



Strasbourg, 4 February 2013

DH-GDR(2013)OJ003 REV.

STEERING COMMITTEE FOR HUMAN RIGHTS
(CDDH)

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

3rd meeting

Strasbourg

**Wednesday 13 (9.30 a.m.) – Friday 15 February 2013
(end of the meeting: 1 p.m.)**

Agora, meeting room G03

DRAFT ANNOTATED AGENDA (REVISED)

Item 1: Opening of the meeting, adoption of the agenda and of the order of business, and election of a Vice-chairperson

General reference documents

- Draft annotated agenda DH-GDR(2013)OJ003
- Report of the 76th CDDH meeting (27-30 November 2012) CDDH(2012)R76
- Report of the 2nd DH-GDR meeting (29-31 October 2012) DH-GDR(2012)R2
- Decisions taken at the 122nd session of the Committee of Ministers (23 May 2012) CDDH(2012)008
- Ministers' Deputies' decisions on the follow-up to the 122nd session of the Committee of Ministers (Strasbourg, 23 May 2012) CM/Del/Dec(2012)1145/1.6
- Interlaken Declaration CDDH(2010)001
- Izmir Declaration CDDH(2011)010
- 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) (document prepared by the Secretariat) CDDH(2012)009 REV.
- Committee of Ministers' Resolution on intergovernmental committees and subordinate bodies, their terms of reference and working methods CDDH(2011)012

After the opening of the meeting by the Chairperson, Mr Vit SCHORM (Czech Republic), the Committee is invited to adopt the agenda and order of business.

The Committee is then invited to elect its Vice-chairperson, in accordance with the provisions of Committee of Ministers' Resolution CM/Res(2001)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods.

Item 2: Explanatory report to draft Protocol no. 16

Working document

- Draft Explanatory Report to Protocol no. 16 (*following a partial first reading at the 76th CDDH meeting, 27-30 November 2012*) CDDH(2012)R76
Addendum VI

Reference documents

- Draft Protocol no. 16 to the Convention (*as provisionally adopted by the CDDH at its 76th meeting, 27-30 November 2012*) CDDH(2012)R76
Addendum V
- Report of the 76th CDDH meeting (27-30 November 2012) CDDH(2012)R76
- Compilation of written comments on the draft Explanatory Report to Protocol no. 16 (prepared by the Secretariat) (*comments submitted prior to the 2nd DH-GDR meeting, 29-31 October 2012*) DH-GDR(2012)015
- CDDH Report on measures to enhance relations between the Court and national courts (Appendix V to the Final Report on measures requiring Addendum I, Appendix V) CDDH(2012)R74
Addendum I, Appendix V

amendment of the ECHR)

- Reflection paper on the proposal to extend the Court's advisory jurisdiction # 3853038

At its 76th meeting (27-30 November 2012), the CDDH, "After a partial first reading,... decided to remit the draft Explanatory Report, as it appears at Addendum VI [to the meeting report], to the DH-GDR for further examination at its next meeting (13-15 February 2013). It decided not to transmit the draft Protocol to the Committee of Ministers until such time as it would also be able to adopt, and transmit, the Explanatory Report. It fully expected to be able to do so at its next meeting (19-22 March 2013), thereby meeting the deadline of 15 April 2013 set out in the decisions of the May 2012 Ministerial Session."

The Committee is invited to examine and adopt the draft Explanatory Report to Protocol no. 16, with a view to submitting it to the CDDH at its next meeting (19-22 March 2013).

Item 3: Work of Drafting Group "C" on the reform of the Court (GT-GDR-C)

The Chairperson of the GT-GDR-C, Mr Martin KUIJER (The Netherlands), will present the Group's work to the Committee.

3.1 Draft CDDH report on interim measures under Rule 39 of the Rules of Court

Working document

- Draft CDDH report on interim measures under Rule 39 of the Rules of Court GT-GDR-C(2013)R2
Addendum I

Reference documents

- Report of the 2nd GT-GDR-C meeting (30 January – 1 February 2013) GT-GDR-C(2013)R2
- Report of the 1st GT-GDR-C meeting (12-14 December 2012) GT-GDR-C(2012)R1
- Report of the 2nd DH-GDR meeting (29-31 October 2012) DH-GDR(2012)R2
- Brighton Declaration CDDH(2012)007
- Izmir Declaration CDDH(2011)010
- Preliminary Opinion of the Court in preparation for the Brighton Conference GT-GDR-C(2012)001
- Practice Direction: requests for interim measures (Rule 39 of the Rules of Court) GT-GDR-C(2012)002
- Statistics on interim measures accepted and refused by State Party (1 January – 30 June 2012) GT-GDR-C(2012)003
- Rule 39 decisions by year (2008-2011) GT-GDR-C(2012)004
- Statement issued by the President of the European Court of Human Rights concerning requests for interim measures (Rule 39 of the Rules of Court) (11 February 2011) GT-GDR-C(2012)005
- Research on ECHR Rule 39 interim measures (ECRE – European Council on Refugees and Exiles / ELENA – European Legal Network on Asylum)

- Article 39 of the Rules of Court: modalities of application and procedure (Information document by the Registry of the Court) GT-GDR-C (2012)009
- Parliamentary Assembly's resolution and recommendation on "Preventing harm to refugees and migrants in extradition and expulsion cases: Rule 39 indications by the European Court of Human Rights" GT-GDR-C (2012)011
- The Interlaken Process and the Court (document prepared by the Court) DH-GDR(2012)018

The Committee is invited to examine and adopt the draft CDDH report, as prepared by GT-GDR-C in accordance with the guidance given by the DH-GDR at its 2nd meeting.

The adopted text will be transmitted to the CDDH for examination and adoption at its 77th meeting (19-22 March 2013) before being presented to the Committee of Ministers.

3.2 Draft CDDH report on the advisability and modalities of a "representative application procedure"

Working document

- Draft CDDH report on the advisability and modalities of a "representative application procedure" GT-GDR-C(2013)R2
Addendum II

Reference documents

- Report of the 2nd GT-GDR-C meeting (30 January – 1 February) GT-GDR-C(2013)R2
- Report of the 1st GT-GDR-C meeting (12-14 December 2012) GT-GDR-C(2012)R1
- Report of the 2nd DH-GDR meeting (29-31 October 2012) DH-GDR(2012)R2
- Brighton Declaration CDDH(2012)007
- Proceedings of the Round Table on "The right to trial within a reasonable time and short-term reform of the European Court of Human Rights", organised by the Slovenian Chairmanship of the Committee of Ministers (Bled, 21-22 September 2009)
- Proceedings of the Seminar on "Ten Years of the 'New' European Court of Human Rights 1998-2008: situation and outlook", organised by the Court (Strasbourg, 13 October 2008) GT-GDR-C(2012)006
- "European Court Registrar calls for special measures to deal with influx of Hungarian pension cases" (press release, 11 January 2012) GT-GDR-C(2012)007
- "Statement on Case-overload at the European Court of Human Rights", European Law Institute, 6 July 2012 GT-GDR-C(2012)008
- Lettre du Greffier de la Cour à l'Agent du Gouvernement italien (in French only) GT-GDR-C(2013)004
- Note prepared by the Registry of the Court further to the 1st meeting of GT-GDR-C GT-GDR-C(2013)005
- Les mesures provisoires devant la Cour européenne des droits de l'homme (Contribution du Groupe européen des institutions nationales des droits de l'homme préparée par la Commission nationale consultative des droits de GT-GDR-C(2013)006

l'homme (CNCDH) (in French only)

The Committee is invited to examine and adopt the draft CDDH report, as prepared by GT-GDR-C in accordance with the guidance given by the DH-GDR at its 2nd meeting.

The adopted text will be transmitted to the CDDH for examination and adoption at its 77th meeting (19-22 March 2013) before being presented to the Committee of Ministers.

Item 4: Organisation of future work

Reference documents

- Report of the 75th CDDH meeting (19-22 June 2012) CDDH(2011)R75
- Report of the 2nd DH-GDR meeting (29-31 October 2012) DH-GDR(2012)R2
- Follow-up to the High-level Conference on the Future of the European Court of Human Rights (Brighton, 18-20 April 2012) (document prepared by the Secretariat) CDDH(2012)009REV.
- Committee of Ministers' resolution on intergovernmental committees and subordinate bodies, their terms of reference and working methods CDDH(2011)012

At its 75th meeting, the CDDH adopted a calendar for meetings of the DH-GDR and its drafting groups for 2012 and 2013 and decided which issues these bodies would examine at their respective meetings (see also doc. CDDH(2012)009REV.) The drafting groups, whose composition should vary according to the issues being addressed, would be established by the DH-GDR and procedure and working methods would first be discussed by the DH-GDR, which would give guidance.

The following groups ("D" and "E") will each hold one or both of their meetings before the next meeting of the DH-GDR.

4.1 Drafting Group "D" on the reform of the Court

Reference documents

- Possible structure for a Guide to Good Practice in respect of domestic remedies (prepared by the Secretariat) DH-GDR(2013)001
- Proposed outline for a Toolkit to inform public officials about the State's obligations under the Convention (prepared by Mr Martin Eaton, consultant expert) DH-GDR(2013)002
- Conclusions and possible proposals for action on ways to resolve the large numbers of applications arising from systemic issues identified by the Court (background paper prepared by the Secretariat) DH-GDR(2013)003

Drafting Group "D" (GT-GDR-D) will meet from 10-12 April 2013 and from 22-24 May 2013; at these two meetings, it will prepare the following:

- *a guide to good practice in respect of domestic remedies;*¹

¹ See the Brighton Declaration, para. 9.f)ii)

- *a toolkit to inform public officials about the State's obligations under the Convention;*²
and
- *conclusions and possible proposals for action on ways to resolve the large numbers of applications arising from systemic issues identified by the Court.*³

In accordance with the provisions of Committee of Ministers Resolution CM/Res(2011)24, the Committee is invited to designate the members of GT-GDR-D and then to elect its Chairperson.

The Committee is then invited to exchange views and to give guidance to GT-GDR-D, concerning potentially both substance and working methods.

It should be recalled that at its 2nd meeting, the Committee designated Mr Martin EATON as expert-consultant to prepare the draft toolkit to inform public officials about the State's obligations under the Convention and gave guidance to him for completion of the task (see DH-GDR(2012)R2, paras. 16-17).

4.2 Drafting Group "E" on the reform of the Court

Reference documents

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|---|------------------------------------|
| - CDDH Final Report on measures requiring amendment of the European Convention on Human Rights | CDDH(2012)R74
<u>Addendum I</u> |
| - European Court of Human Rights – Analysis of Statistics 2012 | |
| - Review of the functioning of the Advisory Panel of Experts on Candidates for Election as Judge to the European Court of Human Rights: possible working methods (prepared by the Secretariat) | DH-GDR(2013)004 |
| - Resolution CM/Res(2010)26 on the establishment of an Advisory Panel of Experts on Candidates for Election as Judge to the European Court of Human Rights | CM/Res(2010)26 |
| - Ministers' Deputies' exchange of views with Mr Luzius Wildhaber, Chairman of the Advisory Panel of Experts on Candidates for Election as Judge to the European Court of Human Rights (4 April 2012 & 30 January 2013) | DH-GDR(2013)005 |
| - Guidelines of the Committee of Ministers on the selection of candidates for the post of judge at the European Court of Human Rights | CM(2012)40 final |
| - More effective measures in respect of States that fail to implement judgments of the Court in a timely manner: possible working methods (prepared by the Secretariat) | DH-GDR(2013)006 |

Drafting Group "E" (GT-GDR-E) will work on the following:

- *conclusions and possible proposals for action on whether or not to proceed to amend the Convention to enable the appointment of additional judges to the Court;*⁴
- *conclusions and possible proposals for action following a review of the functioning of the Advisory Panel of Experts on Candidates for Election as Judge to the European Court of Human Rights;*⁵ *and*

² Ibid, para. 9.f)iii)

³ Ibid, para. 20.d)

⁴ Ibid, para. 20.e)

- *conclusions and possible proposals for action on whether more effective measures are needed in respect of States that fail to implement judgments of the Court in a timely manner.*⁶

In accordance with the provisions of Committee of Ministers Resolution CM/Res(2011)24, the Committee is invited to designate the members of GT-GDR-E and then to elect its Chairperson.

The Committee is then invited to exchange views and to give guidance to GT-GDR-E, concerning potentially both substance and working methods.

4.3 Follow-up to the CDDH report on the measures taken by member States to implement relevant parts of the Interlaken and Izmir Declarations

Reference documents

- CDDH report on the measures taken by member States to implement relevant parts of the Interlaken and Izmir Declarations CDDH(2012)R76 Addendum I

Further to the decisions taken by the Ministers' Deputies at their 1159th meeting (16 January 2013), the Committee is invited to consider whether any of the recommendations contained in the CDDH report on the measures taken by member States to implement relevant parts of the Interlaken and Izmir Declarations (doc. CDDH(2012)R76 Addendum I) should be given further follow-up, with a view to suggesting to the CDDH possible proposals for work in the biennium 2014-2015.

Item 5: Other business

Item 6: Adoption of the conclusions and meeting report

Working document

- Draft report of the 3rd DH-GDR meeting (12-14 February 2013) DH-GDR(2012)R3

The Committee is invited to adopt the conclusions and meeting report.

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⁵ Ibid, para. 25.b)

⁶ Ibid, para. 29.d)