

CDDH(2018)R90ab  
30/11/2018

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

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**ABRIDGED REPORT**

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**90<sup>th</sup> meeting**

**Strasbourg, 27-30 November 2018**

1. The Steering Committee for Human Rights (CDDH) held its 90<sup>th</sup> meeting from 27 to 30 November 2018 in Strasbourg with Mr Hans-Jörg BEHRENS (Germany) in the Chair. The agenda, as adopted, appears in Appendix I. The list of participants is contained in Appendix II.

2. At this meeting the CDDH, in particular:

(a) adopted its comments on the following Parliamentary Assembly Recommendations (see Appendix III):

- 2140(2018) – Unlimited access to member States, including “grey zones”, by Council of Europe and United Nations human rights monitoring bodies;
- 2141(2018) – Family reunification of refugees and migrants in the Council of Europe member States;

(b) exchanged views on the implementation of its current terms of reference and on the work it wishes to continue/begin during the next biennium, in the light notably of suggestions made by the Bureau, as well as the priorities of the forthcoming Presidencies of the Committee of Ministers, taking note of the current difficult staffing situation of the Secretariat;

(c) concerning the **system of the European Convention on Human Rights**:

- (i) provided guidance on the on-going work within the Drafting Group on the place of the European Convention on Human Rights in the European and international legal order (DH-SYSC-II);
- (ii) approved the preliminary draft prepared by the Drafting Group DH-SYSC-III for a Recommendation of the Committee of Ministers on the system of the European Convention on Human Rights in university education and professional training, to be finalised in 2019 (Appendix IV);
- (iii) decided on the deadlines for the conclusion of the analysis of the national reports on the implementation of the Brussels Declaration;
- (iv) approved the draft table of contents of the future CDDH report “*Contribution to the evaluation provided for by the Interlaken Declaration*” (Appendix V) and agreed on the working methods for adding several themes deriving from the Copenhagen Declaration; exchanged views on the 2<sup>nd</sup> High-level Expert Conference on the Implementation of this Declaration (Kokkedal, Denmark, 31 October–2 November 2018);
- (v) took note of the work carried out by the Committee of Ministers Rapporteur Group on Human Rights (GR-H) regarding the selection and election of judges at the Court;

- (vi) exchanged views on the “*Seminar on the occasion of the 20<sup>th</sup> anniversary of the New Court*” organised by the Finnish Presidency of the Committee of Ministers in co-operation with the Court and the CDDH;
  - (vii) agreed on the work to be carried out during the next meeting of its Committee of experts on the system of the ECHR (DH-SYSC) in October 2019;
- (d) concerning the **development and promotion of human rights**:
- (i) provided guidance to its Drafting Group on Social Rights (CDDH-SOC) regarding the continuation and finalisation of the future report of the CDDH which will identify good practices and make, as appropriate, proposals with a view to improving the implementation of social rights; decided that this Group will also be in charge of the work regarding university education and professional training on the European Social Charter system;
  - (ii) approved the structure for revising the Recommendation No. R(85)13 of the Committee of Ministers on the institution of the ombudsman, as suggested by its Drafting Group on Civil Society and National Human Rights Institutions (CDDH-INST) (Appendix VI);
  - (iii) took note of the preliminary draft *Handbook on alternatives to immigration detention* prepared within its Drafting Group on Migration and Human Rights (CDDH-MIG) and provided guidance in view of its finalisation, as well as for other work to be carried out by the Group in 2019 and beyond, namely starting work on drafting guidelines on alternatives to the immigration detention of children as well as conducting a brief feasibility study on future work relating to the reception of refugee and migrant children;
  - (iv) took note of the work in progress on preparing, within its Drafting Group on freedom of expression and links to other human rights (CDDH-EXP), of a Guide to good and promising practices on the way of reconciling freedom of expression with other rights and freedoms, in particular in culturally diverse societies, and gave guidance in view of its finalisation at its next meeting in March 2019;
- (e) as regards the **follow-up to the implementation of instruments already adopted by the CDDH**:
- held the CDDH Workshop on Protection and promotion of the civil society in Europe, organised under the aegis of the Finnish Presidency of the Committee of Ministers;

- provided guidance for the establishment of the Online Platform on Human Rights and Business;
  - adopted its report on the review of the implementation of Recommendation CM/Rec(2014)2 of the Committee of Ministers on the promotion of the human rights of older persons (see CDDH(2018)R90 Addendum) and decided to transmit it to the Committee of Ministers;
  - exchanged views on the Conference on “Policy For Progress: Ending FGM and Forced Marriage” (London, 15–16 November 2018)
  - exchanged views on the state of preparation of a Workshop on the protection of victims of terrorist acts planned for June 2019 in the framework of the French Presidency of the Committee of Ministers (Appendix VII);
  - exchanged views on the follow-up to the Council of Europe Convention on access to official documents and on the possibility of organising an awareness-raising Workshop in the framework of the Finnish Presidency of the Committee of Ministers;
  - exchanged views on the follow-up to the Recommendation CM/Rec(2010)05 of the Committee of Ministers on measures to combat discrimination based on sexual orientation or gender identity, in view of the adoption in June 2019 of its progress report on the implementation of the Recommendation;
- (f) concerning **bioethics**: adopted its opinion for the DH-BIO on the draft Additional Protocol concerning the protection of human rights and dignity of persons with mental disorders with regard to involuntary placement and treatment (Appendix VIII); examined the on-going and future activities within the DH-BIO;
- (g) took note of the information provided by its **focal points** representing the CDDH in other bodies;
- (h) decided on special **guests** to be invited to its future meetings;
- (i) exchanged views with its Rapporteur for **Gender Equality**;
- (j) exchanged views on the state of signatures and ratifications of the **Conventions** for which the CDDH is responsible;
- (k) held **elections** (Appendix IX);
- (l) took note of the current status of **publications of the CDDH work** as well as of the publications foreseen (Appendix X);
- (m) adopted its **calendar** of meetings for 2019 (Appendix XI).

## Appendix I

**Agenda***(90<sup>th</sup> meeting of the CDDH, 27–30 November 2018)*

	<b>ITEM 1: OPENING OF THE MEETING, ADOPTION OF THE AGENDA AND ORDER OF BUSINESS</b>
<a href="#">CDDH(2018)17</a>	Annotations on the draft agenda and order of business
<a href="#">CDDH(2018)R89</a>	Report of the 89 <sup>th</sup> CDDH meeting (19–22 June 2018)
<a href="#">CDDH-BU(2018)100</a>	Report of the 100 <sup>th</sup> Bureau meeting (Berlin, 8–9 November 2018)
	<b>ITEM 2: RECOMMENDATIONS OF THE PARLIAMENTARY ASSEMBLY</b>
<a href="#">CDDH(2018)18</a>	Texts of the Recommendations and elements for possible comments
	<b>ITEM 3: IMPLEMENTATION OF THE TERMS OF REFERENCE OF THE CDDH FOR 2018-2019 AND PREPARATION FOR 2020-2021</b>
Appendices III and IV of document CDDH(2018)17 above	Terms of Reference of the CDDH for the biennium 2018-2019
	<b>ITEM 4: SYSTEM OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS</b>
	<b>4.1 The place of the Convention in the European and international legal order (DH-SYSC-II)</b>
<a href="#">DH-SYSC-II(2018)R4</a>	Report of the 4 <sup>th</sup> meeting (25–28 September 2018)
<a href="#">DH-SYSC-II(2018)23</a>	Chapter of Theme 1, subtheme i): Methodology of interpretation by the European Court of Human Rights and its approach to international law
<a href="#">DH-SYSC-II(2018)25</a>	Chapter of Theme 1, subtheme iii): Interaction between the resolutions of the Security Council and the European Convention on Human Rights
Appendix V of document CDDH(2018)17 above	Planning of the work
	<b>4.2 The ECHR in university education and professional training (DH-SYSC-III)</b>
<a href="#">DH-SYSC-III(2018)R1</a>	Report of the meeting of 16–17 October 2018
Appendix VI of document CDDH(2018)17 above	Preliminary draft recommendation (2004)4
	<b>4.3. Follow-up to the <i>Interlaken Declaration</i> - Preparation of the final report of the CDDH</b>

<a href="#">CDDH(2018)22</a>	Preliminary draft structure for the final CDDH report "Contribution of the CDDH to the evaluation provided for by the Interlaken Declaration: Preliminary draft table of contents"
	<b>4.4. Follow-up to the <i>Brussels Declaration</i></b>
<a href="#">CDDH(2018)23</a> ( <i>Bilingual</i> )	Compilation of national reports on the implementation of the Brussels Declaration
	<b>4.5. Follow-up to the <i>Copenhagen Declaration</i></b>
§19 and §20 of document CDDH(2018)17 above	Information document
	<b>4.6. Selection and election of judges at the Court</b>
<a href="#">CM(2018)18-add1</a>	CDDH report
Item 4.6 of document CDDH(2018)17 above	Information on this item
	<b>4.7. Seminar on the occasion of the 20th anniversary of the New Court</b>
Appendix VII of document CDDH(2018)17 above	Draft programme of the Seminar on 26 November 2018
	<b>4.8. Organisation of work at the next DH-SYSC meeting (2019)</b>
See CDDH-BU(2018)R100 above	Suggestions by the Bureau
	<b>ITEM 5: DEVELOPMENT AND PROMOTION OF HUMAN RIGHTS</b>
	<b>5.1 Social rights (CDDH-SOC)</b>
<a href="#">CDDH-SOC(2018)R3</a>	Report of the 3 <sup>rd</sup> meeting (5–7 September 2018)
See CDDH-BU(2018)R100 above	Suggestions by the Bureau
	<b>5.2 Civil society and national human rights institutions (CDDH-INST)</b>
<a href="#">CDDH-INST(2018)R4</a>	Report of the 4 <sup>th</sup> meeting (19–21 September 2018)
Appendix VIII of document CDDH(2018)17 above	Draft programme of the Workshop on 29 November 2018
Appendix IX of document CDDH(2018)17 above	Possible structure for the revision of Recommendation No. R(85)13
	<b>5.3 Human Rights and migration (CDDH-MIG)</b>
<a href="#">CDDH-MIG(2018)R5</a>	Report of the 5 <sup>th</sup> meeting (23–25 October 2018)

<a href="#">CDDH-MIG(2018)07</a>	Draft handbook
	<a href="#">Examples of potential design and layout of the handbook</a>
	<b>5.4 Freedom of expression and links to other human rights (CDDH-EXP)</b>
<a href="#">CDDH(2018)27</a>	Draft guide to good and promising practices on the way of reconciling freedom of expression with other rights and freedoms, in particular in culturally diverse societies
	<b>ITEM 6: MONITORING OF ACTIVITIES CARRIED OUT BY THE CDDH</b>
	<b>6.1 Human Rights and Business</b>
<a href="#">CDDH(2018)20</a>	Online Platform on Human Rights and Business - Information provided by the Secretariat
	<b>6.2 Promotion of human rights of older persons</b>
<a href="#">CDDH-AGE(2018)04Rev</a>	CDDH report
<a href="#">CDDH-AGE(2018)03Rev</a>	Compilation of the replies received
	<b>6.3 Female genital mutilation and forced marriage</b>
<a href="#">CDDH(2018)28</a>	Information on the International Conference <i>Policy For Progress: Ending FGM and Forced Marriage</i>
	<b>6.4 Victims of terrorist acts</b>
<a href="#">CDDH(2018)12</a>	State of preparation of the Council of Europe Workshop on the protection of victims of terrorist acts (20 June 2019)
See CDDH-BU(2018)R100 above	Suggestions by the Bureau
	<b>6.5 Access to official documents</b>
<a href="#">CDDH(2018)29</a>	Briefing note
	<b>6.6 Combating discrimination on grounds of sexual orientation or gender identity</b>
<a href="#">CDDH(2018)21</a>	Information document
	<b>ITEM 7: BIOETHICS</b>
DH-BIO(2018)abrRAP14	Abridged report of the 14 <sup>th</sup> meeting of the Committee on bioethics (DH-BIO) (20–23 November 2018)
<a href="#">CDDH(2018)25</a>	Draft opinion of the CDDH for the DH-BIO on the draft Additional Protocol on the protection of the dignity and fundamental rights of persons with mental disorder with regard to placement and involuntary treatment
<a href="#">CDDH(2018)19</a>	Draft Additional Protocol concerning the protection of human rights and dignity of persons with mental disorder with regard

	to involuntary placement and involuntary treatment Frequently asked questions
	<b>ITEM 8: FOCAL POINTS</b>
<a href="#">CDDH(2018)15</a>	Focal points representing the CDDH in other bodies/events: information provided by the focal points
	<b>ITEM 9: GUESTS</b>
Item 9 of document CDDH(2018)17 above	
	<b>ITEM 10: GENDER EQUALITY</b>
Item 14 of document CDDH(2018)17 above	Information on this item
	<b>ITEM 11: CONVENTIONS</b>
<a href="#">CDDH(2018)07</a> (updated version 15/11/2018)	Information document
	<b>ITEM 12: ELECTIONS</b>
<a href="#">CM/Res(2011)24</a>	CM Resolution on committees working methods
<a href="#">CDDH(2017)17</a>	Procedure for elections within the CDDH
	<b>ITEM 13: PUBLICATIONS</b>
Appendix XIII of document CDDH(2018)17 above	Information on this item
	<b>ITEM 14: CALENDAR</b>
Appendix XIV of document CDDH(2018)17 above	Current calendar



## Appendix II

**List of participants / Liste des participants**  
(90<sup>th</sup> meeting of the CDDH, 27-30 November 2018)

<b>MEMBERS / MEMBRES</b>
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**ALBANIA / ALBANIE**

Ms Evi SADUSHAJ, Deputy to the Permanent Representative, **Permanent Representative of the Albanian Government Agent to the ECtHR, Permanent Mission of the Republic of Albania to the Council of Europe**

**ANDORRA / ANDORRE** (*Apologised*)**ARMENIA / ARMENIE**

Mr Tigran H. GALSTYAN, Acting Head of Division / International Treaties and Law Department, Ministry of Foreign Affairs, Erevan

**AUSTRIA / AUTRICHE**

Brigitte OHMS, Deputy Government Agent, Division for International Affairs and General Administrative Affairs (dpt. V 5), Federal Ministry for Constitutional Affairs, Reforms, Deregulation and Justice

**AZERBAIJAN / AZERBAIDJAN**

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

**BELGIUM / BELGIQUE**

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

Ms Isabelle NIEDLISPACHER, co-Agent du Gouvernement, SPF Justice, Service des Droits de l'Homme

**BOSNIA AND HERZEGOVINA / BOSNIE-HERZEGOVINE**

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

**BULGARIA / BULGARIE**

Ms Svetlana S. STAMENOVA, Attaché, Human Rights Directorate, Ministry of Foreign Affairs

**CROATIA / CROATIE**

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

**CYPRUS / CHYPRE**

Ms Theodora CHRISTODOULIDOU, Counsel of the Republic, Office of the Attorney-general

**CZECH REPUBLIC / REPUBLIQUE TCHEQUE**

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

**DENMARK / DANEMARK**

Ms Louise Black MOGENSEN, The Constitutional and Human Rights Law Division, The Danish Ministry of Justice

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Ms Maris KUURBERG, Government Agent before the ECtHR, Ministry of Foreign Affairs

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Ms Krista OINONEN, Government Agent before the ECtHR, Director, Unit for Human Rights Courts and Conventions, Ministry for Foreign Affairs

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

**GEORGIA / GEORGIE**

Ms Tamar ROSTIASHVILI, Deputy Head of the Department of State Representation to the International Courts, Ministry of Justice

**GERMANY / ALLEMAGNE**

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

Ms Nicola WENZEL, LL.M., Leiterin des Referats IV C 1 (Menschenrechte), Verfahrensbevollmächtigte der Bundesregierung vor dem Europäischen Gerichtshof für Menschenrechte, Bundesministerium der Justiz und für Verbraucherschutz

**GREECE / GRECE**

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

**HUNGARY / HONGRIE**

Mr Zoltan TALLODI, Government Agent before the ECtHR, Ministry of Justice, Department of International Criminal Law and Office of the Agent before ECHR

**ICELAND / ISLANDE**

Ms Elísabet GÍSLADÓTTIR, Legal Advisor, Ministry of Justice

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

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Mr Oleg ROTARI, Government Agent before the ECtHR, Ministry of Justice

**MONACO**

Mr Jean-Laurent RAVERA, Chef du Service du droit international, des droits de l'homme et des libertés fondamentales, Agent du Gouvernement auprès de la CEDH

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Ms Olga ZINCHENKO

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Mr Peter KLENOVSKY, Human Rights Department, Ministry of Foreign and European Affairs

**SLOVENIA / SLOVENIE**

Mr Matija VIDMAR, Secretary, Department for International Cooperation and EU law, Ministry of Justice

**SPAIN / ESPAGNE**

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**SWEDEN / SUEDE**

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

Ms Gunilla ISAKSSON, Deputy Director, Ministry for Foreign Affairs

Mr Oscar LINDBERG, Legal Adviser, Ministry for Foreign Affairs

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

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

**TURKEY / TURQUIE**

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Ms. Günseli GUVEN, Legal Counsellor, Permanent Mission of the Republic of Turkey to COE

Ms. Burcu EKIZOGLU, Legal Adviser (probationary), Ministry of Foreign Affairs

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Ms Rachael KONDAK, Adviser to the President and the Registrar, Registry of the European Court of Human Rights, Council of Europe, Strasbourg

**European Committee on Legal Co-operation / Comité européen de coopération juridique (CDCJ)**

Ms Kristinne GRIGORYAN, Adviser to First Deputy Prime Minister of Armenia

**Sexual Orientation and Gender Identity Unit / Unité Orientation sexuelle et identité de genre (SOGI)**

Ms Eleni TSETSEKOU, Head of Unit / Chef d’Unité, Directorate General of Democracy / Direction générale de la Démocratie (DGII)

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

Mr Jean-Bernard MARIE

**CCBE**

Mr Piers GARDNER, Chair of the Permanent Delegation, Strasbourg

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

Mme Christine JEANGÉY, Officiel, Chargée des Droits de l’Homme et du Droit Humanitaire, Dicastère pour le service du développement humain intégral

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

Mr Oleg GOLUBEV, Counsellor of the OSCE and CoE Unit, European co-operation Department of the Ministry of Foreign Affairs

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

Ms Debbie KOHNER, Secretary General, Permanent Secretariat

Dr. Katrien MEUWISSEN, Senior Human Rights Officer (Accreditation), Permanent Secretariat

Ms Cecilia Ines DE ARMAS MICHELIS

**Non governmental Organisations / Organisations non-gouvernementales****European Trade Union Confederation (ETUC) / Confédération européenne des syndicats (CES)**

Mr Stefan CLAUWAERT, ETUI Senior Researcher, ETUC Representative in the European Social Charter Governmental Committee

**Amnesty International**

Ms Rita PATRICIO

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

Ms Róisín PILLAY, Senior Legal Advisor, Europe programme, International Commission of Jurists

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

Ms Diane MURRAY, Conférence des Eglises européennes, Conference of European Churches

**SECRETARIAT****DG I – Human Rights and Rule of Law / Droits de l'Homme et Etat de droit  
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Mr Mikhail LOBOV, Head of Human Rights Policy and Development Department / Chef du Service des politiques et du développement des droits de l'Homme

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

Mr Alfonso DE SALAS, Head of Division / Chef de Division, Secretary of the CDDH / Secrétaire du CDDH

Ms Merete BJERREGAARD, Head of Unit on Human Rights Development / Chef de l'unité développement des droits de l'homme

Ms Dorothee VON ARNIM, Head of the Unit on the system of the European Convention on Human Rights / Chef de l'Unité sur le système de la Convention européenne des droits de l'homme

Mr Edo KORLJAN, Administrator, Administrateur

Ms Irena MARKOVA, Administrator, Administratrice

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Ms Cipriana MORARU, Administrator, Administratrice

Ms Elisa SAARI, Assistant Lawyer / Juriste Assistant

Mme Corinne GAVRILOVIC, Assistant / Assistante

Mme Camille DURAND, Trainee / Stagiaire

**Independent Human Rights Bodies / Institutions indépendantes des droits de l'homme**

Ms Lilja GRETARSDOTTIR, Deputy Head of the Division / Chef adjoint de la Division

**INTERPRETERS / INTERPRÈTES**

Mr Grégoire DEVICTOR

Ms Corinne McGEORGE

Ms Lucie DE BURLET

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## Appendix III

**Comments adopted by the CDDH  
at its 90<sup>th</sup> meeting (27-30 November 2018)  
on Recommendations of the Parliamentary Assembly  
transmitted to it by the Ministers' Deputies**

**I. CDDH COMMENTS ON PARLIAMENTARY ASSEMBLY RECOMMENDATION 2140 (2018)  
– “UNLIMITED ACCESS TO MEMBER STATES, INCLUDING “GREY ZONES”, BY COUNCIL  
OF EUROPE AND UNITED NATIONS HUMAN RIGHTS MONITORING BODIES “**

1. The Steering Committee for Human rights takes note of Parliamentary Assembly Recommendation 2140 (2018) : *“Unlimited access to member States, including “grey zones”, by Council of Europe and United Nations human rights monitoring bodies”*. It shared its concerns about the difficulties encountered by Council of Europe and United Nations human rights monitoring bodies, as well as by other international organisations, to access to member States' territories, including “grey zones”.
2. The CDDH recalls that the Council of Europe's treaties are applicable on the whole territory of each contracting Party. It observes at the outset that the supervisory bodies acting under the European Convention on Human Rights have, on many occasions, made use of their competencies to carry out inquiries on the ground, including in such zones, with a view to establishing the facts. The European Court of Human Rights fully retains this power, all Contracting Parties being bound by the duty to cooperate with a view to establishing the facts pursuant to Article 38 of the Convention.
3. Concerning the monitoring bodies established by other instruments of the Council of Europe, the CDDH notes that their visits help formulating proposals aimed at improving respect for the conventions in the visited countries. However, whereas the CPT benefits from a presumption that all member States consent to its visit thanks to the combination of Articles 8 and 9 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, this is not the case for other monitoring bodies such as the Group of States against Corruption (GRECO), the Group of Experts on Action against Trafficking in Human Beings (GRETA), the Advisory Committee of the Framework Convention for the Protection of National Minorities, or the European Commission against Racism and Intolerance (ECRI).
4. Consequently, the CDDH considers that it could be useful to reflect upon the opportunity and feasibility of establishing, within the Council of Europe, a rebuttable presumption of consent to the visits carried out by the monitoring bodies which work on some aspects on human rights protection.
5. Finally, the CDDH shares the approach of the Assembly according to which the strengthening of human rights monitoring in the “grey zones” should be discussed in liaison with the United Nations, with a view, as appropriate, to conducting joint actions by both Organisations.

## II. CDDH COMMENTS ON PARLIAMENTARY ASSEMBLY RECOMMENDATION 2141 (2018) – “FAMILY REUNIFICATION OF REFUGEES AND MIGRANTS IN THE COUNCIL OF EUROPE MEMBER STATES”

1. The Steering Committee for Human rights takes note of Parliamentary Assembly Recommendation 2141 (2018) “*Family reunification of refugees and migrants in the Council of Europe member States*”. It underlines the necessity to protect the right to respect for family life as recognised by Article 8 of the European Convention on Human Rights and the relevant case-law of the Court.
2. The CDDH recalls Article 19(6) of the European Social Charter which obliges Contracting States to facilitate the family reunion of migrant workers who legally reside in the country, and the relevant conclusions of the European Committee of Social Rights,<sup>1</sup> specifying that this provision also apply to refugees.
3. The CDDH draws attention to Recommendation CM/Rec (2007)9 of the Committee of Ministers to member States on life projects for unaccompanied migrant minors. Paragraphs 18 and 24 encourage member States to seek the parents/guardians of unaccompanied minors, establishing contact to facilitate possible family reunification and/or to expedite departure to a third country to join family members. It also recalls Recommendation No. R(99)23 of the Committee of Ministers on family reunion for refugees and other persons in need of international protection, as well as Recommendation (2002)4 on the legal status of persons admitted for family reunification.
4. In this context, the CDDH welcomes the work of the Special Representative of the Secretary General for Migration and Refugees. This work includes the drafting of a manual on the standards and good practices for restoring family links and family reunification. The manual aims at facilitating the cooperation and training of relevant professionals in Council of Europe member States. The CDDH Drafting Group on Migration and Human Rights (CDDH-MIG) has also, *inter alia*, addressed the topic of the right to respect for family life in the context of immigration detention and alternatives to immigration detention. Furthermore, in October 2018, it deliberated on future work on reception conditions for migrant and refugee children. The Commissioner for Human Rights has also addressed the issue of family reunification of refugees in Europe in an Issue paper in 2017.<sup>2</sup>
5. As regards the issue of human trafficking emphasized in the Parliamentary Assembly Recommendation 2141 (2018), the CDDH highlights in particular the on-going work of the Group of Experts on Action against Trafficking in Human Beings (GRETA) in the field, which in recent years has prioritised and outlined targeted prevention measures against the human trafficking of unaccompanied or separated minors and irregular migrant children.

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<sup>1</sup> See a summary of the ECSR Conclusions 2015 including on article 19(6) in the Activity Report 2015 of the European Committee of Social Rights,

<sup>2</sup> Issue paper by the Council of Europe Commissioner for Human Rights, “Realising the right to family reunification of refugees in Europe”, 2017, available at: <https://rm.coe.int/prems-052917-gbr-1700-realising-refugees-160x240-web/1680724ba0>.



## Appendix IV

**Draft Recommendation of the Committee of Ministers  
on the system of the European Convention on Human Rights in  
university education and professional training**

*(Prepared by the Drafting Group DH-SYSC-III  
and discussed by the CDDH at its 90<sup>th</sup> meeting, 27–30 November 2018,  
in view of the work of the DH-SYS- III in 2019)*

The Committee of Ministers of the Council of Europe, under the terms of Article 15.b of the Statute of the Council of Europe,

1. Reaffirming the commitment to the Statute of the Council of Europe and the latter's aim to achieve a greater unity between its members, inter alia, by promoting common standards and carrying out activities in the field of human rights and fundamental freedoms;
2. Recalling the essential role of the system of the Convention for the Protection of Human Rights and Fundamental Freedoms in the effective protection of human rights in Europe, the system including not only the Convention and the case-law of the European Court for Human Rights but also the proceedings before the Court and the execution of its judgments;
3. Bearing in mind the important developments in university education and professional training in human rights in the 47 member States of the Council of Europe, resulting from valuable efforts by both the member States and the Court as well as from the European Programme for Human Rights Education for Legal Professionals (HELP) of the Council of Europe;
4. Considering that there is, therefore, a need to update 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;
5. Recalling the subsidiary character of the supervision mechanism set up by the Convention, which implies, in accordance with its Article 1, that the rights and freedoms guaranteed by the Convention be protected in the first place at national level and applied by national authorities;
6. Taking into account that the Convention, as an integral part of the domestic legal order of all member States, has a direct effect in their domestic law, and that there is therefore a need to provide specific university education and professional training in the system of the Convention;
7. Stressing the fundamental role played by university education and professional training in the system of the Convention for preventing violations and promoting human rights;
8. Considering that it is of major importance for university education and professional training in the system of the Convention that accurate translations of selected Court's case-law are available in member States, in line with Recommendation Rec(2002)13 of the Committee of Ministers to member states on the publication and dissemination in the member states of the text of the European

Convention on Human Rights and of the case-law of the European Court of Human Rights, adopted by the Committee of Ministers on 18 December 2002;

9. Recalling, in this context, the Parliamentary Assembly Recommendation (2039)2014 on “The European Convention on Human Rights: the need to reinforce the training of legal professionals”, adopted on 7 March 2014, as well as the Brussels (2015) and Copenhagen (2018) Declarations adopted at the respective High Level Conferences, emphasizing the importance of the training of legal professionals;

10. Underlining the necessity to provide also targeted university education and professional training responding to the specific needs and expectations of other relevant professional sectors;

11. Recalling the conclusions of the Seminar on the role of governments agents in ensuring effective human rights protection, held on 3–4 April 2008 in Bratislava, and recognising the role of government agents, as well as that of national training institutions, in providing, notably, professional training in the system of the Convention ;

12. Recalling the role played by various actors of the civil society, in particular by the national institutions for the promotion and protection of human rights and by non-governmental organisations, in the field of university education and professional training in the system of the Convention;

13. Taking into account the diversity of traditions and practice in the member states as regards university education, professional training and its methods, as well as awareness-raising regarding the system of the Convention;

14. Recommends that the governments of member states:
- i. ascertain that the university education and professional training concerning the system of the Convention comply with the principles set out in the Appendix I to this recommendation;
  - ii. ensure, by appropriate means and action – including, where appropriate, translation - a wide dissemination of this recommendation among competent authorities and stakeholders;
  - iii. examine, within the Committee of Ministers, the implementation of this recommendation five years after its adoption.

#### Appendix I to Recommendation

##### **I. General principles**

1. Member States should ensure university education and professional training in the system of the Convention which are in line with the needs and expectations of the different categories of public, notably those acting in the human rights field. If necessary, this task should be performed in cooperation with relevant non-State actors.

2. Member States should notably enhance the effectiveness of such university education and professional training by providing each category of public with necessary tools to comply with the obligations stemming from the Convention. To this end, member States should provide quality, targeted and accessible professional training.

## **II. Targeted public**

3. Member States should ensure that university students of law and, as appropriate, of relevant science degrees, are offered education concerning the basic elements of the system of the Convention in their common core curriculum. In addition, optional in-depth studies should be offered to those who wish to specialise.

4. Taking into account the diversity of domestic situations, member States should ensure that a large variety of professionals are offered quality and targeted professional training in the system of the Convention, and that, if possible, such training is accessible in the language(s) of the member State. In particular, attention should be paid to the initial and continuous training of: judges, prosecutors, lawyers; legal translators; law enforcement personnel; specialised journalists; personnel dealing with vulnerable groups.

## **III. Specialised teachers and trainers**

5. Member States should encourage, by appropriate means, that university education and professional training in the system of the Convention are provided by specialised teachers and trainers. These may include, among others, former judges and lawyers of the Court, judges and lawyers of supreme domestic courts, as well as government agents and members of their offices.

6. Professional training should be provided, as far as possible, by persons having good knowledge of the system of the Convention and practical experience from the relevant professional field.

## **IV. Contents of the university education and professional training**

7. Member States should aim primarily at facilitating an effective access to basic and practical information about the system of the Convention through university education and professional training. This should include the ability to use available resources (HUDOC database, HELP courses, other information sources).

8. Member States should also encourage access by relevant professionals to continuous and specialised training concerning the system of the Convention.

## **V. Learning and training methods**

9. Member States should ensure accurate translations of selected Court's case-law, in line with Recommendation Rec(2002)13 of the Committee of Ministers to member states on the publication and dissemination in the member states of the text of the European Convention on Human Rights and of the case-law of the European Court of Human Rights. Such translations should be easily accessible.

10. Member States should encourage use of the most appropriate learning and training methods, taking into account the national context and the specific needs and expectations of the targeted public. If appropriate, such methods could be set up in close cooperation with non-State actors. E-learning as well as the use of the HELP methodology should also be encouraged.

## Appendix V

**Draft table of contents  
of the Contribution of the CDDH to the evaluation  
provided for by the Interlaken Declaration**

*(as approved by the CDDH at its 90<sup>th</sup> meeting, 27–30 November 2018)*

**CONTEXT OF THE EVALUATION AND MANDATE OF THE CDDH AND THE  
DH-SYSC**

1. The evaluation of the reform process towards long-term effectiveness of the system of the European Convention on Human Rights to be carried out according to the Interlaken Declaration is a further stage in the broader context of the reform of the Convention system. Since the Court took up its work in 1959, the member States of the Council of Europe have adopted several protocols to the European Convention on Human Rights with the aim of improving and strengthening its supervisory mechanism. In 1998 in particular, Protocol No. 11 to the Convention entered into force which provided for a wholly judicial system of determination of applications, replacing the original two-tier structure comprising the Court and the Commission by a permanent Court. The continuing rise in the Court's caseload was further addressed by Protocol No. 14, which entered into force in 2010 and notably provided for smaller judicial formations to deal with clearly inadmissible cases and well-founded repetitive cases.
2. In 2010 a first intergovernmental conference on the future of the Court in Interlaken marked the beginning of the so-called Interlaken process of further reform. The Interlaken Declaration sought to establish a roadmap for the reform process towards long-term effectiveness of the Convention system.<sup>3</sup> It notably invited the Committee of Ministers to decide, before the end of 2019, whether the measures adopted in the course of the reform process, in particular the measures to implement Protocol No. 14 and the Interlaken Action Plan, have proven to be sufficient to assure sustainable functioning of the control mechanism of the Convention or whether more profound changes are necessary.<sup>4</sup>
3. Since the Interlaken conference, the measures proposed to guarantee the long-term effectiveness of the Convention system have been further developed in the Declarations adopted at four further high-level conferences in Izmir (2011)<sup>5</sup>, Brighton (2012)<sup>6</sup>, Brussels (2015)<sup>7</sup> and Copenhagen (2018)<sup>8</sup>.

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<sup>3</sup> See the [Interlaken Declaration](#) of 19 February 2010 of the High Level Conference on the Future of the European Court of Human Rights, PP 10.

<sup>4</sup> See the [Interlaken Declaration](#), Implementation of the Action Plan, point 6.

<sup>5</sup> See the [Izmir Declaration](#) of 26/27 April 2011 of the High Level Conference on the Future of the European Court of Human Rights.

<sup>6</sup> See the [Brighton Declaration](#) of 19/20 April 2012 of the High Level Conference on the Future of the European Court of Human Rights.

<sup>7</sup> See the [Brussels Declaration](#) of 27 March 2015 of the High-level Conference on the "Implementation of the European Convention on Human Rights, our shared responsibility".

<sup>8</sup> See the [Copenhagen Declaration](#) of 12/13 April 2018 of the High-Level Conference on "Continued Reform of the European Court of Human Rights Convention System – Better balance, improved Protection".

4. According to its terms of reference for the 2018-2019 biennium, the Committee of experts on the system of the European Convention on Human Rights (DH-SYSC), under the supervision of the CDDH, is to:
 

“contribute to the evaluation set out by the Interlaken Declaration, before the end of 2019, with a view to formulating proposals to the Committee of Ministers as to whether the measures adopted so far have proven to be sufficient to ensure sustainable functioning of the system of the Convention or whether more profound changes are necessary (deadline: 31 December 2019).”<sup>9</sup>
5. This work is to be carried out in the light of the results achieved in the framework of the further ongoing activities of the DH-SYSC, that is, the preparation of a draft report concerning the place of the European Convention on Human Rights in the European and international legal order and the follow-up to the decisions that may be taken by the Committee of Ministers further to the submission, in December 2017, of the CDDH report on the process of selection and election of the judges at the European Court of Human Rights.<sup>10</sup>
6. The following preliminary draft table of contents of the future “Contribution of the CDDH to the evaluation provided for by the Interlaken Declaration” proposes conducting the assessment of the sufficiency of the measures to ensure sustainable functioning of the Convention system adopted in the Interlaken reform process under three headings: 1) The application of the Convention at the national level – preventing and remedying breaches of the Convention; 2) Applications before the European Court of Human Rights; and 3) The execution of the judgments of the European Court of Human Rights.

## DRAFT TABLE OF CONTENTS

### INTRODUCTION

- Background: shared responsibility between the States Parties, the Court and the Committee of Ministers in the implementation of the Convention.

### A. THE APPLICATION OF THE CONVENTION AT THE NATIONAL LEVEL – PREVENTING AND REMEDYING BREACHES OF THE CONVENTION

#### *1. Raising awareness of, and providing training for national authorities and other actors in the Convention system on the Convention standards and procedures*

- Translation of significant judgments of the Court into national languages.
- Thematic information on the Court’s case-law (with the help of the Court’s Registry).
- Training of university students, judges, prosecutors, lawyers, law-enforcement officials, officials responsible for the deprivation of a

<sup>9</sup> See the terms of reference given by the Committee of Ministers to the DH-SYSC as adopted by the Committee of Ministers at its 1300<sup>th</sup> meeting, 21-23 November 2017.

<sup>10</sup> Ibid.

person's liberty and members of the security forces on well-established case-law concerning their respective (future) professional fields (amongst others via the HELP programme).

- Secondment of national judges and, where appropriate, other lawyers to the Court's Registry.
- Coordination of other existing mechanisms, activities and programmes of the Council of Europe, such as the works on Human Rights and Business and in particular the activities of the Department for the Execution of Judgments of the Court.
- Cooperation with national human rights institutions or other relevant bodies.

## ***II. Concrete measures to prevent and remedy breaches of the Convention at the national level***

### 1. Measures to be taken, as appropriate, at the legislative, executive or judicial level:

- Ensure that all persons with an arguable claim that their rights and freedoms as set forth in the Convention have been violated have available to them an effective remedy before a national authority providing adequate redress.
- Implement practical measures to ensure that legislation complies fully with the Convention, including by developing parliamentary expertise to evaluate the compatibility with the Convention of draft legislation.
- Consider setting up an optional mechanism allowing the highest national courts to request advisory opinions.
- Encourage national courts to take into account the relevant principles of the Convention in conducting proceedings and formulating judgments.
- Promote exchange of information and experiences concerning the implementation of the Convention at the national level, in coordination in particular with the Government Agents.

### 2. Measures to be taken to strengthen the role of civil society:

- Strengthen interaction with national human rights institutions and civil society to ensure that legislation, and other measures and their application in practice comply with the Convention.
- Consider the establishment of an independent National Human Rights Institution.

### 3. Measures to be taken by the Council of Europe:

- Assisting and encouraging national implementation of the Convention by the provision of technical assistance upon request to States Parties and dissemination of good practices; targeting and coordination of technical assistance; co-operation with the European Union.

## B. APPLICATIONS BEFORE THE EUROPEAN COURT OF HUMAN RIGHTS

### *I. Measures for dealing with the high case-load*

#### Introduction

- Development of the situation of the case-load as from the time of the Interlaken Declaration in 2010 until 2019

#### 1. Access to the Court and a sound administration of justice

- Information to applicants and their representatives on the scope and limits of the Convention's protection, on admissibility criteria and the application procedure before the Court.
- Change of procedural rules / practices (including as concerns possible fees for lodging an application etc.).
- Improvement of the form for applications to the Court.
- Grant applicants and their representatives who lodge applications with the Court protection from reprisals.

#### 2. Filtering of applications

- Examination of the necessity of a new filtering mechanism requiring amendment of the Convention.
- Setting up of a filtering mechanism within the existing bench.
- Provision of brief reasons in the single judges' inadmissibility decisions.

#### 3. The order of dealing with applications – clear priority policy

#### 4. Measures for dealing with specific cases

- Analysis of the Court's backlog.
- Streamlining of procedures particularly for the handling of inadmissible cases and repetitive cases (e.g. pilot judgment procedure).
- Facilitation by member States of the adoption of friendly settlements and unilateral declarations with the support of the Court.
- More effective handling of cases related to inter-State disputes, as well as individual applications arising from situations of conflict between States.

#### 5. The organisational structure of the Court

- Examination of a simplified procedure for amending certain provisions of the Convention relating to organisational issues.
- Appointment of additional judges to the Court to deal with pending Chamber applications.
- Sufficient funding of the Court.
- Secondment of national judges and, where appropriate, other lawyers to the Court's Registry.

## ***II. Measures to guarantee the authority of the Court and of its case-law***

1. The selection and election of judges of the Court
  - The national selection procedure.
  - The election procedure.
  - The post-mandate situation of judges.
2. The clarity and consistency of the Court's case-law
  - Ensure clarity and consistency of the Court's judgments, in particular by the Grand Chamber.
  - Ensure a consistent application of the principles of subsidiarity and margin of appreciation.
  - Give effect to the new admissibility criterion provided for in Protocol No. 14 (*de minimis non curat praetor*).
3. The Convention in the European and international legal order
  - The accession of the European Union to the Convention.
  - Long-term strategic reflections about the future role of the Court / evaluation of the fundamental role and nature of the Court.

## ***III. Dialogue of the Court with the actors in the Convention system***

- Judicial dialogue between the Court and the highest courts of the States Parties.
- Introduction of a power of the Court, which States Parties could optionally accept, to deliver advisory opinions upon request on the interpretation of the Convention in the context of a specific case at domestic level.
- Third-party interventions in cases pending before the Court.
- High-level ministerial conferences.
- Dialogue of the Court's President with the Committee of Ministers.
- Regular meetings between the Government Agents and the Registry of the Court.
- Consultations with applicants' representatives and civil society.

## **C. THE EXECUTION OF THE JUDGMENTS OF THE EUROPEAN COURT OF HUMAN RIGHTS**

### ***I. Ensuring domestic capacities for the rapid execution of judgments***

- Develop domestic capacities taking into account the indications in Recommendation 2008(2) and share good practices.
- Develop the States Parties' capacity to rapidly submit comprehensive action plans, make them widely accessible among those involved in the execution process and ensure their follow-up.
- Facilitate the role of the Government Agents or other officials responsible in co-ordinating the execution of judgments.
- Facilitate the role of the national parliaments in scrutinising the effectiveness of implementation measures.



## ***II. Ensuring an efficient and transparent process of supervision of the execution of judgments by the Committee of Ministers***

- Refine the procedures to ensure an effective and transparent supervision of the execution of the Court's judgments.
- Prioritisation (cases requiring urgent individual measures and cases disclosing major structural problems).
- Reinforced subsidiarity (States' choice of means to conform to the Convention obligations).
- Foster the exchange of information and best practices between States Parties particularly for the implementation of general measures.
- Foster the accessibility of information relevant for the execution of judgments
- Increased cooperation with other international organisations, national human rights institutions and non-governmental organisations.
- Enhance, where necessary, the Department for the Execution of Judgment's bilateral dialogue with States Parties to facilitate the execution process.
- Take effective measures in respect of a State Party that fails to comply with its obligations under Article 46.
- Ensure sufficient budgetary resources, including the secondment of national judges or officials to the Department for the Execution of Judgments

## ***III. Developing interaction with other stakeholders***

- Increased cooperation with the Court and its Registry as well as the Parliamentary Assembly in matters relating to the execution of judgments.
- Encourage the relevant entities of the Council of Europe to take account of issues relating to the execution of judgments in their cooperation activities.
- Awareness-raising activities by the Parliamentary Assembly of the Council of Europe for members of national parliaments to follow the execution of judgments.
- Facilitation, on a case-by-case basis, of the execution of judgments raising complex issues by the Secretary General and the Commissioner for Human Rights.

## **CONCLUSIONS**

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## Appendix VI

**Structure for revising the Recommendation No. R(85)13 of the Committee of Ministers on the institution of the ombudsman**

*(approved by the CDDH at its 90<sup>th</sup> meeting, 27–30 November 2018)*

**Preamble** (updated) ;

**Operational part** recommending to observe the principles contained in the Appendix and to proceed to a follow-up of the implementation;

**Appendix** comprising four sections:

- I. General principles, main tasks of the ombudsman;
- II. Diversity of ombudsman institutions;
- III. Fundamental characteristics of the ombudsman institution (such as independence and effectiveness, impartiality, fairness, possibility for the ombudsman to conduct a credible review process, confidentiality, accessibility);
- IV. Cooperation and dialogue (between ombudsman institutions, civil society organisations, national human rights structures and their networks, State authorities, international and regional organisations).

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## Appendix VII

**Draft Program for the Workshop**  
**“Protection of Victims of Terrorist Acts”**  
*(as a working basis for the Secretariat and  
the French Chairmanship of the Committee of Ministers)*

Strasbourg, 20 June 2019, at the 91<sup>st</sup> CDDH meeting

**14:30 – Opening session**

- (5') Welcome to the participants by the Chair of the CDDH
- (5') Introductory speech by the French Chair of the Committee of Ministers<sup>11</sup>
- (10') Speech by the [Secretary General of the Council of Europe]<sup>12</sup>
- (10') Speech by a [Representative from the Office of the High Commissioner for Human Rights of United Nations

**15:00 – Working session I – “The Revised Guidelines of the Committee of Ministers on the protection of victims of terrorist acts”**

- (10') Presentation by the CDDH representative before the CDCT
- (5') Speech by the President of the Council of Europe Counter-Terrorism Committee (CDCT)
- (5') Speech by a senior Registry official/Judge of the European Court of Human Rights

Discussion

**15:50 – Coffee break****16:20 – Working session II – Best practices in the protection of human rights of victims of terrorist acts**

- (8') Speech by Mme Elisabeth PELSEZ, French Interdepartmental Delegate for victims support
- (8') Speech by a representative from civil society – national victim's association
- (8') Speech by a [representative from civil society – the European Network of Associations of Victims of Terrorist Acts or the International Federation of Terrorist Victims Associations
- (8') Speech by Judge Ahmet MOLLAOGLU - *“Financial and legal aid provided to the victims of terrorist acts in Turkey”*

Discussion

**17:20 – Concluding remarks**

- (5') Concluding remarks and official closing of the Workshop by the Chair of the CDDH

**17:25– Vin d'honneur offered by the French Chairmanship of the Committee of Ministers**

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<sup>11</sup> This speech would need to recall the aim of the Workshop.

<sup>12</sup> The Secretary general of the Council of Europe took the initiative to proceed to this revision in its report “Fight against violent extremism and radicalisation leading to terrorism” (CM(2016)64) presented to the Committee of Ministers at its 126th meeting at Sophia on 18 May 2016

## Appendix VIII

**CDDH Opinion for the DH-BIO on the draft Additional Protocol on the protection of the dignity and fundamental rights of persons with mental disorder with regard to placement and involuntary treatment**

*(as adopted by the CDDH at its 90<sup>th</sup> meeting, 27–30 November 2018)*

1. Concerning the draft Additional Protocol on the protection of the dignity and fundamental rights of persons with mental disorder with regard to placement and involuntary treatment, under preparation within the Committee on Bioethics (DH-BIO), the Steering Committee for Human Rights (CDDH) recalls the comments it adopted at its 85<sup>th</sup> meeting (15-17 June 2016, document CDDH(2016)R85, Appendix IV) in respect of Parliamentary Assembly Recommendation 2091(2016) “The case against a Council of Europe legal instrument on involuntary measures in psychiatry”. These comments read as follows:
  1. The Steering Committee for Human Rights (CDDH) notes that Article 14 of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) is interpreted by the committee established under this convention as prohibiting any deprivation of liberty on the basis of a mental disability. Consequently, according to the committee established by the CRPD, any national mental health law providing for a deprivation of liberty on the basis of such a criterion is incompatible with the convention.
  2. The CDDH also notes that, stemming from this interpretation, the Parliamentary Assembly of the Council of Europe, recommends the Committee of Ministers to<sup>13</sup> :
    - (i) withdraw the proposal to draw up an additional protocol concerning the protection of human rights and dignity of persons with mental disorders with regard to involuntary placement and involuntary treatment;
    - (ii) instead focus its work on promoting alternatives to involuntary measures in psychiatry, including by devising measures to increase the involvement of persons with psychosocial disabilities in decisions affecting their health.
  3. Whilst the CDDH shares the Assembly’s willingness to do the utmost to promote alternatives, it nevertheless notes that under certain circumstances, involuntary measures may be warranted in order to prevent the patient causing harm to him/herself or other persons. The Court has said that “a mental disorder may be considered as being of a degree warranting compulsory confinement if it is found that the confinement of the person concerned is necessary as the person needs therapy, medication or other clinical treatment to cure or alleviate his/her condition, but also where the person needs control and supervision to prevent him/her from, for example, causing harm to him/herself or other persons.”<sup>14</sup> For this reason involuntary measures in psychiatry continue to be provided for in the laws of member States and regularly applied. Bearing in mind this reality, the CDDH notes the need to ensure that in all circumstances, involuntary measures are embedded with the guarantees required by the European Convention on Human Rights so as to (i)

<sup>13</sup> Recommendation 2091(2016) of the Parliamentary Assembly “The case against a Council of Europe legal instrument on involuntary measures in psychiatry”.

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

safeguard the human rights of the person concerned<sup>15</sup>, and in particular provide the possibility for the right to an effective remedy against such a measure and (ii) prevent violations of the Convention similar to those already found by the European Court of Human Rights in many occasions. It underlines that this is the purpose of the additional Protocol under discussion in the DH-BIO<sup>16</sup>.

4. Given that the Court regularly receives applications revealing violations of the ECHR as a result of involuntary measures, the CDDH considers that an additional Protocol to the Oviedo Convention could be an effective tool to define the indispensable legal guarantees to prevent such violations in our member States. Such an instrument would aim at better protecting the rights of the persons concerned both in law and in practice.
  5. Finally, if the CDDH is convinced that involuntary measures should be exceptional and only be envisaged in the absence of alternatives, it is also convinced that the possible drawing up of a legal instrument to lay down such measures within the Council of Europe would not diminish in any way the credibility of the Organisation, but would on the contrary encourage the progressive transition to a more uniform application of voluntary measures in psychiatry by the member States, in accordance with the spirit of the United Nations Convention on the Rights of Persons with Disabilities.
2. The CDDH appreciates the explanatory work of the DH-BIO regarding the purposes of the exercise and deems it important to continue and deepen such work. It supports the renewed efforts of the DH-BIO aiming at recalling the exceptional nature of involuntary measures as a last resort and to encourage the use of alternative and support measures.
  3. The CDDH encourages the DH-BIO to determine, taking into consideration the comments received during the public consultation, when and under which conditions to resume the work on the Additional Protocol.
  4. In this respect, the CDDH wishes to draw DH-BIO attention to the comments sent by the delegations of Belgium, Estonia, Finland and Switzerland within the CDDH. These comments appear below as an appendix to this Opinion.

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<sup>15</sup> Involuntary measures, in particular placement, raise important human rights questions especially concerning Article 5 §1(e) (right to liberty and security), but also in some cases Articles 3 (prohibition of torture and inhuman or degrading treatment) and 8 (protection of private and family life) of the European Convention on Human Rights.

<sup>16</sup> The CDDH has already had the opportunity to express its opinion on the preparation of such a protocol in 2009 (document CDDH (2009)008).

## Appendix IX

**Composition of the Bureau, Chairmanships and Rapporteurs**  
*(list adopted by the CDDH at its 90<sup>th</sup> meeting, 27-30 November 2018)*

<b>BUREAU OF THE CDDH</b>	<b>END OF THE MANDATE</b>	<b>REFERENCES</b>
Mr Hans-Jörg BEHRENS (Germany), Chair	31 December 2019 (elected for 1 year not renewable)	90 <sup>th</sup> meeting of the CDDH (November 2018)
Mr Morten RUUD (Norway), Vice-Chair	31 December 2019 (elected for 1 year not renewable)	90 <sup>th</sup> meeting of the CDDH (November 2018)
Mr Chanaka WICKREMASINGHE (United Kingdom), Member	31 December 2020 (elected for 2 years renewable once)	90 <sup>th</sup> meeting of the CDDH (November 2018)
Ms Kristine LIČIS (Latvia), Member	31 December 2019 (elected for 2 years not renewable)	88 <sup>th</sup> meeting of the CDDH (December 2017)
Ms Zinovia STAVRIDIS (Greece), Member	31 December 2019 (elected for 2 years not renewable)	88 <sup>th</sup> meeting of the CDDH (December 2017)
Ms Florence MERLOZ (France), Member	31 December 2020 (elected for 2 years not renewable)	90 <sup>th</sup> meeting of the CDDH (November 2018)
Ms Krista OINONEN (Finland), Member	31 December 2019 (elected for 2 years renewable once)	88 <sup>th</sup> meeting of the CDDH (December 2017)
Ms Maris KUURBERG (Estonia), Member	31 December 2020 (elected for 2 years not renewable)	90 <sup>th</sup> meeting of the CDDH (November 2018)
<b>CHAIRS</b>		
<b>DH-BIO</b> Ms Tesi ASCHAN (Sweden), Chair	31 December 2019 (elected for 1 year renewable once)	14 <sup>th</sup> meeting of the DH-BIO (November 2018) 90 <sup>th</sup> meeting of the CDDH (November 2018)
<b>DH-SYSC</b> Ms Brigitte OHMS (Austria), Chair	31 December 2019 (elected for 1 year not renewable)	90 <sup>th</sup> meeting of the CDDH (November 2018)
<b>DH-SYSC-II</b> Ms Florence MERLOZ (France), Chair	31 December 2019	88 <sup>th</sup> meeting of the CDDH (December 2017)
<b>DH-SYSC-III</b> Ms Vasileia PELEKOU (Greece), Chair	31 December 2019	88 <sup>th</sup> meeting of the CDDH (December 2017)
<b>CDDH-SOC</b> Mr Vít A. SCHORM (Czech Republic), Chair	31 December 2019	88 <sup>th</sup> meeting of the CDDH (December 2017)
<b>CDDH-EXP</b> Mr Hans-Jörg BEHRENS (Germany), Chair	31 December 2019	88 <sup>th</sup> meeting of the CDDH (December 2017)
<b>CDDH-MIG</b> Mr Morten RUUD (Norway), Chair	31 December 2019	88 <sup>th</sup> meeting of the CDDH (December 2017)
<b>CDDH-INST</b> Ms Krista OINONEN (Finland), Chair	31 December 2019	88 <sup>th</sup> meeting of the CDDH (December 2017)

<b>RAPPORTEURS<sup>17</sup></b>			
<b>DH-SYSC-II</b> Mr Alexei ISPOLINOV (Russian Federation) – Theme 1 Mr Chanaka WICKREMASINGHE (United Kingdom) – Theme 1 Ms Sofia KASTRANTA (Greece) – Theme 2		31 December 2019	88 <sup>th</sup> meeting of the CDDH (December 2017)
<b>CDDH-EXP</b> Ms Kristine LIČIS (Latvia)		31 December 2019	88 <sup>th</sup> meeting of the CDDH (December 2017)
<b>CDDH-MIG</b> Mr Frank SCHÜRMAN (Switzerland)		31 December 2019	88 <sup>th</sup> meeting of the CDDH (December 2017)
<b>DRAFTING GROUPS</b>			
<b>DH-SYSC-II<sup>18</sup></b>		<b>DH-SYSC-III<sup>19</sup></b>	
Bulgaria		Armenia	
Croatia		Belgium	
Czech Republic		Greece	
France		Italy	
Italy		Latvia	
Latvia		Montenegro	
The Netherlands		Portugal	
Norway		Slovak Republic	
<b>CDDH-SOC</b>	<b>CDDH-EXP<sup>20</sup></b>	<b>CDDH-MIG</b>	<b>CDDH-INST</b>
Austria	Azerbaijan	Armenia	Armenia
Belgium	Estonia	Bulgaria	Azerbaijan
Czech Republic	France	Czech Republic	Finland
Greece	Hungary	Greece	Ireland
Italy	Republic of Moldova	Iceland	Montenegro
Republic of Moldova	Montenegro	Italy	Poland
Poland	Russian Federation	Latvia	Russian Federation
Portugal	"The former Yugoslav Republic of Macedonia"	Norway	Slovenia
Russian Federation	Turkey	Spain	Spain
Slovenia	United Kingdom	Turkey	"The former Yugoslav Republic of Macedonia"

<sup>17</sup> The Rapporteur of the CDDH-SOC is now part of the Secretariat of the Council of Europe (Department for the execution of judgments) and has ended her work as a Rapporteur. The CDDH-MD finalised its work. The Rapporteur and Chair of the CDDH-INST has terminated her work as a Rapporteur.

<sup>18</sup> Following a decision taken by the CDDH at its 88<sup>th</sup> meeting (5-7 December 2017), and subject to the availability of budgetary resources, it is envisaged that the following member States would also be covered by the budget of the Council of Europe to participate in the following meetings:

- 3<sup>rd</sup> meeting (3-5 April 2018) and 5<sup>th</sup> meeting (March 2019): Albania, Austria, Azerbaijan, Bosnia-Herzegovina, Denmark, Finland, Germany, Greece, Russian Federation, United Kingdom
- 4<sup>th</sup> meeting (25-28 September 2018) and 6<sup>th</sup> meeting (May 2019): Greece, Poland, Romania, Russian Federation, Serbia, Spain, Sweden, Turkey, Ukraine, United Kingdom
- 7<sup>th</sup> meeting (September 2019): it is envisaged that the Council of Europe will cover the costs of all the participants.

<sup>19</sup> Initially, the work of the Group will take place by electronic means.

<sup>20</sup> Chair: Germany. The expenses of the Chair are covered by the budget of the Council of Europe.

## Appendix X

**Publications**

It is foreseen to publish following documents in 2019:

- (1) *Contribution to the evaluation provided for by the Interlaken Declaration - final CDDH Report*
- (2) *University education and professional training on the ECHR and European Social Charter*
- (3) *The individual application before the European Court of Human Rights - Practical Guide*
- (4) *Legal framework of the Council of Europe for the protection of social rights in Europe - Analysis*
- (5) *Good and promising practices on the way of reconciling freedom of expression with other rights and freedoms, in particular in culturally diverse societies - Practical Guide*
- (6) *Handbook on alternatives to detention in the context of migration*
- (7) *Protection and promotion of civil society space in Europe - Recommendation of the Committee of Ministers, Compilation and overview of measures and practices in place in member States, Proceedings of the Seminar (29 November 2018)*
- (8) *Promotion of Human Rights of older persons - follow-up of Recommendation CM/Rec(2014)2 of the Committee of Ministers, Compilation and overview of measures and practices in place in member States, Proceedings of the Workshop (21 June 2018)*
- (9) *Protection of victims of terrorist acts - revised Guidelines of the Committee of Ministers, Compilation and overview of measures and practices in place in member States, Proceedings of the Seminar (20 June 2019)*
- (10) *Strengthening international regulations against trade in goods used for torture and the death penalty - feasibility study*
- (11) *Human Rights and environment - Handbook (3<sup>rd</sup> publishing)*

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## Appendix XI

**Calendar of meetings of the CDDH  
and subordinate bodies for 2019**

*(as adopted by the CDDH at its 90<sup>th</sup> meeting, 27-30 November 2018)*

<b>2019</b>	
Opening of the Judicial Year	25] January
5 <sup>th</sup> meeting of the drafting Group on the place of the ECHR in the European and international legal order (DH-SYSC-II)	5–8 February
5 <sup>th</sup> meeting of the drafting Group on Civil Society and National Human Rights Institutions (CDDH-INST)	27 February–1 <sup>st</sup> March
4 <sup>th</sup> meeting of the drafting Group on Freedom of Expression and links to other Human Rights (CDDH-EXP)	20–22 March
6 <sup>th</sup> meeting of the drafting Group on Human Rights and Migration (CDDH-MIG)	26–28 March
Event on transparency and access to official documents, under the aegis of the Finnish Chairmanship of the Committee of Ministers	[...]
4 <sup>th</sup> meeting of the drafting Group on Social Rights (CDDH-SOC)	3–5 April
101 <sup>th</sup> meeting of the Bureau of the Steering Committee for Human Rights (CDDH-BU)	15–17 May
6 <sup>th</sup> meeting of the drafting Group on the follow-up to the CDDH report on the longer-term future of the Convention (DH-SYSC-II)	22–24 May
<i>Meeting of the Government Agents with the Court's Registry</i>	[...]
91 <sup>th</sup> meeting of the Steering Committee for Human Rights (CDDH) and Workshop on the protection of victims of terrorist acts	18–21 June
7 <sup>th</sup> meeting of the drafting Group II on the place of the ECHR in the European and international legal order (DH-SYSC-II)	11–13 September
[6 <sup>th</sup> meeting of the drafting Group on Civil Society and National Human Rights Institutions (CDDH-INST)]	[18–20 September]
[5 <sup>th</sup> meeting of the drafting Group on Social Rights (CDDH-SOC)]	[25–27 September]
6 <sup>th</sup> meeting of the Committee of experts on the system of the European Convention on Human Rights (DH-SYSC)	[15] 16–18 October
7 <sup>th</sup> meeting of the drafting Group on Human Rights and Migration (CDDH-MIG)	22–24 October
102 <sup>nd</sup> meeting of the Bureau of the Steering Committee for Human Rights (CDDH-BU)	[6] 7–8 November
<i>[Meeting of the Government Agents...]</i>	[...]
92 <sup>nd</sup> meeting of the Steering Committee for Human Rights (CDDH)	26–29 November