



Strasbourg, 19 March 2012

GT-GDR-A(2012)R1

STEERING COMMITTEE FOR HUMAN RIGHTS
(CDDH)

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

1st Meeting

Strasbourg

Tuesday 14 March – Friday 16 March 2012

Agora, Meeting Room G04

MEETING REPORT

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

1. Drafting Group A on the reform of the Court (GT-GDR-A) held its 1st meeting in Strasbourg from 14-16 March 2012. The list of participants appears at Appendix I. The agenda, as adopted, appears at Appendix II. The Group elected Ms Brigitte OHMS (Austria) as Chairperson and Ms Isık BATMAZ (Turkey) as Vice-chairperson.

Item 2: Terms of reference

2. The Group held an exchange of views on its terms of reference.¹ It noted in particular the context of its work, namely the process of reform of the Court and Convention system initiated at the Interlaken Conference of February 2010, including the entry into force of Protocol No. 14 to the Convention in June 2010 and the Izmir Conference of April 2011. Its task related to two key elements of this process, namely national implementation of the Convention and the effects of Protocol No. 14. It took note also of ongoing developments concerning preparation of the draft Declaration to be adopted at the High-level Conference on the future of the Court organised by the UK Chairmanship of the Committee of Ministers in Brighton on 18-20 April 2012. Finally, it noted that its work may be relevant to the future activities of Drafting Group B on the reform of the Court (GT-GDR-B), which would undertake follow-up to relevant decisions taken at the Ministerial Session on 23rd May 2012.

Item 3: Evaluation of the effects of Protocol No. 14

3. The Group examined in detail the working document prepared by the Secretariat.² It also took note of information provided orally by the Secretariat and Mr John DARCY of the Court's Registry, in particular the following points:

- The *Cour des Comptes* was currently in the process of preparing an audit report on the Court for the Secretary General, which would address in detail the Court's implementation of Protocol No. 14 and its effects. This report would not be published until the summer. There would also be a follow-up report later in the year.
- The Court was still in the process of giving full effect to certain provisions of Protocol No. 14, including the competence of three-judge committees to decide cases on the legal issues in which there was already well-established case-law, and the admissibility criteria requiring applicants to have suffered a significant disadvantage, which would not be applied by Single Judges until June 2012.

4. Against this background, the Group concluded that it could at present only conduct a provisional analysis of the overall effects of Protocol No. 14. It nevertheless welcomed certain positive results achieved by the Court, notably in relation to implementation of the Single Judge procedure and the consequent reduction in the number of cases pending before a Single Judge formation and, largely as a result, the reduction in that of those before the Court as a whole. It also expressed its interest in the Court's intentions concerning an increase in the number of single judges, treatment of repetitive cases and wider use of the Committee procedure in cases involving well-established case-law. It decided to postpone further examination of the issue until its next meeting and instructed the Secretariat to update the working document in accordance with developments in the meantime. It also instructed the Secretariat to prepare a preliminary analysis of the implementation of relevant elements of the

¹ See document CDDH(2011)R73 Appendix VIII.

² See in particular document GT-GDR-A(2012)001; also, document GT-GDR-A(2012)002.

Interlaken and Izmir Declarations, as required by its terms of reference, taking into account notably the “Road-map for implementation of the Interlaken Declaration Action Plan and the Izmir Follow-up Plan” presented by the Secretary General to the Committee of Ministers.³

Item 4: National reports on measures taken to implement relevant parts of the Interlaken and Izmir Declarations

5. The Group held an exchange of views on the results to be expected from its work and on possible working methods, in the light of its terms of reference. It considered that the draft report’s analysis of member States’ reports could, if appropriate, be informed by relevant material from sources such as the Court, the Committee of Ministers’ activities supervising execution of Court judgments and those of the Execution Department, and other Council of Europe services. Without entering into a monitoring exercise, the analysis should examine both areas in which States had encountered and continued to encounter problems and selected good practices developed by States, including to address such problems. The draft report should also contain recommendations both directly to member States, on possible measures to enhance national implementation, and to the Committee of Ministers, including on possible measures concerning Council of Europe assistance activities. It should take a holistic approach and avoid treating individual elements of the Interlaken and Izmir Declarations in strict isolation, instead exploring inter-connections and common themes where relevant.

6. On the basis of the compilations of replies and the overview of replies prepared by the Secretariat,⁴ the Group examined, question by question, the information obtained. Given the wealth of information on certain points and, with respect to those points, the particular problems raised, as well as their manifest importance in the context of national implementation of the Convention and thereby to the effectiveness of the Convention system, the Group considered that certain questions merited particular attention. To this end, therefore, the Group appointed Rapporteurs to work, with the support of the Secretariat, on further elaboration of the sections of the draft report dealing with these issues, as follows:

- increasing the awareness of national authorities of Convention standards and ensuring their application (Interlaken Declaration Action Plan element 1)⁵: Ms Irina CAMBREA (Romania);
- the execution of Court judgments, including pilot judgments (Interlaken Declaration Action Plan elements 2 and 9 respectively)⁶: Ms Isık BATMAZ (Turkey);
- taking into account the Court’s developing case-law, including judgments against other States (Interlaken Declaration Action Plan element 3)⁷: Ms Brigitte OHMS (Austria);
- ensuring the availability of effective domestic remedies (Interlaken Declaration Action Plan element 4): Mr Jakub WOLASIEWICZ (Poland)⁸.

7. The Group examined these issues in further detail and gave substantive guidance to the Rapporteurs, who were asked to present their work to the Group in good time before its next meeting. It also instructed the Secretariat to develop further the remaining parts of the

³ See document CM(2010)31 rev4 of 22 December 2011.

⁴ See documents GT-GDR-A(2012)003 REV - 016 REV (as well as document GT-GDR-A(2012)017), and document GT-GDR-A(2012)018, respectively.

⁵ See document GT-GDR-A(2012)005 REV.

⁶ See documents GT-GDR-A(2012)006 REV & 013 REV, respectively

⁷ See document GT-GDR-A(2012)007 REV.

⁸ See document GT-GDR-A(2012)008 REV.

report, including an introductory section dealing with working methods, and to seek to ensure consistency of structure and presentation across the draft report as a whole.

Item 5: Organisation of future work

8. The Group recalled that its next meeting was scheduled to take place on 30 May-1 June 2012. It noted that the Brighton Conference would have taken place in the meantime, on 18-20 April 2012, and that, with respect to its work on evaluation of the effects of Protocol No. 14, the report of the *Cour des Comptes* would not yet have been published by 30 May. It also recalled that the Committee of experts on the reform of the Court (DH-GDR), to which it would report, was not scheduled to meet until 29-31 October 2012. The Group therefore decided to ask the DH-GDR that its next meeting be postponed until 5-7 September 2012. The Group felt that this would allow it more effectively to fulfil its mandate, without any adverse consequences on the schedule of activities of the DH-GDR or CDDH.

Appendix I**List of participants / Liste des participants****MEMBERS / MEMBRES****ANDORRA / ANDORRE**

Mr Joan FORNER ROVIRA, Senior Legal Adviser, Government Agent before the European Court of Human Rights, Expert member of the Steering Committee for Human Rights (CDDH), Department of General and Legal Affairs, Ministry of Foreign Affairs, Government of Andorra, c/ Prat de la Creu, 62-64 AD 500 Andorra la Vella

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FINLAND / FINLANDE

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GEORGIA / GEORGIE

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POLAND / POLOGNE

Mr Jakub WOLASIEWICZ, Government Agent, Ministry of Foreign Affairs, Aleja Szucha 23, Warsaw 00580

ROMANIA / ROUMANIE

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SWITZERLAND / SUISSE

Mr Adrian SCHIEDEGGER Agent suppléant du Gouvernement suisse devant la Cour européenne des droits de l'homme et le CAT, Département fédéral de justice et police DFJP, Office fédéral de la justice OFJ, Représentation de la Suisse devant la Cour européenne des droits de l'homme et le CAT, Bundesrain 20, 3003 Berne

TURKEY / TURQUIE

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UNITED KINGDOM / ROYAUME-UNI

Mr Martin KUZMICKI, Assistant Legal Adviser, Foreign and Commonwealth Office, King Charles Street, London SW1A 2AH

UKRAINE / UKRAINE

Mr Yevgen PERELYGIN, Director, Bureau for European Integration, Secretariat of the Cabinet of Ministers of Ukraine, Ministry of Foreign Affairs, 1 Mykhaylivska square, Kiev

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OBSERVERS / OBSERVATEURS**Mexico / Mexique**

Mr Alejandro MARTINEZ PERALTA, Adjoint à l'Observateur Permanent, Représentation du Mexique auprès du Conseil de l'Europe, 8, boulevard du Président Edwards, 67000 Strasbourg,

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

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

Mr Fredrik SUNDBERG, Deputy to the Head of Department

* * *

SECRETARIAT

***DG I – Human Rights and Rule of Law / Droits de l'homme et État de droit
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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 Division / Chef de Division, Human Rights Intergovernmental Cooperation Division / Division de la coopération intergouvernementale en matière de droits de l'Homme, Secretary of the CDDH / Secrétaire du CDDH

Mr David MILNER, Administrator / Administrateur, Human Rights Intergovernmental Cooperation Division / Division de la coopération intergouvernementale en matière de droits de l'Homme, Secretary of the GT-GDR-A / Secrétaire du GT-GDR-A

Mme Virginie FLORES, Lawyer / Juriste, Human Rights Intergovernmental Cooperation Division / Division de la coopération intergouvernementale en matière de droits de l'Homme

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

Mme Szilvia SIMOND, Assistant / Assistante, Human Rights Intergovernmental Cooperation Division / Division de la coopération intergouvernementale en matière de droits de l'Homme

INTERPRETERS/INTERPRÈTES

Ms Corinne McGEORGE

Mr Christopher TYCZKA

Ms Isabelle MARCHINI

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

- Draft annotated agenda GT-GDR-A(2012)OJ001
- Report of the 73rd meeting of the CDDH (6-9 December 2011) CDDH(2011)R73
- Report of the 74th meeting of the CDDH (7-10 February 2012) CDDH(2012)R74
+ Addenda I & II
- Report of the 1st meeting of the DH-GDR (17-20 January 2012) DH-GDR(2012)R1
- Ministers' Deputies' Decisions on Follow-up to the 121st Session of the Committee of Ministers (Istanbul, 10-11 May 2011) CM/Del/Dec(2011)1114/1.5
- Interlaken Declaration CDDH(2010)001
- Izmir Declaration CDDH(2011)010
- "Preparatory contributions" for the Interlaken Conference H/Inf (2010) 3
- "Background documents" for the Interlaken Conference H/Inf (2010) 2

Information document

- Committee of Ministers' Resolution CM/Res(2011)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods CDDH(2011)012

Item 2: Terms of referenceBackground document

- Report of the 73rd meeting of the CDDH, including the terms of reference of the CDDH and bodies subordinate to it for the biennium 2012-2013 CDDH(2011)R73 & Appendix VIII

Item 3: Evaluation of the effects of Protocol No. 14Working document

- Summary of available information on implementation of relevant elements of Protocol No. 14 ECHR (prepared by the Secretariat) GT-GDR-A(2012)001

Background documents

- Protocol No. 14 to the European Convention on Human Rights CETS No. 194
- CDDH Report on increasing the Court's capacity to process applications CDDH(2012)R74
Addendum I Appendix IV
Section 1

- Analysis of statistics 2011 (published by the Court)
- Preliminary Opinion of the Court in preparation for the Brighton Conference #3841140 v.2
- Information on cases pending before the ECtHR (Note prepared by the Registry) DH-GDR(2012)005
- Additional information on pending cases (prepared by the Registry) DH-GDR(2012)005 Addendum
- Information given by the Registry to the DH-GDR on the implementation and effects of Protocol No. 14 GT-GDR-A(2012)002
- Interventions of the President and the Registrar of the Court to the Committee of Ministers' Liaison Committee with the Court (CL-CEDH) (in original language only) DD(2010)474
- Discours du Président de la Cour devant le CL-CEDH (in French only) DD(2011)885
- Speech of the Registrar of the Court to the CL-CEDH DD(2011)886

Item 4: National reports on measures taken to implement relevant parts of the Interlaken and Izmir Declarations

Background documents

- Compilation of responses to Question I of the questionnaire on implementation of the Interlaken and Izmir Declarations GT-GDR-A(2012)003 rev.
- Compilation of responses to Question II of the questionnaire on implementation of the Interlaken and Izmir Declarations GT-GDR-A(2012)004 rev.
- Compilation of responses to Question III, Action Plan element 1 of the questionnaire on implementation of the Interlaken and Izmir Declarations GT-GDR-A(2012)005 rev.
- Compilation of responses to Question III, Action Plan element 2 of the questionnaire on implementation of the Interlaken and Izmir Declarations GT-GDR-A(2012)006 rev.
- Compilation of responses to Question III, Action Plan element 3 of the questionnaire on implementation of the Interlaken and Izmir Declarations GT-GDR-A(2012)007 rev.
- Compilation of responses to Question III, Action Plan element 4 of the questionnaire on implementation of the Interlaken and Izmir Declarations GT-GDR-A(2012)008 rev.
- Compilation of responses to Question III, Action Plan element 5 of the questionnaire on implementation of the Interlaken and Izmir Declarations GT-GDR-A(2012)009 rev.
- Compilation of responses to Question III, Action Plan element 6 of the questionnaire on implementation of the Interlaken and Izmir Declarations GT-GDR-A(2012)010 rev.
- Compilation of responses to Question III, Action Plan element 7 of the questionnaire on implementation of the Interlaken and Izmir Declarations GT-GDR-A(2012)011 rev.
- Compilation of responses to Question III, Action Plan element 8 of the questionnaire on implementation of the Interlaken and Izmir Declarations GT-GDR-A(2012)012 rev.
- Compilation of responses to Question III, Action Plan element 9 of the questionnaire on implementation of the Interlaken and Izmir Declarations GT-GDR-A(2012)013 rev.

- Compilation of responses to Question III, Action Plan element 10 of the questionnaire on implementation of the Interlaken and Izmir Declarations GT-GDR-A(2012)014 rev.
- Compilation of responses to Question IV of the questionnaire on implementation of the Interlaken and Izmir Declarations GT-GDR-A(2012)015 rev.
- Compilation of responses to Question V of the questionnaire on implementation of the Interlaken and Izmir Declarations GT-GDR-A(2012)016 rev.
- National Report of Turkey on the implementation of the Interlaken Declaration GT-GDR-A(2012)017
- Overview of replies given by member States in their national reports on the implementation of the Interlaken and Izmir Declarations (prepared by the Secretariat) GT-GDR-A(2012)018

Item 5: Organisation of future work

Item 6: Other business