

DH-SYSC-IV(2020)R2

11/09/2020

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**

2<sup>nd</sup> meeting

9 – 11 September 2020

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

1. The Drafting Group on effective processing and resolution of cases relating to inter-State disputes (DH-SYSC-IV) held its 2<sup>nd</sup> meeting in Strasbourg from 9 to 11 September 2020 by video-conference due to the measures related to the COVID-19 pandemic. The meeting was chaired by Mr Alain CHABLAIS (Switzerland) who was exceptionally present in the premises of the Council of Europe in order to ensure the proper conduct of the meeting. The list of participants appears in Appendix I.

2. The Chair of the Drafting Group invited the members to adopt a revised annotated agenda and order of business in view of the fact that the meeting could be held only via videoconference. He also noted with regret that the exchange of views with invited experts Ms Isabella RISINI, Mr Jernej LETNAR ČERNIČ, Mr James DEVANEY, Mr Anatoly Yakovlevich KAPUSTIN, Mr Philip LEACH and with the participation of Ms Martina KELLER from the Registry of the Court could not be held due to the limited time available for the current video-conference meeting. DH-SYSC-IV decided to invite them in the context of its 3<sup>rd</sup> meeting in spring 2021.

3. Mr Morten RUUD (Norway), Chair of the CDDH, greeted the participants in the meeting. He noted that the sanitary crisis related to COVID-19 pandemic has impacted the work of the Council of Europe and its committees, including the CDDH. In this respect he presented the adaptations that the Bureau decided to make to the CDDH calendar, notably as regards the postponing of the meeting of the Committee of Experts on the System of the European Convention on Human Rights (DH-SYSC). Nonetheless, the sanitary crisis did not prevent the DH-SYSC-IV from advancing in its work. Bearing in mind that there might be outstanding issues which may need further reflections including in the framework of the high-level expert Conference on inter-State disputes in the framework of the system of the Convention to be held in spring 2021 under the auspices of the German Chairmanship of the Committee of Ministers, Mr Morten Ruud encouraged the members of the Drafting Group to try and seek to finalise the first draft report that is called for under its terms of reference so that the CDDH can proceed with its examination at its 93<sup>rd</sup> meeting.

4. Mr Alfonso DE SALAS, Head of Division on Intergovernmental Cooperation, Secretary of the CDDH assured the Drafting Group of the full support of the Secretariat in accomplishing the objectives of meeting. He informed the DH-SYSC-IV about the possibility that the 93<sup>rd</sup> meeting of the CDDH may not take place as envisaged from 3 to 6 November 2020 in Athens. If this is confirmed the Secretariat envisages to propose that the CDDH meeting is held by videoconference by the end of November or beginning of December; it will also explore the possibility of holding a meeting of the Committee of Experts on the system of the European Convention on Human Rights (DH-SYSC) before the CDDH meeting.

5. The Drafting Group adopted the agenda (see Appendix II) and the order of business (see Appendix III).

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

6. The Drafting Group congratulated the two co-Rapporteurs Ms Jenny Katharina DORN (Germany) and Mr Chanaka WICKREMASINGHE (United Kingdom), as well as the Chair and the Vice-Chair, for having prepared the draft CDDH report on the effective processing and resolution of cases relating to inter-State disputes (document DH-SYSC-IV(2020)04 hereinafter the draft CDDH Report). The Chair informed the Drafting Group that Mr Chanaka WICKREMASINGHE is called to other functions and that, as a result, he will no longer be able

to participate in its work and will therefore be replaced by his successor James GAUGHAN, as agreed in the previous meeting. On behalf of the DH-SYSC-IV, the Chair expressed the highest appreciation for the excellent contribution of Mr Chanaka WICKREMASINGHE to the work of DH-SYSC-IV and wished him every success in his new duties.

7. The DH-SYSC-IV discussed a number of proposals for changes in the draft CDDH report which were submitted by delegations before and during the meeting. Taking note of the impossibility to progress with the examination of the draft CDDH report at the pace originally envisaged, the DH-SYSC-IV was not able to complete its first reading. Therefore, it agreed to ask the Co-rapporteurs, the Chair and the Vice-Chair to revise, with the support of the Secretariat, the draft CDDH report on the basis of the discussions held during the meeting and, where appropriate, to suggest possible compromise language in order to facilitate future exchanges. This revised draft CDDH report will be distributed to DH-SYSC-IV after the meeting with a request to submit drafting proposals in writing to the Secretariat by a deadline to be set in October 2020 with a view to resuming the consideration of the remaining parts of the draft report and its finalisation in a possible exceptional additional meeting of the DH-SYSC-IV. Subject to decisions to be made on the holding of meetings in the Council of Europe, such an additional meeting could be envisaged to take place during the week of 16 November 2020 via videoconference.

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

8. The DH-SYSC-IV noted that it is probable that the holding of presential meetings of intergovernmental committees will continue to be affected by measures aimed at tackling the COVID-19 pandemic in the coming months and in 2021. All members expressed their readiness to continue to engage in the work of DH-SYSC-IV constructively and in a spirit of co-operation by adapting their working methods, including by means of using new technologies such as videoconferences.

9. The DH-SYSC-IV decided to hold a hearing with the experts (see paragraph 2 above) in the context of the 3<sup>rd</sup> meeting of the Drafting Group, which is currently envisaged to be held in conjunction with the high-level expert conference on inter-State disputes in the framework of the system of the Convention to be held in spring 2021 under the auspices of the German Chairmanship of the Committee of Ministers.

10. The German delegation presented some updated information on the forthcoming High-level expert conference to be held in Berlin on 12 and 13 April 2021.

11. The DH-SYSC-IV invited the two Co-rapporteurs, the eventual successor of Ms Jenny Katharina DORN (Germany) whose name would be confirmed through a written procedure and Mr James GAUGHAN (United Kingdom) to prepare the second draft report called for under its terms of reference, notably 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. This draft final activity report should be based on the draft CDDH Report which will be finalised at or prepared for a possible exceptional meeting of DH-SYSC-IV in November 2020.

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

12. At the end of its meeting, the Drafting 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**

**ARMENIA / ARMENIE**

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

Ms. Zoya TOVMASYAN, Attache of the Multilateral Treaties Division of the Department of International Treaties and Law, Ministry of Foreign Affairs

**AZERBAIJAN / AZERBAÏDJAN**

Mr Şahin ABBASOV, Adviser, Human Rights Protection Unit, Law Enforcement Bodies and Military Issues Department of the Administration of the President

Mr Habib ABDULLAYEV, Senior Consultant, Human Rights Unit, Department for Work with Law Enforcement Bodies

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 of Bosnia and Herzegovina

**BULGARIA / BULGARIE**

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

**CROATIA / CROATIE**

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

**CYPRUS / CHYPRE**

Ms Theodora CHRISTODOULIDOU, Counsel of the Republic, Office of the Attorney-general (Human Right sector)

**CZECH REPUBLIC / REPUBLIQUE TCHEQUE**

Ms Martina JIRSOVA, Advisor at the Office of the Czech Government Agent, Ministry of Justice

**FINLAND / FINLANDE**

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

**FRANCE**

Mme Gaëlle TAILLÉ, Adjointe au Représentant permanent de la France auprès du Conseil de l'Europe, Strasbourg

M. Alexy CHAINEUX, Représentation permanente de la France auprès du Conseil de l'Europe, Strasbourg

**GEORGIA / GEORGIE**

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

Mr Beka DZAMASHVILI, Government Agent of Georgia before the ECtHR, Head of the Department of the State Representation to the International Courts, Ministry of Justice

Ms Nino NIKOLAISHVILI, Deputy Head of the Department of State Representation to the International Courts, Ministry of Justice

**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, Conseiller juridique adjoint, Service juridique, Ministère des Affaires Etrangères,

**LIECHTENSTEIN**

Ms Helen LOREZ, Deputy Permanent Representative, Permanent Representation of Liechtenstein to the Council of Europe

**REPUBLIC OF MOLDOVA/ REPUBLIQUE DE MOLDOVA**

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

Mr Andrei URSU, Deputy to the Permanent Representative of the Republic of Moldova to the Council of Europe

Mr Victor LĂPUȘNEANU, Head of the Council of Europe and Human Rights Division, Ministry of Foreign Affairs and European Integration

**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, Oslo

Mr Geir ULFSTEIN, Professor, University of Oslo.

**POLAND / POLOGNE**

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

**ROMANIA / ROUMANIE**

Ms Mirela PASCARU, Deputy Director of the International Law and EU Law Division, 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 of the Russian Federation

M. Stanislav KOVPAK, Représentant du Ministère de la Justice de la Fédération de Russie à Strasbourg

M. Konstantin KOSORUKOV, Senior Counselor, Permanent Representation of the Russian Federation at the Council of Europe

M. Roman SEDOV, Ministère de la Justice de la Fédération de Russie à Strasbourg

**SERBIA / SERBIE**

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

**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, Head of the International Law Department, Directorate for International Law and Protection of Interests, Ministry of Foreign Affairs

Mr Tija KUCHAR, Attaché, International Law Department, Directorate for International Law and Protection of Interests.

**SWEDEN / SUÈDE**

Ms Jessica SJÖSTRAND, Senior Legal Adviser, Ministry for Foreign Affairs, Department for International Law, Human Rights and Treaty Law

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

M. Alain CHABLAIS, Dr. iur., Département fédéral de justice et police DFJP, Office fédéral de la justice OFJ, Agent du Gouvernement suisse devant la Cour européenne des droits de l'Homme

Mr Adrian SCHEIDEGGER, Eidgenössisches Justiz- und Polizeidepartement EJPD, Bundesamt für Justiz BJ

**TURKEY / TURQUIE**

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

Ms Ayşen EMÜLER, Legal Expert, Permanent Representation of Turkey to the Council of Europe, Strasbourg

**UNITED KINGDOM / ROYAUME-UNI**

Mr James GAUGHAN, Legal Directorate, Foreign and Commonwealth Office

<b>PARTICIPANTS</b>
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**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**

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

**Secretariat of the Committee of Legal Advisers on Public International Law / Secrétariat du Comité juridique et du droit international public (CAHDI)**

Ms Irene SUOMINEN, Legal Advisor – Conseillère juridique, Legal Advice and Litigation Department – Service du Conseil juridique et du Contentieux

**CCBE**

Mr Piers GARDNER, Chair of the Permanent Delegation, Strasbourg

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

Mr Jeremy McBride

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

**European Trade Union Confederation (ETUC) / Confédération européenne des syndicats (CES)**

Mr. Stefan Clauwaert, ETUC Legal and Human Rights Advisor, ETUC Representative in the Governmental Committee to the European Social Charter/European Code of Social Security

**AMNESTY INTERNATIONAL**

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

Ms Rita PATRÍCIO, Senior Executive Officer for the Council of Europe

**OBSERVERS / OBSERVATEURS**

**HOLY SEE / SAINT-SIÈGE**

M. Grégor PUPPINCK, STRASBOURG

**SECRETARIAT**

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

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, **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

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**INTERPRETERS / INTERPRÈTES**

M. Michael HILL  
Ms Julia TANNER

Appendix II

**Annotated Agenda**

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

Working documents:

Draft annotated agenda

[DH-SYSC-IV\(2020\)OJ2AnnotatedRev](#)

Draft order of business

[DH-SYSC-IV \(2020\)OT2REV](#)

*After the opening of the meeting by the Chairperson, Mr Alain CHABLAIS (Switzerland), the Group is invited to adopt the agenda and the order of business.*

**ITEM 2: DRAFT CDDH REPORT ON THE EFFECTIVE PROCESSING AND RESOLUTION OF CASES RELATING TO INTER-STATE DISPUTES**

Working 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](#)

Draft CDDH report on the effective processing and resolution of cases relating to inter-State disputes

[DH-SYSC-IV\(2020\)04](#)

Compilation of comments on the Draft CDDH report on the effective processing and resolution of cases relating to inter-State disputes

[DH-SYSC-IV\(2020\)05](#) (bilingual)

Background documents:

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

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

[Q & A on Inter-State Cases](#)

Document of the Press Unit of the Court

[Overview of inter-State cases before the European Court of Human Rights](#)

Non-paper

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](#)

*The Group is invited to discuss and approve the Draft CDDH report on the effective processing and resolution of cases relating to inter-State disputes for further transmission to the CDDH.*



**ITEM 3: ORGANISATION OF FUTURE WORK**

Working documents:

Roadmap of the work of DH-SYSC-IV

[DH-SYSC-IV\(2020\)03Rev2](#)

*The Group is invited to take any further decisions necessary for the organisation of its future work.*

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

Working documents:

Report of the 2<sup>nd</sup> meeting of DH-SYSC-IV (9-11 September 2020)

DH-SYSC-IV(2020)R2

*The Group is invited to adopt the report of the meeting.*

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Appendix III

**Order of business**

**Wednesday 9 September 2020**

- 10:00 – 10:15      **Item 1: Opening of the meeting, adoption of the agenda and of the order of business**
- 10:15 – 12:30      **Item 2: Draft CDDH Report on the effective processing and resolution of cases relating to inter-State disputes**  
General discussion.  
Discussion of Chapters I-IV – document DH-SYSC-IV(2020)04.
- 12:30 – 15:00      *Lunch break*
- 15:00 – 17:30      **Item 2: Continuation**  
Discussion of Chapter V – document DH-SYSC-IV(2020)04.

**Thursday 10 September 2020**

- 10:00 – 12:30      **Item 2: Continuation**  
Discussion of Chapter VI-VII – document DH-SYSC-IV(2020)04.
- 12:30 – 15:00      *Lunch break*
- 15:00 – 17:30      **Item 2: Continuation**  
  
Discussion of Chapter VIII-IX – document DH-SYSC-IV(2020)04.

**Friday 11 September 2020**

- 10:00 – 12:30      **Item 2: Continuation of discussion of outstanding questions, if necessary, and possible approval of the Draft CDDH Report on the effective processing and resolution of cases relating to inter-State disputes**
- 12:30 – 15:00      *Lunch break*
- 15:00 – 17:30      **Item 3: Organisation of future work**  
Discussion of the Roadmap including necessary updates, notably in view of the preparation of the draft final activity report of the CDDH for the Committee of Ministers including possible proposals for the effective processing and resolution of cases related to inter-State disputes.
- Item 4: Adoption of the meeting report**