "	<i>Copenhagen 22 (afternoon)-24 November</i>
Meeting of the Agents of the Government with the Court	4 December
88 <sup>th</sup> meeting of the Steering Committee for Human Rights (CDDH)	5-7 December

<b>2018<sup>30</sup></b>	
<del>5<sup>th</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)</del>	<del>24-26 January</del>
<i>High-level Conference under the Danish chairmanship of the Committee of Ministers concerning the future of the ECHR system</i>	April
3 <sup>rd</sup> meeting of the DH-SYSC Drafting Group on the place of the Convention in the European and international legal order (DH-SYSC-II)	3-5 April
99 <sup>th</sup> meeting of the Bureau of the Steering Committee for Human Rights (CDDH-BU)	17-18 May
89 <sup>th</sup> meeting of the Steering Committee for Human Rights (CDDH) [and Workshop on the promotion of human rights of older persons]	19-22 June

<sup>30</sup> Work of the DH-SYSC Drafting Group on the European Convention on Human Rights in university education and professional training (DH-SYSC-III) will be undertaken by electronic means.

4 <sup>th</sup> meeting of the DH-SYSC Drafting Group on the place of the Convention in the European and international legal order (DH-SYSC-II)	25-28 September
5 <sup>th</sup> meeting of the Committee of experts on the system of the European Convention on Human Rights (DH-SYSC)	<del>17-19</del> 24-26 October
100 <sup>th</sup> meeting of the Bureau of the Steering Committee for Human Rights (CDDH-BU)	8-9 November
90 <sup>th</sup> meeting of the Steering Committee for Human Rights (CDDH) [and Workshop on the protection of victims of terrorist acts]	4-7 December

<b>2019</b>
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The number of meetings in 2019 will be similar to that in 2018. The dates will be decided by the CDDH at its meeting in December 2017.

5 <sup>th</sup> meeting of the DH-SYSC Drafting Group on the place of the Convention in the European and international legal order (DH-SYSC-II)	March
101 <sup>th</sup> meeting of the Bureau of the Steering Committee for Human Rights (CDDH-BU)	May
6 <sup>th</sup> meeting of the DH-SYSC Drafting Group on the place of the Convention in the European and international legal order (DH-SYSC-II)	May
91 <sup>th</sup> meeting of the Steering Committee for Human Rights (CDDH) [and Workshop on access to official documents]	June
7 <sup>th</sup> meeting of the DH-SYSC Drafting Group on the place of the Convention in the European and international legal order (DH-SYSC-II)	September
6 <sup>th</sup> meeting of the Committee of experts on the system of the European Convention on Human Rights (DH-SYSC)	October
102 <sup>nd</sup> meeting of the Bureau of the Steering Committee for Human Rights (CDDH-BU)	November
92 <sup>nd</sup> meeting of the Steering Committee for Human Rights (CDDH)	December

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