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STEERING COMMITTEE FOR HUMAN RIGHTS
(CDDH)

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

DRAFTING GROUP III
ON THE FOLLOW-UP TO THE RECOMMENDATION Rec(2004)4
(DH-SYSC-III)

Preliminary draft Recommendation Rec(2019)...
of the Committee of Ministers to member States
on the system of the European Convention on Human Rights in university
education and professional training

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COMMITTEE OF MINISTERS

**Preliminary draft Recommendation Rec(2019)...
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on the system of the European Convention on Human Rights in university education and
professional training**

*(adopted by the Committee of Ministers on ... 2019,
at its ... Session)*

**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 of 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 lecturers 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 lecturers teachers and trainers. These may include, among others, former judges and lawyers of the Court, judges and lawyers of supreme and constitutional domestic courts, as well as government agents and members of their offices. 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

6. 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, and other information sources).

7. 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

8. 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 and free of charge. To strengthen the dissemination of the judgments of the European Court of Human Rights, member States should be encouraged to use automatic translation, if possible, as unofficial translation, in order to reduce the impact of language differences.

Comment [MI1]: Proposal by Slovenia.

Comment [MI2]: Proposal by Slovenia.

Comment [MI3]: Proposal by Slovenia.

Armenia, Latvia, Russia and Portugal opposed, with the following comments:
Portugal: In fact, this amendment, as it stands, would contradict (or undermine) the purpose of the recommendation made to Member States: that they ensure that the translations of selected Court's case-law are **accurate**. Either we do not want to burden Member States with this duty (as far as I understand, this obligation concerns *only a selection of relevant case-law*), or if we choose to entrust Member States with the duty to ensure that translations of *selected* Court's case-law are available, these might as well be accurate.
If the widespread dissemination of the Court's case-law is the aim, I don't think it should be pursued at the expense of the quality and accuracy of its translations, otherwise it is the comprehensibility, the quality and the authority of the Court's case-law that will be damaged. The use of automatic translation would certainly harm the efforts being made in order to provide good, clear and intelligible translations for a better implementation of the Convention and of the European standards at national level.

Latvia: I also agree that the proposed amendments from Slovenia in the paragraph 8 of Appendix I regarding automatic translation are to be carefully considered, as the meaning of the paragraph 8 seems to be focused on qualitative translations.

I would also add that a inclusion of the word "accurate" in the first sentence of the paragraph 8 of the draft Recommendation needs to be explained more for the following reasons:

First, the meaning of "accurate translation" is broad and allows subjective interpretation and understanding. Are we speaking here about translations that are accurate grammatically, or do "accurate translation" means linguistic quality, correctly reflecting the substance of the Court's ruling?

Secondly, how far the obligation of the Member States to "ensure accurate translations" expands? In Latvia, many translations especially with regard to selected Court's case law are ensured not only by the Government Agent's Office, but also by the different translation agencies and private initiatives for the needs of judges, ...

9. 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.