



Strasbourg, 14 November 2019

CAHENF(2019)LD2

Ad hoc Committee for the Rights of the Child (CAHENF)

List of decisions

7th meeting
Strasbourg, 12 November 2019 (Room 5)
and 14 November 2019 (Room 1)
Council of Europe, Palais de l'Europe

Prepared by the Children's Rights Division
Directorate of Anti-Discrimination

LIST OF DECISIONS

I. Opening

The 7th plenary meeting of the CAHENF in Strasbourg on 12 and 14 November 2019 was chaired and opened by Ms Maria-Andriani Kostopoulou (Greece).

II. Decisions and Items discussed

Items submitted to the Committee of Ministers for decision

Mid-term evaluation of the Council of Europe Strategy for the Rights of the Child

1. The Committee of Ministers is invited to examine and adopt the draft declaration (see Appendix I) which was approved by all delegations (with 1 delegation abstaining).

Children in migration

2. The Committee of Ministers is invited to take note of progress made by the CAHENF as of November 2019 with respect to the finalization of the review of the Recommendation CM/Rec(2007)9 of the Committee of Ministers to member states on life projects for unaccompanied migrant minors and to invite the upcoming child rights intergovernmental committee, the Steering Committee for the Rights of the Child (CDENF), to approve the final text for communication to the Committee of Ministers within the duration of its terms of reference.
3. The Committee of Ministers is invited to take note of the status of work of the CAHENF as of November 2019 with respect to the preparation of a draft Recommendation on Human Rights Principles and Guidelines on age assessment for children in the context of migration, the need for additional consultations and to invite the upcoming Steering Committee for the Rights of the Child (CDENF) to approve the final text for communication to the Committee of Ministers within the duration of its terms of reference.

Item submitted to the Committee of Ministers for information

Draft terms of reference for the next biennium (2020-2021)

4. The Committee of Ministers is invited to take note of the position agreed by the CAHENF with respect to the proposed tasks of the Committee of Experts on the rights and the best interests of the child in parental separation and in care proceedings (CJ/ENF-ISE) in relation to protecting the rights and best interests of the child in situations of acrimonious divorce and parental separation, and the proposal examined by the CDCJ regarding broadening the scope of the work of the committee. The CAHENF agreed that subject to any further decision by the Committee of Ministers in this respect, any change at this point to the scope of the work of the CJ/ENF-ISE should be discussed and agreed jointly by the CAHENF (and subsequently CDENF) and the CDCJ. A decision on broadening the scope of the work should carefully examine any resource implications such changes may have in relation to the final deliverables planned under the terms of reference. The CAHENF wished to underline the need to focus and prioritise the situations of acrimonious divorce and separation, as identified in the context of the mid-term evaluation of the Council of Europe Strategy for the Rights of the Child and during discussions held at previous plenary meetings of the respective committees. The CAHENF considered that the current draft terms of reference would not prevent the CJ-ENF/ISE to formulate any additional proposals for further work with respect to divorce and separation

following the completion of the planned review, which could be jointly discussed and agreed upon by the CDENF and the CDCJ on the basis of a substantiated report.

Agenda item 2: Adoption of the agenda and order of business

- Adopted the draft agenda and order of business, as they appear in document CAHENF(2019)OJ2.

Agenda item 3: Statement by the Chair and the Secretariat

- Took note with interest of the information provided by the Secretariat on the state of play of the organisation and format of the Conference “Redefining Power: Strengthening the rights of the child as a key to a future-proof Europe” (Strasbourg, 13-14 November 2019), on the occasion of the mid-term evaluation of the implementation of the Council of Europe Strategy for the Rights of the Child (2016-2021).

Agenda item 4: Completed activities

Draft Recommendation on effective guardianship for unaccompanied and separated children in the context of migration

- Took note of changes agreed upon to the text of the draft recommendation following the communication by the CAHENF of the text to the Committee of Ministers and expressed its concerns about the delay with the adoption of the text;
- Instructed the Secretariat to promptly inform the CAHENF after the meeting about the outcome of the upcoming CM group of rapporteurs’ decision with respect to the adoption of the draft recommendation and revised timeline for adoption;
- Instructed the Secretariat to promptly communicate the published text of the Recommendation, once adopted, to all delegations.

CAHENF opinions submitted to the Committee of Ministers

- Noted with interest the Committee of Ministers’ reply to PACE Recommendation 2156(2019) on “Anonymous donation of sperm and oocytes: balancing the rights of parents, donors and children” and the expectation of the Committee of Ministers towards the CAHENF (i.e. the future intergovernmental committee on the rights of the child) to contribute to any follow up to be undertaken in future intergovernmental work in this field;
- Invited the secretariat to communicate in due course to all members of the Committee the replies of the Committee of Ministers to PACE Recommendation 2160(2019) on “Stop violence against, and exploitation of, migrant children and PACE Recommendation 2159(2019) on “Ending violence against children: a Council of Europe contribution to the Sustainable Development Goals”.

Agenda item 5: Work programme 2018-2019: ongoing work and progress review

Standards on age assessment for children in migration

- Held an exchange of views on outstanding issues which prevent the Committee at this stage to finalise the draft recommendation and decided to continue consultations, by seeking a last written round of comments on a draft revised text till December 2019;
- Agreed that any further discussions of the draft text should only focus on modified provisions of the draft text and on the draft explanatory memorandum;
- Requested the Secretariat to circulate by 14 January 2020 to all delegations a revised draft text for examination and adoption by the future intergovernmental committee on the rights of the child.

CAHENF's contribution to the Action plan on protecting refugee and migrant children and review of the Recommendation CM/Rec(2007)9 of the Committee of Ministers to member states on life projects for unaccompanied migrant minors

- Heard the Secretariat's report on the draft Review of Recommendation CM/Rec(2007)9 of the Committee of Ministers to member states on life projects for unaccompanied migrant minors;
- Invited all members to provide their comments on the draft text and recommended actions by 10 December 2019;
- Decided to launch a call for expressions of interest among delegations to support the CAHENF Rapporteur on children in migration and the secretariat to finalise the draft report ;
- Requested the secretariat to circulate to all delegations a revised draft text for examination and adoption by the future intergovernmental committee on the rights of the child following a thematic exchange of views on selected aspects.

Council of Europe Strategy for the Rights of the Child (2016-2021) : mid-term evaluation, progress and reporting on implementation

- Took note of the updated action plan for the implementation of the Strategy;
- Heard a presentation on the main findings of the reports on the mid-term evaluation of the Council of Europe Strategy and noted that the second report on the implementation of the Strategy is planned to be presented to the Committee of Ministers in 2020, together with the conclusions of the Conference.

Gender equality and children's rights

- Held an exchange of views on aspects that should be prioritised with respect to its work supported by the Gender Equality Rapporteurs and decided to develop a factsheet covering gender equality in education, including sexuality education.

Agenda item 6: Programme & Budget for 2020-2021

Draft terms of reference for the next biennium (2020-2021)

- Heard a presentation by the Secretariat on the outcome of the evaluation of the intergovernmental committees by the Department of Internal Oversight, on current evaluation of existing Council of Europe Strategies and any possible implications for the work in the area of the rights of the child
- Took note of the proposed terms of reference for 2020-2021 to establish a steering committee for the rights of the child and a subordinate committee of experts on the rights and the best interests of the child in parental separation and in care proceedings (CJ/ENF-ISE), under its joint responsibility with the European Committee on Legal Co-operation (CDCJ). It also noted that these draft terms of reference reflected the proposals discussed and agreed by the Bureau of the CDCJ and the CAHENF, and that as a result of their examination by the relevant rapporteur groups of the Committee of Ministers in the context of the adoption of the draft Programme and Budget biennium for 2020 – 2021, they had been amended to incorporate a number of changes proposed by the Deputies. The CAHENF welcomed the success of the joint session organised with the CDCJ during the Conference (Redefining Power : Strengthening the Rights of the child as the Key to a Future-Proof Europe, Power talk 7 – The power of family relations: respecting the best interests of the child in divorce and separation) in particular the views expressed by the experts and children on this topic and agreed that the report of the Conference should constitute a reference document for the work of the CJ/ENF-ISE in 2020;
- Took note of the Secretariat's information that in respect of the proposed work of the CJ/ENF-ISE in relation to protecting the rights and best interests of the child in situations of acrimonious divorce and parental separation, the CDCJ discussed whether the specific task (i) of the CJ/ENF-ISE should be

amended to broaden the scope of the work;

- Agreed that subject to any further decision by the Committee of Ministers in this respect, any change at this point to the scope of the work of the CJ/ENF-ISE should be discussed and agreed jointly by the CAHENF (and subsequently CDENF) and the CDCJ. A decision on broadening the scope of the work should carefully examine any resource implications such changes may have in relation to the final deliverables planned under the terms of reference. The CAHENF underlined the need to focus and prioritize the situations of acrimonious divorce and separation, as identified in the context of the mid-term evaluation of the Council of Europe Strategy for the Rights of the Child and during discussions held at previous plenary meetings of the respective committees;
- Considered that the current draft terms of reference would not prevent the CJ-ENF/ISE to formulate any additional proposals for further work with respect to divorce and separation following the completion of the planned review, which could be jointly discussed and agreed upon by the CDENF and the CDCJ on the basis of a substantiated report. The CAHENF instructed the Secretariat to immediately inform both the CDCJ and the Committee of Ministers of its position on this matter before the adoption of the terms of reference of the CJ/ENF-ISE;
- Discussed the role of the Committee in particular as regards its contribution to the preparation of a follow up strategy for the rights of the child (2022-2027) and any follow-up work needed with respect to CAHENF's ongoing activities that should be continued in the next biennium;
- Instructed the Bureau with the support of the Secretariat to proceed and prepare proposals for follow-up, following the adoption by the CM of the draft recommendation on guardianship for consideration by the future child rights intergovernmental committee (CDENF) at its first meeting in 2020
- Noted that the first meeting of the new Steering Committee for the Rights of the Child (CDENF) is planned from 4-6 February 2020.

Agenda item 7: Mid-term evaluation of the Council of Europe Strategy for the Rights of the Child (2016-2021): examination of the final draft declaration

- Discussed and adopted a declaration (1 delegation abstaining).

Agenda item 8: Adoption of the list of decisions and close of the meeting at 18.00 pm

- Considered the draft list of decisions and adopted it before closing the meeting.

Agenda item 9: Other business

5. The CAHENF congratulated the Council of Europe for the organisation of a very successful conference for the mid-term evaluation of the Strategy in the framework of the French Presidency of the Committee of Ministers and expressed its satisfaction and appreciation of the active participation of children during the conference and their inspiring statements.

Appendix I. Draft declaration approved by the CAHENF

“Redefining Power: Strengthening the rights of the child as the key to a future-proof Europe”

Recalling that all children in Council of Europe member States are entitled to enjoy the human rights safeguarded by instruments such as the United Nations Convention on the Rights of the Child (UNCRC) and the European Convention on Human Rights (ETS No.5) and their protocols;

Welcoming the progress achieved in the protection of the rights of the child 70 years after the foundation of the Council of Europe and 30 years after the adoption of the UNCRC;

Recalling the Council of Europe’s Programme “Building a Europe for and with children” and its Strategy on the Rights of the Child (2016-2021), which are based on the UNCRC and affirm the Organisation’s commitment to protect and promote the rights of the child in line with global and European standards;

Concerned by the persistent violations of children’s rights in all Council of Europe member States across all five priority areas of the Council of Europe Strategy for the Rights of the Child (2016-2021);

Welcoming the mid-term evaluation report on the Council of Europe Strategy for the Rights of the Child (2016-2021) and noting its findings showing that progress has been achieved and that governments, intergovernmental organisations, independent human rights institutions, civil society, parents, children, as well as volunteers and professionals working with them are much better equipped today to protect and promote children’s rights;

Noting that, while the visibility of the rights of the child has increased, they are not yet fully perceived as being part of the human rights corpus and progress towards their full protection is still slow and fragmented;

Aware of the fact that some social norms, stereotypes and traditions condone, tolerate or perpetuate discrimination and violence against children and remain obstacles to the consideration of children as fully-fledged rights holders and agents of change;

Noting that, when facing the challenges arising from the rapid evolution of technology, the economic, environmental and migration crisis, and the rise of violent extremism, States and society are at risk of overlooking or compromising on children’s rights, in particular the rights of children in a situation of vulnerability, as stressed in the Strategy for the Rights of the Child;

Convinced that, while child protection has traditionally been a subject for families and the State, and acknowledging their fundamental roles concerning child protection, there is an urgent need to recognise the whole array of children’s social, political, economic and cultural rights as well as the role and responsibilities of other non-State actors, in particular professionals working with children, the private sector, and civil society;

Convinced that, to secure the implementation of these standards, more efforts must aim at empowering and mobilising key stakeholders, as called upon by the 2030 Agenda for Sustainable Development;

Determined to guarantee a sustainable, future-proof Europe for all by unleashing the untapped potential of all governmental and non-governmental actors to make the transformative changes that children and society need;

With this in mind, we renew our firm commitment to promote, protect and fulfil the rights of the child and call upon member States to:

- a. ratify and fully implement the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201), the Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS No. 210), and the Optional Protocols to the UNCRC;
- b. achieve full prohibition of corporal punishment, including through promotion of non-violent, positive parenting;
- c. scale up efforts in the implementation of children's rights standards via action taken at national, regional and local levels, in particular with a view to:
 - i. guarantee children's access to **child-friendly justice**¹, at national, European and international level, by establishing child-friendly justice systems, by developing and strengthening reporting and referral mechanisms, and access to effective remedies;
 - ii. ensure that **the child's best interests are** and are seen to be the paramount consideration in decisions affecting them, in particular when children are in conflict with the law, when they are without parental care as well as in the context of parental separation, of child-care proceedings, of migration, and of violent extremism;
 - iii. properly address root causes and the impact of **child poverty and social exclusion**, defining clear objectives, indicators and timeframes to measure progress and allocating sufficient resources;
 - iv. take all necessary legal, policy and awareness-raising measures to change **social norms, traditions, prejudices and stereotypes** that condone or contribute to perpetuating violence and discrimination on any ground;
 - v. promote **business and human rights principles**, engage with the private sector and fulfil the obligation to hold non-State actors accountable for violations of children's rights paying particular attention to the role and responsibilities of the private sector, in the fields of media, advertising, technology (including artificial intelligence), provision of services, sports, tourism, transport, and entertainment²;
 - vi. ensure the full realisation of children's rights by securing a safe and healthy environment and protecting children from the impact of the activities of all sectors in this context;
 - vii. address **violence and harmful behaviour displayed by children towards others, including their peers**, taking into account children's maturity and evolving capacities and the need to protect all children's rights, in particular the right to education, including education on consent and healthy relationships, and to legal, therapeutic,

¹ Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice, adopted by the Committee of Ministers on 17 November 2010.

² Recommendation CM/Rec(2016)3 of the Committee of Ministers to Member States, adopted by the Committee of Ministers on 2 March 2016; Recommendation CM/Rec(2018)7 of the Committee of Ministers to Member States on Guidelines to respect, protect and fulfil the rights of the child in the digital environment, adopted by the Committee of Ministers on 4 July 2018.

health and social assistance and the right to participate in the development of prevention and protection measures;

- d. include the protection of the rights of the child more visibly in their efforts to achieve the UN **Sustainable Development Goals**, using Council of Europe standards and the results of its monitoring work to further and measure progress, and promoting these through national parliaments to stimulate debates and induce essential legislative changes;
- e. **promote and respect the rights of children to fully participate in all matters that affect them**, which entails empowering and protecting children, child rights defenders, whistle-blowers and activists and addressing their concerns, ensuring their safety and including their calls for measures to stop violence against children, to protect the environment and to guarantee access to quality education, as well as a safe learning environment;
- f. **foster a culture of children's rights**, investing in education, training, capacity-building and awareness-raising to empower and unleash the potential of all key stakeholders to make lasting and positive changes.

We also encourage all Council of Europe bodies and committees **to mainstream the rights of the child** in their work and to continue contributing to the implementation of the Council of Europe Strategy on the Rights of the Child (2016-2021) and to the identification of emerging challenges, taking into account the results of the mid-term evaluation;

We invite the Secretary General of the Council of Europe:

- a. to embrace the political opportunities in **challenging and addressing taboos and blind spots** in the protection and promotion of the rights of the child through the Organisation's strategies for the rights of the child and where appropriate, other relevant strategies, action plans and projects;
- b. to continue **facilitating the coordination** of the Council of Europe's work in this field, investing in communication to make results easily available;
- c. to further strengthen strategic **partnerships**, in particular with the United Nations, the European Union, other regional organisations, civil society and other non-State actors such as academia and the business sector;
- d. to strengthen and embed **engagement with children** for the purpose of ensuring that efforts to enhance children's rights are sustainable and reflective of children's needs and views, bearing in mind the need to ensure robust safeguards for child protection in this work.