

Strasbourg, 06/09/01

CAHDI (2001) 9

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

**22nd meeting
Strasbourg, 11-12 September 2001**

DECISIONS OF THE COMMITTEE OF MINISTERS CONCERNING THE CAHDI

Secretariat memorandum
Prepared by the Directorate General of Legal Affairs

Foreword

At their 762nd meeting, (Strasbourg, 5 September 2001), the Committee of Ministers at Deputies level considered Recommendation 1523 (2001) of the Parliamentary Assembly on domestic slavery (reproduced in Appendix I) and decided to bring it to the attention of their Governments and assigned ad hoc terms of reference to the Steering Committee for Equality between Women and Men (CDEG), the European Committee on Crime Problems (CDPC), and the Committee of Legal Advisers on Public International Law (CAHDI) (reproduced in appendix II).

The terms of reference of the CAHDI expired on 30 March 2002 and concern particularly the issue of immunity for jurisdiction.

Action required

Members of the CAHDI are called upon to consider the attached recommendation with a view to providing an opinion at its next meeting.

Appendix I

Parliamentary Assembly of the Council of Europe

Recommendation 1523 (2001)^[1]

Domestic slavery

1. In the last few years a new form of slavery has appeared in Europe, namely domestic slavery. It has been established that over 4 million women are sold each year in the world.
2. In this connection the Assembly recalls and reaffirms Article 4, paragraph 1 of the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), which prohibits slavery and servitude, and also the definition of slavery derived from the opinions and judgments of the European Commission of Human Rights and the European Court of Human Rights.
3. The Assembly also recalls Article 3 of the ECHR, which provides that no one shall be subjected to torture or to inhuman or degrading treatment or punishment, and Article 6, which proclaims the right of access to a court in civil and criminal matters, including cases where the employer enjoys immunity from jurisdiction.
4. The Assembly also refers to the European Convention on Mutual Assistance in Criminal Matters (1959) (ETS No. 30), the European Convention on Extradition (1957) (ETS No. 24) and the European Agreement on "au pair" Placement (1969) (ETS No. 68).
5. It notes that the victims' passports are systematically confiscated, leaving them in a situation of total vulnerability with regard to their employers, and sometimes in a situation bordering on imprisonment, where they are subjected to physical and/or sexual violence.
6. Most of the victims of this new form of slavery are in an illegal situation, having been recruited by agencies and having borrowed money to pay for their journey.
7. The physical and emotional isolation in which the victims find themselves, coupled with fear of the outside world, causes psychological problems which persist after their release and leave them completely disoriented.
8. The Assembly also deplores the fact that a considerable number of victims work in embassies or in the homes of international civil servants who, under the Vienna Convention on Diplomatic Relations of 1961, enjoy immunity from jurisdiction and enforcement and are covered by the principle of inviolability of persons and property.

9. It regrets that none of the Council of Europe member states expressly make domestic slavery an offence in their criminal codes.

10. It accordingly recommends that the Committee of Ministers ask the governments of member states to:

- i. make slavery and trafficking in human beings, and also forced marriage, offences in their criminal codes;
- ii. strengthen border controls and harmonise policies for police co-operation, especially with respect to minors;
- iii. ensure that police officers are adequately trained to deal with victims of slavery and increase the number of women officers;
- iv. amend the Vienna Convention in order to waive diplomatic immunity for all offences committed in private life;
- v. sign and ratify the Convention against Transnational Organised Crime and its additional protocols (December 2000);
- vi. protect the rights of victims of domestic slavery by:
 - a. generalising the issuing of temporary and renewable residence permits on humanitarian grounds;
 - b. taking steps to provide them with protection and with social, administrative and legal assistance;
 - c. taking steps for their rehabilitation and their reintegration, including the creation of centres to assist, among others, victims of domestic slavery;
 - d. developing specific programmes for their protection;
 - e. increasing victims' time limits for bringing proceedings for offences of slavery;
 - f. establishing compensation funds for the victims of slavery;

vii. give accurate information about the risks of working abroad to domestic workers and others when permits are requested, for instance at embassies;

viii. avoid all gender discrimination in the issuing of work permits to domestic workers.

11. The Assembly also recommends that the Committee of Ministers ask the relevant expert committee(s) to draw up a domestic workers' charter of rights.

^[1] *Assembly debate* on 26 June 2001 (18th Sitting) (see [Doc. 9102](#), report of the Committee on Equal Opportunities for Women and Men, rapporteur: Mr Connor; and [Doc. 9136](#), opinion of the Social, Health and Family Affairs Committee, rapporteur: Mrs Belohorská).

Text adopted by the Assembly on 26 June 2001 (18th Sitting).

Appendix II

Ad hoc terms of reference for the CAHDI

1. Name of Committee:

Ad hoc Committee of Legal Advisers on Public International Law (CAHDI)

2. Source:

Committee of Ministers

3. Completion date:

31 March 2002

4. Terms of Reference:

To give an opinion on Parliamentary Assembly Recommendation 1523 (2001) on domestic slavery and in particular on the question of immunity from jurisdiction

5. Committee(s) informed of the terms of reference for information:

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