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CAHDI (2024) 15 prov

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

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## **List of items discussed and decisions taken Abridged report**

**66<sup>th</sup> meeting (hybrid meeting)**  
11-12 April 2024

Strasbourg, Palais de l'Europe, room 11

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**COMMITTEE OF LEGAL ADVISERS ON PUBLIC INTERNATIONAL LAW (CAHDI)****66<sup>th</sup> meeting, Strasbourg, 11-12 April 2024****List of items discussed and decisions taken  
Abridged report****1. Introducing the meeting**

1.1. The Committee of Legal Advisers on Public International Law (CAHDI) held its 66<sup>th</sup> meeting in Strasbourg, France, on 11-12 April 2024, with **Mr Helmut Tichy** (Austria) as Chair.

1.2. The CAHDI adopted its agenda as set out in **Appendix I** to this report.

1.3. The CAHDI examined and adopted the **report of its 65th meeting** (Strasbourg, 28-29 September 2023), and authorised its publication on the CAHDI website.

1.4. The CAHDI took note of the information provided by the Director of Legal Advice and Public International Law and by the Chair of the CAHDI on the **most important developments within the Council of Europe** since the last meeting of the Committee. The CAHDI also took note of the information provided by the **Chair** on his **participation in various meetings** since the last CAHDI meeting.

**2. Concerning the Committee of Ministers' decisions with relevance to the CAHDI, including requests for the CAHDI's opinion:**

2.1. Following the decision of 7-8 February 2024 of the Committee of Ministers communicating to the CAHDI *Recommendation 2266 (2024) of the Parliamentary Assembly of the Council of Europe: "A democratic future for Belarus"* for information and possible comments, the CAHDI **adopted an opinion** on this Recommendation, as contained in document CAHDI (2024) 1 Restricted.

2.2. The CAHDI took note of the invitation from the Committee of Ministers to the **CAHDI to provide an indicative overview of possible avenues under international law aimed at securing the payment by the Russian Federation of just satisfaction awarded by the European Court of Human Rights**, as set out in **Decision CM/Del/Dec(2024)1488/10.5**. The CAHDI decided to set up a working group composed of a number of CAHDI members, other experts and the Secretariat to assist the CAHDI in preparing a draft of the requested document. During the discussion, already ten States expressed their interest in taking part in this working group. The CAHDI agreed that a first draft could be provided by the Secretariat, examined and discussed by the working group, and finally adopted by the CAHDI at its 67<sup>th</sup> meeting in September 2024 in Vienna.

2.3. The CAHDI examined and **agreed** to the **request by the Permanent Court of Arbitration (PCA) to be granted observer status with the CAHDI** according to paragraph C. 8 a. of Resolution *CM/Res(2021)3 on intergovernmental committees and subordinate bodies, their terms of reference and working methods*, and to inform the Committee of Ministers of this decision.

2.4. The CAHDI took note of the **terms of reference** adopted by the Committee of Ministers for 2024-2027 as contained in document CAHDI (2024) Inf 1.

2.5. The CAHDI took note of **decisions of the Committee of Ministers relevant to the work of the CAHDI**, as contained in document CAHDI (2024) 3 Restricted.

**3. Concerning the subject of "CAHDI databases and questionnaires":**

3.1. The CAHDI took note of the following questionnaires and databases:

- Questionnaire on "Settlement of disputes of a private character to which an international organisation is a party";

- Questionnaire on “*Immunity of state-owned cultural property on loan*”;
- Questionnaire on “*Immunities of special missions*”;
- Questionnaire on “*Service of process on a foreign State*”;
- Questionnaire on “*Possibility for the Ministry of Foreign Affairs to raise public international law issues in procedures pending before national tribunals and related to States’ or international organisations’ immunities*”;
- Database on “*The immunities of States and international organisations*”;
- Questionnaire and database on “*Organisation and functions of the Office of the Legal Adviser of the Ministry of Foreign Affairs (OLA)*”
- Database on “*The implementation of United Nations Sanctions*”.

3.2. The CAHDI confirmed its decision to publish the replies, as revised, to the three questionnaires, namely the questionnaires on “**Settlement of disputes of a private character to which an international organisation is a party**”, “**Service of process on a foreign State**” and “**Possibility for the MFA to raise public international law issues in procedures pending before national tribunals and related to States’ or international organisations’ immunities**”. The CAHDI also decided to lift the confidentiality of the replies to the questionnaires on “**Immunity of state-owned cultural property on loan**” and on “**Immunities of special missions**”. The delegations will have the possibility to review their contributions by 30 April 2024. The individual contributions to these questionnaires will then be published on the CAHDI website unless the contributing state explicitly objects to its publication within this deadline.

4. The CAHDI took note of the **information provided by delegations** in relation to the immunities of States and international organisations, diplomatic and consular immunities as well as the **State practice and case-law on this matter**.

5. Concerning the subject “**The European Convention on Human Rights and other human rights Issues involving public international law**”:

5.1. The CAHDI took note of the information provided by delegations concerning **cases before the European Court of Human Rights involving issues of public international law**. It further invited delegations to keep the Committee informed on developments in this regard as well as on other relevant pending cases.

5.2. With regard to the issue of “**National implementation measures of UN sanctions and respect for human rights**”, the CAHDI took note of the information provided in this regard.

6. On the subject of **treaty law**:

6.1. The CAHDI held an exchange of views concerning **non-legally binding instruments in international law**. It took note of the “Revised report and annexes on the practice of States and international organisations regarding non-legally binding agreements” (CAHDI document (2024) 12 prov Confidential, dated 30 March 2024). In line with the decision taken at the 65<sup>th</sup> meeting to consider organising a workshop on non-legally binding instruments with a practical orientation, the CAHDI also took note of the inquiry into the preparation of a second workshop, the summary of responses, and the draft concept note for the second workshop that was developed on the basis of the results of the inquiry (CAHDI document (2024) 4 prov Confidential Bilingual, dated 31 March 2024).

In light of this information and the discussion that followed, the CAHDI expressed a strong interest in this topic and decided to organise a second [practitioners’] workshop on 18 September 2024, the day before the next CAHDI meeting.

6.2. The CAHDI took note of the replies to the questionnaire on **treaties not requiring parliamentary approval** and the preliminary analysis of the main trends arising from the replies to this questionnaire (document CAHDI (2024) 11 prov Confidential dated 31 March 2024). The CAHDI decided to revise the questionnaire in the light of comments expressed during the meeting. The CAHDI invited delegations that had not yet done so to submit their replies at their earliest convenience.

6.3. The CAHDI took note of the replies to the questionnaire on “**International soft law: implications for Legal Departments of Ministries for Foreign Affairs**” as contained in document CAHDI

(2023) 19 prov Restricted dated 23 September 2023 and invited delegations to submit their replies to this questionnaire at their earliest convenience.

6.4. Within the framework of its activity as the **European Observatory of Reservations to International Treaties**, the CAHDI examined a list of 15 reservations and declarations to international treaties concluded within and outside the Council of Europe, subject to objection.

6.5. In addition, the CAHDI took note of document CAHDI (2024) Inf 2 containing the reactions to reservations and declarations to international treaties previously examined by the CAHDI and for which the deadline for objection had already expired.

7. On the subject of **current issues of public international law**:

7.1. The CAHDI held an exchange of views on the **public international law aspects of the current situation of aggression against Ukraine** and took note of the information provided by the representative of Ukraine on accountability issues.

7.2. In the context of the invitation by the Committee of Ministers under point 2.2 above, the CAHDI held a **discussion on compensation under international law with a focus on options for enforcement of payments awarded by international human rights courts**, with introductory presentations by **Ms Christina Beharry** (Partner, Foley Hoag, formerly Global Affairs Canada), **Prof. Martins Paparinskis** (Member of the International Law Commission/University College London) and **Prof. Veronika Fikfak** (Co-Director of University College London Institute for Human Rights).

7.3. The CAHDI held an exchange of views on the **peaceful settlement of disputes**.

7.4. The CAHDI held an exchange of views on the **work of the International Law Commission**.

7.5. With regard to the **consideration of current issues of international humanitarian law**, the CAHDI took note of the information provided by delegations.

7.6. The CAHDI discussed and took note of the information provided by delegations on the **recent developments concerning the International Criminal Court (ICC) and other international criminal tribunals** in the light of document PIL-ICT (2024) 1.

8. Concerning any **other issues**:

8.1. The CAHDI decided to hold its **67<sup>th</sup> meeting** in Vienna (Austria), on **19-20 September 2024**. The CAHDI instructed the Chair of the CAHDI, in co-operation with the Secretariat, to prepare in due course the provisional agenda of this meeting.

8.2. The CAHDI **adopted the present Abridged report** and instructed the Secretariat to submit it to the Committee of Ministers for information.

## APPENDIX I

### 1. INTRODUCTION

- 1.1. Opening remarks
- 1.2. Adoption of the agenda
- 1.3. Adoption of the report of the 65th meeting
- 1.4. Information provided by the Secretariat of the Council of Europe and by the Chair of the CAHDI

### 2. COMMITTEE OF MINISTERS' DECISIONS WITH RELEVANCE FOR THE CAHDI INCLUDING REQUESTS FOR CAHDI'S OPINION

- 2.1. Opinion of the CAHDI on Recommendation 2266 (2024) of the Parliamentary Assembly of the Council of Europe (PACE)
- 2.2. Invitation to the CAHDI to provide an indicative overview of possible avenues under international law aimed at securing the payment by the Russian Federation of just satisfaction awarded by the European Court of Human Rights
- 2.3. Examination of the request by the Permanent Court of Arbitration (PCA) to be granted observer status to the CAHDI
- 2.4. Terms of reference of the CAHDI
- 2.5. Other Committee of Ministers' decisions of relevance to the CAHDI's activities

### 3. CAHDI DATABASES AND QUESTIONNAIRES

- 3.1. Settlement of disputes of a private character to which an international organisation is a party
- 3.2. Immunity of state-owned cultural property on loan
- 3.3. Immunities of special missions
- 3.4. Service of process on a foreign State
- 3.5. Possibility for the Ministry of Foreign Affairs to raise public international law issues in procedures pending before national tribunals and related to States' or international organisations' immunities
- 3.6. Organisation and functions of the Office of the Legal Adviser of the Ministry of Foreign Affairs
- 3.7. The implementation of United Nations sanctions
- 3.8. Lifting of confidentiality of certain CAHDI questionnaires

### 4. IMMUNITIES OF STATES AND OF INTERNATIONAL ORGANISATIONS, DIPLOMATIC AND CONSULAR IMMUNITY

- 4.1. Exchanges of views on topical issues in relation to the subject matter of the item
- 4.2. State practice and relevant case-law

### 5. THE EUROPEAN CONVENTION ON HUMAN RIGHTS, CASES BEFORE THE EUROPEAN COURT OF HUMAN RIGHTS AND OTHER HUMAN RIGHTS ISSUES INVOLVING PUBLIC INTERNATIONAL LAW

- 5.1. Cases before the European Court of Human Rights involving issues of public international law
- 5.2. National implementation measures of UN sanctions and respect for human rights

### 6. TREATY LAW AND SOFT LAW INSTRUMENTS

- 6.1. Exchanges of views on topical issues related to treaty law
- 6.2. Law and practice relating to reservations and interpretative declarations concerning international treaties: European Observatory of Reservations to International Treaties

### 7. CURRENT ISSUES OF PUBLIC INTERNATIONAL LAW

- 7.1. Topical issues of public international law
- 7.2. Peaceful settlement of disputes
- 7.3. The work of the International Law Commission
- 7.4. Consideration of current issues of international humanitarian law
- 7.5. Developments concerning the international Criminal Court (ICC) and other international criminal tribunals

**8. OTHER**

- 8.1. Place, date and agenda of the 67th meeting of the CAHDI: Vienna (Austria), 19-20 September 2024
- 8.2. Any other business
- 8.3. Adoption of the Abridged Report and closing of the 66th meeting