

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 13 October 2023

CJ/ENF-ISE(2023)PV02

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

**STEERING COMMITTEE FOR THE
RIGHTS OF THE CHILD
(CDENF)**

**Committee of Experts on the Rights and the Best interests of
the Child in Parental Separation and in Care Proceedings
(CJ/ENF-ISE)**

8th Meeting (4-6 October 2023, Strasbourg)

Meeting report

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Item 1: Opening of the meeting and welcome

1. The 8th meeting of the Committee of Experts on the rights and the best interests of the child in parental separation and in care proceedings (CJ/ENF-ISE, hereafter “the Committee”) was opened by Thomas Knoll-Biermann (Germany), Chair of the Committee, who welcomed the participants.
2. The list of participants of the meeting is available on the [CJ/ENF-ISE's website](#).

Item 2: Adoption of the agenda and order of business

3. The Committee adopted its draft agenda as it appears in the Appendix.

Item 3: Statement by the Chair and the Secretariat

4. The Committee took note of the views expressed by the CDCJ and CDENF bureaus on the timing of the adoption by the Committee of Ministers of the draft recommendation on the protection of the rights and best interests of the child in parental separation proceedings. Whilst the CDCJ and CDENF will be approving it at their forthcoming joint plenary meeting (16 November 2023), they considered that it would be desirable that the Committee of Ministers adopt this draft recommendation together with the draft recommendation on the protection of the rights and best interests of the child in care proceedings at the end of 2024 as one package given the linkages between of the two recommendations, also coinciding with the completion of the implementation tools of both recommendations.

5. The Committee took note of the main findings and conclusions of a [mapping study on multidisciplinary and interagency child-friendly justice models responding to violence against children in Council of Europe member states](#). The study has been prepared by the Children’s Rights Division of the Council of Europe, under Priority 4 of the [Strategy for the Rights of the Child](#) (2022-2027), and was funded through a voluntary contribution by the Icelandic Government in the context of its Presidency of the Committee of Ministers. Its preparation is part of the Council of Europe’s broader efforts to promote Barnahus-like models in order to ensure that the best interests of the child are upheld in investigations and criminal proceedings, and to explore opportunities and develop solutions for applying the Barnahus principles to all contexts where children are in contact with the justice system, including in criminal, civil and administrative proceedings with a view to developing overarching principles for child-friendly justice centres inspired by the Barnahus promising practice model.

6. The Committee welcomed Andrej Del Fabro (Slovenia) as new member of the CJ/ENF-ISE following the withdrawal of Federica Fiorillo (Italy). It also welcomed Cecilia Cavaceppi appointed by Italy to participate in its meetings. It warmly thanked Michel Grangeat, representative of the Conference of INGOs, for his constructive and invaluable co-operation as this was his last meeting.

Item 4: Elections of CJ/ENF-ISE Chair and Vice-Chair

7. The CJ/ENF-ISE elected by acclamation:

- Thomas Knoll-Biermann (Germany) as Chairperson for a second one-year term of office.
- Stéphanie Hébrard (France) as Vice-Chairperson for a second one-year term of office.

Item 5: Draft recommendation on the protection of the rights and best interests of the child in parental separation situations (*deliverable (1) of the terms of reference*)

8. The Committee reviewed the draft recommendation on the protection of the rights and the best interests of the child in parental separation proceedings (document CJ/ENF-ISE(2023)07 prov.) and its draft explanatory memorandum (document CJ/ENF-ISE(2023)08 prov), taking due account of the written comments received from CDCJ and CDENF members and selected stakeholders (document CJ/ENF-ISE(2023)06Mos).

❖ Draft recommendation

9. Having carefully examined all written comments, particular attention was given, *inter alia*, to the need to address domestic violence in the draft recommendation in line with the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) and the best interests of the child.

10. The Committee agreed on a revised text of the draft recommendation (document CJ/ENF-ISE(2023)07) and instructed the Secretariat to make the necessary editorial changes before submission to the CDCJ and CDENF for approval at their joint plenary meeting to be held on 16 November 2023.

❖ Draft explanatory memorandum

11. Having carefully examined all written comments, the Committee agreed to delete examples of promising practise from individual countries and, where relevant, to move them in the implementation tools to be developed.

12. The Committee agreed on the revised text of the draft explanatory memorandum (document CJ/ENF-ISE(2023)08) and, subject to small technical and editorial changes to be dealt with by the Secretariat and the consultant, decided to send it to the CDCJ and CDENF for adoption at their joint plenary meeting to be held on 16 November 2023.

Item 6: Draft recommendation on the protection of the rights and best interests of the child in care proceedings (*deliverable (1) of the terms of reference*)

13. The Committee held an initial discussion on the preliminary draft recommendation on the protection of the rights and best interests of the child in care proceedings (document CJ/ENF-ISE(2023)09), in particular its scope. It invited members to send their written comments on the preliminary draft Recommendation and its preliminary draft Explanatory memorandum (document CJ/ENF-ISE(2023)10, still to be sent) by 20 November 2023.

Item 7: Exchange of views on the future work programme and implementation of tasks in 2023-2024

14. The Committee examined and approved its revised work programme, timetable and working methods for 2023-2024 (document ENF-ISE(2023)01rev), subject to the extension of its mandate by the Committee of Ministers until the end of 2024.

Item 8: Update on key developments and other events by members and observers

15. The Committee took note of the following information provided by participants and observers:

- A webinar on “Child Migration: the phenomenon in particular contexts” jointly organised by the Civil Society Committee on the Rights of the Child (CSC-RC) and the Committee for the Rights of Persons who are Migrants of the Conference of INGOs on 17 November 2023, and a workshop on “Child welfare: How does the end of placement for children and young people (aged 16-25)” based on work in different European countries to be organised by the Civil Society Committee on the Rights of the Child (CSC-RC);
- An update of current activities of the International Social Service (ISS), in particular an advocacy paper “Unlocking the potential of the HCCH Child Protection Convention in cross-border casework”;
- An update of current activities of the European Commission, in particular work on the future digitalisation regulation and directive that are to be adopted by the end of 2023 and apply to EU legislation connected with child abduction and child protection.

Item 9: Any other business

16. None

Item 10: Date and place of next meeting

17. The Committee took note that the next meeting of CJ/ENF-ISE would be held, in person, in Strasbourg on 20-22 March 2024.

Item 11: Approval of the meeting report

18. The Committee adopted the report by written procedure.

APPENDIX**Agenda
(4-6 October 2023)**

1.	Opening of the meeting	<u>Reference document</u> <ul style="list-style-type: none"> CJ/ENF-ISE(2023)LoP2
2.	Adoption of the agenda and order of business	<u>Working documents</u> <ul style="list-style-type: none"> Draft agenda - CJ/ENF-ISE(2023)OJ2 prov.2 Annotated draft agenda - CJ/ENF-ISE(2023)OJ2ANN
3.	Statement by the Chair and the Secretariat	<u>Reference documents</u> <ul style="list-style-type: none"> Abridged Report of the 100th CDCJ plenary meeting – CDCJ(2023)18 Abridged Report of the 7th CDENF plenary meeting - CDENF(2023)AR01
4.	Elections of CJ/ENF-ISE Chair and Vice-Chair	<u>Working document</u> <ul style="list-style-type: none"> Elections of Chair and Vice-Chairperson – CJ/ENF-ISE(2023)11
5.	Draft recommendation on the protection of the best interests of the child and his/her rights in parental separation proceedings and its explanatory memorandum (deliverable (1) of the terms of reference)	<u>Working documents</u> <ul style="list-style-type: none"> Draft recommendation on the best interests and the rights of the child in parental separation proceedings – CJ/ENF-ISE(2023)07 prov. (<i>restricted</i>) Draft Explanatory Memorandum – CJ/ENF-ISE(2023)08 prov. (<i>restricted</i>) Compilation of comments received on the draft recommendation and its preliminary draft EM – CJ/ENF-ISE(2023)06 Mos (<i>restricted</i>) <u>Reference documents</u> <ul style="list-style-type: none"> Draft recommendation on the protection of the rights and the best interests of the child in parental separation proceedings – CJ/ENF-ISE(2023)04 (<i>restricted</i>) Preliminary Draft Explanatory Memorandum – CJ/ENF-ISE(2023)05 (<i>restricted</i>)
6.	Draft recommendation on the protection of the best interests of the child and his or her rights in care proceedings (deliverable (1) of the terms of reference)	<u>Working documents</u> <ul style="list-style-type: none"> Preliminary draft recommendation on the protection of the rights and the best interests of the child in care proceedings – CJ/ENF-ISE(2023)09 (<i>restricted</i>) Preliminary Draft Explanatory Memorandum – CJ/ENF-ISE(2023)10 (<i>restricted</i>)
7.	Exchange of views on the future work programme and implementation of tasks in 2023 - 2024	<u>Working document</u> <ul style="list-style-type: none"> Working methods and workplan – CJ/ENF-ISE(2023)01 rev.

8.	Update on key developments and other events by members and observers	
9.	Any other business	
10.	Date and place of next meetings	
11.	Approval of the meeting report	<ul style="list-style-type: none"> Draft meeting report - CJ/ENF-ISE(2023)PV02 prov.

GENERAL REFERENCE DOCUMENTS

Terms of reference of the CJ/ENF-ISE 2022-2023
Resolution CM/Res(2021)3 on intergovernmental committees and subordinate bodies, their terms of reference and working methods

MEETING REPORTS

CJ/ENF-ISE(2022)15	Report of the Stakeholder hearing
CJ/ENF-ISE(2023)PV1	Report of the 7 th meeting of the CJ/ENF-ISE
CJ/ENF-ISE(2022)PV2	Report of the 6 th meeting of the CJ/ENF-ISE
CJ/ENF-ISE(2022)PV1	Report of the 5 th meeting of the CJ/ENF-ISE
CJ/ENF-ISE(2021)PV2	Report of the 4 th meeting of the CJ/ENF-ISE
CJ/ENF-ISE(2021)PV1	Report of the 3 rd meeting of the CJ/ENF-ISE
CJ/ENF-ISE(2020)PV2	Report of the 2 nd meeting of the CJ/ENF-ISE
CJ/ENF-ISE(2020)PV1	Report of the 1 st meeting of the CJ/ENF-ISE
CDCJ&CDENF/Bu(2021)PV1	Report of the 2 nd joint meeting of CDCJ and CDENF Bureaus

PREPARATORY WORKS

Feasibility study on a legal instrument on the protection of the best interests of the child in situations of parental separation
Feasibility study of a legal instrument on the protection of the best interests of the child in domestic law proceedings by public authorities to limit parental responsibilities or place a child in care
<ul style="list-style-type: none"> Best interests of the child and children's rights in parental separation - relevant international and European instruments – CJ/ENF-ISE(2020)INF2Rev1 Best interests of the child in care proceedings - relevant international and European instruments - CJ/ENF-ISE(2020)INF3

ECHR case-law

ECHR Knowledge Sharing platform (ECHR-KS)
Right of the child to be heard in domestic proceedings on family matters (10/01/2022)
Guide on Article 8 ECHR (28/02/2023)