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COMMITTEE OF LEGAL ADVISERS ON PUBLIC INTERNATIONAL LAW (CAHDI)

List of items discussed and decisions taken Abridged report

46th meeting
Strasbourg, 16-17 September 2013

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

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

46th meeting, Strasbourg, France, 16-17 September 2013

**List of items discussed and decisions taken
Abridged report**

1. The Committee of Legal Advisers on Public International Law (CAHDI) held its 46th meeting in Strasbourg on 16 and 17 of September 2013 with Ms Liesbeth Lijnzaad (Netherlands) in the Chair. The list of participants is set out in Appendix I to the meeting report.*
2. The CAHDI adopted its agenda as set out in the **Appendix** to the present report.
3. The CAHDI adopted the report of its 45th meeting (Strasbourg, 25-26 March 2013), and authorised the Secretariat to publish it on the CAHDI's website.
4. The CAHDI took note of the developments concerning the Council of Europe since the last meeting of the Committee, as presented by Mr Jörg Polakiewicz, Director of Legal Advice and Public International Law (DLAPIL) as from 1 October 2013. Mr Polakiewicz' presentation is set out in Appendix II to the meeting report.

The CAHDI welcomed the new version of its website which will be launched in time for its forthcoming meeting in March 2014. It expressed its interest in the model databases presented by the Secretariat for the collection and publication of delegations' contributions related to the topics of "Immunities of States and international organisations", the "Organisation and functions of the Office of the Legal Adviser of the Ministry of Foreign Affairs" and "National implementation measures of UN sanctions and respect for human rights". The Committee took note that the Secretariat will submit a report illustrating the concept of the new databases and inviting delegations to comment thereupon.

The CAHDI took note of the framework applying to the classification of working documents related to its activities as European Observatory of Reservations to International Treaties.

5. The CAHDI considered the decisions of the Committee of Ministers relevant to its work.

In order to fulfill the task assigned to it regarding the follow-up of Council of Europe Conventions as foreseen in its draft terms of reference for 2014-2015, the CAHDI adopted a working plan for the biennium 2014-2015 covering the follow-up to Conventions CETS Nos. 23, 61, 63, 74 and 82.

6. The CAHDI took note of the replies to the questionnaire on "Service of process on a foreign State" submitted by Albania, Austria, Belgium, Germany, Greece, Latvia, Norway, Portugal, Switzerland, the United Kingdom, Japan and the United States of America and invited delegations which have not yet done so to submit their replies to the questionnaire.

The CAHDI held an exchange of views on the draft "Declaration on Jurisdictional Immunities of State Owned Cultural Property" reproduced in document CAHDI (2013) 10. The CAHDI agreed to proceed to an exchange of information on the laws and practice of participating States regarding the immunity of State cultural property on loan, on the basis of a questionnaire which it instructed the Secretariat to prepare in time for its 47th meeting. The Committee agreed to incorporate the replies to the questionnaire in the database regarding State immunities.

* Document CAHDI (2013) 17

The CAHDI examined national legislations, case-law and practices of participant States related to immunities of special missions based on the document submitted by the delegation of the United Kingdom. It instructed the Secretariat to prepare for its 47th meeting a questionnaire which would build upon and further develop the questions raised in this document.

The CAHDI considered national practices and case-law regarding immunities of States and international organisations on the basis of the information provided by the delegations. It took note in this respect of the new contributions of Armenia, Canada and Mexico and invited delegations which have not yet done so, to submit or update their contributions to the relevant database at their earliest convenience.

The CAHDI pursued its exchange of views 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 Committee also took stock of the state of ratifications of the United Nations Convention on Jurisdictional Immunities of States and Their Property by the States represented within the CAHDI.

7. The CAHDI further considered the issue of organisation and functions of the Office of the Legal Adviser of the Ministry for Foreign Affairs on the basis of contributions from delegations. It took note in this respect of the updated contributions from Mexico and Switzerland and invited delegations which have not yet done so, to submit or update their contributions to the relevant database at their earliest convenience.

8. The CAHDI took note of the information regarding cases that have been submitted to national tribunals by persons or entities removed from the lists established by the UN Security Council Sanctions Committees. It took note in this respect of the updated contributions from Finland, Mexico and the European Union as well as of the new contribution submitted by Ukraine and invited delegations which have not yet done so, to submit or update their contributions to the relevant database at their earliest convenience.

9. The CAHDI addressed the issue of the accession of the European Union to the European Convention on Human Rights (ECHR). The CAHDI took note of the Report of the 78th meeting of the Steering Committee for Human Rights (CDDH) and of the final report of the *ad hoc* Group 47+1 to the CDDH. The CAHDI took note of the information transmitted in this regard by Mr Wennerström, observer of the CAHDI to the *ad hoc* Group 47+1 instructed to finalise the legal instruments setting out the modalities of accession of the European Union to the ECHR.

10. The CAHDI considered cases brought before the European Court of Human Rights involving issues of public international law and took note in this respect of the information concerning two recent cases provided by the delegations of Austria and Belgium. It further invited delegations to keep the Committee informed of any judgments or decisions, pending cases or relevant forthcoming events.

11. In the context of its consideration of issues relating to the peaceful settlement of disputes, the CAHDI considered the latest version of the document containing information on the International Court of Justice's compulsory jurisdiction (document CAHDI (2013) 11).

12. In the framework of its activity as the European Observatory of Reservations to International Treaties, the CAHDI considered a list of outstanding reservations and declarations to international treaties and the follow-up given to them by the delegations. It invited delegations to submit to the Secretariat any relevant information for the update of the summary table as set out in document CAHDI (2013) 12 Addendum prov.

13. Concerning the work of the International Law Commission (ILC) and of the Sixth Committee, the CAHDI held an exchange of views with Prof. Pavel Šturma, Member of the ILC, on

the recent activities of the latter. It also took note of the exchange of views between the Chair of the CAHDI, the Secretary of the CAHDI and the ILC (Geneva, 10 July 2013).

14. With regard to consideration of current issues of international humanitarian law, the CAHDI took note of the presentation made by the representative of the International Committee of the Red Cross.

15. The CAHDI took note of recent developments concerning the International Criminal Court (ICC).

16. The CAHDI took stock of recent developments concerning the implementation and functioning of other international criminal tribunals.

17. The CAHDI considered topical issues of international law and took note in this respect of the presentation by INTERPOL on the topic: "INTERPOL e-Extradition initiative".

18. In accordance with *Resolution CM/Res(2011)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods*, the CAHDI re-elected Ms Liesbeth Lijnzaad (Netherlands) and Mr Paul Rietjens (Belgium), respectively as Chair and Vice-Chair of the Committee for one year, as of 1 January 2014.

19. The CAHDI decided to hold its 47th meeting in Strasbourg on 20-21 March 2014. The Committee instructed the Secretariat, in liaison with the Chair of the Committee, to prepare in due course the provisional agenda of this meeting.

APPENDIX**AGENDA****I. INTRODUCTION**

1. Opening of the meeting by the Chair, Ms Liesbeth Lijnzaad
2. Adoption of the agenda
3. Adoption of the report of the 45th meeting
4. Information provided by the Secretariat of the Council of Europe
 - a. Statement by Mr Jörg Polakiewicz, Director of Legal Advice and Public International Law as from 1 October 2013
 - b. New website of the CAHDI
 - c. Classification of working documents related to reservations

II. ONGOING ACTIVITIES OF THE CAHDI

5. Committee of Ministers' decisions of relevance to the CAHDI's activities, including requests for CAHDI's opinion
6. Immunities of States and international organisations
 - a. State practice and case-law
 - recent national developments and updates of the website entries
 - 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
 - b. UN Convention on Jurisdictional Immunities of States and Their Property
7. Organisation and functions of the Office of the Legal Adviser of the Ministry of Foreign Affairs
8. National implementation measures of UN sanctions and respect for human rights
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 *ad hoc* Group 47+1
10. Cases before the European Court of Human Rights involving issues of public international law
11. Peaceful settlement of disputes

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12. Law and practice relating to reservations and interpretative declarations concerning international treaties: European Observatory of Reservations to International Treaties

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 Prof. Pavel Šturma, Member of the ILC
 - Exchange of views between the ILC, the Chair of the CAHDI and the Secretary to the CAHDI, Geneva, 10 July 2013
14. Consideration of current issues of international humanitarian law
15. Developments concerning the International Criminal Court (ICC)
16. Implementation and functioning of other international criminal tribunals (ICTY, ICTR, Sierra Leone, Lebanon, Cambodia)
17. Topical issues of international law

IV. OTHER

18. Election of the Chair and Vice-Chair of the CAHDI
19. Date, venue and agenda of the 47th meeting of the CAHDI
20. Other business