

Strasbourg, 1 June 2023

CDCJ(2023)18

**EUROPEAN COMMITTEE ON LEGAL CO-OPERATION
(CDCJ)**

100th plenary meeting

30 May – 1 June 2023

Strasbourg, Palais de l'Europe, Room 10

ABRIDGED MEETING REPORT

Opening of the meeting and adoption of the agenda

The European Committee on Legal Co-operation held its 100th plenary meeting in Strasbourg, on 30 May-1 June 2023, with Mr Christoph Henrichs (Germany) in the Chair.

The agenda of the meeting is contained in Appendix I. The abridged and full reports of the meeting and the list of participants¹ are available on the CDCJ's website.

List of items for decision by the Committee of Ministers

The CDCJ invites the Committee of Ministers

- to take note of the abridged report of its 100th plenary meeting, held in Strasbourg on 30 May-1 June 2023, as a whole;
- to take note of the timeline of the end of 2025 proposed to complete the study on national climate litigation cases expected by the Committee of Ministers, in line with its decisions of 5 October 2022 regarding its reply to the Parliamentary Assembly on Recommendation 2213 (2021) – “Addressing issues of criminal and civil liability in the context of climate change”, given the complexity of the issue and the importance of several relevant cases currently pending before the European Court of Human Rights;
- to take note that, after examining Recommendation 2254 (2023) – “Safeguarding democracy, rights and the environment in international trade” of the Parliamentary Assembly, the CDCJ did not consider that it could provide specific comments regarding this recommendation in connection with its own fields of activity.

List of items for information of the Committee of Ministers

The CDCJ:

- took note of the introductory remarks by the Chair on recent developments that had occurred since the 99th plenary meeting of 23-25 November 2022, welcoming in particular the celebration event organised in conjunction with the 100th plenary meeting of the CDCJ to mark the 60th Anniversary of the Committee, held on the morning of 30 May 2023 (see programme contained in Appendix II and the dedicated webpage), and of the opening words by Mr Christophe Poirel, Director of the Human Rights Directorate, in particular in connection with the Declaration adopted by the Heads of State and Government of the Council of Europe at their 4th Summit (Reykjavik, Iceland, 16-17 May 2023), and of any possible implications for the CDCJ's operations and activities;
- welcomed Mr Gerald Dunn, recently appointed as the Head of the Division for Legal Co-operation and Secretary to the CDCJ in replacement of Ms Livia Stoica Becht to whom it expressed its gratitude for her support to the CDCJ in the recent past years;
- welcomed the newly appointed members of the Committee (Armenia, Azerbaijan, Montenegro and Türkiye) and the representatives of new observers (Council of Bars and Law Societies of Europe (CCBE) and International Commission of Jurists (ICJ));
- took note of the state of play of the implementation of the CDCJ activities and signatures/ratifications of the conventions and agreements under its responsibility, as well as of the follow-up action by the CDCJ or by the Committee of Ministers in respect of the texts adopted by the Parliamentary Assembly and the Congress of Local and Regional Authorities during the past six years, on which the CDCJ has given its opinion;
- examined the revised proposals of follow-up to give to the CDCJ report on the review of the implementation of the Council of Europe Plan of Action on Strengthening Judicial Independence and Impartiality (Sofia Action Plan) and agreed that a first periodic review would be prepared with a focus on the career and training of judges, which would be carried out on the basis of the proposed methodology as featured in document CDCJ(2023)01 prov3; agreed to examine the detailed workplan of the first periodic review at its 101st plenary meeting;

¹ At this plenary meeting of CDCJ, the member States were represented by 35 participants: 21 women and 14 men, 60% and 40% respectively.

- took note of the information provided by the Chair of the Committee of Experts on the Protection of Lawyers (CJ-AV), Mr Christoph Henrichs (Germany), on the progress made in the preparation of a draft legal instrument on the protection of lawyers, and on the expiration of the current CJ-AV terms of reference on 31 December 2023 to be extended until the end of 2024, according to the proposed revised terms of reference, and for which the Chairperson was elected amongst the CDCJ members (see below); agreed on the preparation of a legally-binding instrument and that the CJ-AV should complete its work accordingly; also took note of the report of the 4th meeting of the CJ-AV (Strasbourg, 1-3 March 2023) and of the date of the 5th meeting (3-5 July 2023);
- took note of the information provided by the Chair of the Committee of experts on the rights and best interests of the child in parental separation and in care proceedings (CJ/ENF-ISE), Mr Thomas Knoll-Biermann, on the results of the 7th meeting of the Committee of experts (6-8 and 24 March 2023) and the progress made in the preparation of the CJ/ENF-ISE expected deliverables; held an exchange of views with the Steering Committee for the Rights of the Child (CDEFN) on the draft recommendation on the protection of the best interests of the child and his or her rights in parental separation proceedings and on its preliminary explanatory memorandum and agreed to send their written comments by 31 July 2023; took note that a second joint meeting will be held on 16 November 2023, in the margins of the CDCJ's 101st plenary meeting, with a view to approving the draft recommendation and adopting of its explanatory memorandum; took note of the next steps and workplan for the finalisation and the joint approval of the draft recommendation on the protection of the best interests of the child and his or her rights in care proceedings, and also the practical tools for promoting the two legal instruments developed by the CJ-ENF/ISE;
- examined the draft concept note prepared by the CDCJ's limited working group on administration and artificial intelligence (CDCJ-ADMIN-AI) pursuant to the decision made by the CDCJ at its 99th plenary meeting, on the use of artificial intelligence (AI) for policing, the administration of justice and borders/migration and the use of AI or other automated decision-making (ADM) for communication purposes; decided on the development of a draft recommendation on the use of AI for policing, the administration of justice and borders/migration as part of the future work of the Committee in the area of administrative law and AI, the details of the future activity being discussed at future plenary meetings; agreed with the proposal of the CDCJ-ADMIN-AI to address the issues related to the use of AI or ADM for communication purposes as part of the updated handbook "The Administration and You"; tasked the Bureau, with the support of the Secretariat, to elaborate comments on the draft text of the Council of Europe's [framework] Convention on Artificial Intelligence, Human Rights, Democracy, and the Rule of Law and submit them to the CAI on behalf of the CDCJ;
- reviewed and adopted the draft guide for practitioners on administrative detention of migrants and asylum seekers and authorised its publication, subject to a final editorial review; agreed to review the composition of the CDCJ-MIG due to the lack of expert knowledge in statelessness issues of the current members of the group and consequently, instructed the Secretariat to launch a new call for expression of interest to CDCJ delegations; took note of the technical meeting on "Access to nationality for stateless persons" jointly organised with the European Migration Network (EMN) in Luxembourg on 22 June 2023, to which the CDCJ Delegations were encouraged to actively participate;
- approved the "Report on the state of play and assessment of the implementation of the European Convention on Information on Foreign Law (ETS No. 62) and its additional protocol (ETS No. 97)" and, subject to a final editorial review, authorised its publication under the responsibility of its author; exchanged views on proposed avenues for improving the convention-based mechanisms and agreed on the workplan and deliverables as they appear in the appendix to the report as approved;
- examined both the draft practical guide on mainstreaming gender in public and private law reform processes and the factsheet extracted from it, as revised by the consultants in light of the comments received from member States on the first draft guide, the suggestions made by CDCJ members at their 99th plenary meeting and subsequently those made by the Secretariat following the CDCJ Bureau's discussions at its 116th and 117th meetings (2-3 February and 3-4 May 2023); adopted the practical guide and its factsheet, as they appear in documents CDCJ(2022)30 and CDCJ(2023)15 respectively, and authorised their publication subject to a final editorial review;
- considered the finalisation of proposals for CDCJ priority deliverables in the areas of public and private law for 2022-2025 in the light of the updated workplan and priority actions;
- examined and agreed with the proposals for revised draft terms of reference of the CDCJ and its subordinate bodies for 2024-2027 as they stood;

- took note of the oral account given by the CDCJ Chairperson of the exchange of views that the Bureau held with two academics specialised on the issue of climate change litigation; shared the Bureau's views about the complexity of the issue and the importance of several relevant cases currently pending before the European Court of Human Rights and the advisability of waiting for the Court's decisions on the admissibility of those applications and, consequently, that any study should be completed by the end of 2025; agreed, at this stage, to propose this timeline to complete the study on national climate litigation cases expected by the Committee of Ministers, in line with its decisions of 5 October 2022 regarding its reply to the Parliamentary Assembly on Recommendation 2213 (2021) – "Addressing issues of criminal and civil liability in the context of climate change";
- took note of the information on recent developments in the area of private law at national level (document CDCJ(2023)10 rev), provided by member States by making use, for the first time, of the template approved by the CDCJ at its 99th plenary meeting to collect such information;
- took note of the information in the area of private law provided by other relevant Council of Europe bodies and committees, international organisations, and civil society (document CDCJ(2023)11) by making use, for the first time, of the template approved by the CDCJ at its 99th plenary meeting to collect such information;
- took note of the decision made by the Committee of Ministers at its 1466th meeting (9-12 May 2023) asking for possible comments by the CDCJ on Parliamentary Assembly Recommendation 2254 (2023) - "Safeguarding democracy, rights and the environment in international trade"; decided not to submit any comments as there were no obvious links between the content of the recommendation and the fields of activity of the CDCJ;
- considered the request for the observer status with the Committee of experts on the protection of lawyers (CJ-AV) of European Democratic Lawyers (EDL); having regard to the assessment criteria adopted by the CDCJ at its 98th plenary meeting, decided not to grant the observer status to the organisation but invited it to take part in the stakeholder consultation process so as to contribute to the work of the CJ-AV;
- re-elected and extended the mandate of Mr Christoph Henrichs (Germany) as Chair of the Committee of experts on the protection of lawyers (CJ-AV), until the expiration of the CJ-AV's proposed extended terms of reference on 31 December 2024;
- took note of the updated calendar of meetings and events expected to take place from 2023 to 2025 and agreed or confirmed as much as possible on exact dates for key events, including the 101st plenary meeting of the CDCJ agreed to be held in Strasbourg from 15 to 17 November 2023;
- adopted the abridged report of its 100th plenary meeting.

Any changes to the composition of the Committee Bureau

The CDCJ held an election, in accordance with Resolution CM/Res(2021)3 on intergovernmental committees and subordinate bodies, their terms of reference and working methods, for the following seat:

Bureau member:

Ms Signe Öhman (Sweden) to replace Mr Abderrazzak Afkyr (The Netherlands) to complete his term of office which expires on 31 December 2024.

Appendix I

Agenda

1. Opening of the meeting
2. Adoption of the agenda and order of business
3. Statement of the Chair and Secretariat
4. Tour de table: interventions by newly designated members of the CDCJ
5. Review of progress
- Justice and the Rule of Law*
 - 5.1 Council of Europe Plan of Action on Strengthening Judicial Independence and Impartiality (Sofia Action Plan)
 - 5.2 Protection of the profession of lawyer – Committee of Experts – CJ-AV (*main deliverable 1*)
- Family law and children's rights*
 - 5.3 Rights and best interests of the child in parental separation and in care proceedings – Committee of Experts – CJ/ENF-ISE (*main deliverable 2*)
- Technological developments, including artificial intelligence*
 - 5.4 Administration and artificial intelligence – CDCJ working group – CDCJ-ADMIN-AI (*new main deliverable 7*)
- Public Law*
 - 5.5 Administrative detention of migrants – CDCJ working group – CDCJ-MIG (*main deliverable 8*)
- Promoting and facilitating the functioning of conventions within the CDCJ's area of competence (main task (iii))*
 - 5.6 European Convention on Information on Foreign Law (ETS No. 62) and its Additional Protocol (ETS No. 97) (*main deliverable 4*)
 - 5.7 Mainstreaming gender in public and private law reform processes (*main deliverable 5*)
6. Programme and budget for 2024-2027
7. Developments in member States in the area of private law
8. Co-operation with other relevant Council of Europe bodies and committees, other international organisations, and civil society in the area of private law
9. CDCJ Opinions (if any) (*main deliverable 15*)
10. Observers
11. Elections (Chair of the CJ-AV)
12. Any other business
13. Dates of the next meetings
14. Adoption of the abridged meeting report

Appendix II**Programme of the celebration event marking the 60th Anniversary of the CDCJ (30 May 2023)**

9:30 Opening Session

Introduced by Mr Daniele Cangemi, Head of the Department for Human Rights, Justice and Legal Co-operation standard-setting activities, Directorate of Human Rights, Directorate General Human Rights and Rule of Law, Council of Europe

- Mr Bjørn Berge, Deputy Secretary General of the Council of Europe
 - Mr Christoph Henrichs, Chair of the European Committee on Legal Co-operation (CDCJ) of the Council of Europe
 - Ambassador Petr Válek, Chair of the Committee of Ministers' Rapporteur Group on Legal Co-operation (GR-J) of the Council of Europe
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10:00 Session I - Looking back at achievements of the CDCJ in public and private law over the last 60 years

Moderator: Ms Margaret Killerby, former Secretary to the CDCJ and retired Director of Co-operation for Human Rights and Legal Affairs of the Council of Europe

Safeguarding judicial independence and the rule of law

- Mr Eberhard Desch, former member and Chair of the CDCJ and retired Head of International Law Division at the Federal Ministry of Justice of Germany

Contributing to a more transparent and democratic society in the public and private law fields

- Mr Miloš Haňapka, former member and Chair of the CDCJ, Counsellor for Civil Law at the Permanent Representation of the Slovak Republic to the European Union
- Ms Zuzana Fišerová, member and former Chair of the CDCJ, Deputy Minister International and EU co-operation, Ministry of Justice of the Czech Republic

Advancing family law standards and the rights of the child

- Professor Inge Lorange Backer, former member and Chair the CDCJ, retired Director General of the Legislation Department at the Ministry of Justice of Norway, Professor emeritus at the University of Oslo, Institute for public law

Questions & Answers

11:00

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11:20**Coffee break**

11:20 Session II - Strengthening legal co-operation to meet challenges ahead

Moderator: Ms Signe Öhman, member of the CDCJ

Towards an instrument for the protection of lawyers

- Ms Vaida Rudėnaitė, member of the Council of Europe Committee of Experts on the Protection of Lawyers (CJ-AV), Lithuania
- Mr Laurent Pettiti, Lawyer at the Paris Bar, President of the Delegation of the French Bars in Brussels, Chair of the “European Convention” Working Group of the Council of Bars and Law Societies of Europe (CCBE)

Impact of artificial intelligence and new technologies in the context of public administration

- Mr Abderrazzak Afkyr, member of the CDCJ, Coordinating adviser, International Affairs and Projects, Directorate for European and International Affairs (DEIA), Ministry of Justice and Security (The Netherlands)

Adapting family law and the rights of the child to our modern societies

- Mr Seamus Carroll, former member and Chair of the CDCJ, former Chair of the Council of Europe Committee of Experts on the Rights and the Best Interests of the Child in Parental Separation and in Care Proceedings (CJ/ENF-ISE), retired Principal Officer, Civil Justice and Equality/Legislation, Department of Justice and Equality of Ireland
- Ms Velina Todorova, member and Vice-Chair of the United Nations Committee on the Rights of the Child

Questions & Answers

12:30 Closing Session

Concluding remarks by Mr Christophe Poirel, Director of Human Rights of the Council of Europe

12:45 **Family Photo (Ante-room of the Committee of Ministers)**

13:00 **Lunch (upon invitation)**
