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COMMITTEE OF LEGAL ADVISERS ON PUBLIC INTERNATIONAL LAW

(CAHDI)

Examination of the European Convention for the Peaceful Settlement of Disputes (ETS No.23)

47th meeting
Strasbourg, 20-21 March 2014

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FOREWORD

1. At their 1168th meeting (10 April 2013), the Ministers' Deputies adopted their decisions on the review of Council of Europe conventions in the light of the Secretary General's report. On measures relating to the management of Council of Europe conventions and in particular on the role of steering and *ad hoc* committees, the Ministers' Deputies:

> instructed the steering and ad hoc committees to carry out, at regular intervals, within the limits of the available resources and bearing in mind the priorities of each committee, an examination of some or all of the conventions for which they have been given responsibility, in co-operation, where appropriate, with the relevant convention-based bodies, in order to:
>
> - propose ways of improving the visibility, impact and efficiency of some or all of the conventions for which they have been given responsibility;
> - draw the attention of member States to the relevant conventions;
> - where necessary, identify any operational problems or obstacles to ratification of the relevant conventions, and draw the attention of member States to reservations which impact substantively on the effectiveness of their implementation;
> - encourage States to regularly examine the possibility and/or desirability of becoming a Party to new Council of Europe conventions;
> - assess the necessity or advisability of drafting amendments or additional protocols to the conventions for which they have been given responsibility or drafting supplementary conventions;
> - and to report back to the Committee of Ministers;

2. At its 46th meeting (Strasbourg, 16-17 September 2013), the CAHDI drew up a work plan for the follow-up of the conventions for which it had been given responsibility, viz. the European Convention for the Peaceful Settlement of Disputes (ETS No. 23), the European Convention on Consular Functions (ETS No. 61), the European Convention on the Abolition of Legalisation of Documents executed by Diplomatic Agents or Consular Officers (ETS No. 63), the European Convention on State Immunity (ETS No. 74), the Additional Protocol to the European Convention on State Immunity (ETS No. 74A) and the European Convention on the Non-Applicability of Statutory Limitation to Crimes against Humanity and War Crimes (ETS No. 82). In pursuance of this work plan, the Committee decided to examine the European Convention for the Peaceful Settlement of Disputes (ETS No. 23) at its 47th meeting.

3. This document comprises a presentation of the Convention in order to provide a framework for the discussion that the CAHDI could initiate. The presentation will start with a number of introductory remarks on the context in which the Convention came about (Part I). The mechanism for the settlement of disputes established by the Convention will then be analysed (Part II). Part III will assess its effectiveness.

4. The text of the Convention is reproduced in Appendix I. The current state of signatures and ratifications appears in Appendix II, and reservations and declarations in Appendix III.

ACTION REQUIRED

The members of the CAHDI are invited to hold an exchange of views on the practical importance of the European Convention for the Peaceful Settlement of Disputes.

I. INTRODUCTORY REMARKS

Unlike the constituent instruments of a number of regional international organisations, including the Organisation of American States (OAS), the Arab League and the Organisation of African Unity (OAU), the Statute of the Council of Europe contains no provisions regarding the settlement of disputes between its member States.

To address this gap, the Parliamentary Assembly of the Council of Europe made, between 1950 and 1952, three recommendations to the Committee of Ministers, inviting member States to submit any dispute which might arise between them to a peaceful settlement procedure.

More especially, in November 1950, the Assembly adopted an initial recommendation, proposing the conclusion of a convention providing that any legal dispute be submitted to the International Court of Justice (hereinafter the "ICJ") and, with regard to non-legal disputes, the accession by all Council of Europe member States to Chapters I and IV of the General Act of Geneva.[1] One year later, the Assembly went further and recommended that the Committee of Ministers establish a European Court of Justice as a regional court having general jurisdiction.[2] The Assembly subsequently consolidated the two proposals in a single text, recommending the conclusion of a European Act for the peaceful settlement of disputes.[3] It was on this basis that work began on drafting the European Convention on the Peaceful Settlement of Disputes, concluded on 29 April 1957.

The mechanism agreed upon for this Convention did not follow up the proposal to establish a specialised body whose role would be to deal with disputes between member States. Rather, the preferred solution was to strengthen, amongst these States, the universal mechanism of the ICJ. This mechanism was broadly based on the Geneva General Act of Arbitration, drafted under the auspices of the League of Nations.[4]

[1] See Recommendation 56(1950).

[2] See Recommendation 22(1951).

[3] See Recommendation 36(1952).

[4] The purpose of the General Act of Arbitration of 26 September 1928, revised on 28 April 1949, was to offer a solution to all kinds of disputes, whether legal or non-legal in nature. It provided for a conciliation procedure followed by the possibility of unilateral referral of all legal disputes, defined in Article 17 as "all disputes with regard to which the parties are in conflict as to their respective rights", to the compulsory jurisdiction of the Permanent Court of International Justice (PCIJ) or an arbitral tribunal. Disputes not of a legal nature were to be referred to an arbitral tribunal, if applicable at the initiative of a single Party.

II. PRESENTATION OF THE MECHANISM FOR SETTLEMENT OF DISPUTES ESTABLISHED BY THE CONVENTION

The Convention provides that States Parties shall submit their disputes to three types of peaceful settlement: judicial settlement, conciliation or arbitration.

A. **Judicial settlement** (Chapter I)

Article 1 of the Convention provides that:

> The High Contracting Parties shall submit to the judgement of the International Court of Justice all international legal disputes which may arise between them including, in particular, those concerning:
>
> a. the interpretation of a treaty;
> b. any question of international law;
> c. the existence of any fact which, if established, would constitute a breach of an international obligation;
> d. the nature or extent of the reparation to be made for the breach of an international obligation.

This article reiterates the definition of legal dispute which is to be found in Article 36, paragraph 2 of the Statute of the ICJ. The words "in particular" have nevertheless been added to this definition, and this in theory means that the list of legal disputes that must be referred to the Court is unlimited.

It should be noted that the obligation to accept the compulsory jurisdiction of the ICJ for legal disputes cannot be excluded from the acceptance of States ratifying the Convention. This is justified by the fact that one of the principal objectives of the Convention was in point of fact to strengthen the role of the ICJ in the settlement of legal conflicts.

B. **Conciliation** (Chapter II)

The parties to a dispute may, however, agree to have recourse to conciliation prior to seeking a judicial settlement. In such cases, conciliation shall be seen as a preliminary phase in the procedure if both parties have agreed to this in advance. Moreover, all disputes other than “legal” disputes falling within the scope of Article 1, shall be submitted to conciliation.

These disputes are to be referred to a Permanent Conciliation Commission, previously set up by the parties concerned, or to a Special Conciliation Commission.

Article 15 of the Convention provides that:

> 1. The task of the Special Conciliation Commission shall be to elucidate the questions in dispute, to collect with that object all necessary information by means of enquiry or otherwise, and to endeavour to bring the parties to an agreement. It may, after the case has been examined, inform the parties of the terms of settlement which seem suitable to it and lay down the period within which they are to make their decision.
>
> 2. At the close of its proceedings, the Commission shall draw up a *procès-verbal* stating, as the case may be, either that the parties have come to an agreement and, if need arises, the terms of the agreement, or that it has been impossible to effect a settlement. […]

In the case of a “mixed dispute”, i.e. a dispute involving both questions for which conciliation is appropriate and other questions for which judicial settlement is appropriate, any party to the dispute shall have the right to insist that the judicial settlement of the legal questions shall precede conciliation (Article 18).

C. **Arbitration** (Chapter III)

Article 19 of the Convention provides that:

> The High Contracting Parties shall submit to arbitration all disputes which may arise between them other than those mentioned in Article 1 and which have not been settled by conciliation, either because the parties have agreed not to have prior recourse to it or because conciliation has failed.

The Convention contains provisions on the formation and procedure of an *ad hoc* arbitral tribunal. The President of the ICJ intervenes should the parties fail to reach agreement on the appointment of the arbitrators.

If nothing is laid down in this regard in a special agreement or if no special agreement has been made, the arbitral tribunal shall decide *ex aequo et bono*, having regard to the general principles of international law, while respecting the contractual obligations and the final decisions of international tribunals which are binding on the parties.

D. **Disputes excluded from the scope of the Convention**

Article 27 of the Convention provides that:

> The provisions of this Convention shall not apply to:
>
> a. disputes relating to facts or situations prior to the entry into force of this Convention as between the parties to the dispute;
>
> b. disputes concerning questions which by international law are solely within the domestic jurisdiction of States.

In addition, Article 28 paragraph 1 of the Convention provides that:

> The provisions of this Convention shall not apply to disputes which the parties have agreed or may agree to submit to another procedure of peaceful settlement. Nevertheless, in respect of disputes falling within the scope of Article 1, the High Contracting Parties shall refrain from invoking as between themselves agreements which do not provide for a procedure entailing binding decisions.

III. THE EFFECTIVENESS OF THE CONVENTION

A. Status of signatures and ratifications

The European Convention for the Peaceful Settlement of Disputes came into force on 30 April 1958. At present, it has been ratified by 14 States (Austria, Belgium, Denmark, Germany, Italy, Liechtenstein, Luxembourg, Malta, the Netherlands, Norway, Slovakia, Sweden, Switzerland and the United Kingdom) and signed by 6 States (France, Greece, Iceland, Ireland, Lithuania and Turkey). Slovakia was the most recent country to have ratified the Convention on 7 May 2001. The most recent signature was in 2011 (Lithuania).

Among the Council of Europe Member States who have not yet ratified the Convention, 10 have subscribed to the optional clause recognising the jurisdiction of the ICJ as compulsory (Bulgaria, Cyprus, Estonia, Georgia, Greece, Hungary, Ireland, Poland, Portugal and Spain).

B. Status of reservations and declarations

Article 34 paragraph 1 of the Convention provides that:

> On depositing its instrument of ratification, any one of the High Contracting Parties may declare that it will not be bound by:
>
> a. Chapter III relating to arbitration; or
> b. Chapters II and III relating to conciliation and arbitration.

Therefore, it is excluded that a State Party to the Convention does not accept the compulsory jurisdiction of the ICJ as concerns legal disputes.

8 member States of the Council of Europe have made declarations regarding arbitration specifying that their acceptance of the Convention does not extend to Chapter III thereof (Belgium, France, Italy, Malta, the Netherlands, Slovakia, Sweden and the United Kingdom).

2 member States of the Council of Europe have made declarations specifying that their acceptance of the Convention does not extend to Chapter II (Italy and the United Kingdom, in respect of its overseas territories other than the Channel Islands and the Isle of Man).

C. Application in practice

With regard to the settlement of legal disputes, the Convention was applied for the first time in the dispute concerning the North Sea continental shelf between, on the one hand, Denmark and the Netherlands, and on the other, the Federal Republic of Germany (ICJ, 20 February 1969, ICJ Reports 1969, p. 3).

Two agreements concluded between Austria and Italy were also based on the Convention. The first was the agreement of 17 July 1971 on the German-speaking minority of South Tyrol (Alto Adige) ([1973] 284 Gazzetta Ufficiale della Repubblica Italiana 7290) which extended the application of the first chapter of the Convention "to the interpretation and application of bilateral agreements in force between the two countries, even where the disputes refer to facts and situations prior to the Convention's entry into force in respect of the two States". This agreement therefore modified, between Austria and Italy, Article 27 a) of the Convention according to which its provisions did not apply to disputes relating to facts or situations prior to the Convention's entry into force as between the parties to the dispute. The second was the agreement of 29 March 1974 on the regulation of cross-border rail traffic. Under that agreement disputes were to be submitted not to the ICJ but to the arbitration procedure provided for in Chapter III of the Convention.

It was also on the basis of the Convention that Liechtenstein referred to the ICJ its dispute with Germany concerning certain property. In substantiation of the Court's jurisdiction, the application submitted by Liechtenstein relied on Article 1 of the Convention, which entered into force as between Germany and Liechtenstein on 18 February 1980. In its final decision in this case, the Court upheld Germany's second preliminary objection *rationae temporis* concluding that in the light of Article 27 a) of the Convention, it did not have jurisdiction to settle the dispute (ICJ, 10 February 2005, *Case concerning certain property*, Liechtenstein v. Germany, available on http://www.icj-cij.org/docket/files/123/8234.pdf).

The Convention was also recently relied on by Germany in referring to the ICJ its dispute with Italy regarding jurisdictional immunities of the State. Italy raised no objections to the Court's jurisdiction nor to the admissibility of the application. Accordingly, the Court ruled that it had jurisdiction to settle the dispute (ICJ, 3 February. 2012, *Jurisdictional Immunities of the State*, Germany v. Italy: Greece intervening, available on http://www.icj-cij.org/docket/files/143/16884.pdf).

With regard to the settlement of non-legal disputes, in the light of the information currently available, it is not possible to ascertain whether and to what extent the States Parties to the Convention have had recourse to conciliation or arbitration in application of the provisions of the Convention.

D. The inclusion of particular clauses for the settlement of disputes in other Council of Europe conventions

Several of the most recent Council of Europe conventions provide for their own means of settling disputes regarding their interpretation or application without reference to the European Convention for the Peaceful Settlement of Disputes.

Article 28 paragraph 1 of the Convention provides that, in such cases:

> The provisions of this Convention shall not apply to disputes which the parties have agreed or may agree to submit to another procedure of peaceful settlement. Nevertheless, in respect of disputes falling within the scope of Article 1, the High Contracting Parties shall refrain from invoking as between themselves agreements which do not provide for a procedure entailing binding decisions.

E. The examination of the Convention within the Council of Europe

The relevance of the Convention has already been examined at various levels within the Council of Europe.

1. Examination by the Parliamentary Assembly of the Council of Europe

In the Parliamentary Assembly of the Council of Europe, following the completion of the work on the Convention in 1957, a proposal for setting up of an "Interim European Committee for the Settlement of Disputes" along with a recommendation that the Committee of Ministers "play, in future, a more active role in the settlement of disputes among member states"[5] was presented in 1965. The Committee of Ministers did not follow up the Assembly's proposal.

The Assembly was subsequently asked to consider an initiative to supplement the Convention, for both legal and other conflicts. A motion for a recommendation was tabled on 28 September 1974 suggesting that the Assembly recommended that the Committee of Ministers "use the procedures provided for in the European Convention on Human Rights and the European Convention for the Peaceful Settlement of Disputes as a pattern for the establishment of a court of arbitration […] to

[5] See Recommendation (426) 1965.

which each of the parties to a conflict may submit the dispute for a mandatory settlement".[6] However, the Legal Affairs Committee was not in favour of a new international peaceful settlement mechanism in the Council of Europe.

2. Examination by the CAHDI

The Convention was examined at 17th meeting of the CAHDI (Vienna, 8-9 March 1999). The delegations noted at the time that the very existence of the Convention and the possibility of recourse to one of the modes of judicial settlements provided for therein had a dissuasive effect and facilitated friendly settlements.[7]

In January 2005, the Assembly recommended that the Committee of Ministers "instruct its competent steering committee to analyse how far the European Convention for the Peaceful Settlement of Disputes reflects the current requirements of conflict settlement among member states of the Council of Europe, and where it should be revised in order to provide an adequate instrument for the peaceful settlement of disputes between member states of the Council of Europe".[8]

At its 29th meeting in March 2005, the CAHDI prepared, at the request of the Committee of Ministers, a draft reply to the above Recommendation.[9] Delegations underlined that the European Convention on the Peaceful Settlement of Disputes was a satisfactory legal document and that there was no need to revise it. They did, however, observe that the Convention's effectiveness could be enhanced by additional ratifications.

[6] Doc. 3502 of 28 September 1974.
[7] See doc. CAHDI (1999) 15, Report of the 17th meeting, paragraphs 73-79.
[8] See Recommendation 1690 (2005), of 25 January 2005 on the conflict over the Nagorno-Karabakh region dealt with by the OSCE Minsk Conference.
[9] See doc. CAHDI (2005) 8.

APPENDICES

APPENDIX I

EUROPEAN CONVENTION FOR THE PEACEFUL SETTLEMENT OF DISPUTES (ETS NO. 23)

Preamble

The governments signatory hereto, being members of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members;

Convinced that the pursuit of peace based upon justice is vital for the preservation of human society and civilisation;

Resolved to settle by peaceful means any disputes which may arise between them,

Have agreed as follows:

Chapter I – Judicial settlement

Article 1

The High Contracting Parties shall submit to the judgement of the International Court of Justice all international legal disputes which may arise between them including, in particular, those concerning:

a. the interpretation of a treaty;
b. any question of international law;
c. the existence of any fact which, if established, would constitute a breach of an international obligation;
d. the nature or extent of the reparation to be made for the breach of an international obligation.

Article 2

1. The provisions of Article 1 shall not affect undertakings by which the High Contracting Parties have accepted or may accept the jurisdiction of the International Court of Justice for the settlement of disputes other than those mentioned in Article 1.
2. The parties to a dispute may agree to resort to the procedure of conciliation before that of judicial settlement.

Article 3

The High Contracting Parties which are not parties to the Statute of the International Court of Justice shall carry out the measures necessary to enable them to have access thereto.

Chapter II – Conciliation

Article 4

1. The High Contracting Parties shall submit to conciliation all disputes which may arise between them, other than disputes falling within the scope of Article 1.
2. Nevertheless, the parties to a dispute falling within the scope of this article may agree to submit it to an arbitral tribunal without prior recourse to the procedure of conciliation.

Article 5

When a dispute arises which falls within the scope of Article 4, it shall be referred to a Permanent Conciliation Commission competent in the matter, previously set up by the parties concerned. If the parties agree not to have recourse to that Commission, or if there is no such Commission, the dispute shall be referred to a special Conciliation Commission, which shall be set up by the parties within a period of three months from the date on which a request to that effect is made by one of the parties to the other party.

Article 6

In the absence of agreement to the contrary between the parties concerned, the Special Conciliation Commission shall be constituted as follows:

The Commission shall be composed of five members. The parties shall each nominate one Commissioner, who may be chosen from among their respective nationals. The three other Commissioners, including the President, shall be chosen by agreement from among the nationals of third States. These three Commissioners shall be of different nationalities and shall not be habitually resident in the territory nor be in the service of the parties.

Article 7

If the nomination of the Commissioners to be designated jointly is not made within the period provided for in Article 5, the task of making the necessary nominations shall be entrusted to the government of a third State, chosen by agreement between the parties, or, failing such agreement being reached within three months, to the President of the International Court of Justice. Should the latter be a national of one of the parties to the dispute, this task shall be entrusted to the Vice-President of the Court or to the next senior judge of the Court who is not a national of the parties.

Article 8

Vacancies which may occur as a result of death, resignation or any other cause shall be filled within the shortest possible time in the manner fixed for the nominations.

Article 9

1. Disputes shall be brought before the Special Conciliation Commission by means of an application addressed to the President by the two parties acting in agreement or, in default thereof, by one or other of the parties.
2. The application, after giving a summary account of the subject of the dispute, shall contain the invitation to the Commission to take all necessary measures with a view to arriving at an amicable solution.
3. If the application emanates from only one of the parties, the other party shall, without delay, be notified of it by that party.

Article 10

1. In the absence of agreement to the contrary between the parties, the Special Conciliation Commission shall meet at the seat of the Council of Europe or at some other place selected by its President.
2. The Commission may at all times request the Secretary General of the Council of Europe to afford it his assistance.

Article 11

The work of the Special Conciliation Commission shall not be conducted in public unless the Commission with the consent of the parties so decides.

Article 12

1. In the absence of agreement to the contrary between the parties, the Special Conciliation Commission shall lay down its own procedure, which in any case must provide for both parties being heard. In regard to enquiries, subject to the provisions of this Convention, the Commission, unless it decides unanimously to the contrary, shall act in accordance with the provisions of Part III of The Hague Convention for the Pacific Settlement of International Disputes of 18th October 1907.
2. The parties shall be represented before the Conciliation Commission by agents whose duty shall be to act as intermediaries between them and the Commission; they may be assisted by counsels and experts appointed by them for that purpose and may request that all persons whose evidence appears to them desirable shall be heard.
3. The Commission shall be entitled to request oral explanations from the agents, counsels and experts of both parties, as well as from all persons it may think desirable to summon with the consent of their governments.

Article 13

In the absence of agreement to the contrary between the parties, the decisions of the Special Conciliation Commission shall be taken by a majority vote and, except in relation to questions of procedure, decisions of the Commission shall be valid only if all its members are present.

Article 14

The parties shall facilitate the work of the Special Conciliation Commission and, in particular, shall supply it to the greatest possible extent with all relevant documents and information. They shall use the means at their disposal to allow it to proceed in their territory, and in accordance with their law, to the summoning and hearing of witnesses or experts and to visit the localities in question.

Article 15

1. The task of the Special Conciliation Commission shall be to elucidate the questions in dispute, to collect with that object all necessary information by means of enquiry or otherwise, and to endeavour to bring the parties to an agreement. It may, after the case has been examined, inform the parties of the terms of settlement which seem suitable to it and lay down the period within which they are to make their decision.
2. At the close of its proceedings, the Commission shall draw up a *procès-verbal* stating, as the case may be, either that the parties have come to an agreement and, if need arises, the terms of the agreement, or that it has been impossible to effect a settlement. No mention shall be made in the *procès-verbal* of whether the Commission's decisions were taken unanimously or by a majority vote.
3. The proceedings of the Commission shall, unless the parties otherwise agree, be terminated within six months from the date on which the Commission shall have been given cognisance of the dispute.

Article 16

The Commission's *procès-verbal* shall be communicated without delay to the parties. It shall only be published with their consent.

Article 17

1. During the proceedings of the Commission, each of the Commissioners shall receive emoluments, the amount of which shall be fixed by agreement between the parties, each of which shall contribute an equal share.
2. The general expenses arising out of the working of the Commission shall be divided in the same manner.

Article 18

In the case of a mixed dispute involving both questions for which conciliation is appropriate and other questions for which judicial settlement is appropriate, any party to the dispute shall have the right to insist that the judicial settlement of the legal questions shall precede conciliation.

Chapter III – Arbitration

Article 19

The High Contracting Parties shall submit to arbitration all disputes which may arise between them other than those mentioned in Article 1 and which have not been settled by conciliation, either because the parties have agreed not to have prior recourse to it or because conciliation has failed.

Article 20

1. The party requesting arbitration shall inform the other party of the claim which it intends to submit to arbitration, of the grounds on which such claim is based and of the name of the arbitrator whom it has nominated.
2. In the absence of agreement to the contrary between the parties concerned, the Arbitral Tribunal shall be constituted as follows:
   The Arbitral Tribunal shall consist of five members. The parties shall each nominate one member, who may be chosen from among their respective nationals. The other three arbitrators, including the President, shall be chosen by agreement from among the nationals of third States. They shall be of different nationalities and shall not be habitually resident in the territory nor be in the service of the parties.

Article 21

If the nomination of the members of the Arbitral Tribunal is not made within a period of three months from the date on which one of the parties requested the other party to constitute an Arbitral Tribunal, the task of making the necessary nominations shall be entrusted to the government of a third State, chosen by agreement between the parties, or, failing agreement within three months, to the President of the International Court of Justice. Should the latter be a national of one of the parties to the dispute, this task shall be entrusted to the Vice-President of the Court, or to the next senior judge of the Court who is not a national of the parties.

Article 22

Vacancies which may occur as a result of death, resignation or any other cause shall be filled within the shortest possible time in the manner fixed for the nomination.

Article 23

The parties shall draw up a special agreement determining the subject of the dispute and the details of procedure.

Article 24

In the absence of sufficient particulars in the special agreement regarding the matters referred to in Article 23, the provisions of Part IV of The Hague Convention of 18th October 1907 for the Pacific Settlement of International Disputes shall apply so far as possible.

Article 25

Failing the conclusion of a special agreement within a period of three months from the date on which the Arbitral Tribunal was constituted, the dispute may be brought before the Tribunal upon application by one or other party.

Article 26

If nothing is laid down in the special agreement or no special agreement has been made, the Tribunal shall decide *ex aequo et bono*, having regard to the general principles of international law, while respecting the contractual obligations and the final decisions of international tribunals which are binding on the parties.

Chapter IV – General provisions

Article 27

The provisions of this Convention shall not apply to:

a. disputes relating to facts or situations prior to the entry into force of this Convention as between the parties to the dispute;
b. disputes concerning questions which by international law are solely within the domestic jurisdiction of States.

Article 28

1. The provisions of this Convention shall not apply to disputes which the parties have agreed or may agree to submit to another procedure of peaceful settlement. Nevertheless, in respect of disputes falling within the scope of Article 1, the High Contracting Parties shall refrain from invoking as between themselves agreements which do not provide for a procedure entailing binding decisions.
2. This Convention shall in no way affect the application of the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms signed on 4th November 1950, or of the Protocol thereto signed on 20th March 1952.

Article 29

1. In the case of a dispute the subject of which, according to the municipal law of one of the parties, falls within the competence of its judicial or administrative authorities, the party in question may object to the dispute being submitted for settlement by any of the procedures laid down in this Convention until a decision with final effect has been pronounced, within a reasonable time, by the competent authority.
2. If a decision with final effect has been pronounced in the State concerned, it will no longer be possible to resort to any of the procedures laid down in this Convention after the expiration of a period of five years from the date of the aforementioned decision.

Article 30

If the execution of a judicial sentence or arbitral award would conflict with a judgement or measure enjoined by a court of law or other authority of one of the parties to the dispute, and if the municipal law of that party does not permit or only partially permits the consequences of the judgement or measure in question to be annulled, the Court or the Arbitral Tribunal shall, if necessary, grant the injured party equitable satisfaction.

Article 31

1. In all cases where a dispute forms the subject of arbitration or judicial proceedings, and particularly if the question on which the parties differ arises out of acts already committed or on the point of being committed, the International Court of Justice, acting in accordance with Article 41 of its Statute, or the Arbitral Tribunal, shall lay down within the shortest possible time the provisional measures to be adopted. The parties to the dispute shall be bound to accept such measures.
2. If the dispute is brought before a Conciliation Commission the latter may recommend to the parties the adoption of such provisional measures as it considers suitable.

3. The parties shall abstain from all measures likely to react prejudicially upon the execution of the judicial or arbitral decision or upon the arrangements proposed by the Conciliation Commission and, in general, shall abstain from any sort of action whatsoever which may aggravate or extend the dispute.

Article 32

1. This Convention shall remain applicable as between the Parties thereto, even though a third State, whether a Party to the Convention or not, has an interest in the dispute.
2. In the procedure of conciliation the parties may agree to invite such a third State to intervene.

Article 33

1. In judicial or arbitral procedure, if a third State should consider that its legitimate interests are involved, it may submit to the International Court of Justice or to the Arbitral Tribunal a request to intervene as a third party.
2. It will be for the Court or the Tribunal to decide upon this request.

Article 34

1. On depositing its instrument of ratification, any one of the High Contracting Parties may declare that it will not be bound by:
    a. Chapter III relating to arbitration; or
    b. Chapters II and III relating to conciliation and arbitration.
2. A High Contracting Party may only benefit from those provisions of this Convention by which it is itself bound.

Article 35

1. The High Contracting Parties may only make reservations which exclude from the application of this Convention disputes concerning particular cases or clearly specified subject matters, such as territorial status, or disputes falling within clearly defined categories. If one of the High Contracting Parties has made a reservation, the other Parties may enforce the same reservation in regard to that Party.
2. Any reservation made shall, unless otherwise expressly stated, be deemed not to apply to the procedure of conciliation.
3. Except as provided in paragraph 4 of this article, any reservations must be made at the time of depositing instruments of ratification of the Convention.
4. If a High Contracting Party accepts the compulsory jurisdiction of the International Court of Justice under paragraph 2 of Article 36 of the Statute of the said Court, subject to reservations, or amends any such reservations, that High Contracting Party may by a simple declaration, and subject to the provisions of paragraphs 1 and 2 of this article, make the same reservations to this Convention. Such reservations shall not release the High Contracting Party concerned from its obligations under this Convention in respect of disputes relating to facts or situations prior to the date of the declaration by which they are made. Such disputes shall, however, be submitted to the appropriate procedure under the terms of this Convention within a period of one year from the said date.

Article 36

A Party which is bound by only part of this Convention, or which has made reservations, may at any time, by a simple declaration, either extend the scope of its obligations or abandon all or part of its reservations.

Article 37

The declarations provided for in paragraph 4 of Article 35 and in Article 36 shall be addressed to the Secretary General of the Council of Europe, who shall transmit copies to each of the other High Contracting Parties.

Article 38

1. Disputes relating to the interpretation or application of this Convention, including those concerning the classification of disputes and the scope of reservations, shall be submitted to the International Court of Justice. However, an objection concerning the obligation of a High Contracting Party to submit a particular dispute to arbitration can only be submitted to the Court within a period of three months after the notification by one party to the other of its intention to resort to arbitration. Any such objection made after that period shall be decided upon by the arbitral tribunal. The decision of the Court shall be binding on the body dealing with the dispute.
2. Recourse to the International Court of Justice in accordance with the above provisions shall have the effect of suspending the conciliation or arbitration proceedings concerned until the decision of the Court is known.

Article 39

1. Each of the High Contracting Parties shall comply with the decision of the International Court of Justice or the award of the Arbitral Tribunal in any dispute to which it is a party.
2. If one of the parties to a dispute fails to carry out its obligations under a decision of the International Court of Justice or an award of the Arbitral Tribunal, the other party to the dispute may appeal to the Committee of Ministers of the Council of Europe. Should it deem necessary, the latter, acting by a two-thirds majority of the representatives entitled to sit on the Committee, may make recommendations with a view to ensuring compliance with the said decision or award.

Article 40

1. This Convention may be denounced by a High Contracting Party only after the conclusion of a period of five years from the date of its entry into force for the Party in question. Such denunciation shall be subject to six months' notice, which shall be communicated to the Secretary General of the Council of Europe, who shall inform the other Contracting Parties.
2. Denunciation shall not release the High Contracting Party concerned from its obligations under this Convention in respect of disputes relating to facts or situations prior to the date of the notice referred to in the preceding paragraph. Such dispute shall, however, be submitted to the appropriate procedure under the terms of this Convention within a period of one year from the said date.
3. Subject to the same conditions, any High Contracting Party which ceases to be a member of the Council of Europe shall cease to be a party to this Convention within a period of one year from the said date.

Article 41

1. This Convention shall be open for signature by the members of the Council of Europe. It shall be ratified. Instruments of ratification shall be deposited with the Secretary General of the Council of Europe.
2. This Convention shall enter into force on the date of the deposit of the second instrument of ratification.
3. As regards any signatory ratifying subsequently, the Convention shall enter into force on the date of the deposit of its instrument of ratification.
4. The Secretary General of the Council of Europe shall notify all the members of the Council of Europe of the entry into force of the Convention, the names of the High Contracting Parties who have ratified it and the deposit of all instruments of ratification which may be effected subsequently.

In witness whereof the undersigned, being duly authorised thereto, have signed the present Convention.

Done at Strasbourg, this 29th day of April 1957, in English and French, both texts being equally authoritative, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary General shall transmit certified copies to each of the signatories.

APPENDIX II

CURRENT STATE OF SIGNATURES AND RATIFICATIONS AS OF 4 MARCH 2014

Member States of the Council of Europe

	Signature	Ratification	Entry into force	Notes	R.	D.	A.	T.	C.	O.
Albania										
Andorra										
Armenia										
Austria	13/12/1957	15/1/1960	15/1/1960							
Azerbaijan										
Belgium	29/4/1957	20/4/1970	20/4/1970			X				
Bosnia and Herzegovina										
Bulgaria										
Croatia										
Cyprus										
Czech Republic										
Denmark	29/4/1957	17/7/1959	17/7/1959							
Estonia										
Finland										
France	29/4/1957					X				
Georgia										
Germany	29/4/1957	18/4/1961	18/4/1961					X		
Greece	29/4/1957									
Hungary										
Iceland	29/4/1957									
Ireland	29/4/1957									
Italy	29/4/1957	29/1/1960	29/1/1960			X				
Latvia										
Liechtenstein	11/12/1979	18/2/1980	18/2/1980							
Lithuania	8/12/2011									
Luxembourg	29/4/1957	5/7/1961	5/7/1961							
Malta	12/12/1966	28/2/1967	28/2/1967		X					
Moldova										
Monaco										
Montenegro										

Netherlands	29/4/1957	7/7/1958	7/7/1958			X		X		
Norway	29/4/1957	27/3/1958	30/4/1958							
Poland										
Portugal										
Romania										
Russia										
San Marino										
Serbia										
Slovakia	12/1/2001	7/5/2001	7/5/2001			X				
Slovenia										
Spain										
Sweden	29/4/1957	30/4/1958	30/4/1958			X				
Switzerland	15/4/1964	29/11/1965	29/11/1965							
The former Yugoslav Republic of Macedonia										
Turkey	8/5/1958									
Ukraine										
United Kingdom	29/4/1957	7/12/1960	7/12/1960		X	X				

Non-members of the Council of Europe

	Signature	Ratification	Entry into force	Notes	R.	D.	A.	T.	C.	O.

Total number of signatures not followed by ratifications:	6
Total number of ratifications/accessions:	14

Notes:
a: Accession - s: Signature without reservation as to ratification - su: Succession - r: Signature "ad referendum".
R.: Reservations - D.: Declarations - A.: Authorities - T.: Territorial Application - C.: Communication - O.: Objection.

APPENDIX III

LIST OF RESERVATIONS AND DECLARATIONS MADE WITH RESPECT TO THE EUROPEAN CONVENTION FOR THE PEACEFUL SETTLEMENT OF DISPUTES (ETS NO. 23)

BELGIUM

Declaration made at the time of deposit of the instrument of ratification, on 20 April 1970 - Or. Fr.

In accordance with the provisions of Article 34 (1) of the Convention, Belgium will not be bound by Chapter III relating to arbitration.

Period covered: 20/4/1970 -

The preceding statement concerns Article(s) : 34

FRANCE

Declaration made at the time of signature, on 29 April 1957 - Or. Fr.

The French Government's acceptance will not apply to Chapter III of the said Convention, relating to arbitration.

The preceding statement concerns Article(s) : 34

ITALY

Declaration made at the time of deposit of the instrument of ratification, on 29 January 1960 - Or. Fr.

The Italian Government declared that it intended to avail itself of the option contained in Article 34, paragraph 1 b, of the Convention, and that the present ratification would therefore not apply to Chapters II and III relating to conciliation and arbitration.

Period covered: 29/1/1960 -

The preceding statement concerns Article(s) : 34

MALTA

Reservation made at the time of signature, on 12 December 1966, and confirmed in the Annex of the instrument of ratification, deposited on 28 February 1967 - Or. Engl.

The Government of Malta declares, in accordance with the provisions of Articles 34 of the Convention, that it does not consider itself bound by the provisions of Chapter III of the Convention.

Period covered: 28/2/1967 -

The preceding statement concerns Article(s) : 34

Reservation made at the time of signature, on 12 December 1966, and confirmed in the Annex of the instrument of ratification, deposited on 28 February 1967 - Or. Engl.

The Government of Malta declares, in accordance with the provisions of Articles 35 of the Convention, that:

In regard to Chapter I, it accepts as compulsory ipso facto and without special convention, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all disputes other than:

i. disputes in regard to which the Parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;

ii. disputes with the Government of any other country which is a Member of the British Commonwealth of Nations, all of which disputes shall be settled in such manner as the parties have agreed or shall agree;

iii. disputes with regard to questions which by international law fall exclusively within the jurisdiction of Malta;

iv. disputes concerning any question relating to or arising out of belligerent or military occupation or the discharge of any functions pursuant to any recommendation or decision of an organ of the United Nations, in accordance with which the Government of Malta have accepted obligations;

v. disputes arising under a multilateral treaty, unless (1) all Parties to the treaty affected by the decision are also Parties to the case before the Court, or (2) the Government of Malta specially agrees to jurisdiction;

vi. disputes relating to any matter excluded from compulsory adjudication or arbitration under any treaty, convention or other international agreement or instrument to which Malta is a party;

vii. disputes in respect of which arbitral or judicial proceedings are taking or have taken place with any State which, at the date of the commencement of the proceedings, had not itself accepted the compulsory jurisdiction of the International Court of Justice; and

viii. disputes in respect of which any other party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purposes of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court.

The Government of Malta also reserves the right at any time, by means of a notification addressed to the Secretary General of the Council of Europe, and with effect as from the moment of such notification either to add to, amend or withdraw any of the foregoing reservations or any that may hereafter be added.

Period covered: 28/2/1967 -

The preceding statement concerns Article(s) : 35

Declaration contained in a letter from the Minister for Foreign Affairs of Malta, dated 2 September 1983, registered at the Secretariat General on 5 September 1983 - Or. Engl.

I have the honour to refer to the Declaration made by the Government of Malta with respect to the European Convention for the Peaceful Settlement of Disputes (Strasbourg, 29 April 1957) and

annexed to the Instrument of Ratification of the said Convention, signed on behalf of the Government of Malta on 28 February 1967, whereby, in regard to Chapter 1 of the said Convention the Government of Malta accepted the compulsory jurisdiction of the International Court of Justice subject to the conditions and reservations therein contained or referred to, including the reservation of the right at any time by means of a notification addressed to the Secretary General of the Council of Europe and with effect from the moment of such notification, to add to, amend or withdraw any of the reservations contained in that Declaration.

Further and pursuant to the above, the Government of Malta hereby gives notice that, with effect from the moment this notification is received by you, the acceptance by the Government of Malta of the Jurisdiction of the International Court of Justice shall be limited to all disputes with Malta other than:

1. the disputes mentioned in sub-paragraphs i to viii, both inclusive, of the said Declaration, and

2. the following categories of disputes, that is to say: "disputes with Malta concerning or relating to:

a. its territory, including the territorial sea, and the status thereof;

b. the continental shelf or any other zone of maritime jurisdiction and the resources thereof;

c. the determination or delimitation of any of the above;

d. the prevention or control of pollution or contamination of the marine environment in marine areas adjacent to the coast of Malta."

The Government of Malta confirms the reservation of the right at any time, by means of a notification addressed to the Secretary General of the Council of Europe, and with effect as from the moment of notification, to add to, amend or withdraw any of the foregoing reservations or any that may hereafter be added.

The Government of Malta further declares that the above reservations are made following similar reservations made with respect to acceptance of the Compulsory jurisdiction of the International Court of Justice under paragraph 2 of Article 36 of the Statute of the said Court.

Period covered: 5/9/1983 -

The preceding statement concerns Article(s) : 35

NETHERLANDS

Declaration contained in the instrument of ratification, deposited on 7 July 1958 - Or. Fr.

We approve herewith, for the Kingdom in Europe, Surinam, the Netherlands Antilles and Netherlands New Guinea, in respect of all the provisions contained therein, the Convention reproduced above.

Period covered: 7/7/1958 -

The preceding statement concerns Article(s) : -

Declaration contained in the instrument of ratification, deposited on 7 July 1958 - Or. Fr.

We declare that our acceptance does not apply to Chapter III relating to arbitration.

[Note by the Secretariat of the Treaty Office: The Netherlands confirm the above mentioned reservation for Curaçao, Sint Maarten and the Caribbean part of the Netherlands (the islands of Bonaire, Sint Eustatius and Saba) as from 10 October 2010. The reservation remains valid for the European part of the Netherlands and Aruba.
See also the Communication from the Permanent Representation of the Netherlands registered at the Secretariat General on 28 September 2010, concerning the modification in the structure of the Kingdom as of 10 October 2010.]

Period covered: 7/7/1958 -

The preceding statement concerns Article(s) : 34

Declaration contained in a letter from the Permanent Representative of the Netherlands, dated 24 December 1985, registered at the Secretariat General on 3 January 1986 - Or. Engl.

The island of Aruba, which is at present still part of the Netherlands Antilles, will obtain internal autonomy as a country within the Kingdom of the Netherlands as of 1 January 1986. Consequently the Kingdom will from then on no longer consist of two countries, namely the Netherlands (the Kingdom in Europe) and the Netherlands Antilles (situated in the Caribbean region), but will consist of three countries, namely the said two countries and the country Aruba.

As the changes being made on 1 January 1986 concern a shift only in the internal constitutional relations within the Kingdom of the Netherlands, and as the Kingdom as such will remain the subject under international law with which treaties are concluded, the said changes will have no consequences in international law regarding to treaties concluded by the Kingdom which already apply to the Netherlands Antilles, including Aruba. These treaties will remain in force for Aruba in its new capacity of country within the Kingdom. Therefore these treaties will as of 1 January 1986, as concerns the Kingdom of the Netherlands, apply to the Netherlands Antilles (without Aruba) and Aruba.

Consequently the treaties referred to in the annex, to which the Kingdom of the Netherlands is a Party and which apply to the Netherlands Antilles, will as of 1 January 1986 as concerns the Kingdom of the Netherlands apply to the Netherlands Antilles and Aruba.

List of Conventions referred to by the Declaration
.....
23. European Convention for the Peaceful Settlement of Disputes (1957).
.....

Period covered: 1/1/1986 -

The preceding statement concerns Article(s) : -

SLOVAKIA

Declaration contained in the instrument of ratification deposited on 7 May 2001 - Or. Engl.

In accordance with the provisions of Article 34, paragraph 1, subparagraph a), of the Convention, the Slovak Republic will not be bound by Chapter III relating to arbitration.

Period covered: 7/5/2001 -

The preceding statement concerns Article(s) : 34

SWEDEN

Declaration contained in the instrument of ratification, deposited on 30 April 1958 - Or. Fr.

We accept, approve and ratify with the exception of Chapter III relating to arbitration.

Period covered: 30/4/1958 -

The preceding statement concerns Article(s) : 34

UNITED KINGDOM

Declaration made at the time of deposit of the instrument of ratification, on 7 December 1960 - Or. Engl.

In accordance with paragraph 1 of Article 34 of the said Convention, the Government of the United Kingdom will not be bound by Chapter III of the said Convention.

Period covered: 7/12/1960 -

The preceding statement concerns Article(s) : 34

Reservation made at the time of deposit of the instrument of ratification, on 7 December 1960 - Or. Engl.

In accordance with Article 35 of the said Convention:

i. the reservations subject to which the Government of the United Kingdom have accepted the compulsory jurisdiction of the International Court of Justice shall apply to the said Convention in so far as they are relevant and are not covered by other provisions thereof;

ii. Chapter II of the said Convention shall not apply to any dispute which concerns any or all of the non-metropolitan territories of the United Kingdom (other than the Channel Islands or the Isle of Man) for whose international relations the Government of the United Kingdom are responsible.

I have also to inform you that the reservations referred to in sub-paragraph (b)(i) above were communicated to the Secretary General of the United Nations by the United Kingdom Representative to the United Nations in Notes dated the 12th and 18th of April 1957.

Period covered: 7/12/1960 -

The preceding statement concerns Article(s) : 35