

**OPINION OF THE AD HOC COMMITTEE OF LEGAL ADVISERS ON PUBLIC  
INTERNATIONAL LAW (CAHDI) CONCERNING PARAGRAPH IV OF THE  
DECLARATION ON THE OCCASION OF THE 50<sup>TH</sup> ANNIVERSARY OF THE  
UNIVERSAL DECLARATION ON HUMAN RIGHTS**

***Foreword***

The *Ad Hoc* Committee of Legal Advisers on Public International Law (CAHDI) held its 16th meeting in Paris on 17-18 September 1998. The agenda included an item on "Decisions of the Committee of Ministers concerning the CAHDI". In the framework of this item members of the CAHDI were invited to consider the Preliminary-draft Declaration on the occasion of the 50<sup>th</sup> Anniversary of the Universal Declaration on human rights and to give an opinion on its paragraph IV.

Paragraph IV states that "[The member States of the Council of Europe] support the general comment adopted by the Human Rights Committee on 29 October 1997 affirming that the International Covenant on Civil and Political Rights is not subject to denunciation or withdrawal and call on all governments to refrain from taking or supporting such steps."

**OPINION**

The CAHDI considers that the International Covenant on Civil and Political Rights (ICCPR) does not expressly permit denunciation or withdrawal. In these circumstances, under public international law, as codified by the Vienna Convention on the Law of Treaties 1969, denunciation or withdrawal is only possible if it was the intention of the parties to permit it or if such a possibility can be implied from the nature of the Treaty.

If that is not the case, denunciation or withdrawal is therefore only possible with the consent of all the States parties.

The CAHDI considers that it was not the intention of the parties that denunciation or withdrawal should be possible nor can it be implied from the nature of the ICCPR for the reasons given in the general comment No. 26 (61) adopted by the Human Rights Committee.

The CAHDI takes note of paragraph IV of the Preliminary-draft Declaration on the occasion of the 50th Anniversary of the Universal Declaration to the effect that unilateral denunciation or withdrawal of the ICCPR is not legally permissible. The CAHDI considers that express reference should be made to the fact that a State party may withdraw from the Covenant by consent of all the parties after consultation with the other contracting States.

Moreover, the CAHDI considers that, in so far as the Declaration states the position of the member States of the Council of Europe, it is advisable that this position be expressed directly by member States rather than endorsing the general comment of the Human Rights Committee.

The CAHDI therefore suggests that paragraph IV of the preliminary-draft Declaration be worded as follows: "[The member States of the Council of Europe] affirm that the International Covenant on Civil and Political Rights is not subject to unilateral denunciation

or withdrawal without the consent of all the States parties, and call on all governments to refrain from taking or supporting such steps.”

Finally, the CAHDI wishes to propose to the Committee of Ministers that the preliminary-draft Declaration be re-examined in the whole to ensure legal accuracy.