

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 17 November 2023

CDCJ(2023)27

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

101st plenary meeting

15-17 November 2023

Strasbourg, Palais de l'Europe, Room 7

ABRIDGED MEETING REPORT

**CDCJ website: www.coe.int/cdcj
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Opening of the meeting and adoption of the agenda

The European Committee on Legal Co-operation held its 101st plenary meeting in Strasbourg on 15-17 November 2023 with Mr Christoph Henrichs (Germany) in the Chair.

The agenda of the meeting is contained in Appendix I. The full report of the meeting including the list of participants¹ is available on the CDCJ's website.

List of items for decision by the Committee of Ministers

The CDCJ invites the Committee of Ministers:

- to take note of the abridged report of its 101st plenary meeting held in Strasbourg on 15-17 November 2023.

List of items for information of the Committee of Ministers

The CDCJ:

- took note of the information provided by the Chair and Mr Gerald Dunn, Secretary to the CDCJ, on relevant developments since the 100th plenary meeting (30 Mai-1 June 2023) and their possible implications for CDCJ's operations and activities;
- welcomed the new representatives to the Committee (Austria, Belgium, Croatia, France, Netherlands, Serbia and Spain) as well as a member who participated in-person for the first time (Ireland). They introduced themselves and informed the committee of their delegation' priority areas of interest in the context of CDCJ's work;
- agreed with the proposal of the Secretariat to streamline its information documents in order to avoid repetition and clarify the mapping of its meetings and those of its subsidiary bodies and the progress made towards the achievement of its deliverables;
- adopted its workplan for the first thematic review to be prepared as a follow-up to the Council of Europe Plan of Action on Strengthening Judicial Independence and Impartiality (Sofia Action Plan) and that will focus on the state of play in member states regarding the career and training of judges;
- adopted the new terms of reference of the CDCJ limited working group on migration CDCJ-MIG for (a) the preparation of a compendium of good practices in respect of legal aid and representation, access to information and to justice for children in procedures relating to the determination of nationality or statelessness; (b) the preparation of a non-binding legal instrument regarding stateless children's access to nationality, including guidance on child-sensitive procedures relating to the determination of nationality or statelessness, based on the outcome of a feasibility study. This is subject to the adoption by the Committee of Ministers of the new terms of reference of the CDCJ;
- carried out a first examination of the full draft convention for the protection of the profession of lawyers and its monitoring mechanism as prepared by the Committee of Experts on the Protection of Lawyers (CJ-AV) in its version adopted at its 6th meeting (17-19 October 2023). The CDCJ expressed support for the direction taken by the draft convention. Some members indicated that the CJ-AV should continue refining the wording of Articles 6 (Professional rights of lawyers) and 9 (Protection) and the explanatory report in connection with these provisions so that differences existing between legal systems be fully taken into account. As regards the monitoring mechanism proposed by the CJ-AV - a group of independent experts and a committee of the parties -, the CDCJ supported the idea that monitoring the implementation of the convention should be as effective as possible, and that the monitoring system proposed appeared at this stage the preferable option. At the same time, they indicated that it should be ensured that the way this monitoring mechanism operates should not lead to an excessive workload for states parties and, for this purpose, that the CJ-AV should shape the monitoring mechanism in such a way that ensures effectiveness and flexibility. The CDCJ took note of the fact that a written consultation would be organised in March-April 2024 that would allow member states to make specific drafting proposals on the wording of the provisions contained in the draft convention, including on the monitoring mechanism;
- held a joint session with the Steering Committee for the Rights of the Child (CDENF) in order to approve the draft recommendation on the protection of the rights and best interests of the child in parental

¹ At this plenary meeting of the CDCJ, 34 member States were represented by 36 participants: 19 women and 17 men, i.e..53% and 47% respectively.

separation proceedings and adopt its draft explanatory memorandum as prepared by their joint committee of experts, the Committee of Experts on the Rights and the Best Interests of the Child in Parental Separation and in Care Proceedings (CJ/ENF-ISE). Following a final reading and amendments, the CDCJ and the CDENF approved the recommendation and adopted its explanatory report. The delegations of Bulgaria and Türkiye made statements that are reflected in the full meeting report. The CDCJ and CDENF decided that this recommendation should be submitted for adoption by the Committee of Ministers together with the draft recommendation on the protection of the rights and best interests of the child in care proceedings which will be finalised by the end of 2024, given the proximity of the two recommendations. This would also coincide with the completion of the implementation tools still to be prepared for both recommendations;

- reviewed the Handbook “The Administration and You” as updated by its working group on Administration and artificial Intelligence (CDCJ-ADMIN-AI) with a view to taking into account the impact of the increasing use of artificial intelligence systems and automated decision making by administrative authorities in their relationship with individuals. It decided to invite members to submit drafting proposals by 24 November 2023 with a view to adopting the revised handbook by written procedure;
- adopt comments on the final draft recommendation on countering strategic lawsuits against public participation (SLAPPs) to be submitted to the CDMSI before its approval of the draft;
- examined developments in member states in the area of public law and welcomed the fact that many members had provided relevant information, proving that the new forms were effective. The next meeting will be examining any developments in member states in the area of private law. It also examined developments in other parts of the Organisation of relevance to its fields of activity;
- held an exchange of views with Ms Muriel Décot, the Executive Secretary of the Commission for the Efficiency of Justice (CEPEJ), and Ms Eva Konecna, Secretary of the CEPEJ Working group on judicial time management (CEPEJ-GT-SATURN), concerning the CEPEJ Opinion aimed at proposing to the CDCJ an update of Recommendation No. R(86)12 concerning measures to prevent and to reduce the excessive workload in the courts. The CDCJ saw merit in examining further the question of the workload of court and how this recommendation could be updated in order to identify new ways of helping members states deal with the workload of courts and decided to come back on the timing of such an activity, having regard to other ongoing or planned activities for the years to come;
- held its annual exchange of views to evaluate the completion of the CDCJ activities, in the light of the document taking stock of the implementation of activities; discussed the preliminary activity proposals for 2023-2024; reviewed its workplan and priority actions for the years to come; noted that many of activities were linked to the United Nations Strategic Development Goals 5 and 16 and contributed to them;
- elected its Chair (Mr Eral Knight – United-Kingdom), its Vice-Chair (Ms Signe Öhman – Sweden), four new Bureau members (Ms Alexandra Terés Erich – Andorra; Mr João Arsénio de Oliveira – Portugal; Mr Matija Vidmar – Slovenia; and Mr Guillaume Vieillard – France) and re-elected one Bureau member (Mr Lennart Houmann – Denmark), all with effect as from 1st January 2024;
- re-appointed Ms Alexandra Terés Erich (Andorra) at its Gender Equality Rapporteur and appointed Ms Ellen Ensing (Netherlands) as its new Rapporteur on Children’s Rights and Ms Lana Morgoshia (Georgia) as its new Rapporteur on the Rights of Persons with Disabilities;
- made the necessary appointments of its representatives/substitutes for 2024 to ensure the best possible CDCJ representation in the work of other Council of Europe bodies where the CDCJ input is needed and its expertise relevant, as they are set out in Appendix II, and invited any other interested delegations to express their interest in the outstanding vacant positions;
- agreed to hold its 102nd and 103rd plenary meetings in Strasbourg, on 11-13 June 2024 and 19-21 November 2024, respectively;
- adopted the abridged report of the 101st plenary meeting.

Any changes to the composition of the Committee Bureau

The CDCJ held elections, in accordance with Resolution CM/Res(2021)3 on intergovernmental committees and subordinate bodies, their terms of reference and working methods, for the following seven seats:

Chairperson: Mr Eral Knight (United Kingdom) – elected for a first term of office of one year, from 1st January to 31 December 2024.

Vice-Chairperson: Ms Signe Öhman (Sweden) – elected for a first term of office of one year, from 1st January to 31 December 2024.

Bureau members:

Ms Alexandra Terés Erich (Andorra) – elected for a first term of office of two years, from 1st January 2024 to 31 December 2025.

Mr Lennart Houmann (Denmark) – re-elected for a second and last term of office of two years, from 1st January 2024 to 31 December 2025.

Mr João Arsénio de Oliveira (Portugal) – elected for a first term of office of two years, from 1st January 2024 to 31 December 2025.

Mr Matija Vidmar (Slovenia) – elected for a first term of office of two years, from 1st January 2024 to 31 December 2025.

Mr Guillaume Vieillard (France) – elected for a one-year term of office under Article 13.d of the Rules, from 1st January 2024 to 31 December 2024.

Appendix I

Agenda

1. Opening of the meeting
2. Adoption of the agenda and order of business
3. Statement of the Chair and Secretariat
4. Tour de table: interventions by newly designated members of the CDCJ
5. Review of progress
- Justice and the Rule of Law*
- 5.1 Council of Europe Plan of Action on Strengthening Judicial Independence and Impartiality (Sofia Action Plan)
- 5.2 Protection of lawyers – Committee of Experts – CJ-AV (*main deliverable 1*)
- Technological developments, including artificial intelligence*
- 5.3 Administration and artificial intelligence – CDCJ working group – CDCJ-ADMIN-AI (*new main deliverable 7*)
- Public Law*
- 5.4 Statelessness and access to nationality
6. Draft recommendation on the protection of the rights and best interests of the child in parental separation proceedings, and its draft explanatory memorandum (*main deliverable 2*)
7. Transversal issues:
 - a. Mainstreaming gender, youth, children's rights, rights of persons with disabilities, and Roma and Traveller² issues (main task xiv)
 - b. Contribution to the UNSDGs - Goal 5: Gender equality and Goal 16: Peace, justice and strong institutions (main task xvii)
8. Developments in member States in the area of public law
9. Co-operation with other relevant Council of Europe bodies and committees, other international organisations and civil society in the area of public law
10. Evaluation of completed activities / Annual exchange of views to evaluate its activities and to advise the Committee of Ministers on future priorities in its sector, including possible new activities and those that might be discontinued (*main task xiii*)
 - a. Stock-taking on CDCJ activities and draft terms of reference for 2024-2027
 - b. Exchange of views on the CEPEJ Opinion aimed at proposing to the CDCJ an update of the Recommendation No. R (86) 12 concerning measures to prevent and to reduce the excessive workload in the courts

² The term "Roma and Travellers" is used at the Council of Europe to encompass the wide diversity of the groups covered by the work of the Council of Europe in this field: on the one hand a) Roma, Sinti/Manush, Calé, Kaale, Romanichals, Boyash/Rudari; b) Balkan Egyptians (Egyptians and Ashkali); c) Eastern groups (Dom, Lom and Abdal); and, on the other hand, groups such as Travellers, Yenish, and the populations designated under the administrative term "Gens du voyage", as well as persons who identify themselves as Gypsies. The present is an explanatory footnote, not a definition of Roma and/or Travellers.

11. Elections and Appointments
 - a. Elections (Chair, Vice-Chair and Bureau members)
 - b. Appointments (CDCJ Representatives and Rapporteurs)
12. CDCJ Opinions (if any) (*main deliverable 15*)

CDMSI - Draft recommendation on countering the use of strategic lawsuits against public participation (SLAPPs)
13. Any other business
14. Date and place of next meetings
15. Adoption of the abridged meeting report

Appendix II

Appointments by the CDCJ for 2024

CDCJ Thematic Rapporteurs

Rapporteur on Gender Equality (GER)	Ms Alexandra Terés Erich (Andorra)
Rapporteur on Children's Rights	Ms Ellen Ensing (Netherlands)
Rapporteur on the Rights of Persons with Disabilities	Ms Lana Morgoshia (Georgia)

CDCJ representatives/substitutes in other Council of Europe bodies

European Commission for the Efficiency of Justice (CEPEJ)	Representative: Mr Joao Arsénio de Oliveira (Portugal)
Steering Committee for Human Rights (CDDH)	Representative: Mr Rodriguez (Switzerland)
Committee on Artificial Intelligence (CAI)	Representative: Ms Heddi Lutterus (Estonia) Substitute: Mr Rodriguez (Switzerland)
Steering Committee for the Rights of the Child (CDENF) / Consultation Group on Children of Ukraine (CGU)	Representative: Ms Ellen Ensing (Netherlands)
Steering Committee on Anti-Discrimination, Diversity and Inclusion (CDADI)	Representative: Ms Anahit Abrahamyan (Armenia)