



Strasbourg, 17 May 2013

GT-GDR-D(2013)R2

STEERING COMMITTEE FOR HUMAN RIGHTS
(CDDH)

COMMITTEE OF EXPERTS ON THE REFORM OF THE COURT
(DH-GDR)

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

2nd Meeting
Strasbourg
Wednesday 15 May – Friday 17 May 2013
Agora, Meeting Room G04

MEETING REPORT

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

1. Drafting Group D on the reform of the Court (GT-GDR-D) held its 2nd meeting in Strasbourg from 15-17 May 2013 with Ms Inga REINE (Latvia) in the chair. The list of participants appears at Appendix I. The agenda, as adopted, appears at Appendix II. The Group then heard a welcoming address from Mr Jörg POLACKIEWICZ, Head of the Human Rights Inter-governmental Co-operation Division.

Item 2: Toolkit to inform public officials about the State's obligations under the Convention

2. Mr Martin EATON, expert-consultant, presented his revised draft toolkit to inform public officials about the State's obligations under the Convention. The Group welcomed and examined the draft. Concerning the second part, namely the Checklist for public officials, the Group considered that it would be very difficult to establish an exhaustive list of situations with which public officials may be confronted and points that they should verify. It should not, therefore, refer to too precise situations. It also considered that the questions should aim at recalling Convention obligations and not the requirements of each national legal system. Each member State could complete the checklist so as to adapt it to its own system. Concerning in particular treatment of prisoners, the Group agreed to establish a list of questions common to treatment of any person deprived of their liberty, followed by lists of questions specifically relevant to the treatment of criminal detainees, migrants and psychiatric patients.

3. The Group asked Mr Eaton to prepare a revised version of the Toolkit including the further changes proposed by the Group, with a view to its presentation to the DH-GDR at its next meeting (5-7 June 2013). The Group thanked Mr Eaton warmly for his contribution to its work.

Item 3: Guide to good practice in respect of domestic remedies

4. The Group examined and adopted the draft Guide to good practice in respect of domestic remedies as it appears at Addendum II, with a view to its transmission to the DH-GDR for examination at its next meeting (5-7 June 2013). The Group agreed that only examples of good practice that had been validated as such by the Court should appear in the guide. It recalled that at its 3rd meeting, the DH-GDR had decided that the Guide would not address in any detail the issue of effective remedies for excessive length of proceedings, noting that Committee of Ministers' Recommendation Rec(2010)3 on the matter and its accompanying Guide to good practice could be updated in future: the examples of good practice concerning this issue submitted by experts as part of the present exercise could form a useful basis for any future such work.

5. The Group recalled that its terms of reference also covered paragraph 9.c)iv) of the Brighton Declaration, concerning the taking into account by national courts and tribunals of relevant principles of the Convention, having regard to the Court's case-law. It had a preliminary exchange of views on the proposal presented by the United Kingdom expert for a section of the Guide dealing with this issue. Experts' views were divided on whether this aspect of the terms of reference required separate action to be taken, i.e. whether the proposal should be included in the text of the Guide or whether it should become a separate document. The Group regretted that, for lack of time, it was unable to give full consideration to the

proposal and therefore asked the United Kingdom expert to prepare a revised version on the basis of comments received from members of the Group. The Group further decided to propose to the DH-GDR that the latter invite its members to send, in good time before its next meeting, any written comments on the revised proposal. On the basis of these elements, it would fall thereafter to the DH-GDR to decide how to proceed.

Item 4: Ways to resolve the large numbers of applications arising from systemic issues identified by the Court

6. Ms Geanina MUNTEANU (Romania), rapporteur, presented the draft report on ways to resolve the large numbers of applications arising from systemic issues identified by the Court. The Group examined and adopted the CDDH draft report as it appears at Addendum I, with a view to its transmission to the DH-GDR for examination at its next meeting (5-7 June 2013). The Group thanked Ms Munteanu for her contribution to its work.

7. The Group wished to record that the suggestion that the Court suspend its treatment of new applications for a certain period following the adoption of a judgment containing general measures for addressing a systemic issue, made during the first meeting, was not retained in the draft report as it considered that this was in effect already the Court's practice. A suggestion that the deadline for submission to the Committee of Ministers of action plans for the execution of judgments relating to systemic issues might be reduced was rejected: such action plans were precisely those that needed the most time for preparation, as they required important policy decisions; and in any case, the period was already short and any reduction could make little difference.

8. The Group regretted that it had not had the benefit of information from those States directly concerned on their experiences and appreciation of the procedural approaches mentioned in Section V of the report, concerning the Court's envisaged 'default judgment procedure'. It encouraged these States to provide such information, preferably in written form, to the next DH-GDR meeting, when the report would be further examined. In particular, the Group considered that paragraph 27 of the draft report, which encapsulates its initial responses to these practices, would require further attention, especially in the light of any information received from the States directly concerned.

9. The Group also saw interest in the DH-GDR hearing more from other States confronted by systemic issues, including in relation to their dealings with the Court and their experience of targeted technical assistance programmes. It encouraged such States to provide information, preferably in written form, to the next DH-GDR meeting, when the report would be further examined.

10. Finally, the Group considered that there would be a need for the DH-GDR to consider taking position on the proposal for a 'special secondment procedure' (Section VI of the draft report), if possible.

Item 5: Adoption of the conclusions and meeting report

11. The Group considered that, subject to the concerns mentioned above, it had fulfilled its terms of reference in the light of the guidance given by the DH-GDR. It expressed its appreciation for the constructive approach shown by members throughout its work and its thanks to the Chairperson for the way in which she had conducted its meetings.

Appendix I**List of participants****MEMBERS / MEMBRES****FINLAND / FINLANDE**

Ms Katja FOKIN, Legal Officer, Ministry of Foreign Affairs, Unit for Human Rights Courts and Conventions

FRANCE

Mme Emmanuelle TOPIN, Conseiller, Direction des affaires juridiques, Sous-direction des droits de l'Homme, Ministère des affaires étrangères

GREECE / GRECE

Ms Zacharoula CHATZIPAVLOU, Membre du Conseil Juridique de l'Etat

Ms Ourania PATSOPOULOU, Senior Adviser, Deputy to the Permanent Representative, Permanent Representation of Greece to the Council of Europe

ITALY / ITALIE

Ms Maria Teresa LEACCHE, Magistrate, Ministry of justice

LATVIA / LETTONIE (Chair)

Ms Inga REINE, Legal Adviser, Permanent Representation of the Republic of Latvia to the European Union

THE NETHERLANDS / PAYS-BAS

Ms Clarinda COERT, Ministry of Security and Justice

NORWAY / NORVEGE

Ms Helle Aase FALKENBERG, Legal adviser, Ministry of Justice

POLAND / POLOGNE

Ms Agnieszka KOZINSKA, Head of Division for Civil and Administrative Proceedings, Department for the Proceedings before International Human Rights Protection Bodies, Ministry of Foreign Affairs of Poland

PORTUGAL

Ms Ana GARCIA MARQUES, lawyer within the Office of the Government Agent before The European Court of Human Rights

REPUBLIC OF MOLDOVA / REPUBLIQUE DE MOLDOVA

Ms Iulia GHEORGHIÈȘ, Chef de la Direction Générale de l'Agent du Gouvernement, Ministère de la Justice

ROMANIA / ROUMANIE

Ms Geanina MUNTEANU, Ministry of Foreign Affairs

SWEDEN / SUEDE

Ms Hanna KRISTIANSSON, Legal Adviser, Department for International Law, Human Rights and Treaty Law, Ministry for Foreign Affairs

SWITZERLAND / SUISSE

Mr Adrian SCHEIDEGGER, 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

TURKEY / TURQUIE

Mme Işık BATMAZ, Legal Expert, Représentation permanente de la Turquie auprès du Conseil de l'Europe

Ms Gönül ERÖNEN, Adjointe au Représentant permanent de la Turquie auprès du Conseil de l'Europe

Mr Bayram TURGUT, Legal Counsellor of the Permanent Representation of Turkey

UNITED KINGDOM / ROYAUME-UNI

Mr Derek WALTON, Chairperson of the CDDH / Président du CDDH, Legal Counsellor, Foreign and Commonwealth Office

Mr Rob LINHAM, Head of Council of Europe Human Rights Policy, Ministry of Justice

OTHER PARTICIPANTS / AUTRES PARTICIPANTS

Mr Martin EATON, Consultant, United Kingdom

OBSERVERS / OBSERVATEURS**HOLY SEE/ SAINT SIÈGE**

Mme Andreea POPESCU

MEXICO/ MEXIQUE

M. Diego SANDOVAL, Attaché, Mission permanente du Mexique auprès du Conseil de l'Europe

EUROPEAN UNION / UNION EUROPEENNE

Mr Giovanni Carlo BRUNO, Deputy to the Head of Delegation of European Union to the Council of Europe

Ms Amandine VAN DEN EEDE, European Union Delegation to the Council of Europe

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

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**

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 the Human Rights Intergovernmental Cooperation Division / Chef de la Division de la coopération intergouvernementale en matière de droits de l'Homme, Secretary of the CDDH / Secrétaire du CDDH

Mr David MILNER, Head of the Unit on the reform of the Court / Chef de l'Unité pour la réforme de la Cour, Human Rights Intergovernmental Cooperation Division / Division de la coopération intergouvernementale en matière de droits de l'Homme, Secretary of the DH-GDR / Secrétaire du DH-GDR

Mme Virginie FLORES, Administrator / Administrateur, Human Rights Intergovernmental Cooperation Division / Division de la coopération intergouvernementale en matière de droits de l'Homme, Secretary of the GT-GDR-D / Secrétaire du GT-GDR-D

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

INTERPRETERS/INTERPRÈTES

Sally BAILEY-RAVET
Christopher TYCZKA (Chef d'équipe)
Isabelle MARCHINI
Luke TILDEN
Grégoire DEVICTOR

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

- Draft annotated agenda GT-GDR-D(2013)OJ002
- Report of the 1st meeting of the GT-GDR-D (10-12 April 2013) GT-GDR-D(2013)R1
- Report of the 77th meeting of the CDDH (19-22 March 2012) CDDH(2013)R77
- Report of the 75th meeting of the CDDH (19-22 June 2012) CDDH(2012)R75
- Report of the 3rd meeting of the DH-GDR (13-15 February 2013) DH-GDR(2013)R3
- Report of the 2nd meeting of the DH-GDR (29-31 October 2012) DH-GDR(2012)R2
- Brighton Declaration CDDH(2012)007
- Follow-up to the high level Conference on the future of the European Court of Human Rights (Brighton, 18-20 April 2012) CDDH(2012)009REV.

Item 2: Toolkit to inform public officials about the State's obligations under the ConventionWorking document

- Draft toolkit to inform public officials about the State's obligations under the Convention (revised by Mr Martin Eaton, expert consultant) GT-GDR-D(2013)001 Rev.

Reference document

- Report of the 1st meeting of the GT-GDR-D (10-12 April 2013) GT-GDR-D(2013)R1

Item 3: Guide to good practice in respect of domestic remediesWorking document

- Draft Guide to Good Practice in respect of domestic remedies (revised by the Secretariat) GT-GDR-D(2013)002 REV. 2

Reference documents

- Report of the 1st meeting of the GT-GDR-D (10-12 April 2013) GT-GDR-D(2013)R1
- Draft Guide to Good Practice in respect of domestic remedies (as revised by the GT-GDR-D at its 1st meeting) GT-GDR-D(2013)002 REV.
- Compilation of the replies received to the questionnaire on domestic remedies sent to the member States GT-GDR-D (2013)003Misc
- Proposal by the United Kingdom expert for the guide to good practice in respect of domestic remedies

- Report of the CDDH on measures taken by member States to implement relevant parts of the Interlaken and Izmir Declarations CDDH(2012)R76
Addendum I
- Compilation of replies to Question III, Action Plan 4 of the questionnaire as sent to member States, related to the introduction of new legal remedies GT-GDR-A(2012)008 REV
- Recommendation Rec(2004)6 of the Committee of Ministers to member States on the improvement of domestic remedies Rec(2004)6
- Recommendation CM/Rec(2010)3 of the Committee of Ministers to member States on effective remedies for excessive length of proceedings CM/Rec(2010)3
- Guide to good practice accompanying Recommendation CM/Rec (2010)3
- Review of the implementation of Rec(2004)6 CDDH(2008)008 Add. I

Item 4: Ways to resolve the large numbers of applications arising from systemic issues identified by the Court

Working document

- Draft CDDH report on ways to resolve the large numbers of applications arising from systemic issues identified by the Court GT-GDR-D(2013)006

Reference documents

- Report of the 1st meeting of the GT-GDR-D (10-12 April 2013) GT-GDR-D(2013)R1
- Conclusions and possible proposals for action on ways to resolve the large numbers of applications arising from systemic issues identified by the Court (reference document prepared par le Secretariat) DH-GDR(2013)003
- Report of the CDDH on advisability and modalities of a procedure on « representative applications » CDDH(2013)R77
Addendum IV
- Contribution of Poland GT-GDR-D(2013)004
- Notes on a default judgment procedure (Intervention of Mr Roderick Liddell, Registry of the Court, at the 1st GT-GDR-D meeting) GT-GDR-D(2013)005
- 6th Annual Report of the Committee of Ministers on the supervision of the execution of judgments and decisions of the Court

Item 5: Adoption of the conclusions and meeting report