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COMMITTEE OF LEGAL ADVISERS ON PUBLIC INTERNATIONAL LAW (CAHDI)

List of items discussed and decisions taken Abridged report

50th meeting
Strasbourg, 24-25 September 2015

Public International Law Division and Treaty Office
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**COMMITTEE OF LEGAL ADVISERS ON PUBLIC INTERNATIONAL LAW
(CAHDI)**

50th meeting, Strasbourg, 24-25 September 2015

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

1. The Committee of Legal Advisers on Public International Law (CAHDI) held its 50th meeting in Strasbourg (France) on 24-25 September 2015 with Mr Paul Rietjens (Belgium) in the Chair.
2. The CAHDI adopted its agenda as set out in **Appendix I** to the present report.
3. The CAHDI adopted the report of its 49th meeting (Strasbourg, 19-20 March 2015) and authorised the Secretariat to publish it on the CAHDI's website.
4. The CAHDI took note of the developments within the Council of Europe since the last meeting of the Committee. In particular, the CAHDI took note of the *Report of the Secretary General of the Council of Europe on the State of Democracy, Human Rights and the Rule of Law in Europe: A shared responsibility for democratic security in Europe* (document [SG\(2015\)1E](#)). Furthermore, the CAHDI took note of the election of the Deputy Secretary General of the Council of Europe and the latest news from the Treaty Office, notably the amendment to Article 26 of the Statute of the Council of Europe and the latest accessions of non-member States to the conventions of the Council of Europe. Moreover, the CAHDI took note of the information provided in respect of the Ukraine's derogation from the *European Convention on Human Rights* and the report of 31 March 2015 of the International Advisory Committee on Ukraine. Concerning the Council of Europe's action to combat terrorism, the CAHDI noted that the Additional Protocol to the *Council of Europe Convention on the Prevention of Terrorism* (CETS No. 196) on the so-called "foreign terrorist fighters" was adopted by the Committee of Ministers on 19 May 2015 during the 125th Ministerial Session in Brussels, as well as the *Brussels Declaration and Action Plan on the fight against violent extremism and radicalization leading to terrorism*. Finally, the CAHDI welcomed the voluntary contributions from the Netherlands and Germany to new CAHDI databases and noted that these will be operational in 2016.
5. The CAHDI took note of the **decisions of the Committee of Ministers relevant to its work** and in particular the decision of 12-13 May 2015 communicating to the CAHDI *Recommendation 2069 (2015) of the Parliamentary Assembly of the Council of Europe – "Drones and targeted killings: the need to uphold human rights and international law"*, for information and possible comments. In reply to this decision, the CAHDI adopted its opinion on the abovementioned recommendation as set out in **Appendix II** to the present report.

The CAHDI also examined its draft terms of reference for 2016-2017, which will be adopted by the Committee of Ministers at its 1241st meeting (Budget/Programme) on 24-26 November 2015.

Furthermore, the CAHDI took note of the exchange of views between the Chair of the CAHDI and the Ministers' Deputies held on 1st July 2015.

6. a. With regard to the topic of "**Immunities of States and international organisations**", the CAHDI held an exchange of views on the issue of the "Settlement of disputes of a private character to which an international organisation is a party", and in particular on the questions contained in the document presented by the delegation of the Netherlands to the CAHDI. This document aimed in particular at facilitating a discussion on the topical questions related to the settlement of third-party claims for personal injuries or death and property loss or damages allegedly caused by an international organisation and the effective remedies available for claimants in these situations.

The CAHDI took note of the written comments submitted by 12 delegations – namely Albania, Andorra, Armenia, the Czech Republic, Denmark, Germany, Greece, Israel, Mexico, Slovenia, Switzerland and the United Kingdom – to the questions contained in the document and invited other delegations to also reply to these questions in written.

b. The CAHDI furthermore addressed the issue of the “Immunity of State owned cultural property on loan” and examined in this regard the replies submitted by 18 delegations – namely Albania, Andorra, Austria, Armenia, Belarus, Belgium, Cyprus, Finland, France, Germany, Greece, Ireland, Latvia, Mexico, the Netherlands, Romania, the United Kingdom and the United States of America – to the questionnaire prepared on this topic.

On this issue, the CAHDI furthermore encouraged delegations which had not yet done so to consider signing the *Declaration on Jurisdictional Immunities of State Owned Cultural Property* which to date (25 September 2015) had been signed by the Ministers of Foreign Affairs of 13 States (Albania, Armenia, Austria, Belarus, Belgium, the Czech Republic, Estonia, France, Georgia, Latvia, the Netherlands, Romania and Slovakia). This declaration, presented by the delegations of the Czech Republic and Austria and supported by the delegation of the Netherlands, had been drafted in support of the recognition of the customary nature of the pertinent provisions of the 2004 *United Nations Convention on Jurisdictional Immunities of States and Their Property* in order to guarantee the immunity of State cultural property on loan. It had been elaborated as a non-legally binding document expressing a common understanding of *opinio juris* on the basic rule that certain kind of State property (cultural property on exhibition) enjoyed jurisdictional immunity. The CAHDI noted that the Secretariat of the CAHDI performed the functions of “depository” of this Declaration and that the text of this Declaration was available on the website of the CAHDI.

c. The CAHDI furthermore addressed the issue of the “Immunities of special missions” and examined in this regard the replies submitted by 23 delegations (Albania, Andorra, Armenia, Austria, Belarus, the Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Ireland, Italy, Latvia, Mexico, the Netherlands, Norway, Romania, Serbia, Switzerland, the United Kingdom and the United States of America) to the questionnaire prepared on this topic. The CAHDI encouraged delegations which had not yet done so, to submit or update their contribution to the questionnaire in order to prepare an analysis outlining the main trends arising from these replies.

d. The CAHDI also addressed the issue of “Service of process on a foreign State” and examined in this regard the replies submitted by 24 delegations (Albania, Austria, Belgium, Cyprus, the Czech Republic, Germany, Greece, Finland, France, Ireland, Israel, Italy, Japan, Latvia, Mexico, the Netherlands, Norway, Portugal, Romania, Serbia, Slovenia, Switzerland, United Kingdom and the United States of America) to the questionnaire prepared on this topic. The CAHDI encouraged delegations which had not yet done so, to submit or update their contribution to the questionnaire in order to prepare an analysis outlining the main trends arising from these replies.

e. The CAHDI 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. It welcomed the accession by Liechtenstein to the Convention on 22 April 2015.

f. With regard to its Database on “State practice regarding State Immunities”, the CAHDI noted that to date (25 September 2015) 35 States (Andorra, Armenia, Austria, Belgium, Canada, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Mexico, the Netherlands, Norway, Poland, Portugal, Romania, the Russian Federation, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey and the United Kingdom) and one organisation (European Union) had submitted a contribution to this database. It also welcomed the updated contribution of France to this database.

The CAHDI furthermore considered national practices and case-law regarding immunities of States and international organisations on the basis of information provided by the delegations and invited delegations to submit or update their contributions to the relevant CAHDI database.

g. The CAHDI pursued its exchange of views on the *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 CAHDI noted that to date (25 September 2015), 29 delegations (Albania, Austria, Belgium, Canada, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Ireland, Israel, Italy, Japan, Latvia, Luxembourg, Montenegro, the Netherlands, Norway, Portugal, Romania, the Russian Federation, Slovakia, Slovenia, Spain, Sweden, and the United States of America) had replied to the questionnaire on this matter (document CAHDI (2015) 21). The CAHDI invited delegations which had not yet done so to submit or update their replies to the questionnaire.

7. Regarding the revised questionnaire on the “**Organisation and functions of the Office of the Legal Adviser of the Ministry of Foreign Affairs**” which contains additional questions on gender equality following the recommendations contained in the Council of Europe Gender Equality Strategy 2014-2017, the CAHDI examined the replies submitted by 29 delegations (Albania, Andorra, Armenia, Austria, Belarus, Belgium, Bosnia and Herzegovina, Canada, Cyprus, the Czech Republic, Denmark, Estonia, Finland, Georgia, Germany, Greece, Israel, Italy, Latvia, Luxembourg, Mexico, Montenegro, Norway, Slovenia, Sweden, Switzerland, the United Kingdom, the United States of America and NATO). The CAHDI invited delegations to send to the Secretariat any further information in order to complete their replies.

8. With regard to the issue of “**National implementation measures of UN sanctions and respect for human rights**”, the CAHDI took note of the information regarding cases that have been submitted to national tribunals by persons or entities included in or removed from the lists established by the UN Security Council Sanctions Committee.

9. The CAHDI considered **cases brought before the European Court of Human Rights involving issues of public international law** and invited delegations to keep the CAHDI informed of any judgments or decisions, pending cases or relevant forthcoming events.

10. 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 (ICJ) compulsory jurisdiction. It noted that since its previous meeting, Romania had recognised the compulsory jurisdiction of the ICJ.

11. In the framework of its activity as the **European Observatory of Reservations to International Treaties**, the CAHDI considered a list of 16 reservations and declarations to international treaties, likely to be objected to.

In addition, the CAHDI took note of the reactions to reservations and declarations to international treaties previously examined by the CAHDI and for which the deadline for objection had already expired. It invited delegations to submit to the Secretariat any relevant information for the update of the summary table as set out in document CAHDI (2015) 16 Addendum prov.

12. Following the decision of the Ministers' Deputies of 10 April 2013 on the **review of Council of Europe conventions** adopted in the light of the Secretary General's report and in pursuance of the CAHDI work plan for the review of conventions for which it has been given responsibility, the CAHDI held an exchange of views on the *European Convention on State Immunity* (ETS No. 74) and on its *Additional Protocol* (ETS No. 74A).

Moreover, the CAHDI re-examined *the European Convention on the Non-Applicability of Statutory Limitation to Crimes against Humanity and War Crimes* (ETS No. 82) included in the agenda of its previous meeting.

13. The CAHDI welcomed the presentation of the work of the International Law Commission (ILC) by the **special guest**, Mr Narinder Singh, President of the ILC.

The CAHDI also took note of the exchange of views held on 10 July 2015 between the ILC, the Chair of the CAHDI and the Secretary to the CAHDI.

14. With regard to **consideration of current issues of international humanitarian law**, the CAHDI took note of information provided by several delegations.

15. The CAHDI took note of the recent **developments concerning the International Criminal Court (ICC) and other international criminal tribunals**.

16. With regard to the examination of **topical issues of international law**, the CAHDI took note of the comments made by delegations.

17. 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 Mr Paul Rietjens (Belgium) and Ms Päivi Kaukoranta (Finland), respectively as **Chair and Vice-Chair of the Committee**, for a term of one year, as from 1 January 2016.

18. The CAHDI decided to hold its **51st meeting** in Strasbourg on 3-4 March 2016. The CAHDI instructed the Secretariat, in liaison with the Chair of the CAHDI, to prepare in due course the provisional agenda of this meeting.

19. Following the proposal of one delegation, the CAHDI agreed to discuss at its next meeting the possibility to revise and update the "Amended Model Plan for the Classification of Documents concerning State Practice in the Field of Public International Law" contained in the appendix to the Recommendation No. R (97) 11 adopted by the Committee of Ministers on 12 June 1997.

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

1. Opening of the meeting by the Chair, Mr Paul Rietjens
2. Adoption of the agenda
3. Adoption of the report of the 49th meeting
4. Information provided by the Secretariat of the Council of Europe
 - Statement by Mr Jörg Polakiewicz, Director of Legal Advice and Public International Law

II. ONGOING ACTIVITIES OF THE CAHDI

5. Committee of Ministers' decisions and activities of relevance to the CAHDI's activities, including requests for CAHDI's opinion
6. Immunities of States and international organisations
 - a. *Topical issues related to immunities of States and international organisations*
 - Settlement of disputes of a private character to which an international organisation is a party
 - Immunity of State owned cultural property on loan
 - Immunities of special missions
 - Service of process on a foreign State
 - b. *UN Convention on Jurisdictional Immunities of States and Their Property*
 - c. *State practice, case-law and updates of the website entries*
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. Cases before the European Court of Human Rights involving issues of public international law
10. Peaceful settlement of disputes
11. 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*
12. Review of Council of Europe Conventions

III. GENERAL ISSUES OF PUBLIC INTERNATIONAL LAW

13. The work of the International Law Commission (ILC) and of the Sixth Committee review of Council of Europe Conventions
14. Consideration of current issues of international humanitarian law
15. Developments concerning the International Criminal Court (ICC) and other international criminal tribunals
16. Topical issues of international law

IV. OTHER

17. Election of the Chair and Vice-Chair of the CAHDI
18. Date and agenda of the 51st meeting of the CAHDI
19. Other business

APPENDIX II

OPINION OF THE CAHDI

ON RECOMMENDATION 2069 (2015) OF THE PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE – “DRONES AND TARGETED KILLINGS: THE NEED TO UPHOLD HUMAN RIGHTS AND INTERNATIONAL LAW”

1. On 12-13 May 2015, the Ministers' Deputies communicated Recommendation 2069 (2015) of the Parliamentary Assembly of the Council of Europe (see Appendix I) to the Committee of Legal Advisers on Public International Law (CAHDI) for information and possible comments. The Ministers' Deputies also communicated this Recommendation to the Steering Committee for Human Rights (CDDH).
2. The CAHDI examined the abovementioned Recommendation at its 50th meeting (Strasbourg, 24-25 September 2015) and made the following comments which concern aspects of the recommendation which are of particular relevance to the terms of reference of the CAHDI.
3. From the outset, the CAHDI points out that it will use the terms “unmanned aerial vehicle” (UAV) within this Opinion to refer to the so-called “drones”. Furthermore, the CAHDI notes that a distinction has to be made between armed and unarmed UAVs. While the use of unarmed UAVs for intelligence, surveillance, target identification and reconnaissance operations is not a new phenomenon, the use of armed UAVs is more recent and has greatly increased in the past years. Furthermore, the CAHDI notes that another distinction should be made between the use of UAVs during armed conflict and outside an armed conflict. The CAHDI points out that there is a broad agreement that armed UAVs themselves are not illegal weapons and notes that relevant rules of international law regulating the use of force and the conduct of hostilities as well as of international human rights law apply to the use of UAVs. Nevertheless, the CAHDI points out that different views have been expressed in the international community concerning the interpretation or application of these rules.
4. In view of addressing these issues raised by the increasing use of armed UAVs, the CAHDI refers to the efforts of the international community in this regard. It notes that wide academic literature has been developed and that armed UAVs have been debated in various forums of the United Nations, intergovernmental bodies and national Governments and courts.
5. In particular, the CAHDI notes that two reports have been submitted by Mr Ben Emmerson, *Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*, respectively on 18 September 2013 to the United Nations General Assembly¹ and on 10 March 2014 to the Human Rights Council², in which Mr Emmerson examines the use of armed UAVs in extraterritorial lethal counter-terrorism operations, including in the context of asymmetrical armed conflicts, and allegations that the increasing use of armed UAVs has caused a disproportionate number of civilian casualties. The CAHDI also takes note of the report submitted by Mr Christof Heyns, *Special Rapporteur on extrajudicial, summary or arbitrary executions* on 13 September 2013 to the United Nations General Assembly³, in which Mr Heyns focuses on the use of lethal force through armed UAVs from the perspective of protection of the right to life. In these three reports, the Special Rapporteurs examine the ways in which the constituent regimes of international law, including international human rights law, international humanitarian law and the law on inter-State use of force are applicable to the use of armed UAVs.

¹ The *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism* submitted to the United Nations General Assembly is available at the following link (document [A/68/389](#)).

² The *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism* submitted to the Human Rights Council is available at the following link (document [A/HRC/25/59](#)).

³ The *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions* submitted to the United Nations General Assembly is available at the following link (document [A/68/382](#)).

They make conclusions and recommendations, notably to the United Nations and in particular their Human Rights Council, to States using armed UAVs, States on whose territory armed UAVs are used as well as other actors.

6. Furthermore, the CAHDI notes that the Human Rights Council, in Resolution 25/22 of 24 March 2014 has urged States *“to ensure that any measures employed to counter terrorism, including the use of remotely piloted aircraft or armed drones, comply with their obligations under international law, including the Charter of the United Nations, international human rights law and international humanitarian law, in particular the principles of precaution, distinction and proportionality”*. Pursuant to this Resolution, the Human Rights Council decided to organise on 22 September 2014 an interactive panel discussion of experts in order to examine issues related to ensuring the use of armed UAVs in counterterrorism and military operation in accordance with international law, including international human rights and humanitarian law. In addition, in Resolution 28/3 of 19 March 2015, the Human Rights Council has decided to *“[invite] the United Nations High Commissioner for Human Rights and relevant special procedures of the Human Rights Council and the human rights treaty bodies to pay attention, within the framework of their mandates, to violations of international law as result of the use of remotely piloted aircraft or armed drones”* as well as to remain seized of the matter.

7. As it also appears in the abovementioned reports and resolutions, the CAHDI agrees that given the fact that the number of States with the capacity to use armed UAVs is likely to increase, a greater consensus on the terms of their use should be reached in order to ensure compliance with public international law. In this regard, the CAHDI underlines that for a particular armed UAV strike to be lawful under international law, it must satisfy the relevant and applicable requirements under the law applicable for the use of inter-State force, international humanitarian law and international human rights law.

8. Concerning the law applicable for the use of inter-State force, the CAHDI recalls that under the United Nations Charter and customary international law, States are prohibited from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations.

9. With regard to the applicable legal regimes, the CAHDI underlines that even if there is a valid legal basis for the use of force, a UAV strike may, depending on the circumstances, still be deemed unlawful under international humanitarian law and/or international human rights law.

10. Concerning international humanitarian law applicable during armed conflict, the CAHDI recalls that all attacks on persons and/or objects are subject to the rules on conducting hostilities. In particular, in the conduct of military operations, constant care shall be taken to spare the civilian population, civilians and civilian objects. More specifically, those who plan or decide upon an attack shall do everything feasible to verify that the objectives to be attacked are neither civilians nor civilian objects and are not subject to special protection but are military objectives. Furthermore, precautions should also be taken in the choice of means and methods of attack with a view to avoiding, and in any event to minimising, incidental loss of civilian life, injury to civilians and damage to civilian objects.

11. Concerning international human rights law, the CAHDI recalls the case-law of the European Court of Human Rights, according to which, consistently with the case-law of the International Court of Justice, *“even in situations of international armed conflict, the safeguards under the Convention continue to apply, albeit interpreted against the background of the provisions of international humanitarian law”*⁴.

12. In conclusion, the CAHDI finds that many legal issues raised by the increasing use of armed UAVs need to be addressed. The CAHDI considers that the subsequent examination of

⁴ *Eur. Court HR, Hassan v. the United Kingdom*, judgment of 16 September 2014, application no. 29750/09, para. 104.

these issues within the Council of Europe should take into account the work of the United Nations as well as of the International Committee of the Red Cross (ICRC). The CAHDI is willing to examine these issues in greater depth and keep the issue on its agenda, but the CAHDI considers that the drafting of guidelines would not be the best way forward.

Appendix I to the opinion

Recommendation 2069 (2015) of the Parliamentary Assembly of the Council of Europe – “Drones and targeted killings: the need to uphold human rights and international law”^{1 2}

1. The Parliamentary Assembly, referring to Resolution 2051 (2015)³ on drones and targeted killings: the need to uphold human rights and international law, invites the Committee of Ministers to undertake a thorough study of the lawfulness of the use of combat drones for targeted killings and, if need be, draft guidelines for member States on targeted killings, with special reference to those carried out by combat drones. These guidelines should reflect States’ obligations under international humanitarian and human rights law, in particular the standards laid down in the European Convention on Human Rights (ETS No. 5), as interpreted by the European Court of Human Rights.

¹ Adopted by the Parliamentary Assembly of the Council of Europe on 23 April 2015 (Second part-session).

² The report of the Rapporteur of the Parliamentary Assembly of the Council of Europe, Mr Arcadio Díaz Tejera is available at the following [link](#).

³ Resolution 2051 (2015) appears as Appendix II to the present document.

Appendix II to the opinion

Resolution 2051 (2015) of the Parliamentary Assembly of the Council of Europe – “Drones and targeted killings: the need to uphold human rights and international law”¹

1. The Parliamentary Assembly considers that the use of armed drones for targeted killings raises serious questions in terms of human rights and other branches of international law.
2. The Assembly notes that several member States and States enjoying observer status with the Council of Europe or the Parliamentary Assembly have used combat drones as weapons of war or for carrying out targeted killings of people suspected of belonging to terrorist groups in a number of countries, including Afghanistan, Pakistan, Somalia and Yemen.
3. Several Council of Europe member States have purchased combat drones or are considering doing so, or have shared intelligence with States using combat drones for targeted killings, thus assisting them in carrying out drone attacks. Furthermore, the United States of America is provided with transmission stations in the territories of Council of Europe member States that play an indispensable role in the execution of drone attacks.
4. Armed drones allow for the carrying out of attacks remotely, without placing the attacker’s own personnel at risk of injury or capture. The ability of drones equipped with powerful sensors to loiter over a potential target for some time enables the decision on launching a strike to be based on particularly precise and up-to-date information. These advantages have contributed to lowering the threshold for intervention and increasing the number of drone strikes in recent years. At the same time, the increased precision of drone strikes provides the opportunity to improve compliance with international humanitarian and human rights law.
5. The Assembly is alarmed at the high number of lethal drone attacks, which have also caused considerable unintended collateral damage to non-combatants, in contrast with the “surgical” nature of such strikes claimed by those launching them. The constant fear of drone attacks engendered by strikes hitting schools, weddings and tribal assemblies has disrupted the life of traditional societies in the countries of operation.
6. Drone strikes raise serious legal issues, which differ depending on the circumstances in which the strikes are launched:
 - 6.1. national sovereignty and the respect for territorial integrity under international law forbid military interventions of any kind on the territory of another State without valid authorisation by the legitimate representatives of the State concerned. Military or intelligence officials of the State concerned tolerating or even authorising such interventions without the approval or against the will of the State’s representatives (in particular the national parliament) cannot legitimise an attack; exceptions from the duty to respect national sovereignty can arise from the principle of the “responsibility to protect” (for example in the fight against the terrorist group known as “IS”), in accordance with the principles of the Charter of the United Nations and international law;
 - 6.2. under international humanitarian law, which applies in situations of armed conflict, only combatants are legitimate targets. In addition, the use of lethal force must be militarily necessary and proportionate and reasonable precautions must be taken to prevent mistakes and minimise harm to civilians;
 - 6.3. under international human rights law, which generally applies in peacetime, but whose application has permeated also into situations of armed conflict, an intentional killing

¹ Adopted by the Parliamentary Assembly of the Council of Europe on 23 April 2015 (Second part-session).

by State agents is only legal if it is required to protect human life and there are no other means, such as capture or non-lethal incapacitation, of preventing that threat to human life;

6.4. in particular, under Article 2 – Right to life – of the European Convention on Human Rights (ETS No. 5), as interpreted by the European Court of Human Rights, the deprivation of the right to life can only be justified if absolutely necessary for the safeguarding of the lives of others or the protection of others from unlawful violence. Article 2 also requires timely, full and effective investigations to hold to account those responsible for any wrongdoing;

6.5. in order to justify a wider use of targeted killings, the concept of “non-international armed conflict” has been extended by some countries so as to include numerous regions across the world as “battlespaces” of the “global war on terror”. This threatens to blur the line between armed conflict and law enforcement, to the detriment of the protection of human rights.

7. Despite some recent progress due to successful court challenges, in particular by the American media, attacks by combat drones are still largely shrouded in secrecy. This relates to both the actual outcome of individual attacks, including the extent of any collateral damage, and the decision-making process for targeting individuals and balancing potential harm to non-combatants.

8. The Assembly calls on all member and observer States, as well as States whose parliaments have observer status with the Assembly, to:

8.1. scrupulously respect the limits placed on targeted killings under international law and international humanitarian and human rights law, in particular with respect to the use of combat drones;

8.2. lay down clear procedures for authorising strikes, which must be subject to constant supervision by a high-level court and ex post evaluation by an independent body;

8.3. avoid broadening the concept of “non-international armed conflict” by continuing to respect established criteria, including the requisite degree of organisation of non-State groups and a certain degree of intensity and localisation of violence. Also, US drone strikes facilitated by transmission co-operation on the territory of member States must be investigated by the member States themselves, so as to ensure compliance with Article 2 of the European Convention on Human Rights;

8.4. fully and effectively investigate all deaths caused by armed drones in order to hold to account those responsible for any wrongdoing and to compensate any victims of wrongful attacks or their relatives;

8.5. publish the criteria and procedures used for targeting individuals and the results of the investigations carried out into deaths caused by the use of combat drones;

8.6. refrain from using, or providing intelligence information or other input for:

8.6.1. any automated (robotic) procedures for targeting individuals based on communication patterns or other data collected through mass surveillance techniques;

8.6.2. “signature strikes” not based on the precise identification of a targeted person, but on the target’s pattern of behaviour (except in situations of armed conflict, provided the rules of international humanitarian law are respected);

8.6.3. “double-tap strikes”, involving a second strike targeting first responders (for example persons providing medical assistance to the victims of a first strike).

9. The Assembly urges the Secretary General of the Council of Europe to initiate a procedure under Article 52 – Inquiries by the Secretary General – of the European Convention on Human Rights to request information on the manner in which State Parties implement the provisions of the Convention concerning the right to life, with particular reference to their own drone weaponising programmes, and their co-operation with American programmes through the sharing of information, and the facilitation of targeted killings by drones.