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

**“Drafting European Guidelines on Child-friendly justice”**

**Concept paper**

Document prepared by the  
Secretariat of the CDCJ  
Directorate General of Human Rights and Legal Affairs

## Background

The Action Plan adopted at the Warsaw Summit of the Council of Europe (2005) launched the transversal Programme **“Building Europe for and with children”**. This programme has been providing steady guidelines to how standards for children can be improved. Activities of the Directorate of standard-setting are carried out in close co-operation with this Programme.

The 28<sup>th</sup> Conference of European Ministers of Justice, which took place in Lanzarote in October 2007, paved a constructive way forward with the adoption by the Ministers of Justice of Resolution No 2 on child-friendly justice. Further to this Resolution, the Committee of Ministers entrusted the European Committee on Legal Co-operation (CDCJ), the European Committee on Crime Problems (CDPC), the Steering Committee for Human Rights (CDDH) as well as the European Commission for the efficiency of justice (CEPEJ) in co-operation with other competent bodies of the Council of Europe, with the task of preparing European Guidelines on child-friendly justice.

## Objectives

The ultimate objective is to produce **comprehensive Guidelines on child-friendly justice, which assist member states in ensuring that children have child-friendly access to justice.**

The Guidelines will serve as a practical tool for member states assisting them in adapting their judicial system to the specific needs of children. The Guidelines will use existing international and regional instruments as a base and will indicate how their provisions can be best implemented. New standards will be developed in areas where there are legal gaps and existing best practices will be presented. Important references to the relevant case law of the European Court of Human Rights will also be given. The Guidelines will serve as a practical guide for the national legislator, policy makers and users in paving the way for children who for whatever reason have to have access justice.

## Working methods

The work of the Council of Europe, in the field of standard setting, will adopt a comprehensive, transversal approach in the preparation of the Guidelines which will involve the co-operation of three of its steering committees namely the European Committee on Legal Co-operation (CDCJ), the European Committee on Crime Problems (CDPC), and the Steering Committee for Human Rights (CDDH). The CEPEJ will be involved through the information entailed in its evaluation reports and its participation in the work of the future Group of Specialists on child-friendly justice.

The transversal approach of this integrated project will also involve a number of other important actors (such as the European Network of Ombudspeople for Children (ENOC) and the European Youth Centre) with a view to improving the protection of the child and to developing standards. In particular, the participation of children shall be ensured. Possible channels of children's information and expression will be foreseen in co-operation with the European Youth Centres in Strasbourg and Budapest and should include the co-organisation of an event destined to enable dialogue with children on child-friendly justice.

The Parliamentary Assembly of the Council of Europe (PACE) should be involved in a constructive way, including by the organisation of a hearing.

## Work plan for 2008-2009

The planned steps and working methods are the following:

### 1. *Assessment reports*

The first step will be to evaluate the challenges and identify the obstacles children face in accessing justice at national level, in all sectors of the judicial system: criminal, civil and administrative spheres of national jurisdictions. The place of the child *in* the judicial proceedings as well as *prior* to accessing courts (or when diverted by alternative dispute resolution means) and *after* the judicial decision (enforcement procedures) or sentence should be considered.

The task will be divided between the concerned committees who will, in their respective field of competence:

- take stock of the existing legal standards relating to children's rights in Europe;
- identify possible gaps and lacunas in the field;
- identify existing good practices ensuring that children receive adequate information, are represented and have the right to be heard;
- make proposals that would encourage international co-operation and further improve the situation and the participation of children who have to deal with the justice system.

In particular, experts will provide a **check-list** of situations where children need to access justice and give an **overview** of child-friendly procedures implemented in member states while **identifying and taking stock of the existing universal and regional international legal instruments dealing with children**.

**The European Committee on Legal Co-operation (CDCJ)** will gather elements for European guidelines on child-friendly justice with particular focus on children's access to and place in **the civil and administrative justice systems**;

**The European Committee on Crime Problems (CDPC)** will gather elements with particular focus on children's access to and place under **the criminal justice system, addressing children both as victims and perpetrators of crime**; and

**The Steering Committee on Human Rights (CDDH)** will prepare a report on the **general human rights standards** which could be used in the introduction to the Guidelines.

These initial reports are to be prepared by consultants for the three standard-setting committees by 30 June 2008.

### 2. *The Stockholm Conference*

Sweden will undertake, under its forthcoming Chairmanship of the Committee of Ministers, to assess and build on the progress achieved under the "Building a Europe for and with Children" in order to develop a new strategy. This initiative will be launched at a high-level Council of Europe Conference organised in cooperation with the Swedish presidency of its Committee of Ministers entitled "Building a Europe for and with Children – Towards a strategy for 2009-2011", to be held

in Stockholm, on 8-10 September 2008. Organised in co-operation with the Nordic Council of Ministers, whose Presidency Sweden holds in 2008, this Conference will be the opportunity for all partners involved to examine the reports prepared by CoE consultants on child-friendly justice.

More specifically, the three Committees will be expected to lead a technical seminar on day 1 of the conference in order to:

- share the reports prepared by CoE consultants (who will be invited to attend the conference and present the conclusions outlined in their reports);
- receive input from key actors in the field which can serve to complete the reports of the consultants;
- discuss the implementation of standards related to children and justice;
- identify the principles of child friendly justice;
- exchange experiences and showcase best practices.

### 3. *Final meeting*

At the end of 2008 a meeting of the three rapporteurs will be organised with a view to proposing a draft skeleton of the Guidelines on child-friendly justice based on the reports.

### 4. *Setting-up of the Group of Specialists*

Draft terms of reference will be prepared in 2008 for a Group of Specialists under the authority of the CDCJ which will be set up in 2009 and entrusted with the task of drafting consolidated Guidelines on child-friendly justice. The selection of the specialists will be done in cooperation with the CDCJ, CDPC, CDDH and the CEPEJ.

A General Rapporteur will be responsible for managing and coordinating the work of the Group of Specialists.

### 5. *Work for 2009*

In the mandate of the CJ-FA a Conference on family law is envisaged prior to the Plenary meeting of the CJ-FA. The expected dates are in March 2009. This Conference could feed ideas into the work of the Group of Specialists. The Conference could also involve a consultation with civil society.

At the end of 2009, the consolidated Guidelines should be ready and then submitted to the CDCJ. The plenary (or at least the bureau) meetings of the three steering committees should be organised at the same time with a view to adopting the Guidelines in a reasonable time.

### 6. *Work in 2010*

The Guidelines on child-friendly justice will be promoted.

## APPENDIX

The following main European and international standards should be taken into account with a view to drafting European Guidelines on child-friendly justice:

### Civil justice

#### *Council of Europe's standards*

European Social Charter - Revised (CETS No.: 163)  
 European Convention on recognition and enforcement of decisions concerning custody of children and on restoration of custody of children (CETS No.: 105)  
 European Convention on the Exercise of Children's Rights (CETS No.: 160)  
 Convention on contact concerning children (CETS No.: 192)  
 Draft European Convention of the Council of Europe on the adoption of children (revised)  
 Resolution (77)13 on the nationality of children born out of wedlock  
 Resolution (77) 33 on placement of children  
 Recommendation No. R (84) 4 on parental responsibilities  
 Recommendation No. R (85) 4 on violence in the family  
 Recommendation No. R (87) on foster families  
 Recommendation No. R (91)9 on emergency measures in family matters  
 Recommendation No. R (95)6 on the application of the European Convention on recognition and enforcement of decisions concerning custody of children and on restoration of custody of children  
 Recommendation No. R (98)1 on family mediation  
 Recommendation No. R (99)7 on the application of the European Convention on recognition and enforcement of decisions concerning custody of children and on restoration of custody of children  
 Recommendation No. R (2005)5 on the rights of children living in residential institutions  
 Guidelines for a better implementation of the existing Recommendation concerning family mediation and mediation in civil matters (CEPEJ (2007) 14)

#### *European Union's standards*

Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000

#### *Other international instruments*

1980 Hague Convention on the Civil Aspects of International Child Abduction  
 1996 Hague Convention on International Child Protection  
 Guide to Good Practice on Contact by the Hague Conference  
 1993 Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption  
 Convention on the International Recovery of Child Support and other Forms of Family Maintenance  
 United Nations Convention on the Rights of the Child

## **Criminal justice**

### ***Council of Europe's standards***

European Social Charter - Revised (CETS No.: 163)

Convention on Cybercrime (CETS No.: 185)

Council of Europe Convention on Action against Trafficking in Human Beings (CETS No.: 197)

Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No.: 201)

Recommendation Rec (2001)16 on the protection of children against sexual exploitation

Resolution (66) 25 on short-term treatment of young offenders of less than 21 years

Resolution (78) 62 on juvenile delinquency and social change

Recommendation Rec (87) 20 on social reactions to juvenile delinquency

Recommendation Rec (88) 6 on social reactions to juvenile delinquency among young people coming from migrant families

Recommendation Rec (2000)20 on the role of early psychosocial intervention in the prevention of criminality

Recommendation Rec (2003)20 concerning new ways of dealing with juvenile delinquency and the role of juvenile justice

Recommendation Rec (2005)5 on the rights of children living in residential institutions

Recommendation Rec (2006)2 on the European Prison Rules

Recommendation Rec (2006) 13 on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse

Draft Recommendation containing European Rules for juvenile offenders subject to community sanctions or measures or deprived of their liberty

Guidelines for a better implementation of the existing Recommendation concerning mediation in penal matters (CEPEJ (2007) 13)

### ***European Union's standards***

Council of the European Union Framework Decision on combating sexual exploitation of children and child pornography

Council of the European Union Framework Decision on the standing of victims in criminal proceedings

### ***Other international standards***

United Nations Convention on the Rights of the Child

Convention on the Rights of the Child (CRC)

Optional Protocol to the CRC on the sale of children, child prostitution and child pornography

ILO Convention 182 concerning the prohibition and immediate action for the elimination of the worst forms of child labour

## **Other documents to be taken into consideration**

Conclusions of the Conference on "International justice for children", Strasbourg (17-18 September 2007)

Resolution MJU-28 (2007) No. 2 on child-friendly justice

Report prepared by the Registry of the European Court of Human Rights on “Access of children to justice - specific focus on the access of children to the European Court of Human Rights as well as its case-law related to children's access to national jurisdictions” for the 28th Conference of European Ministers of Justice, Lanzarote (25-26 October 2007)