



Strasbourg, 29 October 2014

CDDH-DC(2014)R2

STEERING COMMITTEE FOR HUMAN RIGHTS
(CDDH)

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

Meeting report

2nd meeting
21 – 24 October 2014
Council of Europe, Palais de l'Europe– Room 14

A. Finalisation of the draft 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

Item 1: Opening of the first part of the meeting and adoption of the draft agenda

1. The Chairperson of the CDDH Drafting Group on Human Rights in Culturally Diverse Societies (CDDH-DC), Ms Krista OINONEN (Finland), opened the first part of the meeting devoted to the finalisation of the draft Compilation which took place on the first two days of the four-day meeting (Strasbourg, 21-24 October 2014). She welcomed the members of the Group in its restricted composition as well as the other participants and invited them to introduce themselves. The list of participants can be found in [Appendix I](#).

2. Mr Alfonso DE SALAS, Secretary of the CDDH, explained that he was replacing Mr Daniele CANGEMI at this meeting since the latter had recently been called upon to take up other functions within the Organisation. He then recalled the tasks that the Group was entrusted to achieve in the framework of its terms of reference. The agenda of the meeting as adopted appears in [Appendix II](#).

Item 2: Discussion on the finalisation of the draft 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 examined the draft text of the Compilation paragraph by paragraph starting with the thematic chapters, continuing with the general principles and finally focusing on the introduction. The CDDH-DC proposed a number of amendments to the text both regarding the structure and the content.

4. As regards national good practices to be included as a supplement to the Compilation, the Group examined the preliminary selection of good practices, prepared by the Secretariat on the basis of the contributions received from 20 States. It agreed as far as feasible to follow the headings and subheadings of the Compilation and whenever possible to structure it according to standards, policies, institutional structures, dialogue and other frameworks such as awareness-raising and training. The Group made a number of proposals with regard to the selection of good practices bearing in mind the need of added value.

Item 3: Adoption of the first part of the meeting report

5. The Group discussed the possible further steps towards finalising the draft Compilation which should be reflected in the meeting report. It agreed to ask the Secretariat to revise, by 15 January 2015, the preliminary draft Compilation in the light of the comments and proposals presented during the meeting and to forward it to the Chairperson for her approval before inviting CDDH delegations to submit comments.

6. The Chairperson would report to the CDDH at its forthcoming meeting (19–21 November 2014) on the work already accomplished and would explain the need for additional time to finalise the draft Compilation. The next meeting of the CDDH-DC in March 2015 could be a useful occasion to have a final look at the draft Compilation in the light of the comments received from CDDH delegations. In the event of receiving several substantive comments requiring a redrafting of the text it would be useful to have the possibility of extending the meeting with an extra day, if need be. The

Group agreed to accept any additional contributions from States on good practices to be submitted to the Secretariat before the end of December 2014.

B. Elaboration of draft Guidelines on the protection and promotion of human rights in culturally diverse societies

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

7. The Chairperson of the CDDH Drafting Group on Human Rights in Culturally Diverse Societies (CDDH-DC), Ms Krista OINONEN (Finland), opened the second part of the meeting devoted to discussion on the elaboration of draft Guidelines on human rights in culturally diverse societies which took place on the last two days of the four-day meeting (Strasbourg, 21-24 October 2014). She welcomed members of the Group in its enlarged composition as well as the other participants and invited them to introduce themselves. The list of participants can be found in [Appendix I](#). The agenda as adopted with references to the working documents appear in [Appendix II](#).

Item 2: Election of a Vice-Chair

8. Mr Paulo MARREAS FERREIRA (Portugal) was elected Vice-Chair of the Committee.

Item 3: Key-note speech: Dr María ELÓSEGUI, Professor of Philosophy of Law, University of Saragossa (Spain), Member of the European Commission against Racism and Intolerance - ECRI

9. Dr María ELÓSEGUI, Professor of Philosophy of Law, University of Saragossa (Spain), Member of the European Commission against Racism and Intolerance (ECRI), presented the case-law concept of reasonable accommodation and its application in the management of cultural and religious diversity in the public space. She explained that the concept originated from Canadian and American jurisprudence and was also applied by many European States, sometimes under a different term. The European Court of Human Rights has used similar techniques in a few cases concerning indirect discrimination.

Item 4: Discussion on the elaboration of the Guidelines on the protection and promotion of human rights in culturally diverse societies

10. The Group had a substantive and fruitful exchange of views during which many issues of relevance to the topic were raised. It was first underlined that the purpose of the Guidelines should be to provide further guidance to member States on the implementation of the existing Council of Europe standards in this field. The Group noted that the topic of “human right in culturally diverse societies” was very broad and it would be necessary to focus on a selective number of priority areas. It agreed that the starting point should be the fact that European societies are increasingly diverse and that diversity should be perceived as a source of enrichment.

11. The Group identified a list of possible issues of relevance for the topic (see [Appendix III](#)), without making a final decision as to whether all these issues should eventually remain on the list and without excluding the possibility of expanding the list with additional issues. It was agreed that account should be taken of “The Ljubljana Guidelines on integration of Diverse Societies” published by the OSCE in 2012. Moreover consideration should be given to existing and on-going work within other sectors of the Council of Europe and in other international and regional organisations, in order to ensure complementarity and avoid any risk of duplication or overlapping in this field.

12. The Group would mainly base its work on the relevant case-law of the European Court of Human Rights but also, whenever appropriate, have a look at principles emerging from other Council of Europe and international bodies. It underlined that the elaboration of Guidelines on human rights in culturally diverse societies was linked to its work of compiling 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, which was supplemented with national good practices (see above Part A).

13. Concerning the addressees, the Group considered that the instrument, although primarily addressed to States, should also provide practical guidance to local and regional governments as well as civil society and individuals.

Item 5: Adoption of the second part of the meeting report

14. The Group noted that the outcome of this meeting would be presented by the Chairperson to the CDDH at its forthcoming meeting (19-21 November 2014). The Group would welcome any further guidance which the CDDH could provide for its work on the elaboration of Guidelines.

Item 6: Organisation of the work for the next meeting

15. The Group considered that it would be useful to invite a key note speaker for its next meeting to be held in Strasbourg on 31 March-1 [2]April 2015.

16. The Secretariat was asked to prepare, by 1 March 2015, a preliminary document with elements for the elaboration of Guidelines following the example of the recent Recommendation CM/Rec(2014)2 to member States on the promotion of human rights of older persons, and proceeding in a similar way as for the Guidelines of the Committee of Ministers on human rights and the fight against terrorism from 2002, i.e. to place the possible guideline in a box and below make reference to the relevant extract of the case-law, other sources and other relevant information.

17. The Group also noted that in total three meetings would be devoted to this work, with a view to its finalisation by the CDDH in November 2015 at the latest. The electronic restricted workspace which had been created for the preparation of the draft Compilation of existing Council of Europe standards would also be used for the work on the elaboration of Guidelines. Consequently, access to the workspace would be enlarged to include all members of the Drafting Group in its enlarged composition.

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APPENDIX II

AGENDA¹

A. Finalisation of the draft 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

Item 1: Opening of the first part of the meeting and adoption of the draft agenda

Item 2: Discussion on the finalisation of the draft 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>	
Report of the 1 st meeting of the CDDH-DC, 24 – 25 March 2014	CDDH-DC(2014)R1
Relevant extracts of the 80 th and 81 st CDDH meeting reports	CDDH-DC(2014)05
<u>Working Documents</u>	
Draft Compilation of Council of Europe standards relating to the principles of freedom of thought, conscience and religion and the links to other Convention rights, prepared by the Secretariat	CDDH-DC(2014)06
Proposals of national good practices	CDDH-DC(2014)004 rev1
Preliminary selection of national good practices for the draft compendium, prepared by the Secretariat	CDDH-DC(2014)07
Comments from members and observers	CDDH-DC(2014)10rev
<u>Information Document</u>	
Joint guidelines on the legal personality of religious or belief communities, adopted by the Venice Commission at its 99 th plenary session (Venice, 13-14 June 2014)	CDL-AD(2014)023-e

Item 3: Adoption of the first part of the meeting report

¹ The meeting of the Drafting Group was divided into two parts – Part A and Part B – to reflect the two distinct tasks of the Group.

B. Elaboration of draft Guidelines on the protection and promotion of human rights in culturally diverse societies

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

Item 2: Election of a Vice-Chair

Item 3: Key-note speech: Dr María ELÓSEGUI, Professor of Philosophy of Law, University of Saragossa (Spain), Member of the European Commission against Racism and Intolerance - ECRI

Item 4: Discussion on the elaboration of Guidelines on the protection and promotion of human rights in culturally diverse societies

<u>Reference Documents</u>	
Report of the 1 st meeting of the CDDH-DC, 24 – 25 March 2014	CDDH-DC(2014)R1
Relevant extracts of the 80 th and 81 st CDDH meeting reports	CDDH-DC(2014)05

<u>Working Documents</u>	
Concept paper on Guidelines on the protection and promotion of human rights in culturally diverse societies, prepared by the Secretariat	CDDH-DC(2014)08

<u>Information Documents</u>	
The case-law concept of reasonable accommodation- the European Court of Human Rights facing the governance of cultural and religious diversity in the public space, paper by Dr María ELÓSEGUI, Professor of Philosophy of Law, University of Saragossa (Spain)	CDDH-DC(2014)9
Human Rights in culturally diverse societies – challenges and perspectives, proceedings from the CDDH seminar in The Hague, November 2008	Publication
Guidelines on integration of diverse societies, presented by the OSCE in Ljubljana in November 2012	Document
Living together – Combining diversity and freedom in 21 st -century Europe, report of the Group of Eminent Persons presented in May 2011	Document

Item 5: Adoption of the second part of the meeting report

Item 6: Organisation of the work for the next meeting

Item 7: Other business

APPENDIX III

Possible issues to include in a non-binding instrument on the protection and promotion of human rights in culturally diverse societies

Preamble (reference to relevant Council of Europe and other international documents, the purpose of the instrument, freedom of thought, conscience and religion and freedom of expression amongst the pillars of democracy).

Considering that the creation of a climate of tolerance and dialogue is necessary to enable cultural diversity to be a source and a factor, not of division, but of enrichment for each society

Scope (relevant key concepts to understand the purpose of the instrument [including if necessary definitions] such as “equality”, “participation”, “discrimination”, “freedom of thought, conscience and religion”, “pluralism”, etc.)

General Principles (proportionality and balancing of rights, diversity of approaches of States, margin of appreciation, duty of State neutrality and impartiality , autonomy of religious communities; active participation in society, full enjoyment of rights, universality of human rights which are indivisible, interdependent and interrelated, gender equality as a key principle of human rights, etc.)

Relevant issues:***Freedom of thought, conscience and religion and links to other Convention rights***

Conscientious objection in other fields than military services
 Dialogue between the State and various communities
 Collective aspects of this freedom (autonomy and rights of religious communities)
 Promoting a climate of tolerance and acceptance of manifold religions and beliefs
 Positive obligations
 Articles 2 and 3 issues and international protection

Non-discrimination

Prohibition of direct and indirect discrimination (e.g. adjustments in cultural and religious matters)
 Multiple discrimination
 Combating negative stereotypes
 Combating hate speech and hate crime
 Role of the media
 Equal access to work in the labour market

Participation and social inclusion

Guarantee of rights for all which at the same time entails duties for each individual
 Integration
 Minorities' participation (political) rights and their representation in elective bodies

Other measures to ensure effective implementation of the relevant standards

National human rights action plans
 National human rights institutions
 Human rights awareness-raising and training (Constitutional principles, the legal framework including the meaning of non-discrimination and freedom of religion and belief, addressed both to the majority and the minority)
 Promoting other measures of resolving disputes, conflicts