

Strasbourg, 24/02/05

CAHDI (2005) 1

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

**29th meeting
Strasbourg, 17-18 March 2005**

**DECISIONS BY THE COMMITTEE OF MINISTERS CONCERNING THE CAHDI
AND REQUESTS FOR CAHDI'S OPINION**

Secretariat Memorandum
Prepared by the Directorate General of Legal Affairs

1. 915th meeting – 9 February 2005

Item 3.1

1st Part of the 2005 Session (Strasbourg, 24-28 January 2005) – Texts adopted

(CM/Del/Dec(2005)913/3.1, 2005 Session (Provisional compendium of texts adopted))

Decisions

The Deputies

(...)

4. concerning Recommendation 1690 (2005) – The conflict over the Nagorno-Karabakh region dealt with by the OSCE Minsk Conference

a. agreed to bring it to the attention of their governments;

b. agreed to communicate it to the European Commission for Democracy through Law (Venice Commission), to the Steering Committee for Education (CD-ED) **and to the Committee of Legal Advisers on Public International Law (CAHDI) for information and possible comments by 30 April 2005** and to the European Commission against Racism and Intolerance (ECRI) for information;

c. agreed to resume consideration of this Recommendation at their 916th meeting (23 February 2005);

Appendix

Provisional edition

The conflict over the Nagorno-Karabakh region dealt with by the OSCE Minsk Conference

Recommendation 1690 (2005)¹

1. The Parliamentary Assembly refers to its Resolution 1416 (2005) on the conflict dealt with by the OSCE Minsk Conference and recommends that the Committee of Ministers:

i. urge the parties concerned to comply with the United Nations Security Council Resolutions 822 (1993), 853 (1993), 874 (1993) and 884 (1993), in particular by refraining from any armed hostilities and by withdrawing military forces from all occupied territories of Azerbaijan;

ii. monitor the compliance by Armenia and Azerbaijan with the United Nations Security Council Resolutions and the decisions of the OSCE Council of Ministers on this conflict and to report to the Assembly on the outcomes of this monitoring;

¹ *Assembly debate* on 25 January 2005 (2nd Sitting) (see Doc.10364, report of the Political Affairs Committee, rapporteur: Mr Atkinson). *Text adopted by the Assembly* on 25 January 2005 (2nd Sitting).

- iii. report to the Assembly on the efforts undertaken by member states for the peaceful settlement of the conflict in accordance with the Resolutions of the United Nations Security Council including whether member states refrain from the supply of any weapons and munitions which might lead to an intensification of the conflict or the continued occupation of territory in violation of Resolution 853 (1993) of the United Nations Security Council;
- iv. recalling its Recommendation 1251 (1994) on the conflict in Nagorno-Karabakh, place experts at the disposal of Armenia and Azerbaijan who could help draw up a political status for Nagorno-Karabakh, if they so wish;
- v. allocate resources for an action plan of specific confidence-building measures for Armenia and Azerbaijan;
- vi. allocate resources for specific training programmes for teachers and journalists from both countries aimed at better mutual understanding, tolerance and reconciliation;
- vii. allocate resources for specific action by the European Commission against Racism and Intolerance concerning both countries, in particular with regard to educational institutions and the public media;
- viii. instruct its competent steering committee to analyse how far the European Convention for the Peaceful Settlement of Disputes reflects the current requirements of conflict settlement among member states of the Council of Europe and where it should be revised in order to provide an adequate instrument for the peaceful settlement of disputes between the member states of the Council of Europe;
- ix. take Resolution 1416 (2005) into account when deciding on action concerning both countries;
- x. forward Resolution 1416 (2005) and this Recommendation to the governments of member states with a view to supporting them nationally, bilaterally and internationally.

2. 911th meeting – 12 January 2005

Item 10.4

Immunities of members of the Parliamentary Assembly – Parliamentary Assembly Recommendation 1602 (2003)

(REC_1602 (2003) and CM/AS(2004)Rec1602 final and CM/AS(2004)Rec1602 suppl. prov.)

Decision

The Deputies adopted the supplementary reply to Parliamentary Assembly Recommendation 1602 (2003) on immunities of members of the Parliamentary Assembly, as it appears at Appendix 10 to the present volume of Decisions.²

Appendix

CM/AS(2005)Rec1602 final suppl.

17 January 2005

Immunities of members of the Parliamentary Assembly Parliamentary Assembly Recommendation 1602 (2003)

(Supplementary reply adopted by the Committee of Ministers on 12 January 2005 at the 911th meeting of the Ministers' Deputies)

1. The Committee of Ministers recalls that it replied to Parliamentary Assembly Recommendation 1602 (2003) on immunities of members of the Parliamentary Assembly on 21 January 2004 at its 869th meeting. In its reply it recognised the importance of the issues referred to in the Recommendation and considered parliamentary immunity as one of the important guarantees of the independence of the legislative power.

2. The Committee of Ministers had communicated the Assembly Recommendation *inter alia* to the Committee of Legal Advisers on Public International Law (CAHDI) for information and possible comments. It had received a preliminary opinion from CAHDI. In its reply, the Committee of Ministers indicated that CAHDI would continue its consideration of the issues raised in the Assembly Recommendation and of the appropriateness and necessity of adopting a position concerning the interpretation of the General Agreement on Privileges and Immunities of the Council of Europe. The Committee of Ministers would keep the Assembly informed of future developments in this area, and in case of adoption of any further decision on the matter it would be communicated to the Assembly.

3. CAHDI pursued its consideration of Recommendation 1602 (2003) and agreed to propose to the Committee of Ministers to ask member states, where national legislation permits, to acknowledge unilaterally as an official document the *laissez-*

² See also CM/AS(2005)Rec1602 suppl. final.

passer issued by the competent Council of Europe authorities to the members of the Parliamentary Assembly. At their 904th meeting (17 November 2004), the Committee of Ministers decided to follow CAHDI's proposal. **It instructed the Secretary General to transmit the invitation to member states.**

N.B: This decision was followed by letter dated from 14 January 2005 of the Secretary General of the Council of Europe to the Permanent Representatives of Member States.

3. 908th meeting – 7 December 2004

Item 10.2

Committee of Legal Advisers on Public International Law (CAHDI) – Reservations to international treaties applicable to the fight against terrorism

(CM/Del/Dec(2004)904/10.1, CM(2004)174)

Decisions

The Deputies

1. examined the list of possibly problematic reservations to international treaties applicable to the fight against terrorism, which appears in Appendix II to document CM(2004)174, and invited the member states concerned to consider withdrawing their respective reservations;
2. invited the Secretary General to notify the non-member states concerned of the conclusions of CAHDI with regard to their respective reservations;
3. invited member states to volunteer to approach the non-member states concerned with regard to their respective reservations.

N.B. These decisions were followed by letter dated from 8 February 2005 of the Secretary General of the Council of Europe to the Ministers for Foreign Affairs of member states and to Ministers for Foreign Affairs of reserving non-member States that had made reservations contained in the list.

4. 904th meeting – 17 November 2004

Item 10.1

Committee of Legal Advisers on Public International Law (CAHDI) – Abridged report of the 28th meeting (Lausanne, 13-14 September 2004)

(CM(2004)174)

Decisions

The Deputies

1. with reference to Parliamentary Assembly Recommendation 1602 (2003) on immunities of the members of the Parliamentary Assembly, invited member states, where the national legislation permits, to acknowledge unilaterally as an official document, the laissez-passer issued by the competent Council of Europe authorities to the members of the Parliamentary Assembly. They instructed the Secretary General to transmit this invitation to member states;
2. instructed the Secretariat to prepare a draft supplementary reply to Recommendation 1602 (2003) in the light of the above decision;
3. examined the list of possibly problematic reservations to international treaties applicable to the fight against terrorism, which appears in Appendix II to document CM(2004)174, and decided to resume consideration of this item at their 908th meeting (7 December 2004);
4. approved the specific terms of reference of the Committee of Legal Advisers on Public International Law (CAHDI), as they appear at Appendix 11 to the present volume of Decisions;
5. took note of the abridged report of CAHDI's 28th meeting as it appears in document CM(2004)174, as a whole.