

**REPLY OF THE CAHDI TO THE MESSAGE OF THE COMMITTEE OF MINISTERS OF
27 SEPTEMBER 2006 TO COMMITTEES INVOLVED IN INTERGOVERNMENTAL
CO-OPERATION AT THE COUNCIL OF EUROPE**

At its 33rd meeting (22-23 March 2007), the CAHDI took note of the Message of the Committee of Ministers to committees involved in intergovernmental co-operation at the Council of Europe and conducted a critical evaluation of the work carried out in recent years both in terms of its relevance to the Organisation's fundamental values and its added value.

At the outset, it should be noted that all of the CAHDI's activities in pursuance of project 2004/DG1/178 - *Public international law*, fall within the Plan of Action, in particular Section I - Promoting common fundamental values: human rights, rule of law and democracy and Section II - Strengthening the security of European citizens. The CAHDI is also involved to some extent in relation to sections III – Building a more humane and inclusive Europe and IV – Fostering co-operation with other international and European organisations and institutions.

Section I.1. – Ensuring the continued effectiveness of the European Convention on Human Rights

The CAHDI considers questions of general public international law which arise in cases pending before the ECHR which are brought to the attention of the Committee by the States concerned.

Moreover, in the context of its operation as *European Observatory of Reservations to International Treaties*, the CAHDI considers reservations to human rights treaties including those to Council of Europe treaties with a view contributing to the effectiveness of such treaties.

The CAHDI has also followed developments concerning the ECHR in particular those relating to Protocol 14.

Section I.3. - Strengthening democracy, good governance and the rule of law in member states

The post-Warsaw Summit work of the CAHDI has focused on the definition of the legal framework of a democratic state permitting the development of legal and judicial systems and of law enforcement systems respectful of the rule of law and human rights.

In this period, the Committee of Legal Advisers on Public International Law (CAHDI) has considered, *inter alia* :

- *current issues in the area of international humanitarian law*: the CAHDI discussed the ICRC study on customary international humanitarian law as well as the issues of the

protection of cultural property in the event of armed conflict and the relationship between human rights law and international law, including international humanitarian law;

- *the outcome document of the 2005 UN World Summit*: the CAHDI is considering ways and means to contribute to the advancing of the international rule of law;

- *digests of state practice on international law*: the CAHDI referred to the Council of Europe standards on publication of digests of state practice and to the model plan for the classification of documents concerning state practice in the field of international public law;

- *the peaceful settlement of disputes*: the CAHDI is considered ways and means to promote peaceful settlement of disputes and promoting the acceptance of the jurisdiction of the International Court of Justice under its Statute as well as other agreements including the European Convention on the Peaceful Settlement of Disputes; the CAHDI is also discussing the overlapping jurisdiction of international courts and tribunals;

- *developments concerning the International Criminal Court*: the CAHDI co-organised the 4th multilateral consultation on the ICC on 14 and 15 September 2006 and periodically reviews developments concerning the ICC;

- *the implementation and functioning of the ad hoc criminal tribunals established by United Nations Security Council Resolutions 827 (1993) and 955 (1994)*: the CAHDI considers periodically developments concerning these tribunals;

- *the work of the International Law Commission (ILC) and of the Sixth (Legal) Committee of the UN General Assembly*: the CAHDI follows closely the work of the ILC and the Sixth Committee of the UN GA and holds exchanges of views with members of the ILC with a view to facilitating the progressive development and codification of international law and to foster co-operation in this respect.

Following the finalisation of its Pilot Project on State Immunities, the CAHDI published the book "State Practice regarding State Immunities" and set up a database on national developments.

The CAHDI also set up a database on the organisation and functions of the Office of the Legal Adviser in the Ministry for Foreign Affairs.

Finally, the CAHDI keeps under review Council of Europe instruments in the field of international law, in particular European Conventions.

Section 1.4 - Ensuring compliance of the commitments made by member states and promoting political dialogue

The CAHDI continues to facilitate mutual understanding and common positions on international law issues.

The CAHDI considered the implications of the UN Convention on Jurisdictional Immunities on the European Convention on State Immunity - an informal working party was established to bring the Parties together to make further proposals.

Furthermore, at the request of the Committee of Ministers, the CAHDI also adopted an Opinion on Parliamentary Assembly Recommendation 1690 (2005) – The conflict over the Nagorno-Karabakh region dealt with by the OSCE Minsk Conference.

In this context it is worth noting the CAHDI's support for the regular organisation by the Council of Europe of specific multilateral meetings on the International Criminal Court (ICC). The preparation and the outcome of the 4th consultation meeting (Athens, 14 and 15 September 2006) were followed closely by the CAHDI.

Furthermore in 2005 and 2006, the CAHDI held exchanges of views with special guests, such as Mr Badinter, President of the International Court of Conciliation and Arbitration within the OSCE and also Mr Ferrari Bravo, a member of the Court's Bureau, Mr Rosas, judge of the Court of Justice of the European Communities, Mr Scheinin, the UN Special rapporteur on Terrorism and Human Rights, as well as the President and Prosecutor of the International Criminal Court (ICC), Mr Kirsch and Mr Moreno Ocampo.

Section II.1 – Combating terrorism

In the context of its operation as a *European Observatory of Reservations to international treaties*, the CAHDI monitors reservations to international anti-terrorism treaties and regularly updates a list of problematic reservations to such treaties. Furthermore, reserving states have been approached about withdrawing their reservations.

The Committee has also deployed significant efforts aimed at improving the implementation of UN sanctions and the respect of human rights, including the setting up of a database on the national situation regarding this issue. The CAHDI's work in this respect has been instrumental to the adoption by the UN Security Council of resolutions 1730(2006) and 1735(2006), which have brought about improvements in the UN sanctions system from a human rights perspective.

Section III.6. – Fostering intercultural dialogue

The CAHDI fosters inter-cultural dialogue in the field on international law since international law is generally regarded as an “international language” and represents an important element for international relations and the stability of the international community as a whole.

Section IV.1 – Relations with the European Union

There is a close co-operation between the EU work (COJUR) and the Council of Europe work (CAHDI) in the field of public international law, which is mutually reinforcing and beneficial.

In light of the above, the CAHDI considers that its activities are relevant to the Council of Europe's fundamental values and provide significant added value, both intrinsically and in relation to the work of other international organisations and other committees of the Council of Europe.