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**94<sup>th</sup> MEETING OF THE EUROPEAN COMMITTEE  
ON LEGAL CO-OPERATION  
(CDCJ)**

Strasbourg, 13-15 November 2019

**MEETING REPORT**

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**CONTENTS**

Introduction .....	3
Gender representation .....	3
Decisions and items discussed .....	4
A. Completed activities .....	4
B. On-going activities .....	4
C. Future activities .....	5
D. Other items discussed .....	7

**APPENDICES**

APPENDIX I	Agenda .....	11
APPENDIX II	Calendar of meetings for 2020 .....	12
APPENDIX III	Final report on the Sofia Action Plan – Terms of reference and working methods for a team of consultants .....	13
APPENDIX IV	Access to translation and interpretation in civil and administrative proceedings – Terms of reference for a CDCJ Drafting Group (CDCJ-GT-TRA) .....	14
APPENDIX V	Recommendation 435 (2019) of the Congress of Local and Regional Authorities – "The protection of whistleblowers - Challenges and opportunities for local and regional government" – CDCJ opinion .....	16
APPENDIX VI	Recommendation 2162 (2019) of the Parliamentary Assembly – "Improving the protection of whistleblowers all over Europe" – CDCJ opinion .....	18

## Introduction

The European Committee on Legal Co-operation (CDCJ) held its 94<sup>th</sup> meeting in Strasbourg on 13-15 November 2019. The meeting was chaired by Mr Lennart Houmann (Denmark), chairperson of CDCJ, except on the first day when he was replaced by the vice-chair, Mr João Arsénio de Oliveira (Portugal). The agenda, as adopted by the Committee, appears in Appendix I to this report. The list of participants is available from the Secretariat.

## Items submitted to the Committee of Ministers for decision

- *Biennium 2020-2021*

In relation to the draft terms of reference for the Committee of experts on the rights and the best interests of the child in parental separation and in care proceedings (CJ/ENF-ISE), CDCJ agreed on the importance of broadening the scope of the work to include all situations of parental separation, and that this should be reflected in the terms of reference by deleting the term “acrimonious” as it appears in specific task “(i)” of the proposed draft terms of reference (see paragraphs 15-16).

## Items submitted to the Committee of Ministers in reply to a request for comments

- *Opinions*

- (i) The opinion of CDCJ on Congress of Local and Regional Authorities Recommendation 435 (2019) – “The protection of whistleblowers - Challenges and opportunities for local and regional government” (see paragraph 25 and Appendix V);
- (ii) The opinion of CDCJ on Parliamentary Assembly Recommendation 2162 (2019) – “Improving the protection of whistleblowers all over Europe” (see paragraph 25 and Appendix VI).

## GENDER REPRESENTATION

At this plenary meeting of CDCJ, the member States were represented by 26 women and 19 men, 58 % and 42 % respectively.

## DECISIONS AND ITEMS DISCUSSED

### A. Completed activities

1. Nothing to report.

### B. On-going activities

- *Administrative detention of migrants*

2. CDCJ took note of the follow-up proposed by the Committee of Ministers to the questions that the Committee had submitted to it at its last plenary meeting (see document CDCJ(2018)16, paragraph 9), namely to instruct CDCJ to submit to it a report on the work so far completed together with proposals for possible avenues for its completion.

3. CDCJ repeated its desire to be able to conclude this activity and for this purpose called on the Secretariat to continue its dialogue at the highest level with the European Union.

4. CDCJ instructed its Bureau to prepare, on the basis of a proposal by the Secretariat, the report requested by the Committee of Ministers on the work so far completed, with possible avenues for the completion of this work, for subsequent approval either by CDCJ - by written procedure or at its next plenary meeting - or by the Bureau itself.

5. Regarding the possible avenues for completing the work, CDCJ raised the idea of transforming the existing draft recommendation into guidelines and it asked its Bureau to include this proposal in its report together with a road map for the implementation of its proposals.

- *Online dispute resolution mechanisms*

6. CDCJ took note of the report of the 1<sup>st</sup> meeting of the CDCJ drafting group responsible for preparing guidelines on online dispute resolution mechanisms (CDCJ-GT-RLL) and of the oral information provided by the chair of the group, Mr Christoph Henrichs (Germany) on the 2<sup>nd</sup> meeting of the group (24-25 October 2019).

- *Legal aid schemes*

7. CDCJ took note of the report of the 1<sup>st</sup> meeting of the CDCJ drafting group on legal aid schemes (CDCJ-GT-SAJ2).

- *Statelessness*

8. Professor Dr Gerard-René de Groot (Netherlands) presented his analysis of current practices and challenges as regards the avoidance and reduction of statelessness in Europe following the *ad hoc* meeting which had taken place on 11-12 June 2019 (document CDCJ-GT-APA (2019)3). CDCJ took note of the report, thanked the consultant for his work and approved its publication on the CDCJ website.

9. In the light of the conclusions of the analysis, CDCJ agreed to undertake the activities set out below in 2020 and 2021 and instructed its Bureau to determine the necessary organisational arrangements (programme, participants, topics, dates, etc.):

- (i) An international conference on statelessness to raise awareness and promote implementation of Council of Europe standards in this field;
- (ii) A series of technical meetings on statelessness issues following the conference.

- *Gender equality mainstreaming in the process of law reform*

10. CDCJ took note of oral presentations by Ms Zuzana Fišerová (Czech Republic) and Mr Christoph Henrichs (Germany) concerning the meeting on gender mainstreaming in law reforms which had taken place on the eve of the plenary meeting (12 November 2019). The Committee instructed the Bureau to prepare proposals on how the Committee could further mainstream gender in its work and what specific activities could be undertaken by CDCJ in 2022-2023 concerning mainstreaming equality between women and men in law reform. The proposals developed by the Bureau should be submitted to CDCJ for consideration at its next plenary meeting.

- *Calendar of activities for 2020*

11. CDCJ agreed the calendar of meetings for 2020 as it appears in Appendix II.

### **C. Future activities**

a. *Drafting a European instrument on the profession of lawyer*

12. CDCJ took note that work on the feasibility study had not been completed. It confirmed that the study was required in line with the terms of reference in order that the issues set out in them might be fully addressed and so that the Committee might give its opinion on the appropriate course of action to be taken. The Committee agreed on the need to engage a second consultant to complete the draft study, instructed the Secretariat to take the necessary steps, and requested that its Bureau be consulted on the Secretariat's choice of consultant. In light of the situation, consideration of this item was postponed to the Committee's next plenary meeting. The Committee also instructed the Secretariat to inform the Council of Bars and Law Societies of Europe (CCBE) of the progress in preparation of the feasibility study.

b. *Final report on action taken by member States to implement the Council of Europe Action Plan on Strengthening Judicial Independence and Impartiality (Sofia Action Plan)*

13. CDCJ approved the terms of reference, including the working methods, for a team of consultants responsible for preparing the final report on action taken by member States to implement the Council of Europe Action Plan on Strengthening Judicial Independence and impartiality (Sofia Action Plan), as they appear in Appendix III.

c. *Guidelines on access to translation and/or interpretation in civil and administrative proceedings*

14. CDCJ adopted terms of reference for a drafting group responsible for preparing guidelines on access to translation and interpretation in civil and administrative proceedings (CDCJ-GT-TRA), as set out in Appendix IV.

d. *Ensuring contact between a child and separated parents and identifying best interests of the child in child-care proceedings*

15. CDCJ took note of the proposed draft terms of reference for a 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 Steering Committee for the Rights of the Child (CDENF). It noted also that, following discussions and approval by the Bureau of CDCJ and the Ad hoc Committee for the Rights of the Child (CAHENF), the proposed terms of reference had already been considered by the relevant rapporteur groups of the Committee of Ministers responsible for social and legal questions in accordance with the calendar for the preparation of the Programme and Budget for the 2020 – 2021 biennium.

16. In respect of the proposed work of the Committee of experts in relation to protecting the rights and best interests of the child in situations of parental separation (specific task “(i)” of the proposed draft terms of reference) and following an oral presentation by Mr Seamus Carroll (Ireland) on discussions in the workshop referred to in paragraph 23 below, the CDCJ agreed on the importance of broadening the scope of the work to include all situations of parental separation and not only situations of acrimonious separation as indicated in the proposed terms of reference. CDCJ considered that this change was necessary in order to reflect the debate in the workshop.

17. CDCJ instructed the Secretariat to inform forthwith both CAHENF and the Committee of Ministers of its position on this matter in order that due consideration might be given by these bodies before adoption of the terms of reference.<sup>1</sup>

e. *Artificial intelligence*

18. CDCJ took note of the setting up by the Committee of Ministers of the Ad Hoc Committee on Artificial Intelligence (CAHAI) and of the Final declaration of the Conference of Ministers of Justice which had taken place on 14-15 October 2019 in Strasbourg within the framework of the French presidency of the Committee of Ministers. CDCJ agreed that it should actively contribute to the work of CAHAI and more generally undertake its own activities in the area of artificial intelligence, should there be a need. With a view to clarifying its role in CAHAI and identifying what activities it might undertake, CDCJ instructed its Bureau to hold its first meeting in 2020 with an additional 3-5 Committee members (to be identified). As a first step it agreed that Mr Christoph Henrichs (Germany) should attend the first plenary meeting of CAHAI and report back to the Committee including with any suggestions he may have.

f. *Rejected activity proposals*

19. CDCJ confirmed the recommendation of its Bureau not to undertake work on the role of court clerks (in the framework of updating Recommendation No. R (86) 12 concerning the

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<sup>1</sup> In plenary meeting at the same time, CAHENF was able to consider the decision of CDCJ and communicate to it on its position, namely that, subject to any further decision the Committee of Ministers might take, changes to the scope of the proposed work of CJ/ENF-ISE should be agreed jointly by CDCJ and CAHENF (CDENF as from 2020), taking proper account of any resource implications such changes might have on achieving the expected results.

measures to prevent and reduce the excessive workload in the courts) or on a review of follow-up action by member States to Recommendation CM/Rec(2007)14 on the legal status of non-governmental organisations in Europe.

*g. Committee of Ministers' reply to Parliamentary Assembly Recommendation 2156 (2019)*

20. CDCJ instructed the Secretariat to request information on the current and proposed activities of the Committee on Bioethics (DH-BIO), the European Committee on Organ Transplantation (CD-P-TO) and the Steering Committee for the Rights of the Child (CDENF) in relation to the anonymous donation of sperm and oocytes, and the rights of donor-conceived persons to know their origins, and to advise its Bureau. On the basis of the Secretariat's report, CDCJ instructed its Bureau to consider the feasibility of undertaking a comparative study on relevant law, policy and practice in member States or such other activity it considers appropriate.

*h. Miscellaneous*

21. CDCJ instructed its Bureau (1) to approve the composition of the drafting group CDCJ-GT-TRA (see paragraph 14) and (2) to select the five members of the Committee of experts CJ/ENF-ISE (see paragraph 15) to be designated by CDCJ.

22. CDCJ took note of its draft terms of reference for 2020-2021 under consideration by the Committee of Ministers for approval at the 1361<sup>st</sup> meeting of their Deputies (19-21 November 2019).

**D. Other items discussed**

- *Workshop on the power of family relations: respecting the best interest of the child in divorce and separation*

23. CDCJ members participated in a workshop on "*Respecting the best interests of the child in case of divorce or separation*" ("PowerTalk 7") organised jointly with the CAHENF as part of their respective plenary meetings and within the framework of the conference "*Redefining power: Strengthening the rights of the child*" - *Mid-term evaluation of the Children's Rights Strategy* (13-14 November 2019). Mr Seamus Carroll (Ireland) chaired the workshop.

- *Instruments prepared by CDCJ*

24. CDCJ took note of the information contained in the annotated draft agenda and, in particular, it noted, with satisfaction, ratification of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data by an increasing number of non-member States of the Council of Europe.

- *CDCJ Opinions*

25. CDCJ adopted its opinions on the Congress of Local and Regional Authorities Recommendation 435 (2019) on "*The protection of whistleblowers - Challenges and opportunities for local and regional government*" and the Parliamentary Assembly Recommendation 2162 (2019) on "*Improving the protection of whistleblowers all over Europe*" as they appear, respectively, in Appendix V and Appendix VI.

- *Co-operation projects with member States in the field of justice and civil and administrative law*

26. CDCJ took note of the information provided by members of the Secretariat responsible for co-ordinating and implementing co-operation projects in member States on administrative justice systems (including promotion of the CDCJ handbook on the Administration and You), judicial reform, and the profession of lawyers.

- *Legislative developments in member States in the areas of public and private law*

27. CDCJ took note of the information provided by Turkey on legislative developments in the areas of public and private law and thanked this delegation for the information.

- *Work of other Council of Europe bodies*

28. CDCJ took note of the reports of its representatives in the meetings of other Council of Europe bodies and committees whose work is of relevance to CDCJ, as well as other events, as posted on its website throughout the year, or in the meeting reports of these bodies and committees in the absence of CDCJ participation.

29. CDCJ also took note of the oral information presented by the representatives of the Committee on Bioethics (DH-BIO) and the Ad hoc Committee of Experts on Roma and Traveller Issues (CAHROM) together with the information which appears in document CDCJ(2019)7 on the ongoing and planned activities of other Council of Europe bodies and committees which are relevant to CDCJ work.

- *External co-operation*

30. CDCJ took note of the information contained in the annotated draft agenda and additional oral information provided by Mr Nic Turner (United Kingdom) on the work of the Hague Conference on Private International law.

- *Elections and appointments*

31. Mr João Arsénio de Oliveira (Portugal) was unanimously elected as chairperson for a first term of office of one year.

32. Mr Christoph Henrichs (Germany) was unanimously elected as vice-chairperson for a first term of office of one year.

33. Mr Nic Turner (United Kingdom) was unanimously elected as a member of the Bureau for a second term of office of two years.



34. Ms Judith Vailhé (France) was unanimously elected as a member of the Bureau for a second term of office, this time for two years.

35. Mr Francesco Crisafulli (Italy) was unanimously elected as a member of the Bureau for a first term of office of two years.

36. Ms Signe Öhman (Sweden) was unanimously elected as a member of the Bureau for a first term of office of one year (Article 13.d of the rules).

37. As a result of the above-mentioned elections<sup>2</sup>, the Bureau of CDCJ is composed as follows:

Chairperson: Mr João Arsénio de Oliveira (Portugal)

Vice-chairperson: Mr Christoph Henrichs (Germany)

Bureau members: Ms Kai Härmand (Estonia), Ms Judith Vailhé (France), Mr Francesco Crisafulli (Italy), Ms Signe Öhman (Sweden) and Mr Nic Turner (United Kingdom).

38. CDCJ instructed the Bureau to confirm or make such new appointments as necessary for the representatives of the Committee in the work and meetings of other Council of Europe bodies in 2020.

39. CDCJ appointed Mr Rodrigo Rodriguez (Switzerland) as its second Gender Equality Rapporteur, Ms Zuzana Fišerová (Czech Republic) being the other one.

40. The Committee agreed that one of its Gender Equality Rapporteurs should attend the meetings of the Bureau in 2020 at the cost of the Council of Europe budget.

- *Any other business*

*Possible future revision of the Agreement on the Transfer of Corpses (ETS No. 080)*

41. CDCJ took note of the request submitted by the French authorities (letter of 28 October 2019) and oral information provided by the representative of the Council of Europe Treaty Office on the various procedures available to the Committee to revise treaties. It instructed its Bureau to prepare proposals in this respect to be submitted to CDCJ at its next plenary meeting.

*Request for observer status with CDCJ by “Lawyers for Lawyers”*

42. CDCJ took note of the request submitted by “Lawyers for Lawyers” (letter dated 12 November 2019) and referred it to its Bureau for consideration while noting the concerns and reservations raised by a number of delegations.

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<sup>2</sup> The respective terms of office will take effect from 1<sup>st</sup> January 2020.

*Date and place of the next meeting*

43. CDCJ agreed to hold its next plenary meeting in Strasbourg on 16-18 September 2020.

**APPENDIX I****Agenda**

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- I. Opening of the meeting
- II. Adoption of the agenda
- III. Statement of the Chair and Secretariat
- IV. On-going activities
  - Administrative detention of migrants
  - Online dispute resolution mechanisms
  - Legal aid schemes
  - Statelessness
  - Gender equality mainstreaming in the process of law reform
- V. CDCJ work programme for 2020-2021 (activity proposals)
  - Final report on action taken by member States to implement the Council of Europe Action Plan on Strengthening Judicial Independence and Impartiality (Sofia Action Plan)
  - Drafting a European instrument on the profession of lawyer
  - Guidelines on access to translation and/or interpretation in civil and administrative proceedings
  - Ensuring contact between a child and separated parents and identifying best interests of the child in child-care proceedings
  - Artificial intelligence
  - Other possible activities
- VI. Workshop on the power of family relations: respecting the best interest of the child in divorce and separation (Conference #RedefiningPower: Strengthening the rights of the child as the key to a future-proof Europe)
- VII. Co-operation projects with member States in the field of justice and civil and administrative law, and promotion of instruments prepared by CDCJ
- VIII. Legislative developments in member States in the areas of public and private law
- IX. Work of other Council of Europe bodies
- X. External co-operation
- XI. Elections and appointments
- XII. CDCJ Opinions (if any)
- XIII. Any other business
- XIV. Date and place of the next meeting

## APPENDIX II

## Calendar of meetings for 2020

CDCJ-GT-RLL	3 <sup>rd</sup> meeting of the CDCJ Drafting Group on Online Dispute Resolution Mechanisms	30-31 January
CDCJ-BU	107 <sup>th</sup> meeting of CDCJ Bureau	20-21 February
CDCJ-GT-TRA	1 <sup>st</sup> meeting of the CDCJ Drafting Group on access to translation and interpretation in civil and administrative proceedings	February/March
CDCJ-GT-SAJ2	3 <sup>rd</sup> meeting of the CDCJ Drafting Group on Legal Aid Schemes	To be confirmed
CJ/ENF-ISE	1 <sup>st</sup> meeting of the Committee of Experts on the rights and the best interests of the child in parental separation and in care proceedings	To be confirmed
CDCJ-GT-RLL	4 <sup>th</sup> meeting of the CDCJ Drafting Group on Online Dispute Resolution Mechanisms	Spring
CDCJ-GT-TRA	2 <sup>nd</sup> meeting of the CDCJ Drafting Group on access to translation and interpretation in civil and administrative proceedings	To be confirmed
CDCJ-GT-SAJ2	4 <sup>th</sup> meeting of the CDCJ Drafting Group on Legal Aid Schemes	To be confirmed
CJ/ENF-ISE	2 <sup>nd</sup> meeting of the Committee of Experts on the rights and the best interests of the child in parental separation and in care proceedings	To be confirmed
CDCJ-GT-TRA	3 <sup>rd</sup> meeting of the CDCJ Drafting Group on access to translation and interpretation in civil and administrative proceedings	To be confirmed
CDCJ-BU	108 <sup>th</sup> meeting of CDCJ Bureau	22-23 June
CDCJ	95 <sup>th</sup> plenary meeting of CDCJ	16-18 September
	International Conference on statelessness	Autumn

**APPENDIX III****Final report on the Sofia Action Plan**

Terms of reference and working methods for a team of consultants

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**Tasks**

1. Collect, analyse and explain the actions undertaken by member States, on the basis of relevant data from governmental and non-governmental sources including the findings of Council of Europe and other international bodies
2. Submit a final report after consultation with CDCJ.

**Methodology**

A team of 5-7 consultants with expertise in the area of judicial research appointed by the Secretary General, one of whom shall be appointed as the lead expert. The research team will report to and consult regularly with CDCJ and/or its Bureau, including preparation of a research plan to be approved by CDCJ. The national authorities are to be consulted on the team's preliminary findings.

**Duration of the review**

2 years (including presentation of the draft report and its finalisation).

## APPENDIX IV

### Access to translation and interpretation in civil and administrative proceedings

Terms of reference for a drafting group of CDCJ members  
(CDCJ-GT-TRA)

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#### Tasks

The drafting group has the following tasks:

1. Develop guidelines based on relevant practice in member States aimed at improving access to and quality of translation and interpretation services before bodies with adjudicative functions in the areas of civil and administrative law.
2. The guidelines shall address the following areas:
  - Use of remote interpretation services (for example, via videolink)
  - Translation and interpretation services for rarely spoken languages
  - Translation and interpretation in urgent cases
  - Online registers of translators and interpreters
  - Certification process
  - Optimization of eligibility tests and funding schemes for providing translation and interpretation
  - Provision of translation and interpretation services by legal advice centres.
3. The guidelines should be accompanied by an explanatory memorandum.
4. The drafting group shall take into account any existing work of governmental and non-governmental organisations, including the reports and studies of the European Commission for the Efficiency of Justice (CEPEJ).
5. The drafting group shall present the final results of its work to the plenary meeting of CDCJ in 2020.

#### Composition

##### **Members:**

The drafting group shall be composed of 10 CDCJ members with expertise in issues related to organisation of access to translation and interpretation services in civil and administrative proceedings.

The Council of Europe budget will bear the travel and subsistence expenses of these persons.

In addition, all member States may send representatives (or additional representatives as the case may be) to the meetings of the drafting group at their own expense.

##### **Participants:**

- None.

**Observers:**

Representatives of the following international organisations and non-governmental organisations, may be invited to participate in the work of the drafting group without right to vote and defrayal o expenses:

- United Nations (UN);
- European Union (EU);
- Council of Bars and Law Societies of Europe (CCBE);
- European Commission for the Efficiency of Justice (CEPEJ).

**Consultant(s):**

The drafting group shall be assisted by one or more consultants.

The Council of Europe budget will bear the travel and subsistence expenses of the above-mentioned consultants.

Working methods**Meetings:**

Three two-day meetings in 2020.

**Hearings and consultations:**

The drafting group may organise hearings, in particular with national bodies in member States, including civil society representatives, with a view to acquiring a better understanding of relevant national practices.

## APPENDIX V

### Recommendation 435 (2019) of the Congress of Local and Regional Authorities

#### "The protection of whistleblowers - Challenges and opportunities for local and regional government"

CDCJ opinion

*adopted at its 94<sup>th</sup> plenary meeting (13-15 November 2019)*

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1. The European Committee on Legal Co-operation (CDCJ) has taken note of Recommendation 435 (2019) of the Congress of Local and Regional Authorities on "The protection of whistleblowers - Challenges and opportunities for local and regional government".
2. CDCJ joins the Congress in inviting the Committee of Ministers to encourage the member States to strengthen protection of whistleblowers, in particular, by implementing the Council of Europe standards in this respect and adopting measures set out in paragraph 8 of the Recommendation 435 (2019), except the extent indicated below in relation to the proposal for anonymous reporting.
3. Paragraph 8 of the Congress Recommendation *invites the Committee of Ministers to encourage the governments and parliaments of member States and, where applicable, regions with legislative powers, to ensure that national legislation includes the possibility for anonymous reporting in order to protect individuals exposed to retaliation.* CDCJ has serious reservations concerning the appropriateness of this provision for the reasons set out below.
4. In a society based on the rule of law, anonymous reporting raises several concerns and the possible advantages need to be weighed carefully against the risks of abuse. In any event it would not be appropriate to recommend anonymous reporting without proposing safeguards and restrictions on its use.
5. Moreover, the benefits of anonymous reports for bringing to light and investigating public interest information are not always clear. Anonymous allegations are often assumed to be malicious or are considered to be less credible by those who receive them. Anonymous disclosures can also be much more difficult to investigate and remedy. Moreover, anonymity is not a guarantee that the source of the information will not be unmasked. Where the person is identified, the fact that they acted anonymously can be seen as a sign of bad faith, further jeopardising their position.
6. Anonymous reporting was consciously omitted by CDCJ in preparing Recommendation CM/Rec(2014)7 because of concerns about its potential for misuse. Whilst the guide (published in 2016) on how to implement a national framework for the protection of whistleblowers as recommended in CM/Rec(2014)7 accepts that '*systems set up to allow for anonymous disclosures are recognised as valuable tools for conveying and receiving public interest information*' it considers that such systems '*do not lend themselves easily to legal protection or to facilitating a change in culture*' (p. 10). The guide draws attention to the important distinction between confidentiality (the notion used in CM/Rec(2014)7 and anonymity, terms which are often used (in English) interchangeably. As the guide further indicates, '*understanding the difference in meaning is important in practice in order to*



*design effective laws that recognise serious and valid concerns whistleblowers may have about their position, and to develop robust and fair arrangements for handling and investigating information whistleblowers provide which include the secure and sensitive handling of a whistleblower's personal details' (p. 10).*

7. In considering whether anonymity is appropriate it is important to consider what is its purpose, the conditions in which it might be used safely, and what use is to be made of the whistleblower's report. So, for example, anonymous reports might be useful in the context of internal reporting within an organisation or enterprise but in which case the information can only be used as intelligence of a problem that requires investigation. In the case of criminal or disciplinary proceedings fair trial guarantees would require disclosure of the identity of the whistleblower.
8. CDCJ regrets that it was not consulted by Congress in the preparation of its recommendation. If it had, its advice would have been as indicated above and proposes that either the reference to anonymous reporting is deleted from Paragraph 8 of the Congress Recommendation or the paragraph is modified along the following lines:
 

*"... invites the Committee of Ministers to encourage the governments and parliaments of member States and, where applicable, regions with legislative powers, to ensure that national legislation includes adequate measures for securely and sensitively handling the personal details of whistleblowers in order to protect them against retaliation and, where recourse is had to anonymous reporting that this is only in exceptional circumstances and subject to adequate safeguards and restrictions on its use."*
9. The Committee is ready to respond to any request for technical assistance from member States and wishes to recall that, in the pursuit of its terms of reference entrusted by the Committee of Ministers, the CDCJ is, in particular, responsible for providing legislative advice, training and awareness-raising to national authorities and other relevant bodies relating to public interest disclosures and the protection of whistleblowers.

**APPENDIX VI**

**Recommendation 2162 (2019) of the Parliamentary Assembly**

**“Improving the protection of whistleblowers all over Europe”**

CDCJ opinion

*adopted at its 94<sup>th</sup> plenary meeting (13-15 November 2019)*

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1. The European Committee on Legal Co-operation has taken note of Recommendation 2162 (2019) of the Parliamentary Assembly on “Improving the protection of whistleblowers all over Europe” and Resolution 2300 (2019) related thereto.
2. Regarding the Parliamentary Assembly’s recommendation to draft a convention, CDCJ reiterates its opinion issued in 2010 on Recommendation 1916 (2010) of the Parliamentary Assembly on “the protection of “Whistleblowers”” and its opinion issued in 2015 on Recommendation 2073 (2015) of the Parliamentary Assembly on “Improving the protection of whistle-blowers” in which it considered it to be preferable to initially draft a non-binding legal instrument, given the complexity of the subject, the flexibility which such an instrument would offer and also its potential impact (possibly greater than that of a convention ratified by only a small number of member States, for instance). Although the protection of whistleblowers has become a matter of concern in many member States which implement - or plan to implement - measures in this area, CDCJ considers that, given the range of solutions adopted by the member States in this field, the negotiation of a convention would be time consuming and without any certainty to its outcome.
3. CDCJ sees no reason to depart from the conclusions set out in said opinions in so far as drafting of a convention on whistleblowers is concerned.
4. The CDCJ recalls that, in the pursuit of its terms of reference, the Committee is, in particular, responsible for providing legislative advice, training and awareness-raising is provided to national authorities and other relevant bodies relating to public interest disclosures and the protection of whistleblowers. In this perspective, the Committee is ready to respond to any request for technical assistance from member States, subject to available resources.