

### IN CONVERSATION WITH...

#### ...GIANLUCA ESPOSITO, THE COUNCIL OF EUROPE'S NEW DIRECTOR GENERAL OF HUMAN RIGHTS & THE RULE OF LAW

Mr Gianluca Esposito became Director General of Human Rights and the Rule of Law of the Council of Europe on 1 August 2024. He started his career in the organisation in 1995 and has been involved in the negotiation of several conventions and other legal instruments, in the areas of nationality, anti-corruption, cybercrime, and the efficiency of justice, among others. He even worked at some point in his career for the European Committee on Legal Co-operation! We asked him to choose some highlights amongst the Committee's past achievements and say a few words on important work ahead. We also asked him what makes the Consultative Council of European Judges (CCJE) and the Consultative Council of European Prosecutors (CCPE) special.



*Mr Gianluca Esposito, Director General of Human Rights and Rule of Law of the Council of Europe*

***The CDCJ has more than 60 years of existence. If you had to pick a few high points amongst its accomplishments, which ones would that be?***

*The CDCJ has produced more than 150 legal instruments and many of them were ahead of the curve. To give a few examples, the Convention for the Protection of Individuals with regard to the Automatic Processing of Personal Data of 1981 became a reference on data protection long before it became hot news. Similarly, the 1999 Civil Law Convention on Corruption laid the ground for the protection of whistleblowers - then*

*further developed in the 2014 Committee of Ministers Recommendation on the protection of whistleblowers.*

*Finally, true to its reputation, the CDCJ has prepared the first ever international legally binding instrument to protect lawyers which will become a milestone for the Council of Europe. This new convention for the protection of the profession of lawyer aims to address a worrying trend of increasing intimidations and attacks against lawyers and to recognise their pivotal role in our justice systems. It was approved by the CDCJ at its last November plenary meeting and was transmitted to the Committee of Ministers for a swift adoption in 2025.*

***Can you say a few words about what 2025 has in store for the CDCJ?***

*The breadth of the CDCJ's mandate means that 2025 will be another busy year, and I will only mention a couple of activities. First, let me make reference to the CDCJ's tireless work on child-friendly justice. This month, it jointly approved with the Steering Committee for the Rights of the Child (CDEF) the draft recommendation on the protection of the rights and best interests of the child in care proceedings. The draft recommendation will soon be transmitted to the Committee of Ministers for adoption next year, together with a draft recommendation on parental separation proceedings, jointly approved last year. After adoption, the CDCJ and CDEF will organise a launch event to put the spotlight on this important work which aims to give more visibility to the rights and best interests of the child in proceedings affecting them directly. This activity is also a good example of transversal co-operation between steering committees in areas of common interest, bringing together everyone's expertise to the table.*

*In 2025, the CDCJ will also embark on the preparation of a Committee of Ministers recommendation on the rights of donor-conceived persons to know their origins. It will also work on a study on climate change litigation: this will be an opportunity to take the pulse at national and international levels, especially since the European Court of Human Rights' judgment in Verein KlimaSeniorinnen Schweiz and Others v. Switzerland dealing with insufficient action of the authorities to mitigate effects of climate change. Both are sensitive topics, but the CDCJ has never shied away from a challenge, putting at the disposal of our states and our citizens, the new standards and tools that are needed to build and maintain trust in public institutions.*

***Can you tell us in a few words what makes the CCJE and CCPE special?***

*Their composition makes them unique. The CCJE is composed exclusively of serving judges from across Europe, while the CCPE brings together European prosecutors. This allows them to have an ear to the ground and know what challenges judges and*

prosecutors face and how to address them to ensure that rule of law principles are upheld. The topics of their 2024 opinions are a good illustration of that: the CCJE tackled disciplinary proceedings and how they should not be instrumentalised to weaken their independence, and the CCPE dealt with the role of head of prosecution services in ensuring their independence and autonomy and reducing risks of politicisation. Looking at 2025, the CCJE will examine the working conditions of judges, an issue of increasing concern, and the CCPE will tackle diversity within prosecution services, a general concern in our increasingly diverse societies.

## LEGAL CO-OPERATION ACTIVITIES



### Protection of Lawyers

The [Committee of Experts on the Protection of Lawyers \(CJ-AV\)](#) held its 9<sup>th</sup> and last meeting in September 2024 and finalised the draft Council of Europe convention for the protection of the profession of lawyer. This new binding instrument aims to strengthen the protection of lawyers against attacks, threats, harassment, intimidation and improper hindrance or interference and to allow them to freely practise. The CDCJ examined and approved the draft convention and adopted its explanatory report at its 103<sup>rd</sup> plenary meeting (November 2024),



### Rights of the child in care proceedings

The [Committee of Experts on the Rights and the Best Interests of the Child in Parental Separation and in Care Proceedings \(CJ/ENF-ISE\)](#) finalised at its last meeting in October the draft Committee of Ministers recommendation on the protection of the rights and the best interests of the child in care proceedings. It was approved by the CDCJ and [CDENF](#) during a joint session in early December. This draft recommendation and the draft recommendation on the protection of the rights and best interests of the

with a view to an adoption by the Committee of Ministers in early 2025.

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child in parental separation proceedings, approved last year, should be adopted by the Committee of Ministers in 2025. Each recommendation is accompanied by a checklist for policy makers.

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## European Convention on information on foreign law

The CDCJ prepared a practical guide to promote the implementation of the European Convention on Information on Foreign Law (ETS No. 62) and its Additional Protocol (ETS No. 97). This guide together with standard forms for requests and replies on foreign law and other information will soon be available on a dedicated webpage aiming to facilitate the exchange of information on points of foreign law between states parties.

[Read more ›](#)



## Stateless children

At its 103rd plenary, the CDCJ examined a feasibility study for a non-binding legal instrument on access to nationality for stateless children. It agreed to revise [Recommendation CM/Rec\(2009\)13 on the nationality of children](#) and supplement it with a checklist for policy makers. In parallel, work continued on a compendium of good practice on procedures relating to the determination of nationality or statelessness of children.

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## Strengthening judicial independence and impartiality

At its 103rd plenary meeting, the CDCJ pursued its work on the drafting of the first thematic review on the Council of Europe Plan of Action on Strengthening Judicial Independence and Impartiality (Sofia Action Plan), focused on the career and training of judges.

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## Access of donor-conceived persons to their origins

The CDCJ selected the members of the Committee of Experts on Access to Origins (CJ-OR), which is to also include three independent experts. The CJ-OR is set to start work on a Committee of Ministers draft recommendation on the rights of donor-conceived persons to know their origins next year.

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# ABOUT JUDGES AND PROSECUTORS



*Ms Leonie Reynolds (Ireland), CCJE President, 1 January 2024 to 31 December 2025*

## Consultative Council of European Judges



*Ms Jana Zezulová (Czechia), CCPE President, 1 January 2023 to 31 December 2024*

## Consultative Council of European Prosecutors

Opinion No. 27 (2024) on the disciplinary liability of judges was adopted by the CCJE at its 24<sup>th</sup> plenary meeting in December. It aims to strike a balance between ensuring judicial accountability and safeguarding the essential principle of judicial independence in order to avoid the misuse of disciplinary proceedings for ulterior purposes.

A thematic study on diversity and inclusivity in the judiciary was also adopted. It includes both internal and external perspectives to diversity and inclusivity and how they can contribute to better judicial decision making, in line with the fundamental principles of human rights, rule of law and democracy.

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Opinion No. 19 (2024) on managing prosecution services to ensure their independence and impartiality was adopted by the CCPE at its 19<sup>th</sup> plenary meeting in October. It examines the crucial role of prosecutors general both for maintaining the institutional independence of prosecution services and upholding the functional independence of individual prosecutors.

A thematic study on management practices of prosecution services in member states in connection with prosecutorial independence and impartiality was also adopted. It explores legal systems and models in various member states and offers examples of best practice.

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