



Strasbourg, 25 March 2014

CDDH-DC(2014)R1

STEERING COMMITTEE FOR HUMAN RIGHTS
(CDDH)

**DRAFTING GROUP ON HUMAN RIGHTS IN CULTURALLY DIVERSE SOCIETIES
(CDDH-DC)**

Meeting report

1st meeting
24 – 25 March 2014
Council of Europe, Agora – Room G06

Item 1: Opening of the meeting and adoption of the agenda

1. The CDDH Drafting Group on Human Rights in Culturally Diverse Societies (CDDH-DC) held its first meeting in Strasbourg from 24 to 25 March 2014. Mr Mikhail Lobov, Head of the Human Rights Development Department, opened the meeting, welcomed the participants, invited them to introduce themselves, and recalled the tasks that the Group was entrusted to achieve in the framework of its terms of reference. The list of participants can be found in Appendix I. The agenda as adopted appears in Appendix II.

Item 2: Election of a Chairperson

2. The Group elected Ms Krista Oinonen (Finland) as Chairperson.

Item 3: Discussion on a compilation of existing Council of Europe standards relating to the principles of freedom of thought, conscience and religion and the links to other Convention rights, in particular freedom of expression

3. The Group had an exchange of views on the possible structure of the compilation. It agreed that the compilation should follow a thematic approach, and that each theme should be dealt with by mentioning the relevant standards, starting with binding standards and case-law, clearly referring to the source of the standard and specifying whether States have positive obligations arising from it. It considered that this approach, although more complex, would be of more practical use than an approach simply based on a list of relevant standards by author.

4. The Group also agreed that at this stage it would be appropriate to consider all possible Council of Europe sources, not limited only to Conventions, Recommendations and other standards addressed to all member States, but also including country-specific findings of monitoring bodies, viewpoints and issue papers of the Commissioner for Human Rights. It was however underlined that the Group would select the most relevant standards, in order to keep the compilation as concise and user-friendly as possible. The Group agreed that standards of other international organisations would fall outside the mandate given by the Committee of Ministers to the CDDH.

5. As regards the contents, the Group had an exchange of views during which several proposals were put forward. As a result of this discussion, the CDDH-DC drew up a preliminary draft structure of the compilation (as it appears in Appendix III), without taking a final decision as to whether all the issues listed in it would eventually appear in the compilation. The structure proposed includes an introduction, a part containing general principles and definitions, and a thematic part organised around three main themes: the individual right to freedom of religion, conscience and thought; the State relations with religious communities; the protection of individuals' freedom of religion, conscience and thought.

6. The Group then discussed how to collect and incorporate national good practices in the compilation, underlining the practical importance of such good practices and the added value they would provide to the document. It agreed, in particular, to propose to the CDDH to launch a call for contributions on the basis of a letter giving to member States some guidance about the expected contribution, mentioning the general themes on which examples of good practices would be sought and indicating as examples some of the specific topics listed in the draft structure (as it appears in Appendix IV). It was agreed that contributions should be submitted by end-May at the latest.

7. As to the working methods for the elaboration of the compilation, the Secretariat informed the Group that it intended to set up an electronic restricted workspace, in which the relevant working and background documents will be progressively posted. Delegations will be informed about the technical modalities of the functioning of this workspace as soon as possible. It was agreed that the Secretariat will submit a first preliminary draft of the compilation to the delegations for comments before the summer break, and that on the basis of the comments received a new draft will be submitted for consideration after summer in view of the second meeting of the drafting group.

8. The Group noted that the results of this first meeting will be discussed by the CDDH at its next meeting in April 2014, and that the Chair of the Group will be invited to present them. In this respect, the Group proposed that the CDDH:

- exchanges views and provides guidance on the proposed approach and the preliminary draft structure presented in Appendix III;
- invites all Member States, participants and observers to the CDDH and the CDDH-DC to provide examples of good practices by 31 May 2014 at the latest.

Item 4: Other business

9. The CDDH-DC also discussed the organisation of the work for the next meeting, which will be held in Strasbourg from 21 to 24 October 2014.

10. As regards the compilation of existing standards, including the compendium of good practices, the Group agreed that its finalisation, without prejudice to the work to be carried out electronically, may require that the first two days of the next meeting are devoted to this task.

11. As regards the elaboration of Guidelines on the promotion and protection of human rights in culturally diverse societies, with a possible specific focus on the issues related to human rights education and training, the Group noted the decision by the CDDH that this work could be carried out by a larger drafting group composed of experts from Member States and observers, and that the CDDH would designate at its next meeting the representatives of the Member States whose expenses will be covered by the Council of Europe budget. The members of the Group expressed their availability to continue their work also in this enlarged composition, which, as already noted by the CDDH at its November meeting, would facilitate the organisation of the next meeting. The third and fourth days of the second meeting would therefore be devoted to the elaboration of the Guidelines and take place in this enlarged composition. The Group also noted that in total three meetings will be devoted to this work, with a view to its finalisation by the CDDH in November 2015 at the latest.

12. The Group also had a very preliminary exchange of views on this part of its work, noting the need to well define its scope in order to take account of the work carried out by other Council of Europe and international bodies and to avoid duplication.

APPENDIX I

LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS

CZECH REPUBLIC / REPUBLIQUE TCHÈQUE

Martin BOUČEK, Human Rights and Transition Policy Department, Ministry of Foreign Affairs of the Czech Republic

FINLAND/FINLANDE

Krista OINONEN (Chair/Présidente), Legal Counsellor, Deputy Director, Unit for Human Rights Courts and Conventions, Legal Service, Ministry for Foreign Affairs, P.O. Box 411, 00023 Government

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PORTUGAL

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RUSSIAN FEDERATION / FEDERATION DE RUSSIE

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SWITZERLAND / SUISSE

Dominique STEIGER LEUBA, Département fédéral de justice et police DFJP, Office fédéral de la justice OFJ, Domaine de direction Droit public, Unité Droit européen et protection des droits de l'Homme, Bundesrain 20, Bern

TURKEY / TURQUIE

Okan TAŞDELEN, Département des droits de l'homme, Ministère de la Justice

Ayşen EMÜLER, Experte Juridique – Ministère des Affaires Etrangères, Représentation Permanente de la Turquie auprès du Conseil de l'Europe – Strasbourg

UNITED KINGDOM / ROYAUME UNI

apologised/excusé

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UKRAINE

Dina MARTINA, Deputy Director, Directorate general for the Secretariat of the Minister, Ministry of Foreign Affairs of Ukraine

European Union / Union Européenne

Jonathan BERNAERTS, Member of delegation, European Union Delegation to the Council of Europe

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

Jean-Bernard MARIE

SECRETARIAT

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Mikhail LOBOV, Head the Human Rights Development Department / Chef du Service du Développement des Droits de l'homme

Daniele CANGEMI, Head of Division / Chef de Division, Human Rights Law and Policy Division / Division du droit et politique des droits de l'homme

Merete BJERREGAARD, Administrator / Administratrice, Human Rights Law and Policy Division / Division du droit et de la politique des droits de l'Homme, *Secretary of the CDDH-DC / Secrétaire du CDDH-DC*

Severina SPASSOVA, Lawyer / Juriste, Human Rights Law and Policy Division / Division du droit et de la politique des droits de l'Homme

Tatiana WINTER, Assistant / Assistante, Human Rights Law and Policy Division / Division du droit et de la politique des droits de l'Homme

INTERPRETERS / INTERPRÈTES

Grégoire DEVICTOR

Corinne McGEORGE

Lucie de BURLET

APPENDIX II**AGENDA****Item 1: Opening of the meeting and adoption of the agenda****Item 2: Election of a Chairperson****Item 3: Discussion on a compilation of existing Council of Europe standards relating to the principles of freedom of thought, conscience and religion and the links to other Convention rights, in particular freedom of expression**

<u>Reference Documents</u>	
Relevant extracts of the 79 th CDDH meeting report	CDDH-DC(2014)01
Draft agenda of the first meeting	CDDH-DC(2014)0J1
<u>Working Documents</u>	
Concept paper on a compilation of Council of Europe standards relating to the principles of freedom of thought, conscience and religion and the links to other ECHR rights, prepared by the Secretariat	CDDH-DC(2014)02
Selection of Council of Europe standards relating to the principles of freedom of thought, conscience and religion and the links to other ECHR rights, prepared by the Secretariat	CDDH-DC(2014)03
<u>Information Documents</u>	
“Protecting the right to freedom of thought, conscience and religion under the European Convention on Human Rights”, Council of Europe handbook by Jim Murdoch, 2012	Publication
Overview of the Court’s case-law on freedom of religion, by the Research Division of the European Court of Human Rights, 2013	Document
Summing-up of the thematic debate on “Freedom of religion and the situation of religious minorities“, 1158th meeting of the Ministers’ Deputies, 12-13 December 2013	CM/Del/Dec(2012)1158 Addendum
Compilation of the Venice Commission opinions and reports concerning freedom of religion and belief, 2013	CDL(2013)042 Engl
Guidelines for legislative reviews of law affecting religion or belief adopted by the Venice Commission, 2004	CDL-AD(2004)028

Item 4: Other business

Organisation of the work for the next meeting

APPENDIX III

Preliminary draft structure of the Compilation

Introduction

- Explaining the rationale of this work and putting it in the broader context of the CoE values and work (including *inter alia* media, intercultural dialogue, education and training issues)
- Presenting the mandate of the various CoE bodies in this respect (Court, CM, PACE, ECSR, ECRI, Advisory Committee FCNM etc.)

General principles and definitions

- The right to freedom of thought, conscience and religion as a pillar of democratic society (pluralism, diversity, tolerance etc.)
- Internal and external aspects of freedom of thought, conscience and religion
- Limitations (possible grounds, necessity, proportionality etc.)
- Positive obligations
- Need for balancing between rights – freedom of expression, freedom of association etc.
- Margin of appreciation (bearing in mind the diversity of approaches taken by national authorities in this area)
- Duty of neutrality and impartiality of the State
- Non-discrimination on grounds of thought, conscience and religion

Themes

- *Individual right to freedom of thought, conscience and religion*
 - Freedom to manifest one's thought, conscience and religion
 - Wearing of religious symbols and clothing
 - Religion in the workplace and in educational institutions (holidays, accommodations, nutrition, school curricula etc.)
 - Conscientious objection (military and other)
 - Medical treatment issues
 - Right not to disclose one's thought, conscience and religion
 - Freedom to change one's thought, conscience and religion
 - Proselytism/sects
 - Right to education of children in conformity with the parents' religious and philosophical convictions
 - Specific questions in relation to children's right to freedom of thought, conscience and religion
 - Rights of persons deprived of their liberty
- *State relations with religious communities*
 - Autonomy and rights of religious communities (including employment-related issues)
 - Registration and recognition
 - Property (including issues related to places of worship, cemeteries etc.)
 - Taxation
 - Financing
- *Protection of individuals on account of their thought, conscience and religion*
 - Articles 2 and 3 ECHR issues
 - Protection of persons belonging to religious minorities
 - Hate speech and hate crime on grounds of thought, conscience and religion
 - Matters relating to asylum on grounds of thought, conscience and religion

APPENDIX IV

Draft letter to the attention of members of the CDDH and of the CDDH-DC on a call for submission of national good practices

As you know, the CDDH has been asked by the Committee of Ministers to prepare a compilation of existing Council of Europe standards relating to the principles of freedom of thought, conscience and religion and the link to other Convention rights, in particular freedom of expression, supplemented by a compendium of good practices. You will find enclosed, for your information, a preliminary draft structure of this compilation, as discussed by the CDDH at its last meeting.

We would be grateful if you could transmit to the competent authorities the present call for submission of relevant national good practices, with a view to their inclusion in the compilation. We would in particular like to receive examples of the most interesting and relevant measures or initiatives in your country on the following themes:

- The individual right to freedom of thought, conscience and religion (for instance, on matters related to the wearing of religious symbols and clothing, on religion in the workplace and in educational institutions, on conscientious objection, on sects, on the right to education of children in conformity with the parents' religious and philosophical convictions, on the rights of persons deprived of their liberty etc.);
- The relation of the State with religious communities (for instance, on matters related to the autonomy and rights of religious communities, on practices related to registration, financing and/or taxation of religious communities, on property etc.);
- The protection of individuals against discrimination, hate crime and hate speech on grounds of thought, conscience and religion; the protection of persons belonging to religious minorities; matters relating to asylum on grounds of thought, conscience and religion;
- Striking a fair balance between freedom of thought, conscience and religion and other rights, in particular freedom of expression, freedom of peaceful assembly and freedom of association;
- The promotion of awareness and tolerance of religious diversity.

We would be grateful if you could submit to the Secretariat of the Council of Europe (merete.bjerregaard@coe.int) examples of good practices relevant for these themes by 31 May 2014 at the latest.