

2000



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

Strasbourg, 02/02/00

CAHDI (2000) 3

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

**19th Meeting
Berlin, 13-14 March 2000**

GENERAL FULL POWERS

Secretariat memorandum prepared by the
Directorate General of Legal Affairs

Foreword

In a letter dated 26 August 1999 (included), the Director General of Legal Affairs informed the Permanent Representatives of the member States of the Council of Europe that “from now on, the Secretary General will accept general full powers, i.e. full powers granted by the Head of State, the Head of Government or the Minister of Foreign Affairs to the Permanent Representative to sign any treaty of which the Secretary General is the Depositary”, of course, notwithstanding certain requirements indicated in this letter.

This new possibility is intended to simplify the current procedure which requires specific full powers whenever signing a Convention, Agreement or Protocol of the Council of Europe.

It should be noted that the establishment of general full powers to the Permanent Representative would not prevent member States from granting specific full powers for a particular treaty to another personality (e.g. a Minister other than the Minister of Foreign Affairs for a signature during a ministerial conference, or the Ambassador of another country for a signature outside Strasbourg).

A model of general full powers was attached to the Director General of Legal Affairs' letter as an example.

By the time this document was prepared Georgia, Italy, Portugal and Sweden have already given general full powers valid until revocation to their respective Permanent Representatives to the Council of Europe.

Action required

Members of the CAHDI are invited to acknowledge this new possibility, to hold an exchange of views and possibly to inform the Secretariat about their follow-up to this new possibility.

Please quote: JJ119/1999
RL/JP/gd

Strasbourg, 26 August 1999

.....,

According to the Vienna Convention on the Law of Treaties and to established practice, whenever you wish to sign a Convention, Agreement or Protocol of the Council of Europe you are requested to produce full powers to that effect, granted by the authority of your country invested with the treaty-making power (Head of State, Head of Government or Minister of Foreign Affairs).

This practice has the advantage of providing the Secretary General, acting as the Depositary, with official notice that the State has taken all necessary internal steps towards signing a treaty.

It has however the disadvantage of being time-consuming and of imposing an administrative burden on the authorities in the capital, on the Permanent Representations in Strasbourg and on the Secretariat. It even happened in the past that certain countries were prevented from signing a Convention on the day of opening for signature, even though the Government had already taken the relevant decision, just because there had been no time to establish the full powers, or to send them to Strasbourg.

In order to simplify the current procedure, I wish to inform you that, from now on, the Secretary General will accept general full powers, i.e. full powers granted by the Head of State, the Head of Government or the Minister of Foreign Affairs to the Permanent Representative to sign any treaty of which the Secretary General is the Depositary.

The general full powers should be established when the Permanent Representative takes up his or her duties, and be valid for the duration of the duties.

The general full powers would enable the Permanent Representative to sign subject to ratification, acceptance or approval. Signatures without reservation as to ratification, acceptance or approval, in view of their legal consequences, would continue to require the establishment of specific full powers.

../..

Sent to : Permanent Representatives to the Council of Europe

The general full powers would be handed over to the Secretary General once, for instance at the time of the first signature after the Permanent Representative has taken up his or her duties, and would be kept by the Treaty Office for future reference. No other document would be needed on the occasion of successive signatures.

It will then be an internal matter for the Permanent Representative and his or her authorities in the capital to make sure that the domestic procedure prior to signature is duly completed.

The establishment of general full powers to the Permanent Representative would not prevent member States from granting specific full powers for a particular treaty to another personality (e.g. a Minister other than the Minister of Foreign Affairs for a signature during a ministerial conference, or the Ambassador to another country for a signature outside Strasbourg).

A model of general full powers is enclosed; this model is in no way mandatory, but is intended for guidance only, since different countries have different traditions in establishing this kind of formal documents.

Of course, member States may continue to observe the current procedure if they so wish, and grant specific full powers to their Permanent Representative on the occasion of each signature.

For any further clarification please do not hesitate to contact me or my colleagues in the Treaty Office Mr Lamponi, Mr Polakiewicz or Ms Rantala.

I remain,,

Yours faithfully,

Guy De Vel
Director of Legal Affairs

MODEL**GENERAL FULL POWERS**

His/Her excellency Mr/Ms, Permanent Representative of[State].....to the Council of Europe, is hereby granted full powers to sign on behalf of[State]....., subject to ratification, acceptance or approval, any treaty, convention, agreement, protocol or other instrument deposited with the Secretary General of the Council of Europe.

These full powers will remain valid, unless revoked or modified, for the duration of Mr/Ms[State].....'s duties as Permanent Representative of[State]..... to the Council of Europe.

Done at, on

Signed [Head of State, Head of Government or Minister of Foreign Affairs]