



Strasbourg, 23 March 2012

CDDH-AGE(2012)R1

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

**Drafting Group on the Human Rights of the Elderly
(CDDH-AGE)**

Meeting report

1st meeting

Wednesday 21 March (9:30 a.m.) – Friday 23 March 2012 (1.30 p.m.)

**Palais - Room 14
Council of Europe**

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

1. The Drafting Group of the CDDH on the Human Rights of the elderly (CDDH-AGE) held its first meeting in Strasbourg on 21-23 March with Mr Jakub WOLASIEWICZ (Poland) in the Chair. Mr Jörg POLAKIEWICZ, Head of the Human Rights Development Department (Directorate General of Human Rights and Rule of Law, DG-I), made an opening statement to welcome all participants. He underlined the importance the Council of Europe attached to the promotion of the human rights of the elderly, and recalled the guidance provided by the CDDH for this meeting of the Drafting Group. The list of participants can be found in Appendix I. The agenda as adopted and the references to the working documents appear in Appendix II.

Item 2: Election of a Vice-Chair

2. Ms Dominique STEIGER LEUBA (Switzerland) was elected Vice-Chair of the Committee.

Item 3: Discussion on a non-binding instrument on the promotion of the human rights of the elderly

3. The representative of the United Nations' Office of the High Commissioner for Human Rights made a presentation on the current status of work at the UN level, namely with respect to the work of the Open-ended Working Group on Ageing, and to the review of the 2002 Madrid International Action Plan on Ageing. She informed the CDDH-AGE that the next meeting of the Open-ended Working Group on Ageing will be held in New York end-August. She also referred to some existing relevant UN standards, reports and general comments from treaty bodies, underlined the complementarity of the regional and universal approaches, and informed the group that within the Inter-American system work has been launched with a view to the elaboration of a Convention on the rights of older persons. Among the issues to be discussed in this framework appear the definition, discrimination, abuse, informed consent and financial exploitation.

4. The representatives of the AGE-Platform Europe, of the Global Alliance for the Rights of Older People and of the International Federation of Associations of Older People (member of the Conference of INGOs of the Council of Europe) presented their organisations and their activities, as well as their expectations with regard to the work of the CDDH-AGE. They also provided a number of documents and publications which the Group welcomed as very useful sources of inspiration for its future work.

5. The discussion was structured around the four main questions raised by the CDDH:

- nature and addressees of the non-binding instrument
- scope of the instrument
- contents of the instrument
- definition of "elderly people"

6. As regards the nature of the instrument, no final decision was taken between a set of guidelines and a recommendation. The CDDH-AGE considered that such a decision, which would however not affect the substance of the instrument, would be easier to take once the contents of the instrument will be better defined.

7. Concerning the addressees, the group considered that the instrument and its provisions should be primarily addressed to States, but it also pointed out that the document should provide practical guidance to actors at all levels, and should be accessible, understandable and readable also by the general public, and in particular by older persons. This may have an impact in terms of the language to be used and of the contents, in particular as far as good practices are concerned.

8. With respect to the scope, the Group considered that at this stage it would be important to identify the possible issues having an impact on the full enjoyment of human rights by older persons without limiting to one single aspect nor to one single group of particularly vulnerable persons. An issue-based approach will make reference to civil and political rights as well as to social and economic rights.

9. The group agreed therefore that, once relevant topics are identified, it should proceed to an assessment of each topic in order to identify possible gaps (normative, information, monitoring or implementation) and then to propose possible measures to address such gaps. It was considered that in this respect the instrument would provide a great added value if it allowed not only to present in a systematic way the outstanding human rights issues, but also to propose, for each of them, practical measures based on existing good practices in the member states.

10. On the basis of the approach proposed, the CDDH-AGE drew up a list of possible items to be discussed with a view to their possible inclusion in the instrument (see Appendix III), without taking a final decision as to whether all the items on the list should be eventually included in the body of the instrument or in an annex.

11. The Group also discussed a possible structure for the instrument. It was preliminarily agreed that the preamble should contain references to relevant Council of Europe texts and to the work of other international organisations, and that it should also present the reasons for the elaboration of the instrument by stating some of the key words and concepts that should inform its contents. The preamble should be followed by a set of general principles, and – in the body of the instrument or in an annex– by a more detailed substantive section consisting of thematic parts dealing with :

- i) Non-discrimination
- ii) Autonomy, participation and social inclusion
- iii) Protection against violence and abuse
- iv) Support and care
- v) Other issues

12. It was agreed that the instrument should be accompanied by a guide of good practice and/or by an explanatory document which will provide the necessary explanation on the various issues including, where appropriate, reference to the relevant case-law of the European Court of Human Rights. The Group also agreed to discuss at a later stage how to ensure effectiveness of and adequate follow up to the instrument.

13. The CDDH-AGE agreed that it would be preferable, in English, to use the expression “older people” rather than “the elderly”. The Group was not in a position, at this stage, to agree on a definition, nor on the need of it. It was in particular noted that no comprehensive definition is currently available neither at the Council of Europe level nor at the international level. In this respect, it was considered that for the purpose of any definition the Group should not attempt to set any age limit, but should rather refer at the vulnerability of persons resulting from ageing, which interacting with social attitudes and perceptions and other external factors or barriers results in forms of discrimination or of

limited – or denied – enjoyment of their human rights. It was agreed to seek the views of the CDDH on this particular issue.

Item 4: Other business

14. The Group noted that the results of this first meeting will be discussed by the CDDH at its next meeting, including in the context of the exchange of views with professor Frederic Megret. On the basis of this discussion, the CDDH will provide new instructions to the CDDH-AGE for its second meeting, which will take place on 24-26 September 2012. On the basis of the instructions to be given by the CDDH, the Secretariat may be asked to prepare the first draft of elements for the instrument, and to circulate these elements for comments by delegations before the meeting.

15. The Group welcomed the participation in the meeting of the Office of the Council of Europe Commissioner for Human Rights, of the United Nations' Office of the High Commissioner for Human Rights and of representatives of the civil society. As regards additional participants for future meetings, it was noted that the expertise of the Registry of the Court, of the Secretariat of the European Social Charter and of the CPT could be very beneficial to the work of the Group.

APPENDIX I

LIST OF PARTICIPANTS

MEMBER STATES/ETATS MEMBRES

AUSTRIA / AUTRICHE

Ms Elisabeth HANDL-PETZ LL.M, Legal advisor, Federal Chancellery, Legal Service, Vienna

CZECH REPUBLIC / REPUBLIQUE TCHEQUE

Ms Lucie RYBOVÁ, Secretary of the Committee for Human Rights and Biomedicine, Secretary of the Secretariat of the Government Council for Human Rights, Praha (from 2/4/2012: Human Rights Lawyer/Legal officer, Ministry for Labour and Social Affairs)

DENMARK / DANEMARK

Rikke NØRREGAARD, Legal Adviser, Danish Ministry of Justice, EU Law and Human Rights Division, Copenhagen

FINLAND / FINLANDE

Ms Päivi ROTOLA-PUKKILA, Legal Officer, Ministry for Foreign Affairs, Unit for Human Rights Courts and Conventions

FRANCE

M. Sylvain FOURNEL, Rédacteur, DJ/DHOM, sous-direction des droits de l'Homme, Direction des affaires juridiques, Ministère des Affaires Etrangères et Européennes, Paris

GERMANY / ALLEMAGNE

Ms. Judith HILKER, Legal Advisor, Federal Ministry of Justice, Berlin

GREECE / GRÈCE

Mme Athina CHANAKI, Conseiller juridique adjoint auprès du Service Juridique/Section de droit international public du Ministère grec des Affaires étrangères, Athènes.

ITALY / ITALIE

Dott. Alfredo FERRANTE, Direttore della Divisione IV - Politiche per le persone con disabilità, Ministero del Lavoro e delle Politiche Sociali, Roma

POLAND / POLOGNE

Mr Jakub WOLASIEWICZ, [Chair/Président], Government Agent, Ministry of Foreign Affairs, Warsaw

Mrs Żaneta MECYCH, Ministry of Labour and Social Policy, Department of Labour Market, Warsaw

Mr Jerzy CIECHAŃSKI, Ministry of Labour and Social Policy, Department of Economic Analyses and Forecasts, Warsaw

Mr Tomasz TADLA, Ministry of Foreign Affairs, Department of Proceedings before International Human Rights Protection Bodies, Warsaw

RUSSIAN FEDERATION / FEDERATION DE RUSSIE

Mr Vladislav ERMAKOV, Deputy to the Permanent Representative, Chancery, Strasbourg

SPAIN / ESPAGNE

Mercedes CASTRO LÓPEZ, Técnica Superior de Estudios, IMSERSO, Área Internacional, IMSERSO - Instituto de Mayores y Servicios Sociales, Ministerio de Sanidad, Servicios Sociales e Igualdad

SUISSE / SWITZERLAND

Mme Dominique STEIGER LEUBA, [*Vice-Présidente/Vice-Chair*], Département fédéral de justice et police DFJP, Office fédéral de la justice OFJ, Domaine de direction Droit public, Unité Droit européen et protection des droits de l'Homme, Bern

TURKEY / TURQUIE

M. Basri YILDIZ, Expert juridique, Représentation permanente de la Turquie auprès du Conseil de l'Europe Strasbourg

UNITED KINGDOM / ROYAUME-UNI

Mr Matthew KING, Age Discrimination Policy, Government Equalities Office, Home Office

PARTICIPANTS

Parliamentary Assembly / Assemblée parlementaire

Excused/Excusé

Office of the Commissioner for Human Rights of the Council of Europe / Bureau du Commissaire aux droits de l'homme du Conseil de l'Europe

Lauri SIVONEN, Thematic Coordinator/Coordinateur thématique

European Committee on Legal Co-operation / Comité européen de coopération juridique (CDCJ)

Excused/Excusé

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

M. Alain KOSKAS, Président du Conseil scientifique de la FIAPA (Fédération Internationale des Associations de Personnes Agées), rapporteur du Groupe de travail « Violences à l'égard des personnes âgées et droits de l'Homme » au sein de la Commission Droits de l'Homme des OING du Conseil de l'Europe,

Bureau du Commissariat des Nations Unies aux droits de l'homme / Office of the United Nations High Commissioner for Human Rights

Mrs Juana SOTOMAYOR, Human Rights Officer, HRESIS, Research and Right to Development Division, Office of the United Nations High Commissioner for Human Rights, Geneva

European Commission / Commission européenne

Excused/Excusé

AGE-Platform Europe

Mrs Athina-Eleni GEORGANTZI, Legal and Research Officer, Bruxelles

Global Alliance for the Rights of Older People

Mr Ken BLUESTONE, International Political and Policy Adviser, Age UK, Tavis House, 1-6 Tavistock Sq, UK

OBSERVATEURS /OBSERVERS

Mexique / Mexico

M. Alejandro Martínez Peralta, Adjoint à l'Observateur Permanent., Mission Permanente du Mexique auprès du Conseil de l'Europe, Strasbourg, France

SECRETARIAT

**DG I – Human Rights and Rule of Law / Droits de l'Homme et État de droit
Council of Europe / Conseil de l'Europe, F-67075 Strasbourg Cedex**

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 Daniele CANGEMI, Head of Division / Chef de Division, Human Rights Law and Policy Division / Division du droit et politique des droits de l'homme

Mr Matthias KLOTH, [*CDDH-AGE Secretary-Secrétaire du CDDH-AGE*], Administrator, Human Rights Law and Policy Division / Division du droit et politique des droits de l'homme

Mme Valérie PEARD, Principal Assistant, Human Rights Law and Policy Division / Division du droit et de la politique des droits de l'homme

Mme Frédérique BONIFAIX, Assistant / Assistante, Human Rights Law and Policy Division / Division du droit et de la politique des droits de l'homme

INTERPRETERS / INTERPRÈTES

Mme Sylvie BOUX (Chef d'équipe)

Ms Rebecca BOWEN

Ms Christine TRAPP

APPENDIX II

AGENDA

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

Item 2: **Election of a Vice-Chair**

Item 3: **Discussion on a non-binding instrument on the promotion of the human rights of the elderly**

Documents

Preliminary study on the promotion of the human rights of the elderly	CDDH(2012)002
Compendium of the case-law of the European Court of Human Rights concerning the human rights of the elderly	CDDH-AGE(2012)01
Selection of relevant Council of Europe texts concerning the human rights of the elderly	CDDH-AGE(2012)02
Reports of the United Nations Open-ended Working Group on Ageing	CDDH-AGE(2012)03
Excerpts of reports of CDDH concerning CDDH-AGE	CDDH-AGE(2012)04
Speeches from the panel "Rights of Elderly Persons in Europe" (5th Warsaw Seminar on Human Rights)	CDDH(2012)005

Item 4: **Other business**

APPENDIX III

Possible contents for a non-binding instrument on the promotion of the human rights and dignity of older persons

Preamble (including reference to relevant Council of Europe and other international documents, the indication of the purpose of the instrument, and a number of key concepts to understand the purpose of the instrument, such as “equality”, “dignity”, “participation”, “solidarity”, “respect”, “quality of life”, as opposed to concepts such as “vulnerability”, “exclusion”, “discrimination”).

Scope (including where necessary a definition)

General Principles (such as active participation in society, full enjoyment of rights, ratification of relevant international instruments, universality of human rights etc.)

Relevant issues/objectives (in the body of the instrument or in an annex)

I. Non-Discrimination

- Discrimination of older persons, ageism (including with respect to access to labour market, access to goods and services etc.)
- Multiple discrimination (e.g. on account of gender, disabilities)
- Older migrants
- Good practices

II. Autonomy, participation and social inclusion

- Capacity to take decisions (concerning e.g. care, health, income, property)
- Access to information
- Adequate support for decision-making
- Autonomy in making one’s own choices (including to choose the person to be appointed as carer or guardian)
- Proper information about any restrictions to one’s own rights
- Accessibility of infrastructures
- Measures to promote social inclusion of older persons (e.g. issues related to active participation in society, including participation into civil and political life; social protection and social security; adequate standard of living; access to social services)
- Good practices

III. Protection against violence and abuse

- Different forms of abuse (physical, sexual, psychological or financial)
 - in private or public institutions
 - in residences for older people
 - domestic abuse
- Positive obligation to prevent and detect abuse

- Prevention policies against abuse (including measures to provide protection to the exercise of legal capacity to avoid abuse, notably by relatives)
- Access to a lawyer, legal aid, right to redress in case of abuse
- Protection of those who report on abuse (“whistle-blowers”) from being dismissed
- Respect of privacy (e.g. intimacy in institutional care, confidentiality, data protection)
- Support to victims of abuse
- Good practices

IV. Support and care

- Placement in institutional care (including compulsory placement)
- Older people in psychiatry and detention
- Monitoring of conditions in institutional care and residences for older people
- Older persons with disabilities
- Access to care and support within the home and the community
- Access to adequate physical and mental health care, including long-term care
- Palliative and end-of-life care services
- Training and support of concerned persons (i.e. home or institutional carers)
- Good practices

V. Other issues:

- Data collection
- Awareness-raising actions
- Other human rights issues (e.g. expulsion, fair trial within a reasonable time)

VI. Follow-up / Measures to ensure dissemination and effectiveness of the instrument