

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

**COMITE DES CONSEILLERS JURIDIQUES  
SUR LE DROIT INTERNATIONAL PUBLIC  
(CAHDI)**

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**Replies by States to the revised questionnaire on  
“The organisation and functions of the Office of the Legal  
Adviser of the Ministry of Foreign Affairs”**

***Réponses des Etats au questionnaire révisé sur  
« L’organisation et les fonctions du Bureau du Conseiller  
juridique du Ministère des Affaires étrangères »***

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Public International Law Division / *Division du droit international public*

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## **FOREWORD / AVANT-PROPOS**

At its 47<sup>th</sup> meeting (Strasbourg, 20-21 March 2014), the CAHDI adopted a revised questionnaire on the organisation and functions of the Office of the Legal Adviser of the Ministry of Foreign Affairs containing henceforth additional questions on gender equality following the recommendations contained in the Council of Europe Gender Equality Strategy 2014-2017 (the additional questions are underlined).

The present document compiles the replies submitted by States to this questionnaire.

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Lors de sa 47<sup>e</sup> réunion (Strasbourg, 20-21 mars 2014), le CAHDI a adopté un questionnaire révisé sur l'organisation et les fonctions du Bureau du Conseiller juridique du Ministère des affaires étrangères contenant désormais des questions supplémentaires relatives à l'égalité entre les femmes et les hommes, suite aux recommandations contenues dans la Stratégie du Conseil de l'Europe 2014-2017 pour l'égalité entre les femmes et les hommes (les questions supplémentaires sont soulignées).

Le présent document compile les réponses soumises par les Etats à ce questionnaire.

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**REVISED QUESTIONNAIRE ON THE ORGANISATION AND FUNCTIONS OF THE OFFICE OF THE LEGAL ADVISER OF THE MINISTRY OF FOREIGN AFFAIRS**

1. What is the title, rank and position of the Legal Adviser?
2. What are the principal functions of the OLA?
3. Please give a brief description of staff employed by the OLA, including overseas staff. What is the distribution of posts between men and women within the OLA and what category of staff do they respectively belong to?
4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic or religious minorities or of immigrant origin?
5. Is OLA staff trained on gender equality issues and are these issues mainstreamed into the OLA's work?
6. Briefly describe the organisation and structure of the OLA.
7. What is the OLA's place within the Ministry of Foreign Affairs?
8. What are the main contacts of the OLA within Government?
9. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.
10. Please provide a brief bibliography on the OLA, if available.

**QUESTIONNAIRE REVISE SUR L'ORGANISATION ET LES FONCTIONS DU BUREAU DU CONSEILLER JURIDIQUE DU MINISTERE DES AFFAIRES ETRANGERES**

1. Quels sont les titres, rang et position du Conseiller juridique?
2. Quelles sont les principales fonctions du BCJ?
3. Veuillez donner une brève description du personnel employé par le BCJ, y compris le personnel en poste à l'étranger. Quelle est la répartition des postes entre les femmes et les hommes au sein du BCJ et à quelle catégorie de personnel appartiennent-ils/elles respectivement ?
4. Existe-t-il des politiques spécifiques de recrutement et de promotion, des dispositions et/ou des quotas pour veiller à la non-discrimination et à l'égalité des chances, par exemple pour le sexe sous-représenté, les personnes handicapées ou les personnes appartenant à des minorités ethniques ou religieuses ou issues de l'immigration ?
5. Le personnel du BCJ est-il formé aux questions liées à l'égalité entre les femmes et les hommes et ces questions sont-elles intégrées au travail du BCJ ?
6. Veuillez décrire brièvement l'organisation et la structure du BCJ.
7. Quelle est la place du BCJ au sein du Ministère des Affaires étrangères?
8. Quels sont les principaux contacts du BCJ au sein du Gouvernement?
9. Veuillez décrire les relations du BCJ avec des cabinets d'avocats, des universitaires et des institutions juridiques.
10. Veuillez fournir une brève bibliographie au sujet du BCJ, le cas échéant.

**REPLIES BY MEMBER STATES OF  
THE COUNCIL OF EUROPE**

***REPONSES DES ETATS MEMBRES  
DU CONSEIL DE L'EUROPE***

## ALBANIA

### 1. What is the title, rank and position of the Legal Adviser?

The Legal Adviser in the Ministry of Foreign Affairs of Albania is the Director of Treaties and International Law Department (TILD). He holds the diplomatic rank of Minister Counselor.

### 2. What are the principal functions of the OLA?

The principal functions of the TILD are:

- Addressing legal opinions and expertise on the issues of international law, to the Minister of Foreign Affairs, Foreign Service, Government and other public institutions.
- Participating in the entire process of the conclusion of international treaties and agreements where Albania is a Contracting Party (negotiation, approval by the Government in principle before signature, preparing the full powers, signature and entry into force procedures).

### 3. Please give a brief description of staff employed by the OLA, including overseas staff. What is the distribution of posts between men and women within the OLA and what category of staff do they respectively belong to?

The staff of TILD consists of five desk officers (+ director) holding all diplomatic ranks. Four of them are women. Apart from the staff of TILD there are a number of lawyers serving as diplomats posted abroad at the Albanian permanent missions to UN (New York, Geneva, Council of Europe, OSCE) and some embassies.

### 4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic or religious minorities or of immigrant origin?

The only specific precondition for the recruitment in TILD that is distinct from the other requirements for the recruitment in the Albanian Foreign Service is the academic degree in law.

### 5. Is OLA staff trained on gender equality issues and are these issues mainstreamed into the OLA's work?

The TILD staff has a certain training on gender equality issues and these issues are basically mainstreamed into the TILD work.

### 6. Briefly describe the organisation and structure of the OLA.

TILD is composed of the Director and five Desk Officers. Each of them deals with specific issues (legal affairs concerning certain countries or international organisations)

### 7. What is the OLA's place within the Ministry of Foreign Affairs?

TILD has an important role in the activity of the MoFA of Albania. It is under the direct supervision of the Secretary General of the Ministry who is the highest ranking civil servant in this institution.

### 8. What are the main contacts of the OLA within Government?



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TILD keeps close contacts with the Office of Legal Affairs in the Council of Ministers and the offices of Legal Affairs in the ministries.

**9. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.**

TILD has made efforts to develop relations with private lawyers, academics and national and international legal institutions in order to better deal with the issues it is charged with and to improve its professional capabilities.

**10. Please provide a brief bibliography on the OLA, if available.**

There is no bibliography on TILD.

## ANDORRE

### 1. Quels sont les titres, rang et position du Conseiller juridique?

Le Conseiller juridique du MAE du gouvernement d'Andorre a le rang d'un fonctionnaire technique/Juriste du MAE

### 2. Quelles sont les principales fonctions du BCJ?

- Routine juridique du MAE : contrats, support juridique au travail du ministre, des autres départements et membres du MAE, support juridique aux représentations permanentes et support juridique aux autres ministères lorsqu'il s'agit de questions internationales (révision de questionnaires, consultations, articles, réponses des autorités, accord bilatéraux à signer avec d'autres ministères homologues, ou des organisations internationales)
- Analyse de la compatibilité de la législation nationale aux vues de la signature, ratification, adhésion à des traités internationaux, rédaction des documents nécessaires pour la signature, adhésion, ratification.
- Suivi des traités et des conventions auxquelles l'Andorre est partie (notifications, suivi des réserves et déclarations....)
- Accords et traités bilatéraux avec d'autres Etats.
- Point de contact pour de nombreuses organisations internationales
- Publication au Bulletin Officiel de la Principauté d'Andorre de certains documents
- Traductions

### 3. Veuillez donner une brève description du personnel employé par le BCJ, y compris le personnel en poste à l'étranger. Quelle est la répartition des postes entre les femmes et les hommes au sein du BCJ et à quelle catégorie de personnel appartiennent-ils/elles respectivement ?

Le Bureau des Affaires Juridiques du MAE est constitué principalement de trois personnes :

- le chef du département d'affaires générales et juridiques/juriste (homme, fonctionnaire)
  - Conseillère juridique/juriste – Droit international, Droits de l'Homme, Droit européen (femme, employée contractuelle – bien que le poste soit un poste défini dans la grille des fonctionnaires, mais la fonctionnaire titulaire de ce poste est actuellement détachée à un autre poste)
  - Conseillère juridique/Juriste – Droit communautaire, Droit fiscal international (femme, poste contractuel)

### 4. Existe-t-il des politiques spécifiques de recrutement et de promotion, des dispositions et/ou des quotas pour veiller à la non-discrimination et à l'égalité des chances, par exemple pour le sexe sous-représenté, les personnes handicapées ou les personnes appartenant à des minorités ethniques ou religieuses ou issues de l'immigration ?

Oui, le recrutement du personnel en Andorre répond à des critères de non-discrimination entre hommes et femmes (bien qu'il n'y ait pas de politique proactive dans ce domaine ; le gouvernement tend à promouvoir aussi le recrutement de personnes handicapées ou favorise aussi le recrutement de personnes inscrites sur les listes de chômage.

### 5. Le personnel du BCJ est-il formé aux questions liées à l'égalité entre les femmes et les hommes et ces questions sont-elles intégrées au travail du BCJ ?

Le personnel du BCJ n'est pas spécifiquement formé, de manière postérieure à son engagement, aux questions de parité homme-femme. Ce personnel doit arriver avec des connaissances propres à ce sujet. Le cas échéant, il pourra participer à des formations postérieures.

**6. Décrivez la structure du BCJ**

Voir réponse 3

**7. Quelle est la place du BCJ au sein du Ministère des Affaires étrangères?**

Le BCJ dépend du Département d'Affaires générales et juridiques, lui-même dépendant de la Direction d'Affaires Multilatérales, sous les ordres du Ministre.

**8. Quels sont les principaux contacts du BCJ au sein du Gouvernement?**

Les directeurs et le Ministre des Affaires Extérieures lui-même.

**9. Veuillez décrire les relations du BCJ avec des cabinets d'avocats, des universitaires et des institutions juridiques.**

Le BCJ collabore régulièrement avec le Cabinet juridique du Gouvernement d'Andorre. La mesure très réduite de l'administration andorrane, ainsi que de sa société font qu'il est facile de contacter magistrats, avocats, professeurs pour avoir des compléments d'information

**10. Veuillez fournir une brève bibliographie au sujet du BCJ, le cas échéant.**

n/a

## ARMENIA

### 1. What is the title, rank and position of the Legal Adviser?

The Legal Adviser of the Ministry is ex officio the Head of the Legal Department. The current Legal Adviser holds the diplomatic rank of Envoy Extraordinary and Minister Plenipotentiary.

### 2. What are the principal functions of the OLA?

In his capacity as the Head of Legal Department the Legal Adviser is in charge of overall supervision of the activities of the Legal Department. These activities include:

- all issues related to international law;
- treaty law /covering all aspects and stages of treaty making based on internationally accepted rules and practice and the requirements set forth by national legislation/;
- general legal expertise of draft treaties;
- publication of treaties in the Official Bulletin of the Treaties of the Republic of Armenia;
- general supervision of the implementation of the treaties to which Armenia is a Party;
- participation in preparations of national reports or/and co-ordinates the activities in this regard
- internal law /issues related to the functioning and administration of the Ministry of Foreign Affairs, including interpretation and proper application of the Law on diplomatic service, Labor law, Administrative law, expertise of civil law contracts to be entered by the Ministry, participation in the cases brought before the courts of the Republic of Armenia, drafting and expertise of legal texts, laws, President's decrees, Government resolutions, regulations, decrees of Foreign Minister.

### 3. Please give a brief description of staff employed by the OLA, including overseas staff. What is the distribution of posts between men and women within the OLA and what category of staff do they respectively belong to?

OLA is composed of qualified professionals with legal background recruited through open competition. Most of them are diplomats who from time to time are assigned diplomatic posts abroad while civil servants and other employees on contractual basis remain in the Department. Currently 80% of OLA are women.

### 4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic or religious minorities or of immigrant origin?

The recruitment and promotion in OLA is based on general principal of non-discrimination as mentioned in Armenian legislation and treaties to which Armenia is a Party. Given the specific nature of diplomatic and civil services some criteria such as age, nationality, specific educational and professional requirements are taken into consideration.

### 5. Is OLA staff trained on gender equality issues and are these issues mainstreamed into the OLA's work?

Professional lawyers of OLA have an accurate level of knowledge on the legislation of the Republic of Armenia (including the treaties in force) that regulates gender equality issues, international standards and the progress made in that field.

**6. Briefly describe the organisation and structure of the OLA.**

The legal department consists of two divisions:

1. Division of international treaties
2. Division of implementation of international treaties and internal law.

Each of the division coordinates the activities respectively as listed above.

**7. What is the OLA's place within the Ministry of Foreign Affairs?**

The legal department is a structural unit of the Ministry with an equal status to other Departments.

**8. What are the main contacts of the OLA within Government?**

According to the Law on Treaties of Armenia the Ministry of Foreign Affairs is the main body which coordinates activates related to treaty making. While fulfilling their functions the staff members of OLA are in permanent contact with the Office of the President, Government Staff, the Ministries, other governmental bodies. However, the main partners are the Office of the President, the Government Staff, the Ministry of Justice and the Ministry of Finance.

**9. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.**

Lawyers in private practice, academics and legal institutions are often contacting the legal Department on questions related to the status of treaties since the department is the Depositary of the treaties as well.

The department is involved in co-operation with various international non-governmental and governmental organizations. While analyzing the developments and practices of international and European law, preparing national reports or/and coordinating preparation of such reports, the department actively cooperates with various academic institutions (mainly universities) and specialized NGOs.

**10. Please provide a brief bibliography on the OLA, if available.**

n/a

## AUSTRIA

### 1. What is the title, rank and position of the Legal Adviser?

The Legal Adviser is a “head of group” (in-between director-general and head of department) in the Ministry (see below point 5) and carries the title “ambassador”.

### 2. What are the principal functions of the OLA?

The main task of the OLA is to provide legal advice to the Minister and to other services of the ministry on issues of public international law, European law, human rights law, and international humanitarian law, as well as on international aspects of constitutional and other fields of municipal law. Additionally, the OLA advises other ministries on issues of international and European law.

The Legal Adviser represents Austria in certain proceedings before international courts and tribunals (e.g. ICJ and ECtHR, but not ECJ) and certain treaty bodies. The Legal Adviser and/or the members of the OLA attend international conferences concerning matters of international and European law.

The OLA is also actively involved in the formulation of Austria’s international human rights policy (including co-ordination within the EU) and its presentation at the multilateral and bilateral levels. Together with the Constitutional Law Service of the Federal Chancellery it coordinates the implementation of Austria’s international obligations in the field of human rights.

The Treaty Office within the OLA administers the procedural aspects of the conclusion of treaties and keeps a list of the treaties concluded by Austria. In certain cases it fulfils depositary functions.

### 3. Please give a brief description of staff employed by the OLA, including overseas staff. What is the distribution of posts between men and women within the OLA and what category of staff do they respectively belong to?

Currently there are about 25 university graduates, mostly lawyers, working in the OLA in Vienna.

The Austrian diplomatic service has no special career track for lawyers and expects every diplomat to be a generalist. However, diplomats who have worked as a lawyer in the OLA tend to return to the OLA during their career. Since there is no special career track for lawyers, there are no postings abroad formally reserved for lawyers. Nevertheless there are some postings that require legal expertise and are usually for diplomats who have worked in the OLA (e.g. postings at the permanent missions to the UN in New York and Geneva or at the Permanent Representation in Brussels).

There are currently 12 female and 13 male graduate staff working in the OLA. The Legal Adviser and the 3 heads of department are male. 5 out of 8 heads of sub-department are female. In addition, the support staff of the OLA consists of 6 women and 1 man.

### 4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic or religious minorities or of immigrant origin?

There is a plan on the promotion of women setting gender quotas for the different categories of staff in the ministry. Also, the general rules for the employment of persons with disabilities apply.

**5. Is OLA staff trained on gender equality issues and are these issues mainstreamed into the OLA's work?**

OLA staff undergoes the general training in the ministry, including training on gender equality issues. A sub-department of the human resources department is competent for gender mainstreaming in the ministry. In addition, the sub-department on international women's issues is located in the OLA, which is mainstreaming these issues into Austrian foreign policy.

**6. Briefly describe the organisation and structure of the OLA.**

The OLA consists of three departments: the department for general international law (covering also the international aspects of constitutional and municipal law), the department for European law, and the department for human rights law.

Each department has one or more sub-departments for specialised areas: Treaty Office, multilateral legal issues, economic and environmental law, sanction regimes, legal issues of EU institutions and EU foreign relations, minorities, gender issues, and human rights in the framework of the UN.

Additionally, the OLA is supported by a consultant, normally a professor of international law. Currently, the consultant is Professor (ret.) Hafner of the University of Vienna.

**7. What is the OLA's place within the Ministry of Foreign Affairs?**

The Ministry consists of eight directorates-general ("sections") each of which has several departments. Since the three departments of the OLA have a strong thematic link, they are put together in a "group". The OLA is a group directly under the Secretary General of the Ministry and head of central Section I.

**8. What are the main contacts of the OLA within the Government?**

The OLA is the principal service within the government for issues of public international law, general European law and international human rights law. It advises other ministries when they have to deal with these issues.

The OLA has privileged contacts with the other legal services of the government, in particular with the Constitutional Law Service at the Federal Chancellery, the Ministry of Justice and the Statutory Lawyers of Austria (Finanzprokuratur) of the Ministry of Finance.

When the Legal Adviser represents Austria in legal proceedings before international courts and tribunals, he acts as an agent for the government (see above point 2).

**9. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.**

The OLA is approached on a regular basis by Austrian private lawyers when they have to deal with issues of public international law. In certain law-suits against Austria abroad the OLA liaises with the private lawyers representing Austria in these suits.

The OLA enjoys a close relationship with the academic world. Members of the OLA teach at the Diplomatic Academy in Vienna and at Austrian universities, participate in the annual Austrian conference on public international law (Völkerrechtstag) and meet with academics on a regular basis to discuss current issues of international law and European law. University assistants working in the field of international law are encouraged to work in the OLA for a certain time. Some of them later join the diplomatic service and work in the OLA.

**10. Please provide a brief bibliography on the OLA, if available.**

Since 2011, the Legal Adviser, together with other experts of the OLA, issues a short report on the “Recent Austrian practice in the field of international law” each year, summarizing interesting issues, questions and solutions from the work of the OLA. A similar report is compiled annually by the OLA’s Department for European Law on the “Recent Austrian practice in the field of European Union law” since 2012. See:

“Recent Austrian practice in the field of international law”, in: Zeitschrift für Öffentliches Recht (Journal of Public Law), (Verlag Österreich).

“Recent Austrian practice in the field of European Union law”, in: Zeitschrift für Öffentliches Recht (Journal of Public Law), (Verlag Österreich).



## **BELGIQUE**

### **1. Quels sont les titre, rang et position du Conseiller juridique?**

« Directeur général des Affaires juridiques » du Service public fédéral Affaires étrangères (SPF). Il rapporte au Président du Comité de Direction (fonction qui correspond à celle de « Secrétaire général du Ministère des Affaires étrangères » dans les autres pays) et il peut, s'il le juge nécessaire et à sa demande, avoir directement accès au Ministre. Le Directeur général des affaires juridiques porte aussi le titre de « Jurisconsulte » du Département et est membre du Comité de Direction.

### **2. Quelles sont les principales fonctions du BCJ?**

Il réalise les objectifs de son domaine fonctionnel, en concertation avec les autres services opérationnels et d'encadrement du SPF Affaires étrangères.

Les différents domaines fonctionnels dépendant de son autorité sont :

- droit interne: toutes les questions juridiques en matière de droit interne liées à la gestion du Département (droit du travail et des contrats, droit constitutionnel et administratif, droit civil, ainsi que les litiges portés devant les cours et tribunaux et devant le Conseil d'Etat) ;
- droit européen: concertation et coordination dans le cadre de la mise en œuvre et de l'interprétation du droit européen (questions préjudicielles); suivi des procédures d'infraction lancées par la Commission de l'UE et défense de l'Etat belge devant les instances juridiques européennes ;
- droit international public: toutes les questions juridiques relatives au droit international public, au droit international humanitaire ou aux droit des organisations internationales y compris toutes les questions juridiques concernant le fonctionnement et le statut des cours et tribunaux internationaux; représentation de la Belgique au sein des organes de l'ONU, du Conseil de l'Europe, de l'Union européenne dans lesquels ces thèmes sont traités; défense des intérêts de l'Etat devant les cours et tribunaux internationaux (à l'exclusion de la Cour européenne des Droits de l'Homme à Strasbourg devant laquelle la défense de l'État est assurée par le Service public fédéral Justice) ;
- droit des traités: gestion de tous les aspects formels de la conclusion des traités de caractère exclusivement fédéral ou de caractère mixte (compétences fédérales / communautaires et/ou régionales), depuis la signature jusqu'à leur approbation par le(s) parlement(s); mission de dépositaire d'une centaine de conventions multilatérales; rôle de cellule d'information pour toutes questions en rapport avec l'état d'avancement de la procédure d'assentiment des traités; mener à bien la ratification de ceux-ci ; le « BCJ » joue aussi un rôle dans les relations avec les Communautés et les Régions de Belgique : application des accords de coopération relatifs à la conclusion des traités mixtes en vigueur avec les entités fédérées.

Le Directeur général des Affaires juridiques (chef du BCJ) est donc agent du Gouvernement devant la Cour Internationale de Justice à La Haye et devant d'autres cours et tribunaux internationaux et est également agent du Gouvernement devant la Cour de Justice de l'UE à Luxembourg, fonction qu'il délègue en général au directeur/ à la directrice de sa « Direction du Droit européen » ainsi qu'aux juristes-collaborateurs de cette direction.

**3. Veillez donner une brève description du personnel employé par le BCJ, y compris le personnel en poste à l'étranger. Quelle est la répartition des postes entre les femmes et les hommes au sein du BCJ et à quelle catégorie de personnel appartiennent-ils/elles respectivement ?**

La Direction générale des Affaires juridiques (situation en mars 2018) emploie 36 personnes, dont 23 femmes et 13 hommes, réparties sur quatre Directions. Trois de ces directions sont dirigées par des femmes.

La classification par niveau est la suivante :

Niveau A : 15 femmes et 9 hommes

Niveau B : 2 femmes et 3 hommes

Niveau C : 3 femmes

Niveau D : 3 femmes et 1 homme

Il n'y a pas de fonctionnaires en poste à l'étranger. Toutefois le SPF Affaires étrangères utilise, dans certains postes spécifiques (missions au siège des principales organisations internationales), les compétences juridiques de certains diplomates. Elle peut aussi faire appel aux avocats et aux conseillers extérieurs.

**4. Existe-t-il des politiques spécifiques de recrutement et de promotion, des dispositions et/ou des quotas pour veiller à la non-discrimination et à l'égalité des chances, par exemple pour le sexe sous-représenté, les personnes handicapées ou les personnes appartenant à des minorités ethniques ou religieuses ou issues de l'immigration ?**

Le Département des Ressources humaines du Service Public Fédéral Affaires étrangères est en train de travailler sur une stratégie sur le sexe sous-représenté.

Personnes handicapées : Pour l'ensemble de l'administration fédérale, il existe une norme de 3%. 2, 64% des effectifs du Service Public Fédéral Affaires étrangères sont des personnes handicapées. Il n'existe pas de politique spécifique de la Direction générale des Affaires juridiques.

Il n'existe pas de stratégie particulière en ce qui concerne des personnes appartenant à des minorités ethniques ou issues de l'immigration.

**5. Le personnel du BCJ est-il formé aux questions liées à l'égalité entre les femmes et les hommes et ces questions sont-elles intégrées au travail du BCJ ?**

Dans le cadre de la politique de l'administration en matière de genre, chaque Direction Générale a dû désigner en son sein une personne servant de point focal « gender ». Celle-ci a eu l'opportunité de suivre une formation en la matière.

**6. Veillez décrire brièvement l'organisation et la structure du BCJ.**

La Direction générale (BCJ) est structurée en 4 directions: la Direction Droit interne (J1), la Direction Droit européen (J2), la Direction Droit international public (J3) et la Direction des Traitées (J4).

Elle est dotée d'un secrétariat.

**7. Quelle est la place du BCJ au sein du Ministère des Affaires étrangères?**

Les services du BCJ du SPF Affaires étrangères sont organisés en une direction générale – une des six directions générales du département. Elle occupe une position centrale en interrelation avec toutes les autres dans la mesure où elle fournit des conseils juridiques pour la plupart des matières traitées au département.

## BOSNIA AND HERZEGOVINA

### 1. Title, rank and position of the Legal Adviser

In accordance with the Internal Organization and Systematization act of the Ministry of Foreign Affairs of Bosnia and Herzegovina, the Office of the Legal Adviser has not been organized as a separate unit of organization. The Head of the Department for International Legal Affairs (DILA) gives legal opinions and advises in relation to acts of Bosnia and Herzegovina in international relation from the point of view of international law. The DILA is a part of the diplomatic service. Its Head is a high-ranking professional diplomat, usually a Minister counsellor or Ambassador, a lawyer specialised in international law with diplomatic training.

### 2. What are the principal functions of the OLA?

The principal functions of the DILA are:

- to prepare legal opinions and advices as regards to the process of entering of Bosnia and Herzegovina into the international bilateral and multilateral treaty relations;
- to participate and coordinate all stage of the negotiations for concluding bilateral international agreements to which Bosnia and Herzegovina is a Party;
- to participate and represent Bosnia and Herzegovina in negotiations for multilateral international agreements;
- to initiate and coordinate the national procedure for signature, accession and ratification of the international agreements to which Bosnia and Herzegovina is a Party;
- to fulfil the function of depositary of international agreements to which Bosnia and Herzegovina is a Party and to maintain the database;

### 3. Please give a brief description of staff employed by the OLA, including overseas staff. What is the distribution of posts between men and women within the OLA and what category of staff do they respectively belong to?

At this moment the staff of the DILA consists of five officers (+ Head of the Department), specialized in international law, holding all diplomatic ranks. Four of them are women.

The diplomatic service of Bosnia and Herzegovina provides no special positions for the lawyers in its diplomatic and consular missions abroad. Legal officers of the Department for International Legal Affairs are usually rotated abroad to work as a diplomat or consular officers at Bosnia and Herzegovina diplomatic or consular missions.

### 4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic or religious minorities or of immigrant origin?

The only specific precondition for the recruitment in the DILA that is distinct from the other requirements for the recruitment in the Bosnia and Herzegovina Foreign Service is the academic degree in law.

### 5. Is OLA staff trained on gender equality issues and are these issues mainstreamed into the OLA's work?

The DILA staff has a certain training on gender equality issues and these issues are basically mainstreamed into the DILA work.

**6. Briefly describe the organisation and structure of the OLA?**

The DILA is composed of the Head of the Department and five diplomats. Each of them deals with specific issues – legal affairs concerning certain countries or international organisations.

**7. What is the OLA's place within the Ministry of Foreign Affairs?**

The DILA is integral part of the Division for International Legal and Consular Affairs of the Ministry of Foreign Affairs. Due to the fact that there are only six employees (including the Head) at this moment, there has not been made any structural division within the Department for International Legal Affairs.

**8. What are the main contacts of the OLA within Government?**

The Head of the Department for International Legal Affairs, as well as the DILA as a whole, maintains regular working contact with relevant departments of the ministries and agencies of the Council of Ministers of Bosnia and Herzegovina.

**9. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.**

The DILA maintains active contacts with academic circles and professional legal community and actively co-operates with state authorities, institutions and universities in the process of legal research. The DILA also provides assistance to private practice and legal institutions.

**10. Please provide a brief bibliography on the OLA, if available.**

No bibliography concerning the work and role of the DILA is available.

## CROATIA

### 1. What is the title, rank and position of the Legal Adviser?

In accordance with the Regulation on the Internal Organization of the Ministry of Foreign and European Affairs of the Republic of Croatia (Official Gazette No 34/2016), the Directorate for International Law Affairs is established. The Head of the Directorate holds the position of the Assistant Minister. The person who holds the position of the Head at present is a high ranking professional diplomat a lawyer specialized in international law with diplomatic training. The position of Chief Legal Adviser is also established in accordance the Regulation and the person who holds that position at present is a high ranking professional diplomat and a lawyer specialized in international law. There is no a separate unit organized as the Office of the Legal Advisor. The Directorate consists of three Sectors:

- Sector for European Law,
- Sector for International Law, and
- Sector for Translation.

In terms of this Questionnaire, the Sector for International Law (SIL) can also be considered as the Office of the Legal Advisor since it closely cooperates with the Chief Legal Adviser.

### 2. What are the principal functions of the OLA?

The SIL is competent for all affairs in connection with the follow-up, monitoring and analysing general and particular issues of international public and private law. Its functions are to provide legal advice and opinions on all matters arising from international law, especially the law of the sea, the law of international organisations, the status of international organisations and their offices, the international legal aspects of the EU membership, international diplomatic and consular law, international humanitarian law, international environmental law, international commercial law, international transport law, international criminal law. The SIL also deals with issues in relation to the national borders and border regime. It acts in conjunction with the Government and public bodies in respect of all issues within its competence and deals with other tasks as assigned by the Minister or the Head of Directorate. The SIL has a very important function in the process of concluding the international treaties on behalf of the Republic of Croatia – by issuing its opinion on a draft treaty from the point of view of international law. A legal adviser from the SIL is a regular member of the Croatian delegation negotiating the treaty. The Treaty Collection of the Republic of Croatia, covering all treaty actions undertaken by the Republic of Croatia, is kept with the SIL. The SIL is also in charge of printing and other arrangements for treaty signing.

### 3. Please give a brief description of staff employed by the OLA, including overseas staff. What is the distribution of posts between men and women within the OLA and what category of staff do they respectively belong to?

The SIL staff all together comprises of 11 employees (7 women and 4 men) and 8 of them are lawyers (4 women and 4 men), and all of them are specialized or specializing in various fields of international law, by attending post-graduate studies and participating in various courses at international institutions dealing with public and private international law. Most of the staff (9 of them), as well as the Chief Legal Adviser, have been with the Ministry and in the SIL for more than ten years, and 9 of them hold diplomatic ranks. A number of SIL staff is posted overseas, in particular with the Croatian Permanent Missions to the UN in New York, Geneva and Vienna and the Croatian Permanent Representation to the EU in Brussels.

Apart from the lawyers, two administrators at the SIL are engaged in making arrangements for the signing of treaties as well as other jobs in connection with the Treaty Collection and the SIL's Reference Library. One diplomat with diverse professional background works in the Service for border issues within the SIL.

**4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic religious minorities or of immigrant origin?**

In accordance with the Constitution of the Republic of Croatia (Official Gazette No 85/2010), as well as with the Law on Gender Equality (Official Gazette No 82/2008) and the Law on Combating Discrimination (Official Gazette No 85/2008 and 112/2012), any form of discrimination on the basis of race, gender, ethnic or religious minorities, personal disabilities etc. in respect of employment is forbidden. The recruitment and promotion policies of the SIL staff, as well as other Ministry's staff, are regulated by relevant Laws (namely the Law on Civil Servants (Official Gazette No 49/2012, 37/2013, 38/2013 and 1/2015) and the Law on Foreign Affairs (Official Gazette No 48/1996, 72/2013 and 127/2013) and internal acts of the Ministry.

**5. Is OLA staff trained on gender equality issues and are these issues mainstreamed into the OLA's work?**

The SIL staff is not specially trained on gender equality issues. However they are aware of the existing legislation on this issue and in that sense, the gender equality and non-discrimination are adequately mainstreamed into the SIL's work.

**6. Briefly describe the organisation and structure of the OLA.**

The SIL comprises of three Departments:

- Service for International Public Law and International Legal aspect of the EU Membership,
- Service for Treaties, and
- Service for Border Issues.

Each Department has a Head, accountable to the Head of SIL, all of them are lawyers specialized in international law (2 women and 1 men).

The Head of SIL is lawyer specialized in international law and he is accountable to the Head of Directorate for International Law Affairs.

**7. What is the OLA's place within the Ministry of Foreign Affairs?**

The SIL is one of three Sectors within the Directorate for International Law Affairs. There are 7 Directorates within the Ministry, all headed by the Assistant Minister.

**8. What are the main contacts of the OLA within Government?**

The SIL Head, as well as the SIL as a whole, maintains regular working contacts with high-ranking Government and Parliament officials, as well as with other Ministries, Agencies and Institutions, as required for the completion of the tasks. The SIL Head or other lawyer takes part, alone or in conjunction with high-ranking Ministry officials, in the work of Government bodies and in Parliament sessions when necessary.

**9. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.**

The SIL closely co-operates with the academics, especially professors of international law at the Faculties of Law of Universities of Zagreb, Split and Rijeka, including preparations for regular 6th Committee sessions. SIL staff members are encouraged to participate in various seminars, courses and other gatherings dealing with international law issues, and they get invited to give lectures to undergraduate or graduate students on subjects they are specialised in. The Head of Directorate and Chief Legal Advisor regularly lecture on international law issues at the Diplomatic Academy in the course of training for foreign assignment. Depending on the post the diplomat is preparing for, he/she will often hold consultations within the SIL about some particular international law issues. The SIL also provides assistance to private practice and legal institutions.

**10. Please provide a brief bibliography on the OLA, if available.**

For the time being there is no bibliography which refers in particular to the role of the SIL.

## CYPRUS

### 1. What is the title, rank and position of the Legal Adviser?

Pursuant to Article 113.1 of the Constitution, the Attorney-General of the Republic, assisted by the Deputy Attorney-General of the Republic, is the legal adviser of the Republic, the President of the Republic, the Council of Ministers and of the Ministers and *“shall exercise all such other powers and shall perform all such other functions and duties as are conferred or imposed on him by this Constitution or by law”*.

The Attorney-General of the Republic is appointed by the President and must be a person qualified for appointment as a judge of the High Court. Such qualifications are set out in Article 153.5 of the Constitution, which provides that the President and other judges of the High Court shall be appointed from amongst lawyers of high professional and moral standard.

The Attorney General is the Head of the Law Office of the Republic, which is an independent office, not under any Ministry (Article 112.1 and 112.2 of the Constitution).

He/she holds office under the same terms and conditions as a judge of the High Court and shall not be removed from office except on the like grounds and in the like manner as such judge of the High Court (Article 112.4 of the Constitution).

As provided under Article 112.3 of the Constitution, the Attorney-General has the right of audience in and takes precedence over any other persons appearing before any court in the Republic.

### 2. What are the principal functions of the OLA?

The Attorney-General of the Republic is an independent Officer of the Republic who is vested with a wide range of important powers and functions, the main of which are outlined below:

- As already mentioned in the reply to question 1 above, the Attorney-General is the legal adviser to the Republic, the President, the Council of Ministers and the Ministers. In this concern, the Law Office of the Republic, headed by the Attorney-General, is responsible for providing legal opinions and advice to all Ministries and government departments within the Ministries on legal issues that may arise. It is also responsible for the legal vetting of all government Bills before they are introduced to the House of Representatives for debate and enactment.
- The Law Office of the Republic is responsible for the legal representation of the Republic before the Courts in all administrative and civil law litigation where the Republic is a party. Let it be noted that under section 57 of the Courts of Justice Law (Law 14/60 as amended), civil actions brought by the Republic shall name the Attorney-General as plaintiff and, similarly, civil actions brought against the Republic shall name the Attorney-General as defendant.
- With regard, in particular, to criminal prosecutions, Article 113.2 vests the Attorney-General with the exclusive power, exercisable at his/her discretion in the public interest, to institute, conduct, take over and continue or discontinue any proceedings for an offence against any person in the Republic. Such power may be exercised by him/her in person or by officers subordinate to him/her acting under and in accordance with his/her instructions.



- The Attorney-General acts as the Agent of the Republic of Cyprus before International Courts, including the European Court of Human Rights, the Court of Justice of the European Union and the International Court of Justice.

**3. Please give a brief description of staff employed by the OLA, including overseas staff. What is the distribution of posts between men and women within the OLA and what category of staff do they respectively belong to?**

The Law Office of the Republic comprises of 80 lawyers (the number includes the Attorney General and the Deputy Attorney General). An additional number of 34 public prosecutors serve under the authority of the Attorney General, and are mainly responsible for the conduct of prosecutions before the lower criminal Courts (District Courts).

The various positions and titles of the lawyers serving at the Law Office of the Republic are set out, by order of hierarchy, in the following Table, which also includes information as to the specific numbers of men and women serving in each position.

Title of position	Total number of officers serving in this position	Number of female officers serving in this position	Number of male officers serving in this position
Attorney-General	Mr. Costas Clerides		
Deputy Attorney-General	Mr. Rikkos Erotocritou		
Attorneys of the Republic	4	2	2
Senior Counsel of the Republic	14	10	4
Counsel of the Republic A'	16	11	5
Counsel of the Republic	44	37	7
<b>Total</b>	<b>80</b>	<b>60</b>	<b>20</b>
Public Prosecutors (serving under the authority of the Attorney-General, but not members of the Law Office)	34	26	8

It transpires from the above figures that approximately 75% of the legal personnel of the Law Office of the Republic are women.

It is also noted that two Counsel of the Republic serve abroad, one at the Permanent Representation of the Republic of Cyprus at the European Union the other as a seconded national expert at the European Commission (both female and included in the table above).

**4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic or religious minorities or of immigrant origin?**

The lawyers serving at the Law Office of the Republic under the Attorney General are public officers, whose appointment and promotion is governed by the Laws/policies generally applicable for the entire Public Service. In the specific context of the present question the following Laws are of relevance:

The Recruitment of Persons with Disabilities in the Public Sector (Special Provisions) Law of 2009, Law No.146(I)/2009. The said Law provides for 10% of vacant posts (each time advertised) in the public sector, to be allocated to candidates who are persons with disabilities.

It is considered as a tool to compensate for reduced employment opportunities for people with disabilities, through the creation of an obligation for public service organisations to recruit, in all vacancies, a percentage from persons with disabilities who meet certain objective criteria. This obligation is based on guidelines provided by international conventions, EU Law and national law, including: the UN Convention for the Rights of Persons with Disabilities; the Treaty no. 159 of the International Labour Organization (ILO) for the Vocational Rehabilitation and Employment of Disabled Persons; the EU Charter of the Fundamental Social Rights of Workers of 1989; Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation; the Persons with Disability Law, Law No.127(I)/2000 as amended.

Section 44 of the Public Service Law, Law No.1/1990 as amended, provides that a person with disability, who is a candidate for a position and holds all necessary qualifications required by the scheme of service, will be preferred.

The Law on Equal Treatment in Employment and Occupation, Law No. 58(I)/2004, which was enacted for the purposes of harmonization with Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation, provides for equal treatment in employment and occupation. The said Law implements the principle of equal treatment regardless of age, sexual orientation, racial or ethnic origin, religion or belief, in all stages of a professional relationship.

The Equal Treatment of Men and Women in Employment and Vocational Training Law (Law No. 205(I)/2002). By the said Law the protection of individuals from less favourable treatment on grounds of sex is enshrined and the equality of opportunities between the sexes and the principle of equal treatment in all stages of a person's professional path is promoted. The law defines the purpose of the effective implementation of the principle of equal treatment of both sexes and achieving substantial equality and regulates issues relating to access to employment and/or vocational training, to the terms and conditions of employment and working conditions, career development, pay and conditions of dismissal. The same law stipulates as a general rule prohibiting discrimination based on sex, whether direct or indirect.

It is finally noted that under Article 28.2 of the Constitution “*every person shall enjoy all the rights and liberties provided for in this Constitution without any direct or indirect discrimination against any person on the ground of his community, race, religion, language, sex, political or other convictions, national or social descent, birth, colour, wealth, social class, or on any ground whatsoever, unless there is express provision to the contrary in this Constitution*”.

**5. Is OLA staff trained on gender equality issues and are these issues mainstreamed into OLA's work?**

The Cyprus Academy of Public Administration has introduced, since 2012, the conduct of seminars on issues of Equal Treatment to newly recruited public officers. Seminars on this subject are also conducted to other public service employees.

**6. Briefly describe the organisation and structure of the OLA**

The Table set out in the reply to question 3 above explains the hierarchy of the various positions in the Law Office of the Republic and the number of lawyers serving in each position. The Law Office of the Republic is organized in Sections, which include, the Criminal Law Section, Administrative Law Section, Civil Law Section, Legislative Drafting/Legal vetting Section, European Law Section, International Law Section, Human Rights Law Section, Public Procurement Law Section, Taxation/Financial Law Section. It must be noted, however, that due to the small number of the legal staff employed compared to the diversity of the

competences of the Law Office and the volume of the work, strict specialization is not applicable and lawyers are allocated work from different Sections.

The International Law Section and the European Law Section carry out more specialized work and deal mostly with the legal matters referred to the Law Office by the Ministry of Foreign Affairs.

**7. What is the OLA's place within the Ministry of Foreign Affairs?**

As explained in the reply to question 1 above, the Law Office of the Republic is an independent office headed by the Attorney General of the Republic.

**8. What are the main contacts of the OLA within Government?**

Close interaction and cooperation with Ministries and government departments within Ministries is part of the Law Office's daily work. This may be, for example, in the context of providing legal opinions or advice, preparing pleadings in litigation where the Republic is a party, carrying out legal vetting of a Bill that a Ministry proposes to introduce before the House of Representatives for debate. With regard to Public International Law, although legal work emanates mainly from the Ministry of Foreign Affairs, it must be noted that often other Ministries require advice and guidance on issues of International Law (for example in negotiating and concluding an International Agreement or the signature of an MOU).

**9. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.**

The Law Office of the Republic maintains excellent working relations with the private practice and with academic institutions. For example, during the Cyprus Presidency of the Council of the European Union (July-December 2012), lawyers from the private practice and Cypriot academics offered to the Law Office expert assistance and cooperation, inter alia, by acting as chairs or deputy chairs of a number of Council Working Parties falling under the responsibility of the Law Office of the Republic. Also, in many instances where advice on complicated and/or specialized issues of international law is required, the Law Office resorts to specialized counsel or academics for their contribution. Furthermore, the services of specialized external counsel may be retained as regards the representation of the Republic in litigation abroad, e.g. before an International Court.

**10. Please provide a brief bibliography on the OLA, if available.**

n/a

## **CZECH REPUBLIC (revised reply of 22 March 2021)**

### **1. What is the title, rank and position of the Legal Adviser?**

The Ministry of Foreign Affairs of the Czech Republic has never had a "legal adviser" for international law in the proper sense of the term. There is no position designated for this purpose in MFA internal regulations and organizational structure. The role of legal adviser is divided between the Director of the International Law Department and the Deputy Minister for Legal and Consular Affairs.

### **2. What are the principal functions of the OLA?**

The International Law Department, which in practice performs the OLA function, has the following responsibilities:

- To follow the development of international law, and to provide for the Czech Republic's participation in its codification and development; to provide expert opinions on questions of international law for the purposes of the Czech Republic's foreign policy;
- To coordinate negotiation of and domestic procedures related to treaties; to assist in the unification of the Czech treaty-making practice; to take part in supervising the implementation of treaties; to draw up instruments of ratification, approval, adoption and accession as well as full powers to negotiate treaties and full powers to take part in international negotiations;
- To provide for and coordinate the Czech Republic's succession to the bilateral and multilateral treaties to which the Czech and Slovak Federal Republic was a party on 31 December 1992;
- To ensure publication of treaties binding on the Czech Republic in the Collection of International Treaties and their registration with international organizations; to keep a register of treaties binding on the Czech Republic;
- To perform functions of a depositary of relevant multilateral treaties;
- To provide opinions on the consistency of the Czech Republic's legislation with international law and treaties binding on the Czech Republic;
- Within its competence, to provide guidance to the Permanent Missions to the United Nations in New York, in Geneva and Vienna, to the Permanent Representation of the Czech Republic to the EU, to the Embassy of the Czech Republic in The Hague and, as the case may be, to other missions of the Czech Republic abroad.

There are other departments of the MFA in charge of some special areas of the international law agenda in a broader sense. The Department for Human Rights and Transition Policy i.a. follows the development of international law in the area of human rights, provides for the Czech Republic's participation in its codification and initiates ratification of and accession to the international instruments in this area. The European Union Law Department i.a. follows and analyses the development of the European Union law, provides expert opinions on questions of EU law and gives advice on the process of negotiation of treaties within the EU. Two consular departments deal with consular matters. The Diplomatic Protocol is i.a. responsible for overseeing the observance of the regime of privileges and immunities accorded to the diplomatic missions, consular posts and members of their staff in the Czech Republic.

**3. Please give a brief description of staff employed by the OLA, including overseas staff. What is the distribution of posts between men and women within the OLA and what category of staff do they respectively belong to?**

Currently there are twelve lawyers (six of them are women) in the International Law Department dealing with different aspects of international law, and four members of administrative staff (all of them are women). In addition, there is one legal expert at the Czech Permanent Mission to the United Nations in New York, at the Embassy in The Hague and at the Permanent Representation to the EU, respectively (currently two of these three experts are women). The proportion of the men and women depends on the circumstances and keeps changing.

**4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic or religious minorities or of immigrant origin?**

The recruitment to and promotion within the International Law Department and MFA is regulated by the general international and national legal regime of non-discrimination, applicable in the Czech Republic in accordance with relevant national laws, EU instruments and applicable human rights treaties; there are no MFA specific recruitment and promotion policies or provisions ("gender quotas") in this regard.

On the other hand, the MFA actively supports policy of equal opportunities and non-discrimination by adopting practical and effective measures the aim of which is to enable its employees -in practice mostly women -to combine their professional and family life by facilitating various forms of flexible, part-time and "home-office" employment (including the possibility to place children in the special nursery school operated by the MFA).

**5. Is OLA staff trained on gender equality issues and are these issues mainstreamed into the OLA's work?**

The MFA created a special working group (advisory body) for equal opportunities which coordinates these issues with other ministries and ensures their mainstreaming within the MFA. A special course on these issues forms part of a curriculum of the MFA Diplomatic Academy training programme for junior diplomats. Special seminar on these issues for all employees of the MFA is organized on an ad hoc basis. The staff of the International Law Department does not receive any special training on gender equality issues.

**6. Briefly describe the organisation and structure of the OLA.**

The International Law Department consists of three units:

The Public International Law Unit dealing mainly with diplomatic law and privileges and immunities (in cooperation with the Diplomatic Protocol), anti-terrorist conventions, IHL, ICC, international courts and tribunals, law of the sea, Antarctica and space law;

Treaty Law Unit dealing mainly with treaty law (bilateral agreements and multilateral conventions, succession to treaties etc.);

Archives and Documentation Unit responsible mainly for the publication of treaties in the Official Gazette of Treaties; additional tasks include drawing up instruments of ratification, depositary and documentation functions.

**7. What is the OLA's place within the Ministry of Foreign Affairs?**

The International Law Department is one of the six departments within the Legal and Consular Section (the other departments are the European Community Law Department, the Legislative Coordination Department dealing with national legislation, the Consular Department, the Visa Department and Office of the Special Envoy for Czech Communities Abroad).

**8. What are the main contacts of the OLA within Government?**

The International Law Department cooperates with the competent departments of other ministries, as well as with other competent bodies (Office of the President of the Republic, Office of the Government, Government Legislative Council, etc.), academic institutions or NGO's in the area of international treaties and public international law.

**9. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.**

Some of the department's lawyers teach public international law at universities or at the MFA Diplomatic Academy and participate in academic conferences and meetings. Some of them are members of the Czech Society for International Law.

**10. Please provide a brief bibliography on the OLA, if available.**

n/a

## DENMARK

### 1. What is the title, rank and position of the Legal Adviser?

The title of the Legal Adviser is the Under-Secretary for Legal Affairs. The Under-Secretary for Legal Affairs is the head of the Office of the Legal Service, (in Danish "Centre for Juridisk Theneste").

### 2. What are the principal functions of the OLA?

The Legal Service (JT) is comprised of three departments: A department for international law and human rights (JTFM), a department for EU law and international litigation (JTEU) and a department for administrative and constitutional law, also comprising the Foreign Ministry's archival staff (JTK).

One of the principal functions of the Legal Service is thus to provide advice to the Danish government and the central administration (including the rest of the Ministry of Foreign Affairs) on questions concerning EU-law, human rights, and international law, as well as different aspects of public law, such as constitutional law and administrative law.

The Legal Service also plays central role in policy development in relation to areas such as the international regulation of the use of force, the Arctic, piracy, and human rights.

Furthermore, the Legal Service is also responsible for conducting cases for the Danish government before international courts and complaints boards such as The International Court of Justice, The European Court of Justice, the European Court of Human Rights, and different UN bodies.

Finally, the Legal Service also assists the central administration in connection with ratification of treaties.

### 3. Please give a brief description of staff employed by the OLA, including overseas staff. What is the distribution of posts between men and women within the OLA and what category of staff do they respectively belong to?

The Department of International Law and Human Rights is comprised of 18 people (7 women and 11 men). The Department of EU-Law is also comprised of 11 people (3 women and 8 men). The Department of Administrative and Constitutional Law is comprised of 24 people (17 women and 7 men).

The post as Under-Secretary of Legal Affairs is held by a man. In the Department of EU-Law the posts as Head of Department and Deputy Head of Department are held by men. In the Department of International Law and Human Rights these posts are held by women as head and a man as deputy. As to the Department of Administrative Law both the head and deputy are women.

### 4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic or religious minorities or of immigrant origin?

The Ministry of Foreign Affairs does not operate with quotas in its recruitment and promotion policies but bases its decisions on a careful evaluation of the candidates' qualification.

**5. Is OLA staff trained on gender equality issues and are these issues mainstreamed into the OLA's work?**

The Legal Service does not have a specific course on gender equality issues that employees must complete but most employees have received education on human rights, including non-discrimination prior to joining the Legal Service.

Additionally, the Department of Human Resources focuses on promoting gender equality within the ministry, including by promoting an equal distribution of leadership positions.

**6. Briefly describe the organisation and structure of the OLA.**

The Legal Service is divided into three departments: A department for international law and human rights (JTFM), a department for EU law and international litigation (JTEU) and a department for administrative and constitutional law (JTK).

**7. What is the OLA's place within the Ministry of Foreign Affairs?**

The Legal Service is one of the seven main offices in the Ministry of Foreign Affairs placed under the Minister, the Permanent Secretary of State for Foreign Affairs and the Board of Directors.

**8. What are the main contacts of the OLA within Government?**

Foreign governments and other Danish authorities.

**9. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.**

The Legal Service sometimes employs lawyers with a private practice background.

Likewise the Legal Service also attempts to benefit from the knowledge of prominent national and international academics. Occasionally Legal Service has thus employed academics on specific projects such as the development of international guidelines on the handling of detainees in international military as well as Denmark's work on the promotion of the R2P doctrine. The Legal Service also arranges monthly briefings by academics on specific topics of relevance to the Legal Service's work.

**10. Please provide a brief bibliography on the OLA, if available.**

Such a bibliography is not presently available.



## ESTONIA

### 1. What is the title, rank and position of the Legal Adviser?

The functions of the Legal Adviser in Estonia are fulfilled by the Undersecretary for Legal and Consular Affairs of the Ministry of Foreign Affairs (MFA). The Undersecretary supervises two departments in the MFA – the Legal Department and the Consular Department. He or she also substitutes for the Secretary General of the MFA, if necessary.

### 2. What are the principal functions of the OLA?

The functions of the Office of the Legal Adviser (OLA) are fulfilled by the Legal Department and its main task is to provide legal advice to the officials and departments of the Ministry. The Legal Adviser is also responsible for consular affairs and gives guidance on issues of consular law. The range of subjects covered by the OLA is wide and includes public and private international law, law of treaties, human rights law, European Union law as well as domestic law. The Legal Department also advises other Estonian ministries and institutions on international, European and foreign law issues and represents Estonia on international negotiations, conferences etc. The lawyers of the OLA participate also in the legal drafting of primary and secondary legislation in case the subject of the legal act falls within the competence of the MFA. Estonian agents before the European Court of Human Rights and European Court of Justice are also members of the OLA.

### 3. Please give a brief description of staff employed by the OLA, including overseas staff. What is the distribution of posts between men and women within the OLA and what category of staff do they respectively belong to?

There are currently 16 lawyers in the OLA, 10 of them are career diplomats. There are also 3 technical experts who are responsible for administrative issues and databases and 1 linguistic expert. All lawyers have a law degree and many of them also an advanced degree in international or European Law. In addition to the staff of OLA, there are number of lawyers serving as diplomats posted in various Estonian foreign missions.

Out of the 20 employees of OLA, 17 are women and 3 are men.

### 4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic or religious minorities or of immigrant origin?

There are no specific policies/provision to facilitate the diversity within the OLA. The staff of OLA is recruited on the same principles as other diplomats to the MFA, the only precondition is the degree in law. The diversity within the staff is mainly guaranteed through the system of periodic rotation of diplomats. The recruitment to the MFA falls within the competence of the Personnel Department and they consult with the particular department to find the best solutions and suitable candidates according to the specific needs of the said department. MFA has always encouraged the recruitment of persons with different ethnical backgrounds, and is taking account the necessity of gender balance, as much as possible.

### 5. Is OLA staff trained on gender equality issues and are these issues mainstreamed into the OLA's work?

Since 1995 there is a Gender Equality and Equal Treatment Commissioner in Estonia. The Commissioner is an independent and impartial expert who monitors compliance with the requirements of the Gender Equality Act and Equal Treatment Act. One of the functions of the

Commissioner is to advise and inform the Government of the Republic, government agencies and local government agencies on issues relating to the implementation of Gender Equality Act and Equal Treatment Act. The Commissioner provides regular trainings on gender equality regulations as well as on equal treatment issues to all ministries and institutions in Estonia. The staff of OLA also regularly participates in the trainings on gender equality and equal treatment issues.

**6. Briefly describe the organisation and structure of the OLA.**

The Legal Department is headed by the Director General of the Department. The Department has two divisions – the division of international law and the division of European law, both headed by the Directors of Divisions. There is a degree of specialization among the lawyers in both divisions – international law, human rights law, diplomatic law, as well as jurisprudence of the European Court of Human Rights and European Court of Justice. The Agents of the Estonian Government to the European Court and European Court of Human Rights are also serving in the OLA.

**7. What is the OLA's place within the Ministry of Foreign Affairs?**

Legal Department is a unit within the MFA, headed by the Director General and supervised by the Undersecretary for Legal and Consular Affairs who reports directly to the Minister and the Secretary General. As was described above, most of the lawyers of the Legal Department are members of the diplomatic corps and rotate regularly to other departments of the MFA as well as to the Estonian foreign missions abroad.

**8. What are the main contacts of the OLA within Government?**

The Legal Adviser provides legal advice on questions of international public law, European Union law and consular law to the MFA and other Estonian ministries and institutions. As described under question 2, OLA is responsible for drafting legislation, inter alia making sure that the drafts of the legal acts are in accordance with Estonia's international obligations. The lawyers of the OLA are members of inter-governmental commissions and delegations for the negotiations concerning international treaties and regularly provide advice on questions concerning international law and European Union law. MFA also submits all Estonian treaties to the Government for approval. In preparing for the proceedings before international courts, the OLA lawyers work closely with experts from other ministries.

**9. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.**

Depending on the subject matter, the MFA regularly establishes contacts with scholars or private law firms. Sometimes the MFA is represented in domestic or foreign litigations against the Ministry by private attorneys. The OLA has also close contacts with the academic institutions and is organizing seminars with them or participating in conferences organized by universities. Lawyers of the OLA are widely encouraged to contribute to international and domestic legal publications.

**10. Please provide a brief bibliography on the OLA, if available.**

n/a

## FINLAND

### 1. Title, rank and position of the Legal Adviser

The function of the Legal Adviser is fulfilled by the Director General for Legal Affairs, head of the Legal Service of the Ministry for Foreign Affairs (henceforth MFA). Acting as the Legal Adviser, the Director General is assisted by the Unit for Public International Law and a Senior Adviser on International Law. Furthermore, the Legal Adviser may draw special expertise from the Unit for EU and Treaty Law, the Unit for EU Litigation and the Unit for Human Rights Courts and Conventions (see point 4 below). The Legal Service is an independent entity of the MFA, subordinate to the Under-Secretary of State for Internal and External Services. What is provided on Directors General of different departments in the Rules of Procedure of the MFA applies also to the Legal Adviser.

### 2. Principal functions of the Legal Service

The principal functions of the Legal Service can be divided into two subcategories: advisory functions and operational functions. As far as the advisory functions are concerned, the Legal Service provides advice on public international law, including human rights law, treaty law and EU law, primarily to the Ministry for Foreign Affairs but also to the Government as a whole. The operational functions include representing the Government in various international fora, such as the UN, the EU and the Council of Europe, regarding matters which fall under the competence of the Legal Service, preparing international treaties and national legislation and coordinating the implementation of certain international obligations, as well as representing the Government before international judicial and investigative bodies, including the Court of Justice of the European Union, the European Court of Human Rights and the International Court of Justice. The Legal Adviser serves as the Government Agent before the International Court of Justice, while the Director for the Unit for EU Litigation serves as the Government Agent before the Court of Justice of the European Union, and the Director for the Unit for Human Rights Courts and Conventions serves as the Government Agent before the European Court of Human Rights and before the European Committee of Social Rights. The Legal Adviser is a member of the Permanent Court of Arbitration.

### 3. Description of the staff employed by the Legal Service, including overseas staff

In the reorganisation of the MFA in 2008 the previous Department of Legal Affairs was divided into two new entities: the Legal Service and the Consular Services. There are currently 37 staff members working in the Legal Service in Helsinki, of whom 8 are diplomats, 20 special legal experts and 9 administrative staff. Female employees form the majority in the Legal Service, which comprises 28 women and 9 men. The administrative staff is all female, whereas 19 of the lawyers are women and 9 are men.

The Finnish Permanent Mission to the UN in New York and the Finnish Permanent Representation to the EU in Brussels each employ a legal adviser, who is not organisationally part of the Legal Service but works in close cooperation with it.

### 4. Specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities

*Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic or religious minorities or of immigrant origin?*

Recruitment of OLA personnel is conducted in accordance with the applicable legislation and policies of the MFA, including the Act on Equality between Women and Men and the Non-Discrimination Act (a new Act on Non-Discrimination entered into force on 1 January 2015).

The Personnel Policy for Gender Equality and Non-discrimination at the MFA (2013-2015) aims at promoting the above-mentioned questions in all personnel functions of the MFA. One of the priorities is to study reasons for unequal sex ratios and possibilities to even out sex ratios in recruitment (men are the underrepresented sex). The MFA does not apply quotas in recruitment.

## **5. Training on gender equality issues and mainstreaming thereof**

*Is OLA staff trained on gender equality issues and are these issues mainstreamed into the OLA's work?*

The Action Plan for Gender Equality 2012–2015 of the Finnish Government collates the most important measures by which the Government promotes equality between women and men and combats gender-based discrimination. The Action Plan is an instrument to coordinate the Government's gender equality policy, and it incorporates measures for all the Government ministries. The Action Plan is based on the Government Programme and the first Government Report on Gender Equality, drawn up in 2010. The Government is committed to promoting gender equality in all its decision-making. The Action Plan for Gender Equality includes a specific component on gender mainstreaming, which applies to all the ministries. The ministries continue to mainstream the gender perspective in legislative drafting, budget preparation and other activities with major implications for gender equality. Furthermore, each ministry continues the work of their respective working groups on gender equality. The Legal Service is represented in the MFA working group on gender equality. Representatives of the Legal Service have participated in the training on gender equality organised by the MFA.

Gender equality and elimination of discrimination is one of the three cross-cutting objectives of Finland's human rights policy. In accordance with the Human Rights Strategy of the Foreign Service of Finland, the main goals are to mainstream gender equality issues both in civil servants' administrative work and in foreign policy issues promoted in multinational fora, for instance through continuous education.

LGBTI rights, too, are an important part of Finland's gender equality policy in accordance with the Human Rights Strategy, and the MFA organises both general and targeted education and follow-up education in this field; including in cooperation with NGOS. The MFA has also positive experience in cooperating with civil society in the promotion of gender equality.

## **6. Organisation and structure of the Legal Service**

The Legal Service is organised in four units under the Legal Adviser:

- 1) Unit for Public International Law
- 2) Unit for EU and Treaty Law
- 3) Unit for EU Litigation
- 4) Unit for Human Rights Courts and Conventions.

Outside the abovementioned units, a Senior Adviser on International Law works directly within the OLA.

## **7. Position within the Ministry for Foreign Affairs**

The MFA is led by the Minister for Foreign Affairs, who is in charge of this government department. The Ministry's highest-ranking civil servants are the Secretary of State and the four Under-Secretaries of State.

The duties of the Ministry are divided between eight departments. In addition, there are functions outside the departmental division, such as the Legal Service. In the administrative division, the Legal Service falls under the Under-Secretary of State for External and Internal Services.

## **8. Main contacts with the Government**

The Legal Service provides advice specifically to the Ministry for Foreign Affairs and where necessary, to the Government as a whole. The Chancellor of Justice of the Government, along with the Parliamentary Ombudsman, is the supreme guardian of the law in Finland. The Chancellor of Justice is called upon to resolve, in particular, matters concerning the supervision of the Government, as well as matters of principle or of far-reaching consequence. However, as far as public international law is concerned, the Legal Service is the only expert body to provide advice to the Government as a whole. The Legal Service provides assistance in the coordination of treaties and other international obligations within the Government.

## **9. Relations of the Legal Service with lawyers in private practice, academics and legal institutions**

The Legal Service is an active participant in public debates, academic conferences and seminars. The Legal Service itself, too, organises conferences and seminars on topical issues of international and EU law. These events are open to academics, practitioners and students of law and journalists. Legal officers are encouraged to participate in both national and international conferences, as well as to engage in debates and discussions on contemporary topics related to their field of expertise. The Legal Adviser chairs the National Committee of IHL. Law firms, universities and legal institutions consult frequently the Treaty Register of Finland, maintained by the Legal Service.

## **10. Please provide a brief bibliography on the OLA, if available.**

n/a

## FRANCE

### 1. Quels sont les titres, rang et position du Conseiller juridique ?

Le conseiller juridique est juriste du ministère des affaires étrangères et directeur de la direction des affaires juridiques.

### 2. Quelles sont les principales fonctions du BCJ ?

Les principales fonctions de la direction des affaires juridiques sont précisées à l'article 9 du décret n° 2012-1511 du 28 décembre 2012 portant organisation de l'administration centrale du ministère des affaires étrangères<sup>1</sup> :

« La direction des affaires juridiques, placée sous l'autorité d'un directeur, juriste du ministère, conseille le ministre, les directions et services de l'administration centrale, les missions diplomatiques et les postes consulaires sur les questions de droit international et européen liées à leurs activités. Elle répond aux demandes de consultation sur des points de droit international qui peuvent lui être adressées par d'autres ministères.

Elle représente l'Etat devant les instances internationales à caractère arbitral ou juridictionnel, notamment devant la Cour de justice de l'Union européenne et la Cour européenne des droits de l'homme.

Elle est consultée sur tout projet de traité ou d'accord international et associée en tant que de besoin à la négociation de ces instruments.

Elle est responsable de toute question relative au droit de la mer, au droit fluvial et aux pôles.

La direction assure la liaison avec les conseillers diplomatiques auprès des préfets de région pour les matières relevant de ses compétences.

Le directeur des affaires juridiques est assisté dans ses fonctions par un directeur adjoint. »

### 3. Veuillez donner une brève description du personnel employé par le BCJ, y compris le personnel en poste à l'étranger. Quelle est la répartition des postes entre les femmes et les hommes au sein du BCJ et à quelle catégorie de personnel appartiennent-ils/elles respectivement ?

La direction des affaires juridiques est composée d'une cinquantaine d'agents, dont 38 juristes (17 femmes, 21 hommes), 8 secrétaires (7 femmes, 1 homme), 4 documentalistes (2 femmes, 2 hommes) et 1 bibliothécaire juridique.

Parmi les juristes de la direction, on compte 22 diplomates, 4 magistrats de l'ordre judiciaire, 6 conseillers des tribunaux administratifs et 6 consultants recrutés sur contrat.

Il existe plusieurs conseillers juridiques en poste à l'étranger qui, même s'ils ne dépendent pas statutairement de la direction des affaires juridiques, travaillent en étroite relation avec elle :

- un conseiller juridique à la Représentation permanente de la France auprès de l'Organisation des Nations Unies à New York ;

<sup>1</sup> Texte disponible à l'adresse suivante :

[https://www.legifrance.gouv.fr/affichTexte.do;jsessionid=3ACA79824EE2461C652E6E47F4C3DAF6.tpdila13v\\_3?cidTexte=JORFTEXT000026858905&dateTexte=20160224](https://www.legifrance.gouv.fr/affichTexte.do;jsessionid=3ACA79824EE2461C652E6E47F4C3DAF6.tpdila13v_3?cidTexte=JORFTEXT000026858905&dateTexte=20160224).

- un conseiller juridique à l'ambassade de France à La Haye ;
- un conseiller juridique à la Représentation permanente de la France auprès de l'Union européenne à Bruxelles
- un conseiller juridique à la Représentation de la France auprès du Conseil de l'Europe.

Par ailleurs, dans plusieurs ambassades, des diplomates ou des magistrats de liaison ont pour mission de suivre les questions juridiques.

**4. Existe-t-il des politiques spécifiques de recrutement et de promotion, des dispositions et/ou des quotas pour veiller à la non-discrimination et à l'égalité des chances, par exemple pour le sexe sous-représenté, les personnes handicapées ou les personnes appartenant à des minorités ethniques ou religieuses ou issues de l'immigration ?**

Au sein du ministère des Affaires étrangères, les femmes sont numériquement majoritaires. En effet, en janvier 2013 les femmes représentent 53% des fonctionnaires titulaires du ministère, 30% des agents de catégorie A, 43% de la catégorie B et 68% de la catégorie C.

La direction des ressources humaines du ministère met en œuvre des mesures visant à assurer l'égalité professionnelle entre les femmes et les hommes :

- que ce soit au sein des commissions administratives paritaires (38% de femmes représentent l'administration en 2012).
- lors des promotions internes, où la proportion hommes/femmes se rapproche de celle des différentes catégories administratives : 58% de femmes ont été promues en catégorie A en 2012 (47% en 2011) et 72% en catégorie B (62% en 2011).
- à l'administration centrale :
- 22% des femmes occupent un poste d'encadrement supérieur (14% en 2006) : 6 sont directrices, 4 sont inspectrices
- Au sein de cette catégorie, 34% des emplois de sous-directeurs sont occupés par des femmes (31% en 2011)
- Enfin, les femmes représentent 33% et 46% des conseillers et conseillers techniques dans les cabinets ministériels.

En janvier 2013, à l'étranger, 25 des 180 ambassadeurs sont des femmes, portant ainsi leur proportion à 14% (10% en 2006). Ce dernier chiffre, en apparence stable, traduit de façon incomplète une tendance positive qui conduit à nommer des ambassadrices dans des pays plus importants que dans un passé récent (exemple : à Pékin en 2011).

**5. Le personnel du BCJ est-il formé aux questions liées à l'égalité entre les femmes et les hommes et ces questions sont-elles intégrées au travail du BCJ ?**

Un protocole d'accord relatif à l'égalité professionnelle entre les femmes et les hommes dans la fonction publique a été signé le 8 mars 2013<sup>2</sup>.

Dorénavant, toutes les concertations et négociations à venir dans la fonction publique devront, quel que soit leur niveau, prendre en compte les enjeux de l'égalité professionnelle. Un rapport de situation comparée, rendu obligatoire dans les trois versants, permettra d'établir un diagnostic précis et servira de base objective au dialogue social.

Parallèlement, le Gouvernement s'engage à revoir l'ensemble des dispositifs d'égalité salariale, d'avancement et de mobilité, de composition des jurys de recrutement ou encore

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<sup>2</sup> Texte disponible à l'adresse suivante : [http://www.diplomatie.gouv.fr/fr/IMG/pdf/20130308-Protocole-d-accord-egalite-professionnelle\\_cle476ca1.pdf](http://www.diplomatie.gouv.fr/fr/IMG/pdf/20130308-Protocole-d-accord-egalite-professionnelle_cle476ca1.pdf).

d'accès à la formation afin de lever les obstacles qui pénalisent encore les femmes et nuisent à leur déroulement de carrière.

Le ministère des Affaires étrangères a par ailleurs établi une feuille de route ministérielle à l'occasion du comité interministériel des droits des femmes le 30 novembre 2012<sup>3</sup>.

## **6. Veuillez décrire brièvement l'organisation et la structure du BCJ.**

Voir Arrêté du 28 décembre 2012 relatif à l'organisation de l'administration centrale du ministère des affaires étrangères<sup>4</sup>

Article 6 : « La direction des affaires juridiques comprend :

- la sous-direction du droit international public ;
- la sous-direction du droit de l'Union européenne et du droit international économique ;
- la sous-direction des droits de l'homme ;
- la sous-direction du droit de la mer, du droit fluvial et des pôles ;
- la mission des accords et traités. »

Article 14 : « Les missions des sous-directions et mission de la direction des affaires juridiques sont les suivantes :

La sous-direction du droit international public connaît de toute question juridique relative au droit international public et aux organisations internationales.

La sous-direction du droit de l'Union européenne et du droit international économique traite, en liaison avec le secrétariat général des affaires européennes, de toute question de droit de l'Union européenne et assure la gestion des contentieux devant la Cour de justice de l'Union européenne. Elle traite de toute question de droit international économique.

La sous-direction des droits de l'homme connaît de toute question juridique relative aux droits de l'homme, aux réfugiés, à la circulation des personnes et au statut des étrangers en France. Elle assure la gestion des contentieux devant la Cour européenne des droits de l'homme.

La sous-direction du droit de la mer, du droit fluvial et des pôles connaît de toute question internationale relative à la mer, aux pêches, aux fonds marins et aux régimes juridiques des fleuves internationaux. Elle est également compétente à l'égard de toute question relative aux pôles.

La mission des accords et traités conduit les procédures d'introduction des traités et accords internationaux dans l'ordre juridique interne. »

## **7. Quelle est la place du BCJ au sein du Ministère des Affaires étrangères ?**

Voir décret n° 2012-1511 du 28 décembre 2012 portant organisation de l'administration centrale du ministère des affaires étrangères, cité ci-dessus en réponse à la question 2, et arrêté du 28 décembre 2012 relatif à l'organisation de l'administration centrale du ministère des affaires étrangères, cité ci-dessus en réponse à la question 6.

## **8. Quels sont les principaux contacts du BCJ au sein du Gouvernement ?**

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<sup>3</sup> Texte disponible à l'adresse suivante :

<http://femmes.gouv.fr/wp-content/uploads/2012/12/CIDF-FeuilledeRoute-MAE.pdf>.

<sup>4</sup> Texte disponible à l'adresse suivante :

<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000026858948>.



- Secrétariat général du Gouvernement ;
- Secrétariat général des affaires européennes ;
- L'ensemble des ministères, et notamment les ministères de la justice, de la défense, de l'économie et des finances.

**9. Veuillez décrire les relations du BCJ avec des cabinets d'avocats, des universitaires et des institutions juridiques.**

Dans sa mission d'agent du gouvernement et de gestion des contentieux devant les juridictions internationales, la direction des affaires juridiques fait rarement appel à des contributions extérieures. En cas de nécessité, elle sollicite le concours de conseils appartenant, le plus souvent, à la communauté universitaire.

La direction des affaires juridiques entretient des contacts réguliers avec le monde universitaire et les institutions juridiques, notamment en participant et/ou en organisation des conférences sur des thèmes d'actualité du droit international.

**10. Veuillez fournir une brève bibliographie au sujet du BCJ, le cas échéant.**

Clémence Dellangol, « Dans les coulisses de la direction des affaires juridiques du ministère des Affaires étrangères », *Lettre des juristes d'affaires – Le Magazine*, n° 35, 2015 (disponible à l'adresse suivante : <http://business.lesechos.fr/directions-juridiques/dans-les-coulisses-de-la-direction-des-affaires-juridiques-du-ministere-des-affaires-etrangeres-110833.php>)

André Gros, « Origines et traditions de la fonction de jurisconsulte du département des affaires étrangères », *Mélanges offerts au doyen Trotabas*, Paris, LGDJ, 1970, pp. 187-195.

Gilbert Guillaume, « La direction des affaires juridiques du ministère des affaires étrangères : conseil juridique et action diplomatique », *Mélanges en l'honneur de Guy Ladreit de Lacharrière*, Masson, 1989, pp. 267-278.

Gilbert Guillaume, « Droit international et action diplomatique : le cas de la France », *European Journal of International Law*, 1991, vol. 2-1, pp. 136-147.

Jean-Pierre Puissochet, « La fonction juridique du Ministère des Affaires étrangères », *Cahiers de la Fonction Publique et de l'Administration*, novembre 1993, n° 118, pp. 12-13.

Jean-Luc Sauron, « L'application du droit de l'Union européenne en France », *La documentation française*, 2000, 2<sup>e</sup> éd., pp. 110-126.

## GEORGIA

### 1. What is the title, rank and position of the Legal Adviser?

The legal adviser holds the rank of Director and heads the International Law Department, hereinafter referred to as the Department, within the Ministry of Foreign Affairs of Georgia. He/she is subordinated to one of the Deputy-Ministers of Foreign Affairs and has two Deputy Directors who also may act as a Legal Adviser if needed. The Legal Adviser holds the highest diplomatic rank - Ambassador or the Envoy. The current Legal Adviser has the diplomatic rank of envoy.

### 2. What are the principal functions of the OLA?

The main tasks of the Department, which in practice performs the OLA function, include:

- to bring foreign relations of Georgia in line with international legal norms, provide legal expertise of Georgia's bilateral and multilateral international agreements and other international legal acts;
- Coordinating all the procedures concerning the conclusion of international treaties of Georgia on external and internal level;
- to ensure general surveillance over the implementation of all international agreements of Georgia, their analysis, monitoring, control, registration, systematization and preservation of originals;
- analyzing actual issues and themes of international law;
- preparing proposals on the conclusion, implementation, suspension and termination of Georgia's international agreements;
- to implement the deposit and conservation of international agreements and concerned documentation in which Georgia is a state party;
- to perform the functions of depository in the name of Georgia;
- to ensure continuous collection, processing and updating of information on the international treaties;
- to co-ordinate the activity of the central specialized bodies and other public authorities of Georgia in order to enhance and develop the bilateral and multilateral legal framework;
- Whether necessary, participating in the process of preparing the materials necessary for representation of Georgia in international judicial bodies;
- Coordinating the elaboration process of reports envisaged by multilateral international treaties to which Georgia is a state party.

### 3. Please give a brief description of staff employed by the OLA, including overseas staff. What is the distribution of posts between men and women within the OLA and what category of staff do they respectively belong to?

The staff employed by the Department consists of 10 persons: Director, 2 Deputies, 2 Heads of division, one Counselor, 2 First Secretaries and 2 Third Secretaries. One employer is working on the base of contract.

Staff consists of lawyers who are specialized in the field of international law. All members have at least completed Master studies and several of them are currently making PhD researches. Moreover, two employees of the department are lecturers.

Distribution of posts in the Department between men and women are as follows: 2 men and 8 women. Third secretary from the division of bilateral international treaties represents an ethnic minority of Kurdish people living in Georgia.

**4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic or religious minorities or of immigrant origin?**

Recruitment and promotion policies are prescribed by legislation of Georgia and in the regulations of the Ministry of Foreign Affairs. Department of Human Resources coordinates the procedure of examinations which have to be taken in order to be recruited in the diplomatic staff of the Ministry. It also keeps detailed account of every employee's working experience in order to assess his/her promotion eligibility.

**5. Is OLA staff trained on gender equality issues and are these issues mainstreamed into the OLA's work?**

As long as the Department performs the functions of coordinator in the field of international human rights treaties reporting procedures, its staff has an experience in different spheres in this regard. In particular, division for multilateral international treaties and legal analyze actively participates in the reporting process of the Convention on Elimination of all Forms of Racial Discrimination (CERD) and the Convention on Elimination of all Forms of Discrimination against Women (CEDAW). Two employees of the division attended the Workshop on CEDAW concluding observations and UPR recommendations at Istanbul, on 9-11 April 2014.

**6. Briefly describe the organisation and structure of the OLA.**

The International Law Department is headed by a Director and two Deputies. There are two divisions the one of which deals with the issues concerning multilateral international treaties and legal analysis and other one is responsible for bilateral international treaties. Each division consists of four diplomats which are supervised by two deputies.

**7. What is OLA's place within the Ministry of Foreign Affairs?**

The Department is one of the 18 departments of MFA. The tasks of the Department are determined by the Ministry's Regulations and Law on International Treaties of Georgia, and are being carried out under the supervision of the Deputy-Minister of Foreign Affairs.

**8. What are the main contacts of the OLA within Government?**

The Department deals with other ministries and governmental bodies on daily basis on legal matters concerning bilateral and multilateral legal issues. Therefore, all international legal issues and other instruments concluded by Georgia have to be approved by the Department through the comprehensive procedure which is prescribed by the Georgian legislation and the Vienna Convention on the Law of Treaties.

**9. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.**

The Department is in frequent contact with academics and legal institutions on matters of public international, treaty and diplomatic and consulate law. The current Director and Deputy-Director give lectures on the public international law, treaty law and diplomatic and consulate law in different universities and draw up curriculum for Diplomatic Academy at the Ministry.

**10. Please provide a brief bibliography on the OLA, if available.**

n/a

## GERMANY

### 1. What is the title, rank and position of the Legal Adviser?

The Legal Adviser holds the position of a director-general. The position is assigned to regular career diplomats, and is subject to the principle of rotation. There is no recruitment from outside the Foreign Service.

### 2. What are the principal functions of the OLA?

The Legal Adviser heads the Legal Directorate-General. He provides guidance on issues of public international law. In addition to those functions traditionally associated with the position of "Legal Adviser", he or she is responsible for consular affairs as well as issues of constitutional and administrative law. The Legal Adviser presents the Federal Government's position on issues of public international law in Parliament and, on request, before the Federal Constitutional Court. Additionally, the Legal Adviser represents German interests at international conferences and in international organizations. He or she is the agent of Germany in proceedings before the ICJ (Proceedings before the ECJ and the ECHR fall within the responsibility of the Ministry of Finance and the Ministry of Justice, respectively).

### 3. Please give a brief description of staff employed by the OLA, including overseas staff. What is the distribution of posts between men and women within the OLA and what category of staff do they respectively belong to?

Currently, there are about 40 career diplomats working at the Legal Directorate-General at the headquarters in Berlin. While it is in principle not necessary that they are qualified to practice law in Germany, most of the members of the Legal Directorate-General are qualified lawyers under German law.

There are legal advisers at the German Mission to the UN in New York and at the German Embassy in The Hague. In addition, most Embassies and all Consulates deal with consular and other legal affairs on a daily basis.

Diplomatic Stream: Total 109; Male 87, Female 22

Consular Stream: Total 492; Male 219; Female 273

Executive Assistance Branch: Total 1474; Male 443; Female 1031

### 4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic or religious minorities or of immigrant origin?

For the Federal Foreign Office as a whole, the proportion of women is to be increased in the areas in which they are underrepresented. Women are therefore expressly encouraged to apply. The Act on Gender Equality stipulates that in the case of equal suitability, they are to be given preference.

Applications from persons of migrant origin are expressly welcomed. Persons of migrant origin possess language skills and knowledge of other cultures which we can put to good use in the foreign service. The diversity in our society should be reflected in the public sector. We intend to step up our activities in this area within the diplomatic stream.

The Federal Foreign Office gives preference to severely disabled applicants in the case of equal suitability in accordance with the provisions of the Social Code, Book nine (SGB IX [http://www.gesetze-im-internet.de/sgb9ua\\_ndg/index.html](http://www.gesetze-im-internet.de/sgb9ua_ndg/index.html) only German language version available).

**5. Is OLA staff trained on gender equality issues and are these issues mainstreamed into the OLA's work?**

Gender equality issues are mainstreamed into all internal leadership training programmes. In addition, the foreign office academy offers access to any external training opportunity on gender issues available.

**6. Briefly describe the organisation and structure of the OLA.**

The Legal Adviser is head of the Legal Directorate-General. The Directorate-General currently comprises two task forces - Task Force for the ICC/Commissioner for the ICC and Task Force for the Parliamentary Commission of Enquiry on Visa – and twelve divisions with the following responsibilities:

- General International Law, Legal issues ensuing from the German reunification
- International Treaties
- Law of Diplomatic and Consular Relations and of relations with International Organizations
- Legal Status of Foreign Forces, Legal Status of the Federal Armed Forces and Police on Missions abroad, Property issues ensuing from the two World Wars and National Socialist Injustice
- Antarctic and special Areas of International Law (Law of the Sea, Law of the Aerospace, Law of International Environmental Protection, Law on International Watercourses)
- Constitutional and Administrative Law
- Criminal Law, International Tax and Customs Law
- Private International Law, Civil Law, Mercantile and Commercial Law
- Foreigners Law incl. Asylum Law, Visa Law, Policy on Foreigners
- Visa Law: Specific Cases and Proceedings in Contentious Administrative Matters relating to Visa
- Labour, Social and Health Law, Borders of the Federal Republic of Germany, Agreements for the Protection of Classified Material
- Emergency Assistance for Germans Abroad – Financial Assistance in Emergency Situations, Evacuation, Missing Persons Searches, Assistance with the Repatriation of Deceased Persons, Aid Institutions and Social Welfare of Germans Abroad

**7. What is the OLA's place within the Ministry of Foreign Affairs?**

In total, there are eleven Directorates-General within the Federal Foreign Office. The Legal Directorate-General acts under the supervision of one of the two Secretaries of State.

**8. What are the main contacts of the OLA within Government?**

The Legal Adviser provides legal advice on questions of public international law within the Foreign Office as well as to other bodies and institutions.

**9. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.**

The Legal Adviser and other senior members of the Legal Directorate-General participate in scientific conferences and meetings. They are in regular contact with German and international research institutes. Depending on the subject matters, contacts to research institutes, scholars or private law firms may be established. An Advisory Committee on Public International Law comprising prominent German scholars of international law meets regularly with the Legal Adviser to discuss current issues of public international law.

**10. Please provide a brief bibliography on the OLA, if available.**

Albrecht Lohmann; *Das Auswärtige Amt*; 2. Ed.1974

Gerd Westdickenberg; *Deutschland klagt vor dem Internationalen Gerichtshof*; in: Enrico Brandt/Christian Buck; *Auswärtiges Amt, Diplomatie als Beruf*; 3. Ed. 2003.

## GREECE

### 1. What is the title, rank and position of the Legal Adviser?

The Head of the Legal Department of the Greek Ministry of Foreign Affairs is officially called "Special Legal Adviser". He/she serves this position for a three-year renewable term and, while not being a career diplomat, he/she is hierarchically equal to a Minister Plenipotentiary.

### 2. What are the principal functions of the OLA?

The "Special Legal Department" (SLD) of the Greek Ministry of Foreign Affairs is the OLA. It was created in 1931 with the mandate of providing legal advice to this Ministry. It supports the Ministry in all matters related to Public International Law and the Law of the European Union and is competent to deliver advisory opinions, to represent the Ministry abroad in legal and judicial issues and to handle issues related to international treaties. The Special Legal Adviser acts as Agent of the Greek State before the International Court of Justice and other international courts and is Member (for Greece) of the Panel of Conciliators and Arbitrators of ICSID. Likewise, the members of the OLA represent Greece before the Court of Justice of the European Union.

### 3. Please give a brief description of staff employed by the OLA, including overseas staff. What is the distribution of posts between men and women within the OLA and what category of staff do they respectively belong to?

The staff employed in the SLD belongs to two categories: a) scientific staff (see below, under 4) and b) administrative and technical staff of the Ministry of Foreign Affairs. Today, the Public International Law Section, including the Office of International Treaties, is composed of 16 members (of which twelve are members of the scientific personnel and four are members of the administrative staff with the ratio of women to men being 12 to 4), while the EU Law Section is composed of 25 members (of which twenty-two are members of the scientific personnel and three are members of the administrative staff with the ratio of women to men being 22 to 3).

### 4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic or religious minorities or of immigrant origin?

The scientific staff of the Special Legal Department is appointed after having successfully passed an examination especially provided for this category of staff by the Ministry of Foreign Affairs. This examination includes a written and an oral part, comprising a series of tests on law-related courses (in particular, public international law and diplomatic history or EU law, as appropriate, constitutional law and private international law) as well as an interview. In order to meet the eligibility requirements for participating in the above examination, candidates must be law school graduates with a post-graduate specialisation in Public International Law or European law respectively. Knowledge of English and French is also required.

### 5. Is OLA staff trained on gender equality issues and are these issues mainstreamed into the OLA's work?

No. These issues would fall within the competence of the Ministry itself.

### 6. Briefly describe the organisation and structure of the OLA.

The “Special Legal Department” is composed of the Public International Law Section, the EU Law Section and the Office of International Treaties. Each Section is headed by a high-ranking member of the scientific staff.

The **Public International Law Section** is entrusted with the mandate to study and deliver advisory opinions on issues of public international law as well as on issues arising out of the interpretation and implementation of international treaties concluded by Greece.

Furthermore, it deals with interstate legal disputes to which Greece is a party in the event that these disputes are submitted to an international procedure of conciliation, arbitration or judicial settlement. It also represents the Hellenic Republic before the International Court of Justice. Finally, the Public International Law Section follows and participates in intergovernmental committees and activities related to issues falling within its mandate in the framework of the United Nations and other international and regional organizations and conferences, as well as to the submission of national reports, particularly, before UN human rights protection bodies.

The **EU Law Section** is entrusted with the handling of and the representation of the Hellenic Republic on all EU Law issues. More precisely, it represents Greece before the Court of Justice of the European Union in all procedures (direct actions, preliminary references, interventions) and it gives advice on all legal issues relating to the Law of the EU as well as on matters of private and public international law, international trade law and national law to the extent that these matters involve the interpretation and application of the law of the EU.

The **Office of International Treaties** undertakes the necessary actions for the approval and the ratification by the competent State organs of international treaties concluded by Greece as well as for their registration with the Secretariat of the United Nations. The Office also acts as depositary, if provided for in an international treaty, and keeps the originals of international treaties concluded by Greece.

#### **7. What is the OLA’s place within the Ministry of Foreign Affairs?**

The “Special Legal Department” is directly accountable to the Minister of Foreign Affairs.

#### **8. What are the main contacts of the OLA within Government?**

The SLD closely cooperates with competent departments of other Ministries on all issues related to its mandate, e.g. in particular the International Relations departments and other relevant departments dealing with the negotiation, implementation and interpretation of international treaties.

#### **9. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.**

n/a

#### **10. Please provide a brief bibliography on the OLA, if available.**

No bibliography is available.



## HUNGARY

### 1. What is the title, rank and position of the Legal Adviser?

The Legal Adviser holds the rank of the Head of International Law Department within the Ministry of Foreign Affairs and Trade of Hungary.

### 2. What are the principal functions of the OLA?

The principal function of the Department is to provide legal advice to the Minister, the political and other departments of the Ministry.

The Department has a twofold task: on the one hand, it deals with issues arising within the boundaries of public international law; on the other hand it functions as the competent section in the Ministry to prepare and complete necessary national and international procedures in connection with international agreements. Together with the related departments of other ministries, it is responsible for assuring the coherence of Hungary's international legal obligations.

The Department observes the development of international law as a whole and monitors its domestic implementation. In relation to this, it follows the practice of international courts and tribunals, as well as the issues appearing on the agenda of international organisations relevant to public international law. The Hungarian position in these fields is also prepared here.

The Department gives legal position on issues entailing the immunities and privileges of local foreign diplomats, examines the existence of reciprocity in such cases. In this regard, it cooperates closely with the Protocol Department of the Ministry.

Human rights law and EU law are not within the Department's area of responsibility.

### 3. Please give a brief description of staff employed by the OLA, including overseas staff. What is the distribution of posts between men and women within the OLA and what category of staff do they respectively belong to?

At present 10 lawyers work for the International Law Department. In principle, the Hungarian diplomatic service has no specific career track for lawyers. There are certain posts abroad, which are usually filled in by lawyers (e.g. posts at the Permanent Mission to the UN in New York and in Geneva or at the Permanent Representation in Brussels), but to have a law degree is not a prerequisite for these posts. A relatively high percentage of these lawyers choose to work as consuls at various locations, especially in the early stages of their career.

There are three leaders of the Department; the Head and the Deputy Head are women, the Head of Unit is a man. Out of the ten lawyers working presently at the Department there are eight women and two men. There are seven legal officers and an officer responsible for the documentation and storage of the international treaties of Hungary.

### 4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic religious minorities or of immigrant origin?

Employees are appointed on grounds of professional competence and practical experience in the field of each department and unit. There are general legal provisions in Hungarian law against every form of discrimination.

**5. Is OLA staff trained on gender equality issues and are these issues mainstreamed into the OLA's work?**

Lawyers of the Department are appointed on grounds of professional competence and practical experience in the field of international public law. There are no special trainings on gender equality issues as we have encountered no problem in this topic.

**6. Briefly describe the organisation and structure of the OLA.**

The Department is made up of two sections: the Section of International Public Law and the Section of International Treaties.

**7. What is the OLA's place within the Ministry of Foreign Affairs?**

International Law Department works under the direct control of the Deputy State Secretary for International Co-operation. The Department works closely with the Department of International Organisations, the Department for International Development and Humanitarian Aid, the Legal Department, and the regional departments.

Other ministries of Hungary communicate with the permanent representations and embassies of Hungary through our Department with respect to international agreements.

**8. What are the main contacts of the OLA within Government?**

The Department of the MFAT is the principal service within the Government for issues of public international law and international humanitarian law. The Department advises other ministries when they deal with these issues.

In almost every ministry of Hungary there is a legal department and/or a department responsible for international affairs. In special fields of international law pertaining to the competence of other ministries or authorities, these departments work closely together with the International Law Department of the MFAT. Most frequently the OLA is in contact with the Ministry of Justice, Ministry of Defence and Ministry of Interior.

**9. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.**

The Department is approached on a regular basis by state authorities and Hungarian private lawyers, when they have to deal with issues of public international law.

The Department maintains an important two-way relationship with academics. The OLA plans to organize yearly meetings with academic international lawyers to discuss pertinent issues of international law. The Department regularly accepts interns from universities. Members of the Department often consult scholars when a specific topic so requires. Members of the OLA regularly attend conferences and seminars held by academics of international law, and we regularly invite academics to conferences organized by the Department. Lawyers of the Department are frequently invited by universities to give presentations to students on the practice of international law.

In addition, many lawyers at the Department teach and research within the field of international law at universities or participate in the writing and editing of manuals on issues of international law. The Head of Department holds a Ph.D. degree and is a senior lecturer of international law at the Law Faculty, two lawyers within the Department are doctoral students and regularly hold international law classes.

**10. Please provide a brief bibliography on the OLA, if available.**

The Organisational and Operational Regulations of the Ministry of Foreign Affairs and Trade of Hungary may be found in the order of the Minister of Foreign Affairs and Trade No. 11/2015, para 1.4.2.2 (<http://www.kozlonyok.hu/kozlonyok/Kozlonyok/12/PDF/2015/29.pdf>). There is no bibliography available on the OLA.

## IRELAND

### 1. What is the title, rank and position of the Legal Adviser?

The Office of the Legal Adviser of the Ministry of Foreign Affairs (the Legal Division of the Department of Foreign Affairs and Trade of Ireland) is headed by the Legal Adviser, who holds the rank of Director General. The Division is staffed by professionally qualified lawyers, who are permanent civil servants, as well as administrative staff.

### 2. What are the principal functions of the OLA?

The Legal Division provides legal advice and information to the Department of Foreign Affairs and Trade on matters of public international law, human rights law, European Union law and issues of domestic law particular to the Department. It coordinates the development, promotion and implementation of international legal policy in areas such as international humanitarian law, international criminal justice and the law of the sea. The Division represents Ireland in international legal proceedings before the International Court of Justice, the European Court of Human Rights and human rights bodies. It also represents Ireland in legal committees in the UN, Council of Europe, EU and other international organisations. The Division carries out functions with respect to extradition and mutual legal assistance and administers the Department's Treaty Office.

### 3. Please give a brief description of staff employed by the OLA, including overseas staff. What is the distribution of posts between men and women within the OLA and what category of staff do they respectively belong to?

There are currently nine legal experts permanently based in head quarters, who travel abroad as required – a Legal Adviser, a Deputy Legal Adviser and a Legal Counsellor (both at Director level) and six Assistant Legal Advisers. They are assisted by five support staff. Two interns are recruited annually.

### 4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic religious minorities or of immigrant origin?

Lawyers constitute a separate career stream within the Department of Foreign Affairs and Trade. Assistant Legal Advisers are recruited by way of open competition. Promotion to Director level takes place by way of internal competition within the Department of Foreign Affairs and Trade. The Legal Adviser is appointed by way of open competition by the Top Level Appointments Commission for the Irish public service. On occasion, legal staff are temporarily assigned to the diplomatic or general service streams of the Department and staff from the latter streams with appropriate legal qualifications may be assigned temporarily to the Legal Division.

Legal staff are required to be professionally qualified lawyers – ie to be barristers or solicitors. An excellent knowledge of international law and relevant experience is also required.

All staff are recruited and promoted in accordance with EU law and Irish employment law, which prohibits discrimination on the grounds of gender, civil status, family status, age, race, religion, disability, sexual orientation and membership of the Traveller community. There are no gender quotas, but there are civil service wide targets aimed at achieving gender equality. The Department of Foreign Affairs and Trade is committed to gender equality, including in relation to postings and headquarters assignments, as well as recruitment and promotion. All

persons serving on interview boards, which are required to be gender balanced, receive unconscious bias training, including on gender issues.

The Civil Service Renewal Plan includes measures to improve gender balance in the Irish civil service. To complement and enhance these measures, in 2012 the Management Board of the Department established a Sub-Committee on Gender Equality. The Sub-Committee was charged with developing a gender strategy, aimed at achieving equality between women and men. In 2017 its function was expanded to cover equality and diversity more broadly, taking account of the grounds for non-discrimination listed above as well as socio-economic status. The Sub-Committee has a working party on implementation of the Department's Gender Equality Action Plan. There is also a Gender Equality Network that organises Department-wide lectures and discussions, featuring internal and external speakers on a wide range of gender equality issues.

**5. Is OLA staff trained on gender equality issues and are these issues mainstreamed into the OLA's work?**

There is no specific training of the staff of the Legal Division, but legal staff can avail of training available to Departmental staff on gender equality issues. Efforts are made to mainstream gender equality issues in all areas of the work of the Department of Foreign Affairs and Trade, including through the work of the Management Board Sub-Committee on Gender Equality, Equality and Diversity.

**6. Briefly describe the organisation and structure of the OLA.**

The Legal Division is headed by the Legal Adviser. The Deputy Legal Adviser and the Legal Counsellor each head a team of three Assistant Legal Advisers. Lawyers are assigned specific areas of responsibility on which they work with a high degree of autonomy, but also work flexibly across the areas of work assigned to their team and the Division as a whole. Lawyers engage with "client" business units, horizontally across the Division and with their line managers, as well as with other Government Departments and Offices.

**7. What is the OLA's place within the Ministry of Foreign Affairs?**

The Legal Division is one of eight Divisions and five Units at the Department of Foreign Affairs and Trade. The Legal Adviser is a member of the Department's Management Board.

**8. What are the main contacts of the OLA within Government?**

The Legal Division works closely with other Government Departments and the Law Offices of the State, including the Office of the Attorney General, on the areas of law falling within its mandate.

**9. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.**

Lawyers from private practice are retained by the Government, via the Office of the Attorney General, to assist in the preparation of written submissions to the European Court of Human Rights and other courts and tribunals, as well as to make oral presentations as necessary and in such cases will work closely with the Legal Division. Lawyers from the Division maintain ongoing contacts with lawyers in private practice, in academia and in legal institutions through their participation in professional bodies, speaking and attendance at conference and seminars and through informal contacts. They may also be involved in the teaching of law at academic institutions and write in academic journals.

**10. Please provide a brief bibliography on the OLA, if available.**

J. Kingston, "Organisation and Context for the Work of the Legal Adviser: The Legal Division of the Department of Foreign Affairs and Trade of Ireland" in A. Zidar and J.-P. Gauci (eds) *The Role of Legal Advisers in International Law* (Leiden: Brill; Boston: Nijhoff, 2016), pp70-86.

## ITALY

### 1. What is the title, rank and position of the Legal Adviser?

The Legal Adviser is officially called “Head of the Service for Legal Affairs, Diplomatic Disputes and International Agreements.” He/she holds the position of a Director-General. The position is assigned to a career diplomat, normally holding at least the rank of Minister Plenipotentiary. Since the reform of the Ministry (Presidential Decree No. 95/2010), there is no recruitment from outside the Ministry (an innovation from the previous period, as until 2008 the position was held either by a Full Professor in International Law or a State Attorney).

### 2. What are the principal functions of the OLA?

The reform of 2010 renovated the Office of the Legal Adviser according to the perceived needs for a broader range of activities. While in the past the Office ranked as Unit - attached to the Secretary General - dealing with Diplomatic Disputes and International Agreements, since 2010 the Office is renamed as “Service for Legal Affairs, Diplomatic Disputes and International Agreements”. The functions of the Service are:

- to support the Minister and the Directorates General of the Ministry in providing legal assistance in matters related to public international law, European Union law and domestic law;
- research activities on legal matters concerning international relations;
- to provide legal assistance for the negotiations and the signature of international agreements and to follow the procedure for their approval and ratification;
- to collect the treaties, being the depository of international agreements for the Republic of Italy;
- to collaborate with the Agents of the Government before international courts, including the Agents for the ECJ and the ECHR;
- to deal with domestic litigation of the Ministry against external subjects (excluding litigation on staff, dealt with by a special office of the Directorate-General for Human Resources) and to be the focal point for contacts with the Attorney General.

### 3. Please give a brief description of staff employed by the OLA, including overseas staff. What is the distribution of posts between men and women within the OLA and what category of staff do they respectively belong to?

The staff employed in the Service for Legal Affairs could be classified according to three categories: diplomats, administrative staff and experts.

Currently, there are 8 career diplomats (7 men and 1 woman) serving at the Service for Legal Affairs in Rome. While a degree in Law is not necessary in principle, most of the members hold a diploma in legal studies. As for the administrative staff, 21 people (11 men and 10 women) are part of the Service, dealing with tasks ranging from the procedures on treaties (analysis of draft agreements, granting full powers, etc.) and the draft of memories for proceedings involving the Ministry to the activities of the archives and of administration (human resources, secretary).

Experts are divided into several categories: 4 are judges (2 men and 2 women), temporarily assigned to the MFA from the Ministry of Justice; 6 are professors (2 men and 4 women), collaborating with the Service on a voluntary basis in addition to their academic career; on a voluntary basis, a Counsellor of State (administrative judge) also collaborates in the activities of the Service concerning advice for administrative matters. The Service also collaborates with several Italian universities on the basis of *ad hoc* conventions.

The distribution of posts between men and women is thus 21 to 19.

Some missions abroad (Washington, New York-UN, Brussels-EU, Strasburg-CoE, The Hague, Vienna-OSCE) are also endowed with a legal expert, in most cases a professor or a judge. The rank of the expert (whose post is renewed every two years for a maximum period of eight years) is that of a Counsellor. These experts are not part of the Service for Legal Affairs – although contacts are, necessarily, on a regular basis.

**4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic or religious minorities or of immigrant origin?**

As a general trend, the recruitment of women is improving both in the diplomatic and in the administrative careers. Currently, around 20% of diplomats are women, while women account for 55% of the administrative staff. There are no specific recruitment policies for the underrepresented sex or for disabilities as far as the diplomatic career is concerned. However, for administrative staff posts are assigned to people with special disabilities, according to the relevant national legislation granting favour to these category of workers.

As a general policy, the Ministry encourages application from categories that are underrepresented.

**5. Is OLA staff trained on gender equality issues and are these issues mainstreamed into the OLA's work?**

The staff of the Service is trained on gender equality within the activities of the Ministry, according to the programme of the Unit for Professional Updating.

**6. Briefly describe the organisation and structure of the OLA.**

The Service for Legal Affairs, Diplomatic Disputes and International Agreements is structured into three divisions/offices: the first deals with treaties and international courts; the second with internal litigation concerning the Ministry (excluding litigation on human resources); the third is an office competent for counselling in both domestic and international law.

The organization of the Service could be summarized as follows:

**Office I – Diplomatic disputes, international law, assistance to Italian Government Agents to protect national interests in international courts**

- legal assistance for negotiation and the signing of international conventions and treaties;
- procedure for the ratification of international conventions and treaties entered into by Italy, as well as collecting and up-dating them;
- deposit and management of multilateral conventions of which Italy is the depositary (e.g. the EU Institutional Treaties);
- collaboration with the Italian Government Agents to protect the rights and interests of Italy before international courts and tribunals, in liaison with the other government departments concerned. The office of the Italian Government Agent before the European Court of Human Rights is also located within the SGCDT; the Service also assists the Agent before the European Court of Justice;
- assistance to the organisation of the Venice Commission's meetings in Italy;
- collaboration with Public Officials on the admissibility of Foreign Direct Investments from non-EU Countries on the basis of the principle of reciprocity.



As for the Offices of the Agent of the Government before the European Court of Justice and the European Court of Human Rights, it appears opportune to specify the discipline:

- the Agent of the Government before the ECJ is appointed following Law No. 234/2012 (the statute concerning the participation of Italy to the activities on law and policy of the EU). Art. 42 of the Law provides for the appointment of the Agent, that has to be a State Attorney and has to be appointed by means of a Decree by the Presidency of the Council (or the Minister for EU Affairs) and the Ministry of Foreign Affairs. In his/her daily tasks, the Agent is supported by four people that are part of Office I of the Service.
- The Agent of the Government before the European Court of Human Rights is appointed by the Minister of Foreign Affairs only. He/she is supported by three judges, that provide collaboration for the draft of memoirs for the cases discussed before the Court, and by two more judges (the “Co-Agents”) that deal with the cases in Strasbourg and are located in the Permanent Representation of Italy to the CoE.

The appointment of an Agent of the Government deserves a particular mention. As seen, the method differs between the ECJ and the ECHR. Moreover, since the reform of 2010, the Service for Legal Affairs “collaborates” with the Agents of the Government before international courts. This means that the Service provides assistance to the Agents but that the Agents are a different entity from the Service, having strong links with it but being formally separated from the Ministry. The assistance provided consists in monitoring the disputes in the two Courts and in managing the flow of information to the different Administrations competent for single cases. As for the actual draft of memoirs and the defence of the State, the Agent before the ECJ avails him/herself of the expertise of State Attorneys, while the Agent before the ECHR organises the defence by assigning the different cases to the judges working at the Service and in Strasbourg.

#### Office II – Defence of the Ministry in external disputes

This office is organised in order to provide guidance and legal assistance in several matters, such as civil law, administrative law, labour and contract law.

On the basis of the information provided by the relevant offices in the Ministry and abroad this office is responsible for defence of the Administration in lawsuits brought by external parties or in lawsuits brought by the Ministry of Foreign Affairs against external parties.

The officers represent the Ministry in domestic courts for labour litigation, while in civil courts the Office draws on the assistance of the State Attorney, working closely with their central office in Rome.

The main cases dealt with in the Office pertain to disputes, generally, between the MFA and privates: for instance, of employees of Italian Institutes of Culture and the personnel of Italian schools abroad, on the use of the premises of Italian Embassies (and related works) and on the personnel hired on a temporary basis by the Ministry. Disputes on visas and on human resources with a permanent contract are excluded from the activities of Office II (as they are, respectively, a competence of the Directorate General for Italians Abroad and of the Directorate General for Human Resources).

#### Office III – Legal advisory service

- advice on legal questions submitted by other offices and of interest to the Ministry; with a view to ensuring unified guidance;
- opinions, assistance in drafting public tenders and contractual instruments;
- collection, up-dating and consultation of legislative provisions and the decisions of the courts.

Office III of the Legal Service is in charge of counselling for all legal matters in the Ministry. Usual activities concern consular law, the law of the seas, the study of draft statutes (also for application of EU Directives in the Italian legal system) and decrees issued by the Ministry.

### **7. What is the OLA's place within the Ministry of Foreign Affairs?**

The Service for Legal Affairs is compared to a Directorate General of the Ministry. As it stands as a division for internal counsel, the Service is activated by the different Directorates General according to the legal needs arising in the framework of their activities.

### **8. What are the main contacts of the OLA within Government?**

The Service for Legal Affairs is an Office aimed at providing internal counselling advice to the Minister for Foreign Affairs and the Directorates General within the Ministry. Contacts with the other Administrations (including the Office of the Prime Minister) are frequent as far as international courts are concerned, in order to ensure a more coherent and coordinated approach for the defence of the State in international disputes.

Contacts concerning international agreements negotiated by other Ministries are maintained through the Offices of the Diplomatic Advisors (career diplomats that are assigned to the Cabinet of the Ministries in the different Administrations to deal with international activities).

### **9. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.**

The Service for Legal Affairs is in constant relations with several categories dealing with legal issues.

The relations with the academia have been growing in the last years. On the one hand, since part of the scientific experts pertain to the academic field, relations with universities are easily held – for the organisation of conferences or the discussion of specific topics of international or domestic law. On the other hand, the Service is establishing firm links with several universities by the signature of specific conventions, in order also to avail itself of the expertise of a larger number of professors in different subjects (administrative, labour, commercial, humanitarian law), to start an internship programme for students enrolled in the last two years of the Law Degree and to follow the evolution of international and domestic law in an academic perspective.

The Service also establishes contacts with the Offices of the State Attorney (see point 6) and with notaries.

### **10. Please provide a brief bibliography on the OLA, if available.**

Baldi, S. (a cura di), Guida alla Farnesina, 1. Ed., ISDI-Press, Manuali di Formazione, 2012.

## LATVIA

### 1. What is the title, rank and position of the Legal Adviser?

The Legal Adviser within the Ministry of Foreign Affairs of Latvia is the Director of Legal Department. The Director of the Legal Department must hold a diplomatic rank of a Counsellor. The Legal Department is incorporated within the Administrative Directorate and therefore the Legal Adviser is operationally subordinated to the Administrative Director of the Ministry of Foreign Affairs.

### 2. What are the principal functions of the OLA?

The Office of Legal Adviser (Legal Department) consists of three divisions dealing with International Law (including EU Law), International Agreements, and Administrative Law.

The International Law Division deals with various issues related to the International Public Law. The primary obligation is to ensure appropriate implementation of the international treaty law and diplomatic law. Furthermore, the International Law Division, in close cooperation with other governmental bodies, deals with matters related to the establishment of restrictive measures, counter-terrorism and the International Humanitarian Law. Moreover, the International Law Division deals with the treaty law matters related to treaties concluded between EU and a third country.

The International Agreements Division also deals with the International Treaty Law but exclusively in relation to the bilateral agreements.

The Administrative Law Division deals with the issues arising from the application of the national law such as Administrative Law, State Administration Law, Civil Law, Public Procurement and Labour Law. The Administrative Law Division advises the Ministry and Latvian diplomatic missions on conclusion of Civil Law contracts.

### 3. Please give a brief description of staff employed by the OLA, including overseas staff. What is the distribution of posts between men and women within the OLA and what category of staff do they respectively belong to?

Each division of the Legal Department is chaired by the head of a division. The head of a division must be a carrier diplomat holding a diplomatic rank of the First Secretary.

The mandatory obligation for all employees of the Office of Legal Adviser (Legal Department of Ministry of Foreign Affairs) is to have at least the Bachelor's (B.A, J.D.) degree in Law. At the moment the Legal Department employs 16 functionaries, among them 3 men and 13 women. It has to be taken into account, though, that due to the specifics of a diplomatic career, the ratio is changing as diplomats leave for a posting abroad. Almost all functionaries dealing with international law have a diplomatic rank, however it might not be always the case for the lawyers of the Administrative Law Division.

### 4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic or religious minorities or of immigrant origin?

There are no specific requirements and promotion policies adopted to ensure non-discrimination. However, employees for the Legal Department are selected in an open competition where all persons corresponding to the criteria can apply. The selection process

of the candidates consists solely of the evaluation of the candidates' professional and academic curriculum as well as knowledge of languages and previous experience.

**5. Is OLA staff trained on gender equality issues and are these issues mainstreamed into the OLA's work?**

The staff of the Legal Department has not been particularly trained on gender equality issues.

**6. Briefly describe the organisation and structure of the OLA.**

The Office of Legal Adviser (Legal Department) consists of three divisions, namely International Law Division, International Agreement Division and Administrative Law Division, each chaired by a head of the division. The Legal Adviser is subordinated to the Under-Secretary of State—Administrative director of the Ministry of Foreign Affairs.

**7. What is the OLA's place within the Ministry of Foreign Affairs?**

The functions of the Ministry are divided into three main branches – political affairs, administrative affairs and EU affairs, therefore there are two Under-Secretaries of State – Political director, Administrative director and one Deputy State Secretary for European Affairs. Legal Department is within the Administrative directorate and is directly subordinate to the Administrative director.

**8. What are the main contacts of the OLA within Government?**

The Office of the Legal Adviser of the Ministry of Foreign Affairs works in cooperation with the Legal Advisers from other ministries or governmental bodies on a daily basis with matters concerning both International and National Public Law. Moreover, the Rules of Procedure of the Cabinet of Ministers set out that any international treaty before its approval by Government must be accorded with the Ministry of Foreign Affairs, therefore all international treaties that Latvia wishes to become a party to shall be considered by the Legal Department. The cooperation with other ministries is of utmost importance to ensure legally correct process of adherence to treaties corresponding to the Treaty Law and Customary Law in place.

**9. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.**

The Office of the Legal Adviser has a well-established communication with lawyers in private sector, academic and legal institutions. Lawyers from different fields are consulted on relevant international law matters as well as invited to participate in the meetings of ministerial working groups or academic colloquiums on a specific issue or even contracted for a specific case to give advice on particular question to the Ministry or Government.

**10. Please provide a brief bibliography on the OLA, if available.**

n/a

## LITHUANIA

### 1. What is the title, rank and position of the Legal Adviser?

The Legal Adviser is in the position of the Director of the Law and International Treaties Department of the Ministry of Foreign Affairs. This position is assigned to regular career diplomats and is a subject to the procedures of rotation.

### 2. What are the principal functions of the OLA?

In accordance with the regulations of the Law and International Treaties Department, the department is primarily responsible, within its competence, for drafting of international treaties and domestic legislation, giving advice and expertise on draft international treaties and domestic legislation drawn up by other departments and divisions of the Ministry of Foreign Affairs, as well as other ministries and governmental agencies, and settlement of other legal issues relating to its competence.

The Department has the following principal goals: to fulfil, within its competence, the provisions of the program of the Government; to pursue the conformity of obligations under international treaties to the Constitution and the objectives of Lithuanian foreign policy; to control the conformity of domestic legislation to the international law; to participate, within its competence, in developing domestic legislation relating to foreign affairs and security policy; to carry out acts relating to the entry into force, validity and operation of international treaties of the Republic of Lithuania; to ensure continuous collection, processing and updating of information on the international treaties; to participate in settlement of legal issues, relating to the administrative, economic and financial functioning of the Lithuanian Diplomatic Service. Also department usually is involved in the domestic dispute settlement, arising from Labor law, Civil service law, Administrative law when appropriate.

Office of Legal Advisor at Lithuanian MFA does not deal with Human Rights Cases in the European Court of Human Rights in Strasbourg. It is a competence of the Office of Government's Agent under the Ministry of Justice;

It is worth noting that, in practical terms, the Department is responsible for all aspects of legal environment in the Ministry.

### 3. Please give a brief description of staff employed by the OLA, including overseas staff. What is the distribution of posts between men and women within the OLA and what category of staff do they respectively belong to?

Nominally, there are 19 persons working in the Department, 18 of which are lawyers, mostly regular career diplomats. There is no formally separate lawyers' assignment procedure abroad.

Nevertheless, according to existing practices diplomats with qualification of law are posted, inter alia, to the Lithuanian Permanent Mission to the UN, Lithuanian Permanent Representation to the Council of Europe and the Lithuanian Permanent Representation to the EU, Mission to the UN Office in Geneva.

### 4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic religious minorities or of immigrant origin?

n/a

**5. Is OLA staff trained on gender equality issues and are these issues mainstreamed into the OLA's work?**

n/a

**6. Briefly describe the organisation and structure of the OLA.**

The Department consists of two divisions:

- International Treaties Division (matters related to the international law and international treaties, such as: drafting and expertise of international treaties, participation in negotiations;
  - organization and supervision of communication with foreign states and international organizations regarding legal and procedural aspects of conclusion of international treaties; acts relating to the entry into force, validity and operation of international treaties of the Republic of Lithuania;
  - administration of database of international treaties to which the Republic of Lithuania is a State Party;
  - establishment of diplomatic relations; consultations, within its competence, on the implementation of international obligations of the Republic of Lithuania, as well as on general theoretic and practical aspects of the international law; etc.);
  - representation of the Ministry at various multilateral forums on issues, related to international law, inter alia EU law;
- Law Division (matters related to domestic legislation and the functioning of the Lithuanian Diplomatic Service, such as: drafting and expertise of domestic legislation, including internal (ministerial) legal acts; administration of certain internal law database;
  - providing for expertise of commercial contracts, concluded on behalf of the Ministry or diplomatic missions;
  - settlement of other legal issues, relating to their administrative, economic and financial functioning;
  - representation of the Ministry in the courts; consultations, within its competence, on the application of domestic legislation; etc.).

Each division is composed of a head, accountable to the Director of the Department, and a similar number of lawyers. While there are some areas within each division in which certain lawyer may specialize, they are expected to be able to take on a variety of legal tasks.

**7. What is the OLA's place within the Ministry of Foreign Affairs?**

Law and International Treaties Department is one of nearly twenty departments of the Ministry of Foreign Affairs. Its activities are supervised by the Chancellor of the Ministry. In terms of subordination all departments of the Ministry of Foreign Affairs comprise a "horizontal" line of structural elements. Nevertheless, it is to be mentioned that any document of legal nature, prepared by any of departments or divisions of the Ministry, is a subject for approval by the Law and International Treaties Department.

**8. What are the main contacts of the OLA within Government?**

The Law and International Treaties Department maintains close contacts with legal and international relations departments and divisions of the Prime Minister's Office, other ministries and governmental agencies.

**9. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.**

A number of lawyers from the Law and International Treaties Department are involved in the teaching of international law at the Faculty of Law of the Vilnius University and Mykolas Romeris University, attend various seminars and conferences, hold informal contacts with lawyers of private practice.

**10. Please provide a brief bibliography on the OLA, if available.**

n/a

## LUXEMBOURG

### 1. Quels sont les titres, rang et position du Conseiller juridique?

Actuellement le Chef du Service juridique du Ministère des Affaires étrangères et européennes (« MAEE ») participe aux réunions des conseillers juridiques du CADHI en tant que représentant juridique du MAEE luxembourgeois. La position de chef du service juridique est attribuée à des diplomates de carrière, juristes, et est soumis au principe de la rotation.

### 2. Quelles sont les principales fonctions du BCJ?

Le BCJ est chargé de rendre des avis sur des questions juridiques qui se posent au niveau des différents départements du MAEE. Le BCJ couvre les questions juridiques nationales, européennes et internationales.

Il est compétent pour la représentation du gouvernement devant les juridictions internationales.

Le BCJ représente le MAEE à des réunions et conférences d'experts à l'étranger sur des sujets principalement de droit international ou européen. Il accompagne et coordonne la procédure législative et de ratification de tout traité ou de toute convention signée par le Luxembourg.

Le BCJ comprend encore le Service des Traités. Le Service des Traités s'occupe de la procédure de ratification des traités ou conventions internationales et bilatérales auxquelles s'engage le Luxembourg ainsi que de la préparation des pleins pouvoirs. Il est également chargé de l'archivage des traités signés.

### 3. Veillez donner une brève description du personnel employé par le BCJ, y compris le personnel en poste à l'étranger. Quelle est la répartition des postes entre les femmes et les hommes au sein du BCJ et à quelle catégorie de personnel appartiennent-ils/elles respectivement ?

Actuellement, le BCJ est composé de 7 personnes dont 3 juristes. 3 personnes sont affiliées au Service des Traités. Le chef du BCJ et les juristes accomplissent le rôle de conseillers juridiques.

Le personnel est issu de toutes les catégories de personnel. Le BCJ comprend 3 hommes et de 4 femmes.

### 4. Existe-t-il des politiques spécifiques de recrutement et de promotion, des dispositions et/ou des quotas pour veiller à la non-discrimination et à l'égalité des chances, par exemple pour le sexe sous-représenté, les personnes handicapées ou les personnes appartenant à des minorités ethniques ou religieuses ou issues de l'immigration ?

Le recrutement et la promotion du personnel se fait sur base des lois et règlements relatifs au recrutement auprès de la fonction publique et tient compte des critères de l'égalité des chances et des personnes handicapées ou appartenant à des minorités ethniques, religieuses ou immigrées.

### 5. Le personnel du BCJ est-il formé aux questions liées à l'égalité entre les femmes et les hommes et ces questions sont-elles intégrées au travail du BCJ ?

Le personnel du BCJ suit la législation existante en la matière.



## **6. Décrivez la structure du BCJ**

Le BCJ est composé du Chef du service juridiques, des conseillers juridiques et du Service des Traités.

Le BCJ est dirigé le Chef du Service juridique du MAEE qui possède une compétence générale.

Le Service des Traités est dirigé par un préposé du service.

## **7. Quelle est la place du BCJ au sein du Ministère des Affaires étrangères?**

Le Service juridique fait partie du Secrétariat général du MAEE.

## **8. Quels sont les principaux contacts du BCJ au sein du Gouvernement?**

Le BCJ est représenté par son Chef du service ou le Secrétaire Général auprès du MAEE ou du gouvernement.

## **9. Veuillez décrire les relations du BCJ avec des cabinets d'avocats, des universitaires et des institutions juridiques.**

Le BCJ assiste régulièrement à des réunions ou des conférences organisées par des cabinets d'avocats, des universitaires et des institutions juridiques sur des matières pertinentes pour le BCJ. Par ailleurs, des avocats assistent, ponctuellement, dans la préparation d'affaires devant des cours et tribunaux.

## **10. Veuillez fournir une brève bibliographie au sujet du BCJ, le cas échéant.**

Aucune bibliographie n'est disponible au sujet du BCJ.

## MALTA

### 1. What is the title, rank and position of the Legal Adviser?

The title of the senior officer at the Legal Unit at the Ministry of Foreign Affairs is that of Senior Legal Officer, which is a position in the Legal Class in the Malta Public Service. He is an Advocate of the Superior Courts of Malta.

### 2. What are the principal functions of the OLA?

The Legal Unit acts as legal adviser to all departments at the Foreign Ministry for all legal matters, including civil cases and employment related matters. It is also responsible for data protection and freedom of information matters, as well as being the liaison with the Office of the Ombudsman.

### 3. Please give a brief description of staff employed by the OLA, including overseas staff. What is the distribution of posts between men and women within the OLA and what category of staff do they respectively belong to?

The Legal Unit has no overseas staff, even though a considerable number of diplomats serving in Malta's missions abroad are qualified lawyers. There are currently two officers in the Legal Unit who hold appointments in the Diplomatic Class, but hold legal qualifications. A fourth officer in the Legal Class has been recruited very recently. Women currently outnumber men three to one.

### 4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic religious minorities or of immigrant origin?

There has been no specific recruitment for the Legal Unit up to now.

The Ministry of Foreign Affairs has no formal quota system in its recruitment and promotion policies but bases its decisions on an evaluation of candidates' qualifications and abilities.

### 5. Is OLA staff trained on gender equality issues and are these issues mainstreamed into the OLA's work?

Since all Legal Unit staff are legally qualified, they all would have needed to fulfil requirements on subjects such as on human rights, including non-discrimination, prior to joining MFA.

### 6. Briefly describe the organisation and structure of the OLA.

The Legal Unit was set up in 2013 and up to now has retained an informal structure. Previously, all legal matters were referred to the Office of the Attorney General (AG).

### 7. What is the OLA's place within the Ministry of Foreign Affairs?

The Legal Unit is under the direct responsibility of the Permanent Secretary.

### 8. What are the main contacts of the OLA within Government?

The remit of the Legal Unit is limited to MFA. Furthermore, Legal Unit is in regular contact with the Office responsible for the public service on human resource matters, as well as with other ministries, departments and governmental entities as the need arises.

**9. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.**

The Attorney General (whose is the chief legal adviser to Government) undertakes litigation on behalf of the Ministry in the law courts and it is regularly in contact with the Legal Unit. For cases before tribunals abroad, the AG sometimes engages the services of well-known international lawyers and law firms.

Private law firms have occasionally been consulted and retained by MFA for particular cases.

Recently, academics have been contracted for specific projects e.g. for the chairing of legally-related working groups during Malta's forthcoming Presidency of the European Council in 2017.

A number of law students from the University of Malta are sometimes engaged on brief summer internships. Furthermore, the Unit, upon specific requests, engages with law students who researching their dissertations.

**10. Please provide a brief bibliography on the OLA, if available.**

No such bibliography is available.

## **REPUBLIQUE DE MOLDOVA**

### **1. Quels sont les titres, rang et position du Conseiller juridique?**

Le conseiller juridique est le Directeur de la Direction générale du Droit international du Ministère des Affaires Etrangères et de l'Intégration Européenne. La position de directeur est attribuée à des diplomates de carrière avec le rang diplomatique le plus haut. Il rapporte directement au Ministre et Vice-ministre des Affaires étrangères.

### **2. Quelle sont les principales fonctions du BCJ ?**

Les principales tâches de la Direction générale du Droit international sont:

- fournir des conseils juridiques et des expertises concernant le droit international, élaborer des projets des documents sur la politique d'Etat relative au droit international ;
- coordonner toutes les activités des autorités nationales afin d'améliorer et de développer le cadre juridique bilatéral et multilatéral ;
- présenter au Gouvernement des propositions visant la signature, la ratification, l'acceptation, l'approbation ou l'application par succession des traités internationaux;
- réaliser la gestion de tous les aspects formels de la conclusion des traités ;
- assurer une surveillance générale de la mise en œuvre de tous les traités internationaux de Moldova ;
- exercer la fonction de dépositaire des traités au nom de la Moldova ;
- mettre en œuvre le dépôt et la conservation des traités internationaux ;
- maintenir le registre d'Etat des traités internationaux.

### **3. Veuillez donner une brève description du personnel employé par le BCJ, y compris le personnel en poste à l'étranger. Quelle est la répartition des postes entre les femmes et les hommes au sein du BCJ et à quelle catégorie de personnel appartiennent-ils/elles respectivement ?**

La Direction générale du droit International emploie (situation août 2017) 11 personnes en poste diplomatique, dont 6 femmes et 5 hommes, répartis sur trois Directions. Une de ces directions est dirigée par une femme. Il n'y a pas de fonctionnaires en poste à l'étranger. Toutefois le Ministère utilise les compétences juridiques de certains diplomates.

### **4. Existe-t-il des politiques spécifiques de recrutement et de promotion, des dispositions et/ou des quotas pour veiller à la non-discrimination et à l'égalité des chances, par exemple pour le sexe sous-représenté, les personnes handicapées ou les personnes appartenant à des minorités ethniques ou religieuses ou issues de l'immigration ?**

Le recrutement et la promotion du personnel se fait sur base des lois et règlements relatifs au recrutement auprès de la fonction publique et tient compte des critères de l'égalité des chances. La promotion est basée sur les compétences professionnelles.

### **5. Le personnel du BCJ est-il formé aux questions liées à l'égalité entre les femmes et les hommes et ces questions sont-elles intégrées au travail du BCJ ?**

Il n'existe pas de formation spécifique sur les questions d'égalité des sexes.

**6. Veuillez décrire brièvement l'organisation et la structure du BCJ.**

La direction générale du droit international comprend :

- la direction d'affaires juridique;
- la direction des traités;
- la direction de la législation européenne.

**7. Quelle est la place du BCJ au sein du Ministère des Affaires étrangères?**

La Direction générale du droit international occupe une position centrale en interrelation avec toutes les autres dans la mesure où elle fournit des conseils juridiques pour la plupart des matières traitées au ministère.

**8. Quels sont les principaux contacts du BCJ au sein du Gouvernement?**

Le BCJ est en contact direct avec l'ensemble des ministères, la chancellerie du Gouvernement et le Parlement.

**9. Veuillez décrire les relations du BCJ avec des cabinets d'avocats, des universitaires et des institutions juridiques.**

La direction générale du droit international entretient des contacts avec le monde universitaire et les institutions juridiques et propose des tables rondes, des conférences sur des sujets relatifs au droit international. Elle présente des conseils et de l'information à toutes les institutions qui les sollicitent.

**10. Veuillez fournir une brève bibliographie au sujet du BCJ, le cas échéant.**

Aucune bibliographie n'est disponible au sujet de la Direction générale du droit international.

## MONTENEGRO

### 1. What is the title, rank and position of the Legal Adviser?

In accordance with the Internal Organization and Systematization Act of the Ministry of Foreign Affairs and European Integration of Montenegro, the Office of the Legal Adviser has not been grouped as a separate unit of organization. Instead, it is provided that the Head of International Law Department, being a part of the Foreign Minister's Cabinet, exercises duties relating to the implementation of international law and its institutes within most of the foreign policy activities of Montenegro.

The Head of the International Law Department holds the position of high-ranking diplomat, usually being Minister-counselor or Ambassador.

### 2. What are the principal functions of the OLA?

The most important functions of the International Law Department comprise preparing legal opinions and advices as regards to the process of entering of Montenegro into the international bilateral and multilateral treaty relations, at governmental and administrative level respectively. It carries out a wide range of duties related to international and national law, especially taking care about the procedure of concluding, signing, ratification and acceptance of treaties and international agreements, giving legal advices related to the implementation of treaties to which Montenegro has already become a party, as well as preparing the opinions on initiatives of the state administration for entering into international agreements and drafting national legislation in this field.

Representatives of the International Law Department are directly involved in numerous working teams and delegations included in the process of the negotiation and drafting of international agreements.

With regard to main objectives of foreign policy of Montenegro, the Head of International Law Department is taking care of process of consolidation of bilateral treaty base and succession of Montenegro to international agreements concluded by former Yugoslavia and State Union of Serbia and Montenegro.

### 3. Please give a brief description of staff employed by the OLA, including overseas staff. What is the distribution of posts between men and women within the OLA and what category of staff do they respectively belong to?

The International Law Department, at this moment, has five diplomats employed. All of them are lawyers specialized for international law.

The International Law Department has no overseas staff, although there are several positions of legal advisers within the embassies and permanent missions of Montenegro abroad.

The International Law Department, at this moment employs four women and one man, including the Head. All employees in the International Law Department are members of Diplomatic Service.

### 4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the

**underrepresented sex, for persons with disabilities or for persons belonging to ethnic or religious minorities or of immigrant origin?**

The Ministry of Foreign Affairs and European Integration of Montenegro implements a policy of employing staff in accordance with the principles of non-discrimination and equal opportunities for employment.

**5. Is OLA staff trained on gender equality issues and are these issues mainstreamed into the OLA's work?**

The Ministry of Foreign Affairs and European Integration of Montenegro, in accordance with the policy of the Government of Montenegro consistently follows the policy of gender equality, throughout its entire organization, including International Law Department.

**6. Briefly describe the organisation and structure of the OLA.**

The International Law Department is an integral part of the Cabinet of the Minister of Foreign Affairs and acts as a separate unit of organization subordinated only to the Minister. Due to the fact concerning the number of employees at this moment, there hasn't been made any structural division within the International Law Department.

**7. What is the OLA's place within the Ministry of Foreign Affairs?**

In accordance with the Internal Organization and Systematization Act of the Ministry of Foreign Affairs and European Integration of Montenegro, the Office of the Legal Adviser has not been grouped as a separate unit of organization. Instead, it is provided that the Head of International Law Department, being a part of the Foreign Minister's Cabinet, exercises duties relating to the implementation of international law and its institutes within most of the foreign policy activities of Montenegro.

**8. What are the main contacts of the OLA within Government?**

The International Law Department is directly included in all activities of the Government of Montenegro in the field of international treaty relations. Within its jurisdiction, it prepares legal opinions and advices and coordinates activities in the field of initiating and concluding international agreements, within their respective competence. On day to day basis it directly communicates and cooperates with focal points from other ministries and other governmental institutions, appointed for the issues of the international cooperation.

The Head of International Law Department participates in the work of the Government and Parliamentary Committees whenever is discussed any issue in the field of international law and cooperation.

**9. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.**

The International Law Department maintain regular and close relations with the experts in the field of international public and private law, at national, as well as at international level. If necessary, experts from academics and legal institutions are consulted on technical issues within their narrow area of expertise.

Together with the experts from other governmental institutions, the Head of International Law Department regularly participates in lectures, conferences and seminars held in the field of international law, contributing to the enhancement of knowledge and skills of public servants, as well as public administration of Montenegro as a whole, in this field.

**10. Please provide a brief bibliography on the OLA, if available.**

Having in mind the relatively short period of Montenegrin independence, unfortunately, at the moment, a bibliography of the International Law Department is not available.



## NORWAY

### 1. What is the title, rank and position of the Legal Adviser?

The Legal Adviser holds the rank of Director General within the Ministry of Foreign Affairs (MFA). The Director General is head of the Department for Legal Affairs (OLA), and is assisted by a Deputy Director General.

The Director General is traditionally a career diplomat, as most high ranking officers of the OLA. The OLA comprises both lawyers belonging to the diplomatic staff of the MFA and particular legal experts, who work permanently within the OLA.

The Director General of the OLA reports to the Secretary-General of the MFA, but may provide direct advice to the political staff of the MFA and other Ministries.

### 2. What are the principal functions of the OLA?

The OLA supports all other departments of the MFA, as well as other governmental bodies, in matters concerning international legal issues. This includes providing a unified legal service for the various departments with regard to interpretations and dispute settlement, as well as assisting policy makers in formulating and carrying out the foreign policies of Norway. Other specific fields of work are related to the particular relationship agreements and cooperation between Norway and the EU, particularly through the European Economic Area Agreement. The OLA is furthermore in charge of legal issues related to the WTO, including dispute settlement.

Key priorities:

- Promote compliance with international legal obligations and the strengthening and development as well as the effective implementation of the international legal order.
- Provide timely and operational advice on all legal issues, arising in the course of the MFA's work.
- Contribute to an effective formulation and implementation of Norwegian foreign policies, including international development policies.

Core functions of the OLA include:

- Providing legal and operational advice on issues of international law, and Norwegian constitutional law related to international law.
- Providing legal and operational advice on issues of domestic law, arising in the course of the MFA's work. This includes *inter alia* preparing legal opinions and advice in constitutional and administrative law, including the Public Information Act, and commenting on new draft legislation or policy documents. The OLA moreover coordinates all comments by the MFA on draft legislation and interministerial hearings.
- Supervising all functions related to Norway's treaty matters, including providing advice to other Ministries on drafting, analysis and negotiations. The OLA is responsible for finalizing the internal legal procedures of approval of all international treaties, as well as treaty registration and publication, including on the Internet.

- Representing Norway in various international fora on issues falling within the competence of the OLA, e.g. in bodies of the UN and the special agencies, various treaty bodies, EU/EEA organs, the Council of Europe, NATO and other regional bodies or arrangements. Representatives of the OLA also negotiate agreements or assist at international conferences and meetings with the purpose of negotiating international conventions and other legal instruments.
  - Negotiating or providing policy advice in various bilateral matters, including maritime delimitation.
  - Formulating policies and ensuring operational follow-up in particular areas, including within the field of ocean affairs.
  - Acting as agents on behalf of the Norwegian Government before international courts and dispute settlement mechanisms, including but not limited to, the EFTA Court, the European Court of Justice, and the dispute settlement organs of the WTO. The OLA also assists the Attorney General for Civil Affairs in certain cases before the European Court of Human Rights.
  - The OLA has the responsibility for budgetary and other administrative functions with regard to international courts and certain treaty bodies. The same applies with regard to supervision of geodetic and other work related to Norwegian borders or boundaries.
- 3. Please give a brief description of staff employed by the OLA, including overseas staff. What is the distribution of posts between men and women within the OLA and what category of staff do they respectively belong to?**

Staff numbers include 30 lawyers and 5 administrative staff members in various functions (2015). The OLA staff thus comprises a total of 35 members. Among the lawyers around 12 belong to the diplomatic staff of the MFA. Further, the OLA regularly hosts one or two Foreign Service Trainees, i.e. young lawyers that have recently joined the MFA.

There are designated legal advisers working at the Permanent Missions of Norway in New York and The Hague. Some of the other larger representations and certain multilateral posts traditionally have lawyers among their diplomats. Experience has shown the particular importance of legal experience at Norwegian missions to the UN and the WTO and to the EU in Brussels, as well as at some larger embassies.

There are 24 women and 11 men working for the OLA. A woman currently (2015) holds the post of Director General. The Deputy Director General is a man, and the other high ranking officer positions (Director and Deputy Director) are held by 3 men and 3 women.

- 4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic or religious minorities or of immigrant origin?**

The personnel policy of the Foreign Service is, in accordance with statutory requirements, to seek to ensure that all employees, regardless of gender, ethnicity, work capacity and age, have real opportunities for professional and personal development and for using their skills.

It is a personnel policy goal to ensure that the Foreign Service reflects the diversity of the population. In accordance with current legislation, the employer is obliged to work actively,

and in a targeted and systematic way to promote equal opportunities and diversity and to prevent discrimination throughout the Foreign Service.

The policy of equal opportunities and diversity is to be mainstreamed into all the Foreign Service's work and pursued in all parts of the organisation and at all levels. All employees, regardless of gender, ethnicity, religion, work capacity or age, are to be treated equally with regard to appointments, pay development, promotion and tasks that enhance their skills and expertise.

Priority is to be given to a good gender balance at all levels and in all fields of the Foreign Service. In particular, the Service is to seek to recruit women to job categories where they are underrepresented.

Equal opportunities and diversity are a management responsibility, and are included in the management training programme.

In this context, it is particularly important to consider structural factors related to service abroad, such as providing favourable conditions for accompanying family members and ensuring flexibility for employees serving abroad without their family. The same applies to opportunities for alternative career paths and for combining a career with care responsibilities, as well as access to mobile office solutions.

#### **5. Is OLA staff trained on gender equality issues and are these issues mainstreamed into the OLA's work?**

Gender equality and diversity is central to Norwegian domestic and foreign policy. It is particularly considered as a leadership responsibility, and is therefore an essential part of the Ministry's leadership training programmes.

#### **6. Briefly describe the organisation and structure of the OLA.**

The OLA consists of three main units, each headed by a Deputy Director General, who reports to the head and deputy head of the OLA:

- Section for Treaty Law, Environmental Law and Law of the Sea
- Section for International Humanitarian and Criminal Law
- Section for European/EEA and Trade Law.

The three Sections have 10-15 staff members each.

The lawyers at the OLA are to an increasing degree specialized within various fields of law within their respective sections.

#### **7. What is the OLA's place within the Ministry of Foreign Affairs?**

The OLA is one of nine departments within the whole MFA, which in Norway is also the competent Ministry for international development issues.

**8. What are the main contacts of the OLA within Government?**

Particularly in matters relating to international law and European/EEA law, the OLA provides advice in the preparation of various Government documents. In so doing, extended contacts take place with the whole State administration.

The OLA is responsible for the preparation of treaties being concluded on behalf of the Government of Norway. The OLA is normally involved both in negotiating treaties and finalizing the internal legal procedures.

Representatives of the OLA may act as agents on behalf of the Government in international judicial procedures, often in cooperation with the Attorney General for Civil Affairs, who offers judicial advice and conducts civil cases on behalf of the Government particularly before domestic courts.

**9. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.**

A professor of international law at the University of Oslo is attached to the OLA, and provides advice in the field of international law. Some of the lawyers of the OLA teach at the universities, and also participate in seminars and conferences on topics related to their field of expertise. There is close cooperation with the Attorney General for civil affairs. Moreover, private lawyers may be engaged when necessary, for example in connection with law suits.

**10. Please provide a brief bibliography on the OLA, if available.**

Not available at this time.

## THE NETHERLANDS (revised reply of 1 December 2020)

### 1. What is the title, rank and position of the Legal Adviser?

The Legal Adviser holds the rank of the Head of the International Law Division within the Ministry of Foreign Affairs of the Netherlands.

### 2. What are the principal functions of the OLA?

The International Law Division (DJZ/IR) has four main tasks:

- to provide legal advice on international law matters within the ministry, to the embassies, consulates and permanent representations, as well as to the other ministries and to the countries in the Caribbean part of the Kingdom;
- to contribute to the development of the international legal order;
- to coordinate international law issues for the Dutch Government and to ensure unity in the development and interpretation of international obligations, and in particular unity in the preparation of treaties;
- to represent the Netherlands in proceedings before international jurisdictions and arbitrations.

### 3. Please give a brief description of staff employed by the OLA, including overseas staff. What is the distribution of posts between men and women within the OLA and what category of staff do they respectively belong to?

Staff numbers include 25 lawyers and 2 administrative staff members.

The International Law Division, at this moment, employs seventeen women and 10 men, including the Head. There are usually also two interns for four month-periods at the division. The International Law Division has no overseas staff but works closely with the legal advisers in embassies and permanent representations.

### 4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic or religious minorities or of immigrant origin?

The Ministry of Foreign Affairs has made the promotion of diversity of background of staff members and their inclusion throughout the organisation one of five of its key priorities, in particular for the period 2018-2020. This concerns diversity and inclusion with respect to *inter alia* gender, sexual orientation, ethnic/cultural background and possible disabilities. To this end, the Ministry is implementing an "action plan diversity and inclusion" for the period 2019-2020. This action plan aims to cover all relevant areas, from recruitment of new staff members, to assessment and promotion, training and awareness raising, safe and inclusive working environment, accommodations for staff members with a disability etc. The Ministry's aims and activities are part of a broader policy of the Dutch government to address existing imbalances within the work force, create teams that are more diverse and promote and attractive and inclusive working environment.

Concrete targets for the promotion of diversity among staff at various levels have been set, both by the ministry and by the government overall. In order to measure whether progress is being made towards meeting these targets, the composition of the work force is assessed based on a number of parameters, e.g. in terms of representation of staff members at various levels of the organization, disaggregated by gender, cultural background, disability, etc. E.g., an initial target for the inclusion of women at senior management levels was set – government wide – of 40% by 2020. The ministry striving to implement this target by having 40% of female ambassadors by the end of 2020. The government has also adopted specific targets for the inclusion of staff members with a non-western cultural background for both professional and management-level positions.

The International Law Division applies the above-mentioned policies. Training and awareness raising of managers and staff members is a matter of priority. While gender inclusiveness is not an issue – women are in fact well represented at all levels – there is less diversity in other respects.

The government monitors inclusiveness and diversity not only in respect of civil servants but also in relation to bodies, which are closely related to the work of the government. In 2018-2019, the national court of auditors assessed the inclusiveness of a broad range of (statutory) government advisory bodies, including the Advisory Committee on International Law, which advises both government and parliament upon request or *proprio motu* – on matters of international law. The court of auditors concluded that while gender inclusiveness had been achieved in the work and composition of the Advisory Committee on International Law, there was lack of representation from members with a different cultural or ethnic background.

#### **5. Is OLA staff trained on gender equality issues and are these issues mainstreamed into the OLA's work?**

As mentioned above, gender equality does not present any difficulties in terms of the composition of the staff of the International Law Division at all levels. Gender inclusion is part of general training of staff.

#### **6. Briefly describe the organisation and structure of the OLA.**

The International Law Division works based on a division into four clusters, which comprise the most important subareas of international law:

- international legal order and host state matters;
- peace and security;
- human rights;
- the international environment.

#### **7. What is the OLA's place within the Ministry of Foreign Affairs?**

The International Law Division is one of the four divisions within the Directorate of Legal Affairs (the other divisions are the European Law Division, the Treaties Division and the Dutch Law Division).

The Legal Affairs Directorate is positioned within the Ministry as a central directorate with legal policy and staff duties and placed hierarchically under the (deputy) Secretary-General, but with the right of the (Deputy) Legal Adviser to advise the Minister(s) directly, both at their request and upon the (Deputy) Legal Adviser's own initiative.

**8. What are the main contacts of the OLA within Government?**

The International Law Division provides legal advice within the Ministry of Foreign Affairs, to the diplomatic representations, as well as to the other ministries and to the countries in the Caribbean part of the Kingdom on international law matters.

The International Law Division also acts as an agent before the European Court of Human Rights in Strasbourg and in respect of other international jurisdictions.

**9. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.**

Almost all employees of the International Law Division have extensive work experience and previously gained experience at the Ministry of Foreign Affairs, in the legal profession, at other Ministries, at international organisations or in the academic world.

**10. Please provide a brief bibliography on the OLA, if available.**

H. Lammers, The Role of the Legal Adviser of the Ministry of Foreign Affairs: The Dutch Approach and Experience, 18 Tul. J. Int'l & Comp. L. 177 (2009-2010)

## ROMANIA

### 1. What is the title, rank and position of the Legal Adviser?

The title of Legal Adviser as such does not exist within the Romanian Ministry of Foreign Affairs. Its functions are carried out by two structures: The Department for Legal Affairs, headed by a Director General and the National Law and Litigation Directorate, headed by a Director. The international law issues are dealt with by the Department for Legal Affairs. Currently, Ms Alina Orosan, minister plenipotentiary, holds the position of Director General for Legal Affairs..

### 2. What are the principal functions of the OLA?

The Department for Legal Affairs consists of two directorates. One deals with procedural aspects of treaty law, the other on substantive matters and legal opinions. Within the Department there is also the Office for International Sanctions.

The International Treaties Directorate deals with all procedural aspects of treaty law, performing specific activities in relation to the negotiation, signature, consent and provisional application of treaties concluded by Romania. It is also involved in the signature and consent procedures applicable in the case of EU mixed agreements. The Directorate carries out functions that are incumbent on Romania as depository of multilateral treaties and oversees database of treaties to which Romania is a party.

The Directorate for International and EU law deals with substantive matters of treaty interpretation and practice, including EU external relations. It provides legal opinions for foreign policy decisions and supports participation by competent authorities to organisations and various treaty bodies. Within this Directorate functions the Office for International Sanctions. The Office coordinates the national application of obligations arising out of international sanctions regimes. It acts as secretariat to the Interinstitutional Council in implementing international sanctions, made up of national authorities with implementing powers and created to ensure the general framework of cooperation for the implementation of international sanctions in Romania

The National Law and Litigation Directorate is mainly responsible for providing legal assistance and representation of the Ministry of Foreign Affairs in the proceedings before domestic courts. It equally provides legal advice on different issues of domestic law and endorses, as regards legality, the contracts concluded by the Ministry, in accordance with national legislation, normative acts, orders and instructions of the Minister of Foreign Affairs.

### **3. Please give a brief description of staff employed by the OLA, including overseas staff. What is the distribution of posts between men and women within the OLA and what category of staff do they respectively belong to?**

The staff employed within this department is composed mainly of diplomatic staff but also includes civil servants. The Department for Legal Affairs presently employs 8 men and 17 women.

There are no posts abroad formally reserved for lawyers. However, there are some posts that require solid legal expertise (e.g. Permanent Missions of Romania to UN in New York and Geneva, Permanent Representation of Romania to the Council of Europe in Strasbourg, Embassy of Romania in The Hague) and, in practice, diplomats with a solid legal background are posted in the above-mentioned missions.



**4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic or religious minorities or of immigrant origin?**

The recruitment and promotion policies of the Romanian MFA are in line with the national, European and international requirements regarding non-discrimination and equal opportunities and do not provide for special treatment with respect to different social, ethnic, gender, disability etc. categories.

**5. Is OLA staff trained on gender equality issues and are these issues mainstreamed into the OLA's work?**

Training provided or supported by the Romanian MFA for its staff may, occasionally, approach issues linked to non-discrimination and equal opportunities.

**6. Briefly describe the organisation and structure of the OLA.**

The Department for Legal Affairs is composed of two Directorates: the International Treaties Directorate, the Directorate for International and EU law and the Office for Implementation of International Sanctions.

The Department for Legal Affairs is headed by a Director General. The International Treaties Directorate and the Directorate for International and EU law are headed by Directors, while the Office for Implementation of International Sanctions is headed by a Head of Office. The National Law and Litigation Directorate is headed by a Director.

**7. What is the OLA's place within the Ministry of Foreign Affairs?**

The Department for Legal Affairs is subordinated to the Minister of Foreign Affairs. The National Law and Litigation Directorate is directly subordinated to the Minister of Foreign Affairs.

Given its functions, the Romanian MFA has also other departments dealing with legal aspects of Romania's external relations. These departments provide legal advice within the following fields: representation of Romania before the Court of Justice of the European Union (Government Agent for the Court of Justice of the European Union) and representation of Romania before the European Court of Human Rights (Government Agent for the European Court of Human Rights).

**8. What are the main contacts of the OLA within Government?**

The Department for Legal Affairs provides legal advice on matters of public international law and EU external relations law to other institutions. There is a constant relationship with the other ministries and institutions of the public administration. This contact is in most cases established through the External Relations Departments that exist within those ministries. Generally, all communication between the State's main institutions related to treaties or other international documents are made through the Department for Legal Affairs.

**9. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.**

There is a very good partnership with academics, research institutes or other legal institutions. During the last years, The Romanian Ministry of Foreign Affairs, through the Department for Legal Affairs, has often organized conferences and seminars on different issues of

international law (law of the sea, international humanitarian law, international criminal law etc.), in close cooperation with different non-governmental organizations and academic institutions.

**10. Please provide a brief bibliography on the OLA, if available.**

n/a

## SERBIA

### 1. What is the title, rank and position of the Legal Adviser?

In the Ministry of Foreign Affairs of the Republic of Serbia there are the Chief Legal Adviser as the legal adviser to the Cabinet of Minister for Foreign Affairs and Legal Adviser who is the Head of the International Legal and Treaty Division as a part of the Consular Department. Both are the high-ranking diplomats, usually ambassadors.

### 2. What are the principal functions of the OLA?

The principal function of the Office of the Legal Adviser is to prepare the entire process of the conclusion of international treaties and agreements where the Republic of Serbia is a contracting Party (legal opinion on treaty, approval by the Government in principle before signature, preparing the full powers, signature and entry into force procedures). It also keeps the register and acts as a guardian of the treaties. The Legal Adviser or his deputies attend meetings of the Parliament committees and the plenary Parliament sessions concerning the approval of treaties.

The OLA has a very important role in providing legal advice to the Minister for Foreign Affairs and other Departments within the Ministry of Foreign Affairs on issues of public and private international law, human rights law, international humanitarian law and EU law as well as on international aspects of constitutional law. It also provides legal advice to all other Ministries of the Government, assists with drafting the texts of the agreements, the administrative procedure with regard to their conclusion and ratification in the Government or the Parliament. It also prepares legal analyses, reports and other information for the Ministry of Foreign Affairs, other bodies of the Government, and the Parliament.

The OLA has the role to monitor international judicial disputes before the international courts and tribunals and give a legal support to the General Attorney Office, authorized to represent the Republic of Serbia before the domestic and international courts.

The Legal Adviser and members of the Office frequently attend conferences and meetings in Serbia and abroad concerning matters of international law.

Head of OLA is the president of National Commission on international humanitarian law.

### 3. Please give a brief description of staff employed by the OLA, including overseas staff. What is the distribution of posts between men and women within the OLA and what category of staff do they respectively belong to?

There are currently 10 lawyers (3 lawyers has been engaged by contract) working in the International Legal and Treaty Division in Belgrade. The Chief Legal Adviser has been assisted by 3 additional lawyers (engaged by contract). Traditionally, the diplomatic post of the legal adviser in the Serbian embassy to the Netherlands is attributed to the Legal and Treaty Division. There are currently 6 women.

### 4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic or religious minorities or of immigrant origin?

There is no need for specific recruitment and promotion policies to facilitate diversity within the department. The recruitment and promotion in OLA is based on general principal of non-discrimination. Both genders are equally represented.

**5. Is OLA staff trained on gender equality issues and are these issues mainstreamed into the OLA's work?**

There is no specific training on gender equality issues.

**6. Briefly describe the organization and structure of the OLA.**

The Legal and Treaty Division has three units: the Unit for general issues on Public International Law, the Unit for judicial disputes and the Unit on the international treaty issues. Legal advisers assigned to these units are, however, expected to take on a variety of work from different areas of law. The work of the office is supported by a Secretariat composed of 2 officials.

**7. What is the OLA's place within the Ministry of Foreign Affairs?**

The International Legal and Treaty Division as a part of the Consular Department. However, its competences extend over all other directorates of the MFA when issues are related to international public law.

**8. What are the main contacts of the OLA within Government?**

The OLA has close contacts mostly with the Government Office for Legislation and the relevant departments of the ministries and agencies of the Government concerning the issues of the public international law and national law.

The OLA has a general advisory role and must be consulted in advance on all the international treaties, entered into by the Government, before their conclusion.

**9. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.**

The OLA consults with the International Law Professors at the Law Faculty of the University of Belgrade, and often engage them as consultants.

**10. Please provide a brief bibliography on the OLA, if available.**

No bibliography is available.

## SLOVENIA

### 1. What is the title, rank and position of the Legal Adviser?

The Legal Adviser is Head of the International Law Department. It is a high-ranking professional diplomat, usually minister plenipotentiary. The Legal Adviser is a part of the Diplomatic Service.

### 2. What are the principal functions of the OLA?

The principal function of the Office of the Legal Adviser is to provide legal advice to the Minister of Foreign Affairs and other Departments within the Ministry of Foreign Affairs on issues of public international law and EU law. It also provides legal advice to all other Ministries of the Government, assists with drafting the texts of the agreements, the administrative procedure with regard to their conclusion and ratification in the Government or the Parliament. Its representatives attend bilateral and multilateral agreement negotiations. It also prepares legal analyses, reports and other information for the Ministry of Foreign Affairs, other bodies of the Government, and the Parliament. The Legal Adviser or his deputies attend meetings of the Parliament committees and the plenary Parliament sessions. It supervises all the phases of the procedures of conclusion of international agreements and other international acts of Slovenia, keeps the register and acts as a guardian of the treaties. The Legal Adviser and members of the Office frequently attend conferences and meetings in Slovenia and abroad.

### 3. Please give a brief description of staff employed by the OLA, including overseas staff. What is the distribution of posts between men and women within the OLA and what category of staff do they respectively belong to?

There are currently 13 lawyers working in the International Law Department in Ljubljana. The Slovenian diplomatic service has no special career track for lawyers, and there are also no special legal postings abroad. There are currently 7 women, one of them is a deputy head of the department.

### 4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic or religious minorities or of immigrant origin?

There is no need for specific recruitment and promotion policies to facilitate diversity within the department. Both genders are equally represented. In the past the department was headed by a woman and two deputy positions are always occupied respecting gender equality.

### 5. Is OLA staff trained on gender equality issues and are these issues mainstreamed into the OLA's work?

There is no specific training on gender equality issues.

### 6. Briefly describe the organisation and structure of the OLA.

The Legal Office has two units: the Unit for Public International Law and the Unit for EU Law. Both units perform similar functions, and the legal advisers in those units specialise either on questions of public international law or EU law, respectively. Each legal adviser is assigned a number of areas, i.e. internal affairs, environment, defence, including the international organizations, and his work focuses mainly on those areas. Legal advisers are, however, expected to take on a variety of work from different areas of law. The work of the office is supported by a registry.

**7. What is the OLA's place within the Ministry of Foreign Affairs?**

The Legal Adviser is a head of the International Law Department within the Directorate for International Law and the Protection of Interests. However, its competences extend over all other directorates of the MFA when issues are related to international public law. Officers, who serve in the department, are part of the Diplomatic Service.

**8. What are the main contacts of the OLA within Government?**

The Office of the Legal Adviser is the principal service within the Government for the issues of public international law and EU law. The Office has close contacts mostly with the Government Office for Legislation and the relevant departments of the ministries and agencies of the Government. Outside the Government, the OLA works closely with the Legislative and Legal Service of the National Assembly of the Republic of Slovenia. The Office of the Legal Adviser has a general advisory role and must be consulted in advance on all the international agreements and other international acts, entered into by the Government, before their conclusion.

**9. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.**

Lawyers in private practice are retained by the Ministry of Foreign Affairs in cases of suits abroad, where and if the need arises. The Office of the legal Adviser consults with the International Law Professors at the Law Faculty of the University of Ljubljana, and often retains them as consultants. The OLA occasionally organises seminars in collaboration with them.

**10. Please provide a brief bibliography on the OLA, if available.**

No bibliography is available.

## SPAIN

### 1. What is the title, rank and position of the Legal Adviser?

The Head Legal Adviser of the International Legal Office (hereinafter the Office of the Legal Adviser, or OLA), has the rank of Deputy-Director General. The position of Head of the OLA has, to date, been held by career diplomats and professors in International Law. The OLA was originally created in 1932 and its basic structure was adopted in 1938. So far, the position of Head of the OLA has been held by either diplomats or University professors; indeed, the latter has been the case for periods totalling over 52 years.

### 2. What are the principal functions of the OLA?

Article 1.1 of Act 52/1997, of 27 November, on Legal Assistance to the State and to Public Institutions (Official State Gazette [hereinafter BOE] no. 285, of 28 November 1997), defines the OLA as the “advisory body in matters of International Law”. Article 18.4.e) of Royal Decree 1271/2018, of 11 October, on the basic organizational structure of the Ministry of Foreign Affairs, the European Union and Cooperation (hereinafter MAEC) (BOE no. 247, of 12 October 2018), completes this definition by referring to the OLA as the “advisory body to the General State Administration in matters of International Law”. In addition, the Circular Order no. 3,249 of the Under-Secretariat of 2 December 2002, on the rules relating to requests for advice from the International Legal Office of the MAEC, regulates the position and powers of this Unit in the Ministry’s organization chart.

The functions of the OLA are, therefore, duly regulated in terms of the bodies that may request its advice, procedures for issuing its reports, and other aspects. The OLA receives formal requests for an opinion on all types of issues related to International Law. These are normally dealt with in the corresponding reports, although it is also possible to resolve the requests by means of internal memoranda if the nature of the issue makes this advisable. The active participation of Spain in international matters has considerably increased the tasks of this Unit. To cite figures from the past two years, the OLA issued 576 reports in 2017, and 560 in 2018; the number of notes amounted to 207 in 2017, and 253 in 2018. The multiple informal meetings and consultations (by telephone or email) that are attended to on a daily basis, both from the MAEC and from other Ministries, especially those of Defence, Interior, and Justice, are not included in these figures. The OLA also participates in international conferences, as well as in various bodies and working groups within the United Nations, the European Union, and the Council of Europe, among other forums.

The bulk of requests for reports corresponds to Law of Treaties. They concern voluntary contributions to international organizations, international treaties and other international agreements. The OLA also deals with 2 consultations, which are often highly complex, on very diverse sectors of International Law. Above all, concerning Law on aliens, asylum and refuge; Diplomatic and Consular Law; Law of the Sea and Law of the Air; State Immunities; and the Law of International Organizations and of the European Union. They stem from the ever-increasing and varied foreign activity of the public administrations. The OLA, when requested, advises and assists the competent units of the different Ministries, in particular of the MAEC, contributing with its technical input to the decision-making process, but without intervening in the adoption of the final decision.

In summary, the OLA is responsible for three main types of functions: providing legal advice in matters related to International Law; defending the Kingdom of Spain before some international tribunals; and representing Spain in international fora.

- The OLA is responsible for monitoring and evaluating the adequacy to law of the content and form of international treaties signed by Spain, and other international agreements signed by the State and its regional and local entities. All of this is pursuant to the classification of and procedure for said acts as defined by Act 25/2014, of 27 November, on Treaties and Other International Agreements (BOE no. 288, of 28 November 2014). Also, at the request of the competent units, the OLA supervises the legal grounds of political initiatives with international significance or effects, and ensures that they comply with the provisions of International Law. Upon request of the legislative authority, the OLA also has the power to assist and advise in the process of drafting Acts of Parliament whose contents have an international scope. Also, the OLA is formally and informally consulted on issues primarily related to the above-mentioned sectors of International Law.
- The Head of the OLA participates as an agent of the Spanish Government in proceedings before the International Court of Justice (ICJ) and in the International Tribunal for the Law of the Sea (ITLOS).
- The members of the OLA and the external experts who collaborate therewith form part of the delegations of the Kingdom of Spain to international conferences, as well as to the bodies and working groups of the main international organizations (United Nations, European Union and Council of Europe, among others), whenever matters within areas of their competence are addressed.

**3. Please give a brief description of staff employed by the OLA, including overseas staff. What is the distribution of posts between men and women within the OLA and what category of staff do they respectively belong to?**

The current Structure of Posts (RPT, its Spanish acronym) of the OLA is composed of a total of ten (10) posts, divided into six expert staff posts and four administrative staff posts. The usual distribution of the expert posts is usually four career Diplomats and two University Professors.

With regard to the distribution of posts by gender, the OLA is a Unit that has usually offered a balanced distribution, since both genders are equally represented. The current distribution proves our commitment in this regard:

POST	MEN	WOMEN
Head of the OLA	1	-
Deputy Head of the OLA	-	1
Legal advisors and counsellors	2	2
Administrative staff	1	3



The OLA relies on the collaboration of three Diplomats who are also lawyers, posted outside Spain, assigned to 3 key Missions. Although they are not part of the OLA staff, they collaborate with the OLA on a regular basis:

POSTING	MEN	WOMEN
Permanent Mission of Spain to the United Nations (New York)	1	-
Permanent Mission of Spain to the United Nations Office (Geneva)	1	-
Embassy of Spain in The Hague (Netherlands)	-	1

A similar solution is being devised so that the OLA may also rely on the particular collaboration of a Diplomat who is also a lawyer at the Permanent Representation of Spain to the European Union.

**4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic or religious minorities or of immigrant origin?**

Within the framework of a broader public policy in this respect, Title V of Organic Law 3/2007, of 22 March, for effective equality between women and men (BOE no. 71, of 23 March 2007), is aimed at advancing in gender equality in public employment, and recognizes and promotes the principle of a balanced presence of women and men in the General State Administration. This Organic Law also provides for the application of a series of measures to ensure non-discrimination in the workplace and the provision of jobs in the public sector.

Section III of the Preamble to Act 2/2014, of 25 March, on the State's Foreign Action and Service (BOE no. 74, of 26 March 2014), explicitly mentions equality between men and women in the State's Foreign Service. Within the framework created by this Act, Order AUC/119/2019, of 31 January, has been handed down, issuing instructions on the balanced presence of women and men in public interventions in which the MAEC participates (BOE no. 36, of 11 February 2019).

Additionally, Chapter VI of Royal Legislative Decree 1/2013, of 29 November, approving the Consolidated Text of the General Act on the Rights of Persons with Disabilities and their Social Inclusion (BOE no. 289, of 3 December 2013), recognizes the right to work of persons with disabilities and includes specific measures to ensure its effectiveness both in private firms and in the public administrations.

The MAEC, and therefore the OLA, comply with the aforesaid provisions and are actively engaged in the promotion of underrepresented groups.

## **5. Is OLA staff trained on gender equality issues and are these issues mainstreamed into the OLA's work?**

Article 61 of Organic Law 3/2007 requires the General State Administration and the public bodies reporting or linked to it to give all of their staff training courses on equal treatment and opportunities for men and women and on the prevention of gender violence. In addition, all OLA staff members have received training on occupational risk prevention.

## **6. Briefly describe the organisation and structure of the OLA.**

The Head of the OLA leads a team of five legal advisers and counsellors (including the Deputy Head). Each one of them is in charge of particular sectors of International Law, so that an appropriate degree of specialization in each area is achieved. It should be noted that Act 2/2014; Organic Law 16/2015, of 27 October, on the privileges and immunities of foreign States, International Organizations with headquarters or offices in Spain and International Conferences and Meetings held in Spain (BOE no. 258, of 28 October 2015); and Act 29/2015, of 30 July, on international legal cooperation in civil matters (BOE no. 182, of 31 July 2015), amongst others, all include in their Articles various scenarios in which the General State Administration requires international legal advice. To sum up, the sectors of International Law addressed most often in the Unit's daily work are, among others, the following:

- Law of Treaties
- State Immunities
- Diplomatic and Consular Law
- Law of the Sea and Law of the Air
- International Humanitarian Law and International Criminal Law
- Law of International Organizations
- European Union Law

The OLA also has administrative staff that provides support to the expert staff, in particular looking after the Unit's archives and library.

## **7. What is the OLA's place within the Ministry of Foreign Affairs?**

Pursuant to Article 18.4.e) of Royal Legislative Decree 1271/2018, the OLA is a Deputy-Directorate General that reports directly to the Ministry's Under-Secretary, one of the Ministry's four governing bodies (see ANNEX). The OLA is not attached to any Directorate-General and thus enjoys broad operational autonomy within the Under-Secretariat. The Unit's daily work is, to a large extent, cross-cutting in nature, enabling it to maintain a very fluid and satisfactory relationship with the rest of the Ministry's bodies. The OLA participates in a number of working groups within the MAEC, and holds the Secretariat of an Inter-Ministerial Commission, namely the Spanish Commission on International Humanitarian Law.

## **8. What are the main contacts of the OLA within Government?**

As the advisory body on International Law of the General State Administration, when exercising this function the OLA maintains a permanent contact, via formal and informal channels, with the rest of the Ministries, as well as with Spain's regional and local administrations.

Additionally, the OLA collaborates with the Directorate for the State Legal Service (Ministry of Justice). Pursuant to Article 3.1.d) of Royal Decree 997/2003, of 25 July, approving the Regulations of the State Legal Service (BOE no. 188, of 7 August 2003), the OLA collaborates in advisory matters with the Deputy-Directorate General for the European Union and International Affairs, which reports to the aforementioned Directorate for the State Legal Service. That Directorate is responsible for the legal representation and defence of the Kingdom of Spain before the jurisdictional bodies of the European Union and before the International Criminal Court.

#### **9. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.**

The OLA maintains very close ties to the academic world. In recent decades, the OLA has developed a collaboration network with a number of Spanish Universities, in addition to receiving temporary assistance from many University teaching staff members who are recognized as experts in their respective fields. Said assistance has mainly consisted in the formulation of opinions and in participation in conferences and codification processes. The common link that makes these fruitful relationships possible is none other than interest in the study of and respect for International Law. To date, the OLA has had 13 Heads: 7 were Diplomats, 4 were Professors of International Law, and 2 of them held the double status of University Professor and Diplomat.

Thus, there is a long-standing collaboration on both parts (Ministry and Universities). Since the beginning of this collaboration, some forty years ago, professors from different Universities have worked in the OLA (to date, Universidad Complutense de Madrid, UNED (Universidad Nacional de Educación a Distancia), Universidad de Salamanca, Universidad de Alcalá, Universidad Autónoma de Madrid, Universidad Rey Juan Carlos y la Universidad de A Coruña). This highly esteemed collaboration between bodies of officials has yielded benefits for a better service to the State. In fact, since 1987, the tradition has been for an expert adviser role to be held by a University Professor. Likewise, postgraduate students routinely carry out internships at the OLA.

Conversely, OLA members frequently participate in scientific and academic events organized at Universities. This cooperation has resulted in the publication of valuable collective works on topics of interest for both the OLA and the academic community, which have, on occasion, also included the participation of other public institutions.

In some occasions, the OLA has also relied on the collaboration of expert lawyers when the Kingdom of Spain has been party to international disputes.

#### **10. Please provide a brief bibliography on the OLA, if available.**

Jiménez Piernas, C. (ed.), *Iniciación a la práctica en Derecho Internacional y Derecho comunitario europeo* [Initiation to the practice of International Law and European Community Law], Marcial Pons, Madrid, 2003.

Jiménez Piernas, C. (ed.), *The Legal practice in International Law and European Community Law*, Brill, Leiden, 2007.

Martín y Pérez de Nanclares, J. (dir.), *España y la práctica del Derecho Internacional (LXXV Aniversario de la Asesoría Jurídica Internacional del MAEC)* [Spain and the practice of International Law (75th Anniversary of the MAEC's International Legal Office)], Ministry of Foreign Affairs and Cooperation, Madrid, 2013.

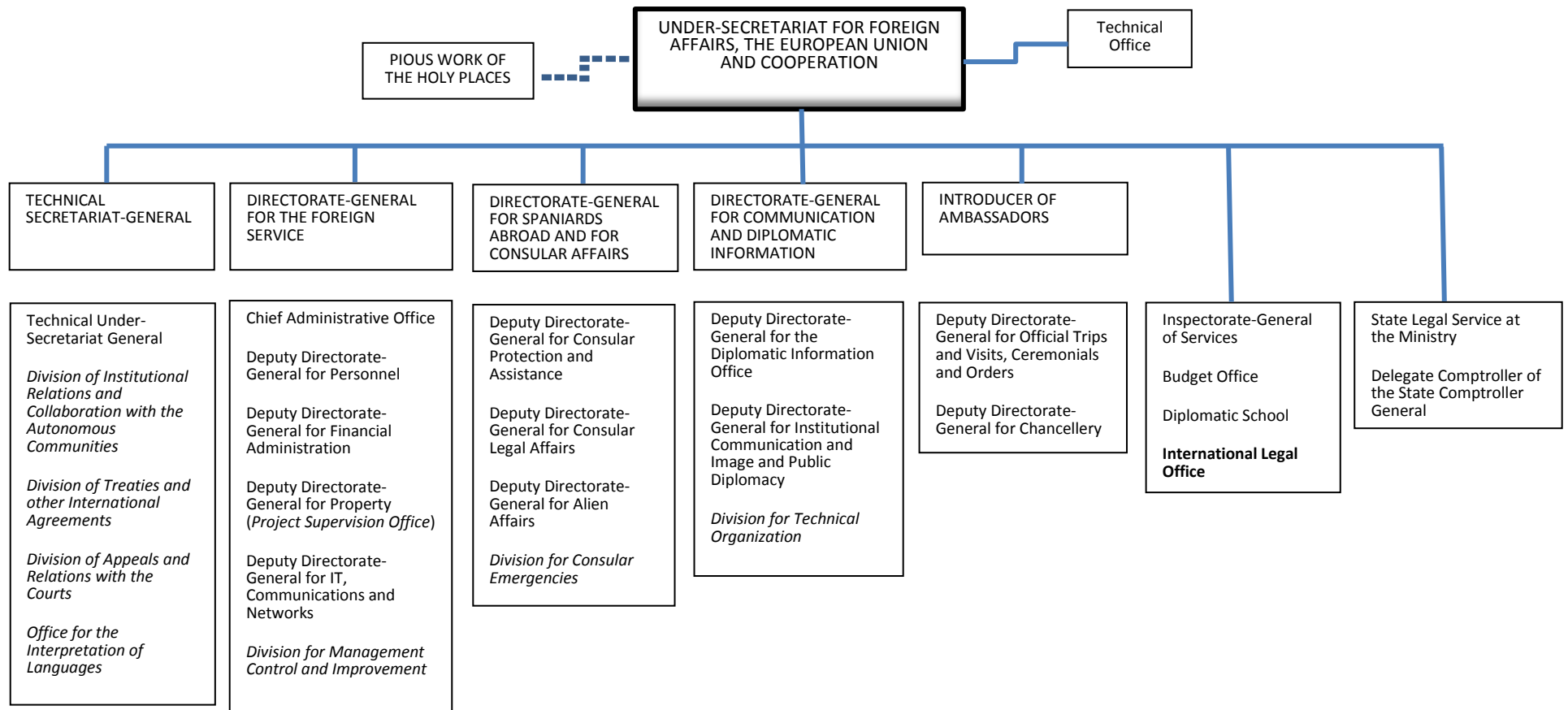
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Martínez Caro, S., “La función asesora jurídico-diplomática” [The legal and diplomatic advisory function], *Revista Española de Derecho Internacional*, Vol. XXI (1968), pp. 499-513.

Pérez Giralda, A., *Prudencia jurídica y poder exterior* [Legal prudence and external power]. *Escritos sobre Derecho Internacional y Diplomacia*, Ministry of Foreign Affairs and Cooperation, Madrid, 2010.

## ANNEX

### ORGANIZATION CHART OF THE UNDER-SECRETARIAT OF THE MINISTRY OF FOREIGN AFFAIRS, THE EUROPEAN UNION AND COOPERATION



## ESPAGNE

### 1. Quels sont les titres, rang et position du Conseiller juridique ?

Le chef du Bureau des Affaires Juridiques Internationales (*Asesoría Jurídica Internacional*, ci-après « AJI ») a le rang de sous-directeur général. Jusqu'à présent, la direction de l'AJI a été assurée par des diplomates et des professeurs de droit international. Les origines de l'AJI datent de 1932, et sa structure basique fut adoptée en 1938. La direction de l'AJI a été occupée de manière intermittente bien par des diplomates, bien par des professeurs d'université (plus de 52 ans au total pour ces derniers).

### 2. Quelles sont les principales fonctions du BCJ ?

L'article 1.1. de la loi 52/1997 du 27 novembre 1997 relative à l'assistance juridique de l'État et des institutions publiques (BOE<sup>5</sup> n° 285 du 28 novembre 1997) établit que l'AJI constitue « l'organe consultatif en matière de droit international ». L'article 18.4.e) du décret royal 1271/2018 du 11 octobre 2018, portant sur l'organisation du ministère des Affaires étrangères, de l'Union européenne et de la Coopération (ci-après « MAEC » ; BOE n° 247 du 12 octobre 2018) vient compléter cette définition en précisant que l'AJI est « l'organe consultatif de l'administration générale de l'État en matière de droit international ». Enfin, la circulaire n° 3.249 du sous-secrétariat du MAEC du 2 décembre 2002 sur les normes régissant la procédure de consultation de l'AJI du MAEC définit la place et les compétences de celle-ci dans l'organigramme du ministère.

Les fonctions de l'AJI sont donc dûment réglementées quant aux organes auxquels elle peut apporter son soutien, aux procédures d'émission de ses rapports et d'autres aspects. L'AJI reçoit des demandes formelles de consultation sur des questions de droit international, dont la réponse ordinaire constitue un rapport. Toutefois, elle peut également y répondre par une note abrégée si la nature de la question le requiert. La participation active de l'État à la vie internationale a considérablement accru la charge de travail de cette unité, comme en témoignent les statistiques de ces deux dernières années : l'AJI a émis 576 rapports en 2017 et 560 en 2018 ; le nombre de notes abrégées produites s'est élevé à 207 en 2017 et à 253 en 2018. Les multiples réunions informelles auxquelles l'AJI assiste ne sont pas comptabilisées, pas plus que les consultations informelles (téléphone, courriel) qui lui sont adressées tous les jours aussi bien par le MAEC que par d'autres ministères, essentiellement ceux de la Défense, de l'Intérieur ou de la Justice. L'AJI participe également à des conférences internationales, ainsi qu'à différents groupes de travail ou instances au sein de l'Organisation des Nations Unies, de l'Union européenne et du Conseil de l'Europe, entre autres.

Les demandes de rapport concernent principalement le droit des traités. Elles portent en particulier sur des traités internationaux et d'autres accords internationaux, ou encore sur des contributions volontaires à des organisations internationales. L'AJI est également consultée sur des points de droit international, souvent complexes, relevant de domaines forts divers. Ainsi, les consultations portent essentiellement sur : le droit des étrangers, le droit d'asile et le droit des réfugiés ; le droit diplomatique et consulaire ; le droit de la mer et le droit aérien ; les immunités de l'État ; le droit des organisations internationales et de l'Union européenne.

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<sup>5</sup> BOE : *Boletín Oficial del Estado* (Journal officiel de l'État espagnol).

Elles résultent d'une activité internationale des administrations publiques de plus en plus riche et diversifiée. Une fois la demande est parvenue à l'AJI, ceci conseille et assiste les unités compétentes des différents ministères, en particulier du MAEC. Ses conseils et précisions techniques aident lesdites unités à se forger une opinion, mais l'AJI n'intervient pas dans la prise des décisions finales.

En somme, l'AJI exerce trois fonctions principales : conseil juridique sur des questions relevant du droit international ; défense du Royaume d'Espagne devant certaines cours internationales ; représentation de l'Espagne dans des enceintes internationales. Ainsi :

- L'AJI a pour mission de contrôler et d'évaluer la conformité au droit, sur le fond et sur la forme, des traités internationaux signés par l'Espagne et d'autres accords internationaux conclus par l'État et ses entités régionales et locales, conformément à la classification de ces instruments et aux procédures y afférentes, tel que défini dans la loi 25/2014 du 27 novembre 2014 relative aux traités et autres accords internationaux (BOE n° 288 du 28 novembre 2014). De même, à la demande des unités compétentes, l'AJI examine les fondements juridiques des initiatives politiques ayant une portée ou des effets à l'échelle internationale, et s'assure que celles-ci respectent les dispositions du droit international. Si le législateur en exprime le souhait, l'AJI est également habilitée à fournir conseil et assistance lors de l'élaboration de lois ayant une dimension internationale. Enfin, des consultations formelles et informelles sont adressées à l'AJI sur des points de droit international, essentiellement dans les domaines susmentionnés.
- Le chef de l'AJI représente l'État en tant qu'agent du gouvernement espagnol dans les procédures devant la Cour internationale de justice (CIJ) et le Tribunal international du droit de la mer (TIDM).
- Lorsque les questions traitées relèvent de leur compétence, le personnel et les collaborateurs externes de l'AJI font partie des délégations du Royaume d'Espagne à des conférences internationales, et sont intégrés aux organes et groupes de travail des principales organisations internationales (Nations Unies, Union européenne et Conseil de l'Europe, entre autres).

**3. Veuillez donner une brève description du personnel employé par le BCJ, y compris le personnel en poste à l'étranger. Quelle est la répartition des postes entre les femmes et les hommes au sein du BCJ et à quelle catégorie de personnel appartiennent-ils/elles respectivement ?**

Le tableau des effectifs de l'AJI comprend actuellement dix (10) postes : six postes de personnel technique et quatre postes de personnel administratif. Les postes techniques sont traditionnellement occupés par quatre diplomates et deux professeurs d'université.

Quant à la répartition des postes entre hommes et femmes, l'AJI est une unité qui se distingue depuis plusieurs années par son équilibre. La répartition actuelle témoigne de l'engagement de l'AJI en la matière.

POSTE	HOMMES	FEMMES
Chef de l'AJI	1	-
Chef adjoint de l'AJI	-	1
Conseillers juridiques	2	2
Personnel administratif	1	3

L'AJI compte également sur la collaboration de trois diplomates-juristes affectés à l'étranger, qui exercent leurs fonctions dans trois missions diplomatiques de premier plan. Bien qu'ils ne fassent pas partie des effectifs de l'AJI, ils collaborent avec cette unité de manière habituelle.

AFFECTATION	HOMMES	FEMMES
Mission permanente de l'Espagne auprès des Nations Unies (New York)	1	-
Mission permanente de l'Espagne auprès de l'Office des Nations Unies (Genève)	1	-
Ambassade d'Espagne à La Haye (Pays-Bas)	-	1

Des démarches ont été engagées pour que l'AJI puisse également compter sur la collaboration d'un diplomate-juriste au sein de la Représentation permanente de l'Espagne auprès de l'Union européenne.

**4. Existe-t-il des politiques spécifiques de recrutement et de promotion, des dispositions et/ou des quotas pour veiller à la non-discrimination et à l'égalité des chances, par exemple pour le sexe sous-représenté, les personnes handicapées ou les personnes appartenant à des minorités ethniques ou religieuses ou issues de l'immigration ?**

Dans le cadre d'une politique publique en faveur de l'égalité hommes-femmes, le titre V de la loi organique 3/2007 du 22 mars 2007 pour l'égalité effective entre les femmes et les hommes (BOE n° 71 du 23 mars 2007) est consacré à la promotion de l'égalité des genres dans l'emploi public ; il reconnaît et défend le principe d'une présence équilibrée de femmes et d'hommes dans l'administration générale de l'État. La loi organique prévoit également l'application d'une série de mesures visant à garantir la non-discrimination sur le lieu de travail et lors des processus de recrutement dans la fonction publique.

Le paragraphe III du préambule de la loi 2/2014 du 25 mars 2014 sur l'action extérieure de l'État et le service extérieur de l'État (BOE n° 74 du 26 mars 2014) mentionne explicitement l'égalité hommes-femmes dans le service extérieur de l'État. En vertu de cette loi, le MAEC a publié l'arrêté ministériel AUC/119/2019 du 31 janvier 2019 portant instructions sur la présence équilibrée de femmes et d'hommes dans les interventions publiques auxquelles le MAEC prend part (BOE n° 36 du 11 février 2019).

En outre, le chapitre VI du décret royal législatif 1/2013 du 29 novembre 2013 portant approbation du texte refondu de la loi générale sur les droits des personnes handicapées et leur inclusion sociale (BOE n° 289 du 3 décembre 2013) reconnaît le droit au travail des personnes handicapées et définit des mesures particulières pour garantir l'effectivité de ce droit dans les entreprises privées et dans les administrations publiques.

Le MAEC et, donc, l'AJI appliquent ces différentes dispositions et sont activement engagés en faveur de la promotion des groupes sous-représentés.



## **5. Le personnel du BCJ est-il formé aux questions liées à l'égalité entre les femmes et les hommes et ces questions sont-elles intégrées au travail du BCJ ?**

En vertu de l'article 61 de la loi organique 3/2007, l'administration générale de l'État et les organismes publics qui en dépendent ou qui y sont rattachés sont tenus de former l'ensemble de leur personnel à l'égalité des chances et à l'égalité de traitement entre les femmes et les hommes, ainsi qu'à la prévention contre la violence faite aux femmes. Le personnel de l'AJI a également reçu une formation sur la prévention des risques au travail.

## **6. Veuillez décrire brièvement l'organisation et la structure du BCJ.**

Le Chef de l'AJI dirige une équipe de cinq conseillers juridiques (dont le chef adjoint). Chaque conseiller s'occupe de matières déterminées du droit international, ce qui leur permet de se spécialiser dans ces domaines. À cet égard, il convient de mentionner une série de lois qui prévoient diverses situations dans lesquelles l'administration générale de l'État demande du conseil juridique international : la loi 2/2014 ; la loi organique 16/2015 du 27 octobre 2015 sur les privilèges et les immunités des États étrangers, des organisations internationales ayant leur siège ou une représentation en Espagne et des conférences et réunions internationales tenues en Espagne (BOE n° 258 du 28 de octobre 2015) ; la loi 29/2015 du 30 juillet 2015 sur la coopération juridique internationale en matière civile (BOE n° 182 du 31 juillet 2015). En bref, le travail quotidien de l'unité porte principalement, mais pas uniquement, sur les domaines suivants :

- Droit des traités
- Immunités de l'État
- Droit diplomatique et consulaire
- Droit de la mer et droit aérien
- Droit international humanitaire et droit pénal international
- Droit des organisations internationales
- Droit de l'Union européenne

L'AJI dispose également de personnel administratif chargé de diverses fonctions d'appui au personnel technique, notamment, la gestion des archives et de la bibliothèque de l'unité.

## **7. Quelle est la place du BCJ au sein du Ministère des Affaires étrangères ?**

Conformément à l'article 18.4.e) du décret royal législatif 1271/2018, l'AJI est une sous-direction générale qui dépend directement du sous-secrétariat, l'un des quatre organes de gouvernement du ministère (voir annexe). L'AJI n'est pas rattachée à une direction générale et jouit d'une grande autonomie de fonctionnement au sein du sous-secrétariat. Cette unité effectue un travail quotidien qui se caractérise par une grande transversalité. Elle maintient de bons contacts et des rapports suivis avec tous les autres organes du ministère. L'AJI prend part d'un certain nombre de groupes de travail au sein du MAEC, ainsi qu'assure le secrétariat d'une commission interministérielle (la Commission espagnole de droit international humanitaire).

## **8. Quels sont les principaux contacts du BCJ au sein du Gouvernement ?**

En tant qu'organe consultatif en matière de droit international au service de l'administration générale de l'État, l'AJI maintient des contacts permanents, à la fois formels et informels, avec tous les autres ministères, ainsi qu'avec les administrations régionales et locales de l'Espagne.

L'AJI collabore, en outre, avec la direction générale du Service juridique de l'État (ministère de la Justice). Conformément à l'article 3.1.d) du décret royal 997/2003 du 25 juillet 2003 portant approbation du règlement du Service juridique de l'État (BOE n° 188 du 7 août 2003), l'AJI collabore en matière de conseil avec la sous-direction générale des Affaires de l'Union européenne et des Affaires internationales, qui dépend de ladite direction générale. Cette direction générale est chargée de représenter et de défendre le Royaume d'Espagne devant les organes juridictionnels de l'Union européenne et devant la Cour pénale internationale.

### **9. Veuillez décrire les relations du BCJ avec des cabinets d'avocats, des universitaires et des institutions juridiques.**

L'AJI entretient des liens très étroits avec le milieu universitaire. Au fil des dernières décennies, l'AJI a développé un réseau de communication avec plusieurs universités espagnoles. Elle compte également sur l'appui ponctuel de nombreux professeurs, experts avérés dans certaines matières, qui élaborent des avis et participent à des conférences et à des procédures de codification. Ce qui unit le personnel de l'AJI et ces universitaires est l'intérêt et le respect qu'ils portent au droit international, ce qui explique le caractère fructueux de leurs relations. 13 personnes ont dirigé l'AJI jusqu'à présent: 7 étaient des diplomates, 4 des professeurs de droit international, et les 2 autres diplomates et professeurs à la fois.

La collaboration entre le ministère et les universités remonte loin dans le temps. Depuis qu'elle a été instaurée, il y a environ 40 ans, des professeurs de diverses universités ont travaillé à l'AJI (Universidad Complutense de Madrid, UNED, Universidad de Salamanca, Universidad de Alcalá, Universidad Autónoma de Madrid, Universidad Carlos III, Universidad Rey Juan Carlos y Universidad de A Coruña). Cette collaboration, qui est fortement appréciée par les deux corps de fonctionnaires, s'avère bénéfique pour un meilleur service à l'État. De fait, depuis 1987, la tradition veut que l'un des postes de conseiller technique soit occupé par un professeur d'université. Par ailleurs, de nombreux étudiants en master effectuent des stages au sein de l'AJI.

Inversement, il est très courant que des membres de l'AJI participent à des activités académiques ou scientifiques organisées par les universités. Cette coopération a donné lieu à la publication d'ouvrages collectifs de grande valeur sur des questions intéressant l'AJI et la communauté scientifique, auxquels ont parfois participé d'autres institutions publiques.

L'AJI a fait occasionnellement appel à des avocats spécialisés lorsque le Royaume d'Espagne a été partie à un litige international.

### **10. Veuillez fournir une brève bibliographie au sujet du BCJ, le cas échéant.**

Jiménez Piernas, C. (éd.), *Iniciación a la práctica en Derecho Internacional y Derecho comunitario europeo*, Marcial Pons, Madrid, 2003.

Jiménez Piernas, C. (éd.), *The Legal practice in International Law and European Community Law*, Brill, Leiden, 2007.

Martín y Pérez de Nanclares, J. (dir.), *España y la práctica del Derecho Internacional (LXXV Aniversario de la Asesoría Jurídica Internacional del MAEC)*, Ministère des Affaires étrangères et de la Coopération, Madrid, 2013.

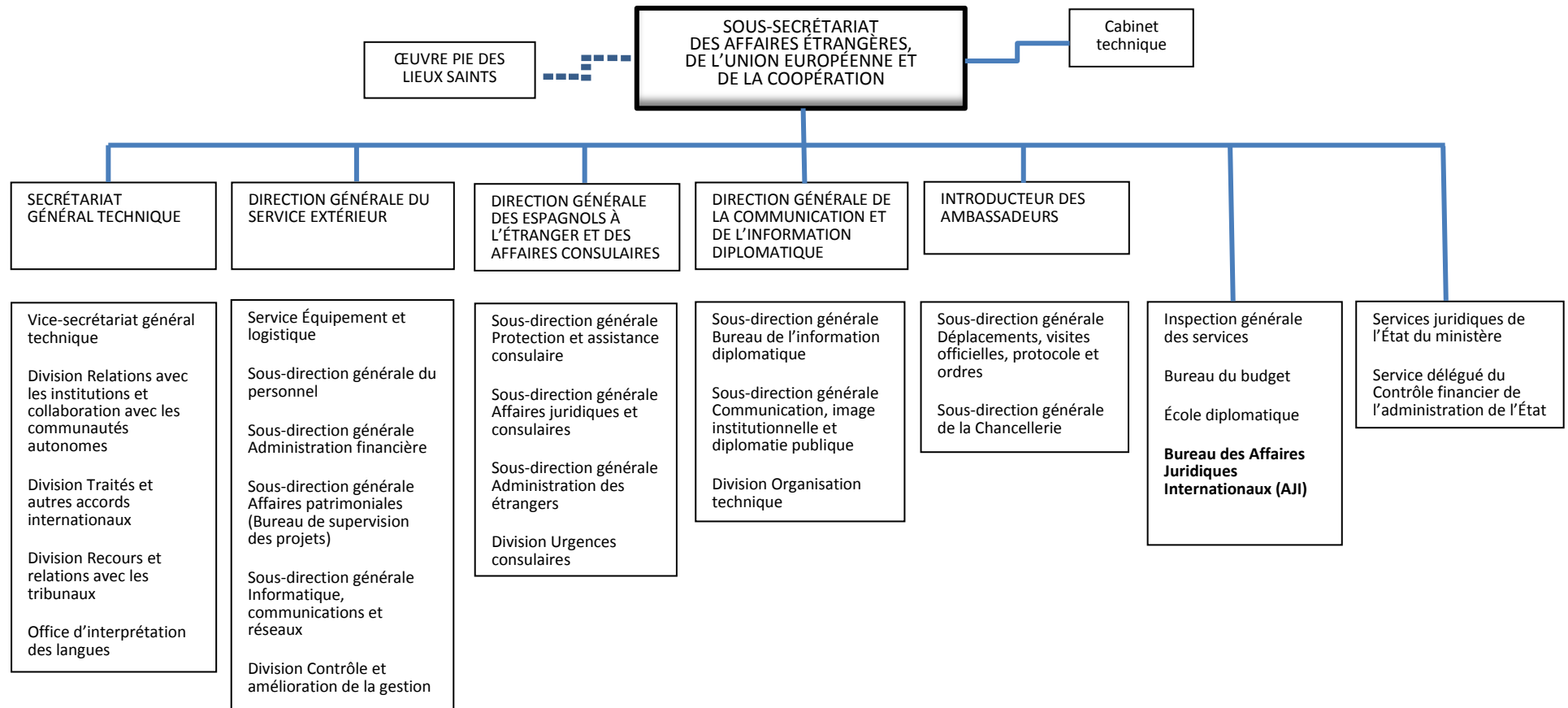
Martínez Caro, S., "La función asesora jurídico-diplomática", *Revista Española de Derecho Internacional*, Vol. XXI (1968), pp. 499-513.

Pérez Giralda, A., *Prudencia jurídica y poder exterior. Escritos sobre Derecho Internacional y Diplomacia*, Ministère des Affaires étrangères et de la Coopération, Madrid, 2010.

**ANNEXE**

**ORGANIGRAMME DU SOUS-SECRETARIAT**

**DES AFFAIRES ÉTRANGÈRES, DE L'UNION EUROPÉENNE ET DE LA COOPÉRATION**



## SWEDEN

### 1. What is the title, rank and position of the Legal Adviser?

The Legal Adviser in the Swedish MFA has the title of Ambassador and the position of Director-General for Legal Affairs. She is one of five Directors-General, the others being the Directors-General for Administration, Political Affairs, Trade and Development.

The Directors-General do not head departments but have special supervisory responsibilities with regard to specific departments. The Director-General for Legal Affairs is responsible for three departments: the Department for International Law, Human Rights and Treaty Law, the Department for Consular Affairs and Civil Law, and the Legal Secretariat, each of which is headed by a Deputy Director-General. Issues that raise matters of principle or are otherwise of substantial importance should be brought before the Legal Adviser.

### 2. What are the principal functions of the OLA?

The Director-General for Legal Affairs is responsible for monitoring important matters of public international law and representing Sweden in cases brought before international courts and committees under Conventions to which Sweden is a party.

The Director-General for Legal Affairs bears the principal responsibility for handling matters concerning complaints against Sweden before the European Court of Human Rights and before UN committees established in accordance with UN conventions on the protection of human rights.

The Director-General for Legal Affairs is responsible for monitoring the lawfulness, consistency and uniformity in the preparation of decisions and administrative matters within the Foreign Service, and for carrying out a final examination of drafts of government decisions. The Director-General for Legal Affairs also monitors the lawfulness, consistency and uniformity of the activities of Sweden's foreign representation.

The Director-General for Legal Affairs also responds on behalf of the Ministry to referrals from the Parliamentary Ombudsmen, the Office of the Chancellor of Justice and other legal or administrative bodies.

The Director-General for Legal Affairs makes decisions on issues concerning the suspension of immunity.

### 3. Please give a brief description of staff employed by the OLA, including overseas staff. What is the distribution of posts between men and women within the OLA and what category of staff do they respectively belong to?

The present Director-General for Legal Affairs is a woman, as is her secretary. The three departments for which the Director-General for Legal Affairs is responsible consist of a total of 118 employees, of whom 27 are men and 91 are women. As regards the support staff, eight are men and seven are women. Two of the present Heads of Department are men and one is a woman. The Deputy Heads of Department are women.

The Department for International Law, Human Rights and Treaty Law has two principal legal advisers. These positions are held by international law experts with doctorates in law. One of the department's four sections is responsible for international law and treaty law, and consists of ten persons, most of whom are career diplomats. Cases before the European Court of

Human Rights are handled by a separate section within the department, while cases before the Court of Justice of the European Union are handled by the Legal Secretariat.

**4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic or religious minorities or of immigrant origin?**

Public officials are recruited on the basis of merit. In the Government Offices there are no quotas for specific groups.

In order to ensure equal opportunities for all and non-discrimination, recruitment processes are based on competence-based requirements.

In addition, measures are undertaken to increase the number of candidates with competitive merits from underrepresented groups. Some examples are trainee programmes for persons with disabilities and persons of immigrant backgrounds, and specific outreach activities to increase knowledge about the Government Offices as an employer.

A structured analysis, including monitoring the gender gap in salaries, as well as the number of employees of immigrant background, is carried out on a regular basis. Training of staff on issues related to non-discrimination and equality is also crucial.

**5. Is OLA staff trained on gender equality issues and are these issues mainstreamed into the OLA's work ?**

Gender equality is a central priority in the work and policy of the Government Offices – in decision-making and resource allocation. A gender equality perspective is brought into policy-making on a broad front, nationally and internationally.

A comprehensive training programme was launched directed at all departments of the MFA.

Gender equality and undertakings to stop gender-based discrimination are mainstreamed in the Government Offices and has long been imperative for the Swedish MFA's Department for International Law, Human Rights and Treaty Law.

**6. Briefly describe the organisation and structure of the OLA.**

See enclosed chart.

**7. What is the OLA's place within the Ministry of Foreign Affairs?**

The Director-General for Legal Affairs is a member of the management group of the Ministry for Foreign Affairs, together with i.a. the State secretaries of the Ministry and the other four Directors-General. See enclosed chart.

**8. What are the main contacts of the OLA within Government?**

In the Swedish Government, decisions are taken collectively by all ministers. This means that decisions are prepared in a joint drafting procedure involving all relevant ministries. Similarly, instructions to EU Council Working Groups and to Swedish representations to international organisations are worked out between the relevant departments in the MFA and the other ministries concerned. This procedure has the advantage of ensuring consistency with regard to Swedish policy in international fora.

The Directors-General for Legal and Political Affairs sit in on morning meetings held daily (Tuesday to Friday) to go through current and upcoming affairs. These meetings are chaired by the State Secretary for Foreign Affairs and attended by the heads of geographical and functional departments. This provides an opportunity to identify possible matters to look into from a legal perspective and provide advice at an early stage. The Minister for Foreign Affairs is briefed on the points raised at these meetings.

The two State Secretaries and the five Directors-General meet weekly to discuss policy and administrative matters.

The Director-General for Legal Affairs participates in regular meetings of the Directors-General for Legal Affairs in other Government Ministries where issues of common interest across the Government offices are discussed.

The Director-General for Legal Affairs also provides other authorities with information about the content of international law and Sweden's international obligations. According to the Swedish Constitution, the Minister for Foreign Affairs must be kept informed whenever a matter arises at a public authority which has significance for relations with another state. At the same time, the Constitution establishes that neither the Minister nor the Ministry may determine how a court or administrative authority is to apply the law in individual cases.

The Director-General for Legal Affairs and the Department for International Law, Human Rights and Treaty Law also provide advice on international law and human rights law to other ministries in their legislative and operational work. This, for instance, is the case in reviewing the compatibility of draft legislation with the European Convention on Human Rights and other treaties to which Sweden is a party.

**9. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.**

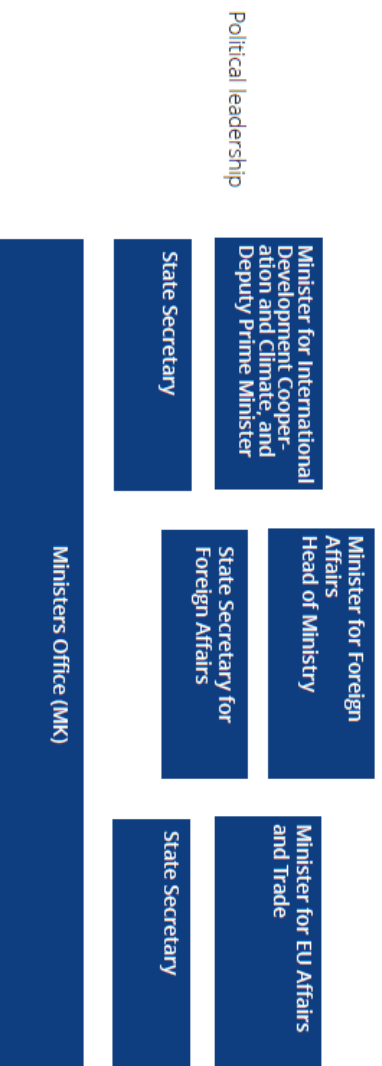
Apart from regular contacts, lectures and seminars, an annual event - the International Law Day - is organised by the Ministry. A number of seminars on the European Court of Human Rights and the EU Court of Justice have also been organised by the Ministry. In the field of human rights, regular meetings are held with civil society.

The Ministry for Foreign Affairs also convenes a Delegation for International Law and Disarmament Issues, with members from Government, academia and civil society organisations.

**10. Please provide a brief bibliography on the OLA, if available.**

n/a

## Organisation of the Swedish Foreign Service Ministry for Foreign Affairs



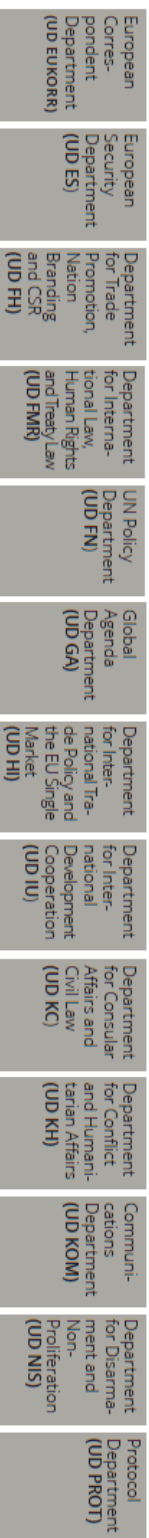
Political leadership



Geographical departments



Functional departments



Other departments and functions



The Swedish foreign representation consists of Swedish Ambassadors based in Stockholm, approx. 100 missions abroad (embassies/delegations/representations and consulates) and approx. 360 honorary consulates.

## SWITZERLAND

### 1. What is the title, rank and position of the Legal Adviser?

The Legal Adviser usually is a career diplomat, and holds the rank of Ambassador. In the past, the functions of Legal Adviser and Head of the Directorate of International Law (DIL) were separate. A few years ago, the two functions were combined to strengthen the position of the Legal Adviser within the Federal Department of Foreign Affairs (FDFA).

### 2. What are the principal functions of the DIL?

The DIL deals with the legal aspects of Switzerland's international relations. It is considered to be the "juridical conscience" of the FDFA and the federal government's centre of competence for all questions relating to international law. Among its objectives are the safeguard of the interests of Switzerland and its citizens in matters relating to international law, the correct application of international law by Swiss authorities (at home and abroad) and the promotion of the respect for international law and its development, particularly through the Sixth Committee of the United Nations General Assembly.

The DIL advises the Minister of Foreign Affairs and the Swiss Government, the Federal Council, on questions of international law and the conduct of Swiss foreign policy. Representatives of the DIL assist in the negotiation, conclusion and implementation of international treaties and contribute to ensuring that Switzerland's rights and legal interests are respected abroad.

### 3. Please give a brief description of staff employed by the DIL, including overseas staff. What is the distribution of posts between men and women within the DIL and what category of staff do they respectively belong to?

There are currently over sixty staff members working at the DIL, including forty-five lawyers and fifteen administrative specialists and assistants. Less than 20% of the staff is part of the diplomatic service of the FDFA. 60% of the staff members are female; this pertains to approximately half of the lawyers, including the diplomatic staff, as well as most of the administrative specialists and assistants.

### 4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic or religious minorities or of immigrant origin?

According to the Federal Ordinance of 3 July 2001 on the Personnel of the Swiss Confederation, measures are taken to fulfil equal opportunities and equality between men and women, a balanced representation of the linguistic regions, as well as equal opportunities and professional inclusion of persons with disabilities. This obligation is translated into directives of the Federal Council concerning the Federal Administration as a whole, as well as into an Equal Opportunities Policy (2010 – 2020) including specific target values and a Workplace Policy on equal opportunities and on protection from discrimination in the workplace specifically designed for the FDFA.

### 5. Is the DIL staff trained on gender equality issues and are these issues mainstreamed into the DIL's work?

The FDFA has a specialized Equal Opportunities Unit which contributes to the advancement of equality and equal opportunities between men and women and regularly organizes events



for the FDFA (including DIL) staff in order to raise awareness on these issues. The Vice-Director of the DIL is in charge of equal opportunity issues within the DIL.

## 6. Briefly describe the organisation and structure of the DIL.

The DIL is headed by the Legal Adviser, a Deputy Director and a Vice-Director, each with the rank of Ambassador. The DIL is organized into two thematically structured divisions and three supplementary offices:

**Division I** comprises three sections dealing in particular with the following issues (in cooperation with other offices of the Federal Administration):

- **Human rights**, including the negotiation and ratification of international instruments in this field and the preparation of reports on their implementation in Switzerland for the attention of the United Nations committees and other international monitoring bodies concerned
- **Combating terrorism (co-ordination in foreign policy)**, respect for human rights and international humanitarian law in the fight against terrorism
- **International criminal justice**, including issues related to the International Criminal Court and all other international(-ized) criminal tribunals
- **International humanitarian law**, including issues related to the applicability of international humanitarian law (qualification of armed conflict), conducting thematic initiatives with the aim of clarifying and strengthening this body of law to ensure that it meets the challenges of contemporary armed conflicts and initiatives aiming at improving respect for international humanitarian law in specific situations of armed conflict
- **Secretariat of the International Humanitarian Fact-Finding Commission** according to Art. 90 of Additional Protocol I to the Geneva Conventions
- **Legal status of diplomatic and consular representations and their employees**, including foreign representations in Switzerland and Swiss representations abroad: embassies, consulates and permanent missions to international organizations
- **Legal status of international organizations and their employees in Switzerland**, including negotiation and adoption of Headquarters' Agreements and status of delegations to international conferences held in Switzerland
- **Legal status of other personalities such as Heads of State or government, ministers, etc.**

**Division II** comprises three sections dealing in particular with the following issues (in cooperation with other offices of the Federal Administration):

- **General questions of international law**, as for instance State recognition
- **Swiss neutrality, international security and peaceful settlement of disputes**
- **Institutional aspects in relation with the European Union (EU), as well as bilateral agreements Switzerland-EU**
- **Diplomatic and consular protection**
- **Economic and fiscal matters, as well as international sanctions**
- **Relationship between international and national law**
- **Treaty making power** and procedures for the **conclusion of international treaties**
- **Information** of the federal administration, the cantons, the courts and individuals **about the agreements Switzerland** has concluded with foreign partners
- **Depositary functions** related to some 80 multilateral international treaties including the four Geneva Conventions and their three Additional Protocols
- **International legal assistance and cooperation in civil, criminal and administrative matters**
- **Diplomatic aspects of the recovery of stolen assets** of politically exposed persons

The **Office of the Ambassador-at-Large for Counter-Terrorism** is responsible for coordinating foreign policy efforts in counter-terrorism.

The **Swiss Maritime Navigation Office** supervises maritime navigation under the Swiss flag. It is attached to the DIL because maritime navigation is considered a matter of international law.

The Heads of divisions and offices report to the Head of the DIL.

## **7. What is the DIL's place within the FDFA?**

The DIL is placed as a functional service assisting the whole of the FDFA in matters relating to international law. In organizational terms, the DIL is one of six directorates within the FDFA.

The other directorates are:

- Directorate of Political Affairs
- Directorate of European Affairs
- Swiss Agency for Development and Cooperation
- Consular Directorate
- Directorate for Resources

The Legal Adviser reports directly to the Foreign Minister.

## **8. What are the main contacts of the DIL within the Government?**

As well as providing legal advice within the FDFA, the DIL is the main centre of expertise on public international law within the government and is often consulted by other federal government departments as well as by cantonal authorities on international law issues.

## **9. Please describe the relations of the DIL with lawyers in private practice, academics and legal institutions.**

Part of the DIL's role is to engage in legal debates at both the national and the international level in order to enhance the respect for international law and its promotion. With the aim to contribute to the coherence and credibility of international law, the DIL takes an active part in the public international law community in Switzerland, comprising lawyers from the public service and private practice as well as academic lawyers.

The DIL has a program of outreach to the international law community in Switzerland through regular seminars in order to discuss issues of international law. Representatives of the DIL regularly participate in conferences and meetings, write articles or books for publication and visit universities to speak to students about the work of the DIL. The DIL issues a series of publications about different aspects of international law:  
<http://www.eda.admin.ch/eda/en/home/doc/publi/pintl.html>

For further information please visit our website:

Organizational structure of the DIL:

<http://www.eda.admin.ch/eda/en/home/dfa/orgcha/sectio/dil.html>

Areas of activities: <http://www.eda.admin.ch/eda/en/home/topics/intla.html>

Swiss practice of international law: <http://www.eda.admin.ch/eda/en/home/topics/intla.html>

## TURKEY

### 1. What is the title, rank and position of the Legal Adviser?

In accordance with the relevant provisions of Presidential Decree No. 27 dated 10.01.2019, the Office of Legal Advisers has been restructured as Directorate General for Legal Affairs and yet no changes have been brought with respect to its duties and responsibilities.

The Director General for Legal Affairs is the head of the Office of Legal Advisers of the Ministry of Foreign Affairs. His/her position is mostly assigned to the highest career diplomat (Ambassador) who has legal background and is subject to the principle of rotation.

### 2. What are the principal functions of OLA?

The principal functions are as follow:

- To provide legal advice on issues arising in the conduct of foreign affairs,
- To coordinate the negotiation and drafting of both bilateral and multilateral treaties,
- To contribute to the drafting process of legislation,
- To follow the development and contribute to the improvement of international law,
- To take legal actions against the conflicts of which the Ministry is a party under domestic law/ internal case law,
- To give legal opinion with the issues related to the functioning and administration of the Ministry of Foreign Affairs,
- To share information on questions related to the status of treaties,
- To attend conferences and meetings both in Turkey and abroad.

### 3. Please give a brief description of staff employed by the OLA, including the overseas staff. What is the distribution of posts between men and women within the OLA and what category of staff do they respectively belong to?

OLA is composed of qualified professionals with legal background. Most of them are legal advisers who are subject to the principle of rotation. Currently about %63 of the legal staff within OLA are women.

Regarding the overseas staff, the career diplomats might be appointed to any post while the legal advisers usually appoint where legal work is required. There are currently six legal advisers working at the Turkish Permanent Missions and Turkish Embassies. On the other hand, lawyers do not work at overseas posts.

### 4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic or religious minorities or of immigrant origin.

The Ministry of Foreign Affairs employs staff in accordance with the principles of nondiscrimination and equal opportunities. There are not specific recruitment and promotion policies based on sex or for persons belonging to ethnic or religious minorities or of immigrant origin. On the other hand, there is a regulation to facilitate hiring individuals with disabilities in general but not specifically to the OLA.

### 5. Is OLA staff trained on gender equality issues and are these issues mainstreamed into OLA's work?

The Constitution clearly emphasizes that Turkish laws do not discriminate on the basis of gender, and guarantees equality before the law. The article 10 of the Constitution states that "*Men and women have equal rights. The State has the obligation to ensure that this equality exists in practice. Measures taken for this purpose shall not be interpreted as contrary to the*

*principle of equality.*” Turkey has adopted comprehensive national legislation and joined international conventions enshrining the principles of equality of rights and opportunities between men and women.

The staff with legal background of OLA have an accurate level of knowledge on the legislation that regulates gender equality issues, international standards and the progress made in that field.

#### **6. Briefly describe the organization and structure of the OLA.**

The Foreign Service of the Republic of Turkey is founded on the well-established traditions and legacy of Ottoman diplomacy with a long history which goes back the year 1523. After the proclamation of the Turkish Republic in 1923, the Ministry of Foreign Affairs began to develop both its internal and external institutional structure. In 1927, the first comprehensive legal regulation on the organization of the Ministry of Foreign Affairs was enacted with the adoption of Act No. 1154 which laid down the foundation of the Ministry’s present day institutional structure. The latest restructuring took place in 2010 with the Act No. 6004 on Organization and Duties of the Ministry of Foreign Affairs and in 2018 with the Presidential Decree No. 1 on Organization of Presidency.

OLA is headed by the Director General for Legal Affairs.

#### **7. What is the OLA's place within the Ministry of Foreign Affairs?**

The structure and organization are embedded in Chapter 4 of Section 6 of the Presidential Decree No. 1 on Organization of Presidency. The OLA is a Directorate General of the Ministry and is under the direct supervision of one of three Deputy Ministers.

#### **8. What are the main contacts of the OLA within the Government?**

The OLA works closely with all Ministries and institutions on matters related to agreements and international law issues and participates in the work of the Government and Parliamentary Committees during the discussions in any issue in the field of international law. The OLA is also responsible for submitting the treaties to the Presidency for ratification and accession process.

#### **9. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.**

The OLA has made efforts to develop relations with the academic community and civil society, as well as private practitioners and legal institutions.

The Director General for Legal Affairs regularly lectures on international law both at the Diplomacy Academy and various Faculties. Staff members are encouraged to participate in both national and international seminars and courses and give lectures as well. The relations with the academia have been also growing in recent years. Most of the staff hold LL.M. degree and some of them are Ph.D. students. In addition private law firms have occasionally been consulted by Ministry of Foreign Affairs for particular cases.

#### **10. Please provide a brief bibliography on the OLA, if available.**

N.A.

## UNITED KINGDOM

### 1. What is the title, rank and position of the Legal Adviser?

The office of the Legal Adviser to the Foreign and Commonwealth Office (FCO) was created in the second half of the nineteenth century. The Legal Adviser is the head of the Legal Directorate.

### 2. What are the principal functions of the OLA?

The Legal Directorate includes lawyers; specialists in maritime policy, treaty procedures and knowledge and information management; office managers; and executive assistants.

The principal function of lawyers within FCO Legal Directorate is to provide legal advice to Ministers and officials within the FCO. This involves advice on matters of public international law, European Union law, human rights law, constitutional law, the law relating to the British overseas territories, and domestic law (including for example freedom of information, data protection, commercial and contractual matters), as well as dealing with a range of civil litigation before the UK courts. Lawyers act as agent for the Government before international tribunals (including the International Court of Justice, the European Court of Human Rights and inter-State arbitrations), and frequently attend conferences and meetings both in the UK and abroad as head or members of the UK delegation.

### 3. Please give a brief description of staff employed by the OLA, including overseas staff. What is the distribution of posts between men and women within the OLA and what category of staff do they respectively belong to?

There are currently approximately 70 staff in the Legal Directorate, about 50 of whom are lawyers working in London. All lawyers are qualified as barristers or solicitors in the UK, and most have post-qualification experience in private practice, in other Government Departments or in international institutions.

A number of FCO lawyers are also posted overseas:

– UK Mission to the UN in New York	2 lawyers
– UK Mission to the UN in Geneva	1 lawyer
– UK Permanent Representation to the EU (Brussels)	4 lawyers
– British Embassy in The Hague	1 lawyer
– UK Delegation to the Council of Europe, Strasbourg	1 lawyer

In addition, a lawyer from the FCO is seconded to the Attorney General's Office and other secondments take place from time to time.

There are four grades for lawyers within the Legal Directorate: the Legal Adviser; three Legal Directors; Legal Counsellors; and Assistant Legal Advisers.

Numbers of women and men employed in the Legal Directorate in London (as of August 2014) are:

<i>Role</i>	<i>Women</i>	<i>Men</i>
Legal Adviser	-	1
Legal Director	1	2
Legal Counsellor	3	5
Assistant Legal Adviser	27	13

Other roles (e.g. Office Management; Maritime Policy; Treaty and Knowledge and Information Specialists)	10	7
<i>Totals</i>	<i>41</i>	<i>28</i>

**4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic or religious minorities or of immigrant origin?**

All staff are recruited and promoted in accordance with the Foreign and Commonwealth Office's policy of making all appointments by merit through open and fair competition, in strict accordance with the key recruitment principles of the Civil Service Commission (available at <http://civilservicecommission.independent.gov.uk/civil-service-recruitment/>).

A person's gender, marriage, colour, race, nationality, ethnic or national origin, disability, age or sexual orientation cannot be taken into account when recruiting or promoting; nor can an applicant be chosen from a particular group for reasons of diversity balance.

**5. Is OLA staff trained on gender equality issues and are these issues mainstreamed into the OLA's work?**

All FCO staff are required to take part in training on Diversity at Work, which covers issues of gender, race, age, religion/belief, disability and sexual orientation. All staff with management or recruitment responsibilities are also required to undertake Unconscious Bias training.

Legal Directorate has a Diversity Champion who works to improve the way diversity is addressed within the Directorate. This includes publishing a regular Diversity Bulletin that is circulated to all Directorate staff, and organising presentations and discussions targeted at specific Diversity issues, for example women into leadership.

**6. Briefly describe the organisation and structure of the OLA.**

The Legal Directorate is headed by the Legal Adviser and three Legal Directors. The Directorate Management Committee consists of representatives from each team and meets every two weeks.

Lawyers based in London are organized into teams, each of which is assigned a number of "client" departments within the FCO. At present there are four teams dealing with Counter-Terrorism and Human Rights; General Law and Litigation; EU and Wider Europe; and International Institutions and Security Policy. Whilst there are some areas in which certain lawyers may specialise, for example EU law or international human rights law, all lawyers are expected to be able to take on a variety of work and to move between teams at different times in their careers.

Non-legal members of staff in the Legal Directorate are FCO specialists, career diplomats or home civil servants. Some are attached to the teams of lawyers and others work in the following teams:

- Maritime Policy Unit – responsible for government policy on maritime issues, in accordance with the UN Convention on the Law of the Sea.
- Treaty Section – responsible for the UK's treaty practice and procedure including publication of treaties before parliament, and performs depositary functions in respect of those multilateral treaties for which the UK is the depositary.

- Knowledge and Information Section – provides a legal information and enquiry service to Legal Directorate and the wider FCO, and leads on the Directorate’s knowledge management strategy.
- Office Management Section – manages the Directorate’s financial resources and administration.

## **7. What is the OLA’s place within the Ministry of Foreign Affairs?**

The head of the Legal Directorate ranks as a Director General (i.e. reports directly to the Permanent Under-Secretary.) Assistant Legal Advisers are appointed at close to the top of the Delegated Grade structure of the FCO, equating to the rank of First Secretary. Legal Counsellors and Deputy Legal Advisers form part of the Senior Management Structure.

Legal Directorate organises a legal training programme for the FCO, covering substantive areas of law (eg human rights, EU law and the overseas territories); legal processes and procedures (eg handling litigation); treaty practice; and working with Legal Directorate. Lawyers also speak on other courses with a legal content within the FCO, e.g. human rights and parliamentary procedures.

## **8. What are the main contacts of the OLA within Government?**

As well as providing legal advice within the FCO, the Legal Directorate is the main centre of expertise on public international law within Government, and is often consulted by other Government Departments when international law issues arise. Thus, for example, all treaties which the UK enters into (with a few exceptions, such as double taxation agreements) have to be cleared by the FCO.

Legal Directorate lawyers act as agents on behalf of the Government in most international judicial proceedings (though not before the European Courts in Luxembourg). This includes cases before the International Court of Justice and the European Court of Human Rights, as well as international arbitration.

The Government’s principal legal adviser is the Attorney General. Departmental lawyers seek his advice on matters of general importance for the Government as a whole. As noted above a member of FCO Legal Directorate is seconded to the Attorney General’s Department.

FCO Legal Directorate is an associate member of the Government Legal Service (GLS) and has close links with the GLS. For example, lawyers frequently move between the GLS and the FCO on secondment. Training on a range of issues is organised jointly with GLS colleagues.

## **9. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.**

A key part of the Legal Directorate’s role is to work with non-governmental international and EU lawyers in the UK in order to increase awareness of each other’s areas of work and expertise and enhance the rule of law internationally. FCO Legal Directorate has traditionally been a part of an active public international law community in the UK, comprising lawyers from the public service and private practice as well as academic lawyers.

The Directorate has a programme of outreach to the international law community in the UK, through regular seminars at the FCO to discuss topical issues in international law to which international law academics and practitioners are invited. Lawyers are also encouraged to participate in conferences, meetings of learned societies (such as the American Society of International Law, the International Law Association and the British Institute of International

and Comparative Law) and to write articles or books for publication. Other activities include visits to universities to speak to students about the work of the FCO and the organisation of government-wide seminars and training courses.

The FCO retains lawyers from private practice where the need arises. In litigation and arbitration it is usual to instruct outside counsel for their advice and advocacy.

#### **10. Please provide a brief bibliography on the OLA, if available.**

There is a considerable literature on the role of FCO Legal Advisers, including:

Sir Franklin Berman: "The Role of the International Lawyer in the Making of Foreign Policy", (in C.Wickremasinghe (ed.), *The International Lawyer as Practitioner*, BIICL 2000)

F.D. Berman: "The International Lawyer Inside and Outside Foreign Ministries" (in C.Hill and P. Beschoff (eds.) *Two Worlds of International Relations – Academics, Practitioners and the Trade in Ideas*, Routledge, 1994)

Daniel Bethlehem: "The Secret Life of International Law"; *Cambridge Journal of International and Comparative Law* 2012, 1(1), 23-36

Stephen Bouwhuis: "The Role of an International Legal Adviser to Government"; *International and Comparative Law Quarterly* 2012, 61(4), 939-960

Sir Gerald Fitzmaurice and Sir Francis Vallat: "Sir (William) Eric Beckett, KCMG, QC (1896-1966) –An Appreciation"; *International and Comparative Law Quarterly* 1968, 17 (2), 267-326

Dr. Clive Parry: "Background paper on National Organization and Procedures - United Kingdom" (in H.C.L. Merrillat (ed.), *Legal Advisers and Foreign Affairs*, Oceana, 1964)

Sir Ian Sinclair: "The Practice of International Law: the Foreign and Commonwealth Office" (in Bin Cheng (ed.), *International Law Teaching and Practice*, Stevens, 1982).

Brian Simpson: "The Rule of Law in International Affairs" (2003) Vol.125 *Proceedings of the British Academy*, 211-263

Sir Arthur Watts: "International Law and International Relations: UK Practice"; *European Journal of International Law* 1991, 2(1), 157-164

Michael C. Wood: "The Role of Legal Advisers at Permanent Mission to the United Nations", (in C.Wickremasinghe (ed.), *The International Lawyer as Practitioner*, BIICL, 2000)

Michael Wood: "The Perspective of a Foreign Ministry Legal Adviser" (in M. Evans (ed.), *International Law*, 2nd edition, OUP, 2006)



**REPLIES BY OTHER STATES  
PARTICIPATING IN THE CAHDI**

***REPONSES D'AUTRES ETATS  
PARTICIPANT AU CAHDI***

## BELARUS

### 1. What is the title, rank and position of the Legal Adviser?

The legal adviser's title is the Director-General for Treaty and Legal Affairs of the Ministry of Foreign Affairs of the Republic of Belarus. The Director-General is a member ex officio of the MFA Collegial Board entrusted with the task of considering the most significant matters of foreign policy and external economic relations as well as a member of the MFA personnel assessment, recruiting and posting commissions. The Director-General is also a member of several inter-ministerial committees and national commissions, including the Commission on the Implementation of International Humanitarian Law attached to the Government of the Republic of Belarus.

In accordance with legislation of Belarus the Director-General is entitled to 3rd or 2nd civil servant class (12th class being the lowest) and to diplomatic rank of Envoy Extraordinary and Plenipotentiary of the First Class.

The Director-General reports on most issues to the Deputy Minister for Foreign Affairs who is also responsible for bilateral relations with countries of Europe and North America as well as State protocol service. The Director-General also reports to the First Deputy Minister for Foreign Affairs on legal aspects of accession to WTO, Eurasian economic integration and bilateral relations with CIS Member States. Legal opinions are also provided directly to the Minister upon request.

### 2. What are the principal functions of the OLA?

The Directorate-General for Treaty and Legal Affairs (the DG) performs the following functions:

- controlling and coordinating the international treaty-making procedure in the Republic of Belarus, as well as implementation of international obligations of the State;
- supporting the rule of law in daily activities of the Ministry and its staff, including legal expertise of draft legislative acts, prepared by the MFA, providing legal advice to other MFA departments on their activities, maintaining the registry of local legislative acts, court representation;
- providing international legal support for delimitation, demarcation and related issues of the State border of the Republic of Belarus.

### 3. Please give a brief description of staff employed by the OLA, including overseas staff. What is the distribution of posts between men and women within the OLA and what category of staff do they respectively belong to?

The DG currently employs 13 persons, all of whom are lawyers. Of those, 11 have diplomatic ranks. Ambassador-at-large on border cooperation is also attached to the DG. Three officers (Deputy Director-General, counsellor and third secretary) are women. All DG officers are subject to general rotation policy of the Ministry. The staff of the DG is recruited on a competitive basis. All legal officers hold law degrees from recognized Belarusian and foreign law schools (universities) and use at least two foreign languages (one of which is English).

The staff of the Directorate-General should additionally display a good knowledge of national legislation, in particular, in the area of civil and labor law.

Legal officers are posted abroad on general terms to work as a diplomats or consular officers at Belarusian diplomatic or consular missions. Thus, the DG officers can be assigned to any diplomatic post and receive any diplomatic or consular portfolio. The only position officially assigned to the DG is the position of the legal adviser of the Permanent Mission of Belarus to the United Nations in New York.

**4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic or religious minorities or of immigrant origin?**

In accordance with Article 39 of the Constitution of the Republic of Belarus citizens of the Republic of Belarus have the right of equal access to any position in government agencies in accordance with their skills and professional training. Article 6 of the Law on Civil Service of Belarus stipulates the principle of equal access of citizens to any civil service position and promotion in accordance with their capabilities, professional skills and education. Article 14 of the Labour Code of Belarus prohibits discrimination defined as limitation of rights or gaining advantage due to sex, race, national or social descend, language, religious or political convictions, participation or non-participation in labour unions or other NGOs, income, official position, age, place of residence, physical or mental disabilities (which do not prevent performing job responsibilities assigned), and any other circumstances, not related to professional skills and not related to specific job responsibilities. Any distinctions, exclusions, preferences or limitations, based on the need of special protection of certain persons (women, minors, persons with disabilities etc.) are not considered discriminatory.

The recruitment and promotion policies are merit- and experience-based in line with abovementioned rules.

**5. Is OLA staff trained on gender equality issues and are these issues mainstreamed into the OLA's work?**

While there is no specific training on gender equality issues, the DG staff receives legal training on applicable human rights and other instruments. Relevant considerations form part of legal analysis performed by the DG in accordance with its functions described above.

**6. Briefly describe the organisation and structure of the OLA.**

The Directorate-General for Treaty and Legal Affairs consists of two Divisions – the Division of International Treaties and the Division of International Commercial Law.

The Director-General is in charge of overall management, planning, coordination and control of the work of the Directorate-General. He or she is generally responsible for cooperation with other departments of the Foreign Ministry and other governmental agencies. The Director-General authenticates the copies of international treaties with his/her signature and seal (soon to be replaced by electronic signature). In his/her capacity as the legal adviser of the Ministry the Director-General provides legal expertise of documents and drafts prepared by other departments and approves them.

The head of each Division reports directly to the Director-General and performs the Director-Generals duties during his/her absence. Heads of Divisions and their deputies each have their personal responsibilities in addition to managerial ones.

**7. What is the OLA's place within the Ministry of Foreign Affairs?**

The Directorate-General for Treaty and Legal Affairs is one of eight DGs of the Ministry of Foreign Affairs. The Directorate-General reports on most issues to the Deputy Minister for Foreign Affairs who is also responsible for bilateral relations with countries of Europe and North America as well as State protocol service. Legal opinions are also provided directly to the Minister upon request.

**8. What are the main contacts of the OLA within Government?**

The DG routinely works with the Ministry of Justice, departments of international cooperation (or similar) of other ministries and Government, Constitutional and Supreme Courts, as well as Administration of the President of Belarus. Occasionally legal departments are also contacted on matters of national law.

**9. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.**

The DG maintains close contacts with academia and legal community. More specifically, views of prominent international lawyers are sought and occasionally received on issues of codification and progressive development of international law (mainly as the preparation for the discussion of ILC report in the Sixth Committee of the UNGA). Most of DG staff are members of the Belarusian Lawyers' Union non-profit NGO, with Director-General being a member of International Relations Board. The DG works closely with the National Centre of Legislation and Legal Studies of the Republic of Belarus on treaty-making procedure and other legal issues. The DG officers lecture occasionally at law faculties of Belarusian university as a part of career orientation for students.

The DG organizes workshops on international law and related practice. The DG takes part in Ministry's or other government agencies cooperation with private lawyers and law companies employed for investment and other sorts of disputes.

**10. Please provide a brief bibliography on the OLA, if available.**

N/A.

## CANADA

### 1. What is the title, rank and position of the Legal Adviser?

The Legal Adviser at the Department of Foreign Affairs, Trade and Development (“DFATD”) is an Assistant Deputy Minister and reports to the Deputy Minister of Foreign Affairs.

The Legal Adviser heads the Legal Affairs Branch, composed of the Legal Affairs Bureau and the Trade Law Bureau.

The Legal Adviser position is traditionally occupied by a member of the Canadian Foreign Service and is not a political appointment. In Canada, the position of Legal Adviser on international law has existed in the foreign ministry since 1913.

### 2. What are the principal functions of the OLA?

The Office of the Legal Adviser plays a key role in assisting the Minister of Foreign Affairs and the Minister of International Trade in their statutory duties to foster the development of international law and its application in Canada’s external relations. To this end, the Legal Affairs Branch is the principal source of legal services and advice to the Government of Canada on an increasingly wide and complex range of international issues in relation to public international law and trade and investment law. In addition to providing advice on Canada’s rights and obligations under international law, the Legal Affairs Branch also manages and develops policy on international law issues, and collaborates with other Government Departments and agencies to ensure that Canada’s domestic legal regime is in accord with its international obligations.

### 3. Please give a brief description of staff employed by the OLA, including overseas staff. What is the distribution of posts between men and women within the OLA and what category of staff do they respectively belong to?

The Office of the Legal Adviser is composed of the Legal Adviser, a Special Adviser and an Executive Assistant. Within the Legal Affairs Branch, which is headed by the OLA, there are 134 employees, comprised of lawyers, paralegals, treaty production team, and administrative/support staff. Most of the lawyers in the Legal Affairs Bureau are Foreign Service Officers and are rotational, similar to other positions in Canada’s diplomatic service while only a few of the lawyers of the Trade Law Bureau are rotational. The Trade Law Bureau has a shared reporting structure to the Legal Adviser and to the Department of Justice. All the positions in the Legal Affairs Branch are officially housed at the Department of Foreign Affairs, Trade and Development, in Ottawa, Canada; however, there are lawyers who do work remotely.

Out of 134 employees in the Legal Affairs Branch, 74 are men and 60 are women.

- 51 of the lawyer positions are staffed by men and 46 are staffed by women.
- 10 of the paralegals, treaty production team, and support staff are staffed by men and 27 are staffed by women.
- In terms of management, including the Legal Adviser, Directors General, Directors, and Deputy Directors, 14 of these positions are staffed by men and 7 are staffed by women.

**4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic or religious minorities or of immigrant origin?**

The Government of Canada has implemented a robust employment equity program under the auspices of the federal *Employment Equity Act*. The Act seeks to eliminate employment barriers for four designated groups: women, Aboriginal peoples, persons with disabilities and visible minorities.

The Office of the Legal Adviser and the Legal Affairs Branch, as part of the Department of Foreign Affairs, Trade and Development, are covered by the Act, and Government of Canada hiring practices.

For more detailed information on these programs, please visit: <https://www.canada.ca/en/employment-social-development/programs/employment-equity.html>

<https://www.canada.ca/en/services/jobs/workplace/human-rights.html>

**5. Is OLA staff trained on gender equality issues and are these issues mainstreamed into the OLA's work?**

Training on workplace equity is available and all departmental staff, including staff in the Office of the Legal Adviser, are encouraged to take advantage of this training. The Department's Employment Equity Champions and Committees regularly solicit and incorporate the viewpoints of representatives and employees on employment equity in the workplace and communicate these to all employees. Champions are high-level officials, selected to bring greater visibility and awareness to the Department's Employment Equity Program and promote a workforce that is representative of Canadian society.

**6. Briefly describe the organisation and structure of the OLA**

The Legal Affairs Branch at DFATD is divided into two bureaux - the Legal Affairs Bureau and the Trade Law Bureau. The head of each bureau reports directly to the Legal Adviser.

The Legal Affairs Bureau, which is headed by the Deputy Legal Adviser and Director General, consists of four divisions: the Criminal, Security and Diplomatic Law Division; the Treaty Law Division; the United Nations, Human Rights and Economic Law Division; and the Oceans and Environmental Law Division. Each of these Divisions is led by a Director, with further supervision by Deputy Directors.

- The Criminal, Security and Diplomatic Law Division is the lead division with respect to the negotiation and implementation of bilateral and multilateral treaties in areas of criminal law such as extradition, anti-corruption, mutual legal assistance, transfer of offenders, cybercrime and drug control. It also provides legal advice and policy direction on complex matters relating to diplomatic, consular and state immunities. In addition, it provides assistance to the public by authenticating Canadian documents for use in foreign jurisdictions.
- The Treaty Law Division is responsible for providing legal advice to the federal government on international treaty law and on the drafting of treaties (and arrangements not intended to give rise to binding obligations). It is responsible for procedures related to the making of treaties, which includes ensuring that the form of

international agreements into which Canada may enter conforms to international law and Canadian practice. It also maintains Canada's Treaty Registry.

- The United Nations, Human Rights and Economic Law Division provides legal advice on issues relating to the United Nations, including the Security Council. It also advises on matters in such areas as international peace and security; defence and disarmament; international human rights law, humanitarian law; children's rights; aboriginal matters; the implementation of UN economic sanctions regimes; and international air and space law. The division also provides legal advice on nuclear law, the law of espousal, and issues concerning the extraterritorial application of laws. It is also engaged in a number of cutting-edge legal initiatives, including cooperation and support for the International Criminal Court, and accountability for serious crimes.
- The Oceans and Environmental Law Division is responsible for providing advice on the development and maintenance of a sound rules-based international order in the substantive areas of ocean management and environmental protection. Lawyers in the division provide advice, develop Canadian positions and advocate for Canada at the international level, on a broad range of multilateral issues and instruments such as climate change, resource management in the Arctic, rights and jurisdiction of States under law of the sea, maritime boundaries, fisheries, biodiversity, Canada's extended continental shelf, chemicals and waste, or trade in endangered species, as well as related bilateral matters (in particular with the United States).

The Trade Law Bureau is also headed by a Director General and consists of three Divisions, each overseen by a Director and further supervised by Deputy Directors: the Market Access and Trade Remedies Law Division, the Investment and Services Law Division, and the Softwood Lumber Litigation Division.

- The Market Access and Trade Remedies Law Division is responsible for providing legal advice on Canada's international trade law obligations relating to the cross border trade in goods, trade remedies, and non-tariff measures that impact trade, such as government procurement, technical barriers to trade, sanitary and phytosanitary measures, intellectual property rights, labour and the environment. The division also leads on WTO litigation, oversees US domestic litigation relating to trade remedies and provides advice on issues related to Canada's *Export and Import Permits Act*, including export permits for military goods.
- The Investment and Services Law Division is responsible for providing legal advice on Canada's international trade law obligations relating to international investment law and the cross-border trade in services. This includes advice on obligations under Canada's various free trade agreements and under the many Foreign Investment Protection Agreements (FIPAs) to which Canada is a Party. It also includes the provision of advice on the trade in services commitments that Canada has undertaken under the WTO General Agreement on Trade in Services (GATS). The division is responsible for assisting Canada's trade negotiators in the context of FIPA negotiations and other trade agreement negotiations. The division also represents Canada in negotiations with respect to international investment law in multilateral fora, such as the United Nations Commission on International Trade Law (UNCITRAL) and the International Centre for the Settlement of Investment Disputes (ICSID). Finally, the division represents Canada in arbitrations brought against Canada by foreign investors under its FIPAs and free trade agreements.
- The Softwood Lumber Litigation Division is responsible for representing Canada in WTO litigation and for the conduct of NAFTA Chapter 19 litigation related to forest

products – primarily softwood lumber, but also disputes related to other forest products such as paper. The provision of legal advice and negotiation support in relation to softwood lumber negotiations is also the responsibility of this division.

## **7. What is the OLA's place within the Ministry of Foreign Affairs?**

The Office of the Legal Adviser heads one of sixteen branches of Foreign Affairs, Trade and Development Canada. All of the branches report to the Ministers through one of three Deputy Ministers (Foreign Affairs, International Trade, and International Development).

The Legal Affairs Branch provides legal advice to policy divisions, as well as to other government departments on files containing issues related to international law and regarding the negotiation and implementation of international agreements, to ensure that Canadian foreign policy is consistent with Canada's obligations under international law.

## **8. What are the main contacts of the OLA within Government?**

The Legal Affairs Branch works with various departments throughout the federal government, including other legal units such as the Department of Justice and the Judge Advocate General's Office (JAG) of the Department of Defence. As the branch is the lead on International Law within the Government of Canada, the branch works cooperatively with all government departments, including the Department of Fisheries and Oceans, the Department of Natural Resources, the Department of Canadian Heritage, Department of Citizenship and Immigration, the Department of Environment, the Department of Health, the Department of Transport, Canada Border Services Agency, Canadian Nuclear Safety Commission, Canadian Space Agency and the Privy Council Office.

In addition, lawyers of the Branch consult with specific ministries of the provincial and territorial governments regarding matters that fall within their jurisdiction or may have an impact upon them. The Trade Law Bureau, in particular, consults with a wide range of federal and provincial government departments and agencies when representing them as clients at CUSMA or WTO procedures.

## **9. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.**

The Legal Branch maintains a strong relationship with lawyers in private practice, academics and legal institutions. Several members of the staff have taught courses at law faculties of universities within Canada and abroad. The Legal Adviser sits on the board of directors of the Canadian Council for International Law among other boards. Most legal officers maintain their required status with provincial law societies, and some contribute to continuing legal education requirements as expert speakers on issues of international law. Some officers also maintain memberships with external institutions and organizations such as the Canadian Council on International Law, the American Society for International Law, and others.

## **10. Please provide a brief bibliography on the OLA, if available.**

J.A. Beesley, "The Sixties to the Seventies: The Perspective of the Legal Adviser" in R. St. John Macdonald ed., *Canadian Perspectives on International Law and Organization*, Toronto 1974.

M. Cadieux & M. Cohen, "The Position and Function of Legal Advisers to Foreign Ministries", background paper for Conference on Legal Advisors and Foreign Affairs, Summer 1963.



A.E. Gotlieb, "Legal Advisers and Foreign Affairs - A Comment" (1965) 16 University of Toronto Law Journal 158.

## ISRAEL

### 1. What is the title, rank and position of the Legal Adviser?

In the Israeli Foreign Ministry, the Legal Adviser is one of the Deputies of the Director General, directly subordinate to the Director General (we have attached for your convenience, a diagram of the structure of the Israel Foreign Ministry). Administratively, the Legal Adviser is directly subordinate to the Director General, while professionally he is subordinate to the Israeli Attorney General, as are all the Legal Advisers in Israel's respective ministries. In addition to his title as Legal Adviser, the Legal Advisor also holds the diplomatic rank of ambassador.

### 2. What are the principal functions of the OLA?

The Office of the Legal Adviser provides a number of important functions which serve to facilitate and advance the Government of Israel's foreign policy objectives. The OLA provides legal advice, including legal opinions, to the Ministry's top political level (the Foreign Minister, the Deputy Foreign Minister and the Director General), as well as to diplomats at headquarters and abroad on a wide range of issues. Under the Legal Adviser and the Deputy Legal Adviser, the OLA is divided into three departments which serve to carry out this mission:

- The Treaties Department, together with the other pertinent government ministries and authorities, as applicable, coordinates the negotiation and drafting of both bilateral and multilateral treaties. This department also oversees the entire ratification process following the signing of an Agreement, including the assimilation of Israel's treaty obligations on the domestic plane. The treaties department also maintains an archive of all of Israel's bilateral treaties.
- The Diplomatic and Civil Law Department provides the necessary support for the proper operation and functioning of the Foreign Ministry. This includes, Inter alia, handling complex employment and contractual issues both in Israel and abroad and managing the Ministry's properties abroad. The department also oversees matters relating to diplomatic, consular and organizational immunities and consular and notary issues from the legal perspective. Additionally, it works in cooperation with the department of international affairs in the Ministry of Justice on issues of Extradition and Legal Assistance.
- The International Law Department provides legal advice on a variety of pressing public law issues relating to the political process, natural resources, human rights, the laws of armed conflict, terrorism, environmental law, and other urgent legal matters. The department provides legal support for various initiatives in the multilateral arena (UN and UN bodies and agencies, international tribunals etc.)

The work of the OLA is also supported by three Legal Advisers at the UN headquarters in NY, in the Hague and in Geneva, which serve to further carry out the mission of the Foreign Ministry.

### 3. Please give a brief description of staff employed by the OLA, including overseas staff. What is the distribution of posts between men and women within the OLA and what category of staff do they respectively belong to?

There are currently 27 lawyers working in the Office of the Legal Adviser in Jerusalem and abroad, of whom 17 are women. Furthermore, In terms of the senior management, all three Directors of the aforementioned departments are women; two out of three of the legal advisers abroad (the Hague, Geneva) are also women. There are 4 articulated clerks who work in the OLA

for a year-long clerkship; in 2015 – all four articulated clerks are women, in 2016 – three out of four articulated clerks will be women. In addition there are approximately 7 administrative staff members, and a number of students who work as paralegals. The junior staff is distributed amongst the departments according to needs, with currently 8 full-time lawyers in the Diplomatic and Consular Department; 9 full-time lawyers in the Department of International Law; and 5 full-time lawyers in the treaties department.

**4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic or religious minorities or of immigrant origin?**

The Ministry of Foreign Affairs employs staff in accordance with the principles of non-discrimination and equal opportunities and in line with the relevant laws and regulations such as the Employment (Equal Opportunities) Law 5748-1988. All appointments are made in accordance with the required legal procedures and requirements of the Civil Service Commission. Any additional and new post at the OLA must be specifically designed to recruit underrepresented minorities. Such a tender was published in July 2014.

**5. Is OLA staff trained on gender equality issues and are these issues mainstreamed into the OLA's work?**

The Ministry of Foreign Affairs has a specialized Gender Equality Commissioner who works towards the advancement of equality and equal opportunities between men and women and participates in all appointment proceedings in the Ministry. The Gender Equality Commissioner and Human resources are aided by the OLA in issues of gender equality, with the latter also involved in the area of sexual harassment training.

**6. Briefly describe the organisation and structure of the OLA.**

The Office of the Legal Adviser is headed by the Legal Adviser and a Principle Deputy who oversee the entire department. As noted above, the OLA is comprised of three departments, the International Law Department, the Treaties Department and the Diplomatic and Civil Law Department. Additionally, as also noted above, three Legal Advisers are posted abroad – the Legal Adviser of the Israeli Permanent Mission to the UN in New York, the Legal Adviser of the Israeli Permanent Mission to the UN in Geneva and the Legal Adviser of the Israeli Embassy in the Hague.

**7. What is the OLA's place within the Ministry of Foreign Affairs?**

The OLA plays a central role in the Ministry of Foreign Affairs. As previously noted, the OLA assists the Ministry's top managerial level in the decision making process, and much weight is given to its advice and opinions.

**8. What are the main contacts of the OLA within Government?**

The Office of the Legal Adviser works with various governmental departments, agencies and authorities, including, inter alia, the Prime Minister's Office, the Ministry of Justice, the Ministry of Defense, the Ministry of Interior, the Ministry of Finance, the Ministry of Energy, the Ministry of Health and the Directorate of Courts. The OLA also works closely with the Israeli Knesset (parliament) to ensure the proper implementation of Israel's international legal obligations on the domestic plane. Moreover, the OLA serves to ensure that Israel's foreign policy considerations are properly reflected in proceedings before national courts, including before the Israeli Supreme Court. Additionally, the OLA has a special role in the implementation of IHL and International Human Rights Law in civil and military bodies.

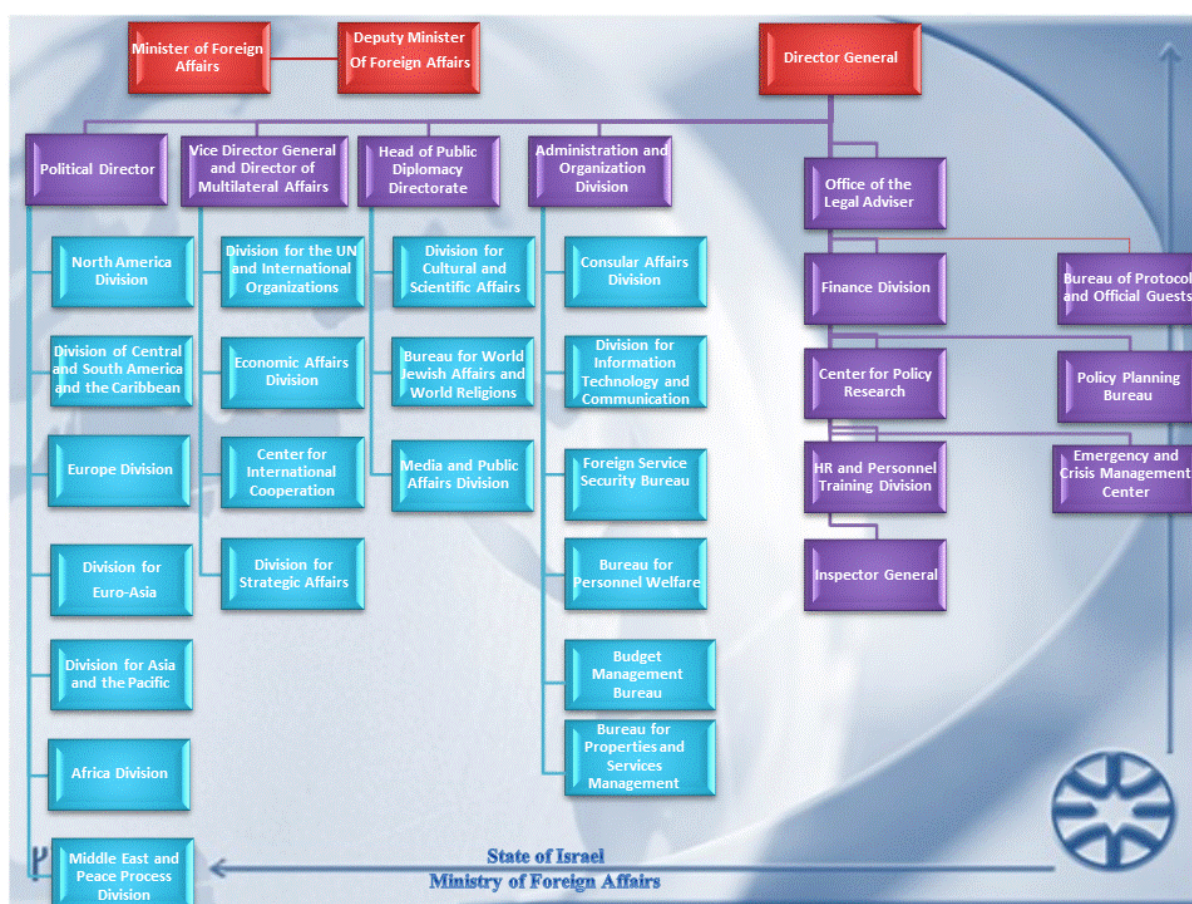
**9. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.**

Traditionally, the Office of the Legal Adviser has strong ties with the academic community and with civil society and is in constant engagement, both formal and informal, with a variety of non-state actors, including informal consultations and public appearances and lectures. In various matters, including those related to local law abroad or embassies and consulates, we are also in contact with local, private practitioners.

**10. Please provide a brief bibliography on the OLA, if available.**

There is no bibliography on the OLA. However, information regarding the OLA can be found on the Foreign Ministry website, at the following link:

<http://www.mfa.gov.il/mfa/abouttheministry/pages/the%20office%20of%20the%20legal%20adviser%20to%20the%20ministry%20of.aspx>



## MEXICO

### 1. What is the title, rank and position of the Legal Adviser?

The official title is Legal Adviser but it is often referred to as Legal Adviser of the Ministry of Foreign Affairs. The Legal Adviser heads the Office of the Legal Adviser (OLA), and reports directly to the Minister of Foreign Affairs. There is no rule as to the rank of the person holding office but the Legal Adviser is usually a career diplomat.

### 2. What are the principal functions of the OLA?

The Office provides legal advice on matters of international law, and the relation of national and international law, to the different areas of the Ministry of Foreign Affairs. This involves advice for the negotiation and conclusion of treaties; the constitutional process for the submission of treaties before the Senate for approval; national implementation and interpretation of international law.

OLA also provides legal advice to other offices within the Mexican Government on questions of international law.

The Legal Adviser acts as agent of the Mexican Government before international tribunals, and in the settlement of international disputes or requests. OLA is also involved in the preparation of advisory opinions, and domestic trials concerning international law; renders legal advice on Diplomatic Protection, particularly in cases of Mexican nationals abroad, and legal opinions in cases relating to issues involving privileges and immunities of States and international organizations within Mexican courts, and in cases brought against Mexican Diplomatic Missions before foreign tribunals.

OLA officers frequently attend conferences and meetings as head or members of the Mexican delegations to international fora on public and private international law.

At the national level, OLA promotes the dissemination and wider appreciation of international law through workshops and conferences in cooperation with universities, the judiciary of the different Mexican States, and other interest groups.

OLA also supervises the Direction General of the Diplomatic Historical Heritage, which is the depository of all treaties to which Mexico is part, as well as all diplomatic documents with historical significance and value for our Foreign Policy.

### 3. Please give a brief description of staff employed by the OLA, including overseas staff. What is the distribution of posts between men and women within the OLA and what category of staff do they respectively belong to?

There are currently 58 staff members at OLA, including 35 lawyers. All lawyers are qualified practitioners, and most of them with postgraduate studies in international law or extensive practice in specialized areas of international law. Two thirds of the high management, 8 lawyers, are members of the Mexican Foreign Service. OLA staff members are comprised of 32 women and 26 men.

Broadly speaking, the staff at the Ministry of Foreign Affairs is divided into two categories of personnel: administrative and management staff. Administrative personnel includes secretarial and office management support, while management staff includes junior and senior officers. Gender distribution by categories are:

Categories	Women	Men
Administrative personnel	21	8
Management personnel	11	16
Totals	32	24

Regarding the overseas staff, the OLA coordinates with about 10 lawyers posted in Mexican Embassies and Missions where intense legal work is required. For instance: the Permanent Mission to the United Nations in New York, the Permanent Mission to the Organization of American States in Washington, the Permanent Missions to International Organizations in Geneva and Vienna and the Embassies of Mexico to the European Union, the United States, the Netherlands, Italy and Costa Rica. However, it is important to underline that all of these officials report to the Head of the Mission and not to OLA.

**4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic or religious minorities or of immigrant origin?**

No, there are not specific recruitment and promotion policies. Employees are hired on an equal merit basis.

**5. Is OLA staff trained on gender equality issues and are these issues mainstreamed into the OLA's work?**

Yes they are. The Office of the Legal Adviser, as well as every office at the Ministry of Foreign Affairs, has a focal point officer for gender issues who is entrusted with the representation of its office at the Gender Commission of the Ministry. Furthermore, the Ministry normally holds interdisciplinary courses on gender equality to which all officers of Ministry, including those at the OLA, must attend.

**6. Briefly describe the organization and structure of the OLA.**

OLA is headed by the Legal Adviser, and reports directly to the Minister of Foreign Affairs. Two Deputy Legal Advisers report to the Legal Adviser and supervise their respective area directions:

**a) Deputy Legal Adviser "A" supervises the following areas:**

- Direction for International Litigation I (Diplomatic Protection);
- Direction for International Litigation II (Privileges and Immunities);
- Direction for International Law I and Law of the Sea
- Direction of International Law III (International Humanitarian Law, recovery and protection of Cultural Heritage and Property, Space Law, and Disarmament)
- Direction of International Law IV (Criminal Law, Transnational Crime, International Criminal Court)

**b) Deputy Legal Adviser "B" supervises the following areas:**

- Direction of Treaty Law I (covering geographical areas of North America and Europe);
- Direction of Treaty Law II (covering all other geographical areas);
- Direction of Treaty Law III (keeps the Mexican Treaty Data Base; process registration of treaties with the competent depositaries; publishes the annual listing of current treaties to which Mexico is part to; act as the keeper of the Library of OLA, and serves as a liaison office with the Office of the High Comptroller of the (Mexican) Federation);

- Direction of Treaty Law IV (covering all international organizations), and
- Direction of International Law II (covering Private International Law and promotion of the dissemination and wider appreciation of international law).

Usually, each Direction supervises an Under-Director, chiefs of Department and analysts.

### **7. What is the OLA's place within the Ministry of Foreign Affairs?**

OLA was created in 1967 as part of the Office of the Minister of Foreign Affairs. Currently OLA is an Administrative Unit above the level of a Direction General but below of the offices of the Undersecretaries of the Ministry.

OLA also maintains very close contacts with the Offices of the Under-Secretaries in order to advise them on all legal matters required within their thematic or geographical scope.

### **8. What are the main contacts of the OLA within the Government?**

The OLA cooperates with all ministries and federal agencies, as well as with the offices of the Mexican States and municipalities on matters related to local executive agreements with local entities from other foreign States. Likewise, close relation is maintained with the Federal Judiciary Council.

### **9. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.**

OLA created the External Advisory Committee on matters of private international Law. Reputable professors of Mexican universities, many of which also are highly respectable practitioners, integrate the Committee. All the members of the Committee have participated, at one point or another, as experts within the delegations of Mexico to several international organizations or Diplomatic Conferences.

Occasionally, academic institutions and academicians are hired in order to research in specific subject areas for the Ministry. Conversely, OLA is frequently requested to give conferences and speeches in academic institutions dealing with international law. Private lawyers occasionally request information or opinions from OLA.

### **10. Please provide a brief bibliography on the OLA.**

"Ratified treaties and executive agreements applied by Mexico", printed collection edited by the Senate of the Mexican Republic, with the collaboration of the Legal Advisory of the Secretariat of Foreign Affairs since 1973 (ISBN 9688105511, 9789688105511) and has published in 1992 the volume XXXV, which is now available on line (<http://tratados.sre.gob.mx/>) and is constantly updated through the creditable work of the Legal Advisory. Also many of the Mexican Legal Advisers and several of the officers working or who have worked at OLA had published articles, participated in collective works or publish essays and textbooks.

OLA is currently updating that bibliography and will make it public as soon as possible.

## NORTH ATLANTIC TREATY ORGANISATION (NATO)

### 1. What is the title, rank and position of the Legal Adviser?

Legal Adviser and Director, Office of Legal Affairs  
Rank: civilian, A6

### 2. What are the principal functions of the OLA?

The primary role of the Office of Legal Affairs (OLA) is to provide legal advice to the Secretary General of NATO, the International Staff and, as appropriate, the North Atlantic Council and other NATO bodies, on a very broad range of matters. In addition to advising on matters of public international law (such as LOAC/IHL, treaty law and practice, privileges and immunities, and so on), it also advises on the interpretation of the NATO legal texts, internal rules and regulations. OLA also provides legal support in respect of NATO's HR function, and represents the Secretary General in proceedings before the NATO Administrative Tribunal. OLA analyses draft NATO and International Staff policies and regulations to ensure that they are consistent with NATO's legal framework and applicable legal standards and practices. Finally, as the senior legal office within NATO, OLA works closely with other NATO legal advisers, both in military commands and civilian agencies, on questions engaging the responsibilities of the North Atlantic Council, and the Secretary General.

### 3. Please give a brief description of staff employed by the OLA, including overseas staff. What is the distribution of posts between men and women within the OLA and what category of staff do they respectively belong to?

The grid below sets out the current complement. All 7 staff are of different nationalities and come from a widely varied backgrounds: from former military operational law attorneys to foreign service officers.

Position	Grade	Gender
Legal Adviser and Director, OLA	A6	Male
Deputy Legal Adviser	A5	Male
Senior Assistant Legal Adviser	A4	Female
Senior Assistant Legal Adviser	A3/A4	Male
Assistant Legal Adviser	A2/A3	Female
Assistant Legal Adviser	A2/A3	Male
Legal Assistant	B4	Female

### 4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic or religious minorities or of immigrant origin?

NATO is an equal opportunities employer and does not discriminate on the grounds of gender, race or ethnic origin, religion, nationality, disability, sexual orientation or age. In addition, NATO does not have quotas and practices a strict merit-based recruitment.



**5. Is OLA staff trained on gender equality issues and are these issues mainstreamed into the OLA's work?**

Gender and gender considerations are mainstreamed in by way of NATO's internal HR policy instruments. In addition, one OLA staff member served as a gender adviser for the NATO International Staff prior to joining the legal team.

**6. Briefly describe the organisation and structure of the OLA.**

The Office of Legal Affairs (OLA) is an independent office. It is headed by the NATO Legal Adviser, who is also the Director of the Office. The Legal Adviser has one Deputy.

**7. What is the OLA's place within the Ministry of Foreign Affairs?**

The Office of Legal Affairs (OLA) is an Independent Office within the structure of the International Staff of the NATO Headquarters.

**8. What are the main contacts of the OLA within Government?**

The Office of Legal Affairs directly supports and advises a broad range of internal clients, including the Secretary General, ASGs and Division Heads, and others.

OLA has strong relationships with many Ministries of Foreign Affairs and Defence, both on specific files of mutual interest, and more generally. In addition, it has an ongoing relationship with the Belgian Ministry of Foreign Affairs and the Comité Interministériel pour la Politique du Siège, a Department of the Belgian MFA which is in charge of Headquarters Agreements and Host Nation issues.

**9. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.**

The NATO Office of Legal Affairs is an active member of a rich network of legal practitioners, such as the CAHDI, but also the Co-ordinated Organization's Legal Advisers meetings, and other legal fora. OLA lawyers also take part in high-level academic venues, both as invited speakers and participants. OLA also has active engagements with colleagues in other NATO organizations, as well as MFAs and MODs. Finally, OLA lawyers engage with private practitioners frequently, whether as opposing counsel on matters before the NATO Administrative Tribunal, or other contentious matters.

**10. Please provide a brief bibliography on the OLA, if available.**

Please see "OLA: NATO's Legal Eagles", in NATO Staff Centre Magazine (Dec 2013).

## UNITED STATES OF AMERICA

### 1. What is the title, rank and position of the Legal Adviser?

The Legal Adviser of the U.S. Department of State has the formal rank of an Assistant Secretary of State. The Legal Adviser heads the Office of the Legal Adviser, a separate operating bureau of the Department, and functions as the principal adviser on all legal matters, domestic and international, to the Department of State, including the Foreign Service and diplomatic and consular posts abroad. The Legal Adviser is also the principal adviser on legal matters relating to the conduct of foreign relations, to other agencies and, through the Secretary of State, to the President and the National Security Council. The Legal Adviser is a Presidential appointee subject to confirmation by the U.S. Senate. The position of Legal Adviser of the Department of State was first established by the U.S. Congress in a statute adopted in 1931, although predecessor positions (Solicitor and Examiner of Claims) can be traced back to the mid-19th century.

### 2. What are the principal functions of the OLA?

The Office provides legal advice and services to the senior leadership of the Department of State and all its operating components on issues arising in the conduct of foreign affairs. The objective is to ensure compliance with applicable domestic law related to the foreign affairs function as well as the international legal obligations of the United States. Much of the work is advisory, but members of the Office are often actively involved in the formulation as well as implementation of policies and programs. Department lawyers frequently serve on or even lead delegations to international negotiations and conferences and represent the United States before international courts and tribunals.

The Office also provides advice within the U.S. government on questions of public international law. Its members have special expertise and responsibility for the negotiation, interpretation and ratification of treaties and other international agreements. The Office represents the United States, as agent, before international courts and tribunals (including the ICJ and the Iran-US Claims Tribunal). As in many other governments, it endeavors to ensure consistency in positions taken on issues of international law, especially in the negotiation of treaties and before international courts and tribunals. Members of the Office prepare the annual Digest of U.S. Practice in International Law.

### 3. Please give a brief description of staff employed by the OLA, including overseas staff. What is the distribution of posts between men and women within the OLA and what category of staff do they respectively belong to?

The Office of the Legal Adviser currently comprises approximately 265 fulltime employees, including 196 attorneys formally admitted to the practice of law, all of who have Juris Doctor (or equivalent) degrees and many of who have advanced (specialized) degrees in international law. 106 of the 196 are female and, of our 25 Senior Executive Service level attorneys, 11 are female. Other members include highly qualified paralegals, treaty analysts, information technology specialists, and budget, administrative, and other support personnel and they are roughly split 50/50 between the genders.

State Department lawyers are typically recruited from outside the government or from other government agencies and serve as members of the Civil Service (not part of the foreign or diplomatic service). The selection process for positions within the Office is intensely competitive. On occasion, appropriately qualified members of the Foreign Service may serve tours in the Office and members of the Office may leave to join the Foreign Service or other parts of the international affairs community.

With only a few exceptions, attorneys are based in Washington. Three attorneys are currently assigned to the U.S. Mission to the United Nations (New York), two to the U.S. Mission to International Organizations (Geneva), two to the U.S. Embassy in The Hague, one assigned to the U.S. Mission to the European Union (Brussels), and one assigned to the U.S. Embassy in Kabul. Recently, attorneys have been temporarily assigned to the U.S. Embassy in Baghdad. New attorneys typically rotate assignments within the Office after 2 years, and periodically thereafter, to broaden their experience and take on new challenges. Outside rotational assignments can include the National Security Council, other federal agencies, the U.S. Congress, as well as secondments to international organizations.

In addition to its full-time attorneys, the Office is able to draw on the services of outside experts (for example, professors of law or practicing specialists) in various international legal fields as consultants, when needed.

**4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic or religious minorities or of immigrant origin?**

The U.S. government has a number of laws and regulations to promote diversity, including anti-discrimination laws and appointing authorities designed to facilitate the hiring of individuals with disabilities and veterans. The Office of the Legal Adviser follows all of these laws and regulations. Additionally, our Attorney Recruitment Committee is reaching out to an ever-widening range of law schools in order to promote diversity in the bureau.

**5. Is OLA staff trained on gender equality issues and are these issues mainstreamed into the OLA's work?**

The Department of State has a strong mandatory leadership and management training continuum that includes segments on diversity in the workplace that every attorney takes. Also, when promoted into the Senior Executive Service, attorneys must attend additional mandatory supervisory training, which continues to build on this diversity training.

**6. Briefly describe the organisation and structure of the OLA.**

The Legal Adviser reports directly to the Secretary of State. Currently, five Deputy Legal Advisers supervise some 23 Assistant Legal Advisers, who are experienced senior attorneys charged with managing one of the regional or functional offices described below (which vary in size from two to twenty staff attorneys). An Executive Director is responsible for overall management, budget, administrative, personnel, records management, and information resources support.

The Office is organized to provide direct legal support to the Department of State's various operating bureaus. This structure is intended to ensure the most timely and effective advice and to foster close attorney-client relationships.

- Thus, each of the Department's regional bureaus (Africa, East Asia and Pacific, Europe, Near East Asia, South and Central Asia, Western Hemisphere) has a counterpart Assistant Legal Adviser and staff to assist in dealing with the broad range of issues arising in a regional or bilateral context.
- Dedicated components headed by Assistant Legal Advisers also support the various functional bureaus with worldwide responsibilities. These functional legal offices include Nonproliferation and Arms Control; Consular Affairs; Economic and Business Affairs; Human Rights and Refugees; Law Enforcement and Intelligence; Oceans,

International Environmental and Scientific Affairs; Political-Military Affairs; Public Diplomacy; and United Nations Affairs).

- Several components of the Office focus on issues of general application to the Department's foreign affairs function, such as Diplomatic Law and Litigation (privileges and immunities, recognition, status of international organizations, litigation in U.S. and foreign courts); Private International Law (harmonization and codification of private law in such areas as international business transactions, arbitration, trusts, international child abduction and inter-country adoption, international negotiable instruments and the liability of operators of transport terminals); and Treaty Affairs (treaty law and procedure, including drafting, negotiating, applying, interpreting and publishing treaties and other international agreements of the United States; and constitutional questions including the relative powers of the President and the Congress regarding treaties and executive agreements).
- Over the past several years, a growing proportion of the Office's resources have been devoted to legal issues related to the overall management and operation of the Department as a government agency, rather than to international law. These practice areas now include Legislation and Foreign Assistance and Management (administrative and budget, appropriations, Freedom of Information); Buildings and Acquisitions (federal contracts, acquisition and development of real property abroad); Employment Law (human resources and labor relations, employee grievances); and Ethics (including professional responsibility issues and the financial disclosure reporting program).
- The largest single component, finally, is the Office of International Claims and Investment Disputes, which was initially established to handle claims before the Iran-U.S. Claims Tribunal and has since expanded to encompass virtually all claims under international law by the U.S. and its nationals against foreign governments, and by foreign nationals and governments against the U.S. Government. In addition to handling claims relating to expropriation and other property and investment disputes, and issues of state responsibility for denial of justice, wrongful death, and personal injury, this component handles claims before the UN Compensation Commission as well as the arbitration of investment claims under NAFTA and other agreements.

## **7. What is the OLA's place within the Ministry of Foreign Affairs?**

The Office of the Legal Adviser is a separate operating bureau within the Department.

## **8. What are the main contacts of the OLA within Government?**

The Office deals on a daily basis with a broad range of federal government departments, offices and agencies involved in the foreign affairs, national security, and law enforcement communities, including most frequently the Counsel to the President, the Legal Adviser to the National Security Council, the Department of Justice and the General Counsels of the Departments of Defense (including the various military services), Homeland Security, Commerce and the Treasury, the U.S. Trade Representative, and the Agency for International Development.

## **9. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.**

Members of the Office are in frequent contact with private practitioners on matters pertaining to the Department's work, including litigation, arbitration, contracts, and other regulatory

issues. Indeed, many attorneys have come to the Office from private practice and many, upon leaving, go to law firms or corporate law offices.

The Office has traditionally had strong links to the academic community in the field of international law. A number of professors serve as consultants; often, a highly qualified academic holds a fulltime appointment within the Office as Counselor on International Law. A number of attorneys have left the Office and government service to pursue teaching careers in American and foreign law schools.

Practitioners and academics serve on the Secretary of State's Advisory Committees on Public and Private International Law, which function as consultative bodies on legal issues of current interest and debate under the guidance of the Legal Adviser.

Members of the Office are often active in the various professional societies concerned with international law, including in particular the American Society of International Law, the American Bar Association's Section of International Law and Practice, the American Branch of the International Bar Association, and the Inter-American Bar Association, as well as state and local bar associations, committees, and other groups. Lawyers are permitted to participate in professional and academic conferences and symposia in the legal and foreign policy communities, and to teach and publish in the field of international law, subject to certain ethical restrictions. At any given time, a number of attorneys teach in Washington-area law schools on a part-time basis. Lawyers are encouraged to provide pro bono legal services to needy members of the Washington, D.C. community.

#### **10. Please provide a brief bibliography on the OLA, if available.**

J. Mathews, *The Conduct of American Foreign Relations* 46-47 (1922)

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"The Role of the Legal Adviser of the Department of State. A Report of the Joint Committee Established by the American Society of International Law and the American Branch of the International Law Association (July 1990)," reprinted in 85 *Am. J. Int'l L.* 358 (1991)

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Michael K. Young, "Government Lawyering: The Role of the Attorney-Adviser in the U.S. Department of State: Institutional Arrangements and Structural Imperatives," 61 *Law & Contemp. Probs.* 133 (1998)

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