

Strasbourg, 20/03/14

CAHDI (2014) OJ 1 annotated
Confidential

COMMITTEE OF LEGAL ADVISERS ON PUBLIC INTERNATIONAL LAW (CAHDI)

Annotated agenda

47th meeting

Strasbourg, 20-21 March 2014

Room 5 (Palais de l'Europe)
Opening of the meeting at 9:30

Public International Law Division and Treaty Office
Directorate of Legal Advice and Public International Law, DLAPIL

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I. INTRODUCTION

1. Opening of the meeting by the Chair, Ms Liesbeth Lijnzaad

2. Adoption of the agenda

Working documents

- Draft agenda CAHDI (2014) OJ 1 prov
- Annotated draft agenda CAHDI (2014) OJ 1 annotated prov
Confidential

3. Adoption of the report of the 46th meeting

The CAHDI is invited to adopt the report of the previous meeting, held in Strasbourg on 16-17 September 2013 (document CAHDI (2013) 17 prov) and to authorise its publication on the website of the CAHDI.

Working document

- Draft report of the 46th meeting of the CAHDI CAHDI (2013) 17 prov
Confidential until approval

4. Information provided by the Secretariat of the Council of Europe

a. Statement by Mr Jörg Polakiewicz, Director of Legal Advice and Public International Law

Mr Jörg Polakiewicz will provide information to the Committee on developments within the Council of Europe since the 46th meeting of the CAHDI.

b. New databases of the CAHDI

The Secretariat will present the latest developments regarding the project for the development of the databases of the CAHDI on the basis of an analysis carried out by an external consultant.

Working document

- Analysis of the project for the development of the databases of the CAHDI CAHDI (2014) Inf 1
Confidential

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**

Draft opinion of the CAHDI on Recommendation 2037 (2014)

On 12-13 February 2014, the Ministers' Deputies communicated to the CAHDI Recommendation 2037 (2014) of the Parliamentary Assembly of the Council of Europe – "Accountability of international organisations for human rights violations" for information and possible comments by 18 April 2014. A draft opinion was circulated by email on 6 March 2014 (document CAHDI (2014) 8 prov), inviting the CAHDI members to submit their comments on this document before 17 March 2014. These comments are reproduced in document CAHDI (2014) 8 Addendum. Delegations are invited to re-examine document CAHDI (2014) 8 prov in light of the comments received with a view to adopt the opinion of the CAHDI on Recommendation 2037 (2014) which will be transmitted to the Ministers' Deputies.

Terms of reference of the CAHDI for 2014-2015

Delegations are invited to take note of the terms of reference of the CAHDI for 2014-2015, which were adopted by the Committee of Ministers at its 1185th meeting on 19-20 November 2013.

Committee of Ministers' decisions of relevance to the CAHDI's activities and opinion of the CAHDI on Recommendation 2027 (2013)

The CAHDI is invited to take note of Committee of Ministers' decisions of relevance to the CAHDI's activities (documents CAHDI (2014) 1 and CAHDI (2014) 1 Addendum), and in particular the decision on Recommendation 2027 (2013) for which the CAHDI adopted an opinion (document CAHDI (2014) Inf 3).

Working documents

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| • Draft opinion of the CAHDI on Recommendation 2037 (2014) of the Parliamentary Assembly of the Council of Europe – "Accountability of international organisations for human rights violations" | CAHDI (2014) 8 prov
<i>Confidential</i> |
| • Comments by delegations on the draft opinion of the CAHDI on Recommendation 2037 (2014) | CAHDI (2014) 8 Addendum
<i>Confidential</i> |
| • Terms of reference of the CAHDI for 2014-2015 | CAHDI (2014) Inf 2 |
| • Committee of Ministers' decisions of relevance to the CAHDI's activities | CAHDI (2014) 1
<i>Confidential</i> |
| • Appendices to Committee of Ministers' decisions of relevance to the CAHDI's activities | CAHDI (2014) 1 Addendum
<i>Confidential</i> |
| • Opinion of the CAHDI on Recommendation 2027 (2013) of the Parliamentary Assembly of the Council of Europe – "European Union and Council of Europe's human rights agendas: synergies not duplication!" | CAHDI (2014) Inf 3 |

6. Immunities of States and international organisations

a. State practice and case-law

- recent national developments and updates of the website entries

Settlement of disputes of a private character to which an international organisation is a party

Delegations are invited to hold an exchange of views on document CAHDI (2014) 5 presented by the delegation of the Netherlands on “Settlement of disputes of a private character to which an international organization” and in particular to examine the questions raised therein.

Immunity of State Owned Cultural Property on Loan

At the 46th meeting of the CAHDI, delegations held an exchange of views on the issue of “Immunity of State Owned Cultural Property on Loan” on the basis of document CAHDI (2013) 10 which was prepared following the announcement made at the 45th meeting of the CAHDI regarding an initiative of the Czech Republic, supported by Austria and the Netherlands. Following the instructions of the Committee at the 46th meeting, the Secretariat and the Chair have drawn up a questionnaire aimed at providing an overview of specific national legislations in this field (document CAHDI (2014) 2). Delegations are invited to examine this questionnaire and to provide any relevant information concerning this issue. The replies to this questionnaire will be examined at the 48th meeting of the CAHDI.

Immunities of special missions

At the 46th meeting, the delegation of the United Kingdom submitted a document (document CAHDI (2013) 15) proposing that the CAHDI initiates a discussion on the law relating to special missions immunity status. Following the instructions of the Committee, a questionnaire has been drawn up on this issue aiming at establishing an overview of legislations and specific national practices in this field (document CAHDI (2014) 3). Delegations are invited to examine this questionnaire and to provide any relevant information concerning this issue. The replies to this questionnaire will be examined at the 48th meeting of the CAHDI.

Database on “State practice regarding State Immunities”

Delegations are informed that since the 46th meeting of the CAHDI, Portugal has submitted a contribution to the database on the issue of seizure of bank accounts.

- exchange of national practices on 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

To date, 28 delegations have replied to the questionnaire on this matter (document CAHDI (2014) 9 prov). Delegations which have not yet done so are invited to submit or to update their responses to this questionnaire at their earliest convenience.

b. UN Convention on Jurisdictional Immunities of States and Their Property

Each delegation is invited to report on its position regarding the *UN Convention on Jurisdictional Immunities of States and Their Property*. Delegations are informed that since the 46th meeting of the CAHDI, Latvia has acceded to this convention on 14 February 2014.

Working documents

- Settlement of disputes of a private character to which an international organisation is a party

CAHDI (2014) 5
Confidential

- Exchange of national practices on 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 CAHDI (2014) 9
Confidential
Bilingual
- Immunity of State Owned Cultural Property on Loan CAHDI (2013) 10
Confidential
- Questionnaire on "Immunity of State Owned Cultural Property on Loan" CAHDI (2014) 2
- Immunities of special missions CAHDI (2013) 15
Confidential
- Questionnaire on "Immunities of special missions" CAHDI (2014) 3

7. Organisation and functions of the Office of the Legal Adviser of the Ministry of Foreign Affairs

Delegations are invited to submit their replies to the revised questionnaire on the organisation and functions of the Office of the Legal Adviser of the Ministry of Foreign Affairs (document CAHDI (2014) 4) containing henceforth additional questions on gender equality following the recommendations contained in the Council of Europe Gender Equality Strategy 2014-2017. The replies will be examined at the 48th meeting of the CAHDI.

Working document

- Revised questionnaire on the organisation and functions of the Office of the Legal Adviser of the Ministry of Foreign Affairs CAHDI (2014) 4

8. National implementation measures of UN sanctions and respect for human rights

Delegations are invited to consider information submitted by delegations on cases that have been submitted to national tribunals by persons or entities removed from the lists established by the UN Security Council Sanctions Committees. So far, the Secretariat has received the contributions of 7 delegations (document CAHDI (2012) 3).

Working document

- Cases that have been submitted to national tribunals by persons or entities removed from the lists established by the UN Security Council Sanctions Committees CAHDI (2012) 3
Confidential
Bilingual

9. European Union's accession to the European Convention of Human Rights (ECHR)

Delegations are informed that on 5 April 2013, the *ad hoc* Group 47+1 concluded its negotiation round by finalising the text of the draft accession agreement, its explanatory report as well as related instruments. The Court of Justice of the European Union is currently examining these draft texts.

10. Cases before the European Court of Human Rights involving issues of public international law

Delegations are invited to take note of document CAHDI (2014) Inf 4 presented by the delegation of the United Kingdom containing information with regard to a recent case before the European Court of Human Rights involving issues of public international law, namely the case of “Jones and Others v. United Kingdom”.

Delegations are also invited to report on any judgments or decisions, pending cases or relevant forthcoming events.

Working document

- Recent cases before the European Court of Human Rights involving issues of public international law – “Jones and Others v. United Kingdom” CAHDI (2014) Inf 4

11. Peaceful settlement of disputes

Delegations are invited to consider document CAHDI (2013) 11, containing information regarding the compulsory jurisdiction of the International Court of Justice.

Working document

- Compulsory jurisdiction of the International Court of Justice CAHDI (2013) 11

12. 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

Delegations are invited to consider outstanding reservations and declarations to international treaties concluded within and outside the Council of Europe (document CAHDI (2014) 6). Information concerning these treaties can be consulted at <http://conventions.coe.int/> and <http://treaties.un.org>. Delegations are also invited to express their intentions in view of completing the table of objections (document CAHDI (2014) 6 Addendum prov).

Delegations are also invited to take note of document CAHDI (2014) Inf 5 containing information with regard to the reactions to reservations and declarations to international treaties previously examined by the CAHDI and for which the deadline for objection has expired.

Working documents

- List of outstanding reservations and declarations to international treaties CAHDI (2014) 6
Confidential
- Table of objections CAHDI (2014) 6 Addendum prov
Confidential
Bilingual

- Reactions to reservations and declarations to international treaties previously examined by the CAHDI

CAHDI (2014) Inf 5

13. Review of Council of Europe Conventions

Following the decision of the Ministers' Deputies of 10 April 2013 on the review of Council of Europe conventions in the light of the Secretary General's report, the CAHDI drew up a work plan at its 46th meeting for the follow-up of the conventions for which it had been given responsibility. 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.

Delegations are invited to hold an exchange of views on the practical importance of the European Convention for the Peaceful Settlement of Disputes, on the basis of document CAHDI (2014) 7.

Working document

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

CAHDI (2014) 7

III. GENERAL ISSUES OF PUBLIC INTERNATIONAL LAW

14. **Exchange of views with Ms Fatou BENSOUA, Prosecutor of the International Criminal Court (ICC) – “Reflections from the Prosecutor of the International Criminal Court, Ms Fatou BENSOUA” (Thursday, 20 March 2014 at 14:30)**

Delegations are invited to take note of the presentation made by Ms Fatou BENSOUA, Prosecutor of the International Criminal Court (ICC) – “Reflections from the Prosecutor of the International Criminal Court, Ms Fatou Bensouda”.

15. Consideration of current issues of international humanitarian law

Delegations are invited to discuss current questions concerning international humanitarian law and to present any relevant information, including on forthcoming events.

16. Developments concerning the International Criminal Court (ICC)

Delegations are invited to present any recent developments concerning the International Criminal Court (ICC).

17. Implementation and functioning of other international criminal tribunals (ICTY, ICTR, Sierra Leone, Lebanon, Cambodia)

Delegations are invited to share information about the implementation and functioning of other international criminal tribunals.

18. Topical issues of international law

Delegations are invited to share information on topical issues of international law.

Delegations are invited to take note of the document submitted by the delegation of Austria on the Conference organised by the Austrian Chairmanship of the Committee of Ministers on 15 November 2013 in Vienna "Working together for Europe – Interrelations between the Council of Europe, European Union and Member States" (document CAHDI (2014) Inf 6).

Working document

- Conference organised by the Austrian Chairmanship of the Committee of Ministers on 15 November 2013 in Vienna – "Working together for Europe – Interrelations between the Council of Europe, European Union and Member States"

CAHDI (2014) Inf 6
English only

[Website](#)

IV. OTHER

19. Date, venue and agenda of the 48th meeting of the CAHDI

Delegations are invited to decide on the date, venue and agenda of the 48th meeting of the CAHDI. The proposed venue and dates are 18 and 19 September 2014, in the Hague (the Netherlands).

20. Other business

DRAFT ORDER OF BUSINESS

Thursday, 20 March 2014		
Morning (9:30 → 12:30)	ITEMS	TITLES
	1	Opening of the meeting
	2	Adoption of the agenda
	3	Adoption of the report of the 46 th meeting
	4	Information provided by the Secretariat of the Council of Europe
	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
12:30 → 14:30	Lunch break	
Afternoon (14:30 → 18:15)	14	Exchange of views with Ms Fatou BENSOUDA, Prosecutor of the International Criminal Court (ICC) – <i>"Reflections from the Prosecutor of the International Criminal Court, Ms Fatou BENSOUDA"</i>
	16	Developments concerning the International Criminal Court
	17	Implementation and functioning of other international criminal tribunals
	15	Consideration of current issues of international humanitarian law
	18	Topical issues of international law
	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	European Union's accession to the European Convention of Human Rights
Friday, 21 March 2014		
Morning (9:30 → 12:30)	ITEMS	TITLES
	12	Law and practice relating to reservations and interpretative declarations concerning international treaties: European Observatory of Reservations to International Treaties
	5	Committee of Ministers' decisions and activities of relevance to the CAHDI's activities, including requests for CAHDI's opinion (<i>if necessary</i>)
	13	Review of Council of Europe Conventions
	10	Cases before the European Court of Human Rights involving issues of public international law
	11	Peaceful settlement of disputes
	19	Date, venue and agenda of the 48 th meeting of the CAHDI
	20	Other business
12:30 → 14:30	Lunch break	
Afternoon (14:30 → 17:30)	SEMINAR "The immunity <i>ratione materiae</i> of State officials from foreign criminal jurisdiction"	