

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 4 March 2026

CDCJ-MIG(2026)PV1

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

**LIMITED WORKING GROUP ON MIGRATION
(CDCJ-MIG)**

5th meeting

23 – 24 February 2026

List of decisions

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

1. The Vice-chair, Ms. Katerina Radova (Czechia), opened the meeting and the Limited working group on migration (CDCJ-MIG) adopted the agenda. The list of participants is set out in Appendix 1.

3. Information by the Chair and the secretariat

2. The CDCJ-MIG took note of the information provided by the Vice-Chair and the Secretariat concerning:

- the recent departure of the Chair, Francesco Crisafulli, thanking him for his fruitful chairmanship;
- the 105th plenary meeting of the CDCJ (18-20 November 2025), including the adoption of the compendium of promising practices on access to nationality for stateless children and the examination of the draft revised Recommendation CM/Rec on the nationality of children, in light of delegations' comments to be further addressed under item 4 of the agenda; in particular, the instructions from the CDCJ for the CDCJ-MIG, with the assistance of the Secretariat, to revise the recommendation and identify principles which would not expressly deal with statelessness and to maintain the condition of "lawful" residence contained in principles 2 and 5;
- the participation of the Secretariat in the multistakeholder conference in Luxembourg on "Statelessness in the EU pact on migration and asylum: with focus on statelessness as a vulnerability" organised by the European Migration Network (EMN) (27 October 2025);
- the participation of the Secretariat in the conference on "Statelessness & Innovation: Building Power Through Collective Action" in Berlin (6-7 November 2025), an event co-organised by the European Network on Statelessness (ENS) and Statefree;
- the presentation of the Guide on the administrative detention of migrants and asylum seekers as well as the work on CDCJ-MIG on statelessness to a delegation of representatives from the Ministry of Internal Affairs of the Republic of Moldova (12 November 2025); and
- the participation of the Secretariat at a Roundtable on the "Protection of Stateless and Undocumented Persons in the Republic of Moldova: Results of the Mapping Exercise" on 17 December 2025.

4. Revised Recommendation CM/Rec on the nationality of children

3. The CDCJ-MIG reviewed the draft revised Recommendation (document CDCJ-MIG(2026)02 prov) based on the CDCJ's 105th meeting decisions and recent drafting proposals received from delegations (document CDCJ-MIG(2026)04rev2).

4. The CDCJ-MIG agreed, in particular, to:

Preamble:

- delete references to the nationality of parents and the state of birth and residence in sub-paragraph S) to simplify the provision and emphasise that the recommendation is about children's access to nationality;
- delete the wording "under the law applicable to the child, majority is attained earlier" in sub-paragraph U) to align with other Council of Europe standards recognising children as persons under 18;
- not to support the proposal by one delegation and endorsed by another¹ to add in the operative part "With the aim of reducing statelessness of children, facilitating their access to nationality, ensuring their right to a nationality and simultaneously bearing in mind the sovereignty of each member State to determine the conditions for access to their nationality, subject to their international obligations, governments should...", as several delegations considered that it was already reflected in the preamble (sub-paragraph D).
- propose two alternatives to CDCJ in recommendation n°2 of the operative part "ensure that the aims of this Recommendation are met through existing mechanisms", as supported by two delegations,² or "formally provide for statelessness determination within existing mechanisms" supported by the other delegations.

Principles:

- retain the wording of principle 1;
- keep "lawful and habitual residence" in brackets in principles 2 and 5, pending the CDCJ's decision based on information to be provided by delegations on this point as requested by the CDCJ, but noted that two delegations³ were in favour keeping both "lawful" and "habitual"; these two delegations were of view that "subject to no other conditions" should also be deleted as it was too absolute; the proposal made by one delegation⁴ to require the "lawful residence of parents", owing to concerns about safety of the newborn children, was noted, while several delegations expressed concerns regarding compatibility with international standards and the risk of excluding children from nationality;
- retain the original wording "reasonably" in principle 4, while noting one alternative proposal: "due to compelling circumstances that make the exercise of that right objectively impossible, could not be expected to exercise that right";
- clarify the scope of foundlings in principle 8 in the explanatory memorandum;
- retain the reference to "procedures determined by member States' domestic law" in principle 9, while noting concerns that such procedures could hinder access to nationality;

¹ Croatia (mentioned at the request of the delegation throughout the list of decisions).

² Including Croatia.

³ Including Croatia.

⁴ Croatia

- retain the reference to medically assisted reproductive techniques in principle 10, noting that two delegations may issue reservations in the future;
- retain the condition of lawful residence of a foreign parent in principle 11;
- amend the title of Chapter V to include statelessness determination;
- welcome the inclusion of principle 13 on the best interests of the child;
- retain references to unaccompanied and separated children in principle 15, despite the reservations of one delegation;⁵
- include in principle 16 “to the full extent possible” for children to be consulted and express their views and delete the reference to a fixed age of sufficient understanding to align with other Council of Europe standards;
- delete principle 17 whose content is covered by principle 16;
- not support the proposal by three delegations⁶ to add the clarifications “where appropriate” or “according to the procedural rules of national law” regarding legal representation in principles 18 and 19, which concern the child’s right to file applications and challenge decisions on nationality and stateless status as provided in domestic law, on the grounds that these aspects were adequately addressed in the explanatory memorandum;
- to merge principle 19 and 22 and include in principle 19 the right to appeal on both points of fact and law;
- add a new principle on age assessment after principle 20;
- propose two alternatives to CDCJ in principle 21 of the operative part “ensure that the aims of this Recommendation are met through existing mechanisms”, as supported by three delegations,⁷ or “formally provide for statelessness determination within existing mechanisms” as supported by the other delegations.
- retain the condition of habitual residence in principle 27, with further clarification in the explanatory memorandum, and split this principle in two parts. Three delegations⁸ expressed opposition with the issuance of birth certificates for children born abroad and supported the deletion of this principle.

5. Following the CDCJ’s instruction, the CDCJ-MIG assessed whether there were principles not expressly dealing with the statelessness of children and concluded that all principles are relevant to the issue.

⁵ Including Croatia and Türkiye (mentioned at the request of the delegation throughout the list of decisions).

⁶ Türkiye.

⁷ Including Croatia.

⁸ Including Croatia.

5. **Explanatory memorandum to Recommendation on the nationality of children**

6. The CDCJ-MIG examined the draft explanatory memorandum (document CDCJ-MIG(2026)03 prov) in light of the drafting proposals received by delegations (document CDCJ-MIG(2026)04 rev2) and agreed, *inter alia*, to:

- replace “on the basis of” with “to be conditional on” regarding lawful residence in paragraph 19;
- note differing views by delegations on requiring the lawful and habitual residence of parents in paragraph 21, and the need to gather information on national practice, as instructed by the CDCJ;
- adopt drafting proposals regarding subsidiary protection status of parents and clarify references to parents’ nationality (paragraph 31);
- revise paragraph 40, remove a fixed age for foundlings, and refer to UNHCR Guidelines on Statelessness No. 4;
- re-examine references to medically assisted reproductive techniques in paragraphs 46 - 48, and include gender-neutral language;
- revise paragraph 50 to clarify states’ obligations in the best interests of the child, particularly in cases involving surrogacy, and re-examine this provision at the next meeting. Two delegations reserved the ability to share comments on the compatibility of this paragraph with their domestic frameworks;
- replace mandatory wording (“has to”) with “should,” and delete fixed age references in paragraphs 73, 76 and 78;
- include references to relevant European Court of Human Rights case-law on statelessness determination procedures and burden of proof in paragraphs 85 and 88, with a remark for *Hoti v. Croatia* highlighting that the circumstances of the case do not reflect current practice in Croatia;
- add the phrase “or other protection status” in paragraph 85. c), as proposed by one delegation;
- keep the reference to unaccompanied minors in paragraph 86;
- expand procedural safeguards relating to age assessment in paragraph 89 by including relevant case law of the European Court of Human Rights (*A.C. v France*, *Darboe and Camara v. Italy* and *F.B. v Belgium*) and the principles stemming from Recommendation CM/Rec (2022)22 on human rights principles and guidelines on age assessment in the context of migration;
- clarify that birth registration applies regardless of parents’ residence or nationality status in paragraphs 90 and 92; use “should” instead of “can”; include a reference to “competent authorities”; and emphasise “legal identity” as an essential first step for birth registration and nationality determination;
- revise provisions in paragraphs 95 -97 on birth certificates for children born abroad and include illustrative examples, e.g. refugee, stateless, subject to trafficking, etc.

6. **Checklist for policy makers**

7. The CDCJ-MIG held an initial exchange of views on the preliminary draft checklist for policy makers (document CDCJ-MIG(2026)05 prov) and agreed to:

- replace “descent” with “right of blood” in question 1;
- include references to statelessness determination” in title V;
- add a reference on the right to appeal in question 12;
- move question 15 after question 12 to reflect the changes in the draft revised Recommendation;
- revise question 17 to reflect the changes in the draft revised Recommendation;
- clarify question 18 to emphasise that birth registration is independent of parents’ residence or immigration status.

7. Exchange of views on the future work programme and implementation of tasks

8. The CDCJ-MIG approved its working methods and workplan for 2026 as they appear in document CDCJ-MIG(2026)01.

8. Update on key developments and other events by members and observers

9. The Secretariat informed the group that it will present the compendium of promising practices on access to nationality for stateless children during a hybrid side-event taking place on 2 March 2026 during the 61st session of the UN Human Rights Council in Geneva. The event will focus on preventing childhood statelessness and will be co-organised by UNHCR and Child Identity Protection (CHIP), and co-sponsored by the Council of Europe and the Global Alliance to End Statelessness.

10. The European Network on Statelessness (ENS) also informed the group of two events it will be hosting:

- A webinar on 25 February 2026 on ENS’ Annual Index titled “Index 2026: State of Play Assessment on Statelessness in Europe”; and
- A webinar on 23 March titled “Statelessness Determination and Protection in Europe: Good practice, challenges and risks”. The event will focus on statelessness determination and protection in Europe, drawing information from ENS’ recent Index Thematic Briefing, published in October.

9. Any other business

11. None.

10. Date and place of next meeting

12. The CDCJ-MIG took note of the date and place of its next meeting, which will take place on 22-24 September 2026.

11. Adoption of the list of decisions

13. The CDCJ-MIG adopted the list of decisions by written procedure.

Appendix 1

List of participants

MEMBERS / MEMBRES

ARMENIA ARMENIE	Mr/M. Vardan MATEVOSYAN Deputy Head of the Migration and Citizenship Service, Ministry of Internal Affairs / <i>Chef adjoint du Service des migrations et de la citoyenneté, ministère de l'Intérieur</i>
AZERBAIJAN AZERBAÏDJAN	Mr/M. Ruhlan NABIYEV Counsellor, Head of Division at the Consular Department, Ministry of Foreign Affairs / <i>Conseiller, Chef de division au département consulaire, ministère des affaires étrangères</i>
CROATIA CROATIE	Ms/Mme Ivana LUČEV Senior Advisor – Specialist at the Ministry of the Interior, Directorate for Immigration, Citizenship and Administrative Affaires / <i>Conseillère principale au ministère de l'Intérieur, Direction de l'Immigration, de la Citoyenneté et des Affaires administratives</i>
CZECHIA TCHÉQUIE	Ms/Mme Katerina RADOVA (Vice-Chair / Vice-Présidente) Deputy head of litigation unit, Office of the Government Agent of the Czech Republic before the European Court of Human Rights, Ministry of Justice, and Member of the Committee on the Rights of Foreigners of the Government Council of Human Rights / <i>Cheffe adjointe de l'unité contentieux, Bureau de l'Agent du Gouvernement de la République tchèque près la Cour européenne des droits de l'homme, ministère de la Justice, et membre de la Commission sur les droits des étrangers du Conseil gouvernemental des droits humains</i>
FRANCE	Ms/Mme Estelle BRESTOVSKI Judge, Head of the Nationality Office, Civil Affairs and Seal Directorate, Ministry of Justice / <i>Magistrate, Cheffe du Bureau de la nationalité, Direction des affaires civiles et du Sceau, ministère de la Justice</i>
GEORGIA GÉORGIE	Ms/Mme Ia BIGANISHVILI Lawyer / Project Manager, Public Service Development Agency, Ministry of Justice / <i>Juriste / Cheffe de projets, Agence de Développement du Service Public, ministère de la Justice</i>
ITALY ITALIE	Ms/Mme Roberta NOCELLA Judge attached to the office of the Minister of Justice / <i>Magistrate auprès du Cabinet du Ministre de la Justice</i>
PORTUGAL	Ms/Mme Sandra Cristina DA SILVA MONTEIRO Registrar, Central Registry Office, Nationality, Registration and Civil Identification / <i>Officier de l'état civil, Bureau d'état civil central, Nationalité, Enregistrement et Identification Civile</i>

MEMBER STATES / ÉTATS MEMBRES

AZERBAIJAN AZERBAÏDJAN	Mr/M. Tamerlan BABAYEV Head of the Citizenship Matters Unit Ministry of Foreign Affairs
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	Ms/Mme Gunel MUSTAFAYEVA Senior inspector of Citizenship issues, Head of Department of the State Migration Service of the Republic of Azerbaijan
GEORGIA GÉORGIE	Ms/Mme Tamta PETVIASHVILI Deputy Director of Civil Registry Public service development agency Ministry of Justice of Georgia
GREECE GRÈCE	Ms/Mme Dimitra-Athina PAPADOPOULOU Administrative Judge Agrinion Administrative Court of First Instance Member of the 19th Independent Appeals Committee Ministry of Migration and Asylum
IRELAND IRLANDE	Mr/M. Conor HAND Assistant Principal Department of Justice, Home Affairs and Migration
MALTA MALTE	Ms/Mme Cristina SUTTON Lawyer Office of the State Advocate
THE NETHERLANDS PAYS-BAS	Ms/Mme Yuenyee WONG Senior policy officer Directorate-General Migration, Migration Policy Department
TÜRKİYE	Ms/Mme Hazal AKAY Migration Expert, Presidency of Migration Management

PARTICIPANTS / PARTICIPANTS

CONFERENCE OF INGOS OF THE COUNCIL OF EUROPE / <i>CONFÉRENCE DES OING DU CONSEIL DE L'EUROPE (CINGO)</i>	Ms/Mme Marie-Christine DAVY Member of the INGO "Religious in Europe Networking against Trafficking and Exploitation" (RENATE), Member of the Migration committee of the Conference of INGOS
EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS / <i>AGENCE DES DROITS FONDAMENTAUX DE L'UNION EUROPEENNE (FRA)</i>	Mr/M. Tamas MOLNAR Senior legal researcher - project manager Justice, Digital and Migration Unit
OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR) / <i>HAUT COMMISSARIAT DES NATIONS UNIES POUR LES RÉFUGIÉS (HCR)</i>	Mr/M. Sam MOSALLAI Statelessness Officer / <i>administrateur chargé de l'apatridie</i> UNHCR Regional Bureau for Europe / <i>Bureau régional pour l'Europe, UNHCR</i> Ms/Mme Jutta SEIDEL Senior Legal Associate / <i>Associée juridique principale</i> UNHCR Representation to the European Institutions in Strasbourg
STEERING COMMITTEE FOR THE RIGHTS OF THE CHILD / <i>COMITÉ DIRECTEUR POUR LES DROITS DE L'ENFANT (CDENF)</i>	Ms/Mme Ombeline LESSELIER Policy officer / <i>Chargée de mission</i> Directorate general for social cohesion / <i>Direction générale de la cohésion sociale (France)</i>

OBSERVERS / OBSERVATEURS

MOROCCO MAROQUE	Ms/Mme Fatima EZ-ZAHRA ELAISSAOUI Commissaire Judiciaire Ministère de la Justice
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EUROPEAN NETWORK ON STATELESSNESS / RÉSEAU EUROPÉEN SUR L'APATRIDIE (ENS)	Ms/Mme Nina MURRAY Head of Policy & Advocacy
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INTERNATIONAL COMMISSION ON CIVIL STATUS (ICCS) / COMMISSION INTERNATIONALE DE L'ÉTAT CIVIL (CIEC)	Mr/M. Nicolas NORD Secretary General / <i>Secrétaire général</i>
CONSULTANT TO THE CDCJ-MIG / CONSULTANT DU CDCJ-MIG	Mr/M. René De GROOT Professor emeritus Maastricht University (The Netherlands)

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