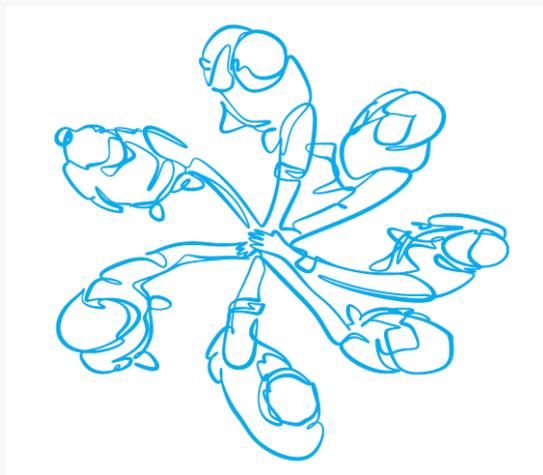


# Newsletter | N° 2: January - June 2023

LEGAL CO-OPERATION (CDCJ, CCJE, CCPE) IN THE FIRST HALF OF 2023



## 60 years of the CDCJ - Serving everyone's rights since 1963

2023 marks the 60th Anniversary of the establishment of the European Committee on Legal Co-operation (CDCJ) which coincides with its 100th plenary meeting (30 May-1 June 2023).

[Read more about this event >](#)

## IN CONVERSATION WITH...

### ...THE CHAIR OF THE CDCJ

Mr Christoph Henrichs was re-elected for 2023 as Chair of the CDCJ.

As he reaches the middle of his second term of office, we have asked him a few questions about one of the key activities of the Committee: the preparation of a convention on the protection of lawyers.



*Mr Christoph Henrichs (Ministry of Justice, Germany), CDCJ  
Chair, 1 January 2022 to 31 December 2023*

**The CDCJ and its Committee of Experts on the Protection of Lawyers (CJ-AV) are currently working on the preparation of a new legal instrument aimed at strengthening the protection of the profession of lawyer. Why has it become necessary to prepare such an instrument?**

*Lawyers play an essential role in the functioning of the justice system and are therefore instrumental to the rule of law, the protection of human rights and democratic societies - the three pillars of the Council of Europe. The European Court of Human Rights stressed that “[t]he specific situation of lawyers gives them a central position in the administration of justice as intermediaries between the public and the courts.”*

*This is why the CDCJ has always kept a close eye on the situation of lawyers in member States and the protection they need to exercise their profession safely and freely. It was in this context that the CDCJ prepared Recommendation No. R (2000) 21 on the freedom of exercise of the profession of lawyer, adopted by the Committee of Ministers in 2000.*

*Recently, the situation of lawyers has deteriorated in a number of member States, making it increasingly difficult for them to exercise their profession without fear or pressure. The Parliamentary Assembly picked up on this in their Recommendation 2121 (2018), calling upon the Committee of Ministers to translate the protection of lawyers provided by Recommendation No. R (2000) 21 into a legally binding convention. In 2020, the CDCJ conducted an in-depth study which concluded that a new binding instrument would indeed be the most appropriate tool to strengthen adequately the protection for lawyers. There was sufficient evidence that the situation was serious, and the existing legal system did not provide sufficient protection to lawyers. Therefore, the CDCJ, as one of the oldest standard-setting bodies of the Council of Europe, immediately stepped up to the task upon being given a mandate from the Committee of Ministers for the elaboration of a new convention.*

**Considering standards already set out in the case law of the European Court of Human Rights, including on the rights of lawyers in the framework of judicial proceedings, what would be the added value of a new convention?**

*The feasibility study that was done by the CDCJ leaves no room for ambiguity on this point. Whilst the different existing instruments contain a variety of standards applicable to the profession of lawyer, the new legal instrument will address the gaps related to the protection of lawyers.*

*The European Convention on Human Rights (ECHR) already provides a strong framework for protecting the rights of lawyers. Under Article 6, lawyers have the right to conduct*

*their clients' defence and, under Article 10, lawyers have the right to freedom of expression, including the right to freely express their professional opinions without interference. Additionally, under Article 3, lawyers have the right to be free from torture and inhuman or degrading treatment or punishment during their professional activities.*

*Nevertheless, the specific role of lawyers in the administration of justice is only addressed through the perspective of their client in Article 6 ECHR. Also, several cases of the European Court of Human Rights have demonstrated that gaps remain in their protection. This is important to note against a trend showing that lawyers can be persecuted for carrying out their work, particularly in countries where the rule of law is weaker and where human rights are insufficiently respected. Lawyers who represent clients in sensitive cases, such as political dissidents or human rights activists, may be targeted by the authorities and subjected to harassment, intimidation, arbitrary arrest and detention, torture, or even murder. In some countries, laws and regulations are used to restrict the ability of lawyers to represent certain clients or to practice law in certain areas. In addition, lawyers may also be targeted by non-state actors such as criminal organisations. Furthermore, lawyers working in conflict or post-conflict areas, or in countries experiencing internal violence, may be at high risk of persecution, as they may be perceived as a threat by one or more of the parties to the conflict.*

*The persecution of lawyers is not only a violation of their individual rights, but also undermines the rule of law and the administration of justice. Lawyers often handle cases that challenge the status quo, confront powerful entities, and defend the marginalised. This role can lead to hostility, making lawyers vulnerable to persecution and interference.*

*In the light of all these aspects, the CDCJ is convinced that there is a need for another international instrument specifically focused on the rights of lawyers which would explicitly and comprehensively address the rights and protections of lawyers in terms of binding obligations on the State parties, leaving no room for ambiguity or loopholes in their protection.*

**What are the expectations of the CJ-AV with a new convention? Will the convention gather sufficient support from member States in a complex and sensitive context?**

*Not only the CJ-AV but also the CDCJ are convinced that the new draft convention will be welcomed and supported by many of Council of Europe member States as it is to address real gaps. But the ambition is bigger: this instrument will be open to ratification by non-Council of Europe member States. So, we hope that the convention will have a more global impact and set a worldwide standard for the protection of*

*lawyers which would also highlight the role of the Council of Europe as a forerunner in this important field.*

*The effectiveness of the new Convention will of course depend on its adoption, ratification, and implementation by member States. Negotiating and adopting a new convention requires agreement and compromise among member States, and we will strive to overcome collectively any hurdle on the way. According to the CJ-AV, the convention should also provide a practical mechanism for offering the necessary protection to those who need them, but also to serve as a preventive tool to diminish the number of cases of persecution of lawyers.*

**When do you expect the lawyers can expect this new legal instrument to be ready for the member States to ratify it, and for its entering into force?**

*The Committee has worked intensively over the last two years. The group is quite diverse, there are representatives of ministries of justice, practising lawyers designated by states participating in the committee and professional associations of lawyers, bringing the diverse experiences and expertise to the work. As with the elaboration of any legal instrument of such an international scope and nature, the members work hard to reconcile the differences between legal systems, to identify common ground for finding the necessary compromise. The CJ-AV has the mandate until the end of 2024 to complete elaboration of the convention. The CDCJ from its side will ensure that the widest possible consultation process takes place with the member States and relevant professional or other organisations to finalise the draft convention before submitting it for adoption to the Committee of Ministers. Given the signals of support and encouragement we have heard from the Committee of Ministers on our work so far, we are confident that our work will come to a successful conclusion.*

# LEGAL CO-OPERATION ACTIVITIES



## Protection of Lawyers

The [Committee of Experts on the Protection of Lawyers \(CJ-AV\)](#) continues its discussions on the draft convention aiming at strengthening the protection of the profession of lawyer and the right to practice the profession without prejudice or restraint.

[Read more >](#)



## Parental separation proceedings

The [Committee of Experts on the Rights and the Best Interests of the Child in Parental Separation and in Care Proceedings \(CJ/ENF-ISE\)](#) is finalising the text of the draft recommendation on the protection of the best interests of the child and his/her rights in parental separation proceedings. The CDCJ will examine it jointly with the Steering Committee on the Rights of the Child (CDENF) at its next meeting in November 2023 with a view to approving it before submission to the Committee of Ministers for adoption in 2024.

[Read more >](#)



## Migrants and asylum seekers

The working group on migration of the CDCJ (CDCJ-MIG) finalised the Guide for practitioners on the administrative detention of migrants and asylum seekers, which was examined and adopted by the CDCJ at its 100th plenary meeting on 30 May - 1 June 2023. It will be published in the last quarter of the year.

[Read more >](#)



## Artificial Intelligence and Administrative law

The CDCJ's working group on artificial intelligence and administration (CDCJ-ADMIN-AI) is currently revising the Council of Europe handbook "[The Administration and You](#)", and will be holding its next meeting in July to continue its work.

[Read more >](#)

# ABOUT JUDGES AND PROSECUTORS



*Ms Anke Eilers (Presiding Judge, Court of Appeal, Cologne) CCJE President, 1 January 2023 to 31 December 2023*

## Consultative Council of European Judges

Opinion No. 26 (2023) of the Consultative Council of European Judges (CCJE) is being prepared, with a focus this year on the topic “Moving forward: use of modern technologies in the judiciary”, underlining that use of technologies in the judicial system is intended to support the work of judges and parties to the judicial process and serves the overall purpose of facilitating the access to justice for the benefit of the court users.

The CCJE is expected to adopt its new Opinion at its next plenary meeting (29 November - 1 December 2023).

[Read more ›](#)



*Ms Jana Zezulová (Czechia) - President of the CCPE since January 2023*

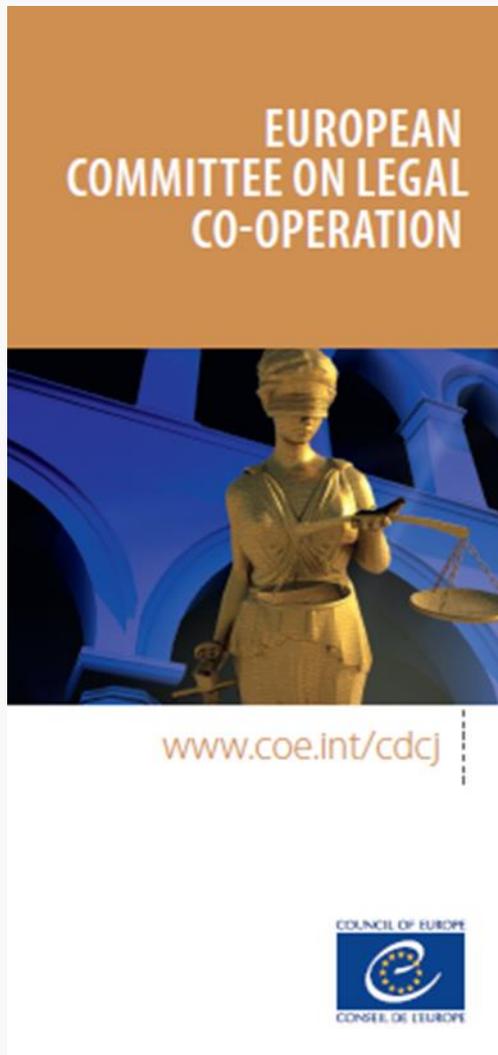
## Consultative Council of European Prosecutors

Opinion No. 18 (2023) of the Consultative Council of European Prosecutors (CCPE) is being prepared, with a focus this year on the topic of the “Councils of Prosecutors as key bodies of prosecutorial self-governance”. The Opinion should in particular offer best practices with a view to improving prosecutorial self-governance with due regard to different legal cultures and traditions and within the overall framework of reinforcing the independence, efficiency and quality of justice.

The CCPE is expected to adopt its new Opinion at its next plenary meeting (19-20 October 2023).

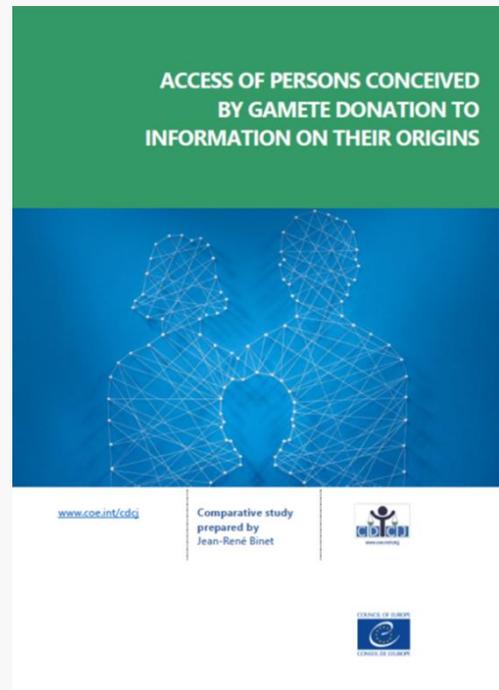
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# PUBLICATIONS



Leaflet of the CDCJ - Edition May 2023

[Read more >](#)



*Comparative study on access of persons conceived by gamete donation to information on their origins*

[Read more >](#)

## ARTIFICIAL INTELLIGENCE AND ADMINISTRATIVE LAW



[www.coe.int/codj](http://www.coe.int/codj)

Comparative study prepared by:  
Prof. Dr. Johan Wolswinkel

December 2022



*Comparative study on administrative law and the use of AI and other algorithmic systems in Administrative Decision-Making*

[Read more >](#)

## OPINIONS OF THE CONSULTATIVE COUNCIL OF EUROPEAN PROSECUTORS (CCPE)



[www.coe.int/ccpe](http://www.coe.int/ccpe)



*CCPE Collection of Opinions*

[Read more >](#)



## Have your say

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