

Strasbourg, 16/09/10

CAHDI (2010) OJ 2 Annotated

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

**40th meeting
Tromsø, Norway, 16-17 September 2010**

ANNOTATED AGENDA

A. INTRODUCTION

1. Opening of the meeting by the Chair, Mr. Rolf Einar Fife
2. Adoption of the agenda **CAHDI (2010) OJ 2 prov + annotated**
3. Approval of the report of the 39th meeting **CAHDI (2010) 14 prov**
4. Statement by Mr Manuel Lezertua, Director of Legal Advice and Public International Law **CAHDI (2010) Inf 9**
The Secretariat will provide information on developments within the Council of Europe since the CAHDI's 39th meeting.

B. ONGOING ACTIVITIES OF THE CAHDI

5. Committee of Ministers' decisions of relevance to the CAHDI's activities including requests of the CAHDI's opinion: **CAHDI (2010) 19**
The CAHDI is invited to take note of Committee of Ministers' decisions relevant to the CAHDI's activities, as set out in document CAHDI (2010) 19.
 - Ad hoc mandate to study the Venice Commission's report on Private Military and Security Firms and Erosion of the State Monopoly on the use of force **CAHDI (2010) 15, 16 prov & 26; CDL-AD (2009) 038**
On 21 April 2010, the Ministers' Deputies adopted Decision No. CM/881/21042010, giving ad hoc terms of reference to the Committee of Legal Advisers on Public International Law (CAHDI), to study the suggestions made in the Venice Commission's report on Private Military and Security Firms and Erosion of the State Monopoly on the Use of Force, in the light of the Parliamentary Assembly Recommendation 1858 (2009) on the same subject, and to report back.
The ad hoc terms of reference given to the CAHDI, expiring on 31st December 2010, as well as the Venice Commission's report on Private Military and Security Firms and Erosion of the State Monopoly on the Use of Force are set out respectively in documents CAHDI (2010) 15 and CDL-AD (2009) 038. The draft opinion of the Committee, which was prepared by the Secretariat and approved by the Chair and the Vice-Chair of the Committee, is set out in document CAHDI (2010) 16 prov.
The contribution of Switzerland appears in document CAHDI (2010) 26.
 - Request for possible comments of the CAHDI on Recommendation 1913 (2010) – "The necessity to take additional international legal steps to deal with sea piracy" **CAHDI (2010) 17 prov**
Delegations are asked to consider the draft reply proposed by the Secretariat and approved by the Chair and Vice-Chair of the Committee (document CAHDI (2010) 17 prov). It has been agreed with the Secretariat of the Committee of Ministers that CAHDI comments could be submitted by 20 September 2010 (original date set up by the Committee of Ministers' Secretariat - 15 September 2010).

- Request for possible comments of the CAHDI on Recommendation 1920 (2010) "Reinforcing the effectiveness of Council of Europe treaty law"

CAHDI (2010) 18 prov & 23

The request was transmitted for possible comments by 15 October 2010. Delegations are asked to consider the draft reply proposed by the Secretariat and approved by the Chair and Vice-Chair of the Committee (document CAHDI (2010) 18 prov). Some Council of Europe documents pertinent to this request are presented for information in document CAHDI (2010) 23.

6. Immunities of States and international organisations:

a. State practice and case-law

- recent national developments and updates of the website entries

CAHDI (2010) Inf 2 rev

Delegations are invited to present developments concerning State practice regarding State immunities orally and to update their contributions to the aforesaid database on a regular basis. Those delegations which have not yet done so are invited to submit their contributions at their earliest convenience. Since the European Union presentation of its practice regarding lawsuits in third countries at the last CAHDI meeting, no new update has been submitted.

- exchange of national practices on possibilities for the Ministry of Foreign Affairs to raise public international law issues in procedures pending before national tribunals and related to States' or international organisations' immunities

CAHDI (2010) 6 prov

The Secretariat has circulated a questionnaire on this matter and kindly asks delegations to provide their responses to the Secretariat at their earliest convenience. Thus far, the Secretariat has received responses from Albania, Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Hungary, Ireland, Italy, Latvia, Luxembourg, Montenegro, Norway, Portugal, Romania, Russian Federation, Slovak Republic, Slovenia, Canada, Japan and the United States. These responses appear in document CAHDI (2010) 6 prov.

b. UN Convention on Jurisdictional Immunities of States and Their Property

CAHDI (2010) Inf 3 rev

Each member and observer State is invited to report on its position regarding the UN Convention on Jurisdictional Immunities of States and Their Property. Since the last CAHDI meeting, Switzerland has ratified and Japan has accepted the Convention.

7. Organisation and functions of the Office of the Legal Adviser of the Ministry for Foreign Affairs:

- a. Questions dealt with by offices of the Legal Adviser which are of wider interest and related to the drafting of implementing legislation, foreign litigation, peaceful settlements of disputes, and other questions of relevance to the Legal Adviser

The contribution of Interpol appears in document CAHDI (2010) 24

CAHDI (2010) 24

b. Updates of the website entries

CAHDI (2010) Inf 10

The delegations are invited to present national developments orally and to update their contributions to this database on a regular basis. Those delegations which have not yet done so are invited to submit their contributions at their earliest convenience. Since the presentation by the Office of Legal Affairs of Interpol and the contribution of Canada at the last CAHDI meeting, the contribution of Lithuania has been submitted and published in the database.

8. National implementation measures of UN sanctions and respect for human rights

CAHDI (2010) 7 prov., 25 & Inf 11 rev

Since the presentations of the European Union and Interpol at the 39th meeting of the CAHDI, the contributions of Lithuania and United Kingdom have been submitted to and published in the database on National Implementation Measures of UN Sanctions and Respect for Human Rights. Delegations are invited to present national developments orally and to update their contributions to this database on a regular basis. Those delegations which have not yet done so are invited to submit their contributions at their earliest convenience.

CAHDI is also invited to consider information submitted by delegations on cases that have been eventually submitted to national tribunals by persons or entities removed from the lists established by the UN Security Council Sanctions Committee. Thus far, the Secretariat has received responses from Belgium, Denmark, France, United Kingdom, Canada and the United States of America. These responses appear in document CAHDI (2010) 7 prov. The contribution on Interpol's co-operation with the United Nations in relation to the United Nations Security Council Sanctions Committees appears in document CAHDI (2010) 25.

9. Accession of the European Union to the European Convention of Human Rights (ECHR):

a. Information to be provided by:

- Ms Tonje Meinich, Chair of the CDDH Informal Working Group on the Accession of the European Union to the European Convention on Human Rights (CDDH – UE) **CDDH-UE(2010) 05 & CDDH-UE (2010) 06 rev**

The draft list of issues to be discussed regarding the accession of the European Union to the European Convention on Human Rights as well as the meeting report of the 1st working meeting of the of the CDDH informal working group on the accession of the European Union to the European Convention on Human Rights (CDDH-UE) with the European Commission are available under this item of the agenda.

- Mr Erik Fribergh, Registrar of the European Court of Human Rights (ECtHR)
- Ms Sonja Boelaert, European Commission, Legal Service, External Relations

b. Election of an observer on behalf of the CAHDI in the CDDH's Informal Working Group on the Accession of the European Union to the European Convention on Human Rights (CDDH-UE)

The 2nd Working meeting of the CDDH-EU will take place in Strasbourg, Council of Europe, in Room G01 of the Agora Building from Monday 20 September (opening: 9.30 a.m.) to Wednesday 22 September 2010 (end: 1.30 p.m).

10. Cases before the ECtHR involving issues of public international law

All delegations are encouraged to report on any judgments or decisions, pending cases or relevant ongoing events.

11. Peaceful settlement of disputes

CAHDI (2010) 20

Delegations are invited to consider the updated document CAHDI (2010) 20 containing information on the ICJ's jurisdiction under selected international treaties and agreements.

12. Law and practice relating to reservations and interpretative declarations concerning international treaties: European Observatory of Reservations to International Treaties:

- List of outstanding reservations and declarations to international Treaties

CAHDI (2010) 21 rev + Add prov

Delegations are invited to consider outstanding reservations and declarations to international treaties concluded within and outside the Council of Europe (CAHDI (2010) 21 rev). Delegations are invited, in particular, to present their intentions in view of updating the table prepared by the Secretariat (CAHDI (2010) 21 Add). Information concerning these treaties can be consulted at <http://conventions.coe.int/> and <http://treaties.un.org>.

C. GENERAL ISSUES ON PUBLIC INTERNATIONAL LAW

13. The work of the International Law Commission (ILC) and of the Sixth Committee:

A/65/10

The Report of the ILC on the work of its 62nd session was kindly provided by the ILC Secretariat. This document is available on the CAHDI's restricted website.

- Exchange of views between the ILC, the Chair of the CAHDI and the Director of DLAPIL, Geneva, 20 July 2010
- Council of Europe comments and observations on the ILC Draft Articles on "Responsibility of International Organisations" **CAHDI (2010) 8 & Inf 7**

Following the exchange of views in this regard at the last CAHDI meeting, held on the basis of the document CAHDI (2010) 8, the Committee will be informed by the Legal Adviser of Council of Europe of developments regarding this issue.

14. Consideration of current issues of international humanitarian law
15. Developments concerning the International Criminal Court (ICC)
16. Implementation and functioning of other international criminal tribunals (ICTY, ICTR, Sierra Leone, Lebanon, Cambodia)
17. Follow-up of the outcome document of the 2005 UN World Summit – Advancing the international rule of law
18. Fight against terrorism - Information about work undertaken in the Council of Europe and other international bodies
The Legal Advisor of Council of Europe will present the latest developments in the Council of Europe, namely that concerning the Council of Europe Convention on the Prevention of Terrorism (CETS No. 196).
19. Topical issues of international law

D. OTHER

20. Election of the Chair and Vice-Chair **CAHDI (2010) 22**
The terms of office of Mr Rolf Einar Fife (Norway) and Ms Edwige Belliard (France), respectively Chair and Vice-Chair of the CAHDI, expire at the end of 2010. The CAHDI is called upon to elect a Chair and a Vice-Chair for a period of one year expiring 31st December 2011.
21. Date, place and agenda of the 41st meeting of the CAHDI
22. Other business

TENTATIVE ORDER OF BUSINESS:

	15 September 2010
21:00	Welcoming drink in the Radisson Blu Hotel
	16 September 2010
8:30 – 09:00	Registration for the meeting
9:00 – 13:00	Items: 1 - 8
13:00 – 14:30	Lunch Break
14:30 – 17:30	Items: 9 - 12
18:30	Social event
	17 September 2010
8:30 – 13:00	Items: 5 (to be continued), 13 - 22
13:00	End of the meeting