

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 1 July 2021

CDCJ&CDENF/Bu(2021)PV1

**BUREAU OF THE
EUROPEAN COMMITTEE ON LEGAL CO-
OPERATION
(CDCJ-BU)**

**BUREAU OF THE
STEERING COMMITTEE FOR THE
RIGHTS OF THE CHILD
(CDENF-BU)**

Second joint meeting
(videoconference)
24 June 2021

MEETING REPORT

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I. OPENING OF THE MEETING AND WELCOME

1. The meeting was opened by the Chair of the CDCJ, Mr João Arsénio de Oliveira (Portugal), and the Chair of the CDENF, Ms Maria-Andriani Kostopoulou (Greece), who welcomed the participants.

II. ADOPTION OF THE DRAFT AGENDA AND ORDER OF BUSINESS

2. The agenda was adopted as set out in Appendix I. The list of participants appears in Appendix II.

III. STATEMENT BY THE CHAIR AND THE SECRETARIAT

3. Mr Seamus Carroll, Chair of the CJ/ENF-ISE, informed the Bureaus on the progress made by the Committee of experts and on the outcome of its 3rd meeting (14-15 April 2021), commending the two feasibility studies as an excellent foundation on which to base the further work of the Committee. The Bureaus took note of the report of the third meeting of the CJ/ENF-ISE (document CJ/ENF-ISE(2021)PV1) and welcomed the progress made.
4. The Secretariat informed the Bureaus about the outcome of the Regional Discussion on “Children’s rights and alternative care” organised by the CDENF Secretariat under the auspices of the Hungarian Presidency of the Committee of Ministers (1 June 2021). Participants highlighted the question of state responsibilities in relation to safeguarding the rights of the child in cross-border alternative care situations, as raised during one of the sessions, as an important and challenging issue that would merit further consideration.
5. The Bureaus also took note of the information provided on the state of play in the preparation of the upcoming Strategy for the Rights of the Child (2022-2027) to be approved by the CDENF at its fourth Plenary meeting (October 2021) in view of its adoption by the Committee of Ministers in early 2022, in which the work of the Committee of Experts would be very relevant, notably, under the two priority areas relating to equal opportunities for all children and child-friendly justice.

IV. FEASIBILITY STUDIES ON THE PROTECTION OF THE BEST INTEREST OF THE CHILD AND THEIR RIGHTS IN SITUATIONS OF PARENTAL SEPARATION AND IN CARE PROCEEDINGS

6. Following an introduction by the Chairs of the CDCJ and of the CJ/ENF-ISE, the Bureaus examined the two feasibility studies (documents CJ/ENF-ISE(2021)08A and CJ/ENF-ISE(2021)08B), commending the quality of the work and congratulating the consultants and the CJ/ENF-ISE on the progress achieved.
7. The Bureau members agreed that the work forward should focus on elaborating practical guidance and on promoting good practices relating to best interests determination in administrative and court proceedings rather than attempting to achieve harmonisation between the different national legal concepts.

The outcome of the work should guide member states to uphold the international standards set out in the UNCRC and the ECHR, as developed in the substantial body of case-law of the ECtHR; and in other international instruments in a practical context. This would also pave the way towards promoting good practices in the so-far less explored area of protecting the best interests of the child in situations of parental separation.

8. The Bureau members further considered that this purpose would be best achieved in the legal form of a recommendation, accompanied by an explanatory report and to be complemented at a later stage by implementing tools, such as practical handbooks or other texts.
9. Participants exchanged views on whether it would be more appropriate to address both situations (parental separation and care situations) in one single instrument, or to divide the work into two separate instruments. Some members expressed a clear preference for a single instrument, while others considered that there is merit in having two separate instruments, considering the specificities of the two subject matters and different target groups to be addressed.
10. The Bureaus took note of the preference expressed by the CJ/ENF-ISE and its Chair towards the development of a single instrument in the form of a recommendation with guidance on both parental separation situations and care proceedings, and the consideration that it would still be possible to separate the draft text into two separate instruments at a later stage of the drafting process if necessary. The Bureaus agreed that the work should be initiated under the assumption of developing a single policy instrument, which would cover in a comprehensive manner aspects common to both subject matters as well as the aspects which only apply to one of the two areas, while ensuring utmost clarity with respect to measures applicable to different professionals concerned. It was agreed that the Bureaus would be kept apprised of progress in this respect, as well as any considerations that may require to revisit the CJ/ENF-ISE's deliverables and workplan.
11. The Bureaus adopted the two feasibility studies and agreed on their publication after final editorial revisions to be carried out by the Secretariat.

V. Composition of CJ/ENF-ISE

12. The Bureau members examined the six nominations received for the two vacant positions of the CJ/ENF ISE, taking into account, notably, any previous participation in the Committee of Experts' work, the professional qualifications of the candidates and the specific profile of expertise best complementing the expertise already available within the Committee, as well as geographic and gender considerations. The Bureaus agreed by consensus to propose Mr. Thomas Knoll-Biermann (Germany) and Dr. Salomé Adroher Biosca (Spain) as additional members of the expert group.

VI. Preparation of the new Programme and Budget (2022-2025), CJ/ENF-ISE proposals for future terms of reference, working methods and work plan

13. The Bureaus took note of the update provided by the Secretariat on the process of finalisation of the draft terms of reference for the CJ/ENF-ISE in the Programme and Budget (2022-2025) and rules applicable for working methods as of January 2022.

14. The Bureaus examined and agreed on the updated working methods and workplan for the CJ/ENF-ISE for 2021 and tentatively for 2022/2023 subject to the adoption by the Committee of Ministers of new terms of reference for the CJ/ENF-ISE (document CJ/ENF-ISE(2021)01Rev3, restricted). Particular attention was drawn on the need to ensure, through CJ/ENF-ISE working methods, an inclusive participation and consultation of a broad range of stakeholders, including children.

VII. ANY OTHER BUSINESS

15. No other issues were raised.

VIII. APPROVAL OF THE JOINT MEETING REPORT

16. The Bureau members agreed that the approval of the report of the meeting would be undertaken through a written procedure after the meeting.

APPENDIX I

AGENDA

- I. Opening of the meeting and welcome**
- II. Adoption of the draft agenda and order of business**
- III. Statement by the Chair and the Secretariat**
 - *Progress review on CJ/ENF-ISE work*
 - *Conclusions Regional discussion on “Children’s rights and alternative care”, organised by the CDENF Secretariat under the auspices of the Hungarian Chairmanship of the Committee of Ministers (1 June 2021)*
 - *Draft Strategy for the Rights of the Child (2022-2027)*
- IV. Feasibility studies on the protection of the best interests of the child in parental separation and in care proceedings**
 - *Review and adoption of the feasibility study of a legal instrument or practical tool on the protection of the best interests of the child and their rights in parental separation situations*
 - *Review and adoption of the feasibility study of a legal instrument or practical tool on the protection of the best interests of the child in domestic law proceedings by public authorities to limit parental responsibilities or place a child in care*
 - *Exchange of views on the proposals of draft instrument(s) and practical tool(s)*
- V. Composition of CJ/ENF-ISE**
 - *Review of nominations received as of 21 June 2021*
- VI. Preparation of the new Programme and Budget (2022-2025) , CJ/ENF-ISE proposals for future terms of reference, working methods and work plan Any other business**
- VII. Approval of the joint meeting report**

APPENDIX II

LIST OF PARTICIPANTS

MEMBERS OF THE CDCJ BUREAU / *MEMBRES DU BUREAU DU CDCJ*

CZECH REPUBLIC / REPUBLIQUE TCHÈQUE

Zuzana FIŠEROVÁ

Director
International Department for Civil Matters
Ministry of Justice

GERMANY / ALLEMAGNE

Christoph HENRICH (apologized / excusé)

(Vice-Chair / Vice-président)
Head of Section International Law
Law of International Organisations
Federal Ministry of Justice and Consumer
Protection

PORTUGAL

João Arsénio de OLIVEIRA

(Chair / Président)
Head of Department, Deputy Director
Directorate General for Justice Policy
Ministry of Justice

SWEDEN / SUÈDE

Signe ÖHMAN (apologized / excusée)

Director
Division for EU Affairs
Ministry of Justice

SWITZERLAND / SUISSE

Rodrigo RODRIGUEZ

Avocat, Conseiller juridique
Domaine de direction Droit privé
Département fédéral de justice et police (DFJP)
Office fédéral de la Justice (OFJ)

UNITED KINGDOM / ROYAUME-UNI

Eral KNIGHT

Head of European Civil and Private International
Law Team
Europe Division
Ministry of Justice

OTHER PARTICIPANTS / *AUTRES PARTICIPANTS*

IRELAND / IRLANDE

Seamus CARROLL

(Chair of the CJ/ENF-ISE / Président du CJ/ENF-ISE)

MEMBERS OF THE CDENF BUREAU / *MEMBRES DU BUREAU DU CDENF*

BELGIUM / BELGIQUE

Joost VAN HAELEST

Children's Rights Policy Officer
Department for Culture, Youth and Medias
Flemish Government

GREECE / GRÈCE

Maria-Andriani KOSTOPOULOU

(Chair / Présidente)
Attorney at Law
Supreme Court

PORTUGAL

Rosário FARMHOUSE

President of the National Commission for the
Promotion of the Rights and the Protection of
Children and Young People

SLOVENIA / SLOVÉNIE

Ružica BOŠKIĆ

Secretary, Ministry of Labour, Family
Social Affairs and Equal Opportunities

ESTONIA / ESTONIE

Hanna VSEVIOV (apologized / excusée)

Head of Department
Children and Families Department
Ministry of Social Affairs

DGI - HUMAN RIGHTS AND RULE OF LAW /
DGI – DROITS DE L'HOMME ET ETAT DE DROIT

DIRECTORATE OF HUMAN RIGHTS /
DIRECTION DES DROITS DE L'HOMME

JUSTICE AND LEGAL CO-OPERATION DEPARTMENT /
SERVICE DE LA COOPERATION JUDICIAIRE ET JURIDIQUE

Division for Legal Co-operation /
Division de la coopération juridique

Livia STOICA BECHT

Head of Division / *Cheffe de Division*
Secretary to the CDCJ / *Secrétaire du CDCJ*

Sophio GELASHVILI

Head of CDCJ Unit / *Cheffe de l'Unité CDCJ*
Co-Secretary to the CDCJ / *Co-Secrétaire du CDCJ*

Philippe KRANTZ

Legal Officer / *Juriste*

DGII - DIRECTORATE GENERAL OF DEMOCRACY /
DGII – DIRECTION GENERALE DE LA DEMOCRATIE

DIRECTORATE OF ANTI-DISCRIMINATION /
DIRECTION DE L'ANTIDISCRIMINATION

CHILDREN'S RIGHTS AND SPORT VALUES DEPARTMENT /
SERVICE DES DROITS DES ENFANTS ET DES VALEURS DU SPORT

Children's Rights Division / *Division des droits des enfants*

Regina JENSDOTTIR

Council of Europe Children's Rights Co-ordinator,
Head of the Children's Rights Division /
Coordinatrice des droits des enfants du Conseil de l'Europe, Cheffe de la Division des droits des enfants

Katrin UERPMANN

Secretary to the Steering Committee for the Rights of the Child
Programme Officer / *Responsable de programme*

Maria ASENSIO VELASCO

Policy Officer / *Chargée de mission*

Tapio KOIVULA

Trainee / *Stagiaire*