

Strasbourg, 11 February 2011

DH-GDR(2011)R6

STEERING COMMITTEE FOR HUMAN RIGHTS
(CDDH)

**COMMITTEE OF EXPERTS ON THE REFORM OF THE COURT
(DH-GDR)**

REPORT

6th meeting

9-11 February 2011

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

1. The Committee of experts on the reform of the Court (DH-GDR) held its sixth meeting in Strasbourg from 9-11 February 2011 with Mrs Anne-Françoise TISSIER (France) in the chair. The list of participants appears at Appendix I. The agenda, as adopted, appears at Appendix II.

Item 2: Consultation with representatives of civil society and national human rights institutions

2. The Committee held a consultation with representatives of civil society and national human rights institutions on implementation of the Interlaken Declaration. The programme and list of participants appears at Appendix III. A report of the consultation appears at Addendum I.

Item 3: Information on relevant events since the last meeting

3. The Secretariat provided information on relevant events since the last meeting and on forthcoming events, concerning in particular the GT-SUIVI Interlaken meetings of 15 December 2010 and 17 February 2011.

Item 4: Access to the Court – fees for applicants

4. Mr Julien LHUILLIER, expert consultant of the University of Lausanne, presented his study on the possible introduction of a system of fees for applicants to the European Court of Human Rights.¹ The Committee welcomed the study and thanked Mr Lhuillier for his work. Having examined the study and exchanged views with Mr Lhuillier, the Committee decided to proceed as follows:

- Mr Lhuillier would prepare a summary of the seven national fee systems identified in the study as possessing certain characteristics and that could thereby inspire a possible model system applicable to the Strasbourg Court;
- At its next meeting, the Committee would examine these systems, taking into account also the criteria suggested by the Registry, as set out in the study, and the CDDH's earlier report on the issue,² in order to outline one (or more) models system, with variants where necessary;
- This/ these model(s) would then be submitted to the Court and, if necessary, other expert bodies in order to evaluate the likely costs of its/ their implementation and operation.

5. The Committee asked the Secretariat to consult the Directorate of Legal Advice and Public International Law to see whether it would be possible at this stage to address the question whether or not an amendment of the Convention would be necessary to introduce a

¹ See doc. DH-GDR(2011)002 and Addendum

² See doc. CDDH(2010)010 Add. I

fee system and if so, to advise on it, if possible in advance of the next CDDH meeting (29 March – 1 April 2011).

6. The Committee took note that the Conference on Interlaken follow-up being organised by the Turkish Chairmanship of the Committee of Ministers (Izmir, Turkey, 26-27 April 2011) may consider the question of fees for applicants.

7. Finally, the Committee invited any members who may wish to point out specific factual errors in the study to advise Mr Lhuillier of them directly, with copy to the Secretariat.

Item 5: Information to be provided by States parties to the Committee of Ministers by the end of 2011

8. The Committee examined and adopted a draft possible structure for the reports member States had been requested, in the Interlaken Declaration, to submit to the Committee of Ministers by the end of 2011 on the measures taken to implement the relevant parts of the Declaration. The adopted text, which will be presented to the next CDDH meeting for possible finalisation and submission to the Committee of Ministers and subsequent transmission to member States, can be found at [Appendix IV](#) to the present report.

Item 6: Advisory opinions

9. The Committee discussed whether or not to resume its consideration of the question of extending the Court's competence to issue advisory opinions. On the substantive issue, views remained divided, with some in favour, some doubtful and others against. Nevertheless, on the procedural question, the largest number of experts was in favour of continuing, although others were against. The Committee decided to ask the CDDH at its next meeting for a decision on whether or not to continue its examination of this proposal, to abandon it or to defer it.

Item 7: Draft CDDH Interim Activity Report

10. The Committee adopted draft elements for the CDDH Interim Activity Report on measures requiring amendment of the Convention. This text – which will be presented to the CDDH at its next meeting, with a view to finalisation and presentation to the Committee of Ministers by 15 April 2011, in accordance with the CDDH's ad hoc terms of reference – can be found at [Addendum II](#).

Item 8: CDDH contribution to the Izmir Conference

11. The Committee took note of information provided by the Turkish expert concerning preparations for the Interlaken Follow-up Conference, to be organised by the Turkish Chairmanship of the Committee of Ministers at Izmir, Turkey on 26-27 April 2011.

12. Like the Interlaken Conference, the Izmir Conference was intended to be a high-level ministerial event and would follow the same format. Logistical arrangements had already

been made in Izmir and official invitations would shortly be sent directly to ministers of foreign affairs.

13. As at Interlaken, the draft final text for adoption at the Conference would be presented under the authority of the Chairmanship. There had already been contacts with the Court and Secretariat concerning its possible content. These would be followed by bilateral consultations with delegations in Strasbourg and then informal meetings of the Committee of Ministers, in order to achieve consensus on the final draft. The Court had been asked to make a formal contribution, including an initial evaluation of the impact of Protocol No. 14.

14. The Committee noted that the envisaged procedure and time-frame did not allow the CDDH to make a written contribution to preparation of the final draft text. It therefore invited CDDH experts to proceed to coordinate their positions with their permanent representations in Strasbourg in advance of the various bilateral consultations and informal meetings.

Item 9: Court's Jurisconsult's Notes on the principle of subsidiarity and on the clarity and consistency of the Court's case-law

15. The Committee invited experts to send any further written comments, as far as possible with drafting suggestions, on the draft collective response to Ms Laura DAUBAN, with a copy to the Secretariat, by 30 April 2011. The Committee would return to the issue at its next meeting on the basis of a revised draft taking into account all the comments made.

Item 10: Future activities

16. The Committee took note of the dates of its further meetings in 2011: 7th meeting – 30 May - 1 June; and 8th meeting – 7-9 September.

17. The Committee considered that the following issues should be addressed during its 7th meeting (for further details, see as relevant above):

- Izmir Conference, Istanbul Ministerial Session and follow-up: consideration of the outcome of the Izmir Conference, decisions taken at the Istanbul Ministerial Session and other follow-up;
- a new filtering mechanism: definition of specific possible models, with options, for a new filtering mechanism within the Court;
- fees for applicants: description of (a) possible model system(s) and, if appropriate, determination of how to assess the costs of its/ their implementation and operation;
- collective response to the Jurisconsult's notes: examination of a revised draft;
- advisory opinions: subject to the CDDH's decision, resumption of examination of the possibility of extending the Court's competence to receive requests for advisory opinions also from national courts.

Appendix I**List of participants / liste des participants****MEMBERS****ARMENIA / ARMENIE**

Apologised / excusé

AUSTRIA / AUTRICHE

Ms Brigittte OHMS, Deputy Government Agent, Division for International Affairs and General Administrative Affairs, Federal Chancellery, Dpt. V/5, Constitutional Service, Ballhausplatz 2, 1010 WIEN

BELGIUM / BELGIQUE

Mme Isabelle NIEDLISPACHER co-Agent du Gouvernement, Service Public Fédéral Justice, Service des droits de l'homme, Boulevard de Waterloo 115, B-1000 BRUXELLES

CZECH REPUBLIC / REPUBLIQUE TCHEQUE

Mr Vit SCHORM, Government Agent, Ministry of Justice, Vyšehradská 16, 128 10 PRAHA 2

DENMARK / DANEMARK

Ms Katarina HVID LUNDH, Head of Section, Ministry of Justice, Law Department, Human Rights Division, Slotsholmsgade 10, DK-1216 COPENHAGEN K

ESTONIA / ESTONIE

Apologised / excusé

FINLAND / FINLANDE

Mr Arto KOSONEN, Government Agent, Director of the Unit for Human Rights Court and Conventions, Legal Service, Ministry of Foreign Affairs, P.O. Box 411, FI-00023 VALTIONEUVOSTO

FRANCE

Mme Anne-Françoise TISSIER, Présidente du DH-GDR / Chairperson of the DH-GDR, Sous-directeur des droits de l'homme, Agent du Gouvernement, Ministère des affaires étrangères, DJ/HOM, 57 boulevard des Invalides, F-75007 PARIS

Mme Emmanuelle TOPIN, Sous-direction des droits de l'homme, Ministère des affaires étrangères, 57 boulevard des Invalides, F-75007 PARIS

GEORGIA / GEORGIE

Ms Shorena MEZURNISHVILI, Head of Litigation Unit of the Department of the State Representation to the International Courts of Human Rights, Ministry of Justice, Rustaveli Avenue 30, TBILISI 0146

GERMANY / ALLEMAGNE

Mrs Almut WITTLING-VOGEL, Chairperson of the CDDH / Présidente du CDDH / Agent for Human Rights, Federal Ministry of Justice, Mohrenstr. 37, D-10117 BERLIN

Ms Vera WEIßFLOG, Legal Officer, Federal Ministry of Justice, Mohrenstr. 37, 10117 BERLIN

GREECE / GRECE

Ms Sofia KASTRANTA, Rapporteur at the Special Legal Department of the Ministry of Foreign Affairs of the Hellenic Republic, Vasilissis Sophias 11, 10671 ATHENES

IRELAND / IRLANDE

Mr Peter WHITE, Co-Agent of the Government of Ireland, Legal Division, Department of Foreign Affairs, Stephen's Green, DUBLIN 2

ITALY / ITALIE

Ms Paola ACCARDO, Co-agent du gouvernement italien devant la Cour européenne des droits de l'homme et attaché juridique auprès de la Représentation permanente de l'Italie, 3 r. Schubert, 67000 STRASBOURG

LATVIA / LETTONIE

Ms Inga REINE, Government Agent, Representative of the Government of Latvia before International Human Rights Organizations, Ministry of Foreign Affairs, Brivibas blvd 36, RIGA LV 1395

THE NETHERLANDS / PAYS-BAS

Mr Martin KUIJER, Senior legal adviser human rights law, Ministry of Justice, Legislation Department, room H.511, Schedeldoekshaven, P.O. Box 20301, 2500 BZ THE HAGUE

Ms Nicky JARIGSMA, Deputy Agent for the Government of the Netherlands, Ministry of Foreign Affairs, Dept. DJZ/IR, P.O. Box 20061, 2500 EB THE HAGUE

NORWAY / NORVEGE

Ms Kristin RYAN, Acting legal adviser, Legislation Department, Ministry of Justice, P.O. Box 8005 Dep., N-0030 OSLO

POLAND / POLOGNE

Mr Jakub WOLASIEWICZ, Government Agent, Ministry of Foreign Affairs, Aleja Szucha 23, WARSAW 00580

PORTUGAL

Mme Maria de Fátima GRAÇA CARVALHO, Agente du Gouvernement, Procureur-General adjointe, Procuradoria Geral da Republica, rua de Escola Politécnica, N° 140, P-1249-269 LISBOA

ROMANIA / ROUMANIE

Ms Alexandra Irina NEAGU, Judge, Government Agent, Ministry of Foreign Affairs, 14, Aleea Modrogan, Sector 1, BUCHAREST

RUSSIAN FEDERATION / FEDERATION DE RUSSIE

Mr Nikolay MIKHAILOV, Office of the Representative of the Russian Federation at the European Court of Human Rights, Deputy Head, Ministry of Justice of the Russian Federation, Zhitnaya St., 14, 119991 MOSCOW

Ms Maria MOLODTSOVA, 1st Secretary, Department for International Humanitarian Cooperation and Human Rights, Ministry of Foreign Affairs, 32/34, Smolenskaya-Sennaya sq., 119200 MOSCOW

M. Vladislav ERMAKOV, Représentation permanente de la Fédération de Russie auprès du Conseil de l'Europe, 75 allée de la Robertsau, F-67000 STRASBOURG

SPAIN / ESPAGNE

M. Fernando IRURZUN MONTORO, Chef du Service juridique des Droits de l'Homme, Ministère de la Justice, MADRID

SWEDEN / SUEDE

Ms Anna ERMAN, Deputy Director, Department for International Law, Human Rights and Treaty Law, Ministry for Foreign Affairs, SE-103 39 STOCKHOLM

SWITZERLAND / SUISSE

M. Frank SCHÜRMANN, Agent du Gouvernement, Chef de l'unité Droit européen et protection internationale des droits de l'homme, Office fédéral de la justice, Bundesrain 20, CH-3003 BERNE

“the former Yugoslav Republic of Macedonia” / “l'ex-République yougoslave de Macédoine”

Apologised / excusé

TURKEY / TURQUIE

Mme Deniz AKÇAY, Adjointe au Représentant permanent de la Turquie auprès du Conseil de l'Europe, 23, boulevard de l'Orangerie, F-67000 STRASBOURG

Mme Halime Ebru DEMIRCAN, Adjointe au Représentant permanent de la Turquie auprès du Conseil de l'Europe, 23, boulevard de l'Orangerie, F-67000 STRASBOURG

Ms Nilgün ERDEM ARI, Première conseillère au Représentant permanent de la Turquie auprès du Conseil de l'Europe, 23, boulevard de l'Orangerie, F-67000 STRASBOURG

UNITED KINGDOM / ROYAUME-UNI

Ms Laura DAUBAN, Assistant Legal Adviser, Foreign and Commonwealth Office, King Charles Street, LONDON SW1A 2AH

* * *

OBSERVERS**Holy See/ Saint Siège**

Mgr Sladan ĆOSIĆ, Observateur permanent adjoint, Mission permanente du Saint-Siège auprès du Conseil de l'Europe, 2, rue Le Nôtre, F-67000 STRASBOURG

European Union

Mr Luis TARIN MARTIN, Deputy to the Head of Delegation, EU Delegation to Council of Europe, 18 Bld de l'Orangerie, 67000 Strasbourg

Office of the United Nations High Commissioner for Human Rights/ Office du Haut Commissaire des Nations Unies pour les réfugiés

Mr Jean-Etienne KAUTZMANN, Assistant juridique, Représentation du Haut Commissariat des Nations Unies pour les réfugiés auprès des Institutions européennes à Strasbourg, c/o Conseil de l'Europe, F-67075 STRASBOURG *cedex*

* * *

Parliamentary Assembly/Assemblée parlementaire

Mr Andrew DRZEMCZEWSKI, Head of Department, Legal Affairs & Human Rights Department / Chef de service des questions juridiques & des droits de l'homme

European Court of Human Rights / Cour européenne des droits de l'homme

Mr John DARCY, Administrator, Private Office of the President, European Court of Human Rights / Administrateur, Cabinet du Président

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

Mr Giuseppe GUARNERI, 18 rue Carrière, F-67000 STRASBOURG

Department for the Execution of Judgments of the Court/ Service de l'Execution des Arrêts de la Cour

Ms Irene KITSOU-MILONAS, Head of Section

* * *

Amnesty International

Mr Théo BOUTRUCHE, Amnesty International, International Secretariat, 1 Easton Street, LONDON WC1X 0DW

Council of Bars and Law Societies of Europe / Conseil des barreaux européens (CCBE)

M. Laurent PETTITI, Président du Comité Droits de l'Homme du CCBE, Avenue de la Joyeuse Entrée 1-5 – 1040 BRUXELLES

European Group of National Human Rights Institutions / Groupe européen des institutions nationales des droits de l'homme

Mme Noémie BIENVENU, Legal Adviser / Chargée d'études juridiques, Commission Nationale Consultative des Droits de l'Homme (CNCDH)
35, rue Saint Dominique, 75007 PARIS

International Commission of Jurists (ICJ) / Commission internationale de Juristes (CIJ)

Ms Róisín PILLAY, Senior Legal Adviser, Europe Programme, International Commission of Jurists, PO Box 91, 33 rue des Bains, CH-1211 GENEVA 8

Ms Nuala MOLE, AIRE Centre, 17 Red Lion Square, LONDON WC1R 4QH

* * *

M. Julien LHUILLIER, Institut de Criminologie et de Droit Pénal, Université de Lausanne, ICDP, Sorge, Batochime CH-1015 LAUSANNE

* * *

SECRETARIAT

Directorate General of Human Rights and Legal Affairs, Directorate of Standard Setting, Council of Europe, F-67075 STRASBOURG Cedex

Direction générale des droits de l'Homme et des affaires juridiques, Direction des Activités normatives, Conseil de l'Europe, F-67075 STRASBOURG Cedex

Mr Jörg POLAKIEWICZ, Head of Human Rights Development Department / Chef du Service du développement des droits de l'Homme

Mr 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

Mr David MILNER, Administrator / Administrateur, Human Rights Intergovernmental Cooperation Division / Division de la coopération intergouvernementale en matière de droits de l'Homme
Secretary of the DH-GDR / Secrétaire du DH-GDR

Mr Petr HNÁTK, Administrator / Administrateur, Human Rights Intergovernmental Cooperation Division / Division de la coopération intergouvernementale en matière de droits de l'Homme

Mme Raluca IVAN, Administrator / Administrateur, Human Rights Intergovernmental Cooperation Division / Division de la coopération intergouvernementale en matière de droits de l'Homme

Mlle Aurélie JACQUOT, Assistant / Assistante, Human Rights Intergovernmental Cooperation Division / Division de la coopération intergouvernementale en matière de droits de l'Homme

Mlle Natacha LAZARUS, Assistant / Assistante, Human Rights Intergovernmental Cooperation Division / Division de la coopération intergouvernementale en matière de droits de l'Homme

Mlle Ségolène CHESNEAU, Stagiaire, Human Rights Intergovernmental Cooperation Division / Division de la coopération intergouvernementale en matière de droits de l'Homme

Interpreters/Interprètes:

Mr Philippe QUAINÉ

Mr Luke TILDEN

Mme Bettina LUDEWIG

* * *

Appendix II**Agenda (as adopted)****Item 1: Opening of the meeting, adoption of the agenda and order of business**General background documents

- Draft annotated agenda DH-GDR(2011)OJ001
- Report of the 71st meeting of the CDDH (2-5 November 2010) CDDH(2010)013
- CDDH Final Report on measures that result from the Interlaken Declaration that do not require amendment of the ECHR CDDH(2010)013 Add. I
- Report of the 5th meeting of the DH-GDR (1-3 December 2010) DH-GDR(2010)021
- Decisions of the Committee of Ministers on the action to be taken following the Interlaken Conference & Terms of reference of the CDDH and subordinate bodies involved in follow-up work to Interlaken CDDH(2010)002
- Interlaken Declaration CDDH(2010)001
- “Background documents” for the Interlaken Conference H/Inf (2010) 2
- “Preparatory contributions” for the Interlaken Conference H/Inf (2010) 3
- CDDH Activity Report on guaranteeing the long-term effectiveness of the control system of the European Convention on Human Rights CDDH(2009)007 Add. I

Item 2: Consultation with representatives of civil society and national human rights institutionsBackground documents

- Draft programme of the Consultation DH-GDR(2011)OJ001
Appendix I
- Background paper for participants (prepared by the Secretariat) DH-GDR(2011)001
- Response of the European Group of National Human Rights Institutions on Reform of the European Court of Human Rights – selected issues DH-GDR(2011)007
- Comments on Follow-up of the Interlaken Declaration (submitted by Amnesty International and others) DH-GDR(2011)008
- Statement prepared for consultations with representatives of civil society and national human rights institutions (Helsinki Foundation for Human Rights (Warsaw)) DH-GDR(2011)009
- “Fees at the European Court of Human Rights – ideas for the consultation” (ILGA Europe) DH-GDR(2011)010

Item 3: Information on relevant events since the last meeting

Background document

- Synopsis of the meeting of the GT-SUIVI.Interlaken of 15 December 2010 GT-SUIVI.Interlaken(2010)CB9E

Item 4: Access to the Court – fees for applicantsBackground documents

- Study on the possible introduction of a system of fees for applicants to the European Court of Human Rights (prepared by Mr Julien Lhuillier, expert consultant) DH-GDR(2011)002
- Report of the 4th meeting of the DH-GDR (15-17 September 2010) DH-GDR(2010)017, paras. 14-17
- CDDH preliminary report on the issue of access to the Court – fees for applicants (adopted as part of the First Report on Implementation of the Interlaken Declaration) CDDH(2010)010 Add. I, Appendix II
- “Preliminary reflections concerning the introduction of a fee system” (document prepared by the Registry of the Court) COURT_n3121780_v1
COURT_n3102958_v1_feesrevised

Item 5: Information to be provided by States parties to the Committee of Ministers by the end of 2011Working document

- Draft Questionnaire to member States (prepared by the Secretariat) DH-GDR(2011)003

Item 6: Advisory opinionsBackground documents

- Advisory opinions: previous discussions in the DH-S-GDR and CDDH (prepared by the Secretariat) DH-GDR(2010)019
- “Convention system as a subsidiary source of law” Text of the Court Deputy Registrar’s speech at the Skopje Conference

Item 7: Draft CDDH Interim Activity ReportWorking documents

- Draft elements for the CDDH Interim Activity Report (prepared by the Secretariat) DH-GDR(2011)004
- Draft CDDH Report on the issues of filtering of applications and treatment of repetitive applications DH-GDR(2010)021 Addendum I

Item 8: CDDH contribution to the Izmir ConferenceBackground document

- Priorities of the Turkish Chairmanship of the Committee of Ministers of the Council of Europe (10 November 2010 – 11 May 2011)

2010cminf41

Item 9: Court's Jurisconsult's Notes on the principle of subsidiarity and on the clarity and consistency of the Court's case-law

Working documents

- Draft Collective Response to the Jurisconsult's Notes DH-GDR(2011)005

Background documents

- Compilation of contributions to the draft Collective Response to the Jurisconsult's Notes (prepared by the Secretariat) DH-GDR(2011)006
- Court's Jurisconsult's Note on the principle of subsidiarity Court_#3188076
- Court's Jurisconsult's Note on clarity & consistency of the Court's case-law Court_#3197955

Item 10: Future activities

Item 11: Other business

* * *

Appendix III

Consultation with representatives of civil society and national human rights institutions – Programme and list of participants

9.30	Opening and general introduction by the Chairperson of the DH-GDR, Mrs Anne-Françoise Tissier, and introduction of the participants
10.00	Issue I: a possible new filtering mechanism for the Court <ul style="list-style-type: none">- introduction by Mrs Almut Wittling-Vogel, DH-GDR Rapporteur (5 minutes)- open discussion on Issue I
10.30	Issue II: a possible simplified amendment procedure for the Convention <ul style="list-style-type: none">- introduction by Mrs Björg Thorarensen, Chairperson of the DH-PS (5 minutes)- open discussion on Issue II
11.00	Issue III: possible introduction of system of fees for applicants <ul style="list-style-type: none">- introduction by Mr Frank Schürmann, Vice-chairperson of the DH-GDR (5 minutes)- open discussion on Issue III
11.30 – 12.00	<i>Break</i>
12.00	Other issues <ul style="list-style-type: none">- presentation on the issue of information to applicants by Mr Jörg Polakiewicz, Head of the Human Rights Development Department, Council of Europe (5 minutes)- presentation on the issue of advisory opinions by Mr Martin Kuijer, Ministry of Justice of The Netherlands (5 minutes)- open discussion on these and any other issues
12.55	Summing-up by the Chairperson of the DH-GDR, Mrs Anne-Françoise Tissier
13.00	Closing of the consultation

Name	Position	Organisation
Adam Bodnar	Secretary of the Board	Helsinki Foundation for Human Rights
Noémie Bienvenu		European Group of National Human Rights Institutions
Arkadiy Buschenko	Chair of the Board	Kharkiv Human Rights Protection Group
Daniela Boteva	Legal expert	Bulgarian Lawyers for Human Rights
Theo Boutrouche		Amnesty International, International Secretariat
Maxim Ferschtman		Open Society Justice Initiative
Giuseppe Guarneri		Council of Europe Conference of INGOs
Margarita Ilieva	Deputy Chairperson & Director of the Legal Programme	Bulgarian Helsinki Committee
András Kádár	Co-Chair	Hungarian Helsinki Committee
Alexander Kashumov	Head of Legal Team	Access to Information Programme
Vanessa Kogan	Executive Director	Stichting Russian Justice Initiative
Kirill Koroteev	Case Consultant	European Human Rights Advocacy Centre
Nuala Mole	Director	Advice on Individual Rights in Europe (AIRE Centre)
Karinna Moskalenko	Director	International Protection Centre
Vitaliy Nagacevski		Lawyers for Human Rights
Laurent Pettiti	Président du Comité Droits de l'Homme	Conseil des Barreaux européen
Róisín Pillay	Senior Legal Adviser, Europe Programme	International Commission of Jurists
Joanna Sawyer	Litigation Director	Interights
Natalia Taubina	Director	Public Verdict Foundation
Furkat Tishaev	Lawyer	Memorial
Robert Wintemute	Council of Europe Legal Adviser	ILGA-Europe (European Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association)

* * *

Appendix IV

Possible structure for national reports to the Committee of Ministers

Context

The Interlaken Declaration (Action Plan, Implementation, Article 3) calls upon the States Parties to inform the Committee of Ministers, before the end of 2011, of the measures taken to implement its relevant parts.

At its 71st meeting (2-5 November 2010) the Steering Committee for Human Rights (CDDH) agreed that the Committee of Experts on the Reform of the Court (DH-GDR) should make proposals for an appropriate, simple structure for such national reports. Its proposals could then be considered by the CDDH at its meeting in spring 2011, for possible transmission to the Committee of Ministers and subsequently to member States in the first half of 2011.³

At its 5th meeting (1-3 December 2010), the DH-GDR exchanged views on the appropriate structure for the member States' reports and considered that specific targeted information was preferable to general reports of a broad scope and invited the Secretariat to prepare a preliminary draft questionnaire, to be addressed to the member States, which would be structured around the relevant elements contained in the Interlaken Declaration.⁴

The present document constitutes the requested preliminary draft. The aim of the questionnaire is twofold: firstly, to assist member States when providing the requested information and, secondly, to provide for a uniform structure of national reports that would subsequently allow the Committee of Ministers when dealing with the information collected to consider on an equal basis the measures taken by member States to implement the Interlaken Declaration Action Plan.

It can be presumed that the information collected will be subsequently analyzed with the ultimate aim of identifying (i) any difficulties expected in implementing the Interlaken Declaration Action plan by member States or areas requiring particular attention and (ii) good practices that could be followed. It can be expected that the Committee of Ministers will entrust this task to the CDDH. Nevertheless, the CDDH could consider whether or not it wishes to make a proposal to this end to the Committee of Ministers when transmitting the draft questionnaire.

In conclusion, the Secretariat foresees the following three steps:

- (i) Once the DH-GDR has reached agreement on the draft questionnaire, the Secretariat will send it to the members of the CDDH in time for discussion and possible adoption during its plenary meeting (29 March-1 April 2011).
- (ii) The CDDH will send the adopted questionnaire, together with its possible comments on the ultimate purpose of the exercise, to the Committee of Ministers.
- (iii) **It will be up to the Committee of Ministers to decide when and how it intends to circulate it among member States** in order to be informed, before the end of 2011, on the measures taken by the States Parties to implement the relevant parts of the Interlaken Declaration.

³ See doc. CDDH(2010)013, para. 20.

⁴ See doc. DH-GDR(2010)021, para. 12.

Implementation of the Interlaken Declaration

Possible structure for national reports to be submitted by Member states to the Committee of Ministers by the end of 2011

The Interlaken Declaration (Action Plan, Implementation, Article 3) calls upon the States Parties to inform the Committee of Ministers, before the end of 2011, of the measures taken to implement its relevant parts.

At its ... meeting (... 2011), the Committee of Ministers adopted the following structure for the national reports. Its aim is twofold: firstly, to assist member States when providing the requested information and, secondly, to provide for a uniform structure of national reports that would subsequently allow the Committee of Ministers when dealing with the information collected to consider on an equal basis the measures taken by member States to implement the Interlaken Declaration Action Plan.

* * *

Relevant elements of the Interlaken Declaration

The Interlaken Declaration contains the following elements which are addressed to the member States exclusively or in collaboration with other stakeholders:

1. *Continuing to increase, where appropriate in co-operation with national human rights institutions or other relevant bodies, the awareness of national authorities of the Convention standards and to ensure their application;*
2. *Fully executing the Court's judgments, ensuring that the necessary measures are taken to prevent further similar violations;*
3. *Taking into account the Court's developing case-law, also with a view to considering the conclusions to be drawn from a judgment finding a violation of the Convention by another State, where the same problem of principle exists within their own legal system;*
4. *Ensuring, if necessary by introducing new legal remedies, whether they be of a specific nature or a general domestic remedy, that any person with an arguable claim that their rights and freedoms as set forth in the Convention have been violated has available to them an effective remedy before a national authority providing adequate redress where appropriate;*
5. *Considering the possibility of seconding national judges and, where appropriate, other high-level independent lawyers, to the Registry of the Court;*
6. *Ensuring review of the implementation of the recommendations adopted by the Committee of Ministers to help States Parties to fulfil their obligations;*
7. *Ensuring that comprehensive and objective information is provided to potential applicants on the Convention and the Court's case-law, in particular on the application procedures and admissibility criteria;*
8. *Facilitating, where appropriate, within the guarantees provided for by the Court and, as*

necessary, with the support of the Court, the adoption of friendly settlements and unilateral declarations;

- 9. Cooperating with the Committee of Ministers, after a final pilot judgment, in order to adopt and implement general measures capable of remedying effectively the structural problems at the origin of repetitive cases;*
- 10. Ensuring, if necessary by improving the transparency and quality of the selection procedure at national level, full satisfaction of the Convention's criteria for office as a judge of the Court, including knowledge of public international law and of the national legal system as well as proficiency in at least one official language;*
- 11. Consulting with civil society on effective means to implement the Interlaken Declaration Action Plan.*

Questions to the member States

- I. Please indicate whether a specific domestic structure has been established to implement or overview the implementation of the Interlaken declaration at national level.
- II. Please indicate whether any national priorities have been identified with respect to the implementation of the Action Plan and if so, what?
- III. **For each** of the Interlaken Declaration Action Plan elements identified above (1-11), please provide relevant information, in particular the following:
 - (i) What has or will be done to implement that particular element? (This could include, for example, changes in the legislation, any new relevant case law or new administrative arrangements or practices.)
 - (ii) What practical impact is expected?
 - (iii) Are there any factors that may make it difficult to achieve this impact? If so, what?
- IV. If it has not been considered necessary to take any such action, please indicate the reasons why. (This could, for example, include the fact that relevant measures taken prior to the Interlaken Conference were found to be sufficient.)