

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

DH-SYSC-II(2018)R3

05/04/2018

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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**DRAFTING GROUP ON THE PLACE OF THE EUROPEAN  
CONVENTION ON HUMAN RIGHTS IN THE EUROPEAN AND  
INTERNATIONAL LEGAL ORDER**

**(DH-SYSC-II)**

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**MEETING REPORT**

3<sup>rd</sup> meeting

3–5 April 2018

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

1.        The Drafting Group on the place of the European Convention on Human Rights in the European and international legal order (DH-SYSC-II) held its 3<sup>rd</sup> meeting in Strasbourg from 3 to 5 April 2018. The list of participants appears in [Appendix I](#).

2.        The Chair, Ms Florence MERLOZ (France) opened the meeting, evoking the different subjects on the agenda with the aim to advance in the elaboration of the future report of the CDDH on the place of the Convention in the European and international legal order.

3.        Mr Mikhail LOBOV, Head of the Human Rights Policy and Co-operation Department, welcomed the participants on behalf of the Secretariat. He stressed the complexity of the subject-matter and the importance of the work of the Group also for other organs of the Council of Europe. He further underlined that the Group shall be given the necessary means to enable it to accomplish its work despite the current budgetary situation.

4.        The Chair welcomed the invitees to the present meeting, that is, Professor Alexei ISPOLINOV (Russian Federation, co-Rapporteur), Professor Rick LAWSON (Netherlands, *ad hoc* expert) and Mr Marten ZWANENBURG (Netherlands, Contributor) as well as Mr Petr VALEK (Czech Republic, Director of the International Law Department of the Czech Ministry of Foreign Affairs and Vice-Chair of the Council of Europe's Committee of Legal Advisers on Public International Law (CAHDI)).

5.        Mr Petr VALEK highlighted the importance of the works of the Group and stressed that many of the issues examined by the Group were part of the permanent agenda of the CAHDI. He pointed out that he participated in a personal capacity and that the observations put forward by him did not necessarily reflect the opinion of the CAHDI. He would regularly keep the latter informed of the progress of the works. The Chair, for her part, informed the Group that she had presented the works of the DH-SYSC-II in the last meeting of the CAHDI on 22 March 2018 and mentioned the possibility of an informal exchange of views with the CAHDI via its representative in the DH-SYSC-II.

6.        The Group adopted the agenda (see [Appendix II](#)) and the order of business (DH-SYSC-II(2018)OT1).

**Item 2:        DISCUSSION ON THE DRAFT CHAPTER OF THEME 1 SUBTHEMES ii) AND iii)**

7.        The Group examined two draft chapters of Theme 1 of its report, which covers the challenge of the interaction between the Convention and other branches of international law, including international customary law, namely the draft chapter on State responsibility and extraterritorial application of the European Convention on Human Rights (subtheme ii)) and the draft chapter on the interaction between the resolutions of the Security Council and the European Convention on Human Rights (subtheme iii)). These draft chapters were prepared by the co-Rapporteurs Professor Alexei ISPOLINOV and Mr Chanaka WICKREMASINGHE (United Kingdom), with the help of a contribution submitted by M. Marten ZWANENBURG. The Group further noted that regard should also be had to the results of the Seminar on the place of the Convention in the European and international legal order organised in March 2017 for launching of the work of the DH-SYSC-II.

## **Item 2.1: Subtheme ii) – State responsibility and extraterritorial application of the ECHR**

8. This item is introduced by the *ad hoc* expert Professor Rick LAWSON, Leiden University (Netherlands), with a presentation on the topic of State responsibility and extraterritorial application of the European Convention on Human Rights. The presentation was followed by an exchange of views between Professor LAWSON and the Group.

9. The co-Rapporteurs presented their draft chapter on State responsibility and extraterritorial application of the European Convention on Human Rights.

10. The Group held a general discussion on the structure and global approach taken in the draft chapter. It decided the following:

- (i) Regarding the structure, the draft chapter should include an introduction explaining the relevant notions of jurisdiction, attribution and State responsibility in international law which will facilitate its readability also for non-lawyers;
- (ii) Furthermore, in line with its title, the chapter should first address State responsibility and then the extraterritorial application of the Convention. It should also follow more closely the structure agreed upon in the 2<sup>nd</sup> meeting of the DH-SYSC-II and address the observations, an analysis of the challenges and possible responses (see DH-SYSC-II(2017)R2, Appendix III);
- (iii) As for the general tone of the chapter, the Group stressed the importance of adopting an objective and neutral approach, without limiting the necessary analysis of the challenges. The general approach should take into account the specific nature of the Convention as a treaty for the collective enforcement of human rights, as well as the general context of international law, including rules on State responsibility and interpretation of international treaties. References to the sources quoted in the chapter, which should be representative of the views generally expressed by legal writers, should be added.

11. As for the content of the chapter, the Group decided the following:

- (i) A comparative approach should be adopted, having regard to the rulings and advisory opinions of international tribunals, first and foremost the ICJ, and also the practice of different UN treaty bodies dealing with human rights while specifying their different status compared to that of courts. One delegation insisted on the importance of taking into account the universal nature of these tribunals and bodies as well as the level of acceptance of their views;
- (ii) The chapter should further take into account the evolution and developments of the case-law of the Commission and the Court, agreeing on the fact that *Banković* is an important decision but not the only one in the evolution of the case-law. The description of the relevant judgments should include a short summary of the different factual contexts underlying the Court's decision;
- (iii) As for the relevance of the Draft Articles on Responsibility of States for Internationally Wrongful Acts (ARSIWA) adopted by the International Law Commission, the Group noted that the Court referred to this source while the question to what extent the Court followed it necessitated a closer examination;

- (iv) The analysis of the challenges should address the importance for States of legal certainty on the question whether, according to the Court's established case-law, their responsibility is engaged in a given situation. Regarding the chapter part on possible responses it was further stressed by many experts that the role of the Group was not to instruct the Court how to act, but to give food for thought on where the risk of fragmentation in the international legal order could be diminished, including by an extended judicial dialogue to better understand the Court's reasoning (see also DH-SYSC-II(2017)R2, § 15 (iii));
- (v) Some experts also stressed the fact that the chapter should further address the issue of whether different consequences could flow from the Court's finding that a State had jurisdiction under Article 1 of the Convention, depending on the level of the State's territorial or other control;
- (vi) It was further recalled that the Group had agreed that the report had to be updated in case the Court delivered new important judgments on the subject-matter prior to the adoption of the entire report of the Group (see DH-SYSC-II(2017)R2, § 14 (ii)).

### **Item 2.2: Subtheme iii) – Interaction between the resolutions of the Security Council and the ECHR**

12. The co-Rapporteurs presented their draft chapter on the Interaction between the resolutions of the Security Council and the European Convention on Human Rights.

13. The Group held a general discussion on the structure and global approach taken in the draft chapter. It decided the following:

- (i) Regarding the structure, the draft chapter should contain an introduction presenting and explaining Article 103 of the UN Charter, the UN's mission of maintaining international peace and the nature of the authorisations given to States by the Security Council and indicating the reasons for separating this chapter from the previous one. It should also further integrate the structure agreed upon in the Group's previous meeting;
- (ii) In view of the importance of the context in which the different judgments of the Court were adopted, the chronological description of the Court's case-law should contain sufficient factual details. It should be presented in an objective and neutral manner, without limiting the necessary analysis of the challenges.

14. As for the content of the chapter, the Group decided the following:

- (i) In the analysis of the challenges in the chapter, the practical difficulties for States when applying Security Council resolutions should be highlighted. In the context of resolutions authorising the use of force, the question arises both for the States and the Court what is the interaction between the UN Security Council resolutions authorising the use of force and the Convention. In the context of resolutions imposing economic sanctions, States may find themselves faced with conflicting obligations. The challenges could be raised by reference to dissenting opinions to the Court's judgments on the question;
- (ii) The possible responses in the chapter should stress the importance for States of legal certainty concerning their obligations under the respective treaties. The importance of the clarity of the Court's case-law could be stressed. Furthermore, it may be indicated that States, being also UN member States, could equally work towards an enhanced protection of fundamental rights within the UN, it being

understood that it was not for the States to give instructions to the UN and duly taking into account the primacy of UN Security Council decisions. It was further mentioned that it was helpful to have judges on the Court's bench having experience in the subject-matters concerned.

**Item 3: DISCUSSION ON THEME 1, SUBTHEMES i) AND iv)**

15. The Group held a first brainstorming discussion on the two further chapters of Theme 1 of its report on the challenge of the interaction between the Convention and other branches of international law, including international customary law, which cover the methodology of interpretation by the European Court of Human Rights and its approach to international law (sub-theme i)) and the interaction between international humanitarian law and the European Convention on Human Rights (sub-theme iv)).

**Item 3.1: Subtheme i) – Methodology of interpretation by the ECtHR and its approach to international law**

16. Following an introduction by Mr Chanaka WICKREMASINGHE, Contributor and co-Rapporteur, on the topic of the methodology of interpretation by the European Court of Human Rights and its approach to international law, the Group held a first exchange of views on the subject-matter and agreed on the following:

- (i) In line with the aim of the report to focus on risks of fragmentation, the Group considered that the importance of a clear methodology should be stressed, which permitted the States to compare different judgments;
- (ii) The chapter should take the rules of interpretation of treaties under Articles 31-33 of the Vienna Convention on the Law of Treaties as a basis and could illustrate the application of these rules in the Court's case-law by examples of Court judgments or decisions. It should further be examined in how far the specific nature of the Convention as a human rights instrument influenced the methodology adopted. The chapter should initially adopt a descriptive approach in the presentation of the Court's judgments.

**Item 3.2: Subtheme iv) – Interaction between international humanitarian law and the ECHR**

17. The Group heard a presentation by the *ad hoc* expert Professor Sébastien TOUZÉ, Paris II Panthéon-Assas University, on the topic of the interaction between international humanitarian law and the European Convention on Human Rights. The presentation was followed by an exchange of views between Professor TOUZÉ and the Group.

18. In its brainstorming discussion on the topic with the aim of providing some guidance to the co-Rapporteurs, the Group agreed on the following:

- (i) The Group stressed that the chapter had to be elaborated in the light of the aim of its work to preserve the efficiency of the Convention system against risks of fragmentation of the European and international legal space in the field of human rights, stemming from diverging interpretations;
- (ii) The Group considered that the chapter should contain an analysis of the evolution of the Court's case-law in its approach to international humanitarian law.

#### **Item 4: ORGANISATION OF FUTURE WORK**

19. It was recalled that during its 88<sup>th</sup> meeting, the CDDH took note of the on-going work of the Group, in particular the draft outline and the planning (doc. CDDH(2017)R88, § 9) and authorised the Group to hold an additional 7<sup>th</sup> meeting in 2019. Furthermore, welcoming the high number of Member States which had participated in the 2<sup>nd</sup> meeting of the Group, the CDDH agreed that, in the future, the costs of representatives from these States could also be covered, in addition to those of the eight members of the Group (Bulgaria, Croatia, Czech Republic, France, Italy, Latvia, the Netherlands and Norway), by the budget of the Council of Europe, subject to the availability of budgetary resources and according the following rotation system:

- 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 and the United Kingdom;
- 5<sup>th</sup> meeting (March 2019): Albania, Austria, Azerbaijan, Bosnia-Herzegovina, Denmark, Finland, Germany, Greece, Russian Federation and the 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.

#### **Item 4.1: Revised planning**

20. The Group adopted the revised planning of its work, as it appears in Appendix III. With a view to the forthcoming CDDH meeting (19–22 June 2018) and the Group's next meeting (25–28 September 2018), the co-Rapporteurs were further asked to send a first draft of the new chapters on Theme 1, subthemes ii) and iii), showing the broad lines along which the draft chapters will be revised, to the Secretariat by **1 June 2018** with a view to its submission to the CDDH for information (the deadline for sending the final version of the revised draft chapters of **29 June 2018**, as set out in the planning, is maintained). The deadline for experts for written comments also on the revised draft chapters on Theme 1, sub-themes ii) and iii) will be **17 August 2018**.

#### **Item 4.2: Future invitees**

21. Regarding future invitees, the Group decided, subject to the availability of budgetary resources, to invite an *ad hoc* expert on the topic of the challenge of the interaction between the Convention and other international human rights instruments to which the Council of Europe Member States are parties (Theme 2) to its upcoming 4<sup>th</sup> meeting, held from 25 to 28 September 2018 in Strasbourg. Experts are invited to notify the Secretariat by **19 April 2018** of any *ad hoc* experts they propose. The *ad hoc* expert will be invited to make a short presentation on the topic and to contribute to the general discussion during the meeting. In order to facilitate the discussions during the meeting, the *ad hoc* expert will be invited to submit a short written presentation to the Group prior to the meeting. The Group also considered the possibility of consulting members of the International Law Commission (ILC) on questions related to its work.

**Item 5:      ADOPTION OF THE MEETING REPORT**

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

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Appendix I

**List of participants / Liste des participants**

**MEMBERS / MEMBRES**

**ARMENIA / ARMENIE**

Ms Astghik BALDRYAN, Deputy to the Permanent Representative, Permanent Representation of Armenia to the Council of Europe

Mr Aram HAKOBYAN, Deputy to the Permanent Representative, Permanent Representation of Armenia to the Council of Europe

**AUSTRIA / AUTRICHE**

Ms Stefanie DÖRNHÖFER, LL.M., Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice, Constitutional Service, Austria

**AZERBAIJAN / AZERBAÏDJAN**

Ms Saadat NOVRUZOVA, Senior adviser, Human Rights Protection Unit, Department of Work with Law Enforcement Bodies, Administration of the President of the Republic of Azerbaijan

**BOSNIA AND HERZEGOVINA / BOSNIE-HERZEGOVINE**

Ms Belma SKALONJIĆ, Government Agent, Office of the Agent of the Council of Ministers before the European Court of Human Rights in Strasbourg, Ministry for Human Rights and Refugees

**BULGARIA / BULGARIE**

Ms Svetlana STOYANOVA STAMENOVA, Trainee Attaché, Human Rights Directorate, Ministry of Foreign Affairs

**CROATIA / CROATIE**

Ms Štefica STAŽNIK, Representative, Office of the Representative of the Republic of Croatia before the European Court of Human Rights

**CZECH REPUBLIC / REPUBLIQUE TCHÈQUE**

Mr Vladimír PYSK, Office of the Government Agent before the European Court of Human Rights, Ministry of Justice of the Czech Republic

**DENMARK / DANEMARK**

Ms Maja ELKJÆR TARPGÅRD, Head of Section at the Constitutional Law and Human Rights Division, Danish Ministry of Justice

**FINLAND / FINLANDE**

Ms Satu SISTONEN, Legal Officer, Unit for Human Rights Courts and Conventions, Legal Service, Ministry for Foreign Affairs of Finland

**FRANCE**

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

**GERMANY / ALLEMAGNE**

Ms Cornelia WÖLK, Staff Counsel, Ministry of Justice

**GREECE / GRÈCE**

Mme Sofia KASTRANTA, Conseiller juridique adjoint, Département Juridique Spécial, Ministère des affaires étrangères

**ITALY / ITALIE**

Ms Maria Laura AVERSANO, Co-Agent of the Italian Government at the Ministry of Foreign Affairs

**LATVIA / LETTONIE**

Ms Kristīne LĪCIS, Representative of Latvia before European Court of Human Rights, Ministry of Foreign Affairs of the Republic of Latvia

**NETHERLANDS / PAYS-BAS**

Ms Clarinda COERT, Senior legal adviser human rights law, Legislation Department and Legal Affairs, Ministry of Security and Justice

Ms Babette KOOPMAN, Agent to the European Court of Human Rights for the Government of the Netherlands, Ministry of Foreign Affairs of the Netherlands

**NORWAY / NORVÈGE**

Ms Elin WIDSTEEN, Senior Adviser, Norwegian Ministry of Foreign Affairs, Legal Affairs Department, Section for Humanitarian and Criminal Law

Ms Tonje RUUD, Legal Adviser, Ministry of Justice and Public Security, Legislation Department

**POLAND / POLOGNE**

Ms Katarzyna HOLY, II Secretary, Department for Proceedings before International Human Rights Protection Bodies, Ministry of Foreign Affairs

**REPUBLIC OF MOLDOVA / REPUBLIQUE DE MOLDOVA**

Mr Andrei URSU, Deputy to the Permanent Representative

Mr Victor GITLAN

**ROMANIA / ROUMANIE**

M. Mihail-Andreas MITOSERIU, attaché diplomatique, Direction de l'Agent Gouvernemental auprès de la Cour Européenne des Droit de l'Homme, Ministère des Affaires Etrangères

**RUSSIAN FEDERATION / FÉDÉRATION 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

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

Mr Konstantin KOSORUKOV, Head of Division, Legal Department of the Ministry of Foreign Affairs of the Russian Federation

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

Ms Sofia PIMENOVA, Graduate student, Moscow Lomonosov State University

**SPAIN / ESPAGNE**

Mr Alfonso BREZMES MARTÍNEZ DE VILLARREAL, Senior State Attorney of the Constitutional Law & 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

**SWITZERLAND / SUISSE**

Mr Jonathan CUENOUD, Legal Officer, IHL Section, Swiss MFA

Mr Cristoph SPENLE, Chef suppléant de la Section droits de l'homme, Direction du droit international public, Département fédéral des affaires étrangères

**TURKEY / TURQUIE**

M. CAN ÖZTAS, Adjoint au Représentant Permanent, Ministère des Affaires Etrangères

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Mme Aysen EMÜLER, Experte juridique, Représentation Permanente de la Turquie auprès du Conseil de l'Europe

Mme GÜL PELIN KAYA, Juge rapporteur, Ministère de la Justice

**UNITED KINGDOM / ROYAUME-UNI**

Mr Chanaka WICKREMASINGHE, Agent of the UK before the European Court of Human Rights, Legal Counsellor, Foreign and Commonwealth Office

**OBSERVERS / OBSERVATEURS**

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

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

**HOLY SEE / SAINT SIÈGE**

Ms Tiziana FANTUCCHIO, Stagiaire, Mission Permanente du Saint-Siège auprès du Conseil de l'Europe

M. Grégor PUPPINCK

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

Ms Rachael KONDAK, Registry of the European Court of Human Rights

**FONDATION RENE CASSIN-INSTITUT INTERNATIONAL DES DROITS DE L'HOMME / RENE CASSIN FOUNDATION-INTERNATIONAL INSTITUTE OF HUMAN RIGHTS**

Mme Evangelia VASALOU, Assistante de recherche / Research assistant

**NON-GOVERNMENTAL ORGANISATIONS / ORGANISATIONS NON-GOUVERNEMENTALES**

**AMNESTY INTERNATIONAL**

Mr Sébastien RAMU, Deputy Director, Law and Policy programme, International Secretariat

**INVITEES / INVITES**

Mr Alexei ISPOLINOV, Professor, Head of the Department of International Law, Faculty of Law, Moscow Lomonosov State University

Mr Rick LAWSON, Prof. Dr. in European Human Rights Law, Leiden Law School, Faculteit der Rechtsgeleerdheid -- Leiden Law School

M. Sébastien TOUZE, Professeur à l'Université Panthéon-Assas, Directeur du Master II Droits de l'homme et droit humanitaire, Membre du Comité contre la torture des Nations Unies, Directeur de la Fondation René Cassin-Institut international des droits de l'homme

Mr Petr VALEK, Director of the International Law Department at the Ministry for Foreign Affairs of the Czech Republic

Mr Marten ZWANENBURG, Legal counsel, International Law Division of the Netherlands Ministry of Foreign Affairs

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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**

M. Mikhail LOBOV, Head of the Human Rights Policy and Co-operation Department / Chef du Service des politiques et de la coopération en matière de droits de l’homme

M. Alfonso DE SALAS, Head of the Human Rights Intergovernmental Co-operation Division / Chef de la Division de la coopération intergouvernementale en matière de droits de l’homme, Secretary of the CDDH / Secrétaire du CDDH

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, Secretary of the DH-SYSC-II / Secrétaire du DH-SYSC-II

Ms Elisa SAARI, Assistant Lawyer / Juriste Assistant, Human Rights Intergovernmental Co-operation Division / Division de la coopération intergouvernementale en matière de droits de l’homme

**INTERPRETERS/INTERPRETES**

Ms Sally BAILEY-RAVET

Mr Grégoire DEVICTOR

Ms Chloé CHENETIER

Ms Lucie DE BURLET

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Appendix II**Agenda**

	<b>Reference documents concerning all items on the agenda:</b>
<a href="#">DH-SYSC(2018)01</a>	Extract of the terms of reference given by the Committee of Ministers to the CDDH regarding the work of the DH-SYSC during the 2018-2019 biennium and relevant extracts of the CDDH meeting reports
<a href="#">DH-SYSC-II(2018)09</a>	Annotations on the draft agenda
<a href="#">CDDH(2017)R88</a>	Report of the 88 <sup>th</sup> CDDH meeting (5–7 December 2017)
<a href="#">DH-SYSC(2017)R4</a>	Report of the 4 <sup>th</sup> DH-SYSC meeting (9-10 November 2017)
<a href="#">DH-SYSC-II(2017)R2</a>	Report of the 2 <sup>nd</sup> DH-SYSC-II meeting (20–22 September 2017)
<a href="#">CDDH(2017)R87</a>	Report of the 87 <sup>th</sup> CDDH meeting (6–9 June 2017)
<a href="#">DH-SYSC(2017)R3</a>	Report of the 3 <sup>rd</sup> DH-SYSC meeting (10–12 May 2017)
<a href="#">DH-SYSC-II(2017)R1</a>	Report of the 1 <sup>st</sup> DH-SYSC-II meeting (30–31 March 2017)
<a href="#">CDDH(2015)R84 Addendum I</a>	CDDH report on the longer-term future of the system of the European Convention on Human Rights
<a href="#">CDDH(2015)004</a>	Brussels Declaration
<a href="#">CDDH(2012)007</a>	Brighton Declaration
<a href="#">CDDH(2011)010</a>	Izmir Declaration
<a href="#">CDDH(2010)001</a>	Interlaken Declaration
<a href="#">DH-SYSC(2016)009</a>	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)
<a href="#">CM/Res(2011)24</a>	Committee of Ministers' Resolution CM/Res(2011)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods
	<b>ITEM 1: OPENING OF THE MEETING, ADOPTION OF THE AGENDA AND OF THE ORDER OF BUSINESS</b>
<a href="#">DH-SYSC-II(2018)OJ1</a>	Draft agenda
<a href="#">DH-SYSC-II(2018)OT1</a>	Draft order of business

	<b>ITEM 2: DISCUSSION ON THE DRAFT CHAPTER OF THEME 1 SUBTHEMES ii) AND iii)</b>
<a href="#">DH-SYSC-II(2018)08</a>	Comments on the draft chapter of Theme 1 subthemes ii) and iii), in view of the 3 <sup>rd</sup> DH-SYSC-II meeting
<a href="#">DH-SYSC-II(2018)04</a>	Contribution for the preparation of draft chapter of Theme 1, subtheme ii) by Contributor Mr Marten Zwanenburg
<a href="#">DH-SYSC-II(2018)06</a>	External voluntary contributions on Theme 1, subthemes ii) and iii) from two Italian universities
<a href="#">DH-SYSC-II(2017)002</a>	Context of the work of the DH-SYSC-II on the future Report of the CDDH <ul style="list-style-type: none"> <li>• <b>Item 2.1: Subtheme ii) - State responsibility and extraterritorial application of the ECHR</b></li> </ul>
<a href="#">DH-SYSC-II(2018)07</a>	Draft chapter on Theme 1, subtheme ii) <ul style="list-style-type: none"> <li>• <b>Item 2.2: Subtheme iii) - Interaction between the resolutions of the Security Council and the ECHR</b></li> </ul>
<a href="#">DH-SYSC-II(2018)05</a>	Draft chapter on Theme 1, subtheme iii)
	<b>ITEM 3: DISCUSSION ON THEME 1, SUBTHEMES i) AND iv)</b>
<a href="#">DH-SYSC-II(2017)002 (see above)</a>	Context of the work of the DH-SYSC-II on the future Report of the CDDH <ul style="list-style-type: none"> <li>• <b>Item 3.1: Subtheme i) - Methodology of interpretation by the ECtHR and its approach to international law</b></li> <li>• <b>Item 3.2: Subtheme iv) - Interaction between international humanitarian law and the ECHR</b></li> </ul>
	<b>ITEM 4: ORGANISATION OF FUTURE WORK</b>
<a href="#">DH-SYSC-II(2018)03</a>	Draft revised planning of the work of the DH-SYSC-II <ul style="list-style-type: none"> <li>• <b>Item 4.1: Revised planning</b></li> <li>• <b>Item 4.2: Future invitees</b></li> </ul>
	<b>ITEM 5: ADOPTION OF THE MEETING REPORT</b>

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Appendix III

**Revised planning of the work of the DH-SYSC-II**

**1<sup>st</sup> meeting: 30-31 March 2017**

- Brainstorming Seminar on the place of the Convention in the European and international legal order, co-organised by the *PluriCourts* academic network
- Beginning of the work of the Drafting Group

**2<sup>nd</sup> meeting: 20-22 September 2017**

- Nomination of Rapporteurs and Contributors
- Discussion on Theme 1, subthemes ii) and iii)

The Contributors for **Theme 1 covering subthemes ii) and iii)** send their contributions to the co-Rapporteurs: 30 November 2017

The co-Rapporteurs send the draft chapter of **Theme 1 covering subtheme iii)** to the Secretariat: 8 February 2018

The Secretariat circulates the English version of the draft chapter of **Theme 1 covering subtheme iii)** to the experts for written comments: 8 February 2018 (the French version will follow as soon as possible)

The co-Rapporteurs send the draft chapter of **Theme 1 covering subtheme ii)** to the Secretariat: mid-February 2018

The Secretariat circulates the English version of the draft chapter of **Theme 1 covering subtheme ii)** to the experts for written comments: mid-February 2018 (the French version will follow as soon as possible)

Deadline for written comments on the draft chapters of **Theme 1 covering subthemes ii) and iii)** from the experts to the Secretariat: 12 March 2018

The Secretariat compiles the written comments and circulates them to the experts: 23 March 2018

**3<sup>rd</sup> meeting: 3-5 April 2018**

- Discussion of draft chapter on Theme 1, subthemes ii) and iii) (+ *ad hoc* expert)
- Discussion on Theme 1, subthemes i) and iv) (+ *ad hoc* expert)

Deadline for *ad hoc* expert suggestions: 19 April 2018

The co-Rapporteurs send a first draft of the new chapter on **Theme 1, subthemes ii) and iii)**, showing the broad lines along which the draft chapter will be revised, to the Secretariat with a view to its circulation at the 89<sup>th</sup> CDDH meeting in June: 1 June 2018

The Contributors for **Theme 1 covering subthemes i) and iv)** send their contributions to the co-Rapporteurs: 1 June 2018

The co-Rapporteurs send the revised draft chapter of **Theme 1 covering subthemes ii) and iii)** and the draft chapter of **Theme 1 covering subthemes i) and iv)** to the Secretariat: 29 June 2018

The Secretariat circulates the English version of the revised draft chapter of **Theme 1 covering subthemes ii) and iii)** and of the draft chapter of **Theme 1 covering subthemes i) and iv)** to the experts for written comments: 29 June 2018

The Secretariat translates the revised draft chapter of **Theme 1 covering subthemes ii) and iii)** and the draft chapter of **Theme 1 covering subthemes i) and iv)** and circulates the French versions to the experts: 20 July 2018

Deadline for sending written comments on the revised draft chapter of **Theme 1 covering subthemes ii) and iii)** and on the draft chapter of **Theme 1 covering subthemes i) and iv)** from the experts to the Secretariat: 17 August 2018

The Secretariat compiles the written comments and sends the compilation to the experts and to the co-Rapporteurs for them to prepare a revised draft chapter of **Theme 1 covering subthemes i) and iv)**: 28 August 2018

After receiving the revised draft chapter of **Theme 1 covering subthemes i) and iv)** from the co-Rapporteurs, the Secretariat circulates the revised draft chapter of **Theme 1 covering subthemes i) and iv)** to the experts: 14 September 2018

**4<sup>th</sup> meeting: 25-28 September 2018**

- Adoption of draft chapter on Theme 1
- Discussion on Theme 2 (+ *ad hoc* expert)

The Secretariat compiles the adopted draft chapter of **Theme 1** into an interim report to be presented to the DH-SYSC and the CDDH at the end of the biennium: October 2018

The Rapporteur sends the draft chapter of **Theme 2** to the Secretariat: end of October 2018

The Secretariat translates and circulates the draft chapter of **Theme 2** to the experts for written comments: mid-November 2018

Deadline for written comments on the draft chapter of **Theme 2** from the experts to the Secretariat: beginning of January 2019

The Secretariat compiles the written comments and sends them to the Rapporteur for her to prepare a revised draft chapter of **Theme 2**: beginning of January 2019

After receiving the revised draft chapter of **Theme 2** from the Rapporteur, the Secretariat circulates the compilation of written comments and the revised draft chapter of **Theme 2** to the experts: end of January 2019

**5<sup>th</sup> meeting: mid-February 2019**

- Adoption of draft chapter on Theme 2
- Discussion on Theme 3 (+ *ad hoc* expert)

The Rapporteur sends the draft chapter of **Theme 3** to the Secretariat: mid-March 2019

The Secretariat translates and circulates the draft chapter of **Theme 3** to the experts for written comments: end of March 2019

Deadline for written comments on the draft chapter of **Theme 3** from the experts to the Secretariat: mid-April 2019

The Secretariat compiles the written comments and sends them to the Rapporteur for her to prepare a revised draft chapter of **Theme 3**: mid-April 2019

After receiving the revised draft chapter of **Theme 3** from the Rapporteur, the Secretariat circulates the compilation of written comments and the revised draft chapter of **Theme 3** to the experts: mid-May 2019

**6<sup>th</sup> meeting: June 2019**

- Adoption of draft chapter on Theme 3
- Discussion on the revised draft Report

The Chair, in coordination with the Rapporteurs and the Secretariat, compiles the chapters into one coherent draft Report with an introduction and a conclusion.

The Secretariat circulates the draft Report to the experts: beginning of July 2019

Deadline for written comments on the draft Report from the experts to the Secretariat: mid-August 2019

The Secretariat compiles the written comments and circulates them to the experts together with the revised draft Report: end of August 2019

**7<sup>th</sup> meeting: September 2019**

- Adoption of the revised draft Report

Transmission of the Report to the DH-SYSC and to the CDDH: November/December 2019

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