

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

CDDH-MIG(2018)R5
07/11/2018

STEERING COMMITTEE FOR HUMAN RIGHTS
(CDDH)

**DRAFTING GROUP ON MIGRATION AND HUMAN RIGHTS
(CDDH-MIG)**

REPORT

5th meeting
23 – 25 October 2018

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

1. The CDDH Drafting Group on Migration and Human Rights (CDDH-MIG) held its 5th meeting in Strasbourg from 23 to 25 October 2018 with Mr Morten RUUD (Norway) in the Chair. The list of participants appears in Appendix I.
2. The Chair opened the meeting and welcomed all participants. The agenda as adopted appears in Appendix II.
3. The Director of the Human Rights Directorate, Mr Christophe POIREL, welcomed all participants and thanked the CDDH-MIG for its excellent work. He commended the practical value of the activities carried out so far and its realistic suggestions for ways forward. He encouraged the Group to continue on this pragmatic path, both in its on-going work on alternatives to immigration detention as well as its potential future work on reception conditions for children. He reiterated the Directorate's readiness to support member States through cooperation projects and joint action in identifying solutions to migration related issues.

Item 2: Current developments relating to alternatives to immigration detention: Panel discussion

4. The Chair informed the Group of his recent participation in a global Roundtable on Reception and Care Arrangements for Asylum-Seeking Children in Bangkok 10 to 11 October 2018 convened by the Office of the United Nations High Commissioner for Refugees (UNHCR), noting the relevance of the outcomes for the work of the CDDH-MIG. The Rapporteur, Mr Frank SCHÜRMAN, and the Secretariat gave a brief overview of key developments relevant to the on-going work of the CDDH-MIG, *inter alia* drawing attention to recent Court jurisprudence and factsheets in the field. Noting the general interest in the Group's work, they informed that the *Analysis on the legal and practical aspects of alternatives to detention in the context of migration* will come out in printed form in English, French and German later this autumn. Events on alternatives to immigration detention are also being held where the key messages of the Analysis are disseminated. Members of the Group informed of domestic developments and recent legal evolution in the field, including in Switzerland, Greece and France.
5. The Group then held a Panel discussion with Mrs Eiri OHTANI and Mrs Irene RITMAN. Ms Ohtani presented the work of the European Programme for Integration and Migration (EPIM), evaluating case-management as a central feature of pilot projects on alternatives to immigration detention in Bulgaria, Cyprus and Poland. Ms Ohtani noted that small-scale pilot projects offer important learning opportunities, thereby helping to develop new and effective approaches to alternatives to immigration detention. Ms Ohtani introduced the main findings of EPIM's interim evaluation report, highlighting that through case-management 97% of individuals remained engaged in the immigration process and did not abscond, showing positive impact towards case resolution. Ms Irene Ritman introduced key developments and changes in the immigration detention policy of the Netherlands since 2013. Presenting the different types of alternatives to immigration detention available in the Netherlands, she highlighted the importance of cooperation between the Repatriation service and different entities including civil society in attaining progress. She informed how the most commonly used alternative in the Netherlands is the duty to report, but other options include bail, deposit of documents and the obligation to stay in a certain area. She noted how formal notice is given whenever an alternative measure is applied and the person concerned can challenge the measure in question. Ms Ritman noted that the changes made in the field since 2013 are generally regarded as successful. The Secretariat then presented the work of

the United Kingdom Independent Family Returns Panel (IFRP) in the absence of Mr Philip ISHOLA.

Item 3: "Alternatives to Immigration Detention: Practical Guidance" – 1st preliminary draft

6. The Chair recalled that at its last meeting the Group discussed a preliminary structure for a handbook and agreed that the product should be concise and without footnotes, primarily focusing on the practical aspects of implementing alternatives. The Rapporteur and Secretariat provided an overview of the draft and contemplated questions on its structure and content, length and design. The Group expressed its overall satisfaction with the work produced so far, commending the structure and general approach. The Group then preliminarily examined, section by section, the draft handbook and provided a number of initial suggestions. The importance of using graphs and other visual aids to convey the information was reiterated, in particular for chapter two. The Group agreed that formal comments would be conveyed in writing in advance of the next meeting, with the explicit aim to then conclude the work.

Item 4: Deliberations on future work, including reception conditions for children

7. The Special Representative of the Secretary General on Migration and Refugees, Mr Tomáš BOČEK, informed the Group of the status of the Council of Europe Action Plan on Protecting Refugee and Migrant Children in Europe. He noted that all activities foreseen for 2017 had been successfully developed for all three priorities: children's access to their rights and child-friendly procedures, effective protection from different forms of violence and enhanced integration. He thanked the Group for its significant contribution to the implementation of the Action Plan so far and encouraged the Group to address the reception conditions of children in the near future, as invited by the CDDH and agreed in the Action Plan by the Committee of Ministers. He noted, in particular, that the work would not need to be concluded in 2019 but could extend into the following biennium, and that the scope and format of the work could be at the discretion of the Group and the CDDH.

8. The Group then contemplated its future work. The Group agreed that the first priority would be the conclusion of the draft handbook, but potential guidelines on alternatives to immigration detention as well as work on reception conditions for children would simultaneously be explored. For its next meeting, the Group instructed the Rapporteur and the Secretariat to draft potential options and timelines for further work in this area. It was agreed that a revised version of the draft handbook would be made available to the Group no later than 29 January 2019 and that written comments should be submitted to the Secretariat by 5 March 2019.

Item 5: Other related ongoing work

9. Ms Naomi TREWINNARD, Mr Simon TONELLI and Ms Olivera SIMIC informed the Group, respectively, of the on-going work of the Ad hoc Committee for the Rights of the Child (CAHENF), the Committee of Experts on Administrative Detention of Migrants (CJ-DAM) in codifying existing international standards relating to the administrative detention of migrants and the PACE Campaign to End the Immigration Detention of Children. The Group agreed on the importance of keeping abreast of developments in other Council of Europe entities and committees to ensure complementarity.

Item 6: Adoption of the meeting report

10. The Group adopted the meeting report.

Item 7: Other business

11. The next meeting of the CDDH-MIG is scheduled to take place from 26 to 28 March 2019 in Strasbourg.

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APPENDIX I

List of participants

MEMBER STATES / ETATS MEMBRES

ARMENIA / ARMÉNIE *(apologised)*

BELGIUM / BELGIQUE

Mme Colette VAN LUL, Membre du CJ-DAM, Agent devant la Cour de justice de l'Union européenne, Attaché, Droit européen, SPF Affaires Étrangères, Commerce Extérieur et Coopération au Développement

BULGARIA / BULGARIE

Mr Kamen KOUTSAROV, Second Secretary, Human Rights Department, Ministry of Foreign Affairs

CZECH REPUBLIC / REPUBLIQUE TCHÈQUE

Mr Petr KONŮPKA, Deputy Government Agent of the Czech Republic before the European Court of Human Rights, Ministry of Justice

DENMARK / DANEMARK

Ms Astrid Kløve Albæk PEDERSEN, Head of Section, Division for Return, Ministry of Immigration and Integration

FINLAND / FINLANDE

Ms Liisa VALJENTO, Counsellor, Unit for Human Rights Courts and Conventions Legal Service, Ministry for Foreign Affairs

FRANCE

Mme Nathalie MATHIEU, Cheffe de la section des relations partenariales, au sein de la sous-direction de la lutte contre l'immigration irrégulière, à la Direction générale des étrangers en France (DGEF), Ministère de l'intérieur

GREECE / GRÈCE

Ms Athina CHANAKI, Deputy Legal Counselor, Legal Department, Ministry of Foreign Affairs

ICELAND / ISLANDE *(apologised)*

ITALY / ITALIE

Ms Maria Giuliana CIVININI, Co-agent du gouvernement devant la CEDH, Représentation permanente de l'Italie auprès du Conseil de l'Europe

Ms Marika IKONOMU, Stagiaire, Représentation permanente de l'Italie auprès du Conseil de l'Europe

Ms Eleonora MONTANARO, Stagiaire, Représentation permanente de l'Italie auprès du Conseil de l'Europe

LATVIA / LETTONIE

Mr Vilnis VITOLINS, Under-Secretary of State, Director of the Legal Department of Ministry of the Interior

NETHERLANDS / PAYS-BAS

Ms Irene RITMAN, LL.M., Policy coordinator, Migration Policy Department, Directorate General Migration, Ministry of Justice and Security

NORWAY / NORVÈGE

Mr Morten RUUD (*Chairperson of CDDH-MIG / Président du CDDH-MIG*), Special Adviser, Legislation Department, Ministry of Justice and Public Security

POLAND / POLOGNE

Mr Dawid GROCHOWSKI, Counsellor to the Minister, Ministry of Interior and Administration

SPAIN / ESPAGNE

Ms Consuelo CASTRO REY, Senior Head State Attorney, State Attorney's Office

Mr Juan Ignacio IQUINO, Adjoint au Représentant Permanent de l'Espagne, Représentation Permanente de l'Espagne auprès du Conseil de l'Europe

TURKEY / TURQUIE

Ms Gamze GÜL ÇAKIR KILIÇ, Conseiller juridique, Direction Générale de l'Administration d'Immigration, Ministère de l'Intérieur

Ms Günseli GÜVEN, Adjointe au Représentant Permanent, Représentation permanente de la Turquie auprès du Conseil de l'Europe

OBSERVERS / OBSERVATEURS

CONFERENCE OF INGOS OF THE COUNCIL OF EUROPE / CONFÉRENCE DES ONG DU CONSEIL DE L'EUROPE

Ms Jem STEVENS, IDC, Representative to the CDDH

Ms Martine SCHMELCK, Representative to the CDDH

Mr Jean-Bernard MARIE, Representative to the CDDH

COUNCIL OF BARS AND LAW SOCIETIES OF EUROPE / CONSEIL DES BARREAUX EUROPÉENS (CCBE)

Mr Filip SCHULLER, CCBE Migration Committee Expert

UNHCR / HCR

Mr Roland-François WEIL, Représentant du HCR auprès des Institutions européennes à Strasbourg

Ms Delphine LENEUTRE, Legal Associate, UNHCR Representation to the European Institutions in Strasbourg

EUROPEAN NETWORK OF HUMAN RIGHTS INSTITUTIONS / RÉSEAU EUROPÉEN DES INSTITUTIONS NATIONALES DES DROITS DE L'HOMME (ENNHRI)

Mr Gabriel ALMEIDA

UNITED STATES OF AMERICA / ÉTATS-UNIS D'AMÉRIQUE

Sabrina PARMAN, Trainee / Stagiaire

RAPPORTEUR

M. Frank SCHÜRMAN, Professor of International Human Rights Law, Berne

PANEL

Ms Eiri OHTANI, Project Director, The Detention Forum

INVITEE / INVITÉ

OFFICE OF THE OMBUDSWOMAN

Ms Maja KEVIĆ, Deputy Ombudswoman, Croatia

COUNCIL OF EUROPE / CONSEIL DE L'EUROPE

INDEPENDENT HUMAN RIGHTS BODIES DIVISION / DIVISION INSTITUTIONS INDEPENDANTES DES DROITS DE L'HOMME

Ms Milica VESOVIC, Lawyer / Juriste

AD HOC COMMITTEE FOR THE RIGHTS OF THE CHILD / COMITÉ AD HOC POUR LES DROITS DE L'ENFANT (CAHENF)

Ms Naomi TREWINNARD, Senior Project Officer/ Responsable de project principal
Children's Rights Division / Division des droits des enfants, Directorate of Human Dignity and Equality
/ Direction de la dignité humaine et de l'égalité - DG-II

EUROPEAN COMMITTEE ON LEGAL CO-OPERATION / COMITÉ EUROPÉEN DE COOPÉRATION JURIDIQUE (CDCJ)

Mr Simon TONELLI, Head of the legal co-operation Division / Chef de la Division de la coopération juridique

PARLIAMENTARY ASSEMBLY / ASSEMBLEE PARLEMENTAIRE

Olivera SIMIC, Parliamentary Campaign to End Immigration Detention of Children

OFFICE OF THE COMMISSIONER FOR HUMAN RIGHTS OF THE COUNCIL OF EUROPE / BUREAU DU COMMISSAIRE AUX DROITS DE L'HOMME DU CONSEIL DE L'EUROPE

Mr Christian MOMMERS, Adviser / Conseiller

SECRETARIAT

**DG I – Human Rights and Rule of Law / Droits de l'homme et Etat de droit
Council of Europe / Conseil de l'Europe**

Mr Christophe POIREL, Director / Directeur, Human Rights Directorate / Direction des droits de l'Homme

Mr Tomáš BOČEK, Special Representative of the Secretary General on migration and refugees /
Représentant spécial du Secrétaire Général sur les migrations et les réfugiés

Ms Lilja GREJARSDOTTIR, Deputy Head of the Division for Independent Human Rights Bodies /
Chef adjoint de la Division Institutions indépendantes des droits de l'homme, *Secretary of CDDH-MIG*
/ *Secrétaire du CDDH-MIG*

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

Ms Katharina EBNER, Trainee / Stagiaire, Division Independent Human Rights Bodies / Division
Institutions indépendantes des droits de l'homme

INTERPRETERS/ INTERPRÈTES

Mme Lucie DE BURLET
Mme Chloé CHENETIER
M. Didier JUNGLING

APPENDIX II**Agenda (as adopted)**

	ITEM 1: OPENING OF THE MEETING AND ADOPTION OF THE AGENDA
CDDH-MIG(2018)OJ2	Draft agenda
CDDH-MIG(2018)OJ2Annotated	Draft annotated agenda
CDDH-MIG(2018)R4	Report of the 4 th meeting of CDDH-MIG (21–23 March 2018)
CDDH-MIG(2018)01Rev	Extracts 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 and relevant CDDH meeting reports
	ITEM 2: CURRENT DEVELOPMENTS RELATING TO ALTERNATIVES TO IMMIGRATION DETENTION: PANEL DISCUSSION
	ITEM 3: “ALTERNATIVES TO IMMIGRATION DETENTION – PRACTICAL GUIDANCE” 1ST PRELIMINARY DRAFT
	“Alternatives to Immigration Detention – Practical Guidance” – 1st preliminary draft of the handbook
	Examples of potential design and layout of the handbook
CDDH(2017)R88dd2	Analysis of the legal and practical aspects of alternatives to detention in the context of migration
Publication	<i>United Nations High Commissioner for Refugees</i> Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention, 2012
Publication	There are Alternatives: A handbook for preventing unnecessary immigration detention (revised edition), 2015
	ITEM 4: DELIBERATIONS ON FUTURE WORK ON RECEPTION CONDITIONS FOR CHILDREN
CDDH-MIG(2018)06	Draft compilation of standards and other relevant material on reception conditions for children
	ITEM 5: OTHER RELATED ONGOING WORK Representatives from CJ-DAM and CAHENF will be invited to share significant updates on their work with the Group.
	ITEM 6: ADOPTION OF THE MEETING REPORT
	ITEM 7: OTHER BUSINESS The next meeting of CDDH-MIG is scheduled to be held in Strasbourg from 26 to 28 March 2019.