

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 7 July 2021

CDCJ(2021)15

**96th PLENARY MEETING OF THE EUROPEAN COMMITTEE
ON LEGAL CO-OPERATION
(CDCJ)**

held by videoconference on 17 May 2021

MEETING REPORT

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I. Introduction

1. The European Committee on Legal Co-operation (CDCJ) held its 96th meeting by videoconference on 17 May 2021, with Mr João Arsénio de Oliveira (Portugal) in the Chair. The list of participants¹ is available on the CDCJ's website.

II. List of items for decision by the Committee of Ministers

2. The CDCJ:

- adopted the report on the work so far completed on the conditions of administrative detention of migrants and proposals for possible avenues for the completion of this work (see document [CM\(2021\)77-add](#)) and decided to communicate the report to the Committee of Ministers to decide on the deliverables, as proposed by the CDCJ in 2022 and, as appropriate, any other ones to be considered in the future programme of activities and budget for 2022-2025;
- invited the Committee of Ministers to take note of the abridged report of its 96th meeting (17 May 2021).

III. Decisions and items discussed

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

3. The agenda, as adopted by the Committee, appears in Appendix I.

Agenda item 3. Statement of the Chair and Secretariat

4. CDCJ took note of the opening remarks by the Chair concerning progress made by the CDCJ Bureau which has met on three occasions since the last CDCJ plenary meeting (11 December 2020, 23-24 February 2021 and 20-21 April 2021)² and the publication of the Guidelines on the efficiency and the effectiveness of legal aid schemes in the areas of civil and administrative law³ following their adoption by the Committee of Ministers on 31 March 2021. The CDCJ expressed their expectation that the Guidelines would be widely disseminated to competent authorities in member States. The members expressed their satisfaction with the follow-up undertaken to implement the actions and the decisions taken by the CDCJ as a result of its 95th plenary meeting, and their appreciation of the active role of the Bureau in this context.

5. CDCJ took note of the oral update provided by the Secretariat on the developments that were relevant and pertinent for the work of the Committee. Specifically, the CDCJ members were informed about the 2021 report of the Secretary General on the "[State of democracy, human rights and the rule of law](#)"; which took stock of the issues observed over the last year and pointed to specific Council of Europe tools and standards inviting the member States to fully use them. The report also included a dedicated chapter on Efficient, Impartial and Independent Judiciaries, important to be taken into account for the preparation of the contribution of the CDCJ to the report of the Secretary General on the implementation of the Council of Europe Plan of Action on Strengthening judicial independence and impartiality.

¹ At this plenary meeting of CDCJ, the member States were represented by 23 women and 22 men, 51,11 % and 48,89 % respectively.

² The reports on these meetings are available on the restricted website, see CDCJ-BU(2020)13, CDCJ-BU(2021)7 and CDCJ-BU(2021)14.

³ [CM\(2021\)36-add2final](#).

6. CDCJ also took note of the recently adopted EU strategy on the rights of child, focusing on the strengthening of the co-operation between the Council of Europe and European Union in the area of child friendly justice. The Steering Committee for the Rights of a Child is preparing the draft Council of Europe Strategy for the Rights of the Child for adoption in 2021 and implementation from 2022 to 2027. The CDCJ is expected be consulted in the finalisation this important policy document, in particular to confirm and agree to the committee's contribution to the implementation of the strategy, as a number of activities have been proposed and included in the draft CDCJ programme of activities and budget for 2022-2025.

7. CDCJ took note of the ongoing discussions regarding the organisation of an informal exchange of views on the initiative of the Chair of the Committee of Ministers Rapporteur Group on Legal Co-operation (GR-J) between the and representatives of civil society on 8 July 2021 in the context of follow up [to decisions taken in Helsinki](#) in May 2019, which aims to enhance the co-operation between the Council of Europe and civil society. The exchange aims to address selected issues regarding the protection and promotion of the freedom of exercise of the profession of lawyers. It was noted that this exchange is likely to provide further insights from the perspective of civil society into the issues that were the focus of the CDCJ's "[Study on the feasibility of a new, binding or non-binding, European legal instrument on the profession of lawyer: possible added-value and effectiveness](#)" which was made public in the form of a publication in April 2021.

8. The CDCJ welcomed the intervention by Ambassador Dragoslav Štefánek, Special Representative of the Secretary General on Migration and Refugees, informing the CDCJ of the adoption by the Committee of Ministers of the [Action Plan](#) on protecting vulnerable persons in the context of migration and asylum in Europe (2021-2025) on 5 May 2021. It took note of the planned actions and expected deliverables contained therein, specifically those that were within the CDCJ's field of competence, namely the identification and promotion of good practices in respect of legal aid and representation, access to information and justice for vulnerable people in the context of asylum and migration and the development of related guidelines or policy recommendations; and the implementation of the Council of Europe pledges to the UNHCR campaign to end statelessness by 2024 and organisation of an international conference in this regard.

9. The CDCJ was made aware that the Committee of Ministers would receive regular updates on the progress and results of the action plan through interim reports in mid-2022 and in mid-2024 and a final report by the end of 2025, and that the interim reports and biennial programming cycles of the Council of Europe will serve as opportunities for the Committee of Ministers to take stock, evaluate and adapt the action plan, if necessary. The role and contribution of the CDCJ were noted in this context, including with respect to any additional proposals that the CDCJ may consider necessary to make in due course, such as for example with respect to its proposed work on the conditions of administrative detention of migrants.

Agenda item 4. Review of progress

4.1 Implementation of the Sofia Action Plan (CDCJ written contribution to Secretary General's report) – specific task (ii)

10. CDCJ took note of the progress in the preparation of the written contribution of the CDCJ to the report of the Secretary General on the implementation of the Council of Europe [Plan of Action on Strengthening Judicial Independence and Impartiality](#) since its adoption in 2016 and the proposed draft detailed outline (see Appendix II). The CDCJ thanked the 22 member States and the Conference of INGOs having provided written contributions to support the preparation of the report.

11. One delegation expressed concerns with respect to some of the submissions provided by the civil society in respect of their country, considering that those were subjective, political and outside of the competence of the CDCJ, which they did not consider as acceptable. Their representative indicated that they would present their comments in writing.⁴

12. CDCJ noted that this contribution would not prevent the Committee from identifying and examining new and emerging challenges faced by member States in the areas of its expertise, i.e. justice and the rule of law, in line with its mandate.

4.2 Statelessness: International conference and technical meetings - specific task (vii)

13. CDCJ took note of the progress made for the organisation of a number of technical meetings and the international conference on statelessness in September 2021, and welcomed that this activity was organised in co-operation with the UNHCR.

Agenda item 5. Administrative detention of migrants - Draft report on the conditions of administrative detention of migrants and proposals for possible avenues for the completion of the work – specific task (ix)

14. CDCJ examined and adopted the report on the work accomplished so far by its former subordinate body, the Committee of Experts on the administrative detention of migrants (CJ-DAM) on the conditions of administrative detention of migrants, as well the proposals for possible avenues for the completion of this work, that includes, as a first step, to initiate work to elaborate and issue a “Practical Guidance on administrative detention”, as a practical guide/handbook for relevant professionals and, as a second step, the CDCJ would continue on a regular basis to follow any relevant legal developments taking place at international and European level in this area, and subject to their relevance, would revert back and advise the Committee of Ministers if member states consider it timely to proceed with a codification exercise in the form of a draft recommendation.

15. The CDCJ decided to communicate the final version of the report, as it appears in document CDCJ(2021)5 Final, to the Committee of Ministers, inviting them to examine the report and decide on the deliverables as proposed by the CDCJ in 2022 and, as appropriate, any other ones to be considered in the future programme of activities and budget for 2022-2025.

Agenda item 6. Preparation of the draft Programme and Budget of the Council of Europe for 2022-2025 – Exchange of views on:

- a. CDCJ Priority actions and activities for 2022–2025**
- b. Future Draft Terms of reference of the CDCJ and its subordinate bodies**

16. CDCJ took note of the state of implementation of the CDCJ's activities according to its 2020-2021 terms of reference, as they appear in the document CDCJ(2021)9 Final. It took into account the updated workplans for the specific activities as agreed by the Bureau, acknowledging the need for possible adjustments given the continued pandemic and related constraints, and number of activities requiring follow-up actions, subject to a decision by the Committee of Ministers.

⁴ Their latest comments are included in the compilation of replies available on the restricted website.

17. CDCJ held an exchange of views in the framework of the preparation of the first draft quadrennial programme and budget of the Council of the Europe pursuant to the priorities set out in the Council of Europe's strategic framework for 2022-2025.

18. With regard to follow-up to the Guidelines on legal aid and online dispute resolution prepared by the CDCJ, one delegation indicated its reservation regarding the proposal submitted to member States to translate the guidelines into their national languages in order to facilitate their promotion and dissemination within their countries, given the absence of a legal basis in the instrument making such a process mandatory. The Chair proposed to review the wording of the text to ensure clarity that this is not a mandatory process but left at the discretion of States should they consider it useful.

19. The Committee approved the general directions and the proposals for CDCJ's priority actions and activities and deliverables to be submitted to the Committee of Ministers for 2022-2025 (see Appendix III), which would be reflected in the future draft terms of the reference of the Committee and of its proposed future subordinate bodies, as they appear in documents CDCJ(2021)9 Final and document CDCJ(2021)13 respectively).

20. CDCJ noted the clear need to revert to two plenaries per year in order to be able to implement the proposed work programme, to ensure that the new programming approach retains the necessary flexibility to adapt and respond to member States' new emerging needs, and invited the Chair of the CDCJ to communicate the agreed priorities during his forthcoming exchange of views with the Rapporteur Group on Legal Co-operation (GR-J) on 15 June 2021.

c. On-going consultations on the work of steering and ad-hoc committees: pending revision of Resolution CM/Res(2011)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods

21. Due to time constraints, this point was not addressed.

Agenda item 7. Any other business

22. None.

Agenda item 8. Date and place of next meeting

23. CDCJ agreed to hold the 97th plenary meeting on 18-19 November 2021 and, if necessary, to continue on 1-2 December 2021, possibly in a hybrid format, which would allow the participation in the Council of Europe's headquarters in Strasbourg for the participants who could attend the meeting physically while giving the opportunity for the others to participate virtually.

Agenda item 9. Approval of the abridged meeting report

24. The CDCJ adopted the abridged report of this meeting and invited the Committee of Ministers to take note of it.

APPENDIX I

AGENDA

1.	Opening of the meeting
2.	Adoption of the agenda and order of business Annotated draft agenda
3.	Statement of the Chair and Secretariat Address by Ambassador Dragoslav Štefánek, Special Representative of the Secretary General on Migration and Refugees
4.	Review of progress
4.1	Implementation of the Sofia Action Plan (CDCJ written contribution to Secretary General's report) – specific task (ii) Draft detailed outline <i>Background document</i> Compilation of responses received from member States and members of the Conference of INGOs (latest update: 14/04/2021)
4.2	Statelessness: International conference and technical meetings - specific task (vii) <i>Background document</i> Analysis of current practices and challenges regarding the avoidance and reduction of statelessness in Europe
5.	Administrative detention of migrants – specific task (ix) Draft report on the conditions of administrative detention of migrants and proposals for possible avenues for the completion of the work Comments received from member States on CDCJ(2021)5 <i>Background documents</i> CJ-DAM work European Committee on Legal Co-operation (CDCJ) - Codification of international standards on the administrative detention of migrants: future direction of the work [1339th meeting, 6 March 2019] GR-J – 19 September 2019 - 06/19 European Committee on Legal Co-operation (CDCJ) - Codification of international standards on the administrative detention of migrants: future direction of the work - Document distributed at the request of the European Union [English only]
6.	Preparation of the draft Programme and Budget of the Council of Europe for 2022-2025 – Exchange of views on:
	a. CDCJ Priority actions and activities for 2022–2025
	b. Future Draft Terms of reference of the CDCJ and its subordinate bodies
	c. On-going consultations on the work of steering and ad-hoc committees: pending revision of Resolution CM/Res(2011)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods

	<u><i>Background documents</i></u> Strategic Framework of the Council of Europe Report by the Secretary General on the Review of Council of Europe Conventions Overview of conventions and agreements under the responsibility of the CDCJ
7.	Any other business
8.	Date and place of next meeting
9.	Approval of the abridged meeting report

APPENDIX II

DRAFT DETAILED OUTLINE – IMPLEMENTATION OF THE SOFIA ACTION PLAN

DOCUMENT [CDCJ-BU\(2021\)9](#) - VERSION AS OF 29 APRIL 2021

APPENDIX III

PRIORITY ACTIONS AND ACTIVITIES OF CDCJ FOR 2022-2025

DOCUMENT [CDCJ\(2021\)9 Final](#) – VERSION AS OF 17 MAY 2021