

Strasbourg, 29/03/12

CAHDI (2012) OJ 1 annotated

COMMITTEE OF LEGAL ADVISERS ON PUBLIC INTERNATIONAL LAW (CAHDI)

Annotated agenda

43rd meeting
Strasbourg, 29-30 March 2012

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

cahdi@coe.int - fax +33 (0)3 90 21 51 31 - www.coe.int/cahdi

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 1 prov
- Annotated draft agenda CAHDI (2012) OJ 1 annotated prov
Restricted

3. Adoption of the report of the 42nd meeting

The CAHDI is invited to adopt the report of the previous meeting, held in Strasbourg on 22-23 September 2011 (document CAHDI (2011) 17 prov rev) and to authorise its publication on the website of the CAHDI.

Working document

- Draft report of the 42nd meeting of the CAHDI CAHDI (2011) 17 prov rev
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 42nd meeting of the CAHDI.

Working documents

- Developments concerning the Council of Europe Treaty Series since the 42nd meeting of the CAHDI CAHDI (2012) Inf 1
- Resolution CM/Res(2011)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods CM/Res(2011)24
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 (document CAHDI (2012) 2). The decisions concern, inter alia, the treaty law, the relationship between the Council of Europe and the European Union and the reform of the Council of Europe. No requests for CAHDI's opinion have been made by the Committee of Ministers since the last meeting of the CAHDI.

Delegations are also invited to take note of the terms of reference of the CAHDI for 2012-2013 which were adopted by the Committee of Ministers at its 1127th (Budget) meeting from 22 to 24 November 2011.

Working documents

- Committee of Ministers' decisions of relevance to the CAHDI's activities, including requests for CAHDI's opinion CAHDI (2012) 2
Restricted
- Terms of reference of the CAHDI for 2012-2013 adopted by the Committee of Ministers at its 1127th (Budget) meeting from 22 to 24 November 2011 CAHDI (2012) 1

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 Serbia's contribution to the 42nd meeting of the CAHDI, Israel has submitted a new contribution to the database regarding a case-law relating to State immunities (document CAHDI (2012) Inf 4). The 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 26 delegations (document CAHDI (2012) 7 prov). Delegations are informed that since the 42nd meeting of the CAHDI, Sweden 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. Regarding latest developments, Spain has acceded to the Convention on 21 September 2011.

Working documents

- Database on State Practice regarding State Immunities CAHDI (2012) Inf 4
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) 7 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 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 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 potential national developments orally. Since the last meeting of the CAHDI, the updated contribution of Italy has been published in the database. The 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 3
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 Committee. So far, the Secretariat has received the contributions of 6 delegations (document CAHDI (2012) 3 prov). Since the 42nd meeting of the CAHDI, Belgium has submitted an update of its contribution.

Concerning the database, the delegations are invited to present national developments orally. Since the contribution of the European Union for the 42nd meeting of the CAHDI, no new contributions or updates have been submitted to the database (document CAHDI (2011) Inf 10). The 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 eventually 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 (2011) Inf 10
Bilingual

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

- Information provided by Mr Erik Wennerström, observer of the CAHDI to the Informal Working Group on the Accession of the European Union to the European Convention on Human Rights (CDDH – EU)

Delegations are invited to take note of the information provided by Mr Erik Wennerström, observer of the CAHDI to the Informal Working Group on the Accession of the European Union to the European Convention on Human Rights (CDDH – EU) regarding the progress made by the Group since the 42nd meeting of the CAHDI.

Delegations are invited to take note of the Report of the Extraordinary Meeting of the Steering Committee for Human Rights (CDDH) on the Accession of the European Union to the European Convention on Human Rights (CDDH – EU) with the CDDH Informal Working Group on the accession of the European Union to the European Convention on Human Rights and the European Commission (Strasbourg, 12 – 14 October 2011) during which the Draft legal instruments on European Union accession to the European Convention on Human Rights were discussed.

Working document

- Report of the Extraordinary Meeting of the Steering Committee for Human Rights (CDDH) on the Accession of the European Union to the European Convention on Human Rights with the CDDH informal Working Group on the accession of the European Union to the European Convention on Human Rights (CDDH-UE) and the European Commission (Strasbourg, 12-14 October 2011) CDDH (2011)R Ex

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 the document CAHDI (2012) 8 containing information on the International Court of Justice's jurisdiction under international treaties and agreements. An update of this document has been made and the analysis covers henceforth all States represented within the CAHDI, including Australia and New-Zealand. In addition, two new conventions have been added to this document, namely the International Convention for the Protection of All Persons from Enforced Disappearance (2006) and the Convention on Cluster Munitions (2008).

In view of these new elements, many updates related to the state of signatures and ratifications of the relevant treaties and international agreements concern Australia and New-Zealand, as well as the aforementioned two conventions. The other updates mainly concern the treaties of codification of international law. In this respect, since the last meeting of the CAHDI, Croatia, Bulgaria and Serbia acceded to the Convention on the Reduction of Statelessness and Spain acceded to the Optional Protocol to the Vienna Convention on Consular Relations concerning the Compulsory Settlement of Disputes. Furthermore, the Holy See has acceded to the International Convention for the Suppression of the Financing of Terrorism and has ratified the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

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) 8 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) 4 rev). 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 prepared by the Secretariat (document CAHDI (2012) 4 Addendum prov).

Working documents

- List of outstanding reservations and declarations to international treaties
- Table of objections

CAHDI (2012) 4 rev
Restricted

CAHDI (2012) 4 Addendum prov
Restricted
Bilingual

III. GENERAL ISSUES OF PUBLIC INTERNATIONAL LAW

13. Exchange of views with Mr Luis ROMERO REQUENA, Director General of the Legal Department, European Commission

Delegations are invited to take note of the presentation made by Mr Luis Romero Requena, Director General of the Legal Department of the European Commission concerning "The legal order of the European Union and public international law".

14. Exchange of views on the Council of Europe Convention Review

During the 42nd meeting of the CAHDI, the Committee had discussions on the Preliminary Draft Report by the Secretary General on the Review of Council of Europe Conventions. Delegations noted the importance of this exercise and "stated that they were ready to transmit to the Committee of Ministers a more thorough analysis of the preliminary draft report at the end of the next CAHDI meeting in March 2012" (document CAHDI (2011) MISC 4 rev).

Subsequently, delegations were given a new deadline by which to submit their comments on the Preliminary Draft Report by the Secretary General. Finland, France, Germany, the Netherlands, Portugal, Romania, Serbia, Sweden and Turkey presented their written observations which appear in document CAHDI (2012) 5.

Delegations are invited to examine the documents prepared by the Chair of the CAHDI, namely the "Draft Observations of the Committee of Legal Advisers on Public International Law (CAHDI) on the Preliminary Draft Report by the Secretary General on the Review of Council of Europe Conventions" (document CAHDI (2012) 9 prov) and its addendum (document CAHDI (2012) 9 Addendum prov) with a view to adopting the observations of the CAHDI which will be conveyed to the Secretary General at the end of the meeting.

Working documents

- Draft Observations of the Committee of Legal Advisers on Public International Law (CAHDI) on the Preliminary Draft Report by the Secretary General on the Review of Council of Europe Conventions CAHDI (2012) 9 prov
Restricted
- Addendum to the draft Observations of the Committee of Legal Advisers on Public International Law (CAHDI) on the Preliminary Draft Report by the Secretary General on the Review of Council of Europe Conventions CAHDI (2012) 9 Addendum prov
Restricted
- Comments by the delegations of the CAHDI on the Preliminary Draft Report by the Secretary General on the Review of Council of Europe Conventions (*document SG/Inf-2011)21rev2*) CAHDI (2012) 5
Restricted
Bilingual
- Preliminary Draft Report by the Secretary General on the Review of Council of Europe Conventions (*as revised on 27 September 2011*) SG/Inf(2011)21 rev2*
Restricted
- Results of the discussions in the Committee of Legal Advisers on Public International Law (CAHDI) on the Preliminary Draft Report of the Secretary General on the Outline of Council of Europe Convention review (42nd meeting of the CAHDI, 22-23 September 2011) CAHDI (2011) MISC 4 rev
Restricted

15. Consideration of current issues of international humanitarian law

Delegations are invited to discuss current questions concerning international humanitarian law and to present any relevant information, including on forthcoming events.

16. Developments concerning the International Criminal Court (ICC)

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

17. 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.

18. Topical issues of international law

Delegations are invited to take note of the report of the 3rd meeting of the Committee of Experts on a Simplified Procedure for Amendment of Certain Provisions of the European Convention on Human Rights (DH-PS) (Strasbourg, 19-21 October 2011) during which the DH-PS examined the possible national and/or international legal problems affecting the feasibility of certain possible modalities for the introduction of a simplified amendment procedure and took note of the opinion of the CAHDI in this respect.

Working document

- Report of the 3rd meeting of the Committee of Experts on a simplified procedure for amendment of certain provisions of the European Convention on Human Rights (DH-PS) (Strasbourg, 19-21 October 2011) DH-PS(2011)R3

* The content of this document is identical to that of the French version under the reference SG/Inf(2011)21rev.

IV. OTHER

19. **Date, venue and agenda of the 44th meeting of the CAHDI**

Delegations are invited to decide on the date, venue and agenda of the 44th meeting of the CAHDI. The proposed dates are 19, 20 and 21 September 2012.

20. **Other business**

Delegations are invited to consider the request for observer status presented by the International Institute of Humanitarian Law and to take a decision in this regard.

Working documents

- | | |
|---|---|
| • Request for observer status with the CAHDI by the International Institute of Humanitarian Law | CAHDI (2012) 6 <i>Restricted</i> |
| • Report of Activities for the year 2010 of the International Institute of Humanitarian Law | CAHDI (2012) 6 Add <i>Restricted</i> |

* * *

TENTATIVE ORDER OF BUSINESS

| | |
|---------------|--|
| | 29 March 2012 |
| 09:30 - 12:30 | Items: 1 – 5, 14, 6 – 9 |
| 12:30 - 14:30 | Lunch break |
| 14:30 - 17:30 | Items: 13, 14, 10 – 12 |
| 17:30 | <i>End of the first day of the meeting</i> |

| | |
|---------------|-----------------------------------|
| | 30 March 2012 |
| 09:30 - 13:00 | Items: 14 (if necessary), 15 – 20 |
| 13:00 | Lunch break |
| Afternoon | Reserved |