

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

CDDH-EXP(2018)R3
15/05/2018

STEERING COMMITTEE FOR HUMAN RIGHTS
(CDDH)

**DRAFTING GROUP ON FREEDOM OF EXPRESSION
AND LINKS TO OTHER HUMAN RIGHTS
(CDDH-EXP)**

REPORT

3rd meeting
25-27 April 2018

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

1. The CDDH Drafting Group on freedom of expression and links to other human rights (CDDH-EXP) held its third meeting in Strasbourg from 25 to 27 April 2018. The list of participants is contained in Appendix I. The agenda as adopted appears in Appendix II.

2. The Chairperson Mr Hans-Jörg BEHRENS (Germany) welcomed everyone to the meeting and thanked them for the many (examples of) national practices which they had submitted. At present, 26 contributions had been submitted by member States and representatives of the civil society.

3. Mr. Alfonso DE SALAS, Head of the Human Rights Intergovernmental Cooperation Division, explained the current difficult budgetary situation of the Council of Europe which had serious repercussions on the organisation's

Item 2: Exchange of views with other relevant bodies of the Council of Europe

4. The following invitees:

- Ms Carlien SCHEELE, Senior Gender Equality Adviser and Ms Cécile GRÉBOVAL Gender Equality Unit,
- Ms Silvia GRUNDMANN, Head of the Division Media and Internet Governance and Mr Emir POVLAČIĆ, Steering Committee on Media and Information Society (CDMSI),
- Ms Simona GRANATA-MENGHINI, Deputy Secretary, European Commission for Democracy through Law (Venice Commission),

explained about their relevant work and submitted comments to the preliminary text of the draft Guide, also providing useful references to additional documents that could be consulted when finalising the draft text.

5. Mr Stefano VALENTI, External Relation Officer, Secretariat of the European Commission against Racism and Intolerance (ECRI), and Mr Menno ETTEMA, No Hate Speech and Cooperation Unit, had already provided substantial input at the previous meeting.

Item 3: Discussion on a Guide to good practices on the way of reconciling freedom of expression with other rights and freedoms, in particular in culturally diverse societies

6. Ms Merete BJERREGAARD, Secretary of the CDDH-EXP, first explained that the preliminary text to the draft Guide, which had been prepared under the supervision of the Chairperson, included as many as practicable of the examples of national practices which had been submitted (see Compilation, document CDDH-EXP (2018)02 dated 19 April 2018). The preliminary text of the draft Guide also took into account the relevant work undertaken by other sectors of the Council of Europe as well as by other international and regional organisations.

a) General discussion

7. The Group then held a general discussion on the preliminary text of the draft Guide to good practices. While noting that some of the national practices submitted had not yet been evaluated and thus could not yet be regarded as good practices, it was agreed in the title of the Guide to add "a nids i pnr go" m t o t h e . The criteria for the selection of national practices to be included in the draft Guide should be explained in the introduction

where it should also be noted that the practices could not be regarded as exhaustive and that any evaluation of their effectiveness was not within the scope of the Group.

8. In a number of areas, the examples provided by the member States reflected different approaches to emerging challenges, which other member States may wish to reflect upon. Their inclusion in the guide is intended to show the variety of approaches and to give an impression of the diversity of possible responses in different national contexts.

9. In the light of the contributions received the Group agreed to make a few minor structural changes to the Guide while nevertheless maintaining the general structure as already agreed upon and approved by the CDDH.

10. Furthermore, it agreed to add to the draft Guide a section with conclusions which would draw up some general trends and mention the existing challenges (such as the absence of agreed definitions at the European level and the lack of data and research in respect of “information disorder [fake news]” and “hate speech”).

11. Finally, the Group agreed that it was necessary to closely coordinate its work with the CDDH Drafting Group on Civil Society and National Human Rights Institutions (CDDH-INST).

b) Examination of the preliminary text

12. The Group had a first reading of the preliminary text of the draft Guide proceeding paragraph by paragraph. It proposed a number of changes both with regard to the content and the wording.

13. Under the supervision of the Chairperson, the Secretariat was asked to include the specific changes made at the meeting into a revised text of the draft Guide which would be sent to the participants. The participants would be given a week to check the revised text.

c) Next steps towards finalising the draft Guide

14. The Chairperson would report to the CDDH Bureau meeting on 17-18 May, and to the CDDH meeting on 19-22 June, on the outcome of the Group's draft draw attention to areas where additional good practices would be welcome. The Group would appreciate any guidance that the CDDH could provide with a view to finalising the draft text at its next meeting.

Item 4: Exchange of views on proposals for follow-up

15. The Group discussed the need for any follow-up work on freedom of expression and links to other human rights on the basis of the notes presented by the Secretariat. The Group noted that in this field much work had already been undertaken by other sectors of the Council of Europe, in particular the CDMSI, as well as by other international and regional organisations.

16. In particular, the Group noted the need expressed by PACE and ECRI for further clarifications regarding the definitions of hate speech and for strengthening cooperation between States in tackling transfrontier dissemination of hate speech, whether offline or online.

Appendix I

LIST OF PARTICIPANTS**AZERBAIJAN / AZERBAÏDJAN**

Mr Elshan BAYRAMOV, adviser, Human Rights Protection Unit, Department of Work with Law Enforcement Bodies, Administration of the President of the Republic

ESTONIA / ESTONIE

Ms Maris KUURBERG, Government Agent before the European Court of Human Rights, Legal Department, Ministry of Foreign Affairs

FRANCE

Mme Anne-Sophie SIRINELLI, Rédactrice, Sous-direction des droits de l'homme et des affaires juridiques, Ministère des affaires étrangères et du développement international

GERMANY / ALLEMAGNE (Chair)

Mr Hans-Jörg BEHRENS, Head of Unit IVC1, Human Rights Protection; Government Agent before the European Court of Human Rights, Bundesministerium der Justiz und für Verbraucherschutz

Dr. Martin ROSENBAUM, Bundesministerium der Justiz und für Verbraucherschutz

GREECE

Ms Myrto GERMANI, Conseillère juridique, Représentation permanente de la Grèce auprès du Conseil de l'Europe

HUNGARY / HONGRIE

Mr Zoltan TALLODI, Agent before ECHR, Ministry of Public Administration and Justice

REPUBLIC OF MOLDOVA / REPUBLIQUE DE MOLDOVA

Ms Doina MAIMESCU, Adviser in the Department of Analysis and Execution of the ECtHR Judgments, General Department Agent for the Government, Ministry of Justice

MONTENEGRO

Ms Valentin, Representative of Montenegro before the European Court of Human Rights

NORWAY / NORVEGE

Ms Maria EDVARSEN, Ministry of Justice

POLAND / POLOGNE

Ms Malgorzata KWIEDACZ, Ministry of Foreign Affairs

RUSSIAN FEDERATION / FEDERATION DE RUSSIE

Dr. Grigory E. LUKIYANTSEV, Deputy Director, Department for Humanitarian Cooperation and Human Rights, Ministry of Foreign Affairs

SWITZERLAND / SUISSE

Mme Dominique STEIGER LEUBA, Collaboratrice scientifique, Département fédéral de justice et police DFJP, Office fédéral de la justice OFJ, Domaine de direction Droit public, Unité Protection internationale des droits de l'homme

“ THE FORMER YUGOSLAV REPUBLIC OF -REPUBLIQUE DE MACÉDOINE ”

Ms Elena BODEVA, Office of the Minister, Ministry of Foreign Affairs

TURKEY / TURQUIE

Ms Burcu TASYAPAN, Department of Human Rights, Ministry of Justice

Mme Aysen EMÜLER, Expert juridique, Représentation permanente de la Turquie auprès du Conseil de l'Europe

UNITED KINGDOM / ROYAUME UNI

Mr Stephen LOWE, Team Leader Democracy & Equality, Human Rights & Democracy Department, Foreign & Commonwealth Office

OBSERVERS/OBSERVATEURS

HOLLY SEE / SAINT SIEGE

M. Jean-Pierre SCHOUPPE, Professeur à la faculté de droit canonique de l'Université Pontificale de la Sainte Croix, Rome

Conference of INGOs of the Council of Europe / Conférence des OING du Conseil de l'Europe

M. Jean-Bernard MARIE

M. Didier SCHRETTTER, Vice-président de la Commission éducation et culture

Conference of european Churches (CEC) / Conférence des églises européennes (KEK)

Rev. Sören LENZ, Executive Secretary

Comité directeur sur les médias et la société de Media and Information Society - (CDMSI)

Mr Emir P. Head of Division for Licensing, Digitalization and Coordination in Broadcasting, Communications Regulatory Agency

RAPPORTEUR

Mrs Kristine LICE, Government Agent, Representative of the Government of Latvia before International Human Rights Organizations, Ministry of Foreign Affairs

INVITEES / INVITES

Ms Carlien SCHEELE, Senior Gender Equality Adviser, Directorate General of Democracy
Conseillère principale en égalité de genre, Direction générale de la Démocratie

Ms Silvia GRUNDMANN, Head of Division, Division Media and Internet Governance / Chef de Division, Division Médias et gouvernance de l'internet

Ms Simona GRANATA-MENGHINI, Deputy Secretary / Secrétaire adjointe, European Commission for Democracy through law (Venice Commission) / Commission européenne pour la démocratie par le droit (Commission de Venise)

Mr Stefano VALENTI, External Relation Officer, Secretariat of the European Commission against Racism and Intolerance / Agent chargé des relations extérieures, Secrétariat de la Commission européenne contre le racisme et l'intolérance (ECRI)

SECRETARIAT

DGI – Human Rights and Rule of Law / Droits de l'Homme Council of Europe / Conseil de l'Europe

Mr Alfonso DE SALAS, Secretary to the CDDH / Secrétaire du CDDH, Head of Division /
Chef de Division, Human Rights Intergovernmental Cooperation Division / Division de la
coopération intergouvernementale en matière de droits de l'homme

Ms Merete BJERREGAARD, Head of the Human Rights Development Unit / Chef de l'Unité
"Développement des droits de l'homme", Human Rights Intergovernmental Cooperation
Division / Division de la coopération intergouvernementale en matière de droits de l'homme
Secretary of the CDDH-EXP/ Secrétaire du CDDH-EXP

Mme Lauryane LENEVEU, Trainee/stagiaire, Human Rights Development Unit / Unité
"Développement des droits de l'homme", Human Rights Intergovernmental Cooperation
Division / Division de la coopération intergouvernementale en matière de droits de l'homme

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

INTERPRETERS / INTERPRÈTES

Grégoire DEVICTOR
Lucie DE BURLET
Nicolas GUITTONNEAU

Appendix II

AGENDA

	ITEM 1: OPENING OF THE MEETING, ADOPTION OF THE AGENDA
CDDH-EXP(2018)OJ1	Draft agenda
CDDH(2017)R87 AddendumIII	Analysis of the relevant jurisprudence of the European Court of Human Rights and other Council of Europe instruments to provide additional guidance on how to reconcile freedom of expression with other rights and freedoms, in particular in culturally diverse societies (as adopted by the CDDH at its 87 th meeting, 6–9 June 2017)
	ITEM 2: DISCUSSION ON THE TERMS OF REFERENCE FOR 2018 AND 2019 AND ON THE CONTRIBUTIONS RECEIVED
CDDH-EXP(2018)01	Extract of the terms of reference given by the Committee of Ministers to the CDDH regarding the work of the CDDH-EXP during the 2018–2019 biennium and relevant extract of the CDDH 88 th meeting report (5–7 December 2017)
CDDH-EXP(2018)02 <i>Bilingual</i>	Compilation of good practices received from member States as well from the European Network of National Human Rights Institutions (ENNHRI)
	ITEM 3: DISCUSSION ON A GUIDE TO GOOD PRACTICES ON THE WAY OF RECONCILING FREEDOM OF EXPRESSION WITH OTHER RIGHTS AND FREEDOMS, IN PARTICULAR IN CULTURALLY DIVERSE SOCIETIES <ul style="list-style-type: none"> a) General discussion on a Guide to good practices b) Examination of the preliminary draft text for a Guide to good practices
CDDH-EXP(2018)03	Preliminary draft guide to good practices on the way of reconciling freedom of expression with other rights and freedoms, in particular in culturally diverse societies
	<i>(approx. 11:00 on Wednesday 25 April)</i>
	ITEM 4: EXCHANGE OF VIEWS WITH OTHER RELEVANT BODIES OF THE COUNCIL OF EUROPE
	Ms Carlien SCHEELE, Senior Gender Equality Adviser, Directorate General of Democracy
	Mr Stefano VALENTI, External Relation Officer, Secretariat of the European Commission against Racism and Intolerance (ECRI)

	Ms Silvia GRUNDMANN, Head of Division, Division Media Internet Governance
	Ms Simona GRANATA-MENGHINI, Deputy Secretary, European Commission for Democracy through Law (Venice Commission)
	ITEM 5: EXCHANGE OF VIEWS ON PROPOSALS FOR FOLLOW-UP
CDDH-EXP(2018)04	Elements for preliminary proposals for follow-up work
	ITEM 6: ADOPTION OF THE MEETING REPORT
	ITEM 7: OTHER BUSINESS