

DH-SYSC-IV(2020)R1  
21/02/2020

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 EFFECTIVE PROCESSING AND  
RESOLUTION OF INTER-STATE DISPUTES**

**(DH-SYSC-IV)**

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**MEETING REPORT**

1<sup>st</sup> meeting

19 – 21 February 2020

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**Item 1:        OPENING OF THE MEETING, ADOPTION OF THE AGENDA AND THE ORDER OF BUSINESS AND ELECTION OF A VICE-PRESIDENT**

1.        The Drafting Group on effective processing and resolution of cases relating to inter-State disputes (DH-SYSC-IV) held its 1<sup>st</sup> meeting in Strasbourg from 19 to 21 February 2020, with Mr Alain CHABLAIS (Switzerland) as the Chairperson. The list of participants appears in [Appendix I](#). According to the Resolution [CM/Res\(2011\)24](#) of the Committee of Ministers, the Drafting Group elected Mr Elias KASTANAS (Greece) as its Vice-Chairperson.

2.        The Drafting Group adopted the agenda (see [Appendix II](#)) and the order of business (see [Appendix III](#)).

3.        Mr Alfonso DE SALAS, Head of Division, Secretary of the CDDH delivered a welcome speech and underlined the importance of the work, which will be pursued in the next biennium.

**Item 2:        WORK ON EFFECTIVE PROCESSING AND RESOLUTION OF CASES RELATING TO INTER-STATE DISPUTES**

4.        The DH-SYSC-IV welcomed the fact that the Secretariat and the Chair, in preparation of this meeting, had drafted a background paper on the practice of European Court of Human Rights (the Court) with regard to inter-State applications (document [DH-SYSC-IV\(2020\)02](#)). While not exhaustive, this document was considered useful to provide a better understanding and a clearer picture on a number of topics which will be further examined in the forthcoming work of DH-SYSC-IV.

5.        The DH-SYSC-IV took note of the information provided by the Court Registry that the Court has already started to implement the proposals contained in a report by the Plenary Court on ‘Proposals for a more efficient processing of inter-State cases’ (document [CDDH\(2019\)22](#)).

6.        The DH-SYSC-IV had an in-depth discussion about the scope of its work on the basis of the mandate it received from the CDDH in November 2019 (document [DH-SYSC-IV\(2020\)01](#)) which reads as follows:

“In the light, in particular, of the reflections carried out during the elaboration of (i) the Contribution of the CDDH to the evaluation provided for by the *Interlaken Declaration*; (ii) the follow-up given by the CDDH to the relevant paragraphs of the *Copenhagen Declaration* and (iii) the CDDH Report on the place of the European Convention on Human Rights in the European and international legal order, the DH-SYSC Drafting Group on effective processing and resolution of cases relating to inter-State disputes (DH-SYSC-IV) is called upon to elaborate proposals on how to handle more effectively cases related to inter-State disputes, as well as individual applications arising from situations of conflict between States, without thereby limiting the jurisdiction of the Court, taking into account the specific features of these categories of cases, *inter alia* regarding the establishment of facts. In this context and under the supervision of the Committee of Experts on the System of the European Convention on Human Rights (DH-SYSC), the Group is tasked to prepare:

- (a) a draft CDDH report to be submitted to the forthcoming high-level expert conference on inter-State disputes in the framework of the ECHR system to be held in spring 2021 under the auspices of the German Chairmanship of the Committee of Ministers (deadline: 15 October 2020);

(b) a draft final activity report of the CDDH for the Committee of Ministers containing the reflections and possible proposals of the Steering Committee in this field (deadline: 15 October 2021).”

7. The DH-SYSC-IV agreed that the treatment of inter-State applications is a major challenge for the system of the Convention. The premise of the DH-SYSC-IV work is the strengthening of the authority and effectiveness of the Convention system while preserving the jurisdiction the Court. The DH-SYSC-IV’s examination of issues should be limited to the processing and resolution of cases relating to inter-State disputes without thereby limiting the jurisdiction of the Court. In the context of its discussions on the scope of its mandate, the DH-SYSC-IV had an exchange of views on the question whether issues relating to the execution of judgments in inter-State cases and related individual cases fall within its mandate. The delegation of the Russian Federation considered that these issues fall outside of the mandate of the DH-SYSC-IV and requested to enter a statement in the meeting report, which appears in Appendix IV. After the exchange of views on the question whether issues relating to the execution of judgments in inter-State cases and related individual cases fall within its mandate the DH-SYSC-IV agreed that it will not include a chapter on these issues in its deliverables.

8. The DH-SYSC-IV agreed on the draft structure as a basis for its draft report (cf § 6 litt. a above) which appears in Appendix V.

### **Item 3: ORGANISATION OF FUTURE WORK**

9. The DH-SYSC-IV agreed to appoint Ms Jenny Katharina DORN (Germany) and Mr Chanaka WICKREMASINGHE (United Kingdom) and his successor Mr James GAUGHAN (United Kingdom) as co-rapporteurs to prepare, with the assistance of the Secretariat, a draft report (cf § 6 litt. a above) for the 2<sup>nd</sup> meeting of the DH-SYSC-IV (9-11 September 2020) which should analyse the elements it agreed for the draft structure of the draft report (see paragraph 8 above).

10. The DH-SYSC-IV discussed the Roadmap (document [DH-SYSC-IV\(2020\)03](#)) prepared by the Secretariat and agreed that it should be updated according to the proposals of the co-rapporteurs regarding the preparation of the draft report and in order to reflect any changes in the calendar of the CDDH and DH-SYSC meetings. It agreed to hold a Workshop with experts including representatives from the Registry of the Court at its 2<sup>nd</sup> meeting. The members of the Drafting Group are invited to submit to the Chair, copying the Secretariat, following an invitation from the Secretariat containing relevant information, proposals for experts who can contribute to the examination of issues falling within scope of the Drafting Group’s mandate. On the basis of these proposals and taking into account the budgetary appropriations available for the workshop invitations will be sent subsequently to the experts.

11. The German delegation presented some preliminary ideas about the High-level expert Conference on inter-State disputes to be organised under the German Chairmanship of the Committee of Ministers in spring 2021.

### **Item 4: ADOPTION OF THE MEETING REPORT**

12. 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

#### **MEMBERS / MEMBRES**

##### **ALBANIA / ALBANIE**

Ms Monika LAMCE, Deputy to the Permanent Representative of Albanian to the CoE, Representative of the Albanian Advocature

##### **ARMENIA / ARMENIE**

Ms Manushak ARAKELYAN, Acting Head of Multilateral Treaties Division Department of International Treaties and Law, Ministry of Foreign Affairs

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

##### **AZERBAIJAN / AZERBAÏDJAN**

Mr Habib ABDULLAYEV, Senior Consultant, Human Rights Unit, Department for Work with Law Enforcement Bodies, Administration of President of the Republic of Azerbaijan

Mr. Allahveran ORUJLU, Legal Counselor of the Delegation, Permanent Representation of the Republic of Azerbaijan to the Council of Europe

Ms Zhala Ibrahimova, Deputy to the Permanent Representative, Permanent Representation of the Republic of Azerbaijan to the Council of Europe

##### **BOSNIA AND HERZEGOVINA / BOSNIE-HERZEGOVINE**

Ms Belma SKALONJIĆ, Acting Agent of the Government of Bosnia and Herzegovina, Ministry for Human Rights and Refugees

Ms Monika MIJIĆ, Acting Agent of the Government of Bosnia and Herzegovina, Ministry for Human Rights and Refugees

Ms Vanja BJELICA-PRUTINA, Acting Agent of the Government of Bosnia and Herzegovina, Ministry for Human Rights and Refugees

##### **CROATIA / CROATIE**

Ms Štefica STAŽNIK, Representative, Office of the Representative of the Republic of Croatia before the ECHR

##### **FINLAND / FINLANDE**

Ms Katja FOKIN, Legal Officer, Unit for Human Rights Courts and Conventions, Legal Service, Ministry for Foreign Affairs

Ms Mia SPOLANDER, Deputy to the Permanent Representative of Finland to the Council of Europe

##### **FRANCE**

Ms Gaëlle TAILLÉ, Deputy to the Permanent Representative of France to the Council of Europe

Ms Anaïs BARBIER, stagiaire, Permanent Representation of France to the Council of Europe

**GEORGIA / GEORGIE**

Mr Giorgi BAIDZE, Legal Adviser of the Department of the State Representation to the International Courts, Ministry of Justice

Ms Tamar ROSTIASHVILI, Head of the Analytical Department, Ministry of Justice of Georgia, Gorgasali 24a, Tbilisi, Georgia

**GERMANY / ALLEMAGNE**

Ms Jenny Katharina DORN, Referentin, Division for Human Rights Bundesministerium der Justiz und für Verbraucherschutz - Federal Ministry of Justice and Consumer Protection

**GREECE / GRÈCE**

Mr Elias KASTANAS, Senior Legal Counsellor, Legal Department, Ministry of Foreign Affairs

**REPUBLIC OF MOLDOVA/ REPUBLIQUE DE MOLDOVA**

Mr Victor LĂPUȘNEANU, Deputy Permanent Representative of the Republic of Moldova to the Council of Europe

**NETHERLANDS / PAYS-BAS**

Ms Anne AAGTEN, LLM Legal Officer, Ministry of Foreign Affairs, Legal Affairs Department, International Law Division (DJZ/IR)

**NORWAY / NORVEGE**

Mr Morten RUUD, Special adviser, Norwegian Ministry of Justice and Public Security, Legislation Department

**POLAND / POLOGNE**

Ms Magdalena BOROWSKA, Legal and Treaty Department, Ministry of Foreign Affairs

**ROMANIA / ROUMANIE**

Ms Mihaela DEACONU, Minister Counselor, Ministry of Foreign Affairs

**RUSSIAN FEDERATION / FÉDÉRATION DE RUSSIE**

Ms Olga ZINCHENKO, Third Secretary of the Department for Humanitarian Cooperation and Human Rights of the Ministry of Foreign Affairs

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

Mr Stanislav KOVPAK, Representative of the Ministry of Justice of the Russian Federation in Strasbourg

Mr Roman SEDOV, Representative of the Ministry of Justice of the Russian Federation in Strasbourg

Mr Vladislav ERMAKOV, Permanent Representation of the Russian Federation to the Council of Europe

**SERBIA / SERBIE**

Mr Aleksandar V. GAJIĆ, PhD, Chief Legal Advisor at the Ministry of Foreign Affairs and Professor at the Faculty of Law

**SLOVAK REPUBLIC / RÉPUBLIQUE SLOVAQUE**

Ms Karina KIČUROVÁ, LL.M., Deputy to the Permanent Representative, Permanent Representation of the Slovak Republic to the Council of Europe

**SLOVENIA / SLOVÉNIE**

Ms Mateja ŠTRUMELJ PIŠKUR, LLM, Minister Plenipotentiary, International Law Department, Directorate for Multilateral Affairs, Development Cooperation and International Law, Ministry of Foreign Affairs

**SWITZERLAND / SUISSE** (*Présidence*)

Mr Alain CHABLAIS, Dr. iur., Federal Department of Justice and Police DFJP, Federal Office of Justice OFJ, Representative of Switzerland to the European Court of Human Rights, CAT, CERD, CEDAW and CRC

Mr Adrian SCHEIDEGGER, Deputy Agent of the Swiss Government to the European Court of Human Rights, CAT, CERD, CEDAW, Federal Department of Justice and Police DFJP, Federal Office of Justice OFJ

Ms Anna BEGEMANN, Adjointe au Représentant Permanent de la Suisse auprès du Conseil de l'Europe

**TURKEY / TURQUIE**

Ms Günseli GÜVEN, Deputy to the Permanent Representative, Permanent Delegation of Turkey to the Council of Europe

**UNITED KINGDOM / ROYAUME-UNI**

Mr Chanaka WICKREMASINGHE, Legal Counsellor, Legal Directorate, Foreign and Commonwealth Office

**PARTICIPANTS**

**Registry of the European Court of Human Rights / Greffe de la Cour européenne des droits de l'homme**

Ms Martina KELLER, Head of Division / Chef de Division

**Committee of Ministers / Comité des Ministres**

Ms Geneviève MAYER, Deputy to the Secretary of the Committee of Ministers / Adjointe au Secrétaire du Comité des Ministres

**Department for the Execution of judgments of the European Court of Human Rights / Service de l'exécution des arrêts de la Cour Européenne des Droits de l'Homme**

Ms Clare OVEY, Deputy Head of Department a.i. / Adjointe au chef de Service a.i.

Ms Ekaterina MALAREVA, Lawyer/Juriste

**Directorate of Legal Advice and Public International Law / Direction du conseil juridique et du droit international public**

Ms Marie-Sophie BOHLMANN, Stagiaire

**Office of the Commissioner for Human Rights / Bureau du Commissaire aux droits de l'homme**

Ms Olena PETSUN, Adviser, Office of the Commissioner for Human Rights / Conseillère, Bureau du Commissaire aux droits de l'homme

**Delegation of the European Union to the Council of Europe / Délégation de l'Union Européenne auprès du Conseil de l'Europe**

Mr Tom JINERT-BARET, Legal Affairs Trainee

**Non governmental Organisations / Organisations non-gouvernementales**

**AMNESTY INTERNATIONAL**

Mr Sébastien RAMU, Deputy Programme Director and Head of the Freedoms and Justice team - Law and Policy Programme, Special Adviser - Strategic Litigation

**OBSERVERS / OBSERVATEURS**

**HOLY SEE / SAINT-SIÈGE**

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**MEXICO / MEXIQUE**

Mme María Noemí HERNANDEZ TELLEZ, Observateur Permanent Adjoint du Mexique auprès du Conseil de l'Europe, Mission Permanente du Mexique auprès du Conseil de l'Europe / Permanent Mission of Mexico to the Council of Europe

**SECRETARIAT**

**DG I – Human Rights and Rule of Law / Droits de l'Homme et Etat de droit  
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Mr Alfonso DE SALAS, Head of Division / Chef de Division, Human Rights Intergovernmental Cooperation Division / Division de la coopération intergouvernementale en matière de droits de l'Homme, Secretary of the CDDH / Secrétaire du CDDH

Ms Elvana THACI, Administrator, Human Rights Intergovernmental Cooperation Division/ Division de la coopération intergouvernementale en matière de droits de l'Homme, **Secretary of the DH-SYSC-IV / Secrétaire du DH-SYSC-I**

Ms Sarah BELHADJMILED, Assistant Lawyer / Juriste assistant, Human Rights Intergovernmental Cooperation Division / Division de la coopération intergouvernementale en matière de droits de l'Homme

Mme Corinne GAVRILOVIC, Assistant / Assistante, Human Rights Intergovernmental Cooperation Division / Division de la coopération intergouvernementale en matière de droits de l'Homme

**INTERPRETERS / INTERPRÈTES**

Mme Chloé CHENETIER

M. Luke TILDEN

M. Jean-Jacques PEDUSSAUD

## Appendix II

### **Agenda**

#### **ITEM 1: OPENING OF THE MEETING, ADOPTION OF THE AGENDA AND THE ORDER OF BUSINESS AND ELECTION OF A VICE-PRESIDENT**

Draft annotated agenda

[DH-SYSC-IV\(2020\)OJ1Annotated](#)

Draft order of business

[DH-SYSC-IV\(2020\)OT1](#)

Resolution CM/Res(2011)24 of the Committee of Ministers on intergovernmental committees and subordinate bodies, their terms of reference and working methods

[CM/Res\(2011\)24](#)

#### **ITEM 2: WORK ON EFFECTIVE PROCESSING AND RESOLUTION OF CASES RELATING TO INTER-STATE DISPUTES**

Terms of reference of the DH-SYSC-IV during the 2020-2021 biennium - Extracts of the terms of reference given by the Committee of Ministers to the CDDH and DH-SYSC regarding the work of the DH-SYSC-IV and relevant extracts of the 92<sup>nd</sup> CDDH meeting report.

[DH-SYSC-IV\(2020\)01](#)

Draft additional elements resulting from the Copenhagen Declaration that should be reflected in the future Interlaken follow-up report as prepared by the Bureau at its 101<sup>st</sup> meeting (Helsinki, 15-17 May 2019) for consideration and possible provisions adoption by the CDDH at its 91<sup>st</sup> meeting (18-21 June 2019); see in particular §§61-91 and Appendices I and II.

[CDDH-BU\(2019\)R101Addendum](#)

Report of the 91<sup>st</sup> CDDH meeting (18-21 June 2019)

[CDDH\(2019\)R91](#)

Compilation of the contributions received by the member States

[CDDH\(2019\)12](#)

Report by the Plenary Court on "Proposals for a more efficient processing of inter-State cases" submitted to the CDDH

[CDDH\(2019\)22](#)

Contribution of the CDDH to the evaluation provided for by the Interlaken Declaration; see in particular §§ 121-124.

[CDDH\(2019\)R92Addendum2](#)

CDDH Report on the place of the European Convention on Human Rights in the European and international legal order

[CDDH\(2019\)R92Addendum1](#)

Background paper on the practice of European Court of Human Rights with regard to inter-State applications prepared by the Secretariat

[DH-SYSC-IV\(2020\)02](#)



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### **ITEM 3: ORGANISATION OF FUTURE WORK**

Roadmap of the work of DH-SYSC-IV

[DH-SYSC-IV\(2020\)03](#)

### **ITEM 4: ADOPTION OF THE MEETING REPORT**

Report of the 1<sup>st</sup> meeting of DH-SYSC-IV (19-21 February 2020)

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### **GENERAL REFERENCE DOCUMENTS**

Terms of reference of the DH-SYSC-IV during the 2020-2021 biennium - Extracts of the terms of reference given by the Committee of Ministers to the CDDH and DH-SYSC regarding the work of the DH-SYSC-IV and relevant extracts of the 92<sup>nd</sup> CDDH meeting report

DH-SYSC-IV(2020)01  
(see above)

Report of the 91<sup>st</sup> CDDH meeting (18–21 June 2019)

CDDH(2019)R91  
(see above)

Report of the 92<sup>nd</sup> meeting of the CDDH (26-29 November 2019)

[CDDH\(2019\)R92](#)

Report of the 5<sup>th</sup> meeting of DH-SYSC (15–18 October 2019)

[DH-SYSC\(2019\)R5](#)

CDDH report on the longer-term future of the system of the European Convention on Human Rights

[CDDH\(2015\)R84Addendum I  
Publication](#)

#### [Copenhagen Declaration](#)

Brussels Declaration

[CDDH\(2015\)004](#)

Brighton Declaration

[CDDH\(2012\)007](#)

Izmir Declaration

[CDDH\(2011\)010](#)

Interlaken Declaration

[CDDH\(2010\)001](#)

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)

[DH-SYSC\(2016\)009](#)

Committee of Ministers' Resolution CM/Res(2011)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods

CM/Res(2011)24  
(see above)

Appendix III

**Order of business**

**Wednesday 19 February 2020**

- 9:30 – 10:10            **ITEM 1: OPENING OF THE MEETING, ADOPTION OF THE AGENDA AND OF THE ORDER OF BUSINESS, ELECTION OF THE VICE-PRESIDENT**
- Opening of the meeting by the Chair;
  - Welcoming remarks by the Secretariat;
  - Chair’s invitation to members of the DH-SYSC-IV to propose candidates for the Vice-President.
- 10:10 – 13:00            **ITEM 2: WORK ON EFFECTIVE PROCESSING AND RESOLUTION OF CASES RELATING TO INTER-STATE DISPUTES**
- Presentation by the Secretariat of the process leading up to the creation of the DH-SYSC-IV;
  - Chair’s presentation of the mandate of DH-SYSC-IV;
  - General discussion with members of the Drafting Group (tour de table) about the scope of its work;
  - [Introductory statement by the Registry of the Court;](#)
  - Brief presentation by the Secretariat of the Background Paper (document [DH-SYSC-IV\(2020\)02](#));
  - Thematic discussion – issues related to the scope of inter-State applications.
- 13:00 – 14:30            *Lunch break*
- 14:30 – 18:00            **ITEM 2: Continuation**
- Election of the Vice-President;
  - Discussion of issues related to differences in admissibility criteria applicable to inter-State applications and individual applications concerning the same-subject matter and relating partly to the same individuals;
  - Discussion of issues relating to the plurality of parallel proceedings (Inter-State and individual applications pending before the Court and cases pending before other international bodies which may, at least, in part concern the same subject-matter and relate to the same individuals).

**Thursday 20 February 2020**

- 9:00 – 13:00            **ITEM 2: Continuation**
- Discussion of issues relating to establishment of facts (practice of the Court with respect to evidence, on the spot investigations, preparing and conducting fact-finding hearings of witnesses, etc).
- 13:00 – 14:30            *Lunch break*

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14:30 – 15:30

**ITEM 2: Continuation**

- Discussion of issues relating to just satisfaction.

15:30 – 18:00

**ITEM 2: Continuation of discussions**

**FRIDAY 21 February 2020**

10:00 – 13:00

**ITEM 3: ORGANISATION OF FUTURE WORK**

- Discussion about a possible hearing with experts in the next meeting with a view to agreeing on the principles and process for the organisation of the hearing;
- Discussion and approval of the Roadmap, in this context invite Germany to present its views on a High-Level Expert Conference on Inter-State Disputes to be organised under its Chairmanship of the Committee of Ministers in spring 2021.

**ITEM 4: ADOPTION OF THE MEETING REPORT**

## Appendix IV

### **Statement of the Delegation of the Russian Federation regarding the working methods of the Drafting Group on Effective Processing and Resolution of Cases Relating to Inter-State Disputes (DH-SYSC-IV)**

Following the discussions in the DH-SYSC-IV the Delegation of the Russian Federation wishes to state its position regarding the untenable attempts to broaden the mandate of the Group to include issues of execution of judgments in inter-State cases and related individual cases in contravention of the Terms of Reference given to it by its superior committee – the CDDH.

According to Resolution CM/Res(2011)24 by “terms of reference” shall be understood all directives relating to the activities of a committee subject to the present resolution. Terms of reference include concrete and measurable expected results for which the committee is responsible, and the Chairperson shall call to order a speaker who departs from the committee’s terms of reference. Any suggestion that a subordinate body's mandate may be unilaterally expanded by said body against the decisions of both its superior Steering committee and the Committee of Ministers contravenes the basic rules of the Organisation and is unacceptable. The Group thus may not change its mandate given to it by superior bodies.

In this case, the CDDH tasked DH-SYSC-IV, as a Drafting Group on Effective Processing and Resolution of Cases Relating to Inter-State Disputes, to “elaborate proposals on how to handle more effectively cases related to inter-State disputes, as well as individual applications arising from situations of conflict between States, without thereby limiting the jurisdiction of the Court, taking into account the specific features of these categories of cases, inter alia regarding the establishment of facts”. Execution of judgments is not mentioned.

By way of comparison it should be noted that at the same time the CDDH created Drafting Group DH-SYSC-V, which, in contrast, was tasked with formulation of proposals on “the national reception of the system of the European Convention on Human Rights, in order to assist the State authorities involved in the operation of the Convention and in the process of the execution of judgments to fulfil their mission in the best possible way, in the light of existing national best practices[...].” The issue of execution, thus, will be explicitly dealt with in DH-SYSC-V.

Against this backdrop it is clear that when the CDDH wished to include the issue of execution of judgments of the ECtHR in the Terms of Reference of a Drafting Group, it did so explicitly. It is also in line with the textual interpretation of the Terms of Reference used in previous practice of the DH-SYSC and CDDH. For example, Drafting Group DH-SYSC-II was instructed with a rather broad task “to carry out a detailed analysis of all questions relating to the place of the Convention in the European and international legal order and on the medium-term and longer-term prospects”. However, DH-SYSC and later the CDDH decided not to retain the proposal made by the Russian delegation to address also questions relating to the execution of judgments in the future report and notably in its chapter on State responsibility and extraterritorial application of the Convention. The CDDH “considered that this goes beyond the scope of the future report to be drafted by the DH-SYSC-II on the ECHR in the European and international legal order and the analysis of the risks of fragmentation arising from diverging interpretations”.

Therefore, the mandate of the DH-SYSC-IV should be interpreted in good faith and in the context of the practice of its superior committees – CDDH and DH-SYSC.

The Delegation of the Russian Federation takes note of the fact that the issue of execution of judgments was not present in the Agenda and Annotated Agenda as circulated prior to the DH-SYSC-IV meeting, as well as the fact that the Agenda and Order of Business of the meeting were adopted by consensus without this item being included.

In light of the above, the Delegation of the Russian Federation stated its disagreement with the working methods proposed by the Secretariat and the Chairman of the DH-SYSC-IV in violation of the rules of procedure. Despite objections of the Delegation of the Russian Federation this item was discussed in the Group in violation of the mandate of DH-SYSC-IV, as well as contrary to the Agenda and Order of Business of the meeting. Therefore, his discussion cannot be considered an official part of the meeting. Accordingly, the Delegation of the Russian Federation did not participate in this discussion.

The Delegation of the Russian Federation encourages the Secretariat, the Chairman and other delegations to avoid the use of double standards and continue the future work of DH-SYSC-IV in a constructive spirit and in full adherence to the rules of procedure.

## Appendix V

### **Draft structure for the draft CDDH Report on the effective processing and resolution of cases relating to inter-State disputes<sup>1</sup>**

*(as decided at the first meeting of the DH-SYSC-IV, 19-21 February 2020)*

#### **Background**

- Decisions taken by the CM and the CDDH following the Copenhagen Declaration;
- Major challenges regarding the processing and resolution of cases relating to inter-State disputes.

#### **Mandate of the DH-SYSC-IV**

#### **Introduction**

- Statistics;
- Article 33 of the Convention;
- Article 34 of the Convention.

#### **Content of inter-State applications**

- Information and documents provided by State parties to the Court under Article 46 (b) (c) and (d) of the Rules of the Court, including translation of documents;
- Duty of states to co-operate under Article 38 of the Convention in respect of documents/submissions to the Court;

#### **The relationship between inter-State applications and individual applications concerning the same-subject matter and relating partly to the same individuals:**

- the Court's practice with regard to the admissibility of inter-State applications after individual applications have been lodged;
- potential differences in the processing and resolution of cases stemming from the differences in admissibility criteria in inter-State and individual applications;
- prioritisation policy (individual applications adjourned);
- immediate communication of an inter-State case without a summary of the facts;
- the Court's practice on the requirement of exhaustion of domestic remedies in both inter-State and individual cases as well as the potential applicability of other admissibility criteria;
- streamlining/analysing questions of fact-finding which are common to both types of applications;
- identification of individuals/victims in inter-State applications;
- individual applications relating to inter-State disputes in the absence of inter-State applications;
- comparative analysis with other relevant international fora

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<sup>1</sup> The draft report is to be submitted to the forthcoming high-level expert conference on inter-State disputes in the framework of the ECHR system to be held in spring 2021 under the auspices of the German Chairmanship of the Committee of Ministers.

### **The relationship between proceedings of inter-State cases and individual cases concerning the same subject-matter before the Court and other international bodies**

- The Court's practice with regard to admissibility under Article 35 § 2 b;
- The scope of Article 55 of the Convention ;
- Practice of other international fora.

### **The establishment of the facts**

- The Court's powers and practice with regard to the standard of proof/burden of proof;
- The Court's powers and practice with regard to fact-finding, *inter-alia*, sources of information, witnesses and on-site visits;
- Powers and practices with regard to fact-finding and standard of proof from the ICJ, the Inter-American Commission and Inter-American Court of Human Rights, the African Court on Human and Peoples' Rights, stressing the necessary distinctions with criminal justice jurisdictions;
- Duty of states to co-operate under Article 38 of the Convention.

### **Just satisfaction**

- The Court's practices with regard to the application of Article 41 to inter-State cases;
- The relationship between the Rules of the Court and the Convention as interpreted by the Court in respect of modalities of just satisfaction;
- ICJ's practice on just satisfaction.

### **Friendly settlement in inter-State disputes in the light of practices from other international bodies**