

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

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**EUROPEAN COMMITTEE ON LEGAL CO-OPERATION
(CDCJ)**

Priority actions and activities of CDCJ for 2022–2025

Version integrating the revisions agreed during the discussion
of the CDCJ Bureau at its 110th meeting (20-21 April 2021)

as adopted by the CDCJ at its 96th plenary meeting (17 May 2021)

Document prepared by the Secretariat
Directorate General of Human Rights and Rule of Law – DGI

Introduction

1. The Committee of Ministers has entrusted the Steering Committee on Legal Co-operation (hereafter CDCJ) to 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.

2. The present document provides information on the state of implementation of the main and specific tasks of the European Committee on Legal Co-operation for the biennium 2020-2021. It also aims to set out proposals for the priority areas, tasks and deliverables of the CDCJ for the new programmatic framework 2022-2025 for discussion by the Bureau and subsequently by the CDCJ plenary.

3. **Table 1** sets out the state of implementation of the CDCJ's activities for the period from 1st of January 2020 through December 2021 in the light of the "main tasks" and "specific tasks" of the CDCJ under its terms of reference. It reflects the priorities defined by the Committee of Ministers at the time of adoption of the CDCJ's terms of reference for the biennium 2020-2021 and includes the progress in implementing the planned activities during the biennium as of 17 May 2021.

4. It can also serve as a monitoring tool for the annual evaluation that the CDCJ is required to undertake, which the Secretariat will update to take into account any new items of work and deliverables to support the implementation of its main and specific tasks, taking into account any additional instructions from the Committee and requests by the Committee of Ministers.

5. The CDCJ is invited to take note of the information below and use it as a basis for a discussion on the progress that has been achieved, the challenges ahead, and the identification of possible new priorities for the work of the CDCJ, by considering the following issues:

- a) What are the problems that the CDCJ is intending to address? What is the current context?
- b) How does the CDCJ intends to address it?
- c) What will be the main priorities, and if relevant, is there any shift in focus that needs to be made?
- d) What are the main deliverables?
- e) Which are the structures necessary to implement the work programme?
- f) Are there any changes planned in working methods, activities or focus following lessons learnt from previous years or evaluation conclusions?

6. **Table 2** was developed to include the list of areas of work which the CDCJ Bureau proposes to prioritize for the discussion within the CDCJ, with reference to the specific tasks, means and specific deliverables planned in this context, and budgetary resource implications, with the intention of informing future discussions and determination of work priorities and working methods.

7. **Annex** sets out in a workplan format the possible activities, tasks and deliverables which could be prepared in the framework of the new terms of reference for the period 2022-2025.

**Table 1 - STATE OF IMPLEMENTATION OF THE CDCJ ACTIVITIES
ACCORDING TO ITS TERMS OF REFERENCE 2020-2021 (as of 17 May 2021)**

Specific tasks	State of implementation as of April 2021	Proposals for follow-up as of 2022
Completed activities		
(i) Develop guidelines with a view to ensuring that online dispute resolution mechanisms are compatible with Articles 6 and 13 of the European Convention on Human Rights.	The CDCJ's drafting group held 4 meetings. The draft guidelines on online dispute resolution mechanisms in civil and administrative court proceedings, and the explanatory memorandum were by the finalised and approved by the CDCJ in November 2020 for communication to the Committee of Ministers for adoption. The Committee of Ministers Group of Rapporteurs are expected to examine the draft text on 15 June 2021, for a possible adoption on 16 June 2021.	Promotion and awareness raising of the legal instrument in countries Invitation to member States to translate of the guidelines, where necessary Activity: co-operation (i.e. workshop, webinar, country specific expertise)
(iv) Continue preparing a feasibility study aimed at protecting the profession of lawyer and, subject to the on-going feasibility study and CDCJ and CM decisions, draft an instrument.	The feasibility study was approved by the CDCJ in November 2020 with proposals on next steps for the CM's consideration, including the establishment of a subordinate committee of experts. The CM's took note of the Feasibility Study. The formal publication is scheduled on 19 April as an online publication. The Chair of the CDCJ is invited for an exchange of views with the GR-J touching upon issues covered by the feasibility study on 15 June and a further exchange between the GR-J with civil society on these issues is under consideration for 8 th of July.	Follow-up as of 2022 necessary, subject to a decision by the CM to that effect, including by establishing a subordinate committee of experts to initiate the drafting of the legal instrument.
(v) Develop guidelines aimed at improving the efficiency and effectiveness of legal aid schemes in the member States in the areas of civil and administrative law.	The CDCJ's drafting group held 3 meetings. The draft guidelines on the efficiency and the effectiveness of legal aid schemes in the areas of civil and administrative law, and explanatory memorandum, were approved by the CDCJ in November 2020. The Committee of Ministers adopted the Guidelines in April 2021. An official publication is being prepared in the series of "legal instruments" for release in June/ July 2021.	Promotion and awareness raising of the legal instrument in countries Invitation to member States to translate the guidelines, where necessary Activity: co-operation (i.e. workshop, webinar, country specific expertise)
(vi) Develop guidelines on access to translation and/or interpretation in civil and administrative proceedings.	The CDCJ decided to discontinue this action and inform the Committee of Ministers accordingly.	No follow-up.

Specific tasks	State of implementation as of February 2021	Proposals for follow-up as of 2022
Activities underway		
(ii) Review the implementation of the Sofia Action Plan (Secretary General final report in 2021) on judicial Independence and Impartiality.	A questionnaire was circulated to the member states and other key stakeholders. A draft report will be prepared by April 2021 for submission to the Secretary General.	Proposal for a specific event or follow up can be considered in the light of the submissions received and further consideration of needs in this area, taking into account the work of other relevant CoE bodies.
(iii) Following the Conference of Ministers of Justice organised by the French authorities within the French Chairmanship of the Committee of Ministers (14-15 October 2019), develop activities in the field of artificial intelligence.	A concept note on activities planned was approved by the CDCJ in November 2020. Comparative study mapping different implementation activities in member states of the use of algorithmic decision-making systems and administrative support systems to be prepared in 2021, jointly with the updated edition of the Handbook "The Administration and you".	Proposal for a specific event in 2022 under the Italian Chairmanship of the Committee of Ministers. Follow-up as of 2022 necessary, subject to a decision by the CM to that effect. Proposal to establish a drafting group of CDCJ members or alternatively a CDCJ subordinate group of experts to address specific aspects of new emerging technologies and legal services which could be covering additional topics in the areas of expertise of the CDCJ.
(vii) Review protocols and procedures used by member States to determine and resolve cases of statelessness, in particular of migrant children (activity subject to results of the preliminary review in 2019).	Underway The CDCJ will hold an international conference on statelessness late September 2021, back to back with technical workshops.	Follow-up after 2022 subject to the conclusions of the conference (September 2021) Transversal dimension – follow up actions could constitute a contribution to the CoE Action Plan on protecting vulnerable persons in the context of migration and asylum in Europe (pending before the CM).
(viii) Review of policy and practice on how the best interests of the child and their rights are protected in situations of parental separation and in proceedings by public authorities to limit parental responsibilities or place a child in care; and prepare, as appropriate, on the basis of the above-mentioned reviews, guidelines, policy instruments or practical	Underway The CDCJ oversees jointly with the CDENF the work of the joint subordinate committee CJ/ENF-ISE . Several questionnaires were issued to member states and practitioners to support the preparation of the reviews of policy and practice. At a minimum, the feasibility studies and concrete proposals for draft instruments should be completed in the current biennium and proposals for the preparation of guidelines, policy	Follow-up necessary as of 2022, subject to a decision by the CM to that effect, to renew the terms of reference of CJ/ENF-ISE beyond 2021. Transversal dimension – follow up actions are a contribution to the CoE Strategy for the Rights of the Child (2022-2027).

tools, in line with international and European standards and good practice.	instruments or practical tools should be available by the end of the biennium.	
(ix) Submit to the Committee of Ministers a report on the work so far completed on the conditions of administrative detention of migrants, with proposals for possible avenues for the completion of this work.	Underway A draft report for the attention of the Committee of Ministers will be prepared with proposals for possible avenues for approval by the CDCJ through written procedure.	Follow-up necessary as of 2022, subject to a decision by the CM to that effect, possibly to be implemented through a subordinate body or drafting group of the CDCJ focusing on migration aspects. Transversal dimension – follow up actions, some of which could constitute a contribution to the CoE Action Plan on Migration (when adopted).
(x) Organise awareness-raising activities on powers of attorney and advance directives for incapacity and support member States to implement Recommendation CM/Rec(2009)11 on the issue.	None	Consider for inclusion after 2022
(xi) Review progress towards the United Nations Sustainable Development Goals (UNSDGs), as evidenced by monitoring mechanisms and promoted through standard-setting and exchange of experiences and good practices.	The adoption of the guidelines prepared by the CDCJ and organisation of thematic activities are concrete contributions to SDG 16. Additional reviews can be part of specific activities (i.e. thematic session during a forthcoming plenary meeting).	Informational tools on standards prepared by the CDCJ through a dedicated webpage from the CDCJ's webpage which provides tailored information on the CDCJ's agenda, legal instruments directly relevant for member states' reporting on the implementation of the SDG 16 and results achieved in response to the 2030 Agenda and SDG 16. Organise an exchange of experience and good practice on a specific topic during one plenary meeting or a dedicated webinar for CDCJ members (2 h session)

**Table II - CDCJ's PROPOSED WORKPLAN AND PROPOSALS
FOR ITS TERMS OF REFERENCE 2022-2025**

8. As of 2022, the Council of Europe will have a four-year budget programme cycle, which will reflect on the next terms of reference for the CDCJ and its subordinate structures. As in previous years, the terms of reference will be adopted by the Committee of Ministers in line with 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.

9. Draft proposals of priority actions and deliverables for the quadrennium 2022-2025 were discussed by the Bureau at its meetings in February and April 2021, with reference to the specific tasks, means and specific deliverables planned in this context, the added value of CDCJ's work through the proposed actions, and the human and budgetary resource implications and capacities at its disposal (both at Committee level and Secretariat) for a smooth implementation with the intention of informing future discussions and determination of work priorities and working methods. These take into account the priorities set out under the Strategic Framework of the Council of Europe (SG/Inf(2020)34).

10. The Bureau discussed the following topics:

Problems that the CDCJ is intending to address/ identified challenges/ context

- new and emerging challenges to member States in areas within its expertise (inter alia justice and rule of law, administrative law, family law, children's rights, nationality), and plan, supervise and evaluate standard-setting activities in these areas;

Work to date underway which is likely to require focus and continued action beyond 2021

- Justice and Rule of law: independence of the judiciary and rule of law, migration (both as a continuation of the work of the former CJ-DAM, follow-up required following the event on Statelessness being planned in 2021 and nationality, actions foreseen under the future Council of Europe Action Plan on Migration - access to justice pillar (pending adoption);
- Technologies related developments in the areas of competence of CDCJ: AI and administration, future actions in this area taking into account the Digital Agenda of the Organisation and issues identified by the CDCJ as requiring follow-up, especially in the justice sector;
- Family law & Children's rights: work of the CJ/ENF-ISE + child-friendly justice actions under the future Council of Europe Strategy for the rights of the child (2022-2027, pending adoption); comparative study on the "rights of donor-conceived persons to know their origins";
- Follow-up actions to Rec(2009)11 on principles concerning continuing powers of attorney and advance directives for incapacity; family law and private law;
- Guidance in the context of the COVID pandemic (for example transversal actions involving eviction procedures);
- Follow-up actions with respect to conventions which are within the responsibility of the CDCJ (ex. ETS 62, 97, 85).

Revision to working methods

- The proposals below take into account the need for the CDCJ to hold 2 plenaries per year. If that were not to be the case, the list of deliverables would need to be reviewed and shortened.
- Changes to the CDCJ's working methods reference document should also be prepared

Annex

Proposed deliverables of the CDCJ and of Subordinate bodies in 2022-2025

2022		
Committee/Limited Group of experts	Tasks/deliverables	Working methods /meetings
CDCJ	<p>Proposed changes for the next biennium: 2 plenary meetings a year</p> <p>It is proposed that CDCJ should meet twice a year in plenary sessions, with the possibility of organising thematic exchanges in different formats and be supported in the discharge of its duties by relevant subordinate expert groups or working groups as appropriate.</p>	
CJ/ENF-ISE: Committee of experts on the rights and the best interest of the child in parental separation and in care proceedings (subordinate body to CDCJ and CDENF)	Draft recommendation on the rights and the best interest of the child in parental separation and in care proceedings (currently under consideration: 1 legal instrument and possible 1 specific additional tool for practitioners, and a child-friendly materials) based on the conclusions of the committees – CDCJ and CDENF – and the reviews prepared by CJ/ENF-ISE and agreed by the Committees	Completion of the current terms of reference 2 meetings Joint organisation by CDCJ and CDENF secretariats
CJ/AV: Committee of experts drafting a legal instrument on the protection of lawyers	Draft legal instrument on the protection of lawyers	3 meetings
Limited working group of experts (migration)	<p>Guide for practitioners on administrative detention of migrants</p> <p>Any follow- up action or activity related to statelessness as a result of the 2021 Conference</p>	1 meeting (online) Plenary approval
CDCJ	-Report on the state of play assessment of the implementation of ETS 062 and 097 - webinar - updated webpage	Secretariat, experts, plenary
	Practical Guide for mainstreaming gender in policy-making processes	Gender consultant and external organisation
	Report on the state of play of the implementation of CM/Rec (2015)4 on preventing and resolving disputes related to child relocation and next steps	Secretariat, experts, plenary

	- Possible revision of agreement on the transfer of corpses, depending on the Committee's decision in 2021	Written procedures and plenary decision
2023		
CDCJ	It is proposed that CDCJ meets twice a year in plenary sessions, with the possibility of organising thematic exchanges in different formats and be supported in the discharge of its duties by relevant subordinate expert groups or working groups as appropriate.	
CJ/ENF-ISE: Committee of experts on the rights and the best interest of the child in parental separation and in care proceedings (joint with CDENF)	Draft recommendation(s) on the rights and the best interest of the child in parental separation and in care proceedings (1 or 2 instruments) based on the conclusions of the committees – CDCJ and CDENF – and the reviews prepared by CJ/ENF-ISE and agreed by the Committees	Completion of the current terms of reference (2 meetings) Joint organisation by CDCJ and CDENF secretariat Transversal work – Children's rights
CJ/AV: Committee of experts drafting a legal instrument on the protection of lawyers	Draft legal instrument on the protection of lawyers	3 meetings (or more so as to finalise the draft text)
Subordinate committee or limited working group of experts on New technologies	Deliverables to be planned under the CoE's Digital Agenda and CDCJ's digital agenda – review of CDCJ instruments in the light of technological developments Follow up activities in the area of AI and other new technologies	2 meetings Secretariat, experts, plenary
Limited Working group on ETS 062 and 097	- 1 webinar - Draft model request (s) for information on ETS 062 and 097 and guidelines for elaboration - Draft a practical guidebook on the operation of the convention and its additional protocol	1 meeting
CDCJ	Webinar /workshops on aspects covered by the Practical Guide for mainstreaming gender in policy-making processes	Transversal work – Gender Equality Commission (GEC)
CDCJ	Follow-up actions to Rec(2009)11 on principles concerning continuing powers of attorney and advance directives for incapacity	
Drafting group or subordinate committee of experts	Subject to a decision to be taken at its November Plenary (2021) on the basis of the comparative study, legal instrument on the rights of donor-	1 meeting Transversal work – DH BIO

	conceived persons to know their origins	
2024		
CDCJ	It is proposed that CDCJ meets twice a year in plenary sessions, with the possibility of organising thematic exchanges in different formats and be supported in the discharge of its duties by relevant subordinate expert groups or working groups as appropriate.	
CJ/AV: Committee of experts drafting a legal instrument on the protection of lawyers	Draft legal instrument on the protection of lawyers	3 meetings (or more) so as to finalise the draft text in 2024 (continued from 2022-2023)
Drafting group or subordinate committee of experts	Subject to a decision to be taken at its November Plenary (2021) on the basis of the comparative study, legal instrument on the rights of donor-conceived persons to know their origins	1 meeting (continued from 2023) Transversal work – DH BIO
Drafting group on child friendly justice (contribution to the Child Rights Strategy)	Deliverables to be planned under the Child rights strategy (i.e. Guidelines for Strategic Litigation and legal clinics on the rights of the child, guidance notes on child friendly justice, Review Guidelines on child-friendly justice)	1 meeting Limited group of experts Transversal work – Children's rights
Subordinate committee of experts (migration)	Guidance on child sensitive procedures in administrative and migration law matters	1 meeting
Subordinate committee or drafting group on New technologies	Deliverables to be planned under the CoE's Digital Agenda and CDCJ's digital agenda – review of CDCJ instruments in the light of technological developments Follow up activities in the area of AI and other new technologies	2 meetings
2025		
CDCJ	It is proposed that CDCJ meets twice a year in plenary sessions, with the possibility of organising thematic exchanges in different formats and be supported in the discharge of its duties by relevant subordinate expert groups or working groups as appropriate.	
Drafting group on child friendly justice (contribution to the Child Rights Strategy)	Deliverables to be planned under the Child rights strategy (i.e. Guidelines for Strategic Litigation and legal clinics on the rights of the child, guidance notes	1 meeting Limited group of experts

	on child friendly justice, Review Guidelines on child-friendly justice)	
Subordinate committee of experts (migration)	<p>Draft recommendation (codification instrument on administrative detention) subject to CM decision</p> <p>Report on good practices in respect of legal aid and representation, access to information and to justice for vulnerable people in the context of asylum and migration, including children, women, victims of trafficking, torture victims, victims, victims of violence against women, stateless persons (AP migration when approved)</p>	2 meetings
Subordinate committee or drafting group on New technologies	<p>Follow up activities in the area of AI and other new technologies</p> <p>Other Deliverables to be planned under the CoE's Digital Agenda and CDCJ's digital agenda</p>	2 meetings