

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 8 April 2022

CJ-AV(2022)04

Committee of Experts on the Protection of Lawyers (CJ-AV)

**1st meeting
6-8 April 2022**

Strasbourg, Agora building, Room G03 and by videoconference

MEETING REPORT

**CDCJ website: www.coe.int/cj-av
CDCJ e-mail address: DGI-CDCJ@coe.int**

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

1. The Committee of Experts on the Protection of Lawyers (CJ-AV) held its 1st meeting in a hybrid format (in presence and online) from 6 to 8 April 2022 with Mr Christoph Henrichs (Germany) in the Chair, who welcomed the participants.

2. The meeting was opened by Mr Daniele Cangemi, Head of the Department for Human Rights, Justice and Legal Co-operation Standard Setting Activities, Directorate General of Human Rights and the Rule of Law.

3. The agenda of the meeting is contained in Appendix I. The list of participants appears in Appendix II.

3. Tour de table

4. The Committee took note of the introductions of the CJ-AV members, participants and observers attending the meeting, their professional expertise and experiences.

4. Statement by the Chair and the Secretariat

5. The CJ-AV took note of the oral information provided by the Chair and the Secretariat. The Chair set out the objectives of the work of the Committee and the purposes of this first meeting, while the Secretariat presented the terms of reference of the CJ-AV and those of its steering committee, the European Committee on Legal Co-operation (CDCJ), and their respective role and tasks, and drew attention to [Resolution CM/Res\(2021\)3](#) governing the intergovernmental committees and their subordinate bodies and their working methods. The Secretariat provided information on the election process of the Vice-Chair and on the expected role of the Gender Equality Rapporteur (GER).

5. Overview of key issues as regards the independence and safe exercise of the profession of lawyer and existing Council of Europe and other international legal instruments

6. The Committee heard an overview by Mr Jeremy McBride, CJ-AV Consultant, of the key issues covered by the [study on the feasibility of a new European legal instrument on the profession of lawyer](#), prepared under the aegis of the CDCJ and adopted in 2021, in particular as regards the independence and safe exercise of the profession of lawyer and the existing Council of Europe and other international legal instruments, which provided the background for the discussion of the future legal instrument itself (see Items 6 and 7 below).

6. Draft legal instrument aiming at strengthening the protection of the profession of lawyer and the right to practice the profession without prejudice or restraint: scope and issues of a future legal instrument (CJ-AV deliverable)

7. On the basis on the preliminary proposals contained in document CJ-AV(2022)01 (*restricted*), the Committee held an exchange of views to identify the possible scope and issues to be covered by the future instrument aiming at strengthening the protection of the profession of lawyer and the right to practice the profession without prejudice or restraint.

8. The Committee agreed to examine all the issues covered by the preliminary outline, as listed in the feasibility study, keeping also in mind the framework of the mandate. The relevance of each issue was examined from the point of view of their importance for the protection of the profession of lawyer and the right to practice the profession without prejudice or restraint. The discussion led to a clear connection between the individual safety of a lawyer and an institutional support by bar associations, and particularly how the institutional

independence of the bar associations, including disciplinary proceedings, could have an impact on the situation of individual lawyers and their possibility to exercise the professional duties without interference. The CJ-AV also agreed that the discussion of institutional issues should focus on the main, fundamental principles that need to be respected, without prejudice to the sovereignty of the States over these issues and respecting the existing diversity in organisational structures among the member States.

9. The CJ-AV agreed to examine further in depth the following issues at its next meeting: definition of Lawyer, Professional association, Admission, Professional Activities, Protection, Professional rights, Freedom of Expression, Freedom of Association, Training, Jurisdiction, Discipline. The Committee discussed the possible issues that could be addressed within each point, which should be covered in a draft text to be prepared for further examination and discussion at its next meeting and agreed that some kind of prioritisation should be made among these issues.

10. The CJ-AV agreed that the design of the implementation mechanism would be of great importance for the future legal instrument. Therefore, it requested the Secretariat to provide an overview of implementation mechanisms of Council of Europe existing legal instruments and agreed to resume discussions on this at its next meetings.

7. Draft legal instrument aiming at strengthening the protection of the profession of lawyer and the right to practice the profession without prejudice or restraint: “pros and cons” of a binding and non-binding legal instrument

11. The Committee held an exchange of views on the advantages and disadvantages of a new legal instrument depending on its nature (binding or non-binding), in particular on the basis of Chapter 4 of the feasibility study on the profession of lawyer aforementioned. All the member states’ representatives taking the floor, except two, expressed clear and strong support for a binding legal instrument, stressing the added value that a Convention may have in terms of authoritativeness and in order to further uphold human rights and the rule of law in all member states. It was also stressed that a Convention may better protect lawyers, even in countries where this protection is satisfactory, against the risks of a future weakening of such protection. Such a convention, which may be open to non-member states, would demonstrate the willingness of the Council of Europe and its member states to provide a global lead in addressing such an important matter. Of the two member states’ representatives having indicated a preference for a non-binding legal instrument, one indicated the readiness to join the large consensus in favour of the elaboration of a Convention. All observers present widely supported the drafting of a convention, in the light of the legal gaps and concerns identified by the legal profession.

12. With regard to the possible risks of non-ratification, it was noted that the mere existence of a new binding legal standard may constitute an important reference and as such a step forward compared to the existing standards, and that the drafting process should aim for consensus on its contents, in order to limit such risks. It was also noted that the Convention may be accompanied by other non-binding instruments covering specific aspects which may not be covered by a binding instrument. It was noted that there are Council of Europe Conventions which contain a combination of core provisions and “optional” provisions. In this respect, the Chair requested the Secretariat to provide an overview of conventions which provide for such flexible provisions.

13. As a result of the exchange, the Committee agreed to propose to the CDCJ to consider preparing a convention, taking into account the gaps in the existing recommendation and its uneven observance, as well as the added value of the protection afforded by a legally binding legal instrument with means for its implementation. The Chair concluded that this proposal would be put forward to the CDCJ in order to seek their feedback and enable the CJ-AV to make further progress at its second meeting.

8. Elections (Vice Chair) and appointments (Rapporteur)

14. On the basis of the call for expressions of interests issued prior to the meeting, the Secretariat received one application for the post of a Vice-Chairperson, Mr Valentyn Gvozdiy (Ukraine). The CJ-AV elected Mr Gvozdiy for a mandate of one year (i.e. until April 2023), renewable once. In the absence of nominations received for the position of Gender Equality Rapporteur, the Committee agreed to postpone the appointment to its next meeting.

9. Information on on-going and planned activities in other fora of relevance to the work of the CJ-AV

15. The CJ-AV took note of the ongoing work and initiatives in other organisations and fora that have relevance for the work of the Committee and for drafting of a new legal instrument, as well as the Council of Europe co-operation project¹. The Secretariat had shared already the information provided to it previously. These initiatives would be taken into account and further examined at the next meetings, and also during the drafting of the new legal instrument, to ensure the complementarity and avoid overlaps.

10. Any other business

16. None.

11. Date and place of next meeting

17. The CJ-AV will hold its next meetings on 11-13 July and 2-4 November 2022. The Committee took note that while the second meeting will be held in principle in-person in Strasbourg, the format of the third meeting will be confirmed at a later stage, taking into account the evolution of the health situation in France.

12. Approval of the meeting report

18. The Committee approved the meeting report (CJ-AV(2022)04).

¹ [Regional project - Strengthening the profession of lawyer in line with European standards in the Eastern Partnership countries](#)

APPENDIX I

AGENDA

1.	Opening of the meeting
2.	Adoption of the agenda and order of business
3.	Tour de table
4.	Statement by the Chair and the Secretariat
5.	Overview of key issues as regards the independence and safe exercise of the profession of lawyer and existing Council of Europe and other international legal instruments
6.	Draft legal instrument aiming at strengthening the protection of the profession of lawyer and the right to practice the profession without prejudice or restraint: scope and issues of a future legal instrument (<i>CJ-AV deliverable</i>)
7.	Draft legal instrument aiming at strengthening the protection of the profession of lawyer and the right to practice the profession without prejudice or restraint: “pros and cons” of a binding and non-binding legal instrument
8.	Elections (Vice Chair) and appointments (Rapporteur)
9.	Information on on-going and planned activities in other fora of relevance to the work of the CJ-AV
10.	Any other business
11.	Date and place of next meeting
12.	Approval of the meeting report

APPENDIX II

PARTICIPANTS

MEMBERS / MEMBRES

AUSTRIA / AUTRICHE	Dr Marcella PRUNBAUER GLASER Lawyer Prunbauer Rechtsanwalte	Online / <i>En ligne</i>
CZECH REPUBLIC / REPUBLIQUE TCHEQUE	Mr/M. Ondrej RICHTER Senior Ministerial Counselor Legislative Department Ministry of Justice	In person / <i>En personne</i>
DENMARK / DANEMARK	Mr/M. Nicolai PII Legal director, Attorney The Danish Bar and Law Society	Online / <i>En ligne</i>
FRANCE	Mr/M. Gilles ACCOMANDO Directeur de l'Ecole de Formation des Barreaux (EFB) du ressort de la cour d'appel de Paris	In person / <i>En personne</i>
GERMANY / ALLEMAGNE	Mr/M. Christoph HENRICHS Head of Section "International Law, Law of International Organisations" Federal Ministry of Justice	In person / <i>En personne</i>
IRELAND / IRLANDE	Ms/Mme Claire LOFTUS Sollicitor	Apologised / <i>Excusee</i>
LITHUANIA / LITUANIE	Ms/Mme Vaida RUDENAITE Senior adviser Legal Services Policy Group Ministry of Justice	In person / <i>En personne</i>
LUXEMBOURG	Ms/Mme Valerie DUPONG Avocate Etude Dupong, Krieps, Du Bois & Dias Videira Battonniere de l'Ordre des avocats	Online / <i>En ligne</i>
NETHERLANDS / PAYS-BAS	Mr/M. Jacques WIJNEN Senior Policy Advisor Judicial System Department Ministry of Justice and Security	In person / <i>En personne</i>
PORTUGAL	Mr/M. Joao PERRY DA CAMARA Partner / Lawyer / Arbitrator Law Firm - Rogerio Alves & Associados - Sociedade de Advogados, R.L	Online / <i>En ligne</i>
SPAIN / ESPAGNE	Mr/M. Alfredo IRUJO ANDUEZA Lawyer, Law office in Pamplona Professor of Master in Law, Public University of Navarre Chair of Council of Navarre	Online / <i>En ligne</i>
SWITZERLAND / SUISSE	Mr/M. Franois BOHNET Avocat et Associe - KGG Avocats au barreau et notaires Professeur a l'Universite de Neuchatel Directeur de l'Academie suisse de la magistrature	Online / <i>En ligne</i>
TURKEY / TURQUIE	Mr/M. Halid Haki BARUT Head of Department General Directorate for Civil Affairs Ministry of Justice	Online / <i>En ligne</i>
UKRAINE	Mr/M. Valentyn GVOZDIY Vice-president of the Ukrainian National Bar Association Managing partner / International Law Firm GOLAW	In person / <i>En personne</i>

UNITED KINGDOM / ROYAUME-UNI	Mr/M. Tony FISHER Partner Fisher Jones Greenwood LLP - Solicitors	In person / <i>En personne</i>
-------------------------------------	--	-----------------------------------

MEMBER STATES / ETATS MEMBRES

AZERBAIJAN / AZERBAÏDJAN	Mr/M. Bayram ORUJOV Head of Office Azerbaijani Bar Association	Online / <i>En ligne</i>
	Mr/M. Farhad NAJFOV Councillor to the Chairman Azerbaijani Bar Association	Online / <i>En ligne</i>
	Mr/M. Allahveran ORUJLU Member Azerbaijani Bar Association	In person / <i>En personne</i>
FRANCE	Ms/Mme Marie DUGRE Magistrate Cheffe du bureau de l'Europe et des questions institutionnelles Ministère de la Justice	In person / <i>En personne</i>
GEORGIA / GÉORGIE	Mr/M. Vakhtang KACHIBAIA Senior Specialist Analytical Department Ministry of Justice	In person / <i>En personne</i>
IRELAND / IRLANDE	Mr/M. Fiachra BYRNE Justice Attaché / Deputy to the Permanent Representative Permanent Representation of Ireland to the Council of Europe	In person / <i>En personne</i>
LUXEMBOURG	Mr/M. Tom HANSEN Attaché - Direction chargée des relations avec l'Administration judiciaire et les professions du droit Délégué du Gouvernement auprès des juridictions administratives Ministère de la Justice	Online / <i>En ligne</i>
REPUBLIC OF MOLDOVA / REPUBLIQUE DE MOLDOVA	Mr/M Alexander ȚURCAN Interim Dean of the Bar Association of the Chisinau Court of Appeal Member of the Council of the Bar Association	Online / <i>En ligne</i>
	Ms/Mme Angela POPIL Member of the Council of the Bar Association	Online / <i>En ligne</i>
ROMANIA / ROUMANIE	Ms/Mme Madalina Paula MANOLACHE Director European Affairs and Human Rights Department Ministry of Justice	Online / <i>En ligne</i>

PARTICIPANTS / PARTICIPANTS

EUROPEAN COURT OF HUMAN RIGHTS / COUR EUROPÉENNE DES DROITS DE L'HOMME	Mr/M. Adrien RAIF-MEYER Senior Lawyer	In person / <i>En personne</i>
---	---	-----------------------------------

OBSERVERS / OBSERVATEURS

AVOCATS SANS FRONTIÈRES	Mr/M. Christophe VINCENT Chargé de projets	Online / <i>En ligne</i>
COUNCIL OF BARS AND LAW SOCIETIES OF EUROPE / CONSEIL DES BARREAUX EUROPEENS (CCBE)	Mr/M. Laurent PETTITI Avocat au Barreau de Paris Président de la Délégation des Barreaux de France à Bruxelles Président du Groupe de travail « Convention européenne » du CCBE Mr/M. Nathan ROOSBEEK Legal Adviser	In person / <i>En personne</i> Online / <i>En ligne</i>
EUROPEAN BARS FEDERATION / FEDERATION DES BARREAUX D'EUROPE (FBE)	Ms/Mme Dominique ATTIAS Avocate Présidente de la Fédération des Barreaux d'Europe Mr/M. Philippe LOEW Secrétaire des Commissions de la FBE Ordre des Avocats de Strasbourg Avocat associé fondateur du cabinet TALARIS Avocats	Online / <i>En ligne</i> Online / <i>En ligne</i>
EUROPEAN ASSOCIATION OF LAWYERS (EAL) / ASSOCIATION EUROPÉENNE DES AVOCATS (AEA)	Ms/Mme Maria ŚLAŹAK Attorney of Law President of the European Association of Lawyers (AEA-EAL)	Online / <i>En ligne</i>
EUROPEAN CRIMINAL BAR ASSOCIATION (ECBA)	Mr/M. Vincent ASSELINEAU Chair of the European Criminal Bar Association	In person / <i>En personne</i>
INTERNATIONAL BAR ASSOCIATION (IBA) & HUMAN RIGHTS INSTITUTE (IBAHRI)	Ms/Mme Eleonora SCALA Dr Ewelina OCHAB IBAHRI Program Lawyer	Online / <i>En ligne</i> Online / <i>En ligne</i>
INTERNATIONAL COMMISSION OF JURISTS (ICJ) / COMMISSION INTERNATIONALE DE JURISTES (CIJ)	Ms/Mme Roisin PILLAY Director of the ICJ Europe and Central Asia Programme	Online / <i>En ligne</i>
INTERNATIONAL ASSOCIATION OF LAWYERS / UNION INTERNATIONALE DES AVOCATS (UIA)	Mr/M. Georges-Albert DAL Président du Comité de réflexion de l'UIA sur les règles professionnelles	Online / <i>En ligne</i>
“LAWYERS FOR LAWYERS” FOUNDATION / FONDATION « LAWYERS FOR LAWYERS »	Ms/Mme Judith LICHTENBERG Board member Ms/Mme Sophie DE GRAAF Executive Director	In person / <i>En personne</i> Online / <i>En ligne</i>

INTERNATIONAL OBSERVATORY OF ENDANGERED LAWYERS / <i>OBSERVATOIRE INTERNATIONALE DES AVOCATS EN DANGER (OIAD)</i>	Mr/M. Massimo AUDISIO Lawyer – Founding and Managing Partner Law Firm Audisio et Associati	In person / <i>En personne</i>
---	---	-----------------------------------

COUNCIL OF EUROPE EXPERT / EXPERT DU CONSEIL DE L'EUROPE

CONSULTANT OF CJ-AV / <i>CONSULTANT DU CJ-AV</i>	Mr/M. Jeremy McBRIDE Barrister Monckton Chambers United Kingdom	In person / <i>En personne</i>
--	---	-----------------------------------

SECRETARIAT / SECRETARIAT**DGI - DIRECTORATE GENERAL HUMAN RIGHTS AND RULE OF LAW / DIRECTION GÉNÉRALE DROITS DE L'HOMME ET ÉTAT DE DROIT**

HUMAN RIGHTS, JUSTICE AND LEGAL CO-OPERATION STANDARD SETTING ACTIVITIES DEPARTMENT / SERVICE DES ACTIVITÉS NORMATIVES EN MATIÈRE DE DROITS DE L'HOMME, JUSTICE ET COOPÉRATION JURIDIQUE LEGAL CO-OPERATION DIVISION / DIVISION DE LA COOPÉRATION JURIDIQUE	Mr/M. Nicola-Daniel CANGEMI Head of Department / <i>Chef de service</i> Tel: +33 3 88 41 22 24 E-mail: nicola-daniel.cangemi@coe.int
	Ms/Mme Livia STOICA BECHT Head of Division / <i>Cheffe de la Division</i> Secretary to the CDCJ / <i>Secrétaire du CDCJ</i> Tel: +33 3 90 21 42 60 E-mail: livia.stoica@coe.int
	Ms/Mme Sophio GELASHVILI Head of Legal Co-operation Unit / <i>Cheffe de l'Unité de coopération juridique</i> <i>Co-Secretary to CDCJ / Co-secretaire du CDCJ</i> <i>Secretary to CJ-AV / Secrétaire du CJ-AV</i> Tel: +33 3 88 41 31 80 E-mail: sophio.gelashvili@coe.int
	Ms/Mme Catherine GALLAIS Specialised administrative assistant / <i>Assistante administrative spécialisée</i> Tel : +33 3 88 41 22 21 Email : catherine.gallais@coe.int
	Mr/M. Eishan ORUJOV Program adviser / <i>Conseiller de programme</i> Tel : +33 3 90 21 57 81 Email : elshan.orujov@coe.int
	Ms/Mme Emilija DEOLSKA Assistant / <i>Assistante</i> Tel: +33 3 90 21 43 47 E-mail: emilija.deolska@coe.int
	Ms/Mme Joan STAFFORD Assistant / <i>Assistante</i> Tel: +33 3 88 41 32 72 E-mail: joan.stafford@coe.int

	Ms/Mme Alexandra ZURBACH Trainee / <i>Stagiaire</i> Email: alexandra.zurbach@coe.int
CO-OPERATION PROGRAMMES / <i>PROGRAMMES DE COOPERATION</i> UKRAINE, REPUBLIC OF MOLDOVA AND ARMENIA UNIT / UNITE <i>UKRAINE, REPUBLIQUE DE</i> <i>MOLDOVA ET ARMENIE</i>	Mr/M. Karen KARAPETYAN Project officer / <i>Agent de projet</i> Regional project "Strengthening the profession of lawyer in line with European standards" / <i>Projet régional –</i> <i>"Renforcement de la profession d'avocat conformément</i> <i>aux normes européennes"</i> Tel: +374 10 546 322 Email: karen.karapetyan@coe.int
INTERPRETERS / INTERPRETES	Ms/Mme Remy JAIN Mr/M. Didier JUNGLING