



Strasbourg, 17/09/12

CAHDI (2012) OJ 2 annotated prov  
*Restricted*

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

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## Draft Annotated Agenda

**44<sup>th</sup> meeting**  
Paris, 19-20 September 2012

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Public International Law Division,  
Directorate of Legal Advice and Public International Law, DLAPIL

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## I. **INTRODUCTION**

### 1. **Opening of the meeting by the Chair, Ms Edwige Belliard**

### 2. **Adoption of the agenda**

#### Working documents

- Draft agenda CAHDI (2012) OJ 2 prov
- Annotated draft agenda CAHDI (2012) OJ 2 annotated prov  
Restricted

### 3. **Adoption of the report of the 43<sup>rd</sup> meeting**

*The CAHDI is invited to adopt the report of the previous meeting, held in Strasbourg on 29-30 March 2012 (document CAHDI (2012) 11 prov) and to authorise its publication on the website of the CAHDI.*

#### Working document

- Draft report of the 43<sup>rd</sup> meeting of the CAHDI CAHDI (2012) 11 prov  
Restricted until approval

### 4. **Statement by the Director of Legal Advice and Public International Law, Mr Manuel Lezertua**

*Mr. Manuel Lezertua will provide information to the Committee on developments within the Council of Europe since the 43<sup>rd</sup> meeting of the CAHDI.*

*The CAHDI is also invited to take note of the observations of the Directorate of Legal Advice and Public International Law on the scope and application of the universal criminal jurisdiction in the work of the Council of Europe (document CAHDI (2012) 16 prov).*

#### Working documents

- Developments concerning the Council of Europe Treaty Series since the 43<sup>rd</sup> meeting of the CAHDI CAHDI (2012) Inf 6
- Observations on the scope and application of the universal criminal jurisdiction in the work of the Council of Europe CAHDI (2012) 16 prov  
Restricted
- Report by the Secretary General on the review of Council of Europe conventions SG/Inf(2012)12  
Restricted

## II. **ONGOING ACTIVITIES OF THE CAHDI**

### 5. **Committee of Ministers' decisions of relevance to the CAHDI's activities, including requests for CAHDI's opinion**

*The CAHDI is invited to take note of Committee of Ministers' decisions of relevance to the CAHDI's activities (documents CAHDI (2012) 12 and CAHDI (2012) 12 Addendum).*

*On 28 March 2012, the Ministers' Deputies communicated to the CAHDI - for information and possible comments - Recommendation 1995 (2012) of the Parliamentary Assembly concerning the "The International Convention for the Protection of all Persons from Enforced Disappearances". By email dated 5 September 2012, delegations have been*

*invited to submit their written observations to the “Draft comments of the Committee of Legal Advisers on Public International Law (CAHDI) on Recommendation 1995 (2012) of the Parliamentary Assembly “The International Convention for the Protection of all Persons from Enforced Disappearance”” (document CAHDI (2012) 17 prov). Albania has submitted its observations which appear in document CAHDI (2012) 17 Addendum.*

*In light of these observations, delegations are invited to re-examine document CAHDI (2012) 7 prov with a view to adopt the comments of the CAHDI on Recommendation 1995 (2012) of the Parliamentary Assembly which will be transmitted to the Ministers’ Deputies.*

### Working documents

- Committee of Ministers’ decisions of relevance to the CAHDI’s activities, including requests for CAHDI’s opinion CAHDI (2012) 12  
*Restricted*
- Appendices to Committee of Ministers’ decisions of relevance to the CAHDI’s activities, including requests for CAHDI’s opinion CAHDI (2012) 12 Addendum  
*Restricted*
- Draft comments of the Committee of Legal Advisers on Public International Law (CAHDI) on Recommendation 1995 (2012) of the Parliamentary Assembly “The International Convention for the Protection of all Persons from Enforced Disappearance” CAHDI (2012) 17 prov  
*Restricted*
- Addendum to the Draft comments of the Committee of Legal Advisers on Public International Law (CAHDI) on Recommendation 1995 (2012) of the Parliamentary Assembly “The International Convention for the Protection of all Persons from Enforced Disappearance” CAHDI (2012) 17 Addendum  
*Restricted*
- Opinion of the Steering Committee for Human Rights (CDDH) on the Recommendation 1995 (2012) of the Parliamentary Assembly “The International Convention for the Protection of all Persons from Enforced Disappearance” CDDH(2012)R75 Appendix III

## **6. Immunities of States and international organisations**

### **a. State practice and case-law**

- recent national developments and updates of the website entries

*Delegations are invited to present orally developments concerning State practice regarding State immunities. Since Israel’s contribution to the 43<sup>rd</sup> meeting of the CAHDI, Spain has submitted an update of its contribution to the database on State practice regarding State Immunities (document CAHDI (2012) Inf 11). Delegations which have not yet done so are invited to submit or to update their contributions at their earliest convenience.*

- 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

*The Secretariat has circulated a questionnaire on this matter and so far, it has received responses from 27 delegations (document CAHDI (2012) 18 prov). Delegations are informed that since the 43<sup>rd</sup> meeting of the CAHDI, Spain has submitted its response to this questionnaire.*

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

*Each delegation is invited to report on its position regarding the UN Convention on Jurisdictional Immunities of States and Their Property. Delegations are informed that since the 43<sup>rd</sup> meeting of the CAHDI, no State represented within the CAHDI has signed, ratified, accepted, approved or acceded to this convention.*

Working documents

- Database on State Practice regarding State Immunities CAHDI (2012) Inf 11  
*Bilingual*
- 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 (2012) 18 prov  
*Restricted Bilingual*
- State of signatures and ratifications of the UN Convention on Jurisdictional Immunities of States and Their Property and of the European Convention on State Immunities CAHDI (2012) Inf 2

**7. Organisation and functions of the Office of the Legal Adviser of the Ministry of 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 of international law as well as foreign litigation, peaceful settlements of disputes, and other questions of relevance to the Legal Adviser
- b. Updates of the website entries

*Delegations are invited to present orally any recent national developments. Since Italy's contribution to the 43<sup>rd</sup> meeting of the CAHDI, Spain and Montenegro have submitted a new contribution to the database on the organisation and functions of the Office of the Legal Adviser of the Ministry of Foreign Affairs. Delegations which have not yet done so are invited to submit or to update their contributions at their earliest convenience.*

Working document

- Database on the organisation and functions of the Office of the Legal Adviser of the Ministry of Foreign Affairs CAHDI (2012) Inf 10  
*Bilingual*

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

*Delegations are 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 Committees. So far, the Secretariat has received the contributions of 6 delegations (document CAHDI (2012) 3 prov).*

*Concerning the database, delegations are invited to present national developments orally. Since the contribution of the European Union, presented orally at the 43<sup>rd</sup> meeting of the CAHDI and published since in the database, the updated contributions of Ireland, of Spain and of the United States have been submitted and published in the database (document CAHDI (2012) Inf 7). Delegations which have not yet done so are invited to submit or to update their contributions at their earliest convenience.*

Working documents

- Cases that have been submitted to national tribunals by persons or entities removed from the lists established by the UN Security Council Sanctions Committees. CAHDI (2012) 3 prov  
*Restricted Bilingual*
- Database on national implementation measures of UN sanctions and respect for human rights CAHDI (2012) Inf 7  
*Bilingual*

## 9. European Union's accession to the European Convention of Human Rights (ECHR)

*Delegations are invited to take note of the report of the 75<sup>th</sup> meeting of the Steering Committee for Human Rights (Strasbourg, 19-22 June 2012) during which the CDDH has organised its work with a view to negotiations on the accession of the European Union to the European Convention on Human Rights following the decisions of the Ministers' Deputies of 13 June 2012.*

*Delegations are also invited to take note of the report of the first negotiation meeting between the CDDH and the European Commission on the accession of the European Union to the European Convention on Human Rights (Strasbourg, 21 June 2012).*

### Working document

- Report of the 75<sup>th</sup> meeting of the Steering Committee for Human Rights (CDDH) CDDH(2012)R75
- Report of the first negotiation meeting between the CDDH and the European Commission on the accession of the European Union to the European Convention on Human Rights 47+1(2012)R01

## 10. Cases before the European Court of Human Rights involving issues of public international law

*Delegations are invited to report on any judgements or decisions, pending cases or relevant forthcoming events.*

## 11. Peaceful settlement of disputes

*Delegations are invited to consider document CAHDI (2012) 13 rev, containing information on the International Court of Justice's jurisdiction under selected international treaties and agreements. Since the last meeting of the CAHDI, Ireland's declaration of acceptance of ICJ's jurisdiction is included in the aforementioned document; Bulgaria and the Republic of Moldova have acceded to the Convention on the Reduction of Statelessness; Austria and Bosnia and Herzegovina have ratified the International Convention for the Protection of All Persons from Enforced Disappearances; Australia has ratified the International Convention for the Suppression of Acts of Nuclear Terrorism; Turkey has ratified the Council of Europe Convention on the Prevention of Terrorism; and Switzerland and Sweden have ratified the Convention on Cluster Munitions.*

### Working document

- International Court of Justice's jurisdiction under selected international treaties and agreements, situation concerning the member and observer States of the Council of Europe, which are parties to these agreements and treaties CAHDI (2012) 13 rev  
*Restricted*

## 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

*Delegations are invited to consider outstanding reservations and declarations to international treaties concluded within and outside the Council of Europe (document CAHDI (2012) 14). Information concerning these treaties can be consulted at <http://conventions.coe.int/> et <http://treaties.un.org>. Delegations are also invited to express their intentions in view of completing the table of objections (document CAHDI (2012) 14 Addendum prov). In this respect, the Secretariat draws the attention of delegations to a category which has been added to the table, namely "State is considering the possibility of objecting".*

Working documents

- List of outstanding reservations and declarations to international treaties CAHDI (2012) 14  
*Restricted*
- Table of objections CAHDI (2012) 14 Addendum prov  
*Restricted*  
*Bilingual*

**III. GENERAL ISSUES OF PUBLIC INTERNATIONAL LAW****13. The work of the International Law Commission (ILC) and of the Sixth Committee**

- Presentation of the work of the International Law Commission (ILC) and of the Sixth Committee by Sir Michael Wood, Member of the ILC

*Delegations are invited to take note of the presentation of recent activities of the ILC and of the Sixth Committee by Sir Michael WOOD, Member of the ILC. The report of the ILC on the work of its 64<sup>th</sup> Session was kindly provided by the Secretariat of the ILC.*

- Exchange of views between the ILC, the Chair of the CAHDI and the Director of DLAPIL, Geneva, 4 July 2012

*Delegations are invited to take note of the exchange of views which took place on 4 July 2012 between the ILC, the Chair of the CAHDI and the Director of Legal Advice and Public International Law of the Council of Europe.*

Working documents

- Intervention by Ms Edwige Belliard, Chair of the CAHDI, at the 64<sup>th</sup> Session of the ILC CAHDI (2012) Inf 8  
*French only*
- Intervention by Mr Manuel Lezertua, Jurisconsult, Director of Legal Advice and Public International Law, Council of Europe, at the 64<sup>th</sup> Session of the ILC CAHDI (2012) Inf 9  
*French only*
- Report of the ILC, 64<sup>th</sup> Session A/67/10  
*Restricted*

**14. Consideration of current issues of international humanitarian law**

- Intervention by Mr Fausto POCAR, President of the International Institute of Humanitarian Law

*Delegations are invited to take note of the presentation made by Mr Fausto POCAR, President of the International Institute of Humanitarian Law concerning the conclusions of the 35<sup>th</sup> Annual Round Table of the Institute.*

**15. Developments concerning the International Criminal Court (ICC)**

*Delegations are invited to present any recent developments concerning the International Criminal Court (ICC).*

**16. Implementation and functioning of other international criminal tribunals (ICTY, ICTR, Sierra Leone, Lebanon, Cambodia)**

*Delegations are invited to share information about the implementation and functioning of other international criminal tribunals.*

## 17. Topical issues of international law

*Delegations are invited to share information on topical issues of international law.*

## IV. OTHER

### 18. Election of the Chair and Vice-Chair of the CAHDI

*The term of office of Ms Edwige Belliard (France), President of CAHDI expires on 31 December 2012. The term of office of Ms Concepción Escobar Hernández (Spain), Vice-Chair of the CAHDI came to an end following the change of her functions as announced at the last meeting of the Committee. In light of the practice of the CAHDI, it is proposed not to replace the Vice-Chair for the short period of time remaining before the expiration of her original term of office.*

*The CAHDI is therefore called upon to elect a Chair and a Vice-Chair for a period of one year from 1 January 2013 to 31 December 2013.*

#### Working documents

- Election of the Chair and Vice-Chair of the CAHDI CAHDI (2012) 15

### 19. Date, venue and agenda of the 45<sup>th</sup> meeting of the CAHDI

*Delegations are invited to decide on the date, venue and agenda of the 45<sup>th</sup> meeting of the CAHDI. The proposed venue and dates are 28 and 29 March 2013, in Strasbourg.*

### 20. Other business

*Delegations are invited to resume their examination of the request for observer status presented by the International Institute of Humanitarian Law at the 43<sup>rd</sup> meeting of the CAHDI and to take a decision in this regard. The reference documents are identical to those presented at the previous meeting of the Committee (documents CAHDI (2012) 6 and CAHDI (2012) 6 Add). The Secretariat of the CAHDI draws delegations' attention to the fact that the Report of Activities for the year 2011 of the Institute appears on the website of the Institute (<http://www.iihl.org/Default.aspx?pageid=page12205>).*

#### Working documents

- Request for observer status with the CAHDI by the International Institute of Humanitarian Law CAHDI (2012) 6  
*Restricted*
- Report of Activities for the year 2010 of the International Institute of Humanitarian Law CAHDI (2012) 6 Add  
*Restricted*

## TENTATIVE ORDER OF BUSINESS

<b>19 September 2012</b>	
14:30 – 18:00	Items: 1 - 6, 14
19:00	<i>Cocktail given at the Residence of the German Ambassador in France (Residence, Hôtel de Beauharnais, 78 rue de Lille, Paris)</i>
<b>20 September 2012</b>	
09:30 – 12:30	Items: 5 (if necessary), 7 - 12
12:30 – 14:30	Lunch break
14:30 – 18:00	Items : 13, 15 - 20