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CJ-S-CH (2009) 1

**GROUP OF SPECIALISTS ON CHILD-FRIENDLY JUSTICE
(CJ-S-CH)**

**TERMS OF REFERENCE
FOR A GROUP OF SPECIALISTS
ON CHILD-FRIENDLY JUSTICE (CJ-S-CH)
FOR 2009**

*as adopted by the Committee of Ministers
at the 1049th meeting of the Ministers' Deputies
(18 February 2009)*

1. **Name of Group:** Group of Specialists on child-friendly justice (CJ-S-CH)
2. **Type of Group:** Ad hoc Advisory Group
3. **Source of terms of reference:** Committee of Ministers upon proposals of the European Committee on Legal Co-operation (CDCJ)

4. **Terms of reference:**

Having regard to:

- the United Nations Convention on the Rights of the Child;
- the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules);
- the European Convention on Human rights and the case law of the Court;
- other relevant conventions and recommendations of the Council of Europe;
- Resolution Res(2005)47 on committees and subordinate bodies, their terms of reference and working methods (adopted by the Committee of Ministers on 14 December 2005 at the 951st meeting of the Ministers' Deputies);
- the Warsaw Declaration and the Action Plan of the Third Summit of the Heads of State and Government of the Council of Europe, in particular items 3 and 4 from its Chapter I;
- Resolution No. 2 adopted at the 28th Conference of European Ministers of Justice (Lanzarote, October 2007) on child-friendly justice;
- the Action Plan of the CDCJ for 2008-2010;
- the conclusions of the Conference "Building a Europe for and with children: Towards a strategy for 2009-2011", and in particular the conclusions of its Seminar 3: "Towards European guidelines on child-friendly justice: identifying core principles and sharing examples of good practice" (Stockholm, 8 September 2008);
- the Council of Europe programme "Building a Europe for and with children" and the Council of Europe Strategy on the rights of the child 2009-2011;
- the Memorandum of Understanding between the Council of Europe and the European Union, signed in May 2007;

Under the authority of the European Committee on Legal Co-operation (CDCJ), in co-operation with the European Committee on Crime Problems (CDPC), the Steering Committee on Human Rights (CDDH) and the European Commission for the Efficiency of Justice (CEPEJ) and in relation with the implementation of Project 2008/DGHL/1427 “Public and private law reform and implementation of standards”, Project 2008/DGHL/1432 “Monitoring the operation of conventions on co-operation in the criminal field” and Project 2008/DGHL/1409 “Substantive legal analysis of human rights issues and input in the development of Council of Europe policies on such issues” of the Programme of Activities, the Group is instructed to:

- i produce draft European guidelines on child-friendly justice;

Such European guidelines, based on existing international, European and national instruments, should:

- serve as a practical tool for member states in adapting their judicial system to specific needs of children in criminal, civil or administrative justice;
- apply to all ways in which children are likely to be, for whichever reason and in whichever capacity, brought into contact with criminal, civil or administrative justice;
- consider the issue of the place and the voice of the child in judicial proceedings as well as extrajudicial proceedings (in particular alternative dispute resolution means), *before* the proceedings (for instance the procedural right to initiate proceedings and its implementation), *during* the proceedings and *after* the judicial decision (enforcement procedures) or sentence;
- ensure that, in the above-mentioned proceedings, the rights of children to information, to representation and to participation are fully respected;
- present examples of best practices, in particular in respect of the implementation of existing legal standards;

- ii identify possible lacunae in law and in practice, and propose remedial solutions.

5. Composition of the Group:

5.A Members

The Group shall be composed of 16 members: a Chairman appointed by the CDCJ, a Vice-Chairman appointed by the CDPC and 14 specialists appointed by the Secretary General in consultation with the Chairpersons of the CDCJ (six specialists), of the CDPC (six specialists) and of the CDDH (two specialists).

The composition of the Group should reflect a multidisciplinary approach concerning all fields to be covered by the guidelines.

Participation costs of members to meetings of the Group will be borne by the Council of Europe budget sub-heads of the concerned committees.

5.B Participants

- i. Member states of the Council of Europe may send a representative to meetings of the Group, without the right to vote or defrayal of expenses.
- ii. The Parliamentary Assembly may send a representative to meetings of the Group, without the right to vote and at the expense of its administrative budget.
- iii. The following committees and organs may send representatives to meetings of the Group, without the right to vote and at the expense of their respective administrative budgets:
 - European Commission for the Efficiency of Justice (CEPEJ);
 - Consultative Council of European Judges (CCJE);
 - Consultative Council of European Prosecutors (CCPE);
 - European Steering Committee for Youth (CDEJ);
 - European Committee for Social Cohesion (CDCS).

5.C Other participants

- i. The European Commission and the Council of the European Union may send a representative to meetings of the Group, without the right to vote or defrayal of expenses.
- ii. States with observer status with the Council of Europe (Canada, Holy See, Japan, Mexico, United States of America) may send a representative to meetings of the Group, without the right to vote or defrayal of expenses.
- iii. The following intergovernmental organisations may send representatives to meetings of the Group, without the right to vote or defrayal of expenses:
 - Hague Conference on Private International Law (HCCH);
 - Interagency Panel on Juvenile Justice (IPJJ);
 - International Commission on Civil Status (ICCS);
 - United Nations Children's Fund (UNICEF);
 - Office of the High Commissioner of the UN for Human Rights (OHCHR).

5.D Observers

The European Network of Ombudspersons for Children (ENOC) may send a representative to meetings of the Group, without the right to vote or defrayal of expenses.

6. Working methods and structures:

- i. The Group should ensure, as far as possible and within the budgetary resources available, the involvement of children and should take children's views into consideration in the preparation of the guidelines.

- ii. To fulfill its terms of reference and within the budgetary resources available, the Group may use consultants or scientific experts and can organise hearings and consultations.
- iii. Within the limits of available budgetary appropriations, the Group may organise hearings with representatives of NGOs and of national institutions for the promotion and protection of human rights (NHRIs), as well as with any other third party in a position to contribute to its work.

7. Duration:

These terms of reference will expire on 31 December 2009.