

**CDDH comments on Parliamentary Assembly Recommendation 2037 (2014) -
*Accountability of international organisations for human rights violations***

CDDH: 80th meeting – 8/10 April 2014 CDDH(2014)R80

1. The Steering Committee for Human Rights (CDDH) observes that the issues of accountability of international organisations for human rights violations and the immunities of international organisations under public international law are complex, and are discussed on a regular basis in the Committee of Legal Advisers on Public International Law (CAHDI). The CDDH considers that the CAHDI, which has also been asked to comment on this recommendation, is the most appropriate expert body within the Council of Europe to provide an opinion in this respect.

2. The CDDH notes the Parliamentary Assembly's recommendation that the Committee of Ministers should "encourage international organisations of which member States are a part, including the United Nations and its specialised agencies, as well as the European Union and the International Monetary Fund, to examine the quality and effectiveness of mechanisms aimed at ensuring compliance with their human rights obligations and to further develop legal standards in this area". It recognises that international organisations such as the Council of Europe, the European Union or the United Nations have in their founding treaties or related instruments as an essential goal the protection and promotion of human rights, and substantially contribute to the development of human rights at the international level.

3. As far as the European Union is concerned, the CDDH notes that the draft instruments for the accession of the European Union to the European Convention on Human Rights were agreed in April 2013 at negotiators' level. Accession of the European Union is intended to fill a legal gap to ensure that anyone who alleges that his or her human rights have been violated by an act or omission of the European Union may file an application with the European Court of Human Rights. Moreover, provisions in the draft accession agreement on joint responsibility and the co-respondent mechanism also aim at ensuring proper accountability where the European Union implements provisions of its founding treaties agreed upon by its member states, or where the latter implement acts adopted by the European Union.

4. Concerning the United Nations and its specialised agencies, the CDDH notes the *ad hoc* human rights mechanisms enumerated in paragraph 5 of Parliamentary Assembly Resolution 1979 (2014) on the "Accountability of international organisations for human rights violations", notably the appointment of an ombudsperson to oversee the United Nations Security Council's anti-terrorism sanctions. With regard to the United Nations Interim Administration Mission in Kosovo (UNMIK), the CDDH refers notably to the establishment of the Human Rights Advisory Panels applying the European Convention on Human Rights as well to the agreement between

UNMIK and the Council of Europe in relation to the application of the Framework Convention for the Protection of National Minorities and to the similar agreement in place regarding visits by the CPT to places where persons are deprived of their liberty by UNMIK. The CDDH further notes General Assembly Resolution 68/105 on the “*Criminal accountability of United Nations officials and experts on mission*” of 16 December 2013 which, *inter alia*, strongly urges states to take all appropriate measures to avoid impunity for crimes that could amount to human rights violations committed by United Nations officials or experts on mission, to establish appropriate jurisdiction, cooperate in the exchange of information and assistance in connection with criminal investigations or extradition proceedings, as well as to provide effective protection for victims.

5. With regard to paragraph 3 of Recommendation 2037 (2014), the CDDH takes note of the UN General Assembly Resolution 66/100 (2011) according to which the item “*Responsibility of international organisations*” has been included in the provisional agenda of the Assembly’s forthcoming 69th session with a view to examining the question of the form that the International Law Commission’s “*Draft Articles on the Responsibility of International Organisations*” might take. The CDDH recalls that the Directorate of Legal Advice and Public International Law, in cooperation with the CAHDI, has previously made contributions on behalf of the Council of Europe to the International Law Commission on this matter, and encourages further contributions should the item be discussed in the Sixth Committee of the General Assembly at its next session.

Recommendation 2037(2014)

Final version

Accountability of international organisations for human rights violations

Parliamentary Assembly

1. The Parliamentary Assembly refers to its [Resolution 1979 \(2014\)](#) on accountability of international organisations for human rights violations, which stresses the importance of appropriate mechanisms to ensure the accountability of such organisations for any human rights violations that may occur as a consequence of their activities.

2. The Assembly invites the Committee of Ministers to:

2.1. encourage international organisations of which member States are a part, including the United Nations and its specialised agencies, as well as the European Union and the International Monetary Fund, to examine the quality and effectiveness of mechanisms aimed at ensuring compliance with their human rights obligations and to further develop legal standards in this area;

2.2. recommend that member States examine the status of international organisations within their national legal systems and ensure that arrangements are in place for the waiver of immunity when this is required;

2.3. engage in a discussion on the accountability issues raised by the phenomenon of international organisations taking on responsibilities traditionally held by States and with respect to which the European Court of Human Rights does not have jurisdiction, with a view to closing the resulting lack of accountability.

3. The Assembly also deems it appropriate that the Council of Europe, as an international organisation specialising in human rights, consider how to respond to the call in United Nations General Assembly Resolution 66/100 (2011) relating to the International Law Commission's text on the responsibility of international organisations, and ensure follow-up thereto within the remit of its competence with respect to its own accountability as well as that of other international organisations.