



Strasbourg, 3 June 2024

CJ-AV(2024)08

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

8th meeting

13-15 May 2024

Strasbourg, Agora, Room G04

MEETING REPORT

**CJ-AV 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 8th meeting in Strasbourg from 13 to 15 May 2024, under the chairmanship of Mr Christoph Henrichs (Germany).

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

3. CJ-AV Tour de table

3. The Chair welcomed all participants, including the representatives of member states attending a CJ-AV meeting for the first time (Ms Assi Suominen, Finland; Ms Marie Kassasseya, France; Mr Mustafa Celayır, Türkiye; and Mr Thibaut Noël, OSCE/ODIHR).

4. Statement by the Chair and Secretariat

4. The Committee took note of the information provided by the Chair concerning the exchange held with the deputies at the Rapporteur Group on Legal Co-operation (GR-J) meeting which took place on 19 March 2024. The meeting confirmed the overall support of the GR-J for the elaboration of a convention for the protection of the profession of lawyers and the work done by the CJ-AV.

5. The Secretariat sketched out the process that will follow the approval of the draft convention and the adoption of its explanatory report by the CDCJ at its 103rd plenary meeting (19-21 November 2024). The draft convention will go through the required internal legal and linguistic checks in parallel to the finalisation of the draft text of the convention to ensure a swift transfer first to the GR-J and then to the Parliamentary Assembly for opinion, before a final examination and adoption by the Committee of Ministers in the first half of 2025.

5. Draft legal instrument aiming at strengthening the protection of the profession of lawyer and the right to practice the profession without prejudice or restraint: examination of the draft text and the draft explanatory report (CJ-AV deliverable)

6. The CJ-AV carried out a careful examination of the 12th version of the draft text of the future legal instrument (document CJ-AV(2022)05 prov12), in the light of the drafting proposals collected through the stakeholder consultation that took place from mid-February to early April. Within the framework of this consultation, the CDCJ, the European Court of Human Rights, relevant Council of Europe standard setting and monitoring committees, other international organisations and non-governmental organisations made drafting proposals with accompanying comments on both the draft convention (document CJ-AV(2024)06) and its explanatory report (document CJ-AV(2024)07). The CJ-AV reviewed and discussed all the drafting proposals individually as it went through the draft convention and explanatory report.

7. Suggestions were made to add to the title of the convention “lawyers” in addition to the reference to the “profession of lawyer”. The CJ-AV decided to retain the current title, with the understanding that the notion of “profession of lawyer” encompasses lawyers taken both individually and collectively as well their professional associations.

8. In respect of Preamble, it was agreed to keep this part of the convention as concise as possible, in line with the usual practice. Some of the proposals to add references to further instruments could be included in the explanatory report.

9. Concerning Article 2 (Scope), the CJ-AV discussed the possibility of explicitly mentioning in paragraph 1 regulatory bodies (regulators) alongside professional associations inasmuch as they may, in some jurisdictions, play a role in the regulation of the profession alongside professional associations. However, it was agreed that reference to such bodies should be made in provisions where the impact of such regulatory bodies on the profession was directly relevant. The CJ-AV also discussed in detail paragraph 2 concerning the application of lawyers operating in another state party than the one in which they obtained their title and decided to revise the drafting so as to clarify it. It also examined paragraph 4 and the extension of protection to persons employed or engaged to assist lawyers in carrying out their professional activities. It was agreed to limit such protection to instances directly linked to the professional activity of the lawyers they are working for/with and to convention 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.

10. As to Article 3 (Use of terms) and more specifically on “professional activities of lawyers”, the CJ-AV decided to strike out the promotion of the rule of law and contribution to public debate on law and related matters as this was a repetition of Article 7 (Freedom of expression). Similarly, it decided with respect to the description of “professional activities of professional associations” to delete the description and simply refer to Article 4.2 which contains such a description.

11. With regard to Article 4 (Professional associations), the CJ-AV discussed the use, in paragraph 2 (c), of the notion of “professional standards of conduct” compared to that of “codes of conduct” or “professional rules”. It was agreed to revise the relevant paragraphs of the explanatory report to better reflect the existing diversity between national situations where professional associations adopt codes of conduct and others where standards are set out exclusively in law. A new paragraph 2 (d) was added to reflect the responsibilities of professional associations concerning education and training. With regard to paragraph 3, the CJ-AV also discussed the implications of the provision for consultation in the law-making process and to clarify the points and concerns raised by the members regarding the stage where such consultation should be a requirement in the relevant part of the explanatory report.

12. As regards Article 5 (Entitlement to practice), the CJ-AV decided to adopt the approach proposed by the Steering Committee on Anti-discrimination, Diversity and Inclusion (CDADI) and not to enumerate the list of discrimination grounds in the convention, but to elaborate on them in the explanatory report in connection with Article 5.1 (b).

13. In respect of Article 6 (Professional rights of lawyers), the issues that the CJ-AV specifically draw attention to were freedom of lawyers to choose their clients and to terminate an existing relationship with them (Article 6.1 (b)), access to materials (Article 6.1 (e)), and the right to preserve the confidentiality of information or material received from clients or prospective clients (Article 6.3 (c)). The CJ-AV made relevant revisions to ensure that all the provisions reflected the situation in different jurisdictions. It was also agreed to clarify all the points of concern in the explanatory report. In particular, in the paragraph dealing with possible restrictions, it is made clear that the established right to choose their client can be restricted

where there is a requirement to ensure the availability of legal advice, assistance and representation to all as is the case in certain jurisdictions.

14. In respect to Articles 7 (Freedom of Expression) and 8 (Discipline), no significant changes were made.

15. As regards Article 9 (Protection), it was agreed to extend the restrictions clause of Article 9.1 to include restrictions required “for protecting the rights of others”. It was also agreed that additional text would be developed in the explanatory report for Article 9.1 (c), to exclude the supervisory functions of professional associations in certain state parties from the requirement for presence of a lawyer. In respect to this paragraph, it was also agreed to keep wording “have the presence” – this wording expresses right of a lawyer to request a presence of an independent lawyer or a representative of a professional association, subsequently Parties to ensure their presence one or the other (or both), only upon a request of a lawyer affected by the search. It was agreed not to keep the issue of informing professional associations about secret surveillance having taken place with respect of lawyers as it raised various problems ranging from the agreement of the lawyer concerned to have their professional association informed to matters of national security that may come into play in some instances (paragraph 2). In respect of paragraph 3 (a), it was agreed to mention strategic litigations against public participation (SLAPPs) as a possible form of harassment and intimidation with reference in the explanatory report to the recently adopted [Recommendation CM/Rec\(2024\)2 on countering the use of strategic lawsuits against public participation \(SLAPPs\)](#).

16. As regards Article 12 (Procedure), it was agreed to make it clear that country visits would be strictly subsidiary and would solely take place where information provided by the state party on a specific matter was considered insufficient or in the case of urgent procedures which are described under Article 13 (Urgent procedure). It was also decided that the explanatory report should underline that where visits do take place, they would only focus on the specific matter where information was deemed lacking as a way to target the problematic area and could take place on-line where appropriate in order to ensure that such visits do not create an undue burden on the public authorities of the state party concerned. As regards Article 13, it was agreed to add the Parliamentary Assembly as a recipient of the report once published in addition to the Committee of Ministers. Similarly, under Article 15 (Relationship with other bodies), the Parliamentary Assembly should be kept regularly informed of the implementation of the convention.

17. With regard to Chapter V (Final clauses), the CJ-AV decided that none of the provisions of the convention should be subject to reservation and consequently amended Articles 20 (Reservations and declaration) and 21 (Status and withdrawal of reservations) in line with this decision.

18. The CJ-AV also reviewed the draft explanatory report in the light of the drafting proposals received as part of the stakeholder consultation, and also instructed the Secretariat with the assistance of the consultant to adapt it to reflect the agreements reached during the meeting for a swift distribution to the CDCJ ahead of their 102nd plenary meeting (11-13 June 2024).

6. Any other business

19. None.

7. Dates and places of next meetings

20. The CJ-AV will hold its 9th and last meeting on 9-11 September 2024 in Strasbourg.

8. Adoption of the meeting report

21. The CJ-AV agreed to adopt the report of its 8th meeting by written procedure.

Appendix I

Agenda

-
1. Opening of the meeting

 2. Adoption of the agenda and order of business

 3. CJ-AV tour de table

 4. Statement by the Chair and Secretariat

 5. Draft legal instrument aiming at strengthening the protection of the profession of lawyer and the right to practice the profession without prejudice or restraint: examination of the draft text and the draft explanatory report (*CJ-AV deliverable*)

 6. Any other business

 7. Dates and places of next meetings

 8. Adoption of the meeting report
-

Appendix II

MEMBERS / MEMBRES

| | |
|-------------------------------|---|
| AUSTRIA / AUTRICHE | Dr Marcella PRUNBAUER GLASER Lawyer Österreichischer Rechtsanwaltskammertag / Austrian Bar |
| CZECHIA / TCHÉQUIE | Mr/M. Ondřej RICHTER Senior Ministerial Counselor Legislative Department Ministry of Justice |
| DENMARK / DANEMARK | Mr/M. Nicolai PII Legal director, Attorney The Danish Bar and Law Society |
| FRANCE | Mr/M. Gilles ACCOMANDO Directeur de l'École de Formation des Barreaux (EFB) du ressort de la cour d'appel de Paris |
| GERMANY / ALLEMAGNE | Mr/M. Christoph HENRICHS (Chair / Président) Head of Section "International Law" Law of International Organisations Federal Ministry of Justice |
| IRELAND / IRLANDE | Ms/Mme Claire LOFTUS Solicitor |
| LITHUANIA / LITUANIE | Ms/Mme Vaida RUDENAITE Senior adviser Legal Services Policy Group Ministry of Justice |
| LUXEMBOURG | Ms/Mme Valérie DUPONG Avocate Etude Dupong, Krieps, Du Bois & Dias Videira |
| NETHERLANDS / PAYS-BAS | Mr/M. Jacques WIJNEN Senior Policy Advisor Judicial System Department Ministry of Justice and Security |
| PORTUGAL | Mr/M. Joao PERRY DA CAMARA Partner / Lawyer / Arbitrator Law Firm - Rogério Alves & Associados — Sociedade de Advogados, R.L. |
| 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 |

| | |
|-------------------------------------|---|
| SWITZERLAND / SUISSE | Ms/Mme Simone FÜZESSÉRY Avocate Département fédéral de justice et police DFJP Office fédéral de la justice OFJ Domaine de direction Droit public Unité Projets législatifs II |
| TÜRKIYE / TURQUIE | Mr Halid Haki BARUT Apologised/ <i>Excusé</i> Head of Department General Directorate for Civil Affairs Ministry of Justice |
| UKRAINE | Mr/M. Valentyn GVOZDIY (Vice-Chair / Vice-Président) Vice-president of the Ukrainian National Bar Association Managing partner / International Law Firm GOLAW |
| UNITED KINGDOM / ROYAUME-UNI | Mr/M. Tony FISHER Partner Fisher Jones Greenwood LLP – Solicitors |

MEMBER STATES / ÉTATS MEMBRES

| | |
|---|---|
| BOSNIA AND HERZEGOVINA / BOSNIE ET HERZEGOVINE | Ms/Mme Slavica LJUBIŠIĆ Attorney at law Bar association of the Republic of Srpska Ms/Mme Tanja HADŽAGIĆ Lawyer Bar Association of the Federation of Bosnia and Herzegovina |
| FINLAND | Ms/Mme Assi SUOMINEN Senior Specialist Ministry of Justice |
| FRANCE | Ms/Mme Marie KASSASSEYA Rédactrice Bureau des questions institutionnelles et diplomatiques Ministère de la Justice |
| GERMANY / ALLEMAGNE | Ms/Mme Susanne MÜNCH Head of unit Federal Ministry of Justice |
| ITALY / ITALIE | Ms/Mme Nadia Giacomina Germana TASCONA Attorney / <i>Maître</i> |
| SWITZERLAND / SUISSE | Mr/M. Christophe RAESS Département fédéral de justice et police DFJP Office fédéral de la justice OFJ Domaine de direction Droit public Unité Projets législatifs II |
| TÜRKIYE / TURQUIE | Mr/M. Mustafa CELAYIR Judicial Counsellor Permanent Representation of Türkiye to the Council of Europe |

PARTICIPANTS / PARTICIPANTS

| | |
|---|---|
| EUROPEAN COURT OF HUMAN RIGHTS / COUR EUROPEENNE DES DROITS DE L'HOMME | Mr/M. Adrien RAIF-MEYER Senior Lawyer Registry of the European Court of Human Rights |
|---|---|

| | |
|--|---|
| <p>SECRETARIAT OF THE COMMITTEE ON LEGAL AFFAIRS AND HUMAN RIGHTS, PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE / <i>SECRETARIAT DE LA COMMISSION DES QUESTIONS JURIDIQUES ET DES DROITS DE L'HOMME, ASSEMBLEE PARLEMENTAIRE DU CONSEIL DE L'EUROPE</i></p> | <p>Ms/Mme Marine SAURON Stagiaire</p> <p>Ms/Mme Konstancja DALE Stagiaire</p> |
| <p>OFFICE FOR DEMOCRATIC INSTITUTIONS AND HUMAN RIGHTS (OSCE-ODIHR) / LE BUREAU DES INSTITUTIONS DEMOCRATIQUES ET DES DROITS DE L'HOMME (OSCE/ODIHR)</p> | <p>Mr/M. Thibaut NOEL Legal Officer Legislative Support Unit</p> |

OBSERVERS / OBSERVATEURS

| | |
|---|--|
| <p>AVOCATS SANS FRONTIÈRES FRANCE</p> | <p>Mr/M. Ivan PANEFF Vice-Président Avocats Sans Frontières France</p> |
| <p>COUNCIL OF BARS AND LAW SOCIETIES OF EUROPE / CONSEIL DES BARREAUX EUROPEENS (CCBE)</p> | <p>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</p> <p>Mr/M. Nathan ROOSBEEK Legal advisor</p> |
| <p>EUROPEAN BARS FEDERATION / FEDERATION DES BARREAUX D'EUROPE (FBE)</p> | <p>Ms/Mme Dominique ATTIAS Avocate Présidente du Conseil d'Administration de la Fondation des Avocats Européens Ancienne Présidente de la Fédération des Barreaux d'Europe Ancienne Vice-Bâtonnière de l'Ordre des Avocats à la Cour d'Appel de Paris</p> |
| <p>EUROPEAN CRIMINAL BAR ASSOCIATION (ECBA)</p> | <p>Mr/M. Vincent ASSELINEAU Chair of ECBA</p> |
| <p>EUROPEAN ASSOCIATION OF LAWYERS (EAL) / ASSOCIATION</p> | <p>Ms/Mme Maria ŚLAŹAK Attorney of Law President of the European Association of Lawyers</p> |

| | |
|---|--|
| EUROPÉENNE DES AVOCATS (AEA) | (AEA-EAL) |
| “LAWYERS FOR LAWYERS” FOUNDATION / FONDATION « LAWYERS FOR LAWYERS » | Ms/Mme Judith LICHTENBERG Board member |
| 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 |
| INTERNATIONAL OBSERVATORY OF ENDANGERED LAWYERS / OBSERVATOIRE INTERNATIONALE DES AVOCATS EN DANGER (OIAD) | Mr/M. Massimo AUDISIO Lawyer – Founding and Managing Partner Law Firm Audisio et Associati |

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

| | |
|--|---|
| CONSULTANT OF THE CJ-AV / CONSULTANT DU CJ-AV | Mr/M. Jeremy McBRIDE Barrister Monckton Chambers United Kingdom |
|--|---|

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

| | |
|---|--|
| HUMAN RIGHTS, JUSTICE AND LEGAL CO-OPERATION STANDARD SETTING ACTIVITIES DEPARTMENT / SERVICE DES ACTIVITÉS NORMATIVES EN MATIÈRE DE DROITS HUMAINS, JUSTICE ET COOPÉRATION JURIDIQUE LEGAL CO-OPERATION DIVISION / DIVISION DE LA COOPÉRATION JURIDIQUE | Mr/M. Daniele CANGEMI Head of Department / <i>Chef de service</i> Tel: +33 3 88 41 22 24 E-mail: Daniele.CANGEMI@coe.int |
| | Mr/M. Gerald DUNN Head of Division / <i>Chef de division</i> Secretary to the CDCJ / <i>Secrétaire du CDCJ</i> Tel: +33 3 88 41 33 29 E-mail: Gerald.DUNN@coe.int |
| | Ms/Mme Sophio GELASHVILI Head of the Legal Co-operation Unit / <i>Cheffe de l’Unité de coopération juridique</i> <i>CDCJ Co-Secretary / Co-secrétaire du CDCJ</i> <i>CJ-AV Secretary / Secrétaire du CJ-AV</i> Tel: +33 3 88 41 31 80 E-mail: Sophio.GELASHVILI@coe.int |
| | Ms/Mme Julie DEVYS Programme manager / <i>Responsable de programme</i> Tel: +33 3 90 21 68 26 |

| | |
|--|--|
| | E-mail : julie.devys@coe.int |
| | Mr/M. Evgeni RADEV Assistant to the CDCJ / <i>Assistant du CDCJ</i> Tel: + 33 3 90 21 63 67 E-mail: evgeni.radev@coe.int |

INTERPRETERS / INTERPRETES

| | |
|---------------------------------------|--|
| INTERPRETERS / INTERPRETES | Mr/M. Pascale MICHLIN Mr/M. Luke TILDEN Mr/M. Gregoire DEVICTOR |
|---------------------------------------|--|