

Strasbourg, 07 November 2014

DH-GDR(2014)R7

STEERING COMMITTEE FOR HUMAN RIGHTS
(CDDH)

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

MEETING REPORT

7th meeting

05-07 November 2014

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 7th meeting in Strasbourg from 5-7 November 2014 with Mr Morten RUUD (Norway) in the chair. The list of participants appears at Appendix I. The agenda, as adopted, appears at Appendix II.

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

2. Mr Martin KUIJER (The Netherlands), Chairperson of the GT-GDR-F, presented the work of the Group, drawing particular attention to the “Roadmap” (doc. GT-GDR-F(2014)020) approved by the Group at its 3rd meeting (24-26 September) for progress towards the draft CDDH final report. The Committee welcomed the progress made to date and itself approved the “Roadmap”. It also reminded experts that it was already open to them to send to the Secretariat any comments on the draft texts for Sections I to IV of the draft final report (documents GT-GDR-F(2014)011 and GT-GDR-F(2014)019).

3. It may be recalled that, by written procedure, the DH-GDR had already decided to invite Dr Kanstantsin DZHETSIARIOU, Prof. Steven GREER, Prof. Philip LEACH, Prof. Russell MILLER and Prof. Geir ULFSTEIN to the 4th GT-GDR-F meeting (10-12 December). The DH-GDR had also renewed the invitation to Dr Başak ÇALI.

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

4. The Chairperson of the GT-GDR-G, Mr Vit SCHORM (Czech Republic), presented the work of the Group. The Committee examined and approved the draft CDDH report containing conclusions and possible proposals for action concerning the procedure for the amendment of the Rules of Court and the possible ‘upgrading’ to the Convention of certain provisions of the Rules of Court, as it appears at Addendum I, for transmission to the CDDH at its next meeting (19-21 November 2014).

5. In approving the draft report, the Committee decided to record the following matters in the meeting report:

- The issue of how consultation under the ‘most flexible’ procedure would be initiated was discussed. As an alternative to the approach taken in the draft CDDH report, it was proposed that when intending to make an amendment, the Court should always transmit a draft text to the States, who would be expected then only to submit comments in relation to issues satisfying the criterion identified in para. 15 of the draft.
- The Committee understood that when informing the States of its intention to amend a Rule of Court or transmitting to them a draft text, the Court would communicate with the Government Agent and/ or the Permanent Representation, as appropriate in the case of each State.

- It was questioned whether it was accurate to state that the parties to proceedings before the Court had a ‘right to an impartial tribunal’ (see para. 17.a) of the draft CDDH report).

6. The Committee concluded by thanking the GT-GDR-G and its Chairperson for their invaluable contributions to its work.

Item 4: Brussels Conference on the improvement of the execution of judgments of the European Court of Human Rights

7. Ms Isabelle NIEDLISPACHER (Belgium) provided information on preparation of the Brussels High-level Conference on “The implementation of the Convention: Our Shared Responsibility”, to be organised by the Belgian Chairmanship of the Committee of Ministers (26-27 March 2015), as well as on the Belgian authorities’ substantive proposals for inclusion in the final declaration to be adopted at the conclusion of the conference. The Committee also took note of and exchanged views on the possible structure for the draft declaration reflected in the Belgian proposals.

8. The Committee then examined, revised and approved a draft CDDH contribution to the Conference as it appears at Addendum II, for transmission to the CDDH at its next meeting (19-21 November 2014).

9. In approving the draft report, the Committee decided to record the following points in the meeting report:

- Proposals should relate to existing structures and not imply any transfer of competences between the Committee of Ministers and the Court;
- They should be based on a balanced, up-to-date diagnosis of the situation, bearing in mind that many judgments pending before the Committee of Ministers have nevertheless been executed;
- They should focus on real problems and avoid over-formalisation of existing, satisfactory processes;
- The draft declaration should contain sufficient elements appropriate to adoption at ministerial level.

Item 5: Information concerning the implementation of the Convention and execution of the Court’s judgments

10. The Committee examined the draft paper submitted by its Rapporteur, Ms Aleksandra MEZYKOWSKA (Poland). During its discussions, it noted in particular the following points:

- It was important to ensure that any new activity respond to specific, practical needs and seek to achieve identified results. Such activities should be complementary and have added value with respect to existing activities.
- Identification of specific issues on which information may be exchanged should take into account existing processes, notably the member States’ reports to the Committee of Ministers on follow-up to certain provisions of the Brighton Declaration and the relevant work of the GT-GDR-F.

- The fact that proposals to update Committee of Ministers' Recommendation Rec(2008)2 on efficient domestic capacity for rapid execution of judgments of the European Court of Human Rights appeared in its draft CDDH contribution to the Brussels Conference suggested that issues arising under Rec(2008)2 could usefully be taken up at some point, thereby also contributing to preparatory work for eventual updating of the recommendation.
- It was important to ensure that those experts already participating in DH-GDR meetings were in a position to participate effectively in exchanges on the issues identified.
- Whilst any exchange of information would need proper preparation in order to be successful, this should not involve administration of detailed questionnaires, although broad guidance on issues that could be addressed in States' contributions may be useful. The results of previous questionnaires, such as that on implementation of certain provisions of the Interlaken and Izmir Declarations, however, may provide useful information.

11. The Committee¹ then decided to hold an exchange of information at its next meeting on provision in the domestic legal order for re-examination or reopening of cases following judgments of the Court. In doing so, it recalled the CDDH's earlier review of implementation of the relevant Committee of Ministers' Recommendation No. R(2000)2; future work would not repeat such a review but should rather concentrate on new or unresolved aspects. The Committee invited experts to submit information, including possible examples of good practice and details of how practical or procedural problems or obstacles had been addressed, to the Secretariat with a view to a discussion paper being prepared and distributed in advance of the meeting.

Item 6: Other business

12. The Committee recalled that its terms of reference for the current biennium allowed for the possibility of updating certain existing Committee of Ministers' recommendations to member States, in particular Rec(2004)4 on the European Convention on Human Rights in university education and professional training and CM/Rec(2010)3 on effective remedies for excessive length of proceedings. Given its expected heavy workload during meetings in 2015, however, it felt that it may not be feasible to undertake this work in a satisfactory manner alongside that on other issues that should be given higher priority. It invited the CDDH to take a final position on the matter.

13. The Committee finally expresses its particular thanks to Mr David Milner for his invaluable contribution to its work throughout the years he has been its secretary.

* * *

¹ The United Kingdom expert disassociated himself from this decision.

Appendix I
List of participants

MEMBERS / MEMBRES

ALBANIA / ALBANIE

Ms Alma HICKA, Albanian General State Advocate, Ministry of Justice

ANDORRA / ANDORRE

Mr Joan FORNER ROVIRA, Minister Counsellor, Deputy Permanent Representative
Permanent Representation of the Principality of Andorra to the Council of Europe

ARMENIA / ARMENIE

Ms Manushak ARAKELYAN, Attaché, Law department, Ministry of Foreign Affairs,

AUSTRIA / AUTRICHE

Dr. Dominik HAIDER, Federal Chancellery of the Republic of Austria - Constitutional Service,
Department V/2 and V/5

AZERBAIJAN / AZERBAIJAN

Apologised

BELGIUM / BELGIQUE

Ms Isabelle NIEDLISPACHER, Co-Agent du gouvernement, SPF Justice, Service des droits de
l'homme

BOSNIA AND HERZEGOVINA

Ms Zikreta IBRAHIMOVIC, Deputy Agent of the Council of Ministers of Bosnia and
Herzegovina before European Court of Human Rights, Office of the Agent

BULGARIA / BULGARIE

Apologised

CROATIA / CROATIE

Ms. Štefica STAZNIK, Government Agent of Croatia before the European Court of Human
Rights

CYPRUS / CHYPRE

Apologised

CZECH REPUBLIC / REPUBLIQUE TCHEQUE

Mr Vit A. SCHORM, Government Agent, Ministry of Justice

DENMARK / DANEMARK

Ms Josephine ILCHMANN JØRGENSEN, Head of Section, The Danish Ministry of Justice,
EU Law and Human Rights Division

ESTONIA / ESTONIE

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

FINLAND / FINLANDE

Mr Arto KOSONEN, Government Agent, Director of the Unit for Human Rights Court and
Conventions, Legal Service, Ministry of Foreign Affairs

FRANCE

Mme Mathilde JANICOT, Rédacteur, Direction des affaires juridiques, Sous-direction des droits de l'Homme, Ministère des affaires étrangères

GEORGIA / GEORGIE

Apologised

GERMANY / ALLEMAGNE

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

GREECE / GRECE

Mme Ourania PATSOPOULOU, Membre du Conseil juridique de l'État, Attachée à la Représentation permanente de la Grèce auprès du Conseil de l'Europe

HUNGARY / HONGRIE

Mr Tamás TÓTH, Co-Agent for the Hungarian Government before the European Court of Human Rights, Section of the European Court of Human Rights, Department of Cooperation on International Crime and Human Rights, Ministry of Public Administration and Justice

IRELAND / IRELAND

Mr Peter WHITE, Agent for the Government of Ireland, Assistant Legal Adviser, Legal Division, Department of Foreign Affairs and Trade

ITALY / ITALIE

Mme Paola ACCARDO, Co-Agent du gouvernement devant la Cour, Représentation permanente de l'Italie auprès du Conseil de l'Europe

LATVIA / LETTONIE

Ms Sandra KAULINA Head of the Government Agent Office, Ministry of Foreign Affairs

LIECHTENSTEIN

Mr Manuel FRICK, Deputy Permanent Representative to the Council of Europe, Office for Foreign Affairs

Mr Martin HASLER, Diplomatic Officer, Office for Foreign Affairs

LITHUANIA / LITUANIE

Ms Karolina BUBNYTE, Head of the Representation Division to the European Court of Human Rights, Ministry of Justice

LUXEMBOURG

Mme Sophie AMOUGOU, stagiaire, Représentation permanente du Luxembourg auprès du Conseil de l'Europe

MALTA / MALTE

Mrs Sarah PORTELLI, Senior Lawyer, Office of the Attorney General

MONTENEGRO

Mr Zoran PAZIN, State Agent to the ECHR

THE NETHERLANDS / PAYS-BAS

Mr Martin KUIJER, Senior legal adviser human rights law, Legislation Department, Ministry of Justice

Mr Sander TERPHUIS, Senior Legal Advisor Human Rights, Ministry of Foreign Affairs

NORWAY / NORVEGE

Mr Morten RUUD, Chairman of the DH-GDR/Président du DH-GDR, Special Adviser
Ministry of Justice

Ms Runa GRAVENSTEEN, legal adviser, Ministry of Justice

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

PORTUGAL

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

REPUBLIC OF MOLDOVA / REPUBLIQUE DE MOLDOVA

Mr Lilian APOSTOL, Agent for the Government of the Republic of Moldova, Ministry of
Justice

ROMANIA / ROUMANIE

Ms Irina CAMBREA, Government Agent, Ministry of Foreign Affairs

RUSSIAN FEDERATION / FEDERATION DE RUSSIE

Mr Nikolay MIKHAILOV, Deputy Head, Office of the Representative of the Russian Federation
at the European Court of Human Rights, Ministry of Justice

Mr Stanislav KOVPAK, Permanent Representation of Russian Federation to the Council of
Europe

SERBIA / SERBIE

Ms Dina DOBRKOVIĆ, legal adviser in the Agency Sector before the ECHR, Ministry of
Justice

SLOVAK REPUBLIC / REPUBLIQUE SLOVAQUE

Ms Marica PIROSIKOVA, Government Agent, Ministry of Justice

SLOVENIA / SLOVENIE

Mr Matija VIDMAR, Judicial System Legislation Directorate, Ministry of Justice

SPAIN / ESPAGNE

Mr Rafael Andrés LEON CAVERO, Agent of Spain before the ECHR, Deputy, Directorate
General of Constitutional and Human Rights Affairs, State Attorney, Head of the Human
Rights Area, Office of the General State Attorney, Ministry of Justice

SWEDEN / SUEDE

Ms Katarina FABIAN, 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, Département fédéral de justice et police DFJP,
Office fédéral de la justice OFJ, Représentation de la Suisse devant la Cour européenne des
droits de l'homme et le CAT

**“THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA” / «L’EX-RÉPUBLIQUE
YUGOSLAVE DE MACÉDOINE»**

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

TURKEY / TURQUIE

Ms Arzu BEYAZIT, Judge, Human Rights Department, Minister of Justice

Ms Aysen EMÜLER, Legal Expert, Représentation permanente de la Turquie auprès du Conseil de l’Europe

Mr Harun SAĞLAM, Counsellor, Ministry of Justice, Permanent Representation of Turkey to the Council of Europe

UKRAINE / UKRAINE

Ms Margaryta SOKORENKO, Deputy Head of Division for the Representation of the State in Criminal Cases

UNITED KINGDOM / ROYAUME-UNI

Mr Rob LINHAM, Head of Council of Europe Human Rights Policy, Ministry of Justice

OBSERVERS / OBSERVATEURS

JAPAN / JAPON

Mr Takaaki SHINTAKU, Consul of the Consulate General of Japan in Strasbourg

MEXICO/ MEXIQUE

M. Diego SANDOVAL PIMENTEL Adjoint à l’Observateur Permanent du Mexique auprès du Conseil de l’Europe

AMNESTY INTERNATIONAL

**INTERNATIONAL COMMISSION OF JURISTS (ICJ) / COMMISSION
INTERNATIONALE DE JURISTES (CIJ)**

Apologised

**EUROPEAN GROUP OF NATIONAL INSTITUTIONS FOR THE PROMOTION
AND PROTECTION OF HUMAN RIGHTS (NHRI) / GROUPE EUROPEEN DES
INSTITUTIONS NATIONALES DE PROMOTION ET DE PROTECTION DES
DROITS DE L’HOMME (INDH)**

Apologised

**CONFERENCE OF INGOS OF THE COUNCIL OF EUROPE / CONFÉRENCE DES
OING DU CONSEIL DE L’EUROPE**

Mr Jean-Bernard MARIE

PARLIAMENTARY ASSEMBLY / ASSEMBLEE PARLEMENTAIRE

Mr Andrew DRZEMCZEWSKI, Head of Department, Legal Affairs & Human Rights Department

Ms Ann-Katrin SPECK, Legal Affairs & Human Rights Department

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

Mr John DARCY, Adviser to the President and the Registrar, Private Office of the President

**DEPARTMENT FOR THE EXECUTION OF JUDGMENTS OF THE COURT /
SERVICE DE L'EXECUTION DES ARRETS DE LA COUR**

Mme Geneviève MAYER, Head of Department

Mr. Fredrik SUNDBERG, Deputy to the Head of Department

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

Mrs Aygen BECQUART, Deputy to the Director, Head of the Evaluation Division

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 Philippe BOILLAT, Director General/ Directeur Général

Mr Mikhail LOBOV, Head of Human Rights Policy and Development Department / Chef du
Service des politiques et 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, Head of the Unit on the reform of the Court / Chef de l'Unité pour la
réforme de la Cour, 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

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

Mme Anna KUZNETSOVA, Trainee / stagiaire

Mme Haldia MOKEDDEM, Assistant / Assistante, Human Rights Intergovernmental
Cooperation Division / Division de la coopération intergouvernementale en matière de droits
de l'homme

INTERPRETERS/INTERPRÈTES

Nadine KIEFFER

Lucie DE BURLET

Isabelle MARCHINI

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(2014)OJ007 |
| - Draft order of business | DH-GDR(2014)OT007 |
| - Report of the 81 st CDDH meeting (24-27 June 2014) | CDDH(2014)R81 |
| - Report of the 80 th CDDH meeting (08-11 April 2014) | CDDH(2014)R80 |
| - Report of the 6 th DH-GDR meeting (04-06 June 2014) | DH-GDR(2013)R6 |
| - Report of the 5 th DH-GDR meeting (29-31 October 2013) | DH-GDR(2013)R5 |
| - Interlaken Declaration | CDDH(2010)001 |
| - Izmir Declaration | CDDH(2011)010 |
| - Brighton Declaration | CDDH(2012)007 |
| - Securing the long-term effectiveness of the supervisory mechanism of the European Convention on Human Rights (Decisions taken at the 122nd session of the Committee of Ministers, 23 May 2012) | CDDH(2012)008 |
| - 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. |
| - Securing the long-term effectiveness of the supervisory mechanism of the European Convention on Human Rights (Decisions taken at the 124th Session of the Committee of Ministers, 6 May 2014) | GT-GDR-F(2014)013 |
| - Proceedings of the Oslo Conference on the long-term future of the European Court of Human Rights | H/Inf(2014)1 |
| - Terms of reference of the Committee of Experts on the reform of the Court (DH-GDR) for 2014-2015 | DH-GDR(2014)001 |

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

Reference documents

- | | |
|--|-------------------|
| - Report of the 3 rd GT-GDR-F meeting (24-26 September 2014) | GT-GDR-F(2014)R3 |
| - Report of the 2 nd GT-GDR-F meeting (14-16 May 2014) | GT-GDR-F(2014)R2 |
| - Report of the 1 st GT-GDR-F meeting (19-21 March 2014) | GT-GDR-F(2014)R1 |
| - CDDH Final Report on the long-term future of the European Court of Human | GT-GDR-F(2014)011 |

Rights: Draft text resulting from discussions at the 1st GT-GDR-F meeting, prepared by the Rapporteur, Ms Kristine Līce (Latvia)

- CDDH Final Report on the long-term future of the European Court of Human Rights: Draft text resulting from discussions at the 2nd GT-GDR-F meeting, prepared by the Rapporteur, Ms Katja Behr (Germany) GT-GDR-F(2014)019
- Summary of views concerning possibilities for preserving (and reinforcing) the current system expressed at the 2nd meeting (prepared by the Secretariat) GT-GDR-F(2014)017
- Road-map: progress towards the draft CDDH final report GT-GDR-F(2014)020
- Compilation of the results of the ‘open call for contributions’ (prepared by the Secretariat) GT-GDR-F(2014)002
- Thematic overview of the results of the ‘open call for contributions’ (prepared by the Secretariat) GT-GDR-F(2014)003
- Overview of proposals made in the context of on-going work concerning preservation and reinforcement of the current system (prepared by the Secretariat) GT-GDR-F(2014)010
- Proceedings of the Oslo Conference on the long-term future of the European Court of Human Rights H/Inf(2014)1
- Analysis of statistics 2013 (European Court of Human Rights, January 2014)
- Statistics of the Court on case-management survey (01/01-31/03/2014), cases by country and Brighton backlog by country as of 01/04/2014 DD(2014)494
- 7th Annual Report of the Committee of Ministers on the supervision of the execution of judgments and decisions of the European Court of Human Rights, 2013

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

Working document

- Draft CDDH report containing conclusions and possible proposals for action concerning the procedure for the amendment of the Rules of Court and the possible ‘upgrading’ to the Convention of certain provisions of the Rules of Court GT-GDR-G(2014)R2
Addendum I

Reference documents

- Compilation of written contributions on draft CDDH report on the amendment procedure for and legal status of the Rules of Court (document GT-GDR-G(2014)R2 Addendum I) DH-GDR(2014)005Rev
- Report of the 2nd GT-GDR-G meeting (14-16 October 2014) GT-GDR-G(2014)R2
- Report of the 1st GT-GDR-G meeting (12-14 February 2014) GT-GDR-G(2014)R1
- Rules of Court
- CDDH Final Report on a simplified procedure for amendment of certain provisions of the Convention CDDH(2012)R75
Addendum I
- Interlaken Follow-up: Simplified Procedure for Amending the Convention #3272054_v1

(Idea of a Court Statute) (document submitted by the Court)

- Letter from the President of the Court to the Chairperson of the CDDH, 12 June 2012 #3981532

Item 4: Brussels Conference on the improvement of the execution of judgments of the European Court of Human Rights

Working document

- Draft possible elements for a CDDH Contribution to the Brussels Conference (27 March 2015) (prepared by the Secretariat) DH-GDR(2014)003

Reference documents

- Compilation of written contributions on draft CDDH contribution to the Brussels Conference (document DH-GDR(2014)003) DH-GDR(2014)006Rev
- Brussels Declaration – proposals by Belgium « The implementation of the Convention, our shared responsibility » DH-GDR(2014)007
- CDDH report on whether more effective measures are needed in respect of States that fail to implement Court judgments in a timely manner CDDH(2013)R79
Addendum I
- Reply of the European Court of Human Rights to Committee of Ministers request for comments on the CDDH Report on Execution DD(2014)650
- Measures to improve the execution of the judgments and decisions of the Court – main proposals (working document for consideration by the GT-REF.ECHR at its meeting on 1 July 2014) GT-REF.ECHR(2014)1

Item 5: Information concerning the implementation of the Convention and execution of the Court's judgments

Working document

- Exchange of information concerning the implementation of the Convention and execution of the Court's judgments: possible DH-GDR activities during the current biennium 2014-2015 (prepared by the Rapporteur, Ms Aleksandra Mezykowska (Poland)) DH-GDR(2014)004

Reference documents

- Terms of reference of the Committee of Experts on the reform of the Court (DH-GDR) for 2014-2015 DH-GDR(2014)001
- CDDH work beyond the current biennium: elements for consideration (prepared by the Secretariat) CDDH(2014)006Rev.

Item 6: Other business

* * *