



Strasbourg, 5 February 1998

CAHDI (98) 1

COMMITTEE OF LEGAL ADVISERS
ON PUBLIC INTERNATIONAL LAW
(CAHDI)

15th meeting
(Strasbourg, 3-4 March 1998)

DECISIONS OF THE COMMITTEE OF MINISTERS
CONCERNING THE CAHDI

Secretariat memorandum
prepared by the
Directorate of Legal Affairs

Foreword

This document concerns decisions taken by the Committee of Ministers of the Council of Europe which are of interest for the CAHDI. These decisions were taken at the 612th and 615th meetings of the Committee of Ministers held in Strasbourg respectively, 16 December 1997 and 20 January 1998.

The proposals presented by the Russian Delegation concerning the future role of the CAHDI which are presented below are of particular interest for the members of the CAHDI.

Action required

Members of the CAHDI are invited to hold an exchange of views on the Russian proposals in the light of the Final Declaration of the Heads of State and Government at the Second Summit of the Council of Europe and work already under way in the Organisation.

DECISIONS OF THE COMMITTEE OF MINISTERS
CONCERNING THE CAHDI

A. 612th meeting of the Committee of Ministers

1. At its 612th meeting, the Committee of Ministers examined the report of the 14th meeting of the CAHDI. The Committee of Ministers took note of the report and, at the CAHDI's request, adopted terms of reference for the setting up of a Group of Specialists on Reservations to International Treaties (DI-S-RIT) (Appendix 1).

2. On the occasion of this meeting the Delegation of the Russian Federation presented to the Ministers' Deputies two specific proposals concerning the future role of the CAHDI (Appendix 2). In view of the fact that the Deputies had not had the opportunity to study these proposals in detail, the Committee of Ministers decided to postpone its consideration of the proposals to its 615th meeting.

B. 615th meeting of the Committee of Ministers

3. At the 615th meeting of the Committee of Ministers, the Russian Delegate explained the above-mentioned proposals which include: a) the preparation of a report on topical issues of international public law in Europe for the attention of the Committee of Ministers by the CAHDI twice a year; and b) the preparation of an inventory of Council of Europe conventions.

4. Moreover, the Russian Delegate stressed that the proposals aimed at making the CAHDI more visible within the structure of the Council of Europe and could help redefining the role of the CAHDI without necessarily modifying its terms of reference.

5. In this connection, it should be noted that the CAHDI has been the subject of criticisms by some delegations in the Committee of Ministers during discussions concerning the intergovernmental programmes of activities. These criticisms were connected with the lack of specific tasks for the CAHDI and its output.

6. The Committee of Ministers held an exchange of views on these proposals. Some delegations agreed on the interest of the proposals in the sense of giving concrete tasks to the CAHDI. Other delegations stressed the "flexible" nature of the CAHDI which is a unique forum in Europe for legal advisers to discuss on public international law which should be preserved.

7. Reference was also made by some delegations to the need for the CAHDI to reconsider itself its own role, particularly in the light of the Final Declaration of the Second Council of Europe's Summit of Heads of State and Government and the work of the Wise Persons Committee and other Council of Europe's organs.

8. At the close of discussion the Chairman of the Committee of Ministers summed up (Appendix 3) referring to the interest expressed by a number of Delegations that the CAHDI comment on the Russian proposals concerning its future role, in the light of the Final Declaration of the Heads of State and Government at the Second Summit of the Council of Europe (Appendix 4) and the work already under way in the Council of Europe.

Appendix 1

**COMMITTEE OF LEGAL ADVISERS ON PUBLIC INTERNATIONAL LAW
(CAHDI)**

**GROUP OF SPECIALISTS ON RESERVATIONS TO INTERNATIONAL
TREATIES (DI-S-RIT)**

Specific terms of reference

1. Name of committee: GROUP OF SPECIALISTS ON RESERVATIONS TO INTERNATIONAL TREATIES (DI-S-RIT)
2. Type of committee: Committee of Experts
3. Source of terms of reference: Ad hoc Committee of Legal Advisers on Public International Law (CAHDI)
4. Terms of reference:

In the framework of the examination of questions relating to reservations to international treaties, in particular from the human rights perspective, with a view to contributing to the work undertaken by the International Law Commission and bringing the views of member States in this field closer, the Group of specialists is called upon to:

- a. examine and propose ways and means and, possibly, guidelines to assist member States in developing their practice regarding their response to reservations and interpretative declarations actually or potentially inadmissible under international law and
 - b. consider the possible role of the CAHDI as an "observatory" of reservations to multilateral treaties of significant importance to the international community raising issues as to their admissibility under international law, and as an observatory of reactions by Council of Europe member States Parties to these instruments.
5. Membership of the committee:
 - a. All member States may appoint specialists in the Group.
 - b. The Council of Europe bears the travel and subsistence expenses of 7 specialists, one from each of the following countries: Austria, Croatia, Finland, Netherlands, Romania, Russia and Spain.
 - c. The Commission of the European Community may appoint a representative without reimbursement of expenses nor right to vote.

d. Representatives of the following organisations and countries will be invited to take part as observers in the meetings of the group:

- The Hague Conference on Private International Law
- Organisation for Economic Co-operation and Development
- North Atlantic Treaty Organisation
- Armenia
- Australia
- Azerbaijan
- Canada
- Holy See
- Japan
- New Zealand
- United States of America.

6. Working structures and methods:-

- a. The Group is co-ordinated by the Representative of Austria, Ambassador Franz CEDE.
- b. In carrying out its terms of reference, the group of specialists may have recourse to consultants.

7. Duration: These terms of reference expire on 31 December 1998.

Appendix 2

Appendix 3

Appendix 4

