

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

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CDCJ(2018)1 rev

EUROPEAN COMMITTEE ON LEGAL CO-OPERATION

(CDCJ)

TERMS OF REFERENCE OF THE CDCJ FOR 2018-2019

*adopted by the Committee of Ministers
at the 1300th meeting (Budget) of Ministers' Deputies, 21-23 November 2017*

(Extract from CM(2017)131-addfinal 1)

EUROPEAN COMMITTEE ON LEGAL CO-OPERATION (CDCJ)

Set up by the Committee of Ministers under Article 17 of the Statute of the Council of Europe and in accordance with Resolution CM/Res(2011)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods.

Type of committee: Steering Committee

Terms of reference valid from: **1 January 2018 until 31 December 2019**

PILLAR/SECTOR/PROGRAMME

Pillar: Rule of Law

Sector: Strengthening the Rule of Law

Programme: Common Standards and Policies

MAIN TASKS

Under the authority of the Committee of Ministers, the European Committee on Legal Co-operation (CDCJ) will oversee the Council of Europe's work in the field of public and private law and advise the Committee of Ministers on all questions within its areas of competence, taking due account of relevant transversal perspectives. For this purpose, the CDCJ is instructed to:

- (i) identify new and emerging challenges to member States in areas within its expertise (inter alia family law, children's rights, nationality, administrative law, justice and rule of law), and plan, supervise and evaluate standard-setting activities in these areas;
- (ii) promote and facilitate co-operation and understanding between member States within its areas of competence;
- (iii) follow the implementation of the non-binding instruments that it has prepared and, if appropriate, of others within its area of competence;
- (iv) promote and facilitate the functioning and implementation of Council of Europe conventions, agreements and protocols, as well as, in accordance with decisions CM/Del/Dec(2013)1168/10.2 of the Committee of Ministers, carry out, at regular intervals, within the limits of the available resources and bearing in mind its priorities, an examination of some or all of the conventions for which it has been given responsibility,¹ in co-operation, where appropriate, with the relevant convention-based bodies, and report back to the Committee of Ministers;
- (v) contribute, where appropriate, to the implementation of co-operation projects and of other activities to support national initiatives within its areas of competence;
- (vi) contribute (if necessary) to the preparation of the next Conference of the Ministers of Justice (subject to invitation), in co-operation with the CDDH and the CDPC, and ensure, as appropriate, the follow-up of any decision taken by the Committee of Ministers subsequent to the conference;
- (vii) provide legislative advice and training to national authorities on Council of Europe public and private law standards with a view to supporting member States in legal reforms to strengthen judicial independence and impartiality;
- (viii) raise awareness of national authorities and other relevant bodies of Council of Europe public and private law standards, relating in particular to (a) the protection of whistleblowers, (b) the prevention and resolution of disputes on child relocation, (c) child-friendly justice and (d) the legal regulation of lobbying activities in the context of public decision making;

¹ Cf. Relevant decision of the Committee of Ministers (CM/Del/Dec(2013)1168/10.2) and list of Conventions in CM(2017)132.

- (ix) take due account of the reports, decisions and conclusions of relevant monitoring mechanisms in the performance of its tasks;
- (x) take due account of gender and children's rights perspectives and of the need to build cohesive societies and to promoting and protecting rights of persons with disabilities in line with the Council of Europe Strategy 2017-2023 in the performance of its tasks².

SPECIFIC TASKS

- (i) Complete preparation of the draft legal instrument on the European Rules on conditions of administrative detention for migrants (codification) and publish it after adoption by the Committee of Ministers.
- (ii) Continue preparation of a technical study on online dispute resolution mechanisms in the member States, with reference to Articles 6 and 13 of the European Convention on Human Rights.
- (iii) Develop guidelines for courts, the judiciary and lawyers providing practical advice on the impact of the internet and information and communication technologies (ICTs) on the rules of evidence and modes of proof, in co-operation with the relevant Council of Europe bodies with expertise and responsibilities in this field, particularly the CEPEJ, the CCJE, the CCPE and the CDPC.
- (iv) Follow-up activity (to be defined) on the review of action given by member States to Recommendation CM/Rec(2009)11 on continuing powers of attorney and advance directives for incapacity, in particular in respect of the effective application of the principles in the recommendation and its practical benefit for individuals.
- (v) Follow-up work (to be defined) to the study on free legal aid systems in member States.
- (vi) Undertake a study to identify courts' non-judicial tasks by a revision of existing standards and how to relieve judges of such tasks with the aim of improving the efficiency of the courts whilst contributing to improved access to justice, and give the appropriate follow-up.
- (vii) Publish the revised handbook "The Administration and You".

COMPOSITION

Members:

Governments of member States are invited to designate one or more representatives of the highest possible rank in the field of public and private law, with responsibility at the national level for the planning, development and implementation of policies relevant to the work of the Committee and appointed by their governments to co-ordinate at national level all elements of government policy relevant to the work of the Committee.

The Council of Europe will bear the travel and subsistence expenses of one representative from each member State (two in the case of the State whose representative has been elected Chair).

Each member of the committee shall have one vote. Where a government designates more than one member, only one of them is entitled to take part in the voting.

In accordance with decisions CM/Del/Dec(2013)1168/10.2 of the Committee of Ministers, in cases where there is no convention-based body including all the Parties, non-member States are invited to take part, with a right to vote, in the committee meetings pertaining to the conventions to which they are Parties.

Participants:

The following may send a representative without the right to vote and at the charge of their corresponding administrative budgets:

² Amended in accordance with the Committee of Ministers' decision to further mainstream the work in the area of Rights of Persons with Disability across the Organisation (Cf. CM/Del/Dec(2018)1312/11.1a).

- Parliamentary Assembly of the Council of Europe;
- Congress of Local and Regional Authorities of the Council of Europe;
- European Court of Human Rights;
- Council of Europe Commissioner for Human Rights;

- Conference of INGOs of the Council of Europe;
- Council of Europe intergovernmental committees and bodies as appropriate.

The following may send a representative without the right to vote and without defrayal of expenses:

- European Union (including, as appropriate, the Fundamental Rights Agency);
- Observer States to the Council of Europe: Canada, Holy See, Japan, Mexico, United States of America;
- United Nations International Law Commission (ILC);
- Office of the United Nations High Commissioner for Human Rights (OHCHR);
- International Institute for the Unification of Private Law (UNIDROIT);
- Hague Conference on Private International Law (HCCH);
- Organisation for Economic Co-operation and Development (OECD);
- Organisation for Security and Co-operation in Europe (OSCE);
- Office for Democratic Institutions and Human Rights (OSCE-ODIHR);
- International Commission on Civil Status (ICCS).

Observers:

The following may send a representative, without the right to vote and without defrayal of expenses:

- Belarus;
- International Social Service (ISS)³ ;
- Office of the United Nations High Commissioner for Refugees (UNHCR)².

WORKING METHODS

Plenary meetings:

48 members, 1 meeting in 2018, 3 days

48 members, 1 meeting in 2019, 3 days

Bureau:

7 members, 2 meetings in 2018, 2 days

7 members, 2 meetings in 2019, 2 days

The Committee will also appoint one (two if possible) Gender Equality Rapporteur(s) from amongst its members.

The rules of procedure of the Committee are governed by Resolution CM/Res(2011)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods.

SUBORDINATE STRUCTURE(S) TO THE EUROPEAN COMMITTEE ON LEGAL CO-OPERATION (CDCJ)

The CDCJ provides a co-ordinating, supervising and monitoring role in the functioning of its subordinate body:

- Committee of experts on administrative detention of migrants (CJ-DAM).

³ As unanimously decided by the CDCJ at its 92nd meeting, 22-24 November 2017.

APPENDIX 1 - RELEVANT DECISION OF THE COMMITTEE OF MINISTERS AND LIST OF CONVENTIONS**CM/Del/Dec(2013)1168/10.2 (Review of Council of Europe conventions)**

9. [The Deputies] instructed the steering and ad hoc committees to carry out, at regular intervals, within the limits of the available resources and bearing in mind the priorities of each committee, an examination of some or all of the conventions for which they have been given responsibility, in co-operation, where appropriate, with the relevant convention-based bodies, in order to:

- propose ways of improving the visibility, impact and efficiency of some or all of the conventions for which they have been given responsibility;
- draw the attention of member States to the relevant conventions;
- where necessary, identify any operational problems or obstacles to ratification of the relevant conventions, and draw the attention of member States to reservations which impact substantively on the effectiveness of their implementation;
- encourage States to regularly examine the possibility and/or desirability of becoming a Party to new Council of Europe conventions;
- assess the necessity or advisability of drafting amendments or additional protocols to the conventions for which they have been given responsibility or drafting supplementary conventions;
- and to report back to the Committee of Ministers.

CDCJ	
16	European Convention relating to the Formalities required for Patent Applications
17	European Convention on the International Classification of Patents for Inventions
19	European Convention on Establishment
25	European Agreement on Regulations governing the Movement of Persons between member States of the Council of Europe
29	European Convention on Compulsory Insurance against Civil Liability in respect of Motor Vehicles
31	European Agreement on the Abolition of Visas for Refugees
37	European Agreement on Travel by Young Persons on Collective Passports between the Member Countries of the Council of Europe
41	Convention on the Liability of Hotel-keepers concerning the Property of their Guests
42	Agreement relating to Application of the European Convention on International Commercial Arbitration
43	Convention on the Reduction of Cases of Multiple Nationality and on Military Obligations in Cases of Multiple Nationality
47	Convention on the Unification of Certain Points of Substantive Law on Patents for Invention
56	European Convention providing a Uniform Law on Arbitration
57	European Convention on Establishment of Companies
58	European Convention on the Adoption of Children
60	European Convention on Foreign Money Liabilities
62	European Convention on Information on Foreign Law
65	European Convention for the Protection of Animals during International Transport
71	European Convention on the Repatriation of Minors
72	Convention relating to Stops on Bearer Securities in International Circulation
75	European Convention on the Place of Payment of Money Liabilities
76	European Convention on the Calculation of Time-Limits
77	Convention on the Establishment of a Scheme of Registration of Wills
79	European Convention on Civil Liability for Damage caused by Motor Vehicles
80	Agreement on the Transfer of Corpses
85	European Convention on the Legal Status of Children born out of Wedlock
87	European Convention for the Protection of Animals kept for Farming Purposes
91	European Convention on Products Liability in regard to Personal Injury and Death
92	European Agreement on the Transmission of Applications for Legal Aid

CDCJ	
94	European Convention on the Service Abroad of Documents relating to Administrative Matters
95	Protocol amending the Convention on the Reduction of Cases of Multiple Nationality and Military Obligations in Cases of Multiple Nationality
96	Additional Protocol to the Convention on the Reduction of Cases of Multiple Nationality and Military Obligations in Cases of Multiple Nationality
97	Additional Protocol to the European Convention on Information on Foreign Law
100	European Convention on the Obtaining Abroad of Information and Evidence in Administrative Matters
102	European Convention for the Protection of Animals for Slaughter
103	Additional Protocol to the European Convention for the Protection of Animals during International Transport
105	European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children
107	European Agreement on Transfer of Responsibility for Refugees
108	Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data
123	European Convention for the Protection of Vertebrate Animals used for Experimental and other Scientific Purposes
124	European Convention on the Recognition of the Legal Personality of International Non-Governmental Organisations
125	European Convention for the Protection of Pet Animals
127	Convention on Mutual Administrative Assistance in Tax Matters
130	Convention on Insider Trading
133	Protocol to the Convention on Insider Trading
136	European Convention on Certain International Aspects of Bankruptcy
145	Protocol of Amendment to the European Convention for the Protection of Animals kept for Farming Purposes
149	Second Protocol amending the Convention on the Reduction of Cases of Multiple Nationality and Military Obligations in Cases of Multiple Nationality
150	Convention on Civil Liability for Damage resulting from Activities Dangerous to the Environment
160	European Convention on the Exercise of Children's Rights
166	European Convention on Nationality
174	Civil Law Convention on Corruption
175	European Convention on the Promotion of a Transnational Long-Term Voluntary Service for Young People
179	Additional Protocol to the European Agreement on the Transmission of Applications for Legal Aid
180	Convention on Information and Legal Co-operation concerning "Information Society Services"
181	Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, regarding supervisory authorities and transborder data flows
192	Convention on Contact concerning Children
193	European Convention for the Protection of Animals during International Transport (Revised)
200	Council of Europe Convention on the avoidance of statelessness in relation to State succession
202	European Convention on the Adoption of Children (Revised)
208	Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters