



Strasbourg, 24 May 2013

GT-GDR-E (2013)R1

STEERING COMMITTEE FOR HUMAN RIGHTS
(CDDH)

**DRAFTING GROUP 'E' ON THE REFORM OF THE COURT
(GT-GDR-E)**

1st Meeting

Strasbourg

Wednesday 22 May – Friday 24 May 2013

Agora, Meeting Room G01

MEETING REPORT

Item 1: Opening of the meeting, adoption of the agenda and order of business, and election of a Vice Chairperson

1. Drafting Group E on the reform of the Court (GT-GDR-E) held its 1st meeting in Strasbourg from 22-24 May 2013 with Mr Morten RUUD (Norway) in the chair. The list of participants appears at Appendix I. The agenda, as adopted, appears at Appendix II. The Group elected Mr Arto KOSONEN (Finland) as Vice-chairperson.

2. The Group heard a welcoming presentation by Mr Christos GIAKOUMOPOULOS, Director, Human Rights Directorate.

Item 2: Terms of reference and working methods

3. The Group exchanged views on its terms of reference, in particular procedure and working methods. It recalled that it had two meetings to complete its work, with the second and final one to take place on 18-20 September 2013. It considered that it should prepare three draft CDDH reports, one on each of the substantive agenda items, for presentation to the DH-GDR at its meeting on 29-31 October 2013.

4. As regards the report on the question of whether more effective measures are needed in respect of States that fail to implement Court judgments in a timely manner, the Group appointed Ms Denise RENGGER (Germany) as its Rapporteur.

5. As regards the report on the review of the functioning of the Advisory Panel of experts on candidates for election as judge to the European Court of Human Rights, the Group appointed Mr Martin KUIJER (The Netherlands) as its Rapporteur.

6. As regards the report on the question of whether or not to proceed to amend the Convention to enable the appointment of additional judges to the Court, the Group appointed Mr Vit SCHORM (Czech Republic) as its Rapporteur.

Item 3: Whether more effective measures are needed in respect of States that fail to implement Court judgments in a timely manner

7. The Group held an exchange of views with representatives of civil society and other independent experts. It thanked the participants for their engagement and constructive proposals. It noted that the Secretariat would prepare a summary of the exchange of views in time for the next meeting of the CDDH (25-28 June 2013).

8. The Group discussed in detail the proposals made during the exchange of views and in the various written contributions. On the basis of these discussions, it approved the outline for the draft CDDH report as it appears at Appendix III and asked its Rapporteur to prepare a draft report on that basis for presentation at the next meeting. It invited experts to submit any further comments or proposals in writing to the Secretariat (david.milner@coe.int) by 30 June 2013.

Item 4: Review of the functioning of the Advisory Panel of experts on candidates for election as judge to the European Court of Human Rights

9. The Group held an exchange of views with the President of the Advisory Panel, Professor Luzius WILDHABER and examined Panel's written contribution, including the proposals made therein, with the involvement of national experts and observers. On the basis of its discussions, it approved the outline for the draft CDDH report as it appears at Appendix IV and asked its Rapporteur to prepare a draft report on that basis for presentation at the next meeting. It invited experts to submit any further comments or proposals in writing to the Secretariat (david.milner@coe.int) by 30 June 2013.

Item 5: Whether or not to proceed to amend the Convention to enable the appointment of additional judges to the Court

10. The Group recalled the earlier CDDH work on the issue of increasing the Court's capacity to process applications, considering in particular whether its conclusions remained relevant or needed to be revised. On the basis of its discussions, it approved the outline for the draft CDDH report as it appears at Appendix V and asked its Rapporteur to prepare a draft report on that basis for presentation at the next meeting. It invited experts to submit any further comments or proposals in writing to the Secretariat (virginie.flores@coe.int) by 30 June 2013.

Item 6: Organisation of future work

11. Experts are reminded that any further proposals or comments on the issues on the Group's agenda should be sent to the Secretariat (see above) by 30 June 2013, to be taken into account by the various rapporteurs when preparing the draft reports for presentation at the second and final meeting (18-20 September 2013).

Item 7: Adoption of the conclusions and meeting report

Appendix I**List of participants**

MEMBERS / MEMBRES

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, Dzemala Bijedica 39/II, 71000 Sarajevo

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

M. Jean-Bernard MARIE

Registry of the European Court of Human Rights / Greffe de la Cour européenne des droits de l'homme

Mr John DARCY, Conseiller du président et du greffier / adviser to the President and the Registrar, Private Office of the President, European Court of Human Rights, Cabinet du Président, Cour européenne des droits de l'Homme

Parliamentary Assembly / Assemblée parlementaire

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

Mr Neil DEACON, Committee on Legal Affairs and Human Rights / Commission des questions juridiques et des droits de l'homme

Ms Ekatarina MALAREVA, Committee on Legal Affairs & Human Rights / Commission des questions juridiques & des droits de l'homme

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

Mme Geneviève MAYER, Chef du Service

Mr. Fredrik SUNDBERG, Deputy to the Head of Department

NGOS INVITED FOR THE EXCHANGE OF VIEWS (AGENDA ITEM 3)

Mr Adam BODNAR, Vice-president of the Board, Polish Helsinki Foundation for Human Rights, Warsaw, Poland

Professor Antonio BULTRINI, Professor of International Law and Human Rights, University of Florence, Via delle Pandette, 9 – 50127 Firenze

Mr Christian DE VOS, Open Society Justice, advocacy officer, 7th Floor Millbank Tower, 21-24 Millbank London, SW1P 4QP United Kingdom

Mr Yonko GROSEV, Centre for Liberal Strategies, 26 Solunska Str, Second floor, Sofia, Bulgaria

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Mrs Karinna MOSKALENKO, Director of the implementation programme of the IPC, International Protection Center, 22 rue de la 1^{re} Armée F-67000 Strasbourg,

Mrs Nóra NOVOSZÁDEK, legal officer, Magyar Helsinki Bizottság / Hungarian Helsinki Committee, H-1054 Budapest, Bajcsy-Zsilinszky út 36-38, H-1242 Budapest, PO Box 317.

Mr Rupert SKILBECK, Director of Litigation for the Open Society Justice Initiative, 7th Floor Millbank Tower, 21-24 Millbank London, SW1P 4QP United Kingdom

INVITEE FOR THE EXCHANGE OF VIEWS (AGENDA ITEM 4)

Professor Luzius WILDHABER, Chair of the Advisory Panel of experts on candidates for election as Judge to the European Court of Human Rights, c/o Council of Europe / Conseil de l'Europe, F-67075 Strasbourg Cedex

SECRETARIAT

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Council of Europe / Conseil de l'Europe, F-67075 Strasbourg Cedex

Mr Christos GIAKOUMPOULOS, Director / Directeur, Human Rights Directorate / Direction des droits de l'Homme

Mr Jörg POLAKIEWICZ, 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

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

INTERPRETERS/INTERPRÈTES

Ms Chloé CHENETIER

Ms Lucie DE BURLET

Mr Grégoire DEVICTOR

Appendix II**Agenda (as adopted)****Item 1: Opening of the meeting, adoption of the agenda and order of business, election of a Vice-Chairperson**General documents

- Draft annotated agenda GT-GDR-E(2013)OJ001
- Report of the 77th meeting of the CDDH (19-22 March 2013) CDDH(2013)R77
- Report of the 75th meeting of the CDDH (19-22 June 2012) CDDH(2012)R75
- Report of the 3rd meeting of the DH-GDR (13-15 February 2013) DH-GDR(2013)R3
- Report of the 2nd meeting of the DH-GDR (29-31 October 2012) DH-GDR(2012)R2
- 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) CDDH(2012)009REV.
- Resolution of the Committee of Ministers on intergovernmental committees and subordinate bodies, their terms of reference and working methods CM/Res(2011)24

Item 2: Terms of reference and working methodsReference document

- Follow-up to the high level Conference on the future of the European Court of Human Rights (Brighton, 18-20 April 2012) CDDH(2012)009REV.

Item 3: Whether more effective measures are needed in respect of States that fail to implement Court judgments in a timely mannerReference document

- Draft programme of the exchange of views with representatives of civil society and other independent experts GT-GDR-E(2013)001
- List of participants invited GT-GDR-E(2013)001
Appendix
- Draft CDDH report containing conclusions and possible proposals for action on ways to resolve the large numbers of applications arising from systemic issues identified by the Court (as prepared by the GT-GDR-D at its 2nd meeting, 15-17 May 2013) GT-GDR-D(2013)R2
Addendum I
- Memorandum on the Parliamentary Assembly's proposal to introduce a system of financial sanctions or *astreintes* on states who fail to implement judgments of the Strasbourg Court GT-GDR-E(2013)002
- Observations by ETUC to the GT-GDR-E on 'execution of judgments' (English only) GT-GDR-E(2013)003

- Open Society Justice Initiative Briefing Paper on enhancing the supervision of execution of Court judgments GT-GDR-E(2013)005
- Proposals by A. Bultrini concerning supervision by the Committee of Ministers of execution of judgments GT-GDR-E(2013)006
- Measures to improve the execution of the judgments and decisions of the Court – Working document under discussion within the GT-REF.ECHR GT-REF.ECHR(2013)2rev2

Item 4: Review of the functioning of the Advisory Panel of experts on candidates for election as judge to the European Court of Human Rights

Reference documents

- Committee of Ministers' Resolution on the establishment of an Advisory Panel of experts on candidates for election as judge to the European Court of Human Rights CM/Res(2010)26
- Ministers' Deputies exchanges of views with Mr Luzius Wildhaber, Chairman of the Advisory Panel of Experts on Candidates for Election as Judge to the European Court of Human Rights (4 April 2012 & 30 January 2013) DH-GDR(2013)005
- Written contribution by the Advisory Panel GT-GDR-E(2013)004
- Statement made by Mr Klaas de Vries at the Standing Committee of the Parliamentary Assembly, 8 March 2013 GT-GDR-E(2013)008

Item 5: Whether or not to proceed to amend the Convention to enable the appointment of additional judges to the Court

Reference documents

- CDDH Final Report on measures requiring amendment of the European Convention on Human Rights/ CDDH Report on increasing the Court's capacity to process applications CDDH(2012)R74 Addendum I/ Appendix IV, Section 1
- Guaranteeing the authority and effectiveness of the European Convention on Human Rights (extracts from the report of the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly, PACE doc. 12811, 31 January 2012) GT-GDR-E(2013)007

Item 6: Organisation of future work

Item 7: Other business

Item 8: Adoption of the conclusions and meeting report

Appendix III**Whether more effective measures are required with respect to States that fail to execute Court judgments in a timely manner**Outline for the draft CDDH reportI. INTRODUCTION

1. Terms of reference (Decision of the May 2012 Ministerial Session): recall relevant provisions of the Brighton Declaration (paragraphs 26, 27 & 29.d))
2. Scale and significance of the problem (facts and figures from the 2012 Committee of Ministers' Annual Report, e.g. Table C.4, pp. 60-62? *TO BE ADDED*)
3. CDDH's understanding of its terms of reference – three issues:
 - i. what is failure to execute in a timely manner? (relative, depends on nature of the measures required)
 - ii. are more effective measures needed? (yes, an increasing number of judgments are clearly taking an unreasonably long time to execute in full – see para. 2 above)
 - iii. what such measures could be introduced? (Sections III-V below)
4. Other related CDDH work: recall the report on a 'representative application procedure' (already adopted and transmitted to the Committee of Ministers) and the report on repetitive applications/ systemic issues (to be adopted and transmitted to the Committee of Ministers in June 2013)
5. Procedure: recall the GT-GDR-E's exchange of views with civil society organisations and other independent experts and the principal reference documents (GT-REF.ECHR document, PACE memorandum, OSJI paper, Professor Bultrini's contribution, ETUC's contribution)

II. ORIGINS OF THE PROBLEM

6. Three causes of failure to execute judgments in a timely manner:
 - i. lack of political will (on the part of either the executive to propose measures or parliament adopt legislation)
 - ii. technical problems, e.g. need for wide range of measures requiring co-ordination or extensive legal reforms
 - iii. inertia
7. Which tool is suitable for responding to a problem depends on its cause. Most proposals concern problems of inertia rather than lack of political will
8. Proposals fall into three categories:
 - i. tools to facilitate supervision by the Committee of Ministers
 - ii. tools to encourage full execution
 - iii. tools to enhance interaction between the Committee of Ministers and non-Council of Europe actors

III. TOOLS TO FACILITATE SUPERVISION

9. *Appointment of a 'special rapporteur' who would act, in partnership with the Execution Department, as an independent advisor to the Committee of Ministers on the measures needed for execution of a judgment and on possible decisions in response to particular situations*

- Widespread doubts about the added value of such a mechanism
- Concerns also about possible budgetary consequences
- Some interest in the proposal but a need for better understanding of how it would work in practice

10. *More extensive/ systematic use of other bodies inside & outside the Council of Europe*

- Some developments already under way, notably in relation to provision of technical assistance
- Convention gives supervisory role to the Committee of Ministers which has a dedicated secretariat for this task. The latter brings to the attention of the Committee of Ministers all information about positions and potentialities of other Council of Europe bodies that could be useful in the frame work of the execution of judgments, to which the Committee of Ministers is always free to have recourse

11. *Appointment of ad hoc experts by the Committee of Ministers as was done in the past, for example, in relation to the case of Metropolitan Church of Bessarabia v. Moldova; to be distinguished from recourse to outside experts as part of technical assistance provided by the Execution Department*

- Could be a useful tool in exceptional, relevant circumstances
- Moldovan case was a good experience but very particular circumstances (need for wholesale reform of provisions on regulation of religious bodies)
- Expert should not audit or evaluate measures taken but conduct a needs assessment; evaluation of measures taken is the role of the Committee of Ministers
- Added value of a Committee of Ministers-appointed expert uncertain, given growing practice of providing technical assistance since the Moldovan case

12. *The Court being more directive in its judgments on the measures needed*

- Mention some examples of existing judgments exhibiting such characteristics
- Court has already developed its practice in this sense, which can be welcomed
- Such a practice cannot be applied in every case or situation; must be left to the Court's discretion

13. *More interaction between the Court and the Committee of Ministers, including through keeping one another informed of relevant developments (notably concerning systemic issues and repetitive applications) and taking synergistic actions (e.g. further Court judgments to clarify the legal/ factual situation concerning particular systemic issues, including pilot judgments)*

- Such interaction already exists but could be further developed
- May be problems of understanding/ interpretation of a judgment concerning a systemic issue for which an article 46(3) referral would not be the solution; general measures in subsequent judgments may help clarify the requirements

IV. TOOLS TO ENCOURAGE FULL EXECUTION

14. *Use of infringement proceedings under art.46(4) of the Convention*, introduced by Protocol no. 14 three years ago: never used by the Committee of Ministers; occasional requests have been made by applicants to consider its use

- What is meant by “Committee of Ministers considers that a High Contracting Party refuses to abide”: does it need explicit refusal? Can it be inferred from the circumstances?
- Delegations may be reluctant to call for a vote given the need for a two-thirds majority decision in the Committee of Ministers
- Could be made the last in a (formalised) series of steps in response to failure to execute (see point 17 below)
- For political reasons, the first referral could be on a category of cases rather than a single judgment/ respondent State
- Introduction of even stronger measures should only be after the Committee of Ministers has used its existing powers

15. *Astreintes/ financial penalties/ punitive damages*

- Opinions in the CDDH are clearly divided for and against
- States Parties did not sign up to a system involving punitive measures, their introduction would change its nature
- Would need to establish a system which is effective; States should not only pay compensation/ damages, should also rectify systemic problems
- Would the money involved not be better spent on resolving structural problems? Financial difficulties may be the reason for non-execution; financial sanctions/ punitive damages would exacerbate the situation
- Hard to imagine that Committee of Ministers would decide to apply a financial penalty if it has not been willing to use art. 46(4)
- Financial incentive would be the strongest to ensure execution of judgments
- Not all States are equally wealthy; but financial penalties should apply to all, if at all
- Would be better for such decisions to be taken by the Court, but who would initiate them?
- Always been established that the Court is not empowered to take such decisions; should not take any such initiative without being invited in an appropriate form, which for this would be amendment of the Convention (not just a Committee of Ministers resolution, as per introduction of the pilot judgment procedure)
- The Court has in the past ordered that a respondent State reimburse it for preventing a fact-finding mission from taking place (*Shamayev v. Russia*); but no legal provision for punitive measures against States
- One alternative would be civil-type damages to the Committee of Ministers for resources expended on cases of persistent systemic issues
- Recall that financial sanctions proposal rejected prior to the Brighton Conference; may be re-examined in discussion of the long-term future of the Court
- Proposal rejected was for financial sanctions imposed by the Committee of Ministers; but punitive damages imposed by the Court would be different

16. *‘Naming and shaming’* as a form of pressure – the Committee of Ministers could adopt a practice of being more critical and publicise its findings

- Not necessarily the best way of obtaining execution; does not help to identify solutions, tends to block discussion with the authorities, if they feel stigmatised they will defend their position

- Committee of Ministers has used publicity not to 'name and shame' but to inform the public about problems in execution and in its own supervisory work (e.g. press releases, Annual Reports); this has had some results on the domestic political level and should be encouraged and developed
- Some aspects can be and are made public by administrative initiative, e.g. statistics, lists of long-pending cases – could be made more accessible
- May have a part to play in the political processes of the Parliamentary Assembly

17. *Graduated use of tools according to an agreed, pre-determined sequence* with a specific automatic time-frame in the absence of decisions to the contrary

- Should be a toolkit (reference to tools already mentioned in the GT-REF document ?), not a fixed sequence, may need flexibility
- Cases are different, responses may need to be different, but there could be a sequence of responses

18. *Peer pressure to overcome persistent difficulties to execute* (doc. GT-REF.ECHR(2013)2 rev2, p.6); discussed but never implemented by the Committee of Ministers

- Should remain in the toolkit but doubts as to their appropriateness for obtaining acceleration of execution measures, as such a confrontational approach may undermine the dialogue between the Committee of Ministers and a respondent State

18ff. [Other proposals made by participants in the exchange of views – *for possible comments prior to the 2nd meeting*]

V. TOOLS TO ENHANCE INTERACTION BETWEEN THE COMMITTEE OF MINISTERS AND NON-COUNCIL OF EUROPE ACTORS

19. *Increasing transparency in the process & knowledge about its functioning*, including that applicants be made aware that the process continues after adoption of a judgment and that they may still have a role to play

- Committee of Ministers is a political organ but supervision is a legal process
- Should not create a further adversarial stage nor systematise exchanges of information and submissions before the Committee of Ministers
- Purpose of submission of information should be to determine whether judgment is fully executed, not how it should be executed
- Applicant/ representative could be informed in general terms about the supervision process and the possibilities to intervene in it when they receive the Court's judgment, including the contact details of the Execution Department
- Applicant could receive copies of all information transmitted by the government to the Committee of Ministers
- Applicants should not be systematically invited to respond to every communication from the respondent State, should rather be allowed to act as and when they consider necessary; would create additional burden for the Execution Department

20. *Amending Rule 9 to remove the distinction between applicants and others as regards the possibility of addressing general measures*, given that third parties may request general measures in proceedings before the Court

- Proposal received favourably, with certain conditions
- Increasing numbers of cases depend on implementation of general measures for full execution of the judgment; may be difficult for individual applicant to comment
- May be inappropriate for third parties to comment on individual measures

21. *Encouraging applicants to communicate with the Committee of Ministers (including by raising awareness of Rule 9)*

- Could be used in exceptional cases but should not be the standard practice
- May be useful where there is a manifest risk of the Committee of Ministers closing a case prematurely
- Secretariat should be encouraged to propose this to the Committee of Ministers where appropriate

22. *Involvement of NHRIs and Ombudsmen, who have the right in principle to make representations*

- Recall Paris Principles (NHRIs “shall co-operate with regional institutions ... that are competent in the areas of the promotion and protection of human rights”); but some NHRI’s mandates may not permit such action or this may be uncertain

23. Could also envisage amendment of Rule 9 to allow for the possibility of comments from another international organisation (not currently explicitly foreseen)

24. *Formalisation of the process of civil society organisations giving briefings to permanent representations*

- Informal briefings already take place; would not be advantageous to formalise them
- What is important is that the Committee of Ministers can avail itself of information from a range of sources before reaching its decisions – connected to Rule 9

VI. COUNCIL OF EUROPE TECHNICAL ASSISTANCE AND ITS TARGETTING

25. Recall the importance of this to facilitate full execution of judgments; Secretary General’s proposals were discussed at the May 2013 Ministerial Session, relative emphasis currently being given to co-operation activities within the Council of Europe

26. May be two types of assistance, addressing systemic issues (large-scale, lengthy, complex programmes) or specific interventions (precise, sometimes very rapid action to help overcome particular technical difficulties; may not require extensive resources)

27. Need for co-ordination between Council of Europe co-operation activities in order to target better execution problems; realigning projects to changing circumstances (e.g. new judgment by the Court) should be made possible through increased flexibility

28. May be differences in priority between donors and the requirements of execution of Court judgments

29. Reaffirm importance of cooperation between the Council of Europe and the European Union, in particular to ensure the continued funding and effective implementation of joint programmes and coherence between their respective priorities in this field (see Brighton declaration 9.i))

Appendix IV**Review of the functioning of the Advisory Panel**Outline for the draft CDDH reportI. INTRODUCTION

1. Terms of reference & the CDDH's understanding of its task – (copy from CDDH report)
2. Why the Panel was established: the apparent need; President Costa's proposal
3. The function of the Panel as set out in the Committee of Ministers' Resolution – to give advice to the Government (distinction in the Resolution between provision of views to the government and to PACE); central role of confidentiality in the Resolution, but can one expect such pre-eminent legal personalities to perform such an understated task? Relevance/ use of other instruments, e.g. CM Guidelines on the selection of candidates for the post of judge

II. THE FUNCTIONING OF THE PANEL

4. How the Panel works: what it does, what the other actors do (cf. art. 22 ECHR); its practices & working methods
 - a. The national selection procedure is initiated by the PACE Secretary General's letter requesting a list of candidates, which now refers to engagement with the Panel
 - b. Sources of information relied upon by the Panel – CV & supplementary information from the government (Operating Rules (vii) & (viii)); also unsolicited information from (confidential) sources
 - c. The Panel's proceedings: developed a practice of meetings, which it considers necessary for effective consultations; does not interview candidates
 - d. What information the Panel provides to whom and when – CM Resolution essentially requires provision of advice at a stage when the list of candidates is not yet public; in one case, the Panel requested PACE not to proceed with election before it had adopted its opinion
 - e. Transparency & publicity: President's exchange of views with the Ministers' Deputies, meeting with the PACE Sub-committee Chairperson
5. Problems (challenges?) identified in the Panel's functioning and working relations with other actors – n.b. recall that in most cases, the Panel has interacted as foreseen with the other actors; however, some specific issues:
 - a. Panel's opinion not followed – either by the government or by PACE
 - b. Simultaneous transmission of the list by the government to the Panel and PACE; PACE election then took place before the Panel adopted its opinion
 - c. Limitations set by the Operating Rules – see the Panel's Proposal 7, that meetings should be the rule, not the exception; use of information from sources other than the government (cf. Operating Rules (vii) & (viii))
 - d. Extent of reasons given in Panel opinions – to the government; to PACE: see the Panel's Proposal 5, to give more detailed opinion on candidates' qualifications
 - e. Insufficient provision of information between the various actors

- f. Lack of visibility/ insufficient recognition of the Panel's role by other actors; perceived disinterest of other actors, frustration on the part of the Panel

III. CONCLUSIONS AND PROPOSALS FOR FOLLOW-UP

- 6. The context of possible responses to these challenges:
 - a. Measures not requiring revision of the Resolution (in particular its confidentiality requirements)?
 - b. Measures requiring revision of the resolution (with different confidentiality restrictions)?
 - The report would not express any preference between these two possible approaches
- 7. Report would set out the various proposals, including those set out in the AP's written contribution, along with the GT-GDR-E's comments and responses on them

Appendix V**Whether or not to proceed to amend the Convention
to enable the appointment of additional judges to the Court**Outline for the draft CDDH reportI. INTRODUCTION

- CDDH terms of reference
- Political context
- Factual context: recall and confirm that the factual analysis conducted prior to the Brighton Conference remains correct

II. PREVIOUS CDDH WORK ON THE ISSUE

Summarise the different proposals, notably the modalities and the types and competences of possible additional judges, resulting from the previous CDDH work¹.

III. CONCLUSIONS POSSIBLE PROPOSALS FOR ACTION

Conclusions:

- The tendencies identified when drafting the previous report have been confirmed;
- There is no consensus on the proposal, either on the need to appoint additional judges or the competences that such judges could exercise;
- It is necessary to take account of the current budgetary circumstances of the Council of Europe

The CDDH thus concludes that, in the current circumstances, it would not be appropriate to proceed to amend the Convention to enable the appointment of additional judges to the Court. It may nevertheless prove necessary to re-examine this question in future, on the basis of objective elements.

¹ Notably on the basis of the CDDH Final Report on measures requiring amendment of the Convention/ CDDH Report on measures to address the number of applications pending before the Court, CDDH(2012)R74 Addendum I / Appendix IV Section 1.