



CDDH-MIG(2018)01

08/01/2018

STEERING COMMITTEE FOR HUMAN RIGHTS (CDDH)

**Extract of the terms of reference given by the Committee of Ministers to the CDDH
regarding the work of the CDDH-MIG during the 2018-2019 biennium**

(as adopted by the Committee of Ministers at its 1300th meeting, 21-23 November 2017)

and relevant extracts of the CDDH meeting reports

Extract of the terms of reference given by the Committee of Ministers to the CDDH regarding the work of the CDDH-MIG during the 2018-2019 biennium

(as adopted by the Committee of Ministers at its 1300th meeting, 21-23 November 2017)

Migration

"On the basis of work conducted in 2016-2017, prepare one or more draft non-binding instruments of the Committee of Ministers (for example a recommendation, guidelines, good practice handbooks) concerning human rights issues in the context of migration, in particular effective alternatives to detention of migrants and asylum seekers (deadline: 31 December 2019)."

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Extract of the report of the 87th CDDH meeting

(6-9 June 2017, document CDDH(2017)R87)

4.4 Human rights and migration (CDDH-MIG)

53. In the absence of the Chair of the Drafting Group on human rights and migration (CDDH-MIG), Mr Morten RUUD (Norway), the Rapporteur of this Group Mr Frank SCHÜRMANN (Switzerland), presented the results of the 2nd meeting of the Group (Cyprus, on 15-17 February 2017, CDDH-MIG (2017)R1).

54. It is recalled that the Group has the following mandate:

In light of the Court's relevant jurisprudence and other Council of Europe instruments, conduct an analysis on the legal and practical aspects of specific migration-related human rights issues, in particular effective alternatives to detention, and the need for further work in the field by the CDDH is explored.

55. The Rapporteur of the Drafting Group pointed out that:

- (i) The meeting was mainly dedicated to the examination of the entirety of the preliminary draft Analysis, prepared by the Rapporteur, of the legal and practical aspects of efficient alternatives to the detention in the context of migration.
- (ii) Part of the meeting was held jointly with the Committee of Experts on Administrative Detention of Migrants (CJ-DAM), allowing an exchange of views with the members of these two bodies.
- (iii) The CDDH-MIG had, in February, also an exchange of views on the nature of the future works, while stressing that the concrete format of these works should be decided only during its 3rd meeting (24-26 October 2017).

56. The Rapporteur provided to the CDDH an overview of various substantive and structural changes made in the draft preliminary Analysis following the meeting CDDH-MIG¹ in February 2017:

- A consolidated version will be transmitted to the CDDH-MIG and to the CDDH in July 2017 for possible comments before Friday, **8 September 2017** at 18:00, addressed to lilja.gretarsdottir@coe.int (see table of deadlines, **Error! Reference source not found.** hereafter).
- In light of the comments received as well as of the input of the Conference *Immigration Detention of Children: Coming to a Close?* (Prague, 25-26 September 2017), the CDDH-MIG will finalise the text during its 3rd meeting (24-26 October 2017) and will transmit it to the CDDH for adoption in December 2017.

57. The CDDH thanked the Rapporteur for this presentation and welcomed the progress of the ongoing work.

4.5 International Conference *Immigration Detention of Children: Coming to a Close?* (Prague 25- 26 September 2017)

58. The CDDH welcomed the initiative of the Czech Chairmanship of the Committee of Ministers to organise the International Conference *Immigration Detention of Children: Coming to a Close?* in Prague on 25- 26 September 2017 (see paragraph 56 above). Information in this regard, as well as the draft programme had been sent to all the participants to the CDDH by the Secretariat beginning of June 2017 (e-mail of Corinne Gavrilovic of Friday 2 June 2017, 17:14).

59. The CDDH noted that this event relates directly to the work of the CDDH-MIG, which will constitute the main activity of the Council of Europe in 2017 with regard to detention of migrants and that its results will play an important place in the Council of Europe Action Plan on Protecting Refugee and Migrant Children in Europe. For these reasons, the CDDH reiterated the need to give all the necessary visibility to this conference in the capitals and invited the participants to communicate to the organisers (vkundrak@msp.justice.cz) the names and addresses of national experts which should be invited to this event.

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Extract of the report of the 88th CDDH meeting

(5-7 December 2017, document CDDH(2017)R87)

4.3 Human rights and migration (CDDH-MIG)

19. The Chair of the Drafting Group on Migration and Human Rights (CDDH-MIG), Mr Morten RUUD (Norway), informed the CDDH that the Group, at its 3rd meeting (24-26 October 2017, CDDH-MIG(2017)R3) finalised its revised draft Analysis of the legal and practical aspects of effective alternatives to detention in the context of migration (CDDH-MIG(2017)02Rev), and exchanged views on its work in 2018-2019.

¹ The Rapporteur points also that the Chair of the CDDH-MIV and himself had met with the Secretariat in May 2017 to provide guidance to the latter on the ongoing work.

20. The CDDH commended the Group for the quality of the work accomplished. Following a general exchange of views, it examined the introductory executive summary and the different sections of the Analysis, and proceeded to its adoption as it appears in the document CDDH(2017)R88addII, in view of its submission to the Committee of Ministers for information. Furthermore, the CDDH decided that the report of the International Conference “*Immigration Detention of Children: Coming to a Close?*” (Prague, 25-26 September 2017) should be appended to the Analysis.

21. Finally, and bearing in mind in particular the outcome of the Prague Conference, it agreed with the suggestions for future work which appear in paragraphs 275² and 276³ of the Analysis.

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² The Council of Europe could bring its expertise and in particular its human rights perspective in the field to provide guidance as to how alternatives could be effectively framed. Member States could be supported in developing and implementing a wider range of alternative to detention models building upon the essential elements of effectiveness and engagement-based approaches. This could contribute to the on-going efforts undertaken by its member States and simultaneously complement the work currently carried out by other European and international stakeholders in the field.

³ As a concrete suggestion for future work, and in light of the mandate of the CDDH for the next biennium, a step-by-step strategy for the near future might be most apt for success. In the first instance, the added value provided could take the form of a practical and user-friendly handbook for authorities on effectively implementing alternatives to immigration detention. Crucially, such a handbook should not only address legal aspects but draw upon the essential elements of effectiveness and good practice to provide guidance on the successful implementation of alternatives and lessons learnt. Alongside such work, the Council of Europe could, inter alia, explore possibilities of pursuing specific cooperation projects in the field with interested member States on a voluntary basis. A conceivable second step in the follow-up process to the current work might, for example, be a consideration of guidelines on effective alternatives to immigration detention, possibly focusing on children in particular. Exchange of information on the impact of measures taken could be an integral part of the ensuing work. For any future follow-up to be as useful as possible, it should illustrate the relevant human rights standards and the essential elements of effective alternatives to immigration detention in a user-friendly, accessible and practical manner.