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COUNCIL OF EUROPE



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Steering Committee for the Rights of the Child (CDENF)

Concept note

Thematic review of the Council of Europe Guidelines on child-friendly justice

Approved by the CDENF at its 9th plenary meeting (Strasbourg, 28-30 May 2024)

Concept note - Thematic review of the Council of Europe Guidelines on child-friendly justice

Background

1. The Council of Europe [Strategy for the Rights of the Child](#) (2022-2027), under its Strategic Objective 4 “Child-friendly justice for all children” states that the Council of Europe will continue promoting the implementation of the Council of Europe Guidelines on child-friendly justice (hereinafter the “Guidelines”).
2. The Guidelines were adopted by the Committee of Ministers in November 2010, after a joint drafting process which started in 2007 involving three Council of Europe Steering Committees:
 - The European Committee on Legal Co-operation (CDCJ),
 - The European Committee on Crime Problems (CDPC), and
 - The Steering Committee for Human Rights (CDDH).
3. The Steering Committee for the Rights of the Child ([CDENF](#)) was not yet in place and thus not part of this drafting exercise. Since 2012, the Programme “Building a Europe for and with Children”, managed by the Children’s Rights Division, embraced the promotion of the Guidelines through the implementation of the consecutive Council of Europe [Strategies](#) for the Rights of the Child, where child-friendly justice has constantly been a key priority. Subsequently, the Steering Committee for the Rights of the Child (CDENF), which follows the implementation of the Strategy, had taken on a coordination role of promoting the Guidelines. The current [Terms of Reference](#) for the CDENF for the period 2024-2027 therefore stipulate, as its deliverable 13, a “Thematic review of guidelines on child-friendly justice (in co-operation with CDCJ and other committees as appropriate)”, to be finalised by 31 December 2027.
4. Over the past 14 years, the Guidelines have significantly influenced the development of legislation, policy and practice in Council of Europe member states, which have used them to guide adaptation of their justice systems to the needs of children. The Guidelines have also been a key reference in the European Commission Strategies for the Rights of the Child, formed part of the workplan of the EU Agency for Fundamental Rights (FRA) and been used by other international and civil society organisations for advocacy purposes, awareness raising, as well as specific capacity-building efforts. The Council of Europe has supported the progress in the implementation and operationalisation of the Guidelines through various means, such as¹:
 - The adoption of further standards and Recommendations by the Committee of Ministers (see Appendix);
 - The attention given by the Parliamentary Assembly of the Council of Europe through its Resolutions and Recommendations;
 - The monitoring work of the Lanzarote Committee;
 - The development of HELP training courses;
 - The implementation of child friendly justice co-operation projects.
5. The European Court of Human Rights (ECtHR) has furthermore delivered important judgments strengthening the rights of children in contact with the justice system that have influenced access to justice for children.
6. Given the progress made by member states and the developments in international and Council of Europe standards and jurisprudence since 2010, it is crucial to consider a thematic review of the Guidelines to ensure they stand the test of time, are aligned with the most recently adopted

¹ For an illustration of existing Council of Europe standards and activities on child-friendly justice see Appendix I.

standards – binding and non-binding –, and clearly reflect the most recent case law, in particular that of the ECtHR. The aim would be to improve the Guidelines by taking into account the evolution of relevant standards and case law as well as the emergence of promising practices.

7. This concept note proposes a way forward for the relevant key actors of the Council of Europe and contains a roadmap for the thematic review, to facilitate and coordinate this process.

Aim of the thematic review

8. The aim of the thematic review is to:
- ensure that the Guidelines of 2010 are still up to date and in line with new developments of standards, case law and practices at international and national level;
 - create a link with other standards and tools that have been developed to strengthen child-friendly justice in Europe providing a complete picture of the evolution of child-friendly justice in the Council of Europe;
 - explore whether a substantial review would be necessary and/or adjustments would need to be made for the Guidelines to continue to remain relevant in supporting states in providing children with access to justice and in protecting the rights of the child in contact with the justice system;
 - address how the Council of Europe can support its member states in the further implementation of the Guidelines.

Key Council of Europe actors and other stakeholders

9. The thematic review should be carried out under the joint responsibility of the European Committee on Legal Co-operation ([CDCJ](#)), the European Committee on Crime Problems ([CDPC](#)) and the Steering Committee for the Rights of the Child (CDENF).

10. Other relevant actors of the Council of Europe could be consulted or invited to provide input depending on their special focus, including the Registry of the European Court of Human Rights ([ECtHR](#)), the Office of the Commissioner for Human Rights, the Secretariat of the Parliamentary Assembly, the [Lanzarote Committee](#), the Secretariat of the European Commission for the Efficiency of Justice ([CEPEJ](#)), and the Steering Committee for Human Rights ([CDDH](#)).

11. It is recommended that a stakeholder consultation be organised to involve and seek input by the above-mentioned entities as well as the European Commission and its Coordinator for the Rights of the Child, the EU Agency of Fundamental Rights (FRA), and UNICEF ECARO Regional Office.

12. Civil society organisations that have been instrumental in promoting the Guidelines should also be consulted, including the Child-friendly Justice European Network (CFJ-EN), Defence for Children International (DCI), and Terre des Hommes, among others. In due time, the three Steering Committees will propose a list of civil society organisations that could provide constructive input into the thematic review.

13. Moreover, the initial phases of the thematic review will coincide with the preparation of the upcoming General comment No. 27 on children's rights to access to justice and effective remedies, by the UN Committee on the Rights of the Child (CRC Committee). Alignment with the forthcoming General comment No. 27 will be sought.

14. From 1 January 2024 to 31 March 2026, a joint EU-Council of Europe [project on child-friendly justice](#) will be running in parallel to the thematic review process, by the Council of Europe Children's Rights Division. The project will facilitate the practical implementation of the Guidelines in three focus countries and will imply the finalisation and rolling out of the Council of Europe's Child-friendly

Justice Assessment Tool. Synergies should be sought between the thematic review process and the child-friendly justice co-operation project, so that lessons learned and findings from the latter also feed into the review process across all phases.

15. Finally, the opportunity to involve children in the thematic review through consultations should be considered depending on available resources at the different phases.

Methodology and timeline

16. It is proposed that a consultant or, if deemed necessary, a group of consultants will be involved in the thematic review and work in close co-operation with the Secretariats of the CDENF, CDCJ and CDPC. The thematic review will take place in different phases, starting with the preparation of a case-law analysis of the ECtHR and a comprehensive report, prepared by (a) consultant(s).

I. 2024 - Report on international law developments and case law analysis

17. In 2024, the CDENF Secretariat will commission the preparation of a report covering international and European law developments and case-law analysis in relation to child-friendly justice ("the Report"), to be presented to the CDENF, CDCJ and CDPC.

18. The Report should include, among others, an overview of relevant case law since 2010 of the ECtHR, the decisions of the CRC Committee in application of the Optional Protocol on a Communications Procedure (OPCP) as well as its Concluding Observations which are relevant to children's access to justice. The report should also cover all relevant Council of Europe standards which have been prepared after the Guidelines were adopted. More specifically, the report should identify specific areas and principles where the Guidelines would need to be updated and strengthened for all sections of the Guidelines, elaborating on administrative, civil and criminal law provisions, i.e.:

- Fundamental principles
- Child-friendly justice before, during and after judicial proceedings
 - o General elements of child-friendly justice
 - o Child-friendly justice before judicial proceedings
 - o Children and the police
 - o Child-friendly justice during judicial proceedings
 - o Child-friendly justice after judicial proceedings
- Promoting other child-friendly actions
- Monitoring and assessment

19. Moreover, the Report should provide proposals on where the guidelines could be enriched with new principles and propose an expansion on topics which are covered in a limited way in the Guidelines or delve into new topics which might need to be addressed therein, such as:

- multidisciplinary and interagency child-friendly justice models responding to violence against children²,
- access to effective child-friendly remedies,

² Building on the Council of Europe [study](#) "Barnahus: A European journey – Mapping study on multidisciplinary and interagency child-friendly justice models responding to violence against children in Council of Europe member states" and the future work of the Committee of Experts on access to child-friendly justice through multidisciplinary and interagency services ([ENF-JUS](#)) on a draft Recommendation on multidisciplinary and interagency services for child-friendly justice, including operational guidelines.

- access to child-friendly legal aid³,
- child-friendly informal or non-state justice systems,
- care proceedings and parental separation, including child relocation⁴,
- restorative justice⁵ or
- access to justice by children acting as human rights defenders⁶.

II. 2025 - 2026 – Examination of the new proposed Guidelines

20. In 2025 and 2026, the three Steering Committees will undertake an analysis of the relevant parts of the Guidelines identified by the Report for possible updates. The Committees might consider organising a stakeholder consultation on the proposed areas of revision of the Guidelines, which would take place prior to its examination by the three steering Committees.

III. 2026 - 2027 – Consider the revision of the Guidelines

21. In 2026 and 2027, through a joint online session of the CDENF, CDCJ and CDCP, overall conclusions including an opinion on the way forward could be adopted. Such a document should include an overview of the conclusions reached through the analysis of the different sections of the Guidelines, notably:

- whether a substantial review is considered necessary in view of making adjustments for the Guidelines to remain relevant in order to provide children with access to justice,
- how the Council of Europe can otherwise support its member states in their implementation of the Guidelines, and
- a suggested roadmap for further action, as appropriate.

³ See UNICEF [Guidelines](#) and [training package](#) on child-friendly legal aid; see also Guidelines of the Committee of Ministers of the Council of Europe on the efficiency and the effectiveness of legal aid schemes in the areas of civil and administrative law.

⁴ Building on the draft Recommendations on the protection of the rights and best interests of the child in care proceedings and on the protection of the rights and best interests of the child in care proceedings; and the Recommendation [CM/Rec\(2015\)4](#) of the Committee of Ministers to member States on preventing and resolving disputes on child relocation.

⁵ Building on the Council of Europe Recommendation [CM/Rec\(2018\)8](#) concerning restorative justice in criminal matters.

⁶ See [Children as defenders of human rights: a study on Council of Europe member states](#).

Workplan for the thematic review

Activities/Tasks	Dates	Responsibility
Draft Concept note for the thematic review	March 2024	CDENF Secretariat
Revision and finalisation of Concept note	March/April 2024	CDENF, CDPC and CDCJ Secretariats
Reach out to consultants to prepare the Report	May 2024	CDENF Secretariat
Reach out to the Jurisconsult	May 2024	CDENF Secretariat
Presentation of the Concept note and the process for the thematic review at the CDENF 9 th Plenary meeting	May 2024	CDENF
Drafting the Report	June – October 2024	Consultants with the CDENF Secretariat, in consultation with CDPC and CDCJ Secretariats
Translation of the Report	November 2024	CDENF Secretariat
Presentation of the Report and discussion at a CDENF, CDCJ and CDPC Plenary meetings	2025	CDENF, CDCJ, CDPC
Stakeholder consultation	2025/2026	Secretariat
Examination of the areas and principles where the Guidelines would need updating	2025/2026	CDPC/CDCJ/CDENF
Decision on the way forward regarding the possible revision of the guidelines	2027	Joint online Session CDENF, CDCJ, CDPC

The workplan for 2025-2027 will be further developed jointly by the Secretariats of the CDENF, CDCJ and CDPC, and will include other milestones, such as the hiring of external consultants and working meetings.

Appendix I – Council of Europe standards and activities on child-friendly justice

- [Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice](#) (2011)
- [HELP](#) training course on child-friendly justice
- CEPEJ [2022 Evaluation Report](#) on European Judicial systems, with information on the protection of children in judicial proceedings

Child victims and witnesses:

- Lanzarote Committee [1st implementation report “Protection of children against sexual abuse in the circle of trust: The Framework”](#) (see Chapter III: Best interest of the child and child friendly criminal proceedings) (2015)
- CCPE [Opinion No. 12 \(2017\) on “The role of prosecutors in relation to the rights of victims and witnesses in criminal proceedings”](#), with specific considerations for child victims and witnesses.
- [Protection of children against sexual exploitation and abuse - Child-friendly, multidisciplinary and interagency response inspired by the Barnahus model](#) (2018)
- [“Barnahus: a European Journey”](#) Mapping study on multi-disciplinary and interagency child-friendly justice models responding to violence against children in Council of Europe member States (2023).
- 2022 Edition of the European Day on the Protection of Children against Sexual Exploitation and Sexual Abuse (18 November): [“Getting it right: ensuring child-friendly justice through Barnahus structures in Europe”](#).

Children in conflict with the law:

- [Recommendation CM/Rec\(2008\)11 of the Committee of Ministers to member states on the European Rules for juvenile offenders subject to sanctions or measures](#)
- [Recommendation CM/Rec\(2018\)8 of the Committee of Ministers to member states concerning restorative justice in criminal matters](#)
- [Declaration of the Ministers of Justice of the Council of Europe Member States](#) on the role of restorative justice in criminal matters on the occasion of the Conference of the Ministers of Justice “Crime and Criminal Justice - the role of restorative justice in Europe”
- [Practical Guide: Monitoring places where children are deprived of liberty \(DCI - Belgium\)](#) (2016) and [Explanatory Brochure](#)

Family law:

- Draft Recommendation on the protection of the rights and best interests of the child in care proceedings
- Draft Recommendation on the protection of the rights and best interests of the child in care proceedings
- [Recommendation CM/Rec\(2015\)4 on preventing and resolving disputes on child relocation](#)
- PACE [Resolution 2194\(2017\) on cross-border parental responsibility conflicts](#)
- PACE [Resolution 2232 \(2018\) on striking a balance between the best interest of the child and the need to keep families together](#)
- CEPEJ [Mediation development toolkit: Ensuring implementation of the CEPEJ Guidelines on mediation](#) (2019)
- CEPEJ [European handbook for mediation law-making](#) (2019)
- Council of Europe [Conference on shared parenting](#) (2018)
- HELP course on family law and human rights

Children in the context of migration:

- [Guide for practitioners – Administrative Detention of Migrants and Asylum Seekers \(2023\)](#)
- [Recommendation CM/Rec\(2022\)22 of the Committee of Ministers to member States on human rights principles and guidelines on age assessment in the context of migration and its Explanatory Memorandum](#)
- [Recommendation CM/Rec\(2019\)11 of the Committee of Ministers on Effective guardianship for unaccompanied and separated children in the context of migration](#) and its Explanatory Memorandum
- Lanzarote Committee Urgent monitoring round Special report “Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse” (2017)
- [Checklist - States’ main obligations under the Lanzarote Convention on the Protection of Children from Sexual Exploitation and Sexual Abuse](#) (2022)
- [Handbook on the protection of children against sexual exploitation and sexual abuse in crisis and emergency situations](#) (2022)
- [Age assessment for children in migration - A guide for policy makers](#) (2019)
- [Guide for Parliamentarians: Visiting places where children are deprived of their liberty as a result of immigration procedures](#) (2017)
- [A study of immigration detention practices and the use of alternatives to immigration detention of children](#) (2017)
- PACE [Recommendation 2117 \(2017\) on Child-friendly age assessment for unaccompanied migrant children](#) and [Report](#)
- [Age assessment: Council of Europe member states' policies, procedures and practices respectful of children's rights in the context of migration](#) (2017)
- PACE [Recommendation 2056 \(2014\) on The alternatives to the immigration detention of children](#) and [Report](#)
- PACE [Campaign to End Immigration Detention of Children](#)

Other:

- [Recommendation CM/Rec\(2018\)5 of the Committee of Ministers to member States concerning children with imprisoned parents](#)
- PACE [Recommendation 2169 \(2020\) on International obligations concerning the repatriation of children from war and conflict zones](#) and [Report](#)

Co-operation projects:

- [Development of a Barnahus/Children’s House in Slovenia \(joint EU-CoE project\)](#)
- [Ensuring child-friendly justice in Georgia](#)
- [Implementing the Barnahus Model in Croatia](#)
- [Support the implementation of the Barnahus project in Ireland](#)
- [Strengthening child-friendly justice through effective co-operation and coordination among different Barnahus-type services in the regions of Spain](#)
- [Ensuring child-friendly justice through the effective operation of the Barnahus-units in Finland](#)
- [Improving the juvenile justice system and strengthening the education and training of penitentiary staff in Slovenia](#)
- [Combating violence against children in Ukraine - Phase III](#)
- [Combating violence against children in the Republic of Moldova - Phase III](#)