

**COMMENTS BY THE COMMITTEE OF LEGAL ADVISERS ON PUBLIC  
INTERNATIONAL LAW (CAHDI) ON PARLIAMENTARY ASSEMBLY  
RECOMMENDATION 1690 (2005) – THE CONFLICT OVER THE NAGORNO-  
KARABAKH REGION DEALT WITH BY THE OSCE MINSK CONFERENCE**

In pursuance of the Deputies' Decision taken at their 915<sup>th</sup> meeting on 9 February 2005 (CM/Del/Dec(2005)913/3.1), members of the CAHDI considered Parliamentary Assembly Recommendation 1690 (2005) – The conflict over the Nagorno-Karabakh region dealt with by the OSCE Minsk Conference. In accordance with its specific terms of reference, the CAHDI concentrated on what it considered to be the public international law issues and, in particular, paragraph viii. which recommended that the Committee of Ministers:

*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;*

The CAHDI recalls that in 1998 it undertook the examination of the functioning and operation of the conventions under its responsibility, including the above-mentioned convention. The CAHDI considered that Convention in particular at its 17<sup>th</sup> meeting (Vienna, 8-9 March 1999) and noted that:

*75. The existence of the Convention and the threat by one Party to a dispute to have recourse to it no doubt facilitated friendly settlements. The Convention thus fairly frequently had a dissuasive effect (fleet in being). For this reason, given the present group of Contracting Parties and taking account of the extent of their acceptance, the Convention had helped to improve the possibilities for the legal settlement of disputes between member states of the Council of Europe.*

*76. However, a certain number of disputes that had arisen or were likely to arise remained outside the field of application of the Convention, mainly due to the fact that over half of the Council of Europe member states were not Parties to the Convention.*

and the Chair concluded that through this Convention, a substantial number of disputes could be settled by the International Court of Justice without any particular problem.<sup>1</sup>

The relevant paragraphs of the meeting report are enclosed.

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<sup>1</sup> See documents CAHDI (1999) 5 and 15.

At its 29<sup>th</sup> meeting, the CAHDI reconsidered the functioning and operation of the Convention and confirmed its prior position. The CAHDI therefore concludes in reply to the Recommendation of the Parliamentary Assembly that the Convention reflects the current requirements of conflict settlement among the member states of the Council of Europe and provides an adequate instrument for the peaceful settlement of disputes among themselves. The CAHDI therefore considers that the Convention does not need to be revised and suggests that the Committee of Ministers invite member states not having done so to become Parties to it.

## Annex

### **6. Consideration of conventions under the responsibility of the CAHDI: Examination of the European Convention for the Peaceful Settlement of Disputes (ETS 23)**

73. The CAHDI began the examination of the European Convention for the Peaceful settlement of disputes (N° 23 in the European Treaty Series) on the basis of the document prepared by the Secretariat<sup>9</sup>.

74. The Chairman stated that the European Convention for the Peaceful settlement of the disputes had entered into force on 30 April 1958 and 13 member States were at present bound by it (Austria, Belgium, Denmark, Germany, Italy, Liechtenstein, Luxembourg, Malta, Netherlands, Norway, Sweden, Switzerland and the United Kingdom). In addition, it had been signed by 5 other member States (France, Greece, Iceland, Ireland and Turkey). The last ratification of the Convention was on 18 February 1980 (Liechtenstein) and the last signature dated back to 1958 (Turkey).

75. The existence of the Convention and the threat by one Party to a dispute to have recourse to it no doubt facilitated friendly settlements. The Convention thus fairly frequently had a dissuasive effect (*fleet in being*). For this reason, given the present group of Contracting Parties and taking account of the extent of their acceptance, the Convention had helped to improve the possibilities for the legal settlement of disputes between member States of the Council of Europe.

76. However, a certain number of disputes that had arisen or were likely to arise remained outside the field of application of the Convention, mainly due to the fact that over half of the Council of Europe member States were not Parties to the Convention.

77. The Slovakian Delegate informed the CAHDI that his country was examining the Convention with interest with a view to early accession to it.

78. The Netherlands Delegate pointed out that certain States which, in principle, were to accede to the Convention had not done so in practice and he wondered about the reasons for this state of affairs.

79. The Chairman concluded that through this Convention a substantial number of disputes could be settled by the International Court of Justice without any particular problem. He invited the Member States of the Council of Europe to consider the possibility of acceding to it.

<sup>9</sup> See document CAHDI (99) 5. For an overview of the legal texts coming under the responsibility of the CAHDI see document CAHDI (99) 4.