

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 26 October 2017

CDDH-MIG(2017)R3

STEERING COMMITTEE FOR HUMAN RIGHTS
(CDDH)

**DRAFTING GROUP ON MIGRATION AND HUMAN RIGHTS
(CDDH-MIG)**

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REPORT

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3rd meeting
24 – 26 October 2017

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

1. The CDDH Drafting Group on Migration and Human Rights (CDDH-MIG) held its 3rd and final meeting in Strasbourg from 24 to 26 October 2017 with Mr Morten RUUD (Norway) in the Chair. The list of participants appears in Appendix I.
2. The Chair opened the meeting and welcomed all participants. The agenda as adopted appears in Appendix II.

Item 2: International Conference “Immigration Detention of Children: Coming to a Close?”, 25 - 26 September 2017 in Prague

3. The Vice-Chair of the CDDH-MIG, Mr Ota HLIMONAZ (Czech Republic), informed the Group of the outcomes of the International Conference “*Immigration Detention of Children: Coming to a Close?*”, which took place in Prague from 25 to 26 September 2017 under the auspices of the Czech Chairmanship of the Committee of Ministers of the Council of Europe. Partly inspired by the work of the CDDH-MIG, and organised jointly with the Council of Europe, the Conference brought together a wide range of actors in the field and touched upon a number of issues including vulnerability and the impact of immigration detention, human rights standards and alternatives to detention. The Vice-Chair thanked the CDDH-MIG Secretariat for its invaluable cooperation in preparing the Conference and members of the Group for their active engagement and participation. The Group agreed to annex the upcoming report of the Conference into the CDDH-MIG Analysis and reference it where appropriate.

Item 3: Final reading of the CDDH-MIG “Draft Analysis of the legal and practical aspects of effective alternatives to detention in the context of migration” in light of written comments received

4. The Group conveyed its thanks to the Rapporteur Mr Frank SCHÜRMAN (Switzerland), and the Secretariat for their exceptional work, expressing its satisfaction with the high quality of the Analysis and its comprehensive and useful substance.
5. The Group then held a general discussion on the written contributions received by member States and Observers. It examined all the comments received and instructed the Rapporteur and the Secretariat to make certain changes in the Analysis where appropriate. A second reading of the relevant paragraphs that were amended took place and a final version was presented and deliberated upon.
6. The Group adopted the Analysis to be submitted to the CDDH in December 2017. It further instructed the Rapporteur and Secretariat to prepare an Executive Summary of the Analysis to be submitted to the CDDH in December 2017 as part of the Analysis.

Item 4: Discussion on future work

7. In light of the mandate of the CDDH for the next biennium, it was agreed that a step-by-step approach for the follow up to the Analysis would be most apt for success. In the first instance, the added value provided in the near future could take the form of a practical and

user-friendly handbook for authorities on effectively implementing alternatives to immigration detention. Such a handbook should not only address legal aspects but also draw upon the essential elements of effectiveness to provide guidance on the successful implementation of alternatives and lessons learnt in the context of migration. Alongside this work, the Council of Europe could, *inter alia*, explore possibilities of pursuing specific cooperation projects on alternatives to immigration detention with interested member States on a voluntary basis. A conceivable second step in the follow-up process to the current work could, for example, be a consideration of guidelines on effective alternatives to immigration detention, potentially focusing on children in particular.

Item 5: Adoption of the meeting report

8. The Group adopted the meeting report.

Item 6: Other business

9. With the approval of the *Analysis of the legal and practical aspects of effective alternatives to detention in the context of migration*, the Group considered that it had fulfilled its terms of reference. It expressed its appreciation for the constructive approach shown by all members throughout its work and thanked the Chair for the exemplary ways in which the meetings had been conducted. The Group also paid tribute to the excellent work of its Rapporteur and the Secretariat throughout its deliberations.

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Appendix I

List of participants

MEMBER STATES / ETATS MEMBRES

ARMENIA / ARMÉNIE

Mr Gagik YEGANYAN, Head of State Migration Service of Ministry of Territorial Administration and Development

Mr Vardan BARSEGHIAN, Deputy to the Permanent Representative of Armenia to the Council of Europe

AUSTRIA / AUTRICHE

Ms Eva PFLEGER, Human Rights Coordinator and Deputy Head of the Department for Residence, Civil Status and Citizenship, Ministry of the Interior

BELGIUM / BELGIQUE

Mme Colette VAN LUL, Agent devant la Cour de justice de l'Union européenne, Attaché, Droit européen (J2), SPF Affaires Étrangères, Commerce Extérieur et Coopération au Développement

BULGARIA / BULGARIE

Mr Kamen KOUTSAROV, Second Secretary, Human Rights Department, Ministry of Foreign Affairs

CZECH REPUBLIC / REPUBLIQUE TCHÈQUE

Mr Ota HLINOMAZ (*Vice-Chair of CDDH-MIG / Vice-Président du CDDH-MIG*), Head of Unit for the Proceedings before the United Nations Treaty Bodies, Office of the Government Agent before the European Court of Human Rights, Ministry of Justice of the Czech Republic

FINLAND / FINLANDE

Ms Liisa VALJENTO, Counsellor, Unit for Human Rights Courts and Conventions, Legal Service, Ministry of Foreign Affairs

FRANCE

M. Pascal LIEUTAUD, Adjoint au chef du Bureau de la rétention et de l'éloignement, Chef du Pôle rétention, Sous-direction de la lutte contre l'immigration irrégulière, Direction de l'immigration, Direction générale des étrangers en France, Ministère de l'intérieur

GREECE / GRÈCE

Mr Elias KASTANAS, Legal Counsellor, Legal Department, Ministry of Foreign Affairs of the Hellenic Republic

ICELAND / ISLANDE

Ms Íris Björg KRISTJANDOTTIR, Special Adviser, Department of Human Rights and Local Government, Ministry of the Interior

ITALY / ITALIE

Mr Federico CIATTAGLIA, Head of Division III, Directorate General for the European Union, Ministry of Foreign Affairs and International Cooperation

LATVIA / LETTONIE

Mr Vilnis VITOLINS, Director of the Legal Department of the Ministry of the Interior, Representative of Latvia before the European Court of Human Rights, Ministry of Foreign Affairs

NETHERLANDS / PAYS-BAS

Ms Irene RITMAN, Policy Coordinator, Migration Policy Department, Ministry of Security and Justice

NORWAY / NORVÈGE

Mr Morten RUUD (*Chairperson of CDDH-MIG / Président du CDDH-MIG*), Special Adviser, Legislation Department, Ministry of Justice and the Police

POLAND / POLOGNE

Mr Dawid GROCHOWSKI, Chief Specialist, Department of Analysis and Migration Policy, Ministry of the Interior and Administration of the Republic of Poland

SPAIN / ESPAGNE

Ms Consuelo CASTRO REY, Senior Head State Attorney, State Attorney's Office

SWITZERLAND / SUISSE

M. Frank SCHÜRMAN, Agent du Gouvernement de la Suisse auprès de la Cour européenne des droits de l'homme, Chef de l'Unité Droit européen et Protection Internationale des droits de l'Homme, Office fédéral de la justice

OBSERVERS / OBSERVATEURS

EUROPEAN NETWORK OF NATIONAL HUMAN RIGHTS INSTITUTIONS (ENNHRI) / RÉSEAU EUROPÉEN DES INSTITUTIONS NATIONALES DES DROITS DE L'HOMME (REINDH)

Ms Anica Tomšić STOJKOVSKA, Legal Affairs Advisor to the Ombudswoman

INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC) / COMITE INTERNATIONAL DE LA CROIX-ROUGE (CICR)

Ms Natalie DEFFENBAUGH, Adviser, Unit for Persons Deprived of Liberty, International Committee of the Red Cross (ICRC) – Geneva

Ms Audrey EPRINCHAUD, Junior Legal Advisor, International Committee of the Red Cross (ICRC) – Brussels

CONFERENCE OF INGOS OF THE COUNCIL OF EUROPE / CONFÉRENCE DES ONG DU CONSEIL DE L'EUROPE

M. Jean-Michel CAUDRON

OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR) / HAUT COMMISSARIAT DES NATIONS UNIES POUR LES RÉFUGIÉS (HCR)

Mr Gert WESTERVEEN, Representative to the European Institutions in Strasbourg

Ms Delphine LENEUTRE, Legal Associate, UNHCR Representation to the European Institutions

COUNCIL OF EUROPE / CONSEIL DE L'EUROPE

EUROPEAN COMMITTEE ON LEGAL CO-OPERATION / COMITÉ EUROPÉEN DE COOPÉRATION JURIDIQUE (CDCJ)

Ms Oleksandra SYTNYK, Programme Officer

CHILDREN'S RIGHTS DIVISION / DIVISION DES DROITS DES ENFANTS

Ms Naomi TREWINNARD

SECRETARIAT OF THE PARLIAMENTARY ASSEMBLY / SECRETARIAT DE L'ASSEMBLÉE PARLEMENTAIRE

Ms Olga KOSTENKO, Secretary, Committee on Migration, Refugees and Displaced Persons

Ms Olivera SIMIC, Project Officer, Parliamentary Campaign to End Immigration Detention of Children

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**

Ms Lilja GRETARSDOTTIR, Deputy Head of the Cooperation with International Institutions and Civil Society Division / Chef adjoint de la Division de la coopération avec les institutions internationales et la société civile, *Secretary of CDDH-MIG / Secrétaire du CDDH-MIG*

Ms Theodora KRISTOFORI, Legal Research Assistant / Assistante recherche juridique, Cooperation with International Institutions and Civil Society Division / Division de la coopération avec les institutions internationales et la société civile

Ms Julia WESTMACOTT, Assistant / Assistante, Cooperation with International Institutions and Civil Society Division / Division de la coopération avec les institutions internationales et la société civile

Ms Marie-Christine MIRCEA, Trainee / Stagiaire

INTERPRETERS / INTERPÈTES

Ms Amanda BEDDOWS

Ms Isabelle MARCHINI

Mr Derrick WORSDALE

Ms Bettina LUDEWIG
Mr Christopher TYCZKA

Appendix II

Agenda (as adopted)

Item 1:	Opening of the meeting and adoption of the agenda
Item 2:	International Conference “Immigration Detention of Children: Coming to a Close?”, 25 - 26 September 2017 in Prague
Item 3:	Final reading of the CDDH-MIG “Draft analysis of the legal and practical aspects of effective alternatives to detention in the context of migration” in light of written comments received

<u>Reference Documents</u>	
Report of the 2 nd meeting of CDDH-MIG (15-17 February 2017)	CDDH-MIG(2017)R1
Relevant extracts of the 87 th CDDH meeting report (6-9 June 2017)	CDDH-MIG(2017)01Rev
<u>Working Documents</u>	
Draft analysis of the legal and practical aspects of effective alternatives to detention in the context of migration	CDDH-MIG(2017)02Rev <i>Comments from Member States and Observers incorporated</i> <i>(Restricted)</i>
European Network of National Human Rights Institutions (ENNHRI)	<i>Written submission</i> <i>(Restricted)</i>
International Detention Coalition (IDC)	<i>Written submission</i> <i>(Restricted)</i>
<u>Information Documents</u>	
<u>Council of Europe</u> <i>Commissioner for Human Rights</i> High time for states to invest in alternatives to migrant detention, 31/01/2017	Human Rights Comment
<u>United Nations</u> <i>United Nations High Commissioner for Refugees</i> Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention, 2012	Publication
<u>European Union</u>	

Alternatives to detention for asylum seekers and people in return procedures, paper prepared by the European Union Agency for Fundamental Rights (FRA), 2015	Publication
The Use of Detention and Alternatives to Detention in the Context of Immigration Policies, Synthesis Report prepared by the European Migration Network (EMN), 2014	Publication
<u>IDC</u> There are Alternatives: A handbook for preventing unnecessary immigration detention (revised edition), 2015	Publication

Item 4: Discussion on future work

Item 5: Adoption of the meeting report

Item 6: Other business