



Strasbourg, 28 June 2024

CDCJ(2024)12

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

**102<sup>nd</sup> plenary meeting**

11–13 June 2024

Strasbourg, Palais de l'Europe, Room 6

**MEETING REPORT**

**CDCJ website: [www.coe.int/cdcj](http://www.coe.int/cdcj)  
CDCJ email address: [DGI-CDCJ@coe.int](mailto:DGI-CDCJ@coe.int)**

## **1-2. Opening of the meeting and adoption of the agenda**

1. The European Committee on Legal Co-operation (CDCJ) held its 102<sup>nd</sup> plenary meeting in Strasbourg on 11-13 June 2024, with Mr Eral Knight (United Kingdom) in the Chair.
2. The agenda of the meeting is to be found in Appendix I. The abridged and full meeting reports as well as the list of participants<sup>1</sup> are available on the CDCJ's website.

## **3. Statement of the Chair and Secretariat**

3. The CDCJ took note of the information provided by the Chair and the Secretariat on developments that occurred since the 101<sup>st</sup> plenary meeting (15-17 November 2023) and their possible implications for CDCJ's work, in particular the participation of the CDCJ Chair in the celebration of the 75<sup>th</sup> anniversary of the Council of Europe on 16 May 2024 and the declaration on the 75<sup>th</sup> anniversary adopted at the Ministerial Conference of Foreign Affairs Ministers on 17 May 2024, which encouraged the swift finalisation of the draft convention for the protection of the profession of lawyer. It also took note of the participation of the CDCJ Vice-Chair, Ms Signe Öhman (Sweden), in the 2<sup>nd</sup> meeting of Secretary General with Chairs of Intergovernmental Committees on the follow-up to the Fourth Summit of Heads of State and Government in Reykjavík (16-17 May 2023) held on 1 February 2024

4. Furthermore, the CDCJ took note of the adoptions of: the Framework Convention on Artificial Intelligence on 17 May 2024, to be opened for signature in Vilnius on 5 September 2024 on the occasion of the informal Conference of Ministers of Justice; Recommendation CM/Rec(2024)2 on countering the use of strategic lawsuits against public participation (SLAPPs) on 5 April 2024 in view of the CDCJ's contribution to its elaboration; and a new Gender Equality Strategy (2024-2029) on 6 March 2024 and a possible contribution to its strategic objective No 6. (Achieving gender mainstreaming and including an intersectional approach in all policies and measures);

5. The CDCJ was informed of the recent judgments of the European Court of Human Rights in Verein KlimaSeniorinnen Schweiz and Others v. Switzerland, Carême v. France, and Duarte Agostinho and Others v. Portugal and 32 Others and their implication on the study on national climate litigation that the CDCJ was to produce by the end of 2025.

6. The Secretariat underlined the importance of the CDCJ contributing to the work on the revision of Recommendation CM/Rec(2007)14 on the legal status of NGOs in Europe by the newly established Steering Committee on Democracy (CDDEM) considering that it had initially drafted it. The Secretary to the CDDEM gave more background on the future work of the committee concerning the revision of the aforementioned recommendation as well as other matters of common interest to both committees.

7. Finally, The Secretariat informed the CDCJ of the publication of the Handbook "The Administration and You" as revised to take into account the impact of the increasing use of artificial intelligence systems and automated decision making by public authorities in their dealings with individuals and adopted by the CDCJ after its 101<sup>st</sup> plenary meeting.

## **4. Tour de table: interventions by newly designated members of the CDCJ**

8. The Chair welcomed the new members of the Committee (Armenia, Montenegro, Türkiye, Ukraine), as well as representatives of observer states (Japan, Morocco). They introduced themselves and informed the Committee of their delegations' priority areas of interest in the context of the work of the CDCJ.

## **5. Review of progress**

9. The CDCJ took note of the state of play of the implementation of the CDCJ activities in accordance with its terms of reference for 2024-2027 (document CDCJ(2024)02 prov2) as well as

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<sup>1</sup> At this plenary meeting of CDCJ, 36 member states were represented by 36 participants: 19 women and 17 men, 52,8% and 47,2% respectively.

the changes that had occurred since its 101<sup>st</sup> plenary meeting in the follow-up action given by the CDCJ and by the Committee of Ministers in respect of the texts adopted by the Parliamentary Assembly and the Congress of Local and Regional Authorities during the six past years, on which the CDCJ has been asked by the Committee of Ministers to provide an opinion (document CDCJ(2024)05).

### Justice and the Rule of Law

#### **5.1 Council of Europe Plan of Action on Strengthening Judicial Independence and Impartiality (Sofia Action Plan) (main deliverable 10)**

10. The Committee took note of the information provided by the Secretariat on the state of play of the preparation of the first thematic review by the CDCJ as a follow-up to the Council of Europe Plan of Action on Strengthening Judicial Independence and Impartiality (Sofia Action Plan), with a focus on the career and training of judges.

#### **5.2 Protection of the profession of lawyer – Committee of Experts – CJ-AV (main deliverable 1)**

11. The CDCJ took note of the update provided by the Chair of the Committee of Experts on the protection of lawyers (CJ-AV), Mr Christoph Henrichs (Germany), on the state of play of the committee's work since its 101<sup>st</sup> plenary meeting (15-17 November 2023).

12. The CDCJ carried out an in-depth examination of the draft text of the future convention as revised by the CJ-AV at its 8<sup>th</sup> meeting of 13-15 May 2024 (document CJ-AV(2022)05 prov13), in the light of the contributions received within the framework of the stakeholder consultation that took place from mid-February to early April 2024. The CDCJ was assisted by the consultant, Mr Jeremy McBride, during this examination.

13. With regard to Article 2 (Scope), the CDCJ discussed paragraph 2 concerning the possibility and conditions for lawyers to operate in another state party than the one where they obtained their title and asked the CJ-AV to reformulate this paragraph in order to improve its readability. It was agreed that paragraph 3 (a) concerning the application of relevant provisions of the convention to persons who have been refused the qualification of lawyer or a licence to practice should be further explained in the explanatory report, including the fact that domestic remedies should not suspend the application of the convention. The CDCJ decided to redraft paragraph 4 to state more precisely that it should concern specifically persons either employed or contractually engaged to assist lawyers when they contribute directly to the professional activities of the said lawyers, and to revise the explanatory report accordingly. In this connection, it was stressed that the extension of the protection afforded by the convention to these persons was limited to Articles 6.3 (b) and (c) and 9.3, namely the rights on confidential communication with clients, the disclosure process, surrender or evidence regarding any information or material received, as well as protection from any form of physical attack, threat, harassment or intimidation, or any improper hindrance or interference.

14. With regard to Article 3 (Use of terms), the CDCJ decided to strike out paragraph (h) which extended the definition of "public authorities" contained in paragraph (g) and instead to supplement Article 20.2 giving parties the possibility of making a declaration to extend the "public authorities" covered by the convention beyond what is mentioned under paragraph (g) of Article 3, and asked that the explanatory report be revised accordingly.

15. With regard to Article 4 (Professional associations), the CDCJ discussed different activities of professional associations stated in paragraph 2 and agreed that the explanatory report should expand on how this provision should be understood as covering the activities of such professional organisations as they vary from jurisdiction to jurisdiction. As to paragraph 3, the CDCJ decided to ask the CJ-AV to reexamine the drafting of this provision and revise the relevant part of the explanatory report to take account of the different national requirements and procedures applicable to consultation in the legislative process.

16. With regard to Article 5 (Entitlement to practice), the CDCJ agreed to the approach proposed by the Steering Committee on Anti-discrimination, Diversity and Inclusion (CDADI) and CJ-AV not to enumerate the list of discrimination grounds in Article 5.1 (b), but to elaborate on them in the explanatory report. It was decided to keep a reference to the case law of the European Court of Human Rights in this provision. The paragraph of the explanatory report on Article 5.2 was revised to address the issue of independence of the bodies dealing with challenges brought against decisions concerning the admission, continued authorisation and re-admission to practice as a lawyer.

17. The CDCJ discussed Article 6 (Professional rights of lawyers) paragraph 1 (b) regarding the freedom of lawyers to choose and to terminate an existing relationship with their clients and paragraph 4, which deals with possible restrictions. It was underlined that reading both paragraphs together, this freedom was therefore not absolute, and the explanatory report adds in connection with this provision that this freedom can be circumscribed by legal obligations and professional requirements. Concerning paragraph 2 regarding the lawyers' civil or criminal liability for statements made in the conduct of proceedings on behalf of their clients, it was agreed to add the notion of "diligently" to that of statements having to be made "in good faith" in order to underline that before making such statements lawyers are also required to make sufficient checks to appraise their soundness.

18. In respect to Article 7 (Freedom of Expression), and specifically paragraph 2 concerning the right to take part in public discussion, it was agreed to clarify that this should be in respect of possible legislative and administrative reforms and that the reference to "judicial decisions" in the provision among other grounds for public discussion was not to be read as implying the challenge of such "judicial decisions" as such but the way they can be part of public discussions around possible reforms on which they may have a bearing. It was considered that this should be made clear in the explanatory report.

19. With regard to Article 8 (Discipline), the paragraph of the explanatory report in connection with paragraph 2 (a) was completed regarding the disciplinary proceedings against lawyers and the independence of the authority of the review body.

20. With regard to Article 9 (Protection), the CDCJ discussed the title of the Article that echoes the title of the Convention itself, and considered that the CJ-AV could examine whether a different title should be used for either the convention or this provision. It decided to task the CJ-AV with revising paragraph 1 (c) regarding the presence of an independent lawyer or a representative of a professional association during search or seizures to have a more nuanced approach that reflects other situations than those currently contained in the paragraph. Whilst the CDCJ agreed to the thrust of paragraph 2(b), some concerns were raised by a number of delegations about the notion of threats amongst situations in which the authorities should provide information to professional associations. It was considered that going beyond information on assaults and killings, which required official enquiries, could be too far-reaching, creating an unrealistic administrative burden on public authorities. The CDCJ therefore asked the CJ-AV to revisit this provision and the explanatory report to address those concerns.

21. With regard to Chapter III (Monitoring mechanism), the CDCJ was satisfied with the mechanism as it now stands in the draft convention. As regards paragraph 1 of Article 12 (Procedure), it decided that the explanatory report should mention that the length of rounds should not be too short so as not to create an unreasonable burden on the competent administration. Paragraph 3 was modified to underline that visits should be contemplated when the information is not only insufficient but that there are no other feasible ways of reliably gaining additional information.

22. The CDCJ reviewed the draft explanatory report (document CJ-AV(2023)10 prov6) in the light of the comments made during the plenary meeting. The Committee instructed the Secretariat and the consultant to revise the explanatory report in order to reflect the changes agreed during the meeting on the draft convention and the explanatory report itself. It also asked that further detail be provided in connection with Article 12 paragraph 4 concerning the extent of the prerogatives of the future Group of Experts on the Protection of Lawyers (GRAVO) during country visits.

23. The CDCJ called on those delegations that wished to hold additional consultations with their relevant authorities on specific provisions to provide their possible comments to the Secretariat as soon as possible so that they can be circulated to the CJ-AV in good time.

24. The CDCJ took note of the reports of the 7<sup>th</sup> and 8<sup>th</sup> meetings of the CJ-AV held on 30 January-1 February 2024 and 13-15 May 2024 respectively (documents CJ-AV(2024)05 and CJ-AV(2024)08).

### Family law and children's rights

#### **5.3 Rights and best interests of the child in parental separation and in care proceedings – Committee of Experts – CJ/ENF-ISE (main deliverables 2 and 3)**

25. The CDCJ took note of the update provided by the Secretariat on progress made by the Committee of Experts on the rights and best interests of the child in the context of parental separation and in care proceedings (CJ/ENF-ISE) on the elaboration of the draft Recommendation on the protection of rights and the best interests of the child in care proceedings (document CJ/ENF-ISE(2024)02) and its explanatory memorandum (document CJ/ENF-ISE(2024)03), and that a written consultation on both texts had been launched on 28 May 2024, involving the CDCJ, the CDENF and selected key stakeholders; comments and drafting suggestions are expected by 31 July 2024.

26. The CDCJ agreed that implementation tools on the draft Recommendations on the rights and best interests of the child in parental separation proceedings and in care proceedings should take the form of checklists addressed to policy-makers, bearing in mind that the CEPEJ Working Group on Quality of Justice (CEPEJ/GT-QUAL) would be developing toolkits and guidelines for legal professionals on the participation of children in judicial proceedings, specifically a practical guide on the participation of children in mediation processes (in civil, family, and restorative justice matters) that would take into account relevant aspects of the two future recommendations.

27. The CDCJ took note that the joint approval by the CDCJ and CDENF of the draft recommendation on the rights and best interests of the child in care proceedings and the joint adoption of its explanatory memorandum as well as the implementation tools for both recommendations will take place on 3 December 2024, during the next plenary meeting of the CDENF, with the online participation of CDCJ delegations and in-person participation of the CDCJ Chair.

28. Finally, it took note of the report of the 9<sup>th</sup> meeting of the CJ/ENF-ISE held on 20-22 March 2024 (document CJ/ENF-ISE(2024)PV01).

### Public Law

#### **5.4 Statelessness and access to nationality (main deliverables 6 and 7)**

29. CDCJ took note of the update provided by the Chair of the CDCJ limited working group on migration (CDCJ-MIG), Mr Francesco Crisafulli (Italy), on the outcome of the 1<sup>st</sup> meeting of the CDCJ-MIG on stateless children and their access to nationality held online on 30-31 May 2024.

30. The CDCJ examined and adopted the questionnaire prepared by the CDCJ-MIG (document CDCJ(2024)6) for immediate circulation by CDCJ delegations to the competent authorities with a view to collecting information on procedures governing statelessness and acquisition of nationality in respect of children by 31 July 2024.

31. The CDCJ approved the outline of the feasibility study on a non-binding legal instrument regarding stateless children's access to nationality (document CDCJ-MIG(2024)03) and took note of the CDCJ-MIG workplan as updated and approved by the working group at its 1<sup>st</sup> meeting (document CDCJ-MIG(2024)01).

32. The Committee took note of the information provided by the Secretariat on the outcome of the multistakeholder meeting “Children and Statelessness” jointly organised by the Council of Europe and the European Migration Network (EMN) in Luxembourg and online on 6 June 2024. The meeting served as an opportunity to share good practices and identify challenges on prevention of child statelessness and access to nationality for stateless children, and the results of this meeting will contribute the work of the CDCJ-MIG.

*Promoting and facilitating the functioning of conventions within the CDCJ's area of competence (main task (iv))*

**5.5 European Convention on Information on Foreign Law (ETS No. 62) and its Additional Protocol (ETS No. 97) (main deliverable 5)**

33. The CDCJ examined the draft practical guide, standard forms and FAQ aimed at improving the implementation of the convention-based mechanisms of the European Convention on Information on Foreign Law (ETS No. 62) and its Additional Protocol (ETS No. 97) (document CDCJ(2024)07 prov) in the presence of the consultant, Mr Nicolas Nord, with whom it exchanged views on possible improvements. As regards the question of the language used for the exchange of information between the requesting and requested parties, it was highlighted by a representative of the Council of Europe Treaty Office that the Convention allows for flexible informal agreements, including on a case-by-case basis.

34. The CDCJ agreed that the draft practical guide should:

- Contain a flow chart to present the procedure in a user-friendly manner;
- Indicate that using the standard forms is optional;
- Address the issue of data protection and the anonymisation of shared information with references to individuals;
- Provide further information on the desired processing time and the summary of the facts giving rise to the request for information.

35. The CDCJ agreed that the draft standards forms should:

- Indicate that use of the seal is only where appropriate;
- Indicate that supporting documents should be numbered;
- Indicate the desired deadline for the response;
- Indicate the maximum length for the summary of the facts (e.g. number of words);
- Indicate the file number in the “origin of the request”;
- Include a “key words” rubric in connection with the section on the summary of the facts;
- Add a paragraph to give grounds for a refusal to reply to a request for information.

36. The CDCJ also agreed that the dedicated webpage on the European Convention on Information on Foreign Law (ETS No. 62) and its Additional Protocol (ETS No. 97) should:

- Indicate which states parties ratified the Convention (ETS. No.62) and/or its additional protocol (ETS No. 97);
- Provide information on the contact details of the relevant department to be contacted in the states parties;
- Indicate which states parties would accept the requests by email and the ones which would like to receive the requests by email only;
- Provide information (hyperlink) on the states parties' database on their available legislation already translated;
- Indicate which states parties are willing to accept requests in another language(s) on a case-by-case basis and specify the language(s).

37. The CDCJ instructed the Secretariat to send to the CDCJ and to states parties that are not members of the Council of Europe the draft practical guide, standard forms FAQ for written consultation.

38. The CDCJ invited those member states that have not signed and ratified the Convention and/or its Protocol to do so.

## **6. Developments in member states in the area of private law**

39. The Committee took note of the information provided by a number of member states on their legislative developments in the area of private law since the 100<sup>th</sup> plenary meeting (31 May-1 June 2023) (document CDCJ(2024)08) and thanked the delegations concerned for their contributions. The Committee agreed that the next meeting will examine developments in member states in the area of public law.

## **7. Co-operation with other relevant Council of Europe bodies and committees, other international organisations and civil society in the area of private law**

40. The CDCJ also took note of the information provided by relevant Council of Europe bodies and committees, the Council of Bars and Law Societies of Europe (CCBE) and other international and civil society organisations in the area of private law (document CDCJ(2024)09) and thanked the contributors. The representative of the CCBE presented orally additional information to supplement their written contribution. The Committee agreed that the next meeting will examine developments in the area of public law in relation to the work done by other Council of Europe bodies, and other international and civil society organisations.

## **8. Appointments (CDCJ representatives and rapporteurs)**

41. The CDCJ appointed new rapporteurs and representatives/substitutes for 2024 (document CDCJ(2024)10) made necessary by (1) the withdrawal of Ms Ellen Ensing (Netherlands) from her position as Rapporteur on Children's Rights and as representative to the Steering Committee for the rights of the child (CDENF), to the Council of Europe Consultation Group on the Children of Ukraine (CGU); (2) the terms of reference of the Steering committee on Democracy (CDDEM) which include, as one of its main deliverables, the update of Recommendation CM/Rec(2007)14 on the legal status of non-governmental organisations in Europe that should involve the CDCJ as drafter of the original text; therefore, appointed Ms Verena Cap (Austria) as its new rapporteur and representative to follow the work related to children's rights and Mr James D'Agostino (Malta) as its representative to the CDDEM; and appointed Ms Anna Karapetyan (Armenia) as representative to the Steering Committee on Anti-discrimination, Diversity and Inclusion (CDADI) in replacement of Ms Anahit Abrahamyan (Armenia) and reappointed Mr Rodrigo Rodriguez (Switzerland) as substitute representative for the European Commission for the Efficiency of Justice (CEPEJ) (see Appendix II).

## **9. Any other business**

42. No other business.

## **10. Date of the next meetings**

43. The CDCJ took note of the updated calendar of its meetings and events for 2024-2025, including the dates of its 103<sup>rd</sup> plenary meeting (Strasbourg, 19-21 November 2024) and of the CDCJ-CDENF joint session for the approval of the draft recommendation on the rights and best interests of the child in care proceedings (3 December 2024, online participation of the CDCJ with in-person participation of the Chair). The Chair underlined the importance of ensuring an effective connection and online presence at the joint session, in order to reach the necessary quorum for the approval process. Members are encouraged to liaise with their counterparts of the CDENF to present a common position in the joint session.

## **11. Adoption of the abridged meeting report**

44. The CDCJ adopted the abridged report of its meeting as it appears in document CDCJ(2024)11.

## 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) (*main deliverable 10*)
- 5.2 Protection of the profession of lawyer – Committee of Experts – CJ-AV (*main deliverable 1*)

#### **Family law and children's rights**

- 5.3 Rights and best interests of the child in parental separation and in care proceedings – Committee of Experts – CJ/ENF-ISE (*main deliverables 2 and 3*)

#### **Public Law**

- 5.4 Statelessness and access to nationality (*main deliverables 6 and 7*)

#### **Promoting and facilitating the functioning of conventions within the CDCJ's area of competence (main task (iv))**

- 5.5 European Convention on Information on Foreign Law (ETS No. 62) and its Additional Protocol (ETS No. 97) (*main deliverable 5*)
6. Developments in member states in the area of private law
7. Co-operation with other relevant Council of Europe bodies and committees, other international organisations and civil society in the area of private law
8. Appointments (CDCJ representatives and rapporteurs)
9. Any other business
10. Dates of the next meetings
11. Adoption of the abridged meeting report



## Appendix II

### Appointments by the CDCJ for 2024 as revised by the CDCJ at its 102<sup>nd</sup> meeting (11-13 June 2024)

#### CDCJ Thematic Rapporteurs

Rapporteur on Gender Equality (GER)	Ms Alexandra Terés Erich (Andorra)
Rapporteur on Children's Rights	Ms Verena Cap (Austria)
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 João Arsénio de Oliveira (Portugal) Substitute: Mr Rodrigo Rodriguez (Switzerland)
Steering Committee for Human Rights (CDDH)	Representative: Mr Rodrigo Rodriguez (Switzerland)
Committee on Artificial Intelligence (CAI)	Representative: Ms Heddi Lutterus (Estonia) Substitute: Mr Rodrigo Rodriguez (Switzerland)
Steering Committee for the Rights of the Child (CDENF) / Consultation Group on Children of Ukraine (CGU)	Representative: Ms Verena Cap (Austria)
Steering Committee on Anti-Discrimination, Diversity and Inclusion (CDADI)	Representative: Ms Anna Karapetyan (Armenia)
Steering Committee on Democracy (CDDEM)	Representative: Mr James D'Agostino (Malta)