

Strasbourg, 22 February 2007

CJ-DA (2006) 7

**PROJECT GROUP ON ADMINISTRATIVE LAW**  
**(CJ-DA)**

**18<sup>th</sup> meeting**  
**Strasbourg, 11 – 13 October 2006**

**REPORT TO THE EUROPEAN COMMITTEE ON LEGAL CO-OPERATION**  
**(CDCJ)**

**FOREWORD**

The CJ-DA asks the CDCJ in particular to:

- a. approve the draft Recommendation on good administration and the consolidated model code of good administration for submission to the Committee of Ministers for adoption (see Appendix III and section IV of this Report);
- b. note the revised composition of CJ-DA and its Working Party CJ-DA-GT (see section VII of this Report);
- c. take note of this Report as a whole.

Secretariat Memorandum  
prepared by the  
Directorate General of Legal Affairs

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## **REPORT TO THE EUROPEAN COMMITTEE ON LEGAL CO-OPERATION (CDCJ)**

### **I. Opening of the meeting**

1. The 18th Plenary Meeting of the Project Group on Administrative Law (CJ-DA) held its 18<sup>th</sup> meeting from 11 to 13 October 2006 at the Council of Europe's headquarters in Strasbourg, with Ms Caroline DALY (Ireland) in the Chair. The list of participants appears in Appendix I to this report.

### **II. Adoption of the agenda**

2. The CJ-DA delegations adopted the agenda as set out in Appendix II to this report.

### **III. Information from the Secretariat**

3. The Head of the Public and Private Law Department, Mr Giovanni PALMIERI, reminded that the CJ-DA will have the task to consider, during this meeting, the draft Recommendation on good administration accompanied with a code of good administration that its Working Party, the CJ-DA-GT, had prepared. He explained once approved by the CJ-DA this draft Recommendation would be submitted both to the Bureau of the European Committee on Legal Co-operation (CDCJ-BU) which is to meet in December 2006 and subsequently to the Plenary Meeting of the CDCJ in February 2007 for approval.

4. Mr Palmieri then gave information on the future composition of the Project Group and its Working Party, the CJ-DA-GT: due to budgetary restrictions only 15 representatives of member states will have their expenses reimbursed by the Council of Europe for attending the yearly Plenary Meeting of the CJ-DA and 15 others will have their expenses reimbursed for participating in the twice yearly meetings of the CJ-DA-GT. These latter would be nominated by the CJ-DA.

5. Numerous delegations argued that, with only 15 participants attending, the composition of the CJ-DA would not be comprehensive and wide-reaching enough, while a CJ-DA-GT composed of 15 experts would be too large for the work in question. The committee therefore requested that the number of representatives in the CJ-DA be increased whereas the number of representatives in the CJ-DA-GT be reduced to 7 members. It was suggested that the Secretariat submit a proposal to this effect to those responsible for the budget. The Secretariat agreed to consider this suggestion.

6. Mr Palmieri also urged the CJ-DA to consider further themes for its future work in connection with the drafting of its new terms of reference for 2007-2008.

### **IV. Finalisation of the draft Recommendation on good administration and code of good administration**

7. The Chair invited the CJ-DA delegations to consider the preliminary draft Recommendation on good administration and the code of good administration which was drawn up by the Working Party (see document CJ-DA-GT (2005) 1 rev. 7 propre) over the course of 4 meetings in 2005 and 2006.

8. The participants then went through the text point by point making a number of amendments with a view to finalising the Recommendation:

9. It was decided to add a supplementary paragraph to the Preamble concerning the obligations of administrations to exercise their prerogative power. Moreover this should be carried out appropriately and not prejudice the rights of individuals.

10. Furthermore, the paragraph order in the Preamble was changed in order to follow a more logical flow of ideas.

11. Delegations also expressed their views on the code of good administration which is appended to the draft Recommendation and which is intended to provide guidance to public authorities of all Council of Europe member states in governing their relations with the public. They discussed the place of this code and raised the question whether or not this would be a single national code.

12. After debate on the terminology used in Article 1 concerning the scope of the Recommendation and in particular the reference to public service, changes to the paragraph were put to the vote of the Committee and the decision was taken to leave the text unchanged.

13. Under Article 3 certain delegates raised the possibility of the use of positive discrimination to promote equality. However it was decided not to mention this in the present text as this issue is often contentious in many member states.

14. Regarding Article 6 it was decided to combine points 4 and 5 in order to avoid repetition.

15. The discussions on Article 8 centred on whether private persons, in particular individuals, actually do participate in the development of administrative measures. The Committee decided to replace the word 'development' with 'preparation' and add that these administrative measures should concern expressly the rights and interests of those concerned. Issues concerning the environment were mentioned as an example of participation when individuals do get involved in the preparation of administrative measures for the collective interest.

16. The CJ-DA decided to reorganise the definitions given in Article 11 firstly by defining administrative decisions as regulatory or non-regulatory and then by giving an explanation of regulatory and non-regulatory decisions in turn. This way the regulatory decisions, which are standard-setting decisions of a general and non-personal nature, have a separate mention.

17. It was decided to add a new Article on administrative decision after the former Article 11. This Article would underline that the initiative for taking administrative decisions can originate either from the public authorities or from the person who is directly concerned. Moreover, where administrative authorities can answer only requests of private persons due to budget restrictions - as is the case in many member states- this should be *ex officio*.

18. During the discussions it was emphasised that as the model code aims at improving the functioning of administration in all member states, even if a particular situation does not legally exist in one or several member states, the code can still include proposals to improve legislation in those member states where it does.

19. It was decided to reformulate Article 18 in order to improve the wording in a more positive and concise way.

20. The CJ-DA agreed with the request of the Chair to give the Secretariat permission to edit the texts from a grammatical and stylistic point of view. The final version of the draft text of the Recommendation appears in Appendix III to this report (see also document CJ-DA(2006)5 final).

21. The CJ-DA delegations also took note that when preparing the draft Recommendation and model code, the Working Party had decided not to draft an explanatory memorandum. After much discussion, it was decided that an explanatory memorandum had no added value since the document as it stands at present was sufficiently lengthy and complete. In addition it was pointed out that drafting an explanatory memorandum was a lengthy and time-consuming process which would have required more time and investment on the part of the Working Party. Instead the Group instructed the Secretariat to prepare a short memorandum for the CDCJ outlining the origins of the draft Recommendation and giving further background information (see Appendix VI to this Report).

22. Once the finalisation of the draft Recommendation was complete, the Chair of the CJ-DA thanked everyone involved in preparing it for their invaluable input and, in particular, the scientific expert, Mr Pierre DELVOLVÉ.

23. The Committee ended the consideration of this item by discussing the importance of a follow-up to the Recommendation once it had been adopted by the Committee of Ministers. Several delegations suggested that regional conferences could be organised giving further solutions striving towards a better and more efficient administration. Furthermore such conferences would ensure that the consolidated model code of good administration was brought to the attention of a much wider audience.

## **V. Exchange of views on questions to be considered by the CJ-DA as from 2007**

24. The CJ-DA held an exchange of views on questions that is likely to consider as from 2007 in order to draft its terms of reference for the forthcoming year.

25. In this respect, the Secretariat had submitted three main topics as three separate proposals for these terms of reference, namely: administrative appeals, access to justice for deprived persons and administrative taxes.

26. One delegation suggested that the CJ-DA work on the topic of access to justice. However the Secretariat reminded the Committee that this had already been covered in Recommendations No. R (81) 7<sup>1</sup> and No. R (93) 1<sup>2</sup>.

27. Most delegations supported the proposal for the CJ-DA to deal with administrative appeals. However as some delegations were also in favour of treating the subject of vulnerable victims, it was finally decided to combine the two ideas and deal with the right to appeal focussing on assisting those most vulnerable.

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<sup>1</sup> on measures facilitating access to justice, adopted by the Committee of Ministers on 14 May 1981.

<sup>2</sup> on effective access to the law and to justice for the very poor, adopted by the Committee of Ministers on 8 January 1993.

28. The CJ-DA then focused its attention on the type of document to be produced. It agreed to first carry out a study on the feasibility and desirability of preparing a recommendation in the field envisaged. It was underlined that the final decision on whether or not to draft a recommendation would be taken on the basis of the report of the initial study.

29. Consequently, the CJ-DA drew up its draft terms of reference for 2007-2008 for submission to the CDCJ for approval before being subsequently submitted to the Committee of Ministers for adoption. The final version of these draft terms of reference appear in Appendix V of this report.

#### **VI. Follow-up to the European Conference on «Training of civil servants to achieve good administration» (Vilnius, Lithuania, 27-28 October 2005)**

30. The CJ-DA was not able to consider this item due to lack of time. Therefore it was agreed to put this point on the agenda of the next plenary meeting.

#### **VII. Election of the Chair and Vice-Chair of the CJ-DA and the CJ-DA-GT**

31. Mr Philippe GERBER (Switzerland) and Mr Mário AROSO de ALMEIDA (Portugal) were unanimously elected respectively Chair and Vice-Chair of the CJ-DA. Ms Caroline DALY (Ireland) was elected Chair of the Working Party of the CJ-DA (CJ-DA-GT)

#### **VIII. Any other business**

32. The CJ-DA listed the 15 countries which would be invited to appoint representatives to participate in the meetings of the committee with their expenses borne by the Council of Europe: Albania, Finland, France, Greece, Ireland, Italy, Latvia, Luxembourg, Moldova, Monaco, Norway, Poland, Portugal, Russia, and Switzerland. This list is likely to be subject to modification if the proposal of the Committee to increase the membership of the CJ-DA and reduce the membership of the CJ-DA-GT is accepted (see also section III above).

33. Mr Theo SIMONS, representative of the Netherlands, informed the CJ-DA that due to work commitments he would no longer be able to participate in its meetings. He thanked the Committee for giving him the opportunity to be involved in such important work and wished all its members the best for the future. In turn the Chair thanked him on behalf of the Committee and commended him for being a valuable member of the CJ-DA.

#### **IX. Dates of the next meetings of the CJ-DA and the CJ-DA-GT**

40. It was agreed that the CJ-DA will hold its next plenary meeting in mid-October 2007 and the Working Party (CJ-DA-GT) will meet twice in 2007, in April and in July.

**APPENDIX I****LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS****MEMBER STATES****ALBANIA / ALBANIE**

Mr Ansi SHUNDI, Head of Sector, Department of Public Administration, Council of Ministers, TIRANA

**ANDORRA / ANDORRE** not represented / non représentée

**ARMENIA / ARMENIE** not represented / non représentée

**AUSTRIA / AUTRICHE**

Ms Elisabeth GROIS, Division of International Affairs and General Administrative Affairs, Federal Chancellery, Constitutional Service, VIENNA

**AZERBAIJAN / AZERBAIDJAN**

Ms Gulnar RASULOVA, Head of the Unit, Department for Co-ordination of Law Enforcement Agencies, Administration of the President of the Republic of Azerbaijan, BAKU

**BELGIUM / BELGIQUE** apologised / excusée

**BOSNIA AND HERZEGOVINA / BOSNIE-HERZEGOVINE** not represented / non représentée

**BULGARIA / BULGARIE**

Ms Rumiana PAPAZOVA, Judge, Supreme Administrative Court of Bulgaria, SOFIA

**CROATIA / CROATIE** not represented / non représentée

**CYPRUS / CHYPRE** not represented / non représentée

**CZECH REPUBLIC / RÉPUBLIQUE TCHÈQUE**

Mrs Taisia CEBISOVA, Associate Professor, Charles University, PRAGUE

**DENMARK / DANEMARK**

Mr Nicolai WINTHER, Legal Adviser, Ministry of Justice, COPENHAGEN

**ESTONIA / ESTONIE** not represented / non représentée

**FINLAND / FINLANDE**

Mr Matti NIEMIVUO, Deputy Director General, Ministry of Justice, HELSINKI

FRANCE

Mme Dominique GENIEZ, Chargée de Mission à la Chancellerie, Premier Conseiller de Tribunal Administratif et Cour Administrative, Direction des Affaires Civiles et du Sceau, DACS/Justice, Ministère de la Justice, PARIS

GEORGIA / GEORGIE

Mr Dimitri DZAGNIDZE, Head of Office of the State Representative to the European Court of Human Rights, Ministry of Justice of Georgia, TBILISSI

GERMANY / ALLEMAGNE not represented / non représentée

GREECE / GRECE

Mme Olga PAPADOPOULOU, Judge at the Council of State, ATHENS

HUNGARY / HONGRIE

Dr Imre VEREBÉLYI, Travelling envoy in public administration, Permanent Delegation of Hungary to the OECD, PARIS

ICELAND / ISLANDE not represented / non représentée

IRELAND / IRLANDE

Mrs Caroline DALY, Advisory Counsel, Office of the Attorney General, Government Buildings, DUBLIN (**Chair of the CJ-DA / Présidente du CJ-DA**)

ITALY / ITALIE

Mr Vittorio RAGONESI, Conseiller de la Cour de Cassation, ROME

LATVIA / LETTONIE

Ms Jautrite BRIEDE, Judge, Supreme Court, Administrative Department, RIGA

LIECHTENSTEIN not represented / non représentée

LITHUANIA / LITUANIE not represented / non représentée

LUXEMBOURG

M. Georges RAVARANI, Président du Tribunal Administratif, Juridictions Administratives, LUXEMBOURG

MALTA / MALTE not represented / non représenté

MOLDOVA

Mme Maria SECRIERU, Chef de Section du Régime Constitutionnel et des Autorités publiques, Département de la Législation, Ministère de la Justice, CHISINĂU

MONACO

M. Laurent ANSELMi, Conseiller au Cabinet de S.A.S. le Prince Souverain, Palais Princier, MONACO



Mme Mireille PETTITI, Directeur des Affaires Juridiques, MONACO

NETHERLANDS / PAYS-BAS

Mr Theo SIMONS, Senior Vice-President of the Administrative Court of Appeal, UTRECHT

NORWAY / NORVEGE

Mr Arnulf TVERBERG, Legal Adviser, Legislation Department, The Norwegian Ministry of Justice, OSLO

POLAND / POLOGNE

Mme Teresa GÓRZYŃSKA, Maître de conférences à l'Institut des Sciences Juridiques, Académie Polonaise des Sciences, Professeur à la Haute Ecole de Gestion, VARSOVIE

PORTUGAL

M. Mário AROSO de ALMEIDA, Professeur de droit administratif, Consultant du Ministère de la Justice, PORTO

ROMANIA / ROUMANIE

Mme Violeta BELEGANTE, Chef du Service, Direction de l'Elaboration des actes normatifs, des études et documentation, Ministère de la Justice, BUCAREST

RUSSIAN FEDERATION / FEDERATION DE RUSSIE

Mr Mark ENTIN, Director, European Law and European Studies Institute at MGIMO University, Russian Association of International Law Vice-President, Association of Lawyers of Russia International Co-operation Commission Co-President, MOSCOW

SAN MARINO / SAINT MARIN not represented / non représenté

SERBIA / SERBIE

Ms Jelena TISMA-JOVANOVIC, Senior Adviser for Administrative Law, Supreme Court of the Republic of Serbia, BELGRADE

SLOVAK REPUBLIC / RÉPUBLIQUE SLOVAQUE

Ms Elena BERTHOTYOVA, Judge, Supreme Court of the Slovak Republic, Ministry of Justice, BRATISLAVA

SLOVENIA / SLOVÉNIE not represented / non représentée

SPAIN / ESPAGNE

Ms Isabel HERNANDEZ, Head of the Area of International Affairs (DG for Public Service), Ministerio de Administraciones Publicas, MADRID

SWEDEN / SUEDE

Mr Johan LUNDMARK, Legal Adviser, Associate Judge of Appeal, Ministry of Justice, Division for Constitutional Law, STOCKHOLM

SWITZERLAND / SUISSE

M. Philippe GERBER, Chef Suppléant de la Division I de la Législation, Office Fédéral de la Justice, Département Fédéral de Justice et Police, BERNE  
**(Vice-Chair of the CJ-DA / Vice-Président du CJ-DA)**

« THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA »/« L'EX-REPUBLIQUE YOUGOSLAVE DE MACEDOINE

Mr Zagorka TNOKOVSKA, Head of the Department for State Administration, Electoral system and Administrative competencies, Ministry of Justice of the Republic of Macedonia, SKOPJE

TURKEY / TURQUIE not represented / non représentée

UKRAINE

Ms Iryna LYASHKO, Senior Specialist, Department of Constitutional and Administrative Law, Ministry of Justice, KIEV

UNITED KINGDOM / ROYAUME-UNI apologised / excusé

SCIENTIFIC EXPERT/EXPERT SCIENTIFIQUE

M. Pierre DELVOLVE, Professeur à l'Université Panthéon-Assas Paris II, France

EUROPEAN COMMISSION / COMMISSION EUROPEENNE apologised / excusée

OBSERVERS WITH THE COUNCIL OF EUROPE/  
OBSERVATEURS AUPRES DU CONSEIL DE L'EUROPE

CANADA not represented / non représenté

HOLY SEE / SAINT SIEGE apologised / excusé

JAPAN / JAPON not represented / non représenté

MEXICO / MEXIQUE not represented / non représenté

UNITED STATES OF AMERICA / ETATS-UNIS D'AMERIQUE not represented / non représentés

OBSERVERS WITH THE CJ-DA / OBSERVATEURS AUPRES DU CJ-DA

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD) /  
ORGANISATION DE COOPERATION ET DE DEVELOPPEMENT ECONOMIQUE (OCDE)

Mr Julio NABAIS, Principal Administrator, OECD, SIGMA, Public Governance and Territorial Development Directorate, PARIS

UNITED NATIONS / NATIONS UNIES not represented / non représentée

INTERNATIONAL COMMISSION ON CIVIL STATUS /  
COMMISSION INTERNATIONALE DE L'ETAT CIVIL (CIEC) apologised / excusée

EUROPEAN PUBLIC LAW CENTRE /  
CENTRE EUROPEEN DE DROIT PUBLIC not represented / non représenté

ASSOCIATION OF EUROPEAN ADMINISTRATIVE JUDGES (AEAJ) /  
FEDERATION EUROPEENNE DES JUGES ADMINISTRATIFS

M. Pierre VINCENT, Presiding Judge, Former President of the AEAJ, Nancy Administrative Court of Appeal, NANCY

COMMISSIONER FOR HUMAN RIGHTS /  
COMMISSAIRE AUX DROITS DE L'HOMME not represented / non représentée

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW (Venice Commission) /  
COMMISSION EUROPEENNE POUR LA DEMOCRACIE PAR LE DROIT (Commission de  
Venise) not represented / non représentée

STEERING COMMITTEE FOR HUMAN RIGHTS (CDDH) /  
COMITE DIRECTEUR POUR LES DROITS DE L'HOMME (CDDH)  
not represented / non représenté

CONGRESS OF LOCAL AND REGIONAL AUTHORITIES OF EUROPE /  
CONGRES DES POUVOIRS LOCAUX ET REGIONAUX DE L'EUROPE  
not represented / non représenté

SECRETARIAT DU CONSEIL DE L'EUROPE /  
SECRETARIAT OF THE COUNCIL OF EUROPE

Directorate General of Legal Affairs, Department of Public and Private Law/  
Direction Générale des Affaires Juridiques, Service du Droit Public et Privé  
[www.coe.int/admin](http://www.coe.int/admin)

Mr Giovanni PALMIERI, Head of the Department / Chef du Service

Mrs Danuta WIŚNIEWSKA-CAZALS, Secretary of the CJ-DA / Secrétaire du CJ-DA

Mrs Lucy ANCELIN, Administrative assistant/Assistante Administrative

Mme Edith LEBEAU, Assistant/Assistante

**INTERPRETATION**

Mrs Anne CHENAIS

Mrs Bettina LUDEWIG

Mrs Christine TRAPP



**APPENDIX II****AGENDA**

1. Opening of the meeting / *Ouverture de la réunion*
2. Adoption of the agenda / *Adoption de l'ordre du jour*
3. Information by the Secretariat / *Informations par le Secrétariat*
4. Finalisation of the preliminary draft recommendation concerning good administration and consolidated model code of good administration / *Finalisation de l'avant-projet de recommandation concernant une bonne administration et de code modèle consolidé de bonne administration*

**Working documents / Documents de travail**

Preliminary draft recommendation on good administration and consolidated model code of good administration prepared by the CJ-DA-GT / *Avant-projet de recommandation concernant une bonne administration et de code modèle consolidé de bonne administration préparé par le CJ-DA-GT*

**CJ-DA-GT (2005) 1 rev. 7 propre**

**Background documents / Documents de référence**

Preliminary draft recommendation on good administration and consolidated model code of good administration prepared by the scientific expert and the Secretariat / *Avant-projet de recommandation concernant une bonne administration et de code modèle consolidé de bonne administration préparé par l'expert scientifique et le Secrétariat*

**CJ-DA-GT (2005) 1**

Report of the 3<sup>rd</sup> meeting of the Working Party of the Project Group on Administrative Law (CJ-DA-GT) (Strasbourg, 5-7 April 2006) / *Rapport de la 3<sup>e</sup> réunion du Groupe de travail du Groupe de projet sur le droit administratif (CJ-DA-GT) (Strasbourg, 5-7 avril 2006)*

**CJ-DA-GT (2006) 1**

Report of the 4<sup>th</sup> meeting of the Working Party of the Project Group on Administrative Law (CJ-DA-GT) (Strasbourg, 10-12 July 2006) / *Rapport de la 4<sup>e</sup> réunion du Groupe de travail du Groupe de projet sur le droit administratif (CJ-DA-GT) (Strasbourg, 10-12 juillet 2006)*

**CJ-DA-GT (2006) 3**

Revised specific terms of reference of the CJ-DA for 2005-2006 / *Mandat spécifique révisé du CJ-DA pour 2005-2006*

**CJ-DA (2005) 6**

Report of the 17<sup>th</sup> meeting of the Project Group on Administrative Law (CJ-DA) (Strasbourg, 28 February-2 March 2005) / *Rapport de la 17<sup>e</sup> réunion du Groupe de projet sur le droit administratif (CJ-DA) (Strasbourg, 28 février-2 mars 2005)*

**CJ-DA (2005) 5**

Preliminary draft report on the feasibility and desirability of preparing a recommendation and/or a consolidated model code of good administration prepared by the CJ-DA / *Avant-projet de rapport sur la faisabilité et l'opportunité de préparer une recommandation relative à une bonne administration et/ou un code modèle consolidé de bonne administration préparé par le CJ-DA*

**CJ-DA (2005) 4**

Principles of good administration in Council of Europe member States / *Principes de bonne administration dans les Etats membres du Conseil de l'Europe*

**CJ-DA-GT (2004) 7**

Parliamentary Assembly Recommendation 1615 (2003) on the institution of ombudsman and its explanatory memorandum / *Recommandation 1615 (2003) de l'Assemblée Parlementaire sur l'institution du médiateur et son exposé des motifs*

**CJ-DA-GT (2004) 1**

Reply by the Committee of Ministers to Parliamentary Assembly Recommendation 1615 (2003) on the institution of ombudsman / *Réponse du Comité des Ministres à la Recommandation 1615 (2003) de l'Assemblée Parlementaire sur l'institution du médiateur*

**CJ-DA-GT (2004) 2**

Council of Europe instruments relevant to the preparation of a draft opinion on the feasibility of preparing a consolidated model code of good administration / *Instruments du Conseil de l'Europe pertinents pour l'élaboration d'un projet d'avis sur la faisabilité de l'élaboration d'un code modèle consolidé de bonne administration*

**CJ-DA-GT (2004) 3**

The European Code of Good Administrative Behaviour of the European Ombudsman / *Le code européen de bonne conduite administrative du Médiateur européen*

**CJ-DA-GT (2004) 4**

Conclusions of the European Conference on «Training of civil servants to achieve good administration» (Vilnius, Lithuania, 27-28 October 2005) / *Conclusions de la Conférence européenne sur «La formation des fonctionnaires dans l'intérêt d'une bonne administration» (Vilnius, Lituanie, 27-28 octobre 2005)*

**DA/Conf (2005) Conclusions**

5. Exchange of views on questions to be considered by the CJ-DA as from 2007 / *Echange de vues sur les questions devant être examinées par le CJ-DA à partir de 2007*

Working documents / Documents de travail

Draft Terms of reference of the CJ-DA for 2007-2008 / *Projet de mandat du CJ-DA pour 2007-2008*

**CJ-DA (2006) 2**

**CJ-DA (2006) 3**

**CJ-DA (2006) 4**

Background documents / Documents de référence

Legal instruments of the Council of Europe in the field of administrative law / *Les instruments juridiques du Conseil de l'Europe dans le domaine du droit administratif*

**CJ-DA (2005) Inf.**

6. Follow-up to the European Conference on «Training of civil servants to achieve good administration» (Vilnius, Lithuania, 27-28 October 2005) / *Suivi de la Conférence européenne sur «La formation des fonctionnaires dans l'intérêt d'une bonne administration» (Vilnius, Lituanie, 27-28 octobre 2005)*

**DA/Conf (2006) Proceedings**

7. Election of the Chair and of the Vice-Chair of the CJ-DA / Election du (de la) Président(e) et du (de la) Vice-Président(e) du CJ-DA

Information document / Document d'information

Election of the Chair and of the Vice-Chair of the CJ-DA / *Election du (de la) Président(e) et du (de la) Vice-Président(e) du CJ-DA*

**CJ-DA (2006) 1**

8. Any other business / *Divers*

Background documents / Documents de référence

Warsaw Declaration – Third Summit of Heads of State and Government of the Council of Europe (Warsaw, 16-17 May 2005) / *Déclaration de Varsovie – Troisième Sommet des Chefs d'Etat et de Gouvernement du Conseil de l'Europe (Varsovie, 16-17 mai 2005)*

**CM (2005) 79 final**

Plan of Action – Third Summit of Heads of State and Government of the Council of Europe (Warsaw, 16-17 May 2005) / *Plan d'Action – Troisième Sommet des Chefs d'Etat et de Gouvernement du Conseil de l'Europe (Varsovie, 16-17 mai 2005)*

**CM (2005) 80 final**

Message from the Committee of Ministers to the Committees involved in the intergovernmental co-operation at the Council of Europe / *Message du Comité des Ministres aux Comités oeuvrant dans le cadre de la coopération intergouvernementale du Conseil de l'Europe*

**CJ-DA (2005) CM Message**





**APPENDIX III****DRAFT RECOMMENDATION ON GOOD ADMINISTRATION**

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Having regard to Recommendation 1615 (2003) of the Parliamentary Assembly, which calls on the Committee of Ministers to draft a model text for a basic individual right to good administration and a single, comprehensive, consolidated model code of good administration, based in particular on Committee of Ministers' Recommendation No. R (80) 2 and Resolution (77) 31 and the European Code of Good Administrative Behaviour (2001), in order to define the basic right to good administration and therefore facilitate its effective implementation in practice;

Having regard to Resolution (77) 31 of the Committee of Ministers on the protection of the individual in relation to the acts of administrative authorities;

Having regard to Recommendation No. R (80) 2 of the Committee of Ministers concerning the exercise of discretionary powers by administrative authorities;

Having regard to Recommendation No. R (81) 19 of the Committee of Ministers on the access to information held by public authorities;

Having regard to Recommendation No. R (84) 15 of the Committee of Ministers relating to public liability;

Having regard to Recommendation No. R (87) 16 of the Committee of Ministers on administrative procedures affecting a large number of persons;

Having regard to Recommendation No. R (91) 10 of the Committee of Ministers on the communication to third parties of personal data held by public bodies;

Having regard to Recommendation No. R (2000) 6 of the Committee of Ministers on the status of public officials in Europe;

Having regard to Recommendation No. R (2000) 10 of the Committee of Ministers on codes of conduct for public officials;

Having regard to Recommendation Rec (2002) 2 of the Committee of Ministers on access to official documents;

Having regard to Recommendation Rec (2003) 16 of the Committee of Ministers on the execution of administrative and judicial decisions in the field of administrative law;

Having regard to Recommendation Rec (2004) 20 of the Committee of Ministers on judicial review of administrative acts;

Considering that the aim of the Council of Europe is to achieve a greater unity between its members;

Considering that public administration plays a key role in democratic societies; that it is active in numerous spheres; that its activities affect private persons' rights and interests; that national legislation and various international instruments, particularly those of the Council of Europe, offer these individuals certain rights with regard to the administration; and that the European Court of Human Rights has applied the Convention for the Protection of Human Rights and Fundamental Freedoms to the protection of private persons in their relations with the administration;

Considering that public authorities must provide private persons with a certain number of services and issue certain instructions and rulings, and that when they are required to take action, they must do so within a reasonable period;

Considering that in the case of maladministration, whether as a result of official inaction, delays in taking action or taking action in breach of official obligations, appropriate procedures, which may include judicial procedures, shall be provided;

Considering that good administration is ensured by the quality of legislation, which must be appropriate and consistent, clear and easily understood. The legislation must also be accessible;

Considering that good administration implies that services meeting the basic needs of society should be provided;

Considering that good administration is an aspect of good governance; that it is not just concerned with legal arrangements; that it depends on the quality of organisation and management; that it must meet the requirements of effectiveness, efficiency and relevance to the needs of society; that it must maintain, uphold and safeguard public property and other public interests; that it must comply with budgetary requirements; and that it must preclude all forms of corruption;

Considering that good administration is dependent on adequate human resources available to the public authorities and on the qualities and appropriate training of public officials;

Considering that the administration exercises its prerogative powers to carry out the tasks required of it; that these powers shall not be used in an inappropriate or excessive manner, as otherwise this could weaken the rights of those they are intended to protect;

Considering that it is desirable to combine the various rights with regard to the administration into a right to good administration and to clarify its content, following the example of the Charter of Fundamental Rights of the European Union (2000);

Considering that the requirements of a right to good administration may be reinforced by a general legal instrument; that these requirements stem from the fundamental principles of the rule of law, such as those of lawfulness, equality, impartiality, proportionality, legal certainty, taking action within a reasonable time limit, participation, respect for privacy and transparency;

and that procedures exist to protect the rights and interests of private persons, provide them with information and enable them to participate in the adoption of official decisions,

Recommends that the governments of member states:

- promote good administration within the framework of the principles of the rule of law and democracy;
- promote the organisation and functioning of public authorities ensuring efficiency, effectiveness and value for money. These principles require that member states:
  - ensure that objectives are set and performance indicators are devised in order to monitor and measure, on a regular basis, the achievement of these objectives by the administration and its public officials;
  - regularly audit, within the remit of the law, the services they provide to examine whether the services are provided at an appropriate cost and whether they can be replaced or withdrawn;
  - function on the basis that the best means to obtain the best results are pursued;
  - conduct appropriate internal and external monitoring of the administration and the action of its public officials;
- promote the right to good administration, by adopting a national code or comprehensive, consolidated standards and rules, drawing from the model code appended to this Recommendation, and ensuring their effective implementation.

## **Appendix to the Recommendation**

### **Code of good administration**

#### **Article 1      Scope**

1. This code lays down principles and rules which must be applied by public authorities in their relations with private persons, in order to achieve good administration.
2. For the purposes of this code, “public authorities” shall be taken to mean:
  - a) any public-law entity of any kind or at any level, including state, local and autonomous authorities, providing a public service or acting in the public interest,
  - b) any private-law entity exercising the prerogatives of a public authority responsible for providing a public service or acting in the public interest.
3. For the purposes of this code, “private persons” shall be taken to mean individuals and legal persons under private law who are the subject of activities by public authorities.

### **Section I**

#### **Principles of good administration**

#### **Article 2      Principle of lawfulness**

1. Public authorities shall act in accordance with the law. They shall not take arbitrary measures, even when exercising their discretion.
2. They shall comply with domestic law, international treaties and the general principles of law governing their organisation, functioning and activities.
3. They shall act in accordance with rules defining their powers and procedures laid down in their governing legislation.
4. They shall exercise their powers only if the established facts and the applicable law entitle them to do so and solely for the purpose for which they have been conferred.

#### **Article 3      Principle of equality**

1. Public authorities shall act in accordance with the principle of equality.
2. They shall treat private persons who are in the same situation in the same way. Any difference in treatment shall be objectively justified.

3. They shall not discriminate between private persons on grounds such as sex, ethnic origin, religion or belief.

**Article 4**      **Principle of impartiality**

1. Public authorities shall act in accordance with the principle of impartiality.
2. They shall act objectively, having regard to relevant matters only.
3. They shall not act in a biased manner.
4. They shall ensure that their public officials carry out their duties in a neutral manner, irrespective of their personal beliefs and interests.

**Article 5**      **Principle of proportionality**

1. Public authorities shall act in accordance with the principle of proportionality.
2. They shall impose measures affecting the rights or interests of private persons only where necessary and to the extent required to achieve the aim pursued.
3. When exercising their discretion, they shall maintain a proper balance between any adverse effects which their decision may have on the rights or interests of private persons and the purpose they pursue. Any measures taken by them must not be excessive.

**Article 6**      **Principle of legal certainty**

1. Public authorities shall act in accordance with the principle of legal certainty.
2. They may not take any retroactive measures except in legally justified circumstances.
3. They shall not interfere with vested rights and final legal situations except where it is necessary in the public interest.
4. It may be necessary in certain cases, in particular where new obligations are imposed, to provide for transitional provisions or to allow a reasonable time for the entry into force of these obligations.

**Article 7**      **Principle of taking action within a reasonable time limit**

Public authorities shall act and perform their duties within a reasonable time.

**Article 8      Principle of participation**

Public authorities shall provide private persons with the opportunity through appropriate means to participate in the preparation and implementation of administrative measures which concern their rights or interests.

**Article 9      Principle of respect for privacy**

1. Public authorities shall have respect for privacy, particularly when processing personal information.

2. When public authorities are authorised to process personal information, particularly by electronic means, they shall take all necessary measures to guarantee privacy.

3. Private persons shall have the right to consult personal information and secure the rectification or removal of any information that is inaccurate or should not have been recorded.

**Article 10      Principle of transparency**

1. Public authorities shall act in accordance with the principle of transparency.

2. They shall ensure that private persons are informed, by appropriate means, of their actions and decisions which may include the publication of official documents.

3. They shall respect the right of access to official documents.

4. The principle of transparency does not prejudice secrets protected by law.

**Section II**

**Rules governing administrative decisions**

**Article 11      Definitions**

1. For the purposes of this code, “administrative decisions” shall mean regulatory or non-regulatory decisions taken by public authorities when exercising the prerogatives of public power.

2. Regulatory decisions consist of generally applicable rules.

3. Non-regulatory decisions may be individual or otherwise. Individual decisions are those addressed solely to individuals.

**Article 12**    **Initiation of administrative decisions**

Administrative decisions can be taken by public authorities either on their own initiative or upon request from private persons.

**Article 13**    **Requests from private persons**

1. Private persons shall have the right to request public authorities to take individual decisions which lie within their competence.

2. When such a request is made to an authority lacking the relevant competence, the recipient shall forward it to the competent authority where possible and advise the applicant that it has done so.

3. All requests for individual decisions made to public authorities shall be acknowledged in writing with an indication of the expected time within which the decision will be taken, and of the legal remedies that exist if the decision is not taken. An acknowledgement in writing may be dispensed with where public authorities respond promptly with a decision.

4. Decisions in response to requests to public authorities shall be taken within a reasonable time which can be defined by law or legislation.

**Article 14**    **Right of private persons to be heard with regard to individual decisions**

1. If a public authority intends to take an individual decision that will directly and adversely affect the rights of private persons, those persons shall be given an opportunity to participate in the procedure and be heard within a reasonable time.

2. Private persons shall have the right to express their views in writing or orally, if necessary with the assistance of a person of their choice.

**Article 15**    **Right of private persons to be involved in certain non-regulatory decisions**

1. If a public authority proposes to take a non-regulatory decision that may affect an indeterminate number of people, it shall set out procedures allowing for their participation in the decision making process, such as written observations, hearings, representation in an advisory body of the competent authority, consultations and public enquiries.

2. Those concerned in these procedures shall be clearly informed of the proposals in question and given the opportunity to express their views fully. The proceedings shall take place within a reasonable time.

**Article 16**      **Charges for administrative decisions**

Charges, if payable by private persons to public authorities in respect of administrative decisions, shall be fair and reasonable.

**Article 17**      **Form of administrative decisions**

1. Administrative decisions shall be phrased in simple and clear language that is easily understood by the private persons for whom they are intended.

2. Appropriate reasons shall be given for any unfavourable individual decision taken with regard to private persons, stating the legal and factual grounds on which the decision was taken.

**Article 18**      **Publication of administrative decisions**

1. Administrative decisions shall be published in order to allow those affected by these decisions to have an exact and comprehensive knowledge of them. Publication may be personal notification or it may be general in nature.

2. Those concerned by individual decisions shall be personally notified except in exceptional circumstances where only general publication methods are possible. In all cases, appeal procedures including time limits shall be indicated.

**Article 19**      **Entry into force of administrative decisions**

1. Administrative decisions shall not be retroactive in effect to a date prior to their adoption or publication, except in legally justified circumstances.

2. Administrative decisions shall not be operative until they have been properly published.

**Article 20**      **Execution of administrative decisions**

1. Public authorities shall be responsible for the execution of administrative decisions falling within their competence.

2. An appropriate system of administrative or criminal penalties shall, in principle, be established to ensure that private persons comply with the decisions of the public authorities.

3. Public authorities shall allow private persons a reasonable time to perform the obligations imposed on them, except in urgent cases where they shall duly state the reasons for this.



4. Enforced execution by public authorities shall be expressly prescribed by law. Private persons subject to the execution of a decision shall be informed of the procedure and of the reasons for it. Enforced execution measures shall be proportionate.

**Article 21      Changes to individual administrative decisions**

Public authorities can amend or withdraw individual administrative decisions, if necessary, in the public interest and where the rights acquired by private persons or their interests are not prejudiced.

**Section III**

**Appeals**

**Article 22      Appeals against administrative decisions**

1. Private persons shall be entitled to seek, directly or by way of exception, a judicial review of an administrative decision which directly affects their rights and interests.

2. Administrative appeals, prior to a judicial review, must, in principle, be possible. They may, in certain cases, be compulsory. They may concern a full appeal or an appeal on the legality of an administrative decision.

3. Private persons shall not suffer any prejudice from public authorities for appealing against an administrative decision.

**Article 23      Compensation**

1. Public authorities shall provide a remedy to private persons who suffer loss due to unlawful administrative decisions or negligence on the part of the administration or its officials.

2. Before bringing actions for compensation against public authorities in the courts, private persons may first be required to submit their case to the authorities concerned.

3. Court orders against public authorities to provide compensation for loss suffered shall be executed within a reasonable time.

4. It shall be possible, where appropriate, for public authorities or private persons to issue legal proceedings against public officials personally.



## APPENDIX IV

### OUTLINE OF THE ORIGINS OF THE DRAFT RECOMMENDATION ON GOOD ADMINISTRATION

1. The draft Recommendation on good administration has its origins in the [reply](#) adopted on 16 June 2004 by the Committee of Ministers of the Council of Europe to Parliamentary Assembly Recommendation 1615 (2003) of 8 September 2003 on [the institution of ombudsman](#), which

*- recommends that the governments of Council of Europe member states:*

[...]

*vi. following the drafting of a model text by the Committee of Ministers, adopt at constitutional level an individual right to good administration;*

*vii. following the drafting of a model text by the Committee of Ministers, adopt and implement fully a code of good administration, to be effectively publicised so as to inform the public of their rights and legitimate expectations.*

*- recommends that the Committee of Ministers:*

*i. encourage member states to implement Recommendation No. R (85) 13, whilst also giving effect to the more detailed provisions of the present recommendation;*

*ii. draft a model text for a basic individual right to good administration;*

*iii. draft a single, comprehensive, consolidated model code of good administration, deriving in particular from Committee of Ministers Recommendation No. R (80) 2 and Resolution (77) 31 and the European Code of Good Administrative Behaviour, with the involvement of the appropriate organs of the Council of Europe – in particular the Commissioner for Human Rights and the European Commission for Democracy through Law, as well as the Assembly – and in consultation with the European Ombudsman, thus providing elaboration of the basic right to good administration so as to facilitate its effective implementation in practice;*

*iv. encourage and provide technical assistance to governments of Council of Europe member states in adopting and implementing the above-mentioned right and code;*

*v. support the Commissioner for Human Rights in his work of co-ordinating the activities of member states' ombudsmen.*

2. In order to prepare its reply, the Committee of Ministers asked various Council of Europe bodies, in particular the European Committee on Legal Co-operation (CDCJ), for their opinion on this Recommendation.

3. Under instructions from the Chair of the CDCJ, the Project Group on Administrative Law (CJ-DA) examined the draft opinion on Recommendation 1615 (2003) prepared by the Secretariat, which it adopted at its 16th meeting (3-5 March 2004). This opinion was then submitted to the CDCJ, whose Bureau transmitted it to the Committee of Ministers.

4. Furthermore, at its 79th meeting (11-14 May 2004), the CDCJ invited the Committee of Ministers to approve the revised specific terms of reference of the CJ-DA.

5. At the 890th meeting of the Ministers' Deputies (30 June 2004), the Committee of Ministers adopted the terms of reference of the CJ-DA for 2005, taking into account the reply it had given on 16 June 2004 to Parliamentary Assembly Recommendation 1615 (2003). These terms of reference stipulated that:

*Under the authority of the European Committee on Legal Co-operation (CDCJ), taking into account its revised specific terms of reference for 2004 and having regard to Parliamentary Assembly Recommendation 1615 (2003) on the institution of ombudsman, the CJ-DA is instructed:*

*a. to carry out a study on the means of strengthening the legal framework of good administration as an essential element of good governance and, in particular, to study what improvements should be made to administrative decision making.*

*On the basis of this study, the CJ-DA shall indicate the feasibility and desirability of preparing a recommendation in this field and/or a consolidated model code of good administration as envisaged in Parliamentary Assembly Recommendation 1615 (2003).*

*b. to carry out any other activity with which the CDCJ might entrust it in execution of its own terms of reference or in implementing the priorities identified by the Committee of Ministers.*

6. In fulfilment of its terms of reference, the CJ-DA adopted, at its 17th plenary meeting (28 February-2 March 2005), a preliminary draft Report<sup>1</sup> on the feasibility and desirability of preparing a recommendation concerning good administration and/or a consolidated model code of good administration drawn up by its Working Party (CJ-DA-GT). This Report concluded that a document on good administration was desirable and that preparing a recommendation accompanied by a code on good administration would be more effective.

7. At its 80th plenary meeting held in Strasbourg from 20 to 22 April 2005, the CDCJ gave its support to the work on good administration and approved both the draft report mentioned in Paragraph 6 above and draft specific terms of reference of the CJ-DA, taking into account this very Report by the CJ-DA-GT.

8. The CDCJ presented to the Committee of Ministers the draft terms of reference of the CJ-DA instructing it: *with a view to promoting an area of common legal standards throughout Europe, to prepare a recommendation, accompanied with a consolidated model code of good administration, in order to strengthen the legal framework of good administration as an essential element of good governance and improve the functioning of public administration and relations between the administration and individuals;*

9. At their 935th meeting on 13 July 2005 the Ministers' Deputies not only took note of the abridged report of the 80th plenary meeting of the CDCJ but also renewed the specific terms of reference of the CJ-DA for 2006.

<sup>1</sup> In preparing this draft report the CJ-DA-GT was assisted by a scientific expert, Mr Cyril Clément, a member of the Bar and lecturer in public law at Paris 8 University.

10. During its meetings from 2004 to 2006 (September/October and December 2004, November and December 2005, April and July 2006), the CJ-DA-GT completed the tasks entrusted to it by the CJ-DA. As well as preparing the Report, the Group was able to finalise the drafting of the proposed instrument.<sup>2</sup>

11. It was at its 18th plenary meeting from 11 to 13 October 2006 that the CJ-DA officially adopted the [draft Recommendation on good administration](#) which will be submitted to the CDCJ for approval at its 82nd plenary meeting (26 February-1 March 2007), with a view to its transmission to the Committee of Ministers for adoption.

12. Since the CJ-DA-GT had never discussed the possibility of drawing up an Explanatory Memorandum to this Recommendation, at its meeting from 10 to 12 July 2006 the Chair of the Working Party initiated a discussion on this subject and, as a result of this discussion, the CJ-DA-GT decided not to draft an Explanatory Memorandum, unless the CDCJ decides otherwise. In this case, the Memorandum should give an overall explanation of the decisions made by the Working Party concerning the code and its structure.

*The delegations said that as far as the recommendation was concerned only certain historical issues could possibly be mentioned in the text. As to the code, it was difficult to see any reason for an Explanatory Memorandum as the principles should be sufficiently clear to be understood by those it was aimed at without any explanation. The Secretariat pointed out that Explanatory Memorandums were documents without any legal force whose aim was to offer clarification on the content of the recommendations. They were not an integral part of recommendations. The Committee of Ministers adopted recommendations but it merely took note of Explanatory Memorandums. - (Excerpt from the report of the 4th meeting of the CJ-DA-GT held from 10 to 12 July 2006)*

13. At its meeting from 11 to 13 December 2006, the Bureau of the CDCJ discussed this issue and came to the same conclusion as the CJ-DA-GT is that given the depth and diversity of the text the drafting of an Explanatory Memorandum would be a time-consuming, and therefore costly process.

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<sup>2</sup> In preparing this draft recommendation, the CJ-DA-GT was assisted by a scientific expert, Mr Pierre Delvolvé, a Professor at Panthéon-Assas Paris II University.



**APPENDIX V****DRAFT TERMS OF REFERENCE**  
**OF THE PROJECT GROUP ON ADMINISTRATIVE LAW (CJ-DA)**  
**FOR 2007-2008**

|           |                                      |   |
|-----------|--------------------------------------|---|
| <b>1.</b> | <b>Name of Committee:</b>            | PROJECT GROUP ON ADMINISTRATIVE LAW (CJ-DA)   |
| <b>2.</b> | <b>Type of committee:</b>            | Committee of experts  |
| <b>3.</b> | <b>Source of terms of reference:</b> | European Committee on Legal Co-operation (CDCJ)   |
| <b>4.</b> | <b>Terms of reference:</b>           | <p><b>Having regard to:</b></p> <ul style="list-style-type: none"> <li>- the Declaration and Action Plan adopted by the Third Summit of Heads of State and Government of the Council of Europe (Warsaw, 16-17 May 2005), in particular concerning the necessity: <ul style="list-style-type: none"> <li>- to pursue intergovernmental co-operation on good governance at all levels as well as developing norms as regards the proper functioning of civil services in Europe (see Chapter I.3 of the Action Plan);</li> <li>- to ensure that effective domestic remedies exist for anyone with an arguable complaint of a European Convention on Humans Rights violation (see Chapter I.1 of the Action Plan);</li> </ul> </li> <li>- the Resolution No.1 on victims of crime adopted by the 27<sup>th</sup> Conference of European Ministers of Justice (Yerevan, 12-13 October 2006), in particular concerning the necessity to make administrative means of appeal available to the victims;</li> <li>- the following recommendations of the Committee of Ministers: <ul style="list-style-type: none"> <li>- R(76)5 on legal aid in civil, commercial and administrative matters,</li> <li>- R(78)8 on legal aid and advice,</li> <li>- R(81)7 on measures facilitating access to justice,</li> <li>- R(86)12 concerning measures to prevent and reduce the excessive workload in the courts.</li> </ul> </li> </ul> |
|           |                                      | <p><b>Under the authority of the European Committee on Legal Co-operation (CDCJ), and in relation with the implementation of Project 2004/DGI/162 « Administrative law and administrative justice» of the Programme of Activities, the Committee is instructed to:</b></p> <ul style="list-style-type: none"> <li>i. carry out a study on the law and practice of the member states regarding: <ul style="list-style-type: none"> <li>a) effective administrative review available to individuals in particular those claiming a breach of the European Convention on Human Rights by an administrative authority, taking into consideration how administrative review operates,</li> </ul> </li> </ul>   |

|                        |   |
|------------------------|---|
| <p>ii.</p> <p>iii.</p> | <p>b) access for deprived persons, including vulnerable victims, to justice through internal administrative proceedings. Examine, within this framework, if and to what extent the provision of legal aid in respect of legal costs incurred by persons with insufficient resources should exist in the case of administrative appeals.</p> <p>on the basis of this study and taking into account the relevant case-law of the European Court of Human Rights, examine the desirability and, if necessary, prepare an appropriate legal instrument on administrative review as a means of protecting human rights and on ways of access to justice;</p> <p>carry out any other activity with which the CDCJ might entrust it in execution of its own terms of reference or in implementing the priorities identified by the Committee of Ministers.</p> |
| <p><b>5.</b></p>       | <p><b>Composition of the Committee:</b></p>   |
| <p><b>5.A.</b></p>     | <p><b>Members</b></p> <p>Governments of member states are entitled to appoint representatives with the following desirable qualifications: senior officials having responsibilities regarding administrative law and administrative justice.</p> <p>The Council of Europe's budget bears the travelling and subsistence expenses for one representative per member state.</p>   |
| <p><b>5.B.</b></p>     | <p><b>Participants</b></p>  |
|                        | <p>The Steering Committee for Human Rights (CDDH) may send a representative to meetings of the Committee, without the right to vote and at the charge of the corresponding Council of Europe budget sub-head.</p>   |
| <p><b>5.C</b></p>      | <p><b>Other participants</b></p>  |
| <p>i.</p>              | <p>The European Commission and the Council of the European Union may send a representative to meetings of the Committee, without the right to vote or defrayal of expenses.</p>   |
| <p>ii.</p>             | <p>The states with observer status with the Council of Europe (Canada, Holy See, Japan, Mexico, United States of America) may send a representative to meetings of the Committee, without the right to vote or defrayal of expenses.</p>  |
| <p>iii.</p>            | <p>The following intergovernmental organisations may send a representative to meetings of the Committee, without the right to vote or defrayal of expenses:</p> <ul style="list-style-type: none"> <li>- OECD;</li> <li>- United Nations and its specialised organs.</li> </ul>   |
| <p><b>5.D.</b></p>     | <p><b>Observers</b></p>   |
|                        | <p>The following non-member states:</p> <ul style="list-style-type: none"> <li>- Montenegro</li> </ul>  |



|           |   |
|-----------|---|
|           | <p>and the following non-governmental organisations:</p> <ul style="list-style-type: none"> <li>- International Commission on Civil Status (CIEC),</li> <li>- European Public Law Centre,</li> <li>- Association of European Administrative Judges,</li> </ul> <p>may send a representative to meetings of the Committee, without the right to vote or defrayal of expenses.</p>  |
| <b>6.</b> | <b>Working methods and structures</b>   |
|           | <p>To facilitate specific work to be carried out by the CJ-DA, a working party will be set up and composed of 7 persons among the members of the Committee within the budgetary appropriation assigned to the Project Group. These persons will be appointed taking into account, in particular, legal systems, geographical distribution and gender balance.</p> <p>The CJ-DA may use consultants and organise hearings and consultations.</p> |
| <b>7.</b> | <b>Duration</b>   |
|           | These terms of reference will expire on 31.12.2008.   |