



CDDH-MIG(2018)01Rev

24/09/2018

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 88th CDDH meeting

(5-7 December 2017, document CDDH(2017)R88)

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.

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 275¹ and 276² of the Analysis.

¹ 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.

² 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.

Extract of the report of the 89th CDDH meeting

(19–22 June 2018, document CDDH(2018)R89)

5.3 HUMAN RIGHTS AND MIGRATION (CDDH-MIG)

28. The CDDH took note with satisfaction of the information provided to promote the dissemination in the member States of the analysis adopted by the CDDH on the "legal and practical aspects of effective alternatives to detention in the context of migration".

29. The Chairperson of the Drafting Group on Human Rights and Migration (CDDH-MIG), Mr Morten RUUD (Norway) then presented the work accomplished during the 4th meeting of the Group on 21–23 March 2018. He pointed out that, at that meeting the Group had in particular examined the preliminary structure of the Handbook on effective alternatives to detention of migrants and asylum seekers.

30. The CDDH welcomed the progress accomplished. In view of the complexity and sensitive character of the issues addressed by this Drafting Group, it considered that the future work of the Group should be limited to a better implementation of the existing basic standards in this area without trying to establish new rules. To this end, the Handbook on effective alternatives to detention of migrants and asylum seekers, to be drafted by the CDDH-MIG at its meeting in October 2018, should focus on the didactic and practical aspects. Furthermore, the CDDH took note of the CDDH-MIG's intention to discuss with external experts at its 5th meeting (23–25 October 2018).

31. Finally, the CDDH exchanged views on the possible work regarding the protection of refugee and migrant children in Europe, which had been mentioned by the Director General of the DGI in his opening speech. To this end, the CDDH considered the concise information on the matter distributed during the meeting (see [Appendix IV](#) below). At this stage, the CDDH noted that work in this area could probably begin at the end of 2019 with a view to the possible drafting of such an instrument during the 2020-2021 biennium. The CDDH-MIG was invited to hold an exchange of views on this issue during its 5th meeting (23–25 October 2018).

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.

Appendix IV
Brief points on Council of Europe
Action Plan on protecting refugee and migrant children in Europe (2017-2019)

for the 89th meeting of CDDH, 19 June 2018

For information of the CDDH

- CoE Action Plan on refugee and migrant children adopted in May 2017 by the Committee of Ministers. Its implementation is advancing according to the expectations, despite the heavy agenda of all 17 entities, monitoring and inter-governmental bodies involved;
- CDDH has had a pivotal role in successfully implementing already several important actions under this Action Plan. One was holding the Conference in October 2017 in Prague on promoting alternatives to children's immigration detention; another was completing in December 2017 a seminal Analysis of the legal and practical aspects of effective alternatives to detention in the context of migration. Its current follow-up work on this Analysis is expected to further consolidate what was done so far and to make the application of alternatives a reality in Council of Europe member states.
- The Action Plan provides for another important action, which is meant to protect the rights of refugee and migrant children. It proposes for 2018-2019 the preparation of guidelines on reception conditions of refugee and migrant children.
- There are some existing useful tools/guidance and there have been some specific initiatives lately, but there is still a need for more guidance in this area – particularly for children in families and addressing the special needs of migrant/refugee children.
- The available documents [see background info below], as useful as they may be, do not cover all Council of Europe member states, which are particularly affected by mass movements of refugees and migrants. For this reason, there is a need to draft guidelines for Council of Europe.
- The text of the Action Plan refers to a draft Recommendation to be submitted to the Committee of Ministers on this subject.

“Proposed further action for 2018-2019

A draft Recommendation to be submitted to the Committee of Ministers on appropriate standards for the reception and accommodation of refugee and migrant children (in open structures, i.e. in a non-custodial environment)”.

- Encourage the CDDH to put this subject on their agenda for 2019.

Background information

- Existing guidance:
 - EASO is currently working on its third practical tool, to follow and complement its [Guidance on reception conditions](#) (operational standards and indicators) with a focus on unaccompanied children. The purpose of this guidance, which is expected to be published in autumn 2018, is to support Member States in the implementation of key

provisions of the Reception Conditions Directive, ensuring an adequate standard of living for unaccompanied children and taking into account their special reception needs.

- Child rights advocates usually use existing standards concerning children in alternative care such as: the UN Alternative Care Guidelines, Quality 4 Children Standards, and existing national standards – as any measures for reception/accommodation/care should be equitable.
- EASO and partners have also worked on standards in specific contexts – such as in hotspots in Greece and Italy.
- Some national UNICEF and UNHCR offices (such as UNICEF Germany and UNHCR Austria) have also worked on standards and monitoring guidelines for reception conditions based on UN standards and good practice.