



Strasbourg, 13 November 2023

CDCJ(2023)OJ2 ANN Rev

Update: 15.11.2023

European Committee on Legal Co-operation (CDCJ)

101st plenary meeting

Annotated draft agenda

Wednesday 15 – Friday 17 November 2023 (Strasbourg, Palais de l'Europe, Room 7)

1. Opening of the meeting

2. Adoption of the agenda and order of business

Working documents

Draft agenda

CDCJ(2023)OJ2 prov3 (*bilingual*)

Annotated draft agenda

CDCJ(2023)OJ2 ANN Rev

3. Statement of the Chair and Secretariat

The CDCJ is invited to take note of the information provided by the Chair and by the Secretariat on recent developments that have occurred since the 100th plenary meeting (30 Mai-1 June 2023) and their possible implications for CDCJ's operations and activities.

4. Tour de table: interventions by newly designated members of the CDCJ

Background document

Membres du CDCJ (as of 7 November 2023)

Since the last plenary meeting (30 May-1 June 2023), new members joined the Committee (Austria, Belgium, Croatia, France, The Netherlands, Serbia, Spain). After welcoming them, the Chair will invite newly designated members to introduce themselves and to inform the Committee of their 'delegation' priority areas of interest in the context of CDCJ's work.

5. Review of progress

- Revised workplan and priority actions of the CDCJ for 2022-2025
[CDCJ\(2022\)15 rev6](#)
- Review of action taken by the CDCJ to legal instruments prepared by the CDCJ and to recommendations adopted by the Parliamentary Assembly and the Congress of Local and Regional Authorities
[CDCJ\(2022\)09 rev5](#)
- Signatures and ratifications of treaties under the responsibility of the CDCJ – changes occurred since the 99th plenary meeting (23-25 November 2022): Information provided by the Secretariat
[CDCJ\(2023\)INF02 \(bilingual\)](#)

The CDCJ is invited to take note of the state of play of the implementation of the CDCJ activities, of the changes occurred since the 99th plenary meeting of the CDCJ (23-25 November 2022) in the state of signatures and ratifications of treaties under the responsibility of the committee, as well as of the follow-up action given 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 six past years, on which the CDCJ has been asked to provide its opinion.

Justice and the Rule of Law

5.1 Council of Europe Plan of Action on Strengthening Judicial Independence and Impartiality (Sofia Action Plan)

- *Proposal for a detailed workplan of the first thematic review on the state of play in member States in relation with the career and training of judges*

Working document

- Draft detailed workplan of the first thematic review focused on the career and training of judges – proposal by the Secretariat
[CDCJ\(2023\)20 prov2](#)

Background documents

- Revised follow-up proposals, including methodology
[CDCJ\(2023\)01 prov3 \(restricted\)](#)
- [Report of the CDCJ to the Secretary General of the Council of Europe on the implementation of the “Sofia Action Plan”](#)
- [Council of Europe Plan of Action on Strengthening Judicial Independence and Impartiality](#)

Further to the decision made by the CDCJ at its 100th plenary meeting, the CDCJ is invited to examine and approve the draft workplan of the CDCJ for preparing, by the end of 2027, its first thematic review as a follow-up to its [2022 Report to the Secretary General of the Council of Europe on the implementation of the Council of Europe Plan of Action on Strengthening Judicial Independence and Impartiality](#), with a focus on the state of play in member States regarding the career and training of judges.

5.2 Protection of lawyers – Committee of Experts – CJ-AV (main deliverable 1)

- Update by the Chair of the CJ-AV on the preparation of the draft text
- Examination of the draft text of the future convention, including a proposal for the monitoring mechanism

Working documents

- Draft text for a future legal instrument on the protection of the profession of lawyer (working version 9)
CJ-AV(2022)05 prov9 (*bilingual – restricted*)
- Description of the functioning of the monitoring mechanism proposed in the draft convention for the protection of the profession of lawyer
CDCJ(2023)26
- Report of the 6th meeting of the CJ-AV (Strasbourg, 17-19 October 2023)
CJ-AV(2023)12
- Report of the 5th meeting of the CJ-AV (Strasbourg, 3-5 July 2023)
CJ-AV(2023)09

Background document

- Draft text of the explanatory report (working version 1)
CJ-AV(2023)10 prov2 (*restricted*)

The CDCJ is invited to take note of the update provided by the Chair of the Committee of Experts on the Protection of Lawyers (CJ-AV) on the state of play of the work on the elaboration of the draft Convention for the protection of the profession of lawyer since the 100th plenary meeting of the CDCJ.

It is also invited to take note of the reports of the CJ-AV's 5th and 6th meetings (3-5 July and 17-19 October 2023).

The CDCJ is invited, on 15 November in the afternoon, to examine and discuss, in the presence of the consultant of the CJ-AV, the draft text of the convention (CJ-AV(2022)05 prov9) and the proposed monitoring mechanism to be included in the future treaty (detailed description provided in document CDCJ(2023)26), and to provide feedback to the CJ-AV for continuation of its work.

Technological developments, including artificial intelligence

5.3 Administration and artificial intelligence – CDCJ working group – CDCJ-ADMIN-AI (new main deliverable 7)

- Updated handbook “The Administration and You”

- Update by the Secretariat

Working document

- Draft updated handbook “The Administration and You”
CDCJ-ADMIN-AI(2023)03 prov3 (*restricted*)

Background documents

- List of decisions of the 7th plenary meeting of the Committee on Artificial Intelligence - CAI (Strasbourg, 24-26 October 2023)
CAI(2023)23
- List of decisions of the 6th plenary meeting of the Committee on Artificial Intelligence - CAI (Strasbourg, 31 May – 2 June 2023)

CAI(2023)14

- Overview of the Council of Europe activities in the field of artificial intelligence (March 2023)

The CDCJ is invited to examine and to discuss, with the consultants of the CDCJ limited working group on Administration and Artificial Intelligence (CDCJ-ADMIN-AI) online, the draft handbook "The Administration and You" as updated by the CDCJ-ADMIN-AI (document CDCJ-ADMIN-AI(2023)03 prov3) in the light of developments in the use of artificial intelligence and of the findings of the 2022 comparative study on administrative Law and the use of artificial intelligence and other algorithmic systems in administrative decision-making in the member states of the Council of Europe, to make the amendments it considers appropriate and, finally, to adopt the handbook as revised.

It is also invited to authorise the publication of the handbook, with the consent of its authors, subject to any editorial changes that may be necessary.

Public Law

5.4 Statelessness and access to nationality

- *Update by the Secretariat*
- *Decision to make on the activities to carry out in relation to statelessness and access to nationality, the workplan and the terms of reference of the CDCJ working group – CDCJ-MIG*

Working documents

- Draft workplan of the CDCJ working group – CDCJ-MIG
CDCJ(2023)21 prov (restricted)
- Draft terms of reference for the CDCJ working group – CDCJ-MIG
CDCJ(2023)22 prov2 (restricted)

Background documents

- Report on the technical meeting on "Access to nationality for stateless persons" (Luxembourg, 22 June 2023) *(restricted - English only)*
- Statelessness and the right to a nationality in Europe: progress, challenges and opportunities – Final Report (2022)
- Analysis of current practices and challenges regarding the avoidance and reduction of statelessness in Europe (2021)
- Council of Europe's Action Plan on Protecting Vulnerable Persons in the Context of Migration and Asylum in Europe (2021-2025)
- Strategy for the Rights of the Child (2022-2027)

The CDCJ is invited to take note of the information provided by the Secretariat on this item, including the results of the technical meeting on "Access to nationality for stateless persons" held in June 2023.

On the basis of this information and of the decisions already made by the CDCJ in the light of the conclusions of the international conference on "Statelessness and the right to a nationality in Europe: progress, challenges and opportunities" which was organised in 2021 in the context of the prevention and reduction of statelessness in Europe, the CDCJ is invited to examine and approve the draft terms of reference and draft workplan of the CDCJ limited working group for preparing a draft compendium of good practices and a draft legal instrument on the topic, as they appear in documents CDCJ(2023)21 prov and CDCJ(2023)22 prov2, subject to any amendment it considers appropriate to make.

6. Draft recommendation on the protection of the rights and best interests of the child in parental separation proceedings, and its draft explanatory memorandum
(*main deliverable 2*)

- Joint approval and adoption by the CDCJ and the Steering Committee for the Rights of the Child (CDENF) of the draft recommendation and explanatory memorandum

Working documents

- Draft recommendation on the protection of the rights and best interests of the child in parental separation proceedings
[CDCJ\(2023\)28](#) [CDENF\(2023\)25](#) [CJ/ENF-ISE(2023)07] (*restricted*)
- Draft explanatory memorandum to the draft recommendation
[CDCJ\(2023\)29](#) [CDENF\(2023\)26](#) [CJ/ENF-ISE(2023)08] (*restricted*)
- Compilation of comments received on the draft texts
[CDCJ\(2023\)30](#) [CDENF\(2023\)29](#) [Mos corrigendum 3](#) (*restricted*)
- Report of the 8th meeting of the CJ/ENF-ISE (Strasbourg, 4-6 October 2023)
[CJ/ENF-ISE\(2023\)PV02](#)

Background documents

- CJ/ENF-ISE working methods and workplan for 2023-2024 (updated on 13 October 2023)
[CJ/ENF-ISE\(2023\)01 rev.](#)
- Compilation of comments received on the draft recommendation and its preliminary draft explanatory memorandum (version circulated in May 2023)
[CJ/ENF-ISE\(2023\)06 Mos](#) (*restricted*)

The CDCJ, jointly with the Steering Committee for the Rights of the Child (CDENF) and in the presence of the consultant of the Committee of Experts on the rights and best interests of the child in the context of parental separation and in care proceedings (CJ/ENF-ISE), is invited:

- to examine the draft recommendation on the protection of the rights and best interests of the child in parental separation proceedings, together with its draft explanatory memorandum, in the light also of the comments received on the draft texts following the consultation process of 24 October 2023; to make the amendments it considers appropriate and, finally, to approve the draft recommendation and adopt the draft explanatory memorandum;
- to decide on the transmission of the draft recommendation on parental separation for adoption by the Committee of Ministers together with the draft recommendation on care procedures to be completed by the end of 2024.

The CDCJ and the CDENF are also invited to take note of the report of the 8th meeting of the CJ/ENF-ISE (4-6 October 2023).

7. Transversal issues:

- a. Mainstreaming gender, youth, children's rights, rights of persons with disabilities, and Roma and Traveller¹ issues (main task xiv)
- b. Contribution to the UNSDGs - Goal 5: Gender equality and Goal 16: Peace, justice and strong institutions (main task xvii)

The CDCJ is invited to take note that the Committee of Ministers expects from the Committee to assess mainstreaming of perspectives related to gender, youth, children's rights, rights of persons with disabilities, and Roma and Traveller issues, in the performance of S tasks, and how the work of the Committee contributes to United Nations Sustainable Development Goals 5 and 16. To do so, the CDCJ will need to identify activities within its current mandate that meet this requirement, for example:

- a. the draft recommendation on the protection of the rights and best interests of the child in parental separation proceedings as well as the work on migration and access to nationality for stateless persons (in particular regarding children) take into account the Strategy for the Rights of the Child and both contribute to UNSDG 16;
- b. the guide on mainstreaming gender in public and private law reform processes takes into account the Gender Equality Strategy and contributes to UNSDGs 5 and 16;
- c. the ongoing work on a draft convention for the protection of the profession of lawyer takes into account the Gender Equality Strategy and contributes to UNSDGs 5 and 16;
- d. the updated Handbook "The Administration and you" contributes to UNSDG 16;
- e. the follow-up action planned by the CDCJ to give effect to its report on the implementation of the Council of Europe Plan of Action on Strengthening Judicial Independence and Impartiality contributes to UNSDG 16.

8. Developments in member States in the area of public law

Working document

- Information collected
CDCJ(2023)24 (*original language*)

The CDCJ is invited to take note of the information provided by a number of member States on recent developments in the area of public law at national level, as it appears in document CDCJ(2023)24.

¹ The term "Roma and Travellers" is used at the Council of Europe to encompass the wide diversity of the groups covered by the work of the Council of Europe in this field: on the one hand a) Roma, Sinti/Manush, Calé, Kaale, Romanichals, Boyash/Rudari; b) Balkan Egyptians (Egyptians and Ashkali); c) Eastern groups (Dom, Lom and Abdal); and, on the other hand, groups such as Travellers, Yenish, and the populations designated under the administrative term "*Gens du voyage*", as well as persons who identify themselves as Gypsies. The present is an explanatory footnote, not a definition of Roma and/or Travellers.

9. Co-operation with other relevant Council of Europe bodies and committees, other international organisations and civil society in the area of public law

Working document

- Information collected
[CDCJ\(2023\)25](#) (*original language*)

The CDCJ is invited to take note of information provided by relevant Council of Europe bodies and committees, other international organisations and civil society in the area of public law, as it appears in document [CDCJ\(2023\)25](#).

10. Evaluation of completed activities / Annual exchange of views to evaluate its activities and to advise the Committee of Ministers on future priorities in its sector, including possible new activities and those that might be discontinued (*main task xiii*)

a. Stock-taking on CDCJ activities and draft terms of reference for 2024-2027

b. Exchange of views on the CEPEJ Opinion aimed at proposing to the CDCJ an update of the Recommendation No. R (86) 12 concerning measures to prevent and to reduce the excessive workload in the courts

Working documents

- Stock-taking: implementation of CDCJ activities
[CDCJ\(2022\)25 prov5](#)
- Draft terms of reference for the CDCJ and its subordinate bodies (2022-2027): revised proposals
[CDCJ\(2023\)02 prov4](#) (*restricted*)
- CEPEJ Opinion aimed at proposing to the CDCJ an update of the Recommendation No. R (86) 12 concerning measures to prevent and to reduce the excessive workload in the courts
[CEPEJ\(2023\)7](#)

Background documents

- Revised workplan and priority actions of the CDCJ for 2022-2025
[CDCJ\(2022\)15 rev6](#)
- [Recommendation No. R \(86\) 12 concerning measures to prevent and to reduce the excessive workload in the courts](#)

The CDCJ is invited to exchange views for assessing the progress and achievements in the work carried out by the Committee and to take note of the information provided by the Secretariat on the future activities foreseen in the CDCJ terms of reference for 2024-2027 currently under discussion within the Committee of Ministers.

In the framework of its future activities, the CDCJ will also hold, on 17 November in the morning, an exchange of views with Ms Muriel Décot, Executive Secretary of the European Commission for the Efficiency of Justice (CEPEJ) and Ms Eva Konecna, Secretary to the CEPEJ working group on judicial time management (CEPEJ-GT-SATURN) on the CEPEJ Opinion proposing an update of the Recommendation No. R (86) 12 concerning measures to prevent and to reduce the excessive workload in the courts (document [CEPEJ\(2023\)7](#)). Subsequently the CDCJ will decide on the follow-up action to give to the proposal for revision, knowing that the Bureau, at its meeting in September 2023, agreed on the relevance of revising the recommendation and on the fact that such a revision would provide

member States with different options to help them deal with the heavy workload of courts that is problematic across Europe.

11. Elections and Appointments

- a. Elections (Chair, Vice-Chair and Bureau members)
[CDCJ\(2023\)INF01 rev](#) (*bilingual – restricted*)
[CDCJ\(2023\)INF03 Rev](#) (*restricted*)
- b. Appointments (CDCJ Representatives and Rapporteurs)
[CDCJ\(2023\)23](#)

The CDCJ is invited, on 16 November 2023 at 2.30 pm, to:

- elect by secret ballot, in line with [Resolution CM/Res\(2021\)3 on intergovernmental committees and subordinate bodies, their terms of reference and working methods](#):
 - its Chairperson (first term of office of one year),
 - its Vice-Chairperson (first term of office of one year),
 - four members of the Bureau: three for a first term of office of two years, and one for a term of office of one year under Article 13.d of the Rules of Procedure.
- appoint its thematic rapporteurs, representatives and substitutes for 2024 on the basis of document [CDCJ\(2023\)23](#) and of the candidatures received by the Secretariat following the call for expression of interest launched by e-mail of 11 October 2023 or by the Chairperson before the beginning of the plenary meeting or the appointment process scheduled right after the elections.

12. CDCJ Opinions (if any) (main deliverable 15)

- CDMSI - Draft recommendation on countering the use of strategic lawsuits against public participation (SLAPPs)

Working documents

- Draft recommendation on countering the use of SLAPPs and its explanatory memorandum [CDMSI\(2023\)009](#) & [CDMSI\(2023\)010](#) (*restricted*)
- Drafting proposals prepared by the Secretariat
[CDCJ\(2023\)31 prov](#) (*restricted*)
- Comments by the Bureau of the CDCJ on behalf of the Committee on the revised version of the draft recommendation on countering the use of strategic lawsuits against public participation (SLAPPs) as it appears in document [MSI-SLP\(2022\)07](#)
[CDCJ-BU\(2023\)05](#) (*restricted*)
- Drafting proposals provided by the CDCJ Bureau at its 118th meeting and approved by written procedure on 5 October 2023 on the same draft recommendation in document [MSI-SLP\(2022\)07](#)
[CDCJ-BU\(2023\)09](#) (*restricted*)

The CDCJ is invited to take note of the comments submitted, on its behalf, by its Bureau on the draft recommendation on countering the use of strategic lawsuits against public participation (SLAPPs) It is invited to consider and adopt the drafting proposals prepared by the Secretariat (document [CDCJ\(2023\)31 prov](#) - *restricted*), which correspond to the remaining comments not yet taken into account in the draft recommendation as it stands (document [CDMSI\(2023\)009](#) - *restricted*) and instruct the Secretariat to transmit them to the CDMSI before its 24th plenary meeting (29 November-

1 December 2023). It is also invited to encourage CDCJ members to get in contact with the CDMSI delegation of their countries in order to relay these drafting proposals during the examination of the draft recommendation by the CDMSI.

13. Any other business

Delegations are invited to raise, prior or at the early beginning of the meeting, any other issues and present them.

14. Date and place of next meeting

- Calendar of meetings and events for 2023-2025
CDCJ(2023)05_prov4 (*bilingual - restricted*)

The CDCJ is invited to confirm the dates of its two next plenary meetings.

The Bureau, in its new composition as from 1st January 2024, is invited to have a short meeting after the plenary meeting to agree on the dates of its next meeting(s).

15. Adoption of the abridged meeting report

- CDCJ(2023)27 prov

The CDCJ is invited to adopt the abridged report of its meeting.

DRAFT ORDER OF BUSINESS

Date	Timetable CET	Agenda items
15/11/2023	9.30 am – 1.00 pm	1 to 5.1
	2.30 pm – 5.00 pm	5.2
16/11/2023	9.30 am – 1.00 pm	6
	2.30 pm – 5.00 pm	11, 5.4, 10.a
17/11/2023	9.30 am – 1.00 pm	5.3, 10.b
	2.30 pm – 5.00 pm	7 to 9, 12 to 15

WORKING DOCUMENTS

Working documents are made available on the CDCJ restricted website www.coe.int/cdcj

REFERENCE DOCUMENTS

<u>Terms of reference</u>	CDCJ Terms of reference for 2022-2025
<u>Terms of reference</u>	CJ/ENF-ISE – Committee of Experts on The Rights and the Best Interests of the Child in Parental Separation and in Care-Proceedings – Terms of reference for 2022-2023
<u>Terms of reference</u>	CJ-AV – Committee of Experts on the Protection of Lawyers – Terms of reference for 2022-2023
<u>Terms of Reference</u>	CDCJ-MIG – CDCJ limited working group on migration – Terms of reference for 2022
<u>Terms of Reference</u>	CDCJ-ADMIN-AI – CDCJ limited working group of experts to update the handbook “The Administration and You” – Revised terms of reference and workplan, from September 2022 to December 2023
<u>CM/Res(2021)3</u>	Resolution CM/Res(2021)3 on intergovernmental committees and subordinate bodies, their terms of reference and working methods
<u>CDCJ(2021)24</u>	Working methods of CDCJ
<u>CDCJ-BU(2021)15 final</u>	Checklist for assessment of gender equality aspects and impact
<u>CDCJ(2022)20</u>	Criteria to assess requests for observer status with the CDCJ and its subordinate bodies and decision-making processes

CDCJ MEETING REPORTS

3-4 February 2022	Bureau: 112 th meeting	<u>CDCJ-BU(2022)01 restricted Report</u>
16-17 March 2022	Bureau: 113 th meeting	<u>CDCJ-BU(2022)04 restricted Report</u>
1-3 June 2022	98 th plenary meeting	<u>CDCJ(2022)19 Report</u>
7 September 2022	Bureau: 114 th meeting	<u>CDCJ-BU(2022)08 restricted Report</u>
24-25 October 2022	Bureau: 115 th meeting	<u>CDCJ-BU(2022)09 restricted Report</u>
23-25 November 2022	99 th plenary meeting	<u>CDCJ(2022)40 / CM(2023)04 Report / Abridged report</u>
2-3 February 2023	Bureau: 116 th meeting	<u>CDCJ-BU(2023)01 restricted Report</u>
3-4 May 2023	Bureau: 117 th meeting	<u>CDCJ-BU(2023)02 restricted Report</u>
30 May – 1 June 2023	100 th plenary meeting	<u>CDCJ(2023)19 Report</u>
13-14 September 2023	Bureau: 118 th meeting	<u>CDCJ-BU(2023)08 restricted Report</u>
24 October 2023	Bureau: 119 th meeting	<u>CDCJ-BU(2023)10 restricted Report</u>

MEETING REPORTS OF CDCJ SUBORDINATE BODIES

2-4 May 2022	CJ/ ENF-ISE: 5 th meeting	Report
11-13 July 2022	CJ-AV: 2 nd meeting	Report
4-5 October 2022	CJ/ ENF-ISE: 6 th meeting	Report
8-10 November 2022	CJ-AV: 3 rd meeting	Report
1-3 March 2023	CJ-AV: 4 th meeting	Report
6-8 + 24 March 2023	CJ/ENF-ISE: 7 th meeting	Report
3-5 July 2023	CJ-AV: 5 th meeting	Report
4-6 October 2023	CJ/ ENF-ISE: 8 th meeting	Report
17-19 October 2023	CJ-AV: 6 th meeting	Report

RECENT CDCJ PUBLICATIONS

26 July 2023	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)	Report
8 November 2023	Mainstreaming gender in public and private law reform processes – practical guide and practical guide in short	Practical guide & Practical guide in short
9 November 2023	Administrative detention of migrants and asylum seekers - Guide for practitioners	Guide