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

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**INTERNATIONAL COURT OF JUSTICE'S JURISDICTION UNDER
SELECTED INTERNATIONAL TREATIES AND AGREEMENTS,
SITUATION CONCERNING THE MEMBER STATES
OF THE COUNCIL OF EUROPE**

Document prepared by the Secretariat of the CAHDI

Foreword

At its 31st meeting (Strasbourg, 23-24 March 2006), the CAHDI considered the ICJ's jurisdiction under selected international treaties and agreements and in particular the situation concerning the Council of Europe's member and observer states on the basis of document CAHDI (2006) 4. The CAHDI pursued its consideration of this matter on the basis of a revised version of the above-mentioned document at its 32nd meeting (Athens, 13-14 September 2006), its 33rd meeting (Strasbourg, 22-23 March 2007), its 34th meeting (Strasbourg, 10-11 September 2007), its 35th meeting (Strasbourg, 6-7 March 2008), its 36th meeting (London, 7-8 October 2008) and its 37th meeting (Strasbourg, 19-20 March 2009) and asked the Secretariat to revise the document in the light of developments and contributions from delegations.

The present document sets out the current state of play.

1. ICJ COMPULSORY JURISDICTION (ARTICLE 36)

Of the 47 Council of Europe member States (hereafter “**member States**”), 23 are parties: Austria, Belgium, Bulgaria, Cyprus, Denmark, Estonia, Finland, Georgia, Germany, Greece, Hungary, Liechtenstein, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Slovakia, Spain, Sweden, Switzerland, United Kingdom. Out of 6 observer States to CAHDI* (hereafter “**observers**”), 3 are parties: Canada, Japan and Mexico.

2. PRINCIPAL HUMAN RIGHTS TREATIES

A. The International Covenant on Economic, Social and Cultural Rights, 1966

No provision on ICJ Jurisdiction.

Of the **member States**, 46 are parties (Andorra being the exception). Of the **observers**, 4 are parties: Canada, Israel, Japan and Mexico.

B. The International Covenant on Civil and Political Rights, 1966

No provision on ICJ Jurisdiction.

All **member States** are parties. Of the **observers**, 5 are parties (Holy See being the exception).

- Optional Protocol to the International Covenant on Civil and Political Rights, 1966

Of the **member States**, 44 are parties, namely: Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Montenegro, the Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Turkey, “the Former Yugoslav Republic of Macedonia”, Ukraine. Of the **observers**, 2 are parties, namely: Canada and Mexico.

C. The International Convention on the Elimination of all forms of Racial Discrimination, monitored by the Committee on the Elimination of Racial Discrimination, 1966

All **member States** are parties. All of the **observers** are parties.

Article 22 provides for the compulsory jurisdiction of the ICJ for the settlement of disputes about the interpretation or application of the Convention, once the negotiation process has failed. Israel, Turkey and USA are maintaining **reservations** on this provision.

D. The Convention on the Elimination of all forms of Discriminations against Women, monitored by the Committee on the Elimination of Discrimination against Women, 1979

All **member States** are parties. Of the **observers**, 4 are parties: Canada, Israel, Japan and Mexico.

Article 29 provides for the compulsory jurisdiction of the ICJ for the settlement of disputes about the interpretation or application of the Convention, once the negotiation and arbitration process have failed. France, Israel, Monaco and Turkey are maintaining **reservations** on this provision.

* 6 active Observer States to CAHDI are taken into consideration in this document, namely: Canada, Holy See, Israel, Japan, Mexico and United States of America (USA).

- Optional Protocol to the Convention on the Elimination of all forms of Discriminations against Women, 1999

Of the **member States** 42 are parties, namely: Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Liechtenstein, Lithuania, Luxembourg, Moldova, Montenegro, the Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, "the Former Yugoslav Republic of Macedonia", Turkey, Ukraine, United Kingdom. Of the **observers**, 2 are parties: Canada and Mexico.

E. The Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, monitored by the Committee against Torture, 1984

All **member States**. All of the **observers** are parties.

Of the 53 **member States** and **observers** which are parties, 48 are bound by the compulsory dispute settlement provision on the jurisdiction of the ICJ (article 30) and 5 are maintaining **reservations** on this provision: France, Israel, Monaco, Turkey and USA.

F. The Convention on the Rights of the Child, monitored by the Committee on the Rights of Children, 1989

The Convention does not have any provision on the jurisdiction of the ICJ, or that on the peaceful settlement of disputes relating to the interpretation or application of the Convention.

All **member States** are parties. Of the **observers**, 5 are parties (USA being the exception).

G. The International Convention on the Protection of the Rights of All Migrants workers and Members of their Families, 1990

Of the **member States**, 4 are parties: Albania, Azerbaijan, Bosnia and Herzegovina, Turkey. Of the **observers**, 1 is a party: Mexico.

Article 92.1 provides for compulsory jurisdiction of the ICJ for the settlement of disputes about the interpretation or application of the Convention once the negotiations then the arbitration process have failed. No State has made a **reservation** on this provision.

H. Convention on the Prevention and Punishment of the Crime of Genocide, 1948

Of the **member States**, 45 are parties (Malta and San Marino being the exception). Of the **observers**, 4 are parties: Canada, Israel, Mexico and USA.

Article IX provides for the compulsory jurisdiction of the ICJ for the settlement of disputes about the interpretation or application of the Convention. Serbia, Spain and USA are maintaining **reservations** on this provision.

I. Convention relating to the Status of Refugees, 1951

Of the 47 Council of Europe States, 45 are parties (Andorra and San Marino being the exception). Of the 6 Observer States to CAHDI, 5 are parties (USA being the exception).

Article 38 provides for the compulsory jurisdiction of the ICJ for the settlement of disputes about the interpretation or application of the Convention. No State has made a **reservation** on this provision.

J. International Convention against the Taking of Hostages, 1979

Of the **member States**, 46 are parties (San Marino being the exception). Of the **observers**, 4 are parties: Canada, Japan, Mexico and USA.

Article 16.1 provides for the compulsory jurisdiction of the ICJ for the settlement of disputes about the interpretation or application of the Convention. Moldova, Turkey and Ukraine are maintaining **reservations** on this provision.

3. TREATIES AGAINST TERRORISM

A. International Convention for the Suppression of Terrorist Bombings, 1997

All **member States** are parties. Of the **observers**, 5 are parties (Holy See being the exception).

Article 20 provides for the compulsory jurisdiction of the ICJ for the settlement of disputes about the interpretation or application of the Convention once the negotiations then arbitration process have failed. Moldova, Turkey and USA are maintaining **reservations** on this provision.

B. International Convention for the Suppression of the Financing of Terrorism, 1999

All the **member States** are parties. Of the observers, 5 are parties (Holy See being the exception).

Article 24 provides for the compulsory jurisdiction of the ICJ for the settlement of disputes about the interpretation or application of the Convention once the negotiations then the arbitration process have failed. Andorra, Israel, Lithuania, Moldova, Turkey and USA are maintaining **reservations** on this provision.

C. European Convention on the Suppression of Terrorism, 1977

Of the **member States**, 46 are parties (Andorra being the exception). None of the **observers** is a party.

Article 10 provides for the peaceful settlement of disputes concerning the interpretation or application of the Convention by arbitration (No ICJ jurisdiction).

D. Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on Financing Terrorism, 2005

Of the **member States**, 16 are parties: Albania, Armenia, Bosnia and Herzegovina, Croatia, Cyprus, Hungary, Malta, Moldova, Montenegro, Netherlands, Poland, Romania, Serbia, Slovak Republic and "the Former Yugoslav Republic of Macedonia", and 17 other States have signed it. None of the **observers** is a party.

Article 48.4 provides among other means, the jurisdiction of the ICJ to settle disputes relating to the interpretation or application of the Convention. No State has made a **reservation** on this provision.

E. Council of Europe Convention on the Prevention of Terrorism, 2005

Of the **member States**, 20 are parties: Albania, Andorra, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Denmark, Estonia, Finland, France, Latvia, Moldova, Montenegro, Poland, Romania, the Russian Federation, Serbia, Slovak Republic, Spain and Ukraine, and 23 have signed it.

Article 29 provides among other means, the jurisdiction of the ICJ to settle disputes relating to the interpretation or application of the Convention. No Partie has made a **reservation** on this provision.

F. Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and on their Destruction, 1992

All **member States** are parties. Of the **observers**, 5 are parties (Israel being the exception).

Article 14.2 provides among other means, the jurisdiction of the ICJ for the settlement of disputes about the interpretation or application of the Convention only on the basis of mutual agreement of States. No State has made a **reservation** on this provision.

G. Convention for the Suppression of Unlawful Seizure of Aircrafts, 1970

Of the **member States**, 46 are parties (San Marino being the exception). Of the **observers**, 5 are parties (Holy See being the exception).

Article 12.1 provides for the compulsory jurisdiction of the ICJ for the settlement of disputes about the interpretation or application of the Convention once the arbitration process has failed. Ukraine is maintaining **reservations** on this provision.

H. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, 1971

Of the **member States**, 46 are parties (San Marino being the exception). Of the **observers**, 5 are parties (Holy See being the exception).

Article 14.1 provides for the compulsory jurisdiction of the ICJ for the settlement of disputes about the interpretation or application of the Convention, once the negotiation and the arbitration process have failed. France and Ukraine are maintaining **reservations** on this provision.

4. TREATIES OF CODIFICATION OF INTERNATIONAL LAW

A. Convention on the reduction of Statelessness, 1961

Of the **member States**, 18 are parties: Albania, Armenia, Austria, Azerbaijan, Bosnia and Herzegovina, Czech Republic, Denmark, Finland, Germany, Hungary, Ireland, Latvia, the Netherlands, Norway, Romania, Slovakia, Sweden, and United Kingdom. Of the **observers**, 1 is a party: Canada.

Article 34 provides for the jurisdiction of the ICJ for the settlement of disputes about the interpretation or application of the Convention, once the other means have failed. No State has made a **reservation** on this provision.

B. Vienna Convention on Diplomatic Relations 1961

All of the **member States** and **observers** are parties.

- Optional Protocol concerning Acquisition of Nationality, 1961

Of the **member States**, 15 are parties: Belgium, Bosnia and Herzegovina, Denmark, Estonia, Finland, Germany, Iceland, Italy, Montenegro, the Netherlands, Norway, Serbia, Sweden, Switzerland, and "the Former Yugoslav Republic of Macedonia". None of the **observers** is a party.

- Optional Protocol to the Vienna Convention on Diplomatic Relations, concerning the Compulsory Settlement of Disputes, 1961

Of the **member States**, 26 are parties: Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Denmark, Estonia, Finland, France, Germany, Hungary, Iceland, Italy, Liechtenstein, Luxembourg, Malta, Montenegro, the Netherlands, Norway, Romania, Serbia, Slovakia, Slovenia, Sweden, Switzerland, "the Former Yugoslav Republic of Macedonia", United Kingdom. Of the **observers**, 2 are parties: USA and Japan.

C. Vienna Convention on Consular Relations, 1963

Of the **member States**, 46 are parties (San Marino being the exception). Of the **observers**, 5 are parties (Israel being the exception).

- Optional Protocol concerning Acquisition of Nationality, 1963

Of the **member States**, 12 are parties: Belgium, Bulgaria, Denmark, Estonia, Finland, Germany, Iceland, Italy, the Netherlands, Norway, Sweden, and Switzerland. None of the **observers** is a party.

- Optional Protocol to the Vienna Convention on Consular Relations, concerning the Compulsory Settlement of Disputes, 1963

Of the **member States**, 20 are parties: Austria, Belgium, Bulgaria, Denmark, Estonia, Finland, France, Germany, Hungary, Iceland, Italy, Liechtenstein, Luxembourg, the Netherlands, Norway, Romania, Slovakia, Sweden, Switzerland, and United Kingdom. Of the **observers**, 2 are parties: Japan and Mexico.

D. Convention on Special Missions, 1969

Of the **member States**, 19 are parties: Austria, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Georgia, Liechtenstein, Lithuania, Montenegro, Poland, Serbia, Slovakia, Slovenia, Spain, Switzerland, "the former Yugoslav Republic of Macedonia", Ukraine. Of the **observers**, 1 is a party: Mexico.

- Optional Protocol to the Convention on Special Missions concerning the Compulsory Settlement of Disputes, 1969

Of the **member States**, 10 are parties: Austria, Bosnia and Herzegovina, Cyprus, Estonia, Liechtenstein, Montenegro, Serbia, Slovakia, Spain, and Switzerland. None of the **observers** is a party.

E. Vienna Convention on the Law of Treaties 1969

No provision on ICJ jurisdiction.

Of the **member States**, 38 are parties: Albania, Andorra, Armenia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, Georgia, Germany, Greece, Hungary, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Moldova, Montenegro, the Netherlands, Poland, Portugal, Russia, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, "the Former Yugoslav Republic of Macedonia", Ukraine, United Kingdom. Of the **observers**, 4 are parties: Canada, Holy See, Japan and Mexico.

F. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, 1973

Of the **member States**, 46 are parties (San Marino being the exception). Of the **observers**, 5 are

parties (Holy See being the exception).

Of the 51 **member States** and **observers** which are parties to the Convention, 48 States are bound by the compulsory dispute settlement provision (article 13) and 3 are maintaining a **reservation** on this provision: Israel, Lithuania and Ukraine.

G. Vienna Convention on Succession of States in respect of Treaties, 1978

Of the **member States**, 12 are parties: Bosnia and Herzegovina, Croatia, Cyprus, Czech Republic, Estonia, Moldova, Montenegro, Serbia, Slovakia, Slovenia, "the Former Yugoslav Republic of Macedonia", Ukraine. None of the **observer** is a party.

Articles 41 and 42 of the Convention provide for the peaceful settlement of disputes by consultation, negotiation and conciliation procedure in first place. Article 43 provides the jurisdiction of ICJ if the first means are failing. Article 44 provides the jurisdiction of the ICJ in first place by mutual consent of States parties to the dispute. No State is maintaining a **reservation** to any of aforesaid provisions.

H. Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations, 1986

Of the **member States**, 20 are parties, namely: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Germany, Greece, Hungary, Italy, Liechtenstein, the Netherlands, Moldova, Slovakia, Spain, Sweden, Switzerland, and United Kingdom. Of the **observers**, 1 is a party: Mexico.

Article 66.2 provides the compulsory jurisdiction of ICJ for the settlement of disputes concerning the interpretation and application of the articles 53 and 64 of the Convention (existence of *jus cogens* norms). No State is maintaining **reservation** to this provision.

5. MISCELLANEOUS – TREATIES PROVIDING THE JURISDICTION OF ICJ

A. European Convention for the Peaceful Settlement of Disputes, 1957

Of the **member States**, 14 are parties: Austria, Belgium, Denmark, Germany, Italy, Liechtenstein, Luxembourg, Malta, the Netherlands, Norway, Slovakia, Sweden, Switzerland, and United Kingdom. None of the **observers** is a party.

B. Revised General Act for the Pacific Settlement of Disputes, 1949

Of the **member States**, 7 are parties: Belgium, Denmark, Estonia, Luxembourg, the Netherlands, Norway and Sweden. None of the **observers** is a party.

Article 41 provides for the jurisdiction of the ICJ for the settlement of disputes relating to the interpretation or application of the General Act. No State is maintaining a **reservation** to this provision.

C. Single Convention on Narcotic drugs, 1961

Of the **member States**, 39 are parties: Austria, Azerbaijan, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Moldova, Monaco, Montenegro, the Netherlands, Norway, Poland, Portugal, Romania, Russia, San Marino, Serbia, Slovakia, Spain, Sweden, Switzerland, "the Former Yugoslav Republic of Macedonia", Turkey, Ukraine, United Kingdom. All of the **observers** are parties.

Article 48.1 provides for the peaceful settlement of disputes in first place by negotiation,

conciliation, arbitration; and Article 48.2 provides for the compulsory jurisdiction of the ICJ in a second time, if the first mean has failed. No State has entered a **reservation** to this provision.

D. United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988

All **member States** are parties. Of the **observers**, 5 are parties (Holy See being the exception).

Article 32.2 provides for the compulsory jurisdiction of the International Court of Justice for the settlement of disputes. Andorra, France, Israel, Lithuania, Turkey and USA are maintaining **reservation** to this provision.

E. United Nations Framework Convention on Climate Change, 1992

Of the **member States**, 46 are parties (Andorra being the exception). Of the **observers**, 5 are parties (Holy See being the exception).

Article 14.2 provides for the compulsory jurisdiction of the ICJ for the settlement of disputes relating to the interpretation of application of this Convention, if the Member State is making a declaration in this way. No State has made such a **declaration**.

F. Convention on Biological Diversity, 1992

Of the **member States**, 46 are parties, (Andorra being the exception). Of the **observers**, 4 are parties: Canada, Israel, Japan and Mexico.

Article 27.3 provides for the compulsory jurisdiction of the ICJ for the settlement of disputes relating to the interpretation or application of this Convention, if the Member State is making a declaration in this way. Austria, Georgia and Latvia have made such **declaration**.

