

Strasbourg, 7 June 2013

DH-GDR(2013)R4

**STEERING COMMITTEE FOR HUMAN RIGHTS
(CDDH)**

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

**MEETING REPORT
4th meeting**

5-7 June 2013

At its 4th meeting (5-7 June 2013), the DH-GDR, in particular:

- Adopted a draft CDDH Report on ways to resolve the large numbers of applications arising from systemic issues identified by the Court, for transmission to the CDDH at its next meeting (Addendum I);
- Adopted a draft Guide to good practice in respect of domestic remedies, for transmission to the CDDH at its next meeting (Addendum II);
- Adopted a draft Toolkit to inform public officials about the State's obligations under the Convention, for transmission to the CDDH at its next meeting (Addendum III);
- Exchanged views and gave guidance on the Drafting Group "E"'s work on (i) conclusions and possible proposals for action on whether or not to proceed to amend the Convention to enable the appointment of additional judges to the Court, (ii) conclusions and possible proposals for action following a review of the functioning of the Advisory Panel of Experts on Candidates for Election as Judge to the European Court of Human Rights; and (iii) conclusions and possible proposals for action on whether more effective measures are needed in respect of States that fail to implement judgments of the Court in a timely manner;
- Exchanged views and gave guidance on possible proposals for CDDH/ DH-GDR activities concerning the reform of the Court during the biennium 2014-2015.

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

1. The Committee of experts on the reform of the Court (DH-GDR) held its 4th meeting in Strasbourg from 5-7 June 2013 with Mr Vit SCHORM (Czech Republic) in the chair. The list of participants appears at Appendix I. The agenda, as adopted, appears at Appendix II.

2. The Committee heard a welcoming presentation by Mr Jörg POLAKIEWICZ, Head of the Human Rights Policy and Development Department.

Item 2: Work of Drafting Group “D” on the reform of the Court (GT-GDR-D)

3. Mrs Inga REINE (Latvia), Chairperson of the GT-GDR-D, presented the work of the Group.

2.1 Toolkit to inform public officials about the State’s obligations under the Convention

4. Mr Martin EATON, expert-consultant, presented the draft Toolkit to inform public officials about the State’s obligations under the Convention. He recalled the relevant provisions of the Brighton Declaration and underlined the importance of ensuring that the Toolkit was appropriately designed to address effectively the primary target audience, to whom the information it contained should be directly relevant – neither exhaustive nor too technically detailed, but rather as concise and accessible as possible. Agreeing with this approach, the Committee examined and approved the draft Toolkit, as it appears in Addendum III, for transmission to the CDDH at its next meeting. It further considered that it would be important for the CDDH to reflect on how best to ‘launch’ and give appropriate publicity and promotion to the Toolkit, once adopted.

2.2 Guide to good practice in respect of domestic remedies

5. The Committee examined and approved the draft Guide to good practice in respect of domestic remedies, as it appears in Addendum II, for transmission to the CDDH at its next meeting. In doing so, it recalled the decisions that the Guide should not deal with remedies for excessive length of proceedings, which were the subject of a separate, existing Committee of Ministers’ recommendation drafted by the CDDH, and that where relevant, only examples of good practice that had been validated by the Court should be included. It agreed that the Guide should also include a section on consideration of the Convention by domestic courts and tribunals, in accordance with the terms of reference.

2.3 Ways to resolve the large numbers of applications arising from systemic issues identified by the Court

6. The Committee examined and adopted the draft CDDH Report on ways to resolve the large numbers of applications arising from systemic issues identified by the Court, as it appears in Addendum I, for transmission to the CDDH at its next meeting.

7. The Committee thanked the GT-GDR-D, its Chairperson and Mr Martin Eaton for their invaluable contributions to its work.

Item 3: Work of Drafting Group “E” on the reform of the Court (GT-GDR-E)

8. Mr Morten RUUD (Norway), Chairperson of the GT-GDR-E, presented the work undertaken at the GT-GDR-E’s first meeting (22-24 May 2013) on (i) conclusions and possible proposals for action on whether or not to proceed to amend the Convention to enable the appointment of additional judges to the Court, (ii) conclusions and possible proposals for action following a review of the functioning of the Advisory Panel of Experts on Candidates for Election as Judge to the European Court of Human Rights; and (iii) conclusions and possible proposals for action on whether more effective measures are needed in respect of States that fail to implement judgments of the Court in a timely manner.

9. The DH-GDR invited all experts to submit any further proposals or comments on these issues to the Secretariat (for the first issue, virginie.flores@coe.int; for the second and third issues, david.milner@coe.int) by 8 July 2013, to be taken into account by the various rapporteurs when preparing draft reports for presentation at the second and final meeting (18-20 September 2013).

10. The Committee exchanged views on the GT-GDR-E’s work and gave the following guidance with a view to its second and final meeting (18-20 September 2013):

As regards the report on non-timely execution of judgments:

- The GT-GDR-E should recall the work of GT-DH-PR-A on slow execution of judgments.
- There was interest in obtaining further concrete information from States with particular experience of technical assistance programmes.
- The three ‘origins of the problem’ mentioned in the outline may be too narrow a basis to cover all situations.
- The report should also examine the proposal that the Committee of Ministers, when supervising execution of judgments, be able to work in smaller formats.
- There could be further reference to the possible use of art. 46(3) (interpretative rulings).
- It should be recalled that sanctions had been considered up until the last minute during drafting of Protocol no. 14, and were not retained because there was no consensus; financial penalties were rejected prior to the Brighton Conference as not reaching consensus, although some had supported them.
- The report should clearly distinguish between financial ‘penalties’ and possible approaches involving reparation for the ‘damage’ done to the Convention system by non-execution of judgments.

As regards the report on the Advisory Panel:

- The report should examine whether the problems/ challenges mentioned in paragraph 5 of the outline are objectively made out.
- The report could examine the Panel's development of a practice of regular meetings, including its consistency with the mandate.
- The report could consider whether the possibility of video-conference might assist the Panel in its work.
- The report should confirm that it would not be appropriate for candidates systematically to be interviewed by the Panel (in addition to national authorities and the Assembly).
- The report should address the criteria against which the Panel should assess candidates (see CM/Res(2010)26, art.1; cf. 2012 CM Guidelines)
- The report should examine the issue of confidentiality in relation to the reasons given for finding a candidate unsuitable, especially where based upon information from confidential sources: the Panel should not give a negative opinion without verifying the information on which that opinion is based; candidates should be able to rebut allegations, although direct contact with the candidate may not be necessary.
- The report should include in its final conclusions a global assessment of whether the Panel has succeeded in its founding mission and whether the desired outcome of its work is being achieved.

Item 4: Activities during the biennium 2014-2015

11. The Committee exchanged views on possible proposals for CDDH/ DH-GDR activities concerning the reform of the Court during the biennium 2014-2015. It considered that the main and most important activity until at least March 2015 would concern long-term reform of the Court and the Convention system, along with further evaluation of the effects of Protocol no. 14 on the situation of the Court. Although not called upon at this stage to consider working methods, the Committee recalled that the Brighton Declaration foresaw a particularly open and inclusive process for this work.

12. Alongside work on long-term reform, the CDDH may be asked to return to the issue of a possible simplified amendment procedure for certain provisions of the Convention, including possible 'upgrading' of certain provisions of the Rules of Court and the procedure for the adoption and amendment of the Rules of Court. This will depend on the Committee of Ministers giving specific terms of reference to this end.

13. As regards its previous report on interim measures, the Committee at this stage did not consider that any further work it might conduct would have significant added value. As regards work on reviewing national implementation of the Brighton Declaration, its added value would depend entirely on the specific nature of any terms of reference given to the CDDH. Given the priority that should be given to work on long-term reform, it considered that this other work might not represent the best use of scarce resources.

14. As regards the period from March until the end of 2015, the Committee considered that there was interest in the following activities:

- Updating Committee of Ministers' Recommendation CM/Rec(2010)3 on effective measures for excessive length of proceedings and its accompanying Guide to Good Practice, with a view also to their publication (as proposed by the GT-GDR-D in the context of its preparation of a general Guide to Good Practice in respect of domestic remedies);
- Updating Committee of Ministers' Recommendation Rec(2004)4 on the Convention in university education and professional training and/ or developing guidelines on good practice in respect of human rights training for legal professionals (as discussed by the CDDH at its 77th meeting on the basis of its particular relevance to the HELP programme)¹.

The Committee considered, however, that the feasibility of pursuing these activities would depend on whether the CDDH were given further terms of reference concerning long-term reform, following submission of its report to the Committee of Ministers in March 2015; if so, the latter work would have priority.

Item 5: Other business

15. The Chairperson informed the Committee of his recent participation in a meeting of the Parliamentary Assembly's Committee on legal affairs and human rights, in particular their exchange of views on 'the effectiveness of the European Convention on Human Rights: the Brighton Declaration and beyond'. The text of his intervention is available on the website (www.coe.int/reformECHR).

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¹ See doc. CDDH(2013)005Rev., paras. 12-16.

Appendix I

List of participants

MEMBERS / MEMBRES

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Apologised

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Apologised

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INTERPRETERS/INTERPRÈTES

Grégoire DEVICTOR

Bettina LUDEWIG

Jean-Jacques PEDUSSAUD

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Appendix II

Agenda (as adopted)

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

General reference documents

- Draft annotated agenda DH-GDR(2013)OJ004
- Report of the 77th CDDH meeting (19-22 March 2013) CDDH(2012)R77
- Report of the 3rd DH-GDR meeting (13-15 February 2013) DH-GDR(2013)R3
- Decisions taken at the 122nd session of the Committee of Ministers (23 May 2012) CDDH(2012)008
- Ministers' Deputies' decisions on the follow-up to the 122nd session of the Committee of Ministers (Strasbourg, 23 May 2012) CM/Del/Dec(2012)1145/1.6
- Interlaken Declaration CDDH(2010)001
- Izmir Declaration CDDH(2011)010
- Brighton Declaration CDDH(2012)007
- Follow-up to the High-level Conference on the Future of the European Court of Human Rights (Brighton, 18-20 April 2012) (document prepared by the Secretariat) CDDH(2012)009 REV.

Item 2: Work of Drafting Group "D" on the reform of the Court (GT-GDR-D)

2.1 Toolkit to inform public officials about the State's obligations under the Convention

Working document

- Draft Toolkit to inform public officials about the State's obligations under the Convention DH-GDR(2013)011

Reference documents

- Comments on the draft Toolkit DH-GDR(2013)015
- Report of the 2nd GT-GDR-D meeting (15-17 May 2013) GT-GDR-D(2013)R2
- Report of the 1st GT-GDR-D meeting (10-12 April 2013) GT-GDR-D(2013)R1

2.2 Guide to good practice in respect of domestic remedies

Working document

- Draft Guide to Good Practice in respect of domestic remedies GT-GDR-D(2013)R2
Addendum II

Reference documents

- Comments on the draft Guide DH-GDR(2013)013
- Revised proposal by the United Kingdom expert for the guide to good practice in respect of domestic remedies DH-GDR(2013)012
- Report of the 2nd GT-GDR-D meeting (15-17 May 2013) GT-GDR-D(2013)R2
- Report of the 1st GT-GDR-D meeting (10-12 April 2013) GT-GDR-D(2013)R1
- Compilation of the replies received to the questionnaire on domestic remedies sent to the member States GT-GDR-D (2013)003
- Report of the CDDH on measures taken by member States to implement relevant parts of the Interlaken and Izmir Declarations CDDH(2012)R76
Addendum I
- Compilation of replies to Question III, Action Plan 4 of the questionnaire as sent to member States, related to the introduction of new legal remedies GT-GDR-A(2012)008
REV
- Recommendation Rec(2004)6 of the Committee of Ministers to member States on the improvement of domestic remedies Rec(2004)6
- Recommendation CM/Rec(2010)3 of the Committee of Ministers to member States on effective remedies for excessive length of proceedings CM/Rec(2010)3
- Guide to good practice accompanying Recommendation CM/Rec (2010)3
- Review of the implementation of Rec(2004)6 CDDH(2008)008
Addendum I

2.3 Ways to resolve the large numbers of applications arising from systemic issues identified by the Court

Working document

- Draft CDDH report on ways to resolve the large numbers of applications arising from systemic issues identified by the Court GT-GDR-D(2013)R2
Addendum I

Reference documents

- Contributions on the draft CDDH Report on ways to resolve the large numbers of applications arising from systemic issues identified by the Court DH-GDR(2013)014Rev.
- Report of the 2nd GT-GDR-D meeting (15-17 May 2013) GT-GDR-D(2013)R2
- Report of the 1st GT-GDR-D meeting (10-12 April 2013) GT-GDR-D(2013)R1
- Report of the CDDH on advisability and modalities of a procedure on « representative applications » CDDH(2013)R77
Addendum IV
- Contribution of Poland GT-GDR-D(2013)004

- Notes on a default judgment procedure (Intervention of Mr Roderick Liddell, Registry of the Court, at the 1st GT-GDR-D meeting) GT-GDR-D(2013)005

Item 3: **Work of Drafting Group “E” on the reform of the Court (GT-GDR-E)**

Reference document

- Report of the 1st GT-GDR-E meeting (22-24 May 2013) GT-GDR-E(2013)R1

Item 4: **Activities during the biennium 2014-2015**

Reference documents

- Possible activities of the CDDH/ DH-GDR concerning the reform of the Court during the biennium 2014-2015 (document prepared by the Secretariat) DH-GDR(2013)009
- CDDH work on reform of the Court since 2004: texts adopted (document prepared by the Secretariat) DH-GDR(2013)010
- Follow-up to the High-level Conference on the Future of the European Court of Human Rights (Brighton, 18-20 April 2012) (document prepared by the Secretariat) CDDH(2012)009 REV.

Item 5: **Other business**

Item 6: **Adoption of the conclusions and meeting report**

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