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*[cdcj/cdcj et comités subordonnés/3e réunion /
documents de travail/cj-s-ch (2009)]*

CJ-S-CH (2009) 18 rev. 1

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

REPORT OF THE 3rd MEETING OF THE CJ-S-CH

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Document prepared by the Secretariat of the CJ-S-CH
Directorate General of Human Rights and Legal Affairs

LIST OF DECISIONS

At its third meeting, the Group of Specialists on child-friendly justice (CJ-S-CH), in accordance with its terms of reference,

took note of:

- the conclusions of the hearing with NGOs and other stakeholders on the draft Guidelines in Strasbourg on 7 December 2009;
- the Recommendation CM/Rec (2009) 10 of the Committee of Ministers to member states on integrated national strategies for the protection of children from violence;
- the 2nd draft of the Guidelines on child-friendly justice;
- the 1st draft of the Explanatory memorandum;
- the terms of reference for the year 2010;
- the document CJ-S-CH 11 BIL for the consultation of children concerning the draft Council of Europe guidelines on child-friendly justice;

considered:

- how best to consult children on the Guidelines of child-friendly justice;
- how to come to relevant conclusions from the consultation of children;

invited its members to:

- provide the Secretariat with lacuna in law regarding children's rights for the next meeting of the CJ-S-CH;
- identify possible partners for the consultation of children on the guidelines;

instructed the scientific expert to:

- prepare a 3rd draft of the Guidelines on child-friendly justice for the next meeting;
- revise the explanatory memorandum [CJ-S-CH (2009) 16];

instructed the Secretariat to:

- find possible partners for the consultation process of children;
- identify a researcher who will assist in the consultation process of children;

decided to:

- hold its 4th meeting on the 17-19 February 2010.

INTRODUCTION

1. The Group of Specialists on the child-friendly justice (CJ-S-CH) held its third meeting in Strasbourg on 8-10 December 2009, with Mr Séamus CARROLL as Chair and Ms Ksenija TURKOVIĆ as Vice-chair. The list of participants appears in Appendix I to this report.

I. OPENING OF THE MEETING

2. The meeting was opened by Mr CARROLL, who thanked the members of the group of expert for the work already done .
3. Ms Regina JENSDOTTIR, Secretary of the CJ-S-CH and Head of the Public and Private Law Division invited the members of the group to take note of the conclusion of the hearing with NGOs and other stakeholders regarding child-friendly justice which was held on Strasbourg on 7 December 2009.
4. Ms Sabrina CAJOLY, Co-Secretary of the CJ-S-CH, gave a report on the work of the Secretariat since the last meeting and invited the member of the group to take note of the meeting report of the second meeting, the 2nd Draft of the Guidelines on child-friendly justice and the 1st Draft of the Explanatory Memorandum.

II. ADOPTION OF THE AGENDA

5. The Agenda was adopted as set out in Appendix II.

III. WORK ON THE 2ND DRAFT OF THE COUNCIL OF EUROPE GUIDELINES ON CHILD-FRIENDLY JUSTICE AND THE EXPLANATORY MEMORANDUM

6. Ms Ankie VANDEKERCKHOVE, scientific expert of the CJ-S-CH, thanked the members of the group for the comments on the Guidelines and stated that she finalised the 2nd Draft by taking them into account.
7. Mr Carroll invited the members of the group to comment on the Guidelines as detailed as possible. Ms Vandekerckhove pointed out the paragraphs where there were a number of differentially comments.
8. Ms Agata ROGALSKA-PIECHOTA, Expert, Office of the Plenipotentiary for the Proceedings before the International Organs of the Protection of Human Rights, Ministry of Foreign Affairs, stated that Poland is not satisfied with the general wording of the Guidelines, since they are talking about children being autonomous. In the Polish view, this is opposed to the parental care.
9. The members of the group directed their attention especially on the topics of restorative justice, children in conflict with the law, children in detention and unaccompanied migrant children. While working on these topics, it was agreed to base the Guidelines on existing international standards.

10. Concerning the Explanatory Memorandum, the members of the group decided to put the footnotes of the guidelines as well as the case-law of the European Court of Human Rights and the examples of existing practices in it. The memorandum will contain cross-references and thus making it easier for users to find the relevant explanation they are looking for.

IV. EXPLANATION BY THE CHAIR CONCERNING THE PROCESS FOR 2010

11. The Bureau of the CDCJ will have its next meeting in January 2010. It will not have a discussion on the guidelines, but a general screening. The next meeting of the CJ-S-CH will take place on February with the view to finalise the draft guidelines in order to be able to ask the member states for comments.
12. Mr Carroll also said that the document on the consultation of stakeholders (CJ-S-CH [2009] 11 BIL rev) will not be updated. The Secretariat will prepare a brief announcement for the website for comments of any interested stakeholders.

V. PRESENTATION ON THE PARTICIPATION OF CHILDREN

13. Mr Mike LINDSAY, National Co-ordinator of the Children's Rights Alliance for England (CRAE), complimented the members of the group on the 2nd Draft of the Guidelines, but also mentioned that he would like to see added the right to protection from "naming and shaming" – which concerns the practice of official authorities of giving names of children charged with low level offences to the media – and the right to protection from charge by association.
14. Mr. Lindsay indicated that CRAE has got a lot of experience in the field of participation and consultation of children for decision making on a national and international level. As an example he mentioned the reporting process for the UN CRC report for the UK, where CRAE consulted with 1400 children.
15. Mr Lindsay offered a list of things which children said themselves after a consultation process:
 - Documents should be accessible for children, which means they should be in a child-friendly format and use a language suitable for children;
 - If a document is very technical and long, there should be a guide to it which uses the methods described above;
 - If the children are invited to a meeting, it should not take place in a very formal setting, give the children the opportunity to voice some concern of their own and have an adult present as an "interpreter" for what is being said ;
 - It should be clear for the children in what regard their answers will be used and that everything will be treated confidentially or at least anonymous. And give them preferably some feedback after the completion of the consultation process afterwards.

VI. PRESENTATION OF THE WORK OF OTHER COUNCIL OF EUROPE BODIES

16. Mr Edo KORLJAN, from the Public and Private Law Division, reported on the work of the Committee of Experts on Family Law (CJ-FA) and especially the revised Council of Europe Convention on Adoption, which was adopted by the Committee of Ministers on the 7 May 2008.
17. He also indicated that the terms of reference of the CJ-FA for 2010 have been adopted by the Committee of Ministers, which authorize the group of experts to draw one or more legal instruments regarding the legal status of children and to identify the subjects on their own.

VII. CONSULTATION OF CHILDREN

18. The group of experts identified two ways of consulting with children, which are either to draw a questionnaire or to find partners which would talk to children about the guidelines in an informal setting. Because of time pressure, it was decided to identify possible partners, namely ENOC, Thémis, CRAE and CRIN. Many members of the group offered their assistance, namely Mr Bob ASHFORD, Head of the Youth Justice Strategy from the Youth Justice Board for England and Wales; Ms Josiane BIGOT, French Magistrate, President of the Association Thémis; Mr Philip JAFFÉ, Professor of the Graduate Institute Kurt Bösch; Mr Benoit VAN KEIRSBLICK, Interagency Panel on Juvenile Justice (IPJJ) and Mr Nigel CANTWELL, United Nations Children's Fund (UNICEF).
19. It was also decided to appoint a researcher who will go through all the research on children's participation already existing.
20. Furthermore, there will be a meeting on the consultation of children in January. The consultation of the children will take place from February until April 2010.

VIII. PREPARATION OF THE NEXT MEETING

21. The chair of the CJ-S-CH invited the members of the group to identify lacuna in law in time for the next meeting.
22. The CJ-S-CH decided to hold its next meetings on 17-19 February and on the 25-26 May 2010.

APPENDIX I

LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS

CJ-S-CH MEMBERS / MEMBRES DU CJ-S-CH		
STATE / PAYS	NAME / NOM	TITLE / TITRE ADDRESS / ADRESSE
UNITED KINGDOM ROYAUME UNI	Bob ASHFORD	Head of Youth Justice Strategy Youth Justice Board for England and Wales London SW1H 9DL
FRANCE	Josiane BIGOT	Registrât en France Présidente de l'Association Thémis 36 rue Oberlin F - 67000 Strasbourg
IRELAND IRLANDE	Séamus CARROLL (Chair of the CJ-S-CH)	Principal Officer Civil Law Reform Division Department of Justice Equality and Law Reform IRL - Dublin 2
MALTA MALTE	Ruth FARRUGIA	M.Phil., Dip.Trib.Eccle.Melit. Advocate and Senior Lecturer Faculty of Laws University of Malta Msida MSD2080
BELGIUM BELGIQUE	Claude GILLARD excused	Conseiller juridique Chef du service de droit pénal spécial et des questions policières Service Public Fédéral Justice (SPF Justice) Direction générale de la Législation et des Libertés et Droits fondamentaux B 1000 Bruxelles
ICELAND ISLANDE	Bragi GUDBRANDSSON	General Director Government Agency for Child Protection, Höfdaborg IS-104 Reykjavik
SWITZERLAND SUISSE	Philip JAFFÉ	Professeur Institut universitaire Kurt Bösch CH - 1950 Sion 4
RUSSIAN FEDERATION FEDERATION DE	Olga KHAZOVA	Associate Professor Institute of State and Law 105062 Moscow

RUSSIE		
ALBANIA ALBANIE	Holta KOTHERJA excused	Attorney at law specialised in children's rights and family law Professor in Albanian Magistrates' School "Delegibus Consulting" Law Firm Tirana
THE NETHERLANDS PAYS-BAS	Lies PUNSELIE	Legal Advisor Ministry of Justice 2500 - EH The Hague
FINLAND FINLANDE	Arto KOSONEN	Government Agent Director of the Unit for Human Rights Courts and Conventions, Legal Service Ministry of Foreign Affairs FI - 00023 Valtioneuvosto
CZECH REPUBLIC REPUBLIQUE TCHEQUE	Andrea MATOUSKOVA excused	Probation and Mediation Agency of the Czech Republic CZ - Prague 1, 110 00
SWEDEN SUÈDE	Marianne NY excused	Director of Public Prosecution Åklagarmyndigheten/Utvecklingscentrum i Göteborg SE - 0317 Gothenburg
GREECE GRÈCE	Irene PANTAZI-MELISTA	Vice-Prosecutor of second degree (Appeal Court) Ministry of Justice GR - Athens
GERMANY ALLEMAGNE	Stefanie SCHMAHL	Lehrstuhl für deutsches und ausländisches öffentliches Recht Völkerrecht und Europarecht Universität Würzburg, Juristische Fakultät D - 97070 Würzburg
CROATIA CROATIE	Ksenija TURKOVIĆ (Vice-Chair CJ-S-CH Vice-Président CJ-S-CH)	Professor of Criminal Law University of Zagreb HR - 10 000 Zagreb
SCIENTIFIC EXPERT / EXPERT SCIENTIFIQUE		
BELGIUM BELGIQUE	Ankie VANDEKERCKHOVE	Beleidsmedewerker Vlaamse Centrale Autoriteit Interlandelijke Adoptie B - 9881 Bellem
MEMBER STATES / ÉTATS MEMBRES attending meeting at their own expenses / assistant à la réunion à leurs propres frais		
GEORGIA GÉORGIE	Ms Babutsa PATARIA Relations and Legal	Head of International Co-operation Division Ministry of Justice of Georgia
ITALY ITALIE	Isabella MASTROPASQUA	Directrice Bureau d'études et recherches (Rome) Centre d'étude européen Nisida, Napoli Dipartimento per la Giustizia Minorile 1 - Ministero

		della Giustizia Uff. Studi e ricerche I - 00100 Roma
LUXEMBOURG	Claude JANIZZI	Conseiller de direction première classe Ministère de la Famille (droits de l'enfant) Luxembourg
NORWAY NORVÈGE	Lise LEHRMANN	Advisor Legislation Department Ministry of Justice and the Police NO-0030 Oslo
POLAND POLOGNE	Agata ROGALSKA - PIECHOTA	Expert, Office of the Plenipotentiary for the Proceedings before the International Organs of the Protection of Human Rights Ministry of Foreign Affairs 00-580 Warsaw, Poland
SPAIN ESPAGNE	Rafael VAÍLLO RAMOS	Conseiller technique E - 28071 Madrid
NON-MEMBER STATES HAVING OBSERVER STATUS WITH THE COUNCIL OF EUROPE <i>ÉTATS NON MEMBRES AYANT LE STATUT D'OBSERVATEUR AUPRÈS DU CONSEIL DE L'EUROPE</i>		
HOLY SEE SAINT-SIÈGE	Philippe TOUSSAINT	Représentant du Saint-Siège auprès du Conseil de l'Europe 67000 Strasbourg
JAPAN JAPON		
MEXICO MEXIQUE	Maria-Fernanda GONZALEZ	Attachée Mission of Mexico at the Council of Europe 67000 Strasbourg
UNITED STATES OF AMERICA ÉTATS-UNIS D'AMÉRIQUE		
CANADA		
PARTICIPANTS		
PARLIAMENTARY ASSEMBLY ASSEMBLÉE PARLEMENTAIRE	Excused	

<p>CONSULTATIVE COUNCIL OF EUROPEAN PROSECUTORS CONSEIL CONSULTATIF DE PROCUREURS EUROPÉENS (CCPE)</p>	<p>Harald RANGE</p>	<p>Generalstaatsanwalt Generalstaatsanwaltschaft Celle 29221 Celle</p>
<p>EUROPEAN STEERING COMMITTEE FOR YOUTH COMITE DIRECTEUR EUROPÉEN POUR LA JEUNESSE (CDEJ)</p>	<p>Excused</p>	
<p>EUROPEAN COMMITTEE FOR SOCIAL COHESION COMITE EUROPÉEN POUR LA COHESION SOCIALE (CDCS)</p>	<p>Annachiara CERRI Vladimir TCHERNEGA</p>	<p>Co-Secretary CDCS Secretariat of the European Committee for Social Cohesion (CDCS) Council of Europe</p>
<p>EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE COMMISSION EUROPÉENNE POUR L'EFFICACITÉ DE LA JUSTICE (CEPEJ)</p>	<p>Excused</p>	
<p>CONSULTATIVE COUNCIL OF EUROPEAN JUDGES CONSEIL CONSULTATIF DES JUGES EUROPÉENS (CCJE)</p>	<p>Excused</p>	

OTHER PARTICIPANTS / AUTRES PARTICIPANTS

<p>EUROPEAN COMMISSION - COUNCIL OF THE EUROPEAN UNION COMMISSION EUROPÉENNE - CONSEIL DE L'UNION EUROPÉENNE</p>		
<p>HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW CONFÉRENCE DE LA HAYE DE DROIT INTERNATIONAL PRIVÉ (HCCH)</p>		
<p>INTERAGENCY PANEL ON JUVENILE JUSTICE GROUPE INTERINSTITUTIONS SUR LA JUSTICE POUR MINEURS (IPJJ)</p>	<p>Benoît VAN KEIRSBILCK</p>	<p>Président Défense des Enfants International B - 1000 Bruxelles</p>
<p>UNITED NATIONS CHILDREN'S FUND FONDS DES NATIONS UNIES POUR L'ENFANCE (UNICEF)</p>	<p>Nigel CANTWELL</p>	<p>Consultant Child Protection CH -1202 Geneva</p>

OBSERVERS / OBSERVATEURS

<p>EUROPEAN NETWORK OF OMBUDSPERSONS FOR CHILDREN RESEAU EUROPEEN DE DEFENSEURS POUR LES ENFANTS (ENOC)</p>	<p>Hugues FELTESSE, Délégué Général Polina Atanasova Representative of ENOC to the Council of Europe</p>	<p>Défenseur des Enfants-France/Représentant de la Présidence d'ENOC 75013 Paris Conseil de l'Europe 67075 Strasbourg Cedex</p>
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INTERPRETERS / INTERPRÈTES

Grut BARBARA
Guittonneau NICOLAS
Jaffrey CYNERA

APPENDIX II

AGENDA / ORDRE DU JOUR

1. Opening of the meeting / *Ouverture de la réunion*

2. Adoption of the Agenda / *Adoption de l'ordre du jour*

3. Consultation of stakeholders on the draft Guidelines / *Consultation des parties prenantes sur le projet de lignes directrices*

Mr. / M. Seamus Carroll, Chair of the CJ-S-CH / *Président du CJ-S-CH*
Ms / Mme Regina Jensdottir, Head of the Public and Private Law Division /
Chef de la division du droit public et privé

Conclusions of the hearing (Strasbourg, 7 December 2009) / *Conclusions de l'audition (Strasbourg, 7 décembre 2009)*

4. Information by the Secretariat / *Information du Secrétariat*

Ms / Melle Sabrina Cajoly, Co-secretary of the CJ-S-CH / *Co-secrétaire du CJ-S-CH*

Report of the 2nd meeting of the CJ-S-CH / *Rapport de la CJ-S-CH (2009) 15*
2^e réunion du CJ-S-CH

Recommendation CM/Rec(2009)10 of the Committee of Ministers to member states on integrated national strategies for the protection of children from violence / *Recommandation du Comité des Ministres aux Etats membres sur les stratégies nationales intégrées de protection des enfants contre la violence*

Exchange of views with Mrs Marta Santos Pais, Special Representative of the United Nations Secretary General (restricted / *restreint*) on Violence against Children / *Echange de vues avec Mme Marta Santos Pais, Représentante spéciale du Secrétaire Général des Nations Unies sur la violence à l'encontre des enfants*

5. Draft Council of Europe Guidelines on child-friendly justice / *Projet de lignes directrices du Conseil de l'Europe pour une justice adaptée aux enfants*

Ms / Mme Ankie Vandekerckhove, scientific expert / *experte scientifique*

2nd draft of the guidelines / *2^e projet de lignes directrices* CJ-S-CH (2009) 13

1st draft Explanatory memorandum / 1^{er} projet d'exposé des motifs **CJ-S-CH (2009) 16**
(restricted / restreint)

6. Consultation of children / Consultation des enfants

Consultation of children concerning the draft Council of Europe guidelines on child-friendly justice / *Consultation des enfants concernant le projet de lignes directrices du Conseil de l'Europe sur une justice adaptée aux enfants* **CJ-S-CH (2009) 11 BIL**

1st Draft Questionnaire / 1^{er} projet de questionnaire **CJ-S-CH (2009) 14**

7. Preparation of the next meetings / Préparation des prochaines réunions

Terms of reference of the CJ-S-CH for 2010 / *Mandat du CJ-S-CH pour 2010* **CJ-S-CH (2010) 1 BIL**

Work plan of meetings of the CJ-S-CH for 2009 / *Planning des réunion du CJ-S-CH pour 2010* **CJ-S-CH (2010) 2 BIL**

8. Other business / Divers