

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 12 May 2017

DH-SYSC(2017)R3

STEERING COMMITTEE FOR HUMAN RIGHTS
(CDDH)

**COMMITTEE OF EXPERTS ON THE SYSTEM OF THE
EUROPEAN CONVENTION ON HUMAN RIGHTS**

(DH-SYSC)

MEETING REPORT

3rd meeting

10–12 May 2017

Item 1: **Opening of the meeting, adoption of the agenda and order of business**

1. The Committee of Experts on the system of the European Convention on Human Rights (DH-SYSC) held its 3rd meeting in Strasbourg from 10 to 12 May 2017 with Ms Isabelle NIEDLISPACHER (Belgium) in the chair. The list of participants appears in Appendix I. The agenda, as it was adopted, appears in Appendix II.

2. The Committee heard a welcoming presentation by Mr Mikhail LOBOV, Head of the Human Rights Policy and Cooperation Department. Mr Lobov welcomed the important work conducted by the drafting groups DH-SYSC-I (see item 2.1), DH-SYSC-II (see item 2.2) and DH-SYSC-REC (see item 3), and warmly thanked their respective chairs, Mr Vít A. SCHORM (Czech Republic), Ms Florence MERLOZ (France) and Ms Emanuela TOMOVA (Bulgaria) for their great dedication in the work and their support given to the Secretariat.

Item 2: **Follow-up of the CDDH report on the longer-term future of the system of the European Convention on Human Rights**

2.1 Work of the Drafting Group I on the follow-up to the CDDH report on the longer-term future of the system of the European Convention on Human Rights (DH-SYSC-I)

3. The Chairperson of the DH-SYSC-I, Mr Vít A. SCHORM (Czech Republic), presented to the Committee the Group's work to date. The Committee warmly thanked the Chair and the Drafting Group for the work accomplished so far and welcomed in particular the inclusive approach of the work conducted in close co-operation with all actors concerned (the Court and its Registry, the Secretary General of the Parliamentary Assembly and the Secretary of the Advisory Panel). In addition, the Committee thanked the Chair and the Secretariat for the quality of the draft report on the process of selection and election of judges of the Court. The legal opinion submitted by the Directorate of Legal Advice and Public International Law (document DH-SYSC-I(2017)015) following the three questions of the DH-SYSC-I was presented by Mr Jörg POLAKIEWICZ, Director of Legal Advice and Public International Law and Secretary to the Advisory Panel of Experts on Candidates for Election, and it was followed by an exchange of views with the participation of Mr Wojciech SAWICKI, Secretary General of the Parliamentary Assembly.

4. The Committee gave the following guidance with a view to the preparation of the revised draft report for the 4th and final meeting of the DH-SYSC-I (18–20 October 2017):

I. The selection procedure

National selection procedures

5. The Committee underlined that national selection procedures are essential to attract the interest and confidence of the most highly qualified candidates for the post of judge at the Court and stressed the importance of the full implementation of the Guidelines of the Committee of Ministers on the selection of candidates for the post of judge at the European Court of Human Rights. To this effect, follow-up should be conducted. This work would be

carried out within the framework of the existing structures, taking into account the particularities of the national systems.

6. A first step could be to update the examples of good practices of the Guidelines of the Committee of Ministers on the selection of candidates for the post of judge at the European Court of Human Rights. The update of the guidelines or the elaboration of a recommendation stating the essential characteristics which every national selection procedure should present could constitute an additional step, only if it is found necessary.

The selection criteria (Article 21 of the Convention)

7. The Committee agreed upon the following:

- The Committee decided against any modification of the linguistic requirements, recalling that there are some indispensable minimum requirements so that judges can be operational in an international court having French and English as its two official languages;
- The formal introduction of a minimum age for candidates should not be envisaged in the light of the diversity of national systems. Focus should be given to the professional (judicial) experience at the domestic level as well as to the knowledge of general international law. The requirement was adequately stipulated in the Convention read in conjunction with the Committee of Ministers' Guidelines of 2012, and no amendment of these texts was necessary;
- The duration of the term of office: The Committee, while not retaining the idea of a renewable six-year term of office, decided that its current duration, introduced only recently by Protocol No. 14 and confirmed by Protocol No. 15, should be preserved. It considered, however, that a future analysis of the effects of the current duration, which may be a discouraging factor for potential candidates, and of the pros and cons of possible alternatives could be conducted.
- The requirement to present a list of three candidates: In light of the DLAPIL opinion (§§ 4–11 of doc. DH-SYSC-I(2017)015), the Committee decided in favour of the current three-candidate model.

The role of the Advisory Panel in the selection process

8. The Committee agreed upon the following:

- The Committee decided that the initial role of the Panel of giving confidential advice to States Parties should be preserved;
- The Committee did not retain the proposal of making the opinion delivered by the Panel binding, deeming it would go against the advisory nature of the Panel;
- The Committee did not retain the possibility of the Panel to interview candidates. It has been argued, *inter alia* that this option would go against the role of the Panel

advising the member States and would prolong the selection process of candidates. The enhanced interaction between the Panel and the Committee for the election of judges of the Parliamentary Assembly would compensate for the absence of interviews;

- The Committee considered that the consultation procedure should be enhanced:
 - While the idea of a participation of the Panel in the national selection interview was rejected, it was however noted that it could be useful to present in the report existing practical modalities of communication between the Government and the Panel before reaching the final decision.
 - The possibility to render the consultation of the Panel an integral part of the selection process by national authorities before the transmission of the list to the Parliamentary Assembly through a revision of the 2012 Guidelines was not retained. The importance to observe Guideline VI. 1. was stressed.
 - The further enhanced interaction between the Committee on the Election of Judges of the Parliamentary Assembly and the Advisory Panel was considered key for the whole process.
 - The Committee would welcome the strengthening of the motivation of the Panel's decisions in order to facilitate the work of the Committee on the Election of Judges, with respect to confidentiality, in order not to harm the reputation of candidates in light also of the CDDH 2013 Report on the review of the functioning of the Advisory Panel;
 - As regards the means allocated to the Panel, the Committee agreed that the Panel should be allocated the necessary resources and budget line to achieve its task.

Interpretation of the criteria

9. The Committee decided that the guidelines should remain the text of reference for all actors in the process with a view to their application, while respecting the diversity of national systems. While stressing that a homogeneous interpretation would be useful, it decided that no further codification of the interpretation of the criteria was necessary at this stage.

II. The election process

10. The Committee agreed upon the following:

- Work should concentrate on the improvement of the current system in which the election of judges to the Court falls under the Parliamentary Assembly, in accordance with the Convention, as a guarantee of the democratic legitimacy of the appointment process. In the framework of the exhaustive analysis which was conducted, alternative models were explored but not retained.
- The Committee considered that suggestions should be drawn up in order to feed into the work of the Parliamentary Assembly on this issue, and in particular the relevant report under preparation by the Committee on the election of judges. These suggestions aimed to prevent, to the extent possible, the hazards of the political process and to ensure the election of the best judge to the European Court of Human Rights.

11. Consequently the Committee agreed upon the following avenues as they appear in document DH-SYSC-I(2017)014:

- There is a need to ensure a composition of the Committee on the Election of Judges to the European Court of Human Rights which will guarantee the election of the best candidate (§ 86 of doc. DH-SYSC-I(2017)014);
- The effective presence of members of the Committee on the election of judges at the interviews, a sufficient duration of the latter as well as the conduct and the preparation of the interviews (see §§ 87–89 of doc. DH-SYSC-I(2017)014);
- A more reasoned recommendation of the Committee on the election of judges to the Plenary, the consideration of the voting regulations in the Plenary, namely the voting system and the quorum so as to ensure the election of the best candidate (see §§ 91–94 of doc. DH-SYSC-I(2017)014);
- The further enhanced interaction between the Committee on the Election of Judges of the Parliamentary Assembly and the Advisory Panel was considered key for the whole process ;
- As regards the possibility for the Committee on the election of judges to present a list of two or one candidate to the Plenary for election, the DH-SYSC considered that both options should be examined in the revised draft report in light of the opinion given by the DLAPIL.

III. Conditions of employment and working conditions at the Court

12. The Committee decided that these questions should be reflected in the draft report with a view to identify the instances (including member States) that could conduct the follow-up work in light of the contribution of the Court.

IV. Ad hoc judges

13. The Committee decided that a distinct regime for *ad hoc* judges is notably justified by the rarity of the procedure's use. It noted that the Court could envisage prolonging or rendering more flexible the two-year period for the list of ad hoc judges.

14. As regards the organisation of future work, the Committee decided the following:

- The Secretariat is instructed to prepare a revised version of the draft report based on:
 - Comments formulated during the discussions of DH-SYSC during the present meeting and the forthcoming CDDH meeting (6–8 June 2017);
 - All new contributions of experts, who are invited to send them to the Secretariat (DGI-CDDH-Reform@coe.int) by **Friday 23 June 2017**;

- The revised draft report prepared under the responsibility of the Chair and the Secretariat will be sent to the experts in due time before the next meeting (18–20 October 2017).

2.2 *Work of the Drafting Group II on the follow-up to the CDDH report on the longer-term future of the system of the Convention (DH-SYSC-II)*

15. The Chairperson of the DH-SYSC-II, Ms Florence MERLOZ (France), presented the results of the 1st meeting of the Group as well as the Seminar on the place of the European Convention on Human Rights in the European and international legal order (Strasbourg 29–30 March 2017) bringing together Judges of the International Court of Justice and the European Court of Human Rights, Government Agents, leading international legal scholars and practitioners. The Committee warmly thanked the Norwegian authorities for this initiative and, in particular, Mr Morten RUUD (Norway) for his personal commitment in the preparation of this event preceding the launching of the work of the Group, as well as the *PluriCourts* academic network. It welcomed the future publication of the proceedings, which will constitute an important basis for the work of the DH-SYSC-II that will be pursued in the next biennium.

16. The Committee endorsed the list of the three priority themes that need to be examined in the context of the DH-SYSC-II work (see §§ 5–9 of the DH-SYSC-II meeting report, doc. DH-SYSC-II(2017)R1), as they emerge from the CDDH report on the longer-term future of the system of the European Convention on Human Rights, namely:

- the challenge of the interaction between the Convention and other branches of international law, including international customary law;
- the interaction between the Convention and other international human rights instruments to which the Council of Europe member States are parties;
- the interaction between the Convention and the EU legal order, and other regional organisations.

17. The Committee also endorsed the working methods decided by the Drafting Group (see §§ 10–12 of doc. DH-SYSC-II(2017)R1). With a view to the next meeting of the DH-SYSC-II (20–22 September 2017), and subject to the endorsement of its guidance by the CDDH, the Secretariat is instructed to prepare a draft outline to facilitate the analyses that will be carried out. As regards in particular the conduct of the work, the Committee agreed that the DH-SYSC-II should work consecutively on each one of the three themes. However, before the finalisation of the substantive work on a theme, concrete organisation and methods should be planned for the subsequent themes. The Committee decided that, subject to the endorsement of the themes by the CDDH, experts will be invited to express their interest in becoming rapporteurs on a specific theme by **31 August 2017**. The appointment will be agreed at the 2nd meeting of the DH-SYSC-II (20–22 September 2017).

Item 3: Work on the Recommendation CM/Rec(2008)2 on efficient domestic capacity for rapid execution of judgments of the European Court of Human Rights

18. The Chairperson of the DH-SYSC-REC, Ms Emanuela TOMOVA (Bulgaria), presented to the Committee the results of the Group's work. The Committee adopted the draft Guide to good practice on the implementation of Recommendation CM/Rec(2008)2 as it appears in the Addendum, with a view to its transmission to the CDDH for adoption at its 87th meeting (6–8 June 2017) and to its presentation to the Committee of Ministers before 30 June 2017. The Committee concluded by thanking the DH-SYSC-REC and its Chairperson for their invaluable contribution to its work.

Item 4: Exchange of information on the implementation of the Convention and the execution of judgments of the Court

19. The DH-SYSC adopted the overview of the exchange of views containing good practices concerning the mechanisms for ensuring the compatibility of legislation with the Convention (arrangements, advantages, obstacles) and instructed the Secretariat to publish it online.

20. The Committee decided to postpone the choice of the theme for a new exchange of views to its following meeting.

Item 5: 'Tour de table' on the chart of signatures and ratifications of Protocols Nos. 15 and 16 to the Convention

21. The Committee held a 'Tour de table' on the prospects of signatures and ratifications of the different instruments as well as possible obstacles on the basis of the document prepared by the Secretariat (doc. DH-SYSC (2016)008REV3). The Committee instructed the Secretariat to revise this document setting out the information gathered and to submit it to the CDDH for information.

Item 6: Work on Recommendation Rec(2004)4 on the European Convention on Human Rights in university education and professional training

22. The Committee examined the working document containing proposals concerning Recommendation (2004)4. In light of the developments achieved in the area of training, both in terms of content and methodology, and taking into account the remaining challenges in the implementation of the Convention, it decided that work should be undertaken to update the recommendation in the next biennium. The updated recommendation could furthermore be accompanied by a compilation of good practices that could be a useful source of inspiration at national level. The compilation prepared¹ (doc. DH-SYSC(2016)012) will serve as a basis for

¹ Containing information provided by member States in the framework of their national report concerning the implementation of the Brighton Declaration, regarding in particular its paragraphs 9 c (iv) – (vi), as well as

future work. Any possible update of the information contained in this document should reach the Secretariat (DGI-CDDH-Reform@coe.int) by 15 June 2017.

23. It was suggested and endorsed by the Committee that the recommendation, as amended, should not only focus on considering students and legal professionals as recipients of the training on human rights but also on the possibility that they may be, while learning, active agents in the enhancement of the convention system. For example, they could provide, as part of their training, translations of convention related materials into national languages under the supervision of their tutors. These measures could significantly contribute to the application of the Convention and its case-law by national judges, prosecutors, lawyers and civil servants, who may not have access to them if not available in their mother tongue.

Item 7: DH-SYSC Terms of reference for the next biennium

24. The Committee exchanged views and adopted the draft terms of reference for the DH-SYSC activities during the biennium 2018-2019, as it appears in Appendix III, to be submitted to the CDDH for possible approval in June 2017. The DH-SYSC notably decided to update the Recommendation Rec(2004)4 on the European Convention on Human Rights concerning university education and professional training as well as the Guide to good practice accompanying the Recommendation CM/Rec(2010)3 on effective remedies for excessive length of proceedings. Concerning the national reports on the implementation by member States of the Brussels Declaration, the Committee agreed that in the light of the late arrival of reports, the CDDH should ask the Deputies for an extension of the deadline for analysing them.

25. The Committee took note of the presentation of the report on the evaluation of the effectiveness of the Council of Europe's support to the implementation of the ECHR at national level, by Ms Aygen BECQUART, Head of Division, Directorate of Internal Oversight.

Item 8: Election

26. Following the departure of Mr Paul McKell (United Kingdom), the Committee elected Ms Katja BEHR (Germany) Vice-Chair of the DH-SYSC.

Other business

27. At the occasion of their departure, the Committee warmly thanked two members of the Secretariat, Ms Irène KITSOU-MILONAS and Ms Virginie FLORES, for the outstanding support they have provided to this Committee and its predecessors, and wished them all the best for their future professional activities.

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Appendix I**List of participants****MEMBERS / MEMBRES****ALBANIA/ALBANIE**

Ms Alma HICKA, Government Agent to the European Court of Human Rights, State Advocate General of Albania

ARMENIA/ARMÉNIE

Ms Varduhi MELIKYAN, Second Secretary, Legal Department, Ministry of Foreign Affairs

AUSTRIA/AUTRICHE

Mrs Brigitte OHMS, Deputy Government Agent, Division for International Affairs and General Administrative Affairs, Federal Chancellery

AZERBAIJAN/AZERBAÏDJAN

Mr Çingiz ƏSGƏROV, Agent of the Government of the Republic of Azerbaijan before the European Court of Human Rights

BELGIUM/BELGIQUE

Mme Isabelle NIEDLISPACHER, **Chairperson of the DH-SYSC/Présidente du DH- SYSC**, Co-Agent du Gouvernement de la Belgique auprès de la Cour européenne des droits de l'homme, SPF Justice, Service des Droits de l'Homme

BULGARIA/BULGARIE

Mme Emanuela TOMOVA, chef de service « Droits de l'homme » à la direction Droits de l'homme au Ministère des affaires étrangères

CROATIA/CROATIE

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

CYPRUS/CHYPRE

Ms Lina HADJIATHANASIOU, Counsel of the Republic of Cyprus

CZECH REPUBLIC/REPUBLIQUE TCHÈQUE

Mr Vít A. SCHORM, Government Agent of Czech Republic before the European Court of Human Rights, Ministry of Justice

Mr Ota HLINOMAZ, Senior Ministerial Counsellor, Office of the Government Agent before the European Court of Human Rights, Ministry of Justice of the Czech Republic

DENMARK/DANEMARK

Rasmus Kieffer-Kristensen, The Danish Ministry of Justice, Department of Law, Head of Division

Martin Bang, Deputy Head of Division, Department of Law, Head of Division

Ms Maria Aviaja Sander Holm, Special adviser, Department of Law, Head of Division

ESTONIA/ESTONIE

Ms Maris KUURBERG, Government Agent of Estonia before the European Court of Human Rights, Ministry of Foreign Affairs

FINLAND/FINLANDE

Ms Krista OINONEN, Director, Unit for Human Rights Courts and Conventions, Agent of the Government of Finland before the European Court of Human Rights, Legal Service, Ministry for Foreign Affairs

FRANCE

Mme Marie-Noémie PRIVET, Ministère des affaires étrangères et du développement international, Direction des affaires juridiques, Sous-direction des droits de l'Homme

Mme. Florence MERLOZ, Sous-directrice des droits de l'homme, Direction des affaires juridiques, Ministère des affaires étrangères et du développement international

GEORGIA/GÉORGIE

Ms Shorena MEZURNISHVILI, Deputy Head of the Department of State Representation to the International Courts of Human Rights, Ministry of Justice

GERMANY/ALLEMAGNE

Ms Katja BEHR, Head of Unit IV C 1, Government Agent before the European Court of Human Rights, Ministry of Justice

GREECE/GRÈCE

Mme Vasileia PELEKOU, Assesseur au Conseil Juridique de l'Etat, membre du Service de l'Agent du gouvernement grec

ICELAND/ISLANDE

Ms Ragna BJARNADÓTTIR, Legal Advisor, Department of Human Rights and Local Government, Ministry of the Interior

IRELAND/IRLANDE

Mr Peter WHITE, Government Agent of Ireland before the European Court of Human Rights, Assistant Legal Adviser, Legal Division, Department of Foreign Affairs and Trade

ITALY/Italie

Mr Piero VAIRA, Représentant Permanent Adjoint de l'Italie auprès du Conseil de l'Europe, Représentation Permanente de l'Italie auprès du Conseil de l'Europe

Mr Daniele LOI, Adjoint au Représentant Permanent de l'Italie auprès du Conseil de l'Europe, Représentation Permanente de l'Italie auprès du Conseil de l'Europe

LATVIA/LETTONIE

E. Emilija PLAKSINS, Deputy Head of the Office of the Government Agent, Ministry of Foreign Affairs

LIECHTENSTEIN

Mr Martin HASLER, Deputy Permanent Representative of Liechtenstein to the Council of Europe, Office for Foreign Affairs

LITHUANIA/LITUANIE

Ms Karolina BUBNYTE, Agent of the Government of the Republic of Lithuania to the European Court of Human Rights, Ministry of Justice

LUXEMBOURG

Mme Brigitte KONZ, Juge de Paix directrice, Cité judiciaire, Plateau du St Esprit, Bâtiment JP - L-1475 Luxembourg

REPUBLIC OF MOLDOVA/RÉPUBLIQUE DE MOLDOVA

Ms Ruxanda REVENCU, Ad interim Government Agent of the Republic of Moldova, Ministry of Justice

MONTENEGRO/MONTÉNÉGRO

Ms Valentina PAVLIČIĆ, Representative of Montenegro before the European Court of Human Rights

NETHERLANDS/PAYS-BAS

Ms Kanta ADHIN, Deputy Agent to the European Court of Human Rights, Legal Affairs Department, International Law Division, Ministry of Foreign Affairs of the Kingdom of the Netherlands

Ms Clarinda COERT, Ministry of Security and Justice, Legislation Department

NORWAY/NORVÈGE

Mr Morten RUUD, Special Adviser Ministry of Justice

Ms Helle Aase FALKENBERG, Adviser, Norwegian Ministry of Justice and Public Security, Department of Legislation

POLAND/POLOGNE

Ms Aleksandra MEŻYKOWSKA, Co-Agent of the Government of Poland in cases and proceedings before the European Court of Human Rights, Ministry of Foreign Affairs of Poland

PORTUGAL

Ms Ana GARCIA MARQUES, Lawyer within the Office of the Agent of the Portuguese Government before the ECHR

ROMANIA/ROUMANIE

Ms Irina CAMBREA, Government Agent of Romania before the European Court of Human Rights, Ministry of Foreign Affairs

RUSSIAN FEDERATION/FÉDÉRATION DE RUSSIE

Mr Vladislav ERMAKOV, Ministry of Foreign Affairs

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

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

SLOVAK REPUBLIC/RÉPUBLIQUE SLOVAQUIE

Ms Marica PIROŠIKOVÁ, Agent of the Government of the Slovak Republic before the ECHR

SLOVENIA/SLOVÉNIE

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

SPAIN/ESPAGNE

Mr Rafael Andrés LEON CAVERO, Agent of the Kingdom of Spain before the European Court of Human Rights, Senior State Attorney, Head of the 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 Adrian SCHEIDEGGER, Agent suppléant du Gouvernement suisse devant la Cour européenne des droits de l'homme et le CAT, le CERD et le CEDAW, Département fédéral de justice et police DFJP, Office fédéral de la justice

"THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA" / « L'EX-RÉPUBLIQUE YOUGOSLAVE DE MACÉDOINE »

Ms Danica DJONOVA, Head of Unit, Office of the Government Agent, Ministry of Justice, Republic of Macedonian

TURKEY/TURQUIE

Mr Selim DOĞANAY, Deputy Chair of the Department for Human Rights, Ministry of Justice General Directorate for International Law and Foreign Relations

Mr Muammer TAHIROĞLU, Rapporteur Judge, Ministry of Justice

Mr Canatay, ŞANVERDİ, Counselor, Ministry of Justice

M^{me} Aysen EMÜLER, Experte juridique, Représentation permanente de la Turquie auprès du Conseil de l'Europe

M Basri YILDIZ, Expert Juridique, Ministère des Affaires Etrangères

Mr Mustafa Tayip ÇİÇEK, Counsellor (Rapporteur Judge)

UNITED KINGDOM/ROYAUME-UNI

Mr Chanaka WICKREMASINGHE, Legal Counsellor, Foreign and Commonwealth Office

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

Mr Grégor PUPPINCK

AMNESTY INTERNATIONAL

Mr Sébastien RAMU, Deputy Director - Law and Policy Programme, International Secretariat

CONFERENCE OF INGOs OF THE COUNCIL OF EUROPE / CONFÉRENCE DES OING DU CONSEIL DE L'EUROPE

M. Jean-Bernard MARIE

EUROPEAN NETWORK OF HUMAN RIGHTS INSTITUTIONS (ENNHRI) / RÉSEAU EUROPÉEN DES INSTITUTIONS NATIONALES DES DROITS DE L'HOMME

Mme Morgane COULON, Chargée de mission at CNCDH

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

Mr Klaus LÖRCHER

PARLIAMENTARY ASSEMBLY / ASSEMBLÉE PARLEMENTAIRE

Mr Wojciech SAWICKI, Secretary General

Mr David MILNER, Deputy to the Head of the Secretariat, Committee on Legal Affairs and Human Rights

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

Mr. John DARCY, Deputy Head of the Private Office of the President, European Court of Human Rights

**SECRETARIAT TO THE ADVISORY PANEL OF EXPERTS ON CANDIDATES FOR
ELECTION AS JUDGE TO THE EUROPEAN COURT OF HUMAN RIGHTS**

Mr. Jörg POLAKIEWICZ, Director of Legal Advice and Public International Law and Secretary to the *Advisory Panel of Experts on Candidates for Election as Judge to the European Court of Human Rights*

Ms Astrid LEONHARD, Trainee

**DIRECTORATE OF INTERNAL OVERSIGHT/DIRECTION DE L'AUDIT INTERNE ET DE
L'ÉVALUATION**

Ms Aygen BECQUART, Evaluation Division, Head of Division

**THE EUROPEAN PROGRAMME FOR HUMAN RIGHTS EDUCATION FOR LEGAL
PROFESSIONALS (HELP)**

Ms Eva PASTRANA, Head of Unit

Ms Alessandra RICCI ASCOLI

* * * *

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

Mr Mikhail LOBOV, Head of 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 Cooperation Division / Chef de la Division de la coopération intergouvernementale en matière de droits de l'Homme, **Secretary of the CDDH / Secrétaire du CDDH**

Mme Irène KITSOU-MILONAS, 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, Human Rights Intergovernmental Cooperation Division / Division de la coopération intergouvernementale en matière de droits de l'Homme, **Secretary of the DH-SYSC / Secrétaire du DH-SYSC**

Mme Virginie FLORES, Administrator/Administratrice, Human Rights Intergovernmental Cooperation Division/Division de la coopération intergouvernementale en matière de droits de l'Homme

Ms Simona MARINA, Assistant/Assistante, Unit on the System of the European Convention on Human Rights/l'Unité sur le système de la Convention européenne des droits de l'homme

Ms Elisa SAARI, Trainee / Stagiaire

INTERPRETERS/INTERPRETES

Ms Cynera JAFFREY

Ms Chloé CHENETIER

Mr Nicolas GUITTONNEAU

Appendix II

Agenda (as adopted)

Item 1: Opening of the meeting, adoption of the agenda and order of business

General reference documents

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| - Draft annotated agenda | DH-SYSC(2017)OJ003 |
| - Draft order of business | DH-SYSC(2017)OT003 |
| - Report of the 86 th CDDH meeting (6-8 December 2016) | CDDH(2016)R86 |
| - CDDH report on the longer-term future of the system of the European Convention on Human Rights | CDDH(2015)R84
Addendum I |
| - Report of the 2 nd DH-SYSC meeting (8-10 November 2016) | DH-SYSC(2016)R2 |
| - Report of the 1 st DH-SYSC meeting (25-27 April 2016) | DH-SYSC(2016)R1 |
| - Brussels Declaration | CDDH(2015)004 |
| - Brighton Declaration | CDDH(2012)007 |
| - Izmir Declaration | CDDH(2011)010 |
| - Interlaken Declaration | CDDH(2010)001 |
| - Rome Declaration | |
| - Terms of reference of the Committee of experts on the system of the European Convention on Human Rights (DH-SYSC) for 2016-2017 | DH-SYSC(2016)003 |
| - Decisions adopted at the 1252 nd 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 |
| - 9th Annual Report of the Committee of Ministers on the supervision of the execution of judgments and decisions of the European Court of Human Rights, 2015 | |
| - Committee of Ministers' Resolution CM/Res(2011)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods | CDDH(2011)012 |

Item 2: Follow-up of the CDDH report on the longer-term future of the system of the European Convention on Human Rights

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| - CDDH report on the longer-term future of the system of the European Convention on Human Rights | CDDH(2015)R84
Addendum I |
| - Comment from the Court on the report of the CDDH on the longer-term future of the Convention system | #5281071 |
| - Decisions adopted at the 1252 nd 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 |
| - Terms of reference of the Committee of experts on the system of the European Convention on Human Rights (DH-SYSC) for 2016-2017 | DH-SYSC(2016)003 |

2.1 Work of the Drafting Group I on the follow-up to the CDDH report on the longer-term future of the system of the European Convention on Human Rights (DH-SYSC-I)

Working document

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| - Draft report on the processes of selection and election of judges of the European Court of Human Rights | DH-SYSC-I(2017)014 |
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Reference documents (selective list)

- Exchange of views between Mr John Murray, President of the Advisory Panel of Experts on Candidates for Election as Judge to the European Court of Human Rights and the Ministers' Deputies DH-SYSC-I(2017)016
- Legal opinion from the Directorate of legal advice and public international law DH-SYSC-I(2017)015
- Request for legal advice addressed to the DLAPIL DH-SYSC-I(2017)012REV
- Contributions submitted in view of the 3rd DH-SYSC meeting DH-SYSC-I(2017)013
- Contributions submitted in view of the 3rd DH-SYSC-I meeting DH-SYSC-I(2017)009REV
- Contribution from the European Court of Human Rights DH-SYSC-I(2017)011
- Exchange of views with Mr Wojciech SAWICKI, Secretary General of the Parliamentary Assembly of the Council of Europe (summary prepared by the Secretariat) DH-SYSC-I(2016)008
- Information regarding the various opinions and experiences concerning the national processes of selection of the candidates for the post of judge at the Court and of election of the judges of the Court DH-SYSC-I(2016)006
Restricted
- Relevant provisions relating to other International or Regional courts or tribunal DH-SYSC-I(2016)004
- Report of the 3rd DH-SYSC-I meeting (27 February -1st March 2017) DH-SYSC-I(2017)R3
- Report of the 86th CDDH meeting (6-8 December 2016) CDDH(2016)R86
- Report of the 2nd DH-SYSC meeting (8-10 November 2016) DH-SYSC(2016)R2

2.2 Work of the Drafting Group II on the follow-up to the CDDH report on the longer-term future of the system of the Convention (DH-SYSC-II)

- Report of the 1st DH-SYSC-II meeting (30-31 mars 2017) DH-SYSC-II(2017)R1
- Proceedings of the Seminar (to be published)
- Proposal by Norway for a kick-off brainstorming seminar for DH-SYSC-II DH-SYSC(2016)011

Item 3: Work on the Recommendation CM/Rec(2008)2 on efficient domestic capacity for rapid execution of judgments of the European Court of Human Rights

- Draft Guide to good practice on the implementation of Recommendation CM/Rec(2008)2 of the Committee of Ministers on efficient domestic capacity for rapid execution of judgments of the European Court of Human Rights DH-SYSC-REC(2017)008

Reference documents

- Contributions submitted with a view to the 3rd DH-SYSC meeting DH-SYSC-REC(2017)007REV
- Preliminary draft Guide to good practice on the implementation of Recommendation CM/Rec(2008)2 of the Committee of Ministers on efficient domestic capacity for rapid execution of judgments of the European Court of Human Rights DH-SYSC-REC(2017)006
- Compilation of contributions submitted in view of the 2nd DH-SYSC-REC meeting DH-SYSC-REC(2017)005
- Revised draft consolidated document on the implementation of Recommendation CM/Rec(2008)2: Good practices and stocktaking DH-SYSC-REC(2016)003REV
- Compilation of drafting proposals on the draft document DH-SYSC-REC(2016)003 in view of the 2nd DH-SYSC meeting DH-SYSC-REC(2016)004
- Report of the 2nd DH-SYSC-REC meeting (6-8 March 2017) DH-SYSC-REC(2017)R2
- Report of the 1st DH-SYSC-REC meeting (23-25 May 2016) DH-SYSC-REC(2016)R1

Item 4: Exchange of information on the implementation of the Convention and the execution of judgments of the Court

- Overview of the exchange of views held by the DH-SYSC at its 1st meeting on the verification of the compatibility of legislation with the Convention (arrangements, advantages, obstacles) DH-SYSC(2016)013

Reference documents

- Contributions on document DH-SYSC(2016)013 submitted with a view to the 3rd DH-SYSC meeting DH-SYSC(2017)003
- Report of the 2nd DH-SYSC meeting (8-10 November 2016) DH-SYSC(2016)R2
- Report of the 1st DH-SYSC meeting (25-27 April 2016) DH-SYSC(2016)R1
- Possible planning and working methods of the Committee of Experts on the system of the European Convention on Human Rights (DH-SYSC) during the biennium 2016-2017, including proposals for possible themes for future exchanges of information concerning the implementation of the Convention and the execution of the Court's judgments DH-GDR(2015)007 Appendix III

Item 5: 'Tour de table' on the chart of signatures and ratifications of Protocols Nos. 15 and 16 to the Convention

- Chart of signatures and ratifications of Protocols Nos. 15 and 16 to the Convention and the European Agreement relating to Persons Participating in Proceedings of the European Court of Human Rights DH-SYSC(2016)008REV3

Item 6: Work on Recommendation Rec(2004)4 on the European Convention on Human Rights in university education and professional training

- Working document containing proposals on Recommendation (2004)4 DH-SYSC(2017)001
- Information on the implementation of Recommendation Rec(2004)4 of the Committee of Ministers on the European Convention on Human Rights in university education and professional training DH-SYSC(2016)012

Item 7: DH-SYSC Terms of reference for the next biennium

- Draft terms of reference for DH-SYSC for the next biennium 2018-2019 (document prepared by the Secretariat) DH-SYSC(2017)002

Item 8: Election

Item 9: Organisation of future work

- Report of the 2nd DH-SYSC meeting (8-10 November 2016) DH-SYSC(2016)R2

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Appendix III

Preliminary draft Terms of Reference

(as adopted by the DH-SYSC at its 3rd meeting and to be inserted below the draft CDDH Terms of Reference)

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

Set up by the Committee of Ministers under Article 17 of the Statute of the Council of Europe and in accordance with Resolution CM/Res(2011)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods

Type of committee: Subordinate body

Terms of reference valid from: **1 January 2018 until 31 December 2019**

MAIN TASKS
Under the supervision of the Steering Committee for Human Rights (CDDH), the DH-SYSC will conduct the intergovernmental work intended to enhance the protection of human rights by improving the effectiveness of the system of the European Convention on Human Rights and the implementation of the Convention at national level, as assigned by the Committee of Ministers to the Steering Committee.
PILLAR/SECTOR/PROGRAMME
Pillar: Human Rights Sector: Protecting Human Rights Programme: Enhancing the effectiveness of the ECHR System at national and European level
SPECIFIC TASKS
<ul style="list-style-type: none"> (i) Concerning the place of the European Convention on Human Rights in the European and international legal order, as well as the related challenges, prepare a draft report for the Committee of Ministers containing conclusions and possible proposals for action (deadline: 31 December 2019); (ii) Concerning the authority of the Court and its case-law: follow-up to the decisions that may be taken by the Committee of Ministers further to the submission, in December 2017, of the CDDH report on the process of selection and election of the judges at the European Court of Human Rights with a view to improving the current system (deadline: 31 December 2019); (iii) In light of the results achieved in the framework of the above-mentioned activities, contribute to the evaluation set out by the Interlaken Declaration, before the end of 2019, with a view to formulating proposals to the Committee of Ministers as to whether the measures adopted so far have proven to be sufficient to ensure sustainable functioning of the system of the Convention or whether more profound changes are necessary (deadline: 31 December 2019); (iv) Concerning the implementation of the Convention and execution of the Court's judgments: ensure that information is exchanged regularly - in order to assist member States in developing their domestic capacities and facilitate their access to relevant information (see paragraph 29 (a) i) of the Brighton Declaration and paragraph C. 1. g) of the Brussels Declaration); to this end, consider the different means to promote quicker exchange of information and experience, to reinforce the authority of the government agents (or any relevant national mechanism) and to provide sufficient means (e.g. communication platform) to the latter to deal with issues related in particular to the execution of judgments; (v) Concerning university education and professional training in human rights, update Recommendation Rec(2004)4 in light of important developments that took place in over 10 years in the field in the 47 member states of the Council of Europe, notably as a result of the European Programme for Human Rights Education for Legal Professionals (HELP) of the Council of Europe (deadline: 31 December 2019); (vi) Concerning effective remedies for excessive length of proceedings, update the accompanying Guide to Good Practice to Recommendation CM/Rec(2010)3 (deadline: 31 December 2019).

Members:

Governments of member States are invited to designate one or more representatives of the highest possible rank in the field of human rights.

The Council of Europe will bear the travel and subsistence expenses of one representative from each member State (two in the case of the State whose representative has been elected Chair).

Each member of the committee shall have one vote. Where a government designates more than one member, only one of them is entitled to take part in the voting.

Participants:

The following may send representatives, without the right to vote and at the charge of their corresponding administrative budgets:

- Parliamentary Assembly of the Council of Europe;
- Congress of Local and Regional Authorities of the Council of Europe;
- European Court of Human Rights;
- Council of Europe Commissioner for Human Rights;
- Conference of INGOs of the Council of Europe;
- HELP Network Consultative Board;
- Committees or other bodies of the Council of Europe engaged in related work, as appropriate.

The following may send representatives, without the right to vote and without defrayal of expenses:

- European Union (one or more representatives, including, as appropriate, the European Union Agency for Fundamental Rights (FRA));
- Observer States to the Council of Europe: Canada, Holy See, Japan, Mexico, United States of America;
- representatives of other international organisations (Organisation for Security and Co-operation in Europe (OSCE) / Office for Democratic Institutions and Human Rights (ODIHR), Office of the United Nations High Commissioner for Human Rights, Office of the United Nations High Commissioner for Refugees).

Observers:

The following may send representatives, without the right to vote and without defrayal of expenses:

- Belarus;
- Non-member States with which the Council of Europe has a Neighbourhood Partnership including relevant cooperation activities;
- Non-governmental organisations (Amnesty International, European Trade Unions Confederation (ETUC), International Commission of Jurists (ICJ), International Federation of Human Rights (FIDH), European Roma and Travellers Forum, Open Society Justice Initiative (OSJI)), as well as the European Network of National Human Rights Institutions (ENNHRI).

WORKING METHODS**Plenary meetings:**

48 members, 1 meeting in 2018, 3 days

48 members, 2 meetings in 2019, 3 days

The Committee will also appoint a Gender Equality Rapporteur from amongst its members.

The rules of procedure of the Committee are governed by Resolution [CM/Res\(2011\)24](#) on intergovernmental committees and subordinate bodies, their terms of reference and working methods.