

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

Set up by the Committee of Ministers under Article 17 of the Statute of the Council of Europe and in accordance with Resolution CM/Res(2021)3 on intergovernmental committees and subordinate bodies, their terms of reference and working methods.

Type of committee: **Steering Committee**

Terms of reference valid from: **1 January 2022 until 31 December 2025<sup>1</sup>**

| PILLAR/PROGRAMME/SUB-PROGRAMME ▼  |
|---|
| <b>Pillar:</b> Rule of Law<br><b>Programme:</b> Rule of Law based institutions<br><b>Sub-programme:</b> Legal co-operation  |
| MAIN TASKS ▼  |
| <p>Under the authority of the Committee of Ministers, and bearing in mind the Council of Europe's legal standards, the jurisprudence of the European Court of Human Rights and the findings and recommendations of the relevant monitoring mechanisms, the European Committee on Legal Co-operation (CDCJ) oversees the Council of Europe's work in the field of public and private law and advises the Committee of Ministers on all questions within its areas of competence.</p> <p>In particular, the CDCJ is instructed to:</p> <ul style="list-style-type: none"> <li>(i) ensure the follow-up of the relevant decisions taken at the 131<sup>st</sup> Session of the Committee of Ministers (Hamburg, 21 May 2021),<sup>2</sup> and in particular contribute to the implementation of the key strategic priorities relating to its specific field of expertise as identified in the Strategic Framework of the Council of Europe, and respond to the respective key findings and challenges set out in the Secretary General's 2021 Report on the state of democracy, human rights and rule of law "A democratic renewal for Europe";</li> <li>(ii) steer legal co-operation among member States in order to identify new and emerging challenges and to provide effective responses in areas within its expertise ((inter alia justice and the rule of law, administrative law, family law, children's rights, nationality, technologies related developments), through the elaboration, supervision and evaluation of standard-setting activities in these areas, and by promoting and facilitating co-operation and understanding between member States, in close co-ordination and co-operation with relevant conventional and monitoring bodies and other Council of Europe bodies involved in areas of its competence and in synergy with other relevant stakeholders;</li> <li>(iii) promote and facilitate the functioning, implementation and where necessary the ratification of Council of Europe conventions, agreements and protocols within its area of competence;</li> <li>(iv) follow and promote the implementation of the non-binding instruments that it has prepared, and if appropriate, of others, within its area of competence;</li> <li>(v) advise the Committee of Ministers and the Secretary General on appropriate action to be taken and provide advice as requested;</li> <li>(vi) contribute (if necessary) to the preparation of the Conference of the Ministers of Justice (subject to invitation), in co-operation with other relevant committees and bodies, and ensure, as appropriate, the follow-up of any decision taken by the Committee of Ministers subsequent to the conference;</li> <li>(vii) contribute to the implementation of Council of Europe strategies and action plans and related activities and actions within its areas of competence, in close co-ordination and co-operation with those responsible for their coordination and/or oversight; and advise as necessary on priority areas for the development of Council of Europe co-operation activities in these areas,</li> <li>(viii) where necessary, co-ordinate transversal intergovernmental activities in the field of public and private law;</li> <li>(ix) effectively improve the impact of the work of the CDCJ and its subordinate committees/bodies by enhancing the access and dissemination of key instruments and documents to practitioners, by contributing through legislative advice on Council of Europe public and private law standards with a view to supporting member States in legal reforms, by undertaking awareness-raising activities for national authorities and other relevant stakeholders, and by strengthening its communication actions through modern technologies and means;</li> <li>(x) orient and oversee the activities carried out by its subordinate bodies, notably the Committee of Experts on the Protection of Lawyers (CJ-AV) and, jointly with the Steering Committee for the Rights of the Child (CDENF), the Committee of Experts on the Rights and the Best Interests of the Child in Parental Separation and in Care Proceedings (CJ/ENF-ISE) (cf. separate terms of reference);</li> <li>(xi) with expert support from the Steering Committee for Human Rights in the fields of Biomedicine and Health (CDBIO) and in consultations with other committees and bodies, elaborate a draft legal instrument on the rights of donor-conceived persons to know their origins, subject to the conclusions of the on-going comparative study;</li> <li>(xii) in co-operation and consultations with other relevant committees in their areas of expertise, develop one or more draft non-binding instruments (recommendation, policy guidelines) in the area of child-friendly justice, as a contribution to the Council of Europe Strategy for the Rights of the Child (2022-2027), and in administrative and migration law matters, as a contribution to the Council of Europe Action Plan on Protection Vulnerable Persons in the Context of Migration and Asylum in Europe (2021-2025);</li> <li>(xiii) hold an exchange of views annually in order to evaluate its activities and advise the Committee of Ministers and the Secretary General on future priorities in its sector, including possible new activities and those that might be discontinued;</li> </ul> |

<sup>1</sup> These terms of reference are approved for the first biennial period 2022-2023. For the second biennial period 2024-2025, they are approved on a provisional basis, subject to confirmation upon the adoption of the budget for 2024-2025.

<sup>2</sup> [CM/Del/Dec\(2021\)131/2a](#), [CM/Del/Dec\(2021\)131/2b](#), [CM/Del/Dec\(2021\)131/2c](#) and [CM/Del/Dec\(2021\)131/3](#).

- (xiv) take due account of the following mainstreamed perspectives in the performance of its tasks: gender, youth, children's rights, rights of persons with disabilities, and Roma and Traveller<sup>3</sup> issues;
- (xv) where relevant, contribute to building cohesive societies and to strengthening the role and meaningful participation of civil society in its work;
- (xvi) in accordance with decisions CM/Del/Dec(2013)1168/10.2 of the Committee of Ministers, carry out, at regular intervals, within the limits of the available resources and bearing in mind its priorities, an examination of some or all of the conventions for which it has been given responsibility,<sup>4</sup> in co-operation, where appropriate, with the relevant convention-based bodies, and report back to the Committee of Ministers;
- (xvii) contribute to the achievement of, and review progress towards, the UN 2030 Agenda for Sustainable Development, in particular with regards to Goal 5: Gender Equality and Goal 16: Peace, Justice and Strong institutions.

#### MAIN DELIVERABLES ▼

Under the authority of the Committee of Ministers, the CDCJ is instructed to complete the following deliverables, within the following deadlines:

|  | Deadline ▼              |
|--|-------------------------|
| 1. Draft legal instrument aiming at strengthening the protection of the profession of lawyer and the right to practice the profession without prejudice or restraint, which sets out a comprehensive set of minimum standards applicable to a lawyer's right to freely exercise their professional activities and ensure protection and independence of the profession, and may include establishing a mechanism entrusted with the implementation of the standards by member States or giving guidance on their application (cf. terms of reference of CJ-AV) | 31/12/2023              |
| 2. Draft Recommendation(s) on the rights and the best interests of the child in parental separation and in care proceedings, and implementation tool(s) (jointly with CDENF, on the basis of work conducted in 2020-2021) (cf. terms of reference CJ/ENF-ISE)  | 31/12/2023 <sup>5</sup> |
| 3. Review of the Agreement on the transfer of corpses and subject to conclusions, draft revised Agreement  | 31/12/2023              |
| 4. Report on the state of play and assessment of the implementation of the European Convention on Information on Foreign Law (CETS 62) and its additional protocol (CETS 097) and where appropriate, proposals for follow-up deliverables, communication and awareness-raising activities  | 31/12/2023              |
| 5. Practical guide for mainstreaming gender in public and private law reform processes   | 31/12/2023              |
| 6. Report on the state of play of the implementation of Recommendation CM/Rec(2015)4 on preventing and resolving disputes related to child relocation, including proposals for follow-up deliverables  | 31/12/2023              |
| 7. Review of legal instruments falling under its responsibility in the light of technological developments to assess implementing challenges and proposals for follow-up deliverables  | 31/12/2023              |
| 8. Guide for practitioners on administrative detention of migrants to support implementation of existing standards in this field (follow-up to previous work in this area) and subject to the decision of the Committee of Ministers, if considered appropriate in the light of relevant legal developments in this area, draft Recommendation codifying standards on administrative detention   | 31/12/2025              |
| 9. One or more draft non-binding instruments (i.e. recommendation, policy guidelines) as a contribution to the Council of Europe Strategy for the Rights of the Child, in particular in the area of child-friendly justice (in co-operation with CDENF and/or other committees as appropriate)   | 31/12/2025              |
| 10. Draft Recommendation on rights of donor-conceived persons to know their origins subject to the conclusions of the on-going comparative study (in co-operation with other committees as appropriate)  | 31/12/2025              |
| 11. Awareness-raising activities as follow-up actions to Recommendation CM/Rec(2009)11 on principles concerning continuing powers of attorney and advance directives for incapacity  | 31/12/2025              |
| 12. Report on the state of play of the implementation of selected conventions and/or recommendations falling under its responsibility, including proposals for follow-up deliverables  | 31/12/2025              |
| 13. Guidance on child-sensitive procedures in administrative and migration law matters, as a contribution to the Council of Europe Action Plan on Protection Vulnerable Persons in the Context of Migration and Asylum in Europe (2021-2025)   | 31/12/2025              |
| 14. Report on good practices in respect of legal aid and representation, access to information and to justice for vulnerable people in the context of administrative and migration law matters, as a contribution to the Council of Europe Action Plan on Protection Vulnerable Persons in the Context of Migration and Asylum in Europe (2021-2025)   | 31/12/2025              |
| 15. Opinions on legal issues within its area of competence for the attention of the Committee of Ministers or of the Secretary General (upon their request)  | 31/12 of each year      |

<sup>3</sup> The term "Roma and Travellers" is used at the Council of Europe to encompass the wide diversity of the groups covered by the work of the Council of Europe in this field: on the one hand a) Roma, Sinti/Manush, Calé, Kaale, Romanichals, Boyash/Rudari; b) Balkan Egyptians (Egyptians and Ashkali); c) Eastern groups (Dom, Lom and Abdal); and, on the other hand, groups such as Travellers, Yenish, and the populations designated under the administrative term "*Gens du voyage*", as well as persons who identify themselves as Gypsies. The present is an explanatory footnote, not a definition of Roma and/or Travellers.

<sup>4</sup> Cf. relevant decisions of the Committee of Ministers ([CM/Del/Dec\(2013\)1168/10.2](#)) and list of Conventions in document [CM\(2021\)132](#).

<sup>5</sup> Deadline postponed from 31 December 2021 to 31 December 2023.

**COMPOSITION ▼****MEMBERS:**

Governments of member States are invited to designate one or more representatives of the highest possible rank in the fields of public and private law, with responsibility at the national level for the planning, development and implementation of policies relevant to the work of the Committee and appointed by their governments to co-ordinate at national level all elements of government policy relevant to the work of the Committee.

The Council of Europe will bear the travel and subsistence expenses of one representative from each member State (two in the case of the State whose representative has been elected Chair).

Each member of the Committee shall have one vote. Where a government designates more than one member, only one of them is entitled to take part in the voting.

In accordance with decisions CM/Del/Dec(2013)1168/10.2 of the Committee of Ministers, in cases where there is no convention-based body including all the Parties, non-member States are invited to take part, with a right to vote, in the committee meetings pertaining to the conventions to which they are Parties.

**PARTICIPANTS:**

The following may send representatives, without the right to vote and at the charge of their corresponding administrative budgets:

- Parliamentary Assembly of the Council of Europe;
- Congress of Local and Regional Authorities of the Council of Europe;
- European Court of Human Rights;
- Commissioner for Human Rights of the Council of Europe;
- Conference of INGOs of the Council of Europe;
- Committees or other bodies of the Council of Europe engaged in related work, as appropriate.

The following may send representatives, without the right to vote and without defrayal of expenses:

- European Union (one or more representatives, including, as appropriate, the European Union Agency for Fundamental Rights (FRA);
- Observer States to the Council of Europe: Canada, Holy See, Japan, Mexico, United States of America;
- United Nations International Law Commission (ILC);
- Office of the United Nations High Commissioner for Human Rights (OHCHR);
- Office of the United Nations High Commissioner for Refugees (UNHCR);
- International Institute for the Unification of Private Law (UNIDROIT);
- Hague Conference on Private International Law (HCCH);
- Organisation for Economic Co-operation and Development (OECD);
- Organisation for Security and Co-operation in Europe (OSCE);
- Office for Democratic Institutions and Human Rights (OSCE-ODIHR);
- International Commission on Civil Status (ICCS).

**OBSERVERS:**

The following may send representatives, without the right to vote and without defrayal of expenses:

- Belarus;<sup>6</sup>
- Non-member States with which the Council of Europe has a Neighbourhood Partnership including relevant co-operation activities;
- International Social Service (ISS).<sup>7</sup>

Observer status may be requested in accordance with Article 8 of Resolution CM/Res(2021)3 on intergovernmental committees and subordinate bodies, their terms of reference and working methods

**WORKING METHODS ▼**

|      | Plenary meetings ▼                  |                      |                     | Bureau meetings ▼ |                      |                     |
|------|-------------------------------------|----------------------|---------------------|-------------------|----------------------|---------------------|
|      | Members <sup>8</sup><br>incl. Chair | Meetings<br>per year | Days<br>per meeting | Members           | Meetings<br>per year | Days<br>per meeting |
| 2022 | 48                                  | 2                    | 3                   | 7                 | 2                    | 2                   |
| 2023 | 47                                  | 2                    | 3                   | 7                 | 2                    | 2                   |
| 2024 | 47                                  | 2                    | 3                   | 7                 | 2                    | 2                   |
| 2025 | 47                                  | 2                    | 3                   | 7                 | 2                    | 2                   |

The rules of procedure of the Committee are governed by Resolution CM/Res(2021)3 on intergovernmental committees and subordinate bodies, their terms of reference and working methods.

The CDCJ will appoint from amongst its members up to 5 Rapporteurs on mainstreamed perspectives, including one Gender Equality Rapporteur.

Subject to the agenda, the chairs of its subordinate bodies may be invited to attend CDCJ's Bureau and/or plenary meetings.

<sup>6</sup> The Committee of Ministers suspended the rights of Belarus to participate as observer as from 17 March 2022 (CM/Del/Dec(2022)1429/2.5).

<sup>7</sup> As unanimously decided by the CDCJ at its 92<sup>nd</sup> meeting, 22-24 November 2017.

<sup>8</sup> In accordance with decision CM/Del/Dec(2022)1428ter/2.3, the Russian Federation ceased to be a member of the Council of Europe as from 16 March 2022. Budgetary information was updated after the adoption of the 2023 adjusted budget.

**SUBORDINATE STRUCTURE(S) ▼**

The CDCJ coordinates, supervises and follows the work of its subordinate bodies:

- (2022-2023) the Committee of Experts on the rights and the best interests of the child in parental separation and in care proceedings (CJ/ENF-ISE) (cf. separate terms of reference).;
- (2022-2023) the Committee of Experts on the protection of lawyers (CJ-AV) (cf. separate terms of reference).

**BUDGETARY INFORMATION\* ▼**

|      | Meetings<br>per year | Days<br>per meeting | Members <sup>9</sup><br>reimbursed | Plenary<br>in €K | Bureau<br>in €K | Working<br>groups<br>in €K | Secretariat<br>(A, B) |
|------|----------------------|---------------------|------------------------------------|------------------|-----------------|----------------------------|-----------------------|
| 2022 | 2                    | 3                   | 48                                 | 125.0            | 13.4            | 40.9                       | 1 A; 2 B              |
| 2023 | 2                    | 3                   | 47                                 | 123.7            | 13.4            | 40.9                       | 1 A; 2 B              |
| 2024 | 2                    | 3                   | 47                                 | ↔                | ↔               | ↔                          | ↔                     |
| 2025 | 2                    | 3                   | 47                                 | ↔                | ↔               | ↔                          | ↔                     |

\*The costs include the per diem, travel costs, interpretation, translation and document printing. These costs are calculated on the basis of standard costs.

<sup>9</sup> In accordance with decision CM/Del/Dec(2022)1428ter/2.3, the Russian Federation ceased to be a member of the Council of Europe as from 16 March 2022. Budgetary information was updated after the adoption of the 2023 adjusted budget.