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COMMITTEE OF LEGAL ADVISERS ON PUBLIC INTERNATIONAL LAW

(CAHDI)

Meeting report

69th meeting

25-26 September 2025

Strasbourg, France (hybrid meeting)

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

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1 INTRODUCTION

1.1 Opening of the meeting by the Chair, Ms Kerli VESKI

1. The Committee of Legal Advisers on Public International Law (CAHDI) held its 69th meeting in Strasbourg (France) on 25 – 26 September 2025, with Ms Kerli VESKI (Estonia) as the Chair. The meeting was held in hybrid format. The list of participants is set out in **Appendix I** to this report.

1.2 Adoption of the agenda

2. The CAHDI adopted its agenda as it appears in **Appendix II** to this report.

1.3 Adoption of the report of the 68th meeting

3. The CAHDI adopted the report of its 68th meeting (document CAHDI (2025) 11), held on 17-18 March 2025 in Strasbourg (France), with the proposed amendments and instructed the Secretariat to publish it on the Committee's website.

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

- ***Statement by Mr Jörg POLAKIEWICZ, Director of Legal Advice and Public International Law***

4. Mr Jörg POLAKIEWICZ, Director of Legal Advice and Public International Law (DLAPIL) informed the delegations of recent developments within the Council of Europe since the last CAHDI meeting. The speaking notes of Mr POLAKIEWICZ are set out in **Appendix III** to this report.

- ***Information provided by Ms Kerli VESKI, Chair of the CAHDI***

5. The Chair reported on her participation in the Third Meeting of the Secretary General with Chairs of the Intergovernmental Committees of the Council of Europe, held on 24 April 2025. The meeting brought together a wide variety of very different committees and proved to be a particularly rich exchange. The seminar focused on the challenges facing democracy in Europe and the role of the Council of Europe in shaping a New Democratic Pact for Europe. Common themes emerging from the workshops included, for instance, the urgent need to reinforce public trust in democratic institutions, the necessity for stronger political commitment and a reassessment of democratic standards, and the role of education, communication, and citizen engagement in ensuring democratic resilience. The Chair of the CAHDI contributed in particular to Workshop 2 on Democratic Governance and Integrity, where the discussion emphasised democracy and the rule of law as inseparable concepts that must be protected together. In her interventions the Chair had recalled CAHDI's central role in supporting democratic governance and institutional integrity within the Council of Europe by ensuring that the Organisation's activities are firmly anchored in international law. She had also informed the other participants of recent legal opinions of the CAHDI, e.g. on Parliamentary Assembly of the Council of Europe (PACE) Recommendation 2288, clarifying the legal framework for the recognition of regional organisations under the UN Charter, and on PACE Recommendation 2289, concerning private military and security companies, reaffirming the obligations of states under international humanitarian law (IHL) and the protection of human rights. She had further highlighted discussions within the CAHDI on immunities of state and state officials in relation to serious international crimes, notably in the context of the aggression against Ukraine, and on other emerging issues such as submarine cables, pipelines, and non-legally binding international agreements. The topics covered demonstrated how CAHDI contributes to legality, transparency, and accountability – essential to the rule of law and democratic integrity. Participants had stressed, in particular, the importance of leveraging existing Council of Europe standards and conventions, the need to adapt them to new challenges such as the implications of artificial intelligence, the misuse of international law as a threat to democracy, and the value of closer co-operation between intergovernmental committees on these issues. Overall, the meeting had highlighted the Council of Europe's unique role in providing standards, guidance, and coordinated responses to today's crises. The participants had expressed particular appreciation to the CAHDI's contribution in ensuring that the Organisation's actions remain

firmly grounded in the rule of law, thus reinforcing democratic governance and integrity across Europe.

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

2.1 CAHDI 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 - Committee of Ministers' Follow-up

6. The Chair recalled that, at their 1488th meeting (7–8 February 2024), the Ministers' Deputies had requested the CAHDI to prepare, under a restricted regime, 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 (ECtHR). A working group established for this purpose met several times between June and August 2024 and presented its findings at the 67th CAHDI meeting in Vienna. The final document (CAHDI (2024) 29 *Confidential*) was adopted by written procedure on 23 December 2024.
7. The Chair informed the Committee that, at their 1527th meeting (30 April 2025), the Ministers' Deputies had taken note of the indicative overview and decided to transmit it to the Ministers' Deputies in the context of their annual exchange on pending cases against the Russian Federation. The Chair also noted that the PACE had referred to the overview in its report of 19 March 2025 on the implementation of ECtHR judgments. Furthermore, in April 2025, PACE had adopted a motion to continue its work on this subject, and another report on the same topic was in preparation.

2.2 Opinion of the CAHDI on ad hoc European Committee for the World Anti-Doping Agency (CAHAMA) - feasibility of WADA imposing consequences on states for the voluntary withholding of financial contributions

8. The Chair recalled that, at their 1526th meeting (23 April 2025), the Ministers' Deputies had requested the CAHDI to prepare an opinion for the benefit of the ad hoc European Committee for the World Anti-Doping Agency (CAHAMA) concerning the feasibility of the World Anti-Doping Agency (WADA) imposing consequences on States for the voluntary withholding of financial contributions. The opinion, set out in document CAHDI (2025) 12, was adopted by written procedure on 4 July 2025.
9. The Chair noted that the opinion addressed two main questions: WADA's legal capacity to impose such consequences and the possible designation of the Court of Arbitration for Sport (CAS) as the exclusive dispute settlement mechanism. The CAHDI concluded that WADA's competence in this regard was limited to its internal institutional framework, and that exclusivity of recourse to CAS would be legitimate only with the clear and prior consent of all parties concerned.
10. The Chair informed the Committee that, at their 1536th meeting (3 September 2025), the Ministers' Deputies had taken note of the opinion and instructed the Secretariat to transmit it to CAHAMA for consideration. On the same day, the Secretariat had presented the opinion at a CAHAMA meeting, where it was met with broad support.

2.3 CAHDI Terms of Reference 2024-2027 – Consultation on the activities

11. The Chair recalled that the terms of reference of intergovernmental committees were established for four-year periods, with definitive approval for the first two years and provisional approval for the following two. In this context, the CAHDI held an exchange of views on its current activities and working methods in the light of its terms of reference for 2024–2027, as contained in document CAHDI (2025) 1 prov.
12. The Chair explained that document CAHDI (2025) 1 prov outlined proposed technical amendments to the main tasks, designed to underline CAHDI's potential contribution, where relevant, to the process towards a New Democratic Pact for Europe, in line with the key findings of the Secretary General's 2025 report. She also invited delegations to reflect on the relevance

of certain CAHDI activities and documents in view of resource considerations and shifting priorities.

13. The CAHDI held an exchange of views on its current activities and working methods in the light of its terms of reference for 2024–2027. In this context, the Chair proposed that the Committee consider the continued utility of its compilation of the case law of ECtHR, the developments concerning the International Criminal Court (ICC) and other international criminal tribunals, and the document on the means of peaceful settlement of disputes.
14. Several delegations took the floor. The representatives of France, Norway, Poland, Romania, Sweden, Switzerland and the United Kingdom expressed general support for the Chair's proposals, noting the resource constraints faced by all institutions and the opportunity to reallocate Secretariat resources towards more pressing issues. The representative of the United Kingdom underlined that discontinuing the compilation of publicly available information would not prevent delegations from raising relevant cases under the respective agenda items.
15. The representatives of Cyprus, France and Greece expressed a preference for maintaining, in some form, the compilation of the case law of the ECtHR, given its continued usefulness for delegations. The representative of Poland suggested amending the title of this compilation to refer to "general international law" to better reflect its content. The representative of Iceland sought clarification regarding the possibility of continuing to provide oral updates on certain issues. In reply, the Chair confirmed that contributions on those issues would find reflection in the CAHDI meeting reports.
16. The CAHDI recognised the usefulness of these documents and their contribution to its work. Taking into account resource constraints and the evolving agenda of the Committee, it decided to maintain, under a revised title, the compilation of the case law of the ECtHR relating to *general international law*. The CAHDI agreed, however, to cease, for the time being, the periodic preparation of the compilation of developments concerning the ICC and other international criminal tribunals, as well as the document on peaceful settlement of disputes, while keeping these subjects as standing agenda items.

2.4 Other Committee of Ministers' decisions of relevance to the CAHDI's activities

17. The Chair presented a compilation of Committee of Ministers' decisions of relevance to the CAHDI's activities (document CAHDI (2025) 13), prepared by the Secretariat. Chapter I of the compilation covered decisions directly concerning the CAHDI, Chapter II addressed the stocktaking document of the Luxembourg Presidency of the Committee of Ministers (November 2024 – May 2025) and to the priorities of the subsequent Maltese Presidency (May – November 2025), while Chapter III was devoted to the situation in Ukraine.
18. No delegation took the floor under this sub-item.

3 CAHDI DATABASES AND QUESTIONNAIRES

19. The Chair introduced the item by recalling that the CAHDI entertained a variety of questionnaires and databases, especially in the field of issues related to immunities of states and international organisations, but also in relation to other areas of particular interest for the CAHDI. She recalled that all CAHDI questionnaires under this item were now publicly available on the CAHDI website. Apart from this website, information on the exact number of replies and the names of the states having submitted their replies so far could be found in the annotated agenda. The Chair encouraged all delegations to continue sending new or updated contributions to all questionnaires and databases under this item, as these represent an important outreach activity of the work of the CAHDI that should not be underestimated. The Chair underlined the need to keep the information in the database up to date for it to remain relevant - not only for the CAHDI's own use, but also for the outside world, including researchers, students and journalists. The Chair then gave the floor to the representative of the Secretariat to demonstrate where the three searchable databases (<https://www.coe.int/en/web/cahdi/databases>) and the replies to the six questionnaires (<https://www.coe.int/en/web/cahdi/questionnaires2>) can be found on the public CAHDI website. The replies to the questionnaires have not yet have been processed into a searchable

database format and will therefore only be available as direct country submissions. The integration of these replies into a searchable database format would require specific IT developments and corresponding resources for which additional funding would be needed before restructuring could be undertaken. Upon a question by the Norwegian delegation, the representative of the Secretariat explained that updates or new contributions to the databases could be uploaded directly by delegations via the CAHDI collaborative space while any new or updated replies to the questionnaires should be sent by e-mail to the Secretariat.

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

20. The Chair noted that there had been no proposals for exchanges of views on topical issues in relation to the subject matter of the item. Thus, she invited delegations to share information on recent developments concerning state practice and relevant case law in their countries regarding the topic of immunities.
21. The representative of the United States of America provided an update regarding the case of [*Devas v. Antrix*](#),¹ which was already mentioned in March 2025, during the 68th CAHDI meeting. This case concerns the recognition and enforcement of an Indian arbitral award in the U.S. under the 1958 United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention). The fundamental question in that case was whether a plaintiff must establish “minimum jurisdictional contacts” to establish personal jurisdiction over a foreign state under the Foreign Sovereign Immunities Act (FSIA). The representative drew the attention of the CAHDI delegations to the fact that, in June 2025, the U.S. Supreme Court adopted the U.S. Government position that the FSIA does not require a free-standing minimum contacts test to establish personal jurisdiction over a foreign state.² Personal jurisdiction exists under the FSIA where an exception to immunity applies and proper service is made. The Court declined to rule on whether states are to be considered to fall under “persons” under the Fifth Amendment.
22. The representative of INTERPOL presented developments regarding INTERPOL's General Agreement on Privileges and Immunities (General Agreement) with potential implications for the broader landscape of immunities of international organisations. The process of developing the General Agreement was launched in 2022 through an outreach programme with member countries. Until then INTERPOL had only enjoyed privileges and immunities pursuant to bilateral agreements on a permanent basis for its duty stations, or on a temporary basis for conferences.
23. At the INTERPOL Centenary General Assembly, INTERPOL's governing body, in Vienna in 2023, a draft General Agreement was introduced as the basis for consulting with member countries. Three rounds of consultations were organised that brought together officials from ministries of Foreign Affairs from 89 member countries, who shared their diverse and profound experiences and perspectives on the challenges and limitations of the current framework, i.e. the 1946 and 1947 UN Conventions and the 1959 IAEA Convention. The participating officials expressed eagerness to explore new approaches and solutions and acknowledged that the existing conventions, which had been established decades ago, were no longer sufficient to address the complex issues and threats that the world faces today.
24. The consultations resulted in a modified draft General Agreement that was then taken up by a drafting committee established in November 2024 and composed of twelve experts from around the world. The drafting committee was able to finalise the text of the General Agreement, with most articles being agreed by consensus. However, the drafting committee faced challenges in reaching a consensus on certain articles, particularly those related to immunity from legal process and settlement of disputes with third parties. Despite these challenges, the drafting committee's work resulted in a comprehensive and modern draft General Agreement.

¹ US Supreme Court, *Devas (Mauritius) Limited, et al., Petitioners v. Antrix Corp. Ltd., et al.*, No. 23-1201,.

² See US Supreme Court, *Devas (Mauritius) Limited, et al., Petitioners v. Antrix Corp. Ltd., et al.*, No. 23-1201.

25. The representative of INTERPOL then highlighted some key developments that took place during the drafting process, and which indicate some changes to this area of law. Firstly, the experts on the drafting committee revisited the fundamental clause of immunity from "every form of legal process." After careful consideration, they decided to modify this to "immunity from judicial and other forms of legal process." This change acknowledges the increasing complexity of national administrations and the various governmental offices that may interact with international organisations. In practice, international organisations have adopted a broad interpretation of this clause, but from the perspective of states, as conveyed through the experts on the drafting committee, this was not clear on a national level. The dramatic increase in the size and complexity of national administrations since the mid-twentieth century has led to a proliferation of governmental offices with the power to address complaints, issue notices, and enforce regulations. The experts recognised that many of these offices may not be aware of the privileges and immunities of international organisations, and this clarification will help to avoid potential misunderstandings.
26. Another important development concerns non-staff employment, including service contracts and consultants. While the original conventions were silent on this issue, the experts on the drafting committee noted that there have been reports of international organisations abusing their privileges and immunities to avoid valid claims for remuneration. Although some proposals suggested exempting such contracts from immunity entirely, others drew inspiration from the 2004 United Nations Convention on the Jurisdictional Immunity of States and their Property, specifically Article 10, which addresses this issue in some detail. The prevailing view was that the aforementioned Convention was not an appropriate basis to cover international organisations in relation to states. This was partly due to the significant differences in form and format, the substantial differences in the relations of states with each other, and the relations of states with international organisations. It was ultimately decided that prospective states parties may elect to except immunity for contracts of employment by way of reservations, but that the General Agreement itself should not go into this level of detail. Furthermore, the experts emphasised the importance of providing appropriate modes of settlement of disputes. One such mode, discussed but not adopted, was cost-free arbitration. The representative noted that this might be an emerging preference as greater experience with alternative modes of dispute settlement has led to more scrutiny of these by national governments in their relations with international organisations.
27. The experts on the drafting committee also made significant changes regarding the privileges and immunities of family members. In most cases, they removed these privileges to prevent potential abuse. However, they maintained those connected to repatriation facilities in times of international crisis, which is a crucial exception. This decision reflects a careful balancing of the need to prevent abuse with the need to provide necessary protections for family members in exceptional circumstances.
28. In addition, the experts introduced specific and detailed amendment procedures, departing from the brief and vague clauses found in most conventions on privileges and immunities. The committee drew inspiration from the 2002 Agreement on the Privileges and Immunities of the ICC, which provides a clear and detailed procedure for amendment, in its Article 36. This approach recognises that amendment articles should be thorough and detailed from the outset, allowing for more effective and efficient revisions in the future. The experts noted that the brief and vague amendment clauses in other conventions have rendered those instruments *de facto* impossible to amend, and they sought to avoid this pitfall in INTERPOL's General Agreement. The representative noted the experts' decision to include detailed amendment procedures to be particularly significant in light of the experience with other conventions on privileges and immunities. The 1946 Convention on the Privileges And Immunities of the United Nations does not even have an amendment clause, and the 1947 Convention on the Privileges and Immunities of the Specialized Agencies has a very general clause that has proven ineffective in practice. The experts recognised that a modern agreement on privileges and immunities must be adaptable and responsive to changing circumstances, and they designed the amendment procedures with this goal in mind.

29. The representative of INTERPOL concluded his intervention by thanking the many member countries, represented in the CAHDI, who participated in the consultations, including especially Austria, Poland and Serbia, who served on the drafting committee and whose expertise helped INTERPOL in reaching a final text, copies of which have been shared with CAHDI delegations. The General Agreement was circulated through INTERPOL channels on 26 August 2025, and many CAHDI delegations will take part in the approval process necessary for the General Agreement to be adopted, signed, and ratified.
30. The representative of Belgium informed the CAHDI delegations about a recent ruling issued by the Belgian Court of Cassation on 2 May 2025. The ruling concerns a request for the relinquishment of jurisdiction by a Court of Appeal on the grounds of "legitimate suspicion". The request for recusal on grounds of legitimate suspicion was based on the fact that the respondent, an international organisation with its headquarters in Belgium, had sent letters to the First Instance Tribunal and then to the Court of Appeal to remind them of its immunities from jurisdiction and from execution, thereby preventing it from appearing before the Belgian courts, unless it waived its immunity. The applicant argued that, during the Court of Appeal hearing, the judge referred to an attempt to influence the First Instance Tribunal and then the Court of Appeal by sending these letters, thereby jeopardising the appearance of impartiality. He brought proceedings before the Court of Cassation to denounce an attempt by the international organisation and the Government of Belgium, which had voluntarily intervened in the case, to exert pressure. Before the Court of Cassation, the President of the Court of Appeal referred to the Belgian Government's argument that these letters were a courtesy on the part of the organisation and were intended to explain why it was not appearing in court. The Belgian representative emphasised the complete transparency of the proceedings and the inclusion of these letters in the proceedings by the Government of Belgium. In its ruling of 2 May 2025, the Court of Cassation concluded that the mere reference to conventional immunity did not in any way imply an attempt to influence the judge who would have to rule on the case. There was, therefore, no question of a lack of impartiality justifying legitimate suspicion.
31. The representative of France drew the attention of the CAHDI delegations to two important judgments delivered by the French Court of Cassation on 25 July 2025. The first relates to the issuance of an arrest warrant against former Syrian President Bashar Al Assad, in which the Court of Cassation confirmed that a sitting Head of State enjoys personal immunity that cannot be subject to any exceptions. However, the Court of Cassation specified that, since Mr Bashar Al Assad was no longer in office, new warrants could be issued against him for crimes against humanity or war crimes.³ The second case concerns the issuance of an arrest warrant against the former Director of the Syrian Central Bank for complicity in the manufacture of chemical weapons constituting war crimes and crimes against humanity, recognising the existence of an exception to the functional immunities of state agents in cases of war crimes, crimes against humanity or genocide.⁴ The delegate characterised the two decisions of the Court of Cassation as clear and rigorous, and, in his view, they make it possible to preserve an important principle of international law while taking into account recent practice in international law tending to recognise an exception to functional immunity in cases of war crimes, crimes against humanity, or genocide.

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

32. The Chair invited delegations to report on judgments and decisions, rendered by the ECtHR involving issues of public international law.

³ Court of Cassation, Plenary Assembly, 25 July 2025, [24-84.393](#), published in the bulletin.

⁴ Court of Cassation, Plenary Assembly, 25 July 2025, [24-84.071](#), published in the bulletin.

33. The representative of Latvia drew the attention of CAHDI delegations to the ECtHR's judgment in the case of [Rodina and Borisova v. Latvia](#).⁵ This case concerns the authorities' refusal to allow the applicants to organise public assemblies near the Soviet Victory Monument in Riga and in front of the Embassy of Ukraine in 2014. The ECtHR underlined that the protests had had the aim of either denigrating the Latvian nation and language, or supporting illegal separatist groups in Ukraine, set against a background of tensions in Latvia and threat from Russia in the region. Overall, the bans had "met a pressing social need" and been found proportionate. She then highlighted some elements of the case that are worth noting in the context of public international law. Firstly, the ECtHR had engaged in a dialogue with domestic courts on the application of principles of international law and prohibition of the use of force in international relations, agreeing that activities of the applicants "had been directed against the territorial integrity and sovereignty of Ukraine". Secondly, the ECtHR had built its findings on the context established in the case of *Ukraine and the Netherlands v. Russia*⁶ and the judgment contains several references to the former judgment. Thirdly, and importantly, the ECtHR took into account considerations of national security, Latvia's unlawful occupation and annexation by the Soviet Union, and the geopolitical context, noting that the situation in Latvia in 2014 was more tense than in the preceding years.
34. The representative of Cyprus informed the CAHDI delegations about the judgment in the case of [K.V. Mediterranean Tours Limited v. Türkiye](#).⁷ Already in 2010 the ECtHR had found the Immovable Property Commission (IPC) set up by Türkiye to be a domestic remedy for the purposes of Article 35 of the Convention with regard to the violation of property rights of displaced owners from the occupied part of the Republic of Cyprus.⁸ In the present case, the ECtHR found Türkiye in breach of Article 1 of Protocol No. 1 to the European Convention on Human Rights (ECHR) due to IPC's lack of due diligence and appropriate expedition in examining the applicant company's property claim pending since 2010. The ECtHR further applied Article 46 of the ECHR to assess Türkiye's compliance with its Convention obligations regarding the effective functioning of the IPC, bearing in mind that this issue has already been the subject of well-established case law. In this respect, the ECtHR emphasised that consistent and long-term efforts remain necessary to achieve compliance, particularly with regard to accelerating proceedings and creating effective remedies for addressing delays. The representative of Cyprus noted that, by invoking Article 46 of the ECHR, the ECtHR effectively issued a judicial warning to Türkiye regarding the systemic flaws of the IPC, underlining the need for its continued supervision by the Committee of Ministers. The representative further highlighted the impact of the judgment in the context of the debate within the Committee of Ministers regarding Türkiye's compliance with the ECtHR's judgment of 2001 in the fourth interstate case of *Cyprus v. Türkiye*⁹ concerning the continuing violation of the property rights of displaced persons. In her view, the ECtHR's judgment in the present case indicates that, despite Türkiye's assertion that the establishment of the IPC signifies full compliance with the 2001 judgment, twenty years after the IPC's establishment, this compliance remains unachieved. She maintained that even a perfectly functioning IPC will not discharge, on its own, Türkiye's obligations under the interstate judgment until it has also stopped its continuing practice of developing or selling off property belonging to displaced owners to developers. She noted that, in this context, paragraph 63 of the ECtHR's 2014 pioneer judgment on just satisfaction in the case of *Cyprus v. Türkiye*¹⁰ was clear. Any dispute over the interpretation of this paragraph should be resolved by the ECtHR under Article 46(3) of the ECHR. The representative of Cyprus concluded her intervention by addressing the order for just satisfaction in the judgment. Due to the length of the proceedings, Türkiye was ordered to pay non-pecuniary damages as well as costs and expenses. With respect to pecuniary damages,

⁵ ECtHR, [Rodina and Borisova v. Latvia](#), nos. 2623/16 and 2299/16, 10 July 2025.

⁶ ECtHR, [Ukraine and the Netherlands v. Russia](#) [GC], nos. 8019/16, 43800/14, 28525/20, and 11055/22, 9 July 2025.

⁷ ECtHR, [K.V. Mediterranean Tours Limited v. Türkiye](#), no. 41120/17, 10 June 2025.

⁸ ECtHR, [Demopoulos and Others v. Türkiye](#) (dec.) [GC], nos. 46113/99, 3843/02, 13751/02, 13466/03, 10200/04, 14163/04, 19993/04, and 21819/04, 1 March 2010.

⁹ ECtHR, [Cyprus v. Türkiye](#) [GC], no. 25781/94, 10 May 2001.

¹⁰ ECtHR, [Cyprus v. Türkiye](#) [GC], no. 25781/94, 12 May 2014.

the ECtHR considered that the delays in dealing with the applicant's case were so substantial that an award of pecuniary damages, including compensation for loss of use, might be necessary to prevent a denial of justice and reserved its assessment for a later stage. This is the first time that the ECtHR has explicitly ordered the future assessment of pecuniary damages in similar cases, setting an important precedent in this regard.

35. Also the representative of Türkiye referred to the ECtHR's findings regarding the IPC in the case of *K.V. Mediterranean Tours Limited v. Türkiye*. He noted that the ECtHR had once again confirmed that the IPC constitutes an effective remedy. The ECtHR had further reiterated that the IPC is recognised as a legal avenue for Greek Cypriots seeking to assert their rights before the ECtHR. He underlined reaffirmation of the "Turkish Republic of Northern Cyprus (TRNC)" authorities' commitment to continuing the work of the IPC.

5.2 National implementation measures of UN sanctions and respect for human rights

36. No delegation took the floor under this sub-item.

6 TREATY LAW

6.1 Exchanges of views on topical issues related to treaty law

- *Discussion on non-legally binding instruments in international law*

37. Under agenda item 6.1, the CAHDI resumed its deliberations on topical issues related to treaty law. The Chair recalled that at its 67th meeting, the CAHDI had tasked the Secretariat with preparing a structured, non-prescriptive compilation of national legislation, guidelines, glossaries, and related documentation. Delegations had been invited to submit materials, and the Secretariat had also conducted its own research based on publicly available information and sources referenced in the replies to the questionnaire. The resulting compilation, document CAHDI (2025) 3 Confidential, now comprised material from 15 countries with Australia having been included as a new entry. The reply of the Republic of Croatia had been received earlier that week, but it had not made it into the compilation in time for the CAHDI meeting.
38. The Chair informed delegations that the appended glossary was now organised by states rather than by languages, following the request of the Swiss Delegation at the 68th CAHDI meeting. Some of the translations of the original responses into English had further been checked with the assistance of the respective delegations.
39. The Chair stressed the need for more delegations to submit their replies to the questionnaire. Reference was made to the analytical report originally drafted by Professor ZIMMERMANN from the University of Potsdam and presented at the 64th meeting of the CAHDI in March 2023. The report contained responses and accompanying materials from 38 states and organisations. As a new document, the Chair presented the concept note prepared by the CAHDI Secretariat on the methodology for compiling best practices in the field of non-legally binding instruments.
40. The Chair explained that the first step was now to thoroughly analyse the analytical report originally prepared by Professor ZIMMERMAN, and that the CAHDI Secretariat could conduct this work in collaboration with a small drafting group to be established amongst CAHDI delegations. The aim of this analysis would be to extract common themes, innovative solutions, and reoccurring challenges from the responses and that the Secretariat could specifically prepare an analytical matrix mapping how each jurisdiction handles key questions, including on aspects such as definitions, criteria for choosing a non-legally binding agreement versus a treaty, or internal approval processes. She emphasised that such a matrix could be used to identify areas where practises converge, potentially indicating room for merging best practices, or at least good practices, and where they diverge. In conducting the analysis, any supplementary materials should also be reviewed. The Chair added that the comparative approach the analysis would follow should be similar to methodologies used in other Council of Europe cross-country studies. This approach would ensure that the compendium is grounded in the factual experience of CAHDI members, rather than in an abstract theory. A

crucial methodological step was to establish criteria for what constitutes a best practice in such a context e.g. as to legal clarity, effectiveness and good governance. The Chair suggested that the CAHDI adopt a set of evaluation criteria informed by both the nature of non-binding instruments and general best practice standards, and that, by articulating clear criteria upfront, a transparent and objective basis for determining which practices deserve to be highlighted as best practices is ensured.

41. As to next steps, the Chair proposed that a small drafting group amongst CAHDI delegations would be established. The group's objective would be to develop the text of the draft compendium, working inter-sessionally via written procedure and virtual meetings, and refining the selection of best practices, draft narrative descriptions and explanations for each, and compile any model clauses or examples to include. Where appropriate, an academic expert could occasionally be invited to address the group. The Chair added that communication with CAHDI delegations on the progress made by the drafting group would be guaranteed throughout.

Discussion on follow-up actions and way forward

42. The representative of Germany thanked the Secretariat for the extensive work put into this matter and explained that Germany had taken good note of the concept note on methodology and considered it an excellent framework and an important step to keep the momentum in CAHDI's work to bring about a process that can lead to tangible results. His delegation welcomed the idea of a working group. Germany was willing to participate in it and willing to provide an academic expert. In his view also the 12-month timeline seemed to be a very reasonable one.
43. The representative of Greece thanked the Secretariat for preparing the methodology for the best practices compendium, as well as the compilation of national approaches regarding non-legally binding instruments, including the glossary. Her delegation was, however, concerned about presenting any practice as a rule. The aim of the exercise should rather be to guide and inspire in a descriptive manner, to provide legal certainty without creating new obligations or rules which could "endanger the flexibility related to the use of non-binding international instruments". She further explained her delegation's preference for avoiding the use of the word "exemplary". The representative further expressed her delegation's interest in participating in the drafting group.
44. The representative of Finland expressed her delegation's position that it would be highly beneficial if the work of the CAHDI could culminate in a concrete outcome such as a compilation of best practices. She further expressed her delegation's support for the general approach to the draft skeleton of the compendium and its willingness to actively contribute to the process moving forward.
45. The representative of Ireland expressed his delegation's view that the methodology appeared very thorough and the criteria for establishing best practices reasonable and fair, but pointed out to the difficulty in ensuring transparency in relation to non-binding instruments dealing with confidential matters. He endorsed the idea that drafts should be returned regularly to the CAHDI in order to provide an opportunity for all delegations to review and comment on the work being done. Lastly, he expressed agreement with the suggested 12-month timeline but also indicated his delegation's preparedness for that timeframe to be extended.
46. The representative of Slovenia expressed further support for the methodology for best practices and the compendium on non-legally binding instruments and expressed her delegation's interest in participating in the drafting group.
47. The representative of the United Kingdom thanked the Secretariat for the work conducted but expressed her delegation's doubts about the scope of the project and the feasibility of completing it within the suggested 12-month deadline. She concurred with the representative of Greece in her view that the work should not become too prescriptive. She also concurred with the representative of Ireland in the view that the drafting group should regularly report back to the CAHDI and suggested that the group would proceed in stages. She further indicated her delegation's willingness to actively participate in the drafting group.

48. The representative of the United States joined other delegations in sharing concerns about the potential prescriptive nature of the project, and cautioned against any outcome that could undermine or constrain the flexibility that states have in using non-binding instruments. His delegation would support a descriptive approach that could include practice tips.
49. The representative of Cyprus thanked the Secretariat for the work conducted but expressed concerns as to the envisaged timeline.
50. The representative of Switzerland thanked the Secretariat for the work conducted, as well as all delegations for the significant and positive feedback, which in his view showed an interest in the work. He expressed his delegation's support for the project, but shared concerns about its potential prescriptive nature, which could restrict the flexibility allowed by non-binding instruments. He stressed the need for the work to be informative, but neither normative nor prescriptive.
51. The representative of NATO expressed doubts about the applicability of the conceptual distinction between international and domestic arrangements to international organizations, as all instruments developed by them would be international. This raises questions as to whether it is useful to include instruments by international organizations within the scope of the work of CAHDI. Should the drafting group decide to include existing practice of international organisations in the project, his organisation was however prepared to support the discussions.
52. The representative of Mexico thanked the Secretariat for the work done and expressed his delegation's support for the proposed methodology in order to produce a compilation of best practices. He pointed to the guidelines issued by the Inter-American Juridical Committee in August 2020 and stressed their potential use as a source of reference for the work of the CAHDI.
53. The representative of the Netherlands expressed his delegation's support for the Secretariat's proposals and deemed the evaluation criteria as suggested in the working documents as appropriate for identifying good practices.
54. Following the discussion, the Chair summarised the key takeaways and proposed a way forward. The drafting group would be initiated. Interested delegations were to communicate their intention to participate in writing to the Secretariat. She suggested that the work be conducted step by step, starting with the scope and terminology, and that the drafting group would then report back to the CAHDI so that delegations have the opportunity to assess the first phase, and decide on the way forward only then. She further expressed the intention of considering an extension of the envisaged 12-month deadline and pointed out that it would be up to the CAHDI delegations to decide on every aspect.

- ***Exchange of views on treaties not requiring parliamentary approval***

55. The Chair recalled that the questionnaire had been prepared by Slovenia and approved by CAHDI via written procedure on 15 June 2022, as reflected in document CAHDI (2022) 3 rev Confidential. The main trends arising from the replies received were summarised in document CAHDI (2024) 11 prov Confidential, dated 31 March 2024, while the complete replies were compiled in document CAHDI (2025) 17 prov, dated 15 September 2025. To date, 28 delegations had submitted replies. The Chair noted that four new replies had been received since the previous CAHDI meeting and encouraged additional delegations to participate in order to broaden the basis for the analysis. Delegations were also invited to discuss possible next steps for the project.
56. The representative of Slovenia began by thanking all delegations that had submitted their replies to the questionnaires and reiterated the call for additional contributions, stressing that a higher number of replies would significantly enhance the understanding of divergent national practices on treaties that do not require parliamentary approval. She welcomed the suggestion to prepare a more detailed analysis and identify legal approaches, including common patterns in practice of states.
57. The Chair thanked the representative of Slovenia and opened the floor for comments and suggestions from other delegations. As no delegation requested the floor, the Chair proposed

adopting Slovenia's suggestion as the working approach: to encourage further replies to the questionnaire and revisit the question of follow-up actions once more comprehensive data would be compiled. No objections were raised.

- ***Exchange of views on soft law instruments***

58. The CAHDI then proceeded to the next sub-item focusing on international soft law instruments and their implications for the legal departments of Ministries of Foreign Affairs. This topic was placed on CAHDI's agenda at its 63rd meeting (22-23 September 2022 in Bucharest, Romania) following a proposal from the Italian delegation. At the 65th meeting (28–29 September 2023 in Strasbourg, France), a questionnaire on the issue was formally adopted, as prepared and subsequently amended in consultation with delegations. The final version is reflected in document CAHDI (2023) 19 Restricted, dated 23 September 2023. The Chair announced that to date, nine delegations had submitted replies to the questionnaire, compiled in document CAHDI (2025) 6 *prov Confidential Bilingual*, dated 7 March 2025. The Chair also informed delegations that the reply from Greece had been received earlier that week and had hence not made it into the compilation in time for the CAHDI meeting.
59. The floor was given to the representative of Italy as the promoter of the initiative. He expressed his delegation's view that this topic remained relevant for the CAHDI as it had also been included on the agenda of the Sixth Committee (Legal) of the United Nations General Assembly, which would meet the coming month. Further replies to the questionnaire would be welcome and his delegation would be in favour of tasking the Secretariat with working on some kind of work product identifying common patterns or trends once an indicative 15-20 replies to the questionnaire would be reached.
60. The representative of the United Kingdom expressed her concerns about a potential overlap between this and the non-binding instruments project and suggested that the two might be more efficient if merged. The representative of France concurred with the representative of the United Kingdom.
61. The representative of Italy acknowledged that there was a partial overlap between the two projects but indicated that the questionnaire on soft law instruments covered broader issues such as recommendations and practices in international organisations.
62. The representative of Norway concurred with the representative of Italy in that soft law may be a broader subject than non-legally binding instruments and expressed concerns that the root problem could reside in the fact that soft law is very vaguely defined, and that it could include everything from declarations to non-legally binding instruments to other types of documents.
63. The representative of Switzerland expressed his delegation's views that the topics were two distinct ones. He suggested that the new drafting group, alongside studying non-legally binding instruments, could also consider adding questions on soft law instruments.
64. The representative of Azerbaijan echoed the comments made by the representative of the United Kingdom. She further requested clarification on the practice of international organisations regarding non-legally binding instruments and requested the Secretariat to provide examples of practice.
65. The Secretariat recalled a previous CAHDI seminar, held in 2021, during which a presentation on the Council of Europe's practice on memoranda of understanding and other agreements was given, and which is still available online.
66. The representative of the European Union confirmed the wide-ranging experience of his organisation in concluding non-binding instruments and explained that his delegation's response to the questionnaire had been sent to the CAHDI Secretariat and was available online.
67. The Chair proposed adopting Italy's suggestion as the working approach: to encourage further replies to the questionnaire and to revisit the question of follow-up actions once more comprehensive data had been compiled. Furthermore, she suggested that the decision for a

potential combination of the work on soft law instruments and non-legally binding agreements be left to the new drafting group. No objections were raised.

- ***Discussion on the topic of suspension of multilateral treaties***

68. The Chair continued the discussion by giving the floor to the representative of Switzerland to explain his delegation's proposal to discuss the topic of suspension of multilateral treaties.
69. The representative of Switzerland explained that the procedures and conditions for the suspension of a multilateral treaty by a party to a treaty, according to Sections 2 and 3 of the Vienna Convention on the Law of Treaties (VCLT), and in particular, Article 62, had recently raised some practical questions. He explained his delegation's view that the CAHDI was the pertinent forum to discuss these issues amongst practitioners and proposed to include this topic under agenda item 6.1. He was eager to hear the view of other delegations on the period allowed to raise an objection according to Article 65, paragraph 2, of the VCLT. The provision foresaw a maximum deadline of three months except in cases of special urgency. In view of the Swiss representative, this led to the practical question of when the deadline would start to run in cases where there is no notification by the depositary. In his delegation's view it would be more practical to adopt the three-month deadline as the standard, in the interests of clarity. Moreover, his delegation was wondering whether, in the absence of a provision allowing for the suspension of a treaty, treaties dealing with IHL could be suspended during an armed conflict. He expressed his delegation's view that suspending such treaties during an armed conflict would be incompatible with their object and purpose. He added that the existence of an armed conflict would, in his delegation's view, not constitute a fundamental change of circumstances, given the treaty was established to be applied precisely in this context.
70. The Chair posed the question to delegations whether the suspension of treaties as a general topic would be something delegations would be interested in including as a sub-item in the CAHDI agenda.
71. The representative of Austria expressed his delegation's view that if the declaration of suspension was to be treated as invalid, the same deadlock as to with reservations would surpass, where the International Law Commission (ILC) provides a deadline for reactions to reservations for transparency reasons, but reservations remain valid regardless of whether there are any reactions or not. Following this reasoning, he expressed the view that there was no legal obligation for states to meet the deadline for reacting to such reservations or declarations. Furthermore, he added that if such a suspension was not notified, no binding deadline could be imposed. Lastly, he echoed Switzerland's views with regards to the application of IHL treaties.
72. The representative of Germany explained that his delegation worked on the preliminary assumption that, under the VCLT, states should raise objections within three months after the receipt of the notification of a suspension if the suspending state has not set a longer period and there is, on the other hand, no special urgency. While he acknowledged that there is almost no state practice nor any academic work regarding these issues, he stated that the wording of Article 65 of the VCLT and its object and purpose aim at creating legal certainty and preventing the abuse of suspensions, speaking in favour of working with a clear and objective timeline provided by Article 65 of the VCLT. Regarding the suspension of IHL treaties during armed conflict, he stated that, while his delegation would agree in general with the points made by Switzerland, Germany would also add that, under certain circumstances, a suspension may be regarded valid. He drew delegations' attention to the International Court of Justice (ICJ) Advisory Opinion in 1996 on the *Legality of the Threat or Use of Nuclear Weapons*, where the ICJ stated that it is a fundamental right of every state to try to survive and, in extreme circumstances of self-defence, if an armed conflict posed an existential threat to the existence of that state, there could be arguments that speak in favour of an exception to the exemption mentioned by Switzerland.
73. The representative of France thanked the delegation of Switzerland for the proposal and concurred with the latter's view on the unacceptability of suspending IHL treaties in circumstances of armed conflict. Nevertheless, he expressed his delegation's view that a more

detailed and case-by-case analysis was needed. Therefore, he expressed his delegation's agreement with the inclusion of this topic on the agenda of the CAHDI.

74. The representative of Belgium thanked Switzerland and other delegations for the discussion and the questions raised so far. He expressed his delegation's view that the general principle as laid out in Article 65 of the VCLT would apply. He specified that, therefore, an objection should be mentioned within three months unless another timeline has been provided. While he concurred with the opinion that a case-by-case analysis was preferred, he stated his delegation's view that, in general, suspension of treaties on IHL because of an armed conflict would be against the very object and purpose of the treaty. He provided examples of IHL instruments where withdrawal by a party involved in an armed conflict was not considered as submitted in the absence of a peace treaty, while others contained a specific provision allowing for suspension. He concluded by stating that, in his delegation's view, an armed conflict would also not constitute a "fundamental change of circumstances" allowing for suspension of an IHL treaty under Article 62 of the VCLT.
75. The representative of Ukraine thanked Switzerland for the draft non-paper that had been shared with his delegation prior to the meeting and for bringing this topic to the attention of the CAHDI. He explained his delegation's view that, given that the treaty in itself did not prohibit suspension, it should be allowed under the general provisions of the VCLT. He also added that, if no explicit time limit is indicated either by the suspending party or by the depository, the obligation of good faith requires states intending to object to do so within a reasonable time, taking into account the urgency and gravity of the situation. He expressed his delegation's view that silence by other states' parties to the multilateral treaty beyond the three-month period should reasonably be taken as acquiescence. He concurred with the representative of Germany that some wars may be "existential" and argued that, in such cases, suspending a multilateral treaty, even in the field of IHL, should remain be possible.
76. The representative of Norway thanked Switzerland and other delegations for their contributions to the discussion of this topic. He stressed that the primary source for determining what is allowed in terms of suspension or withdrawal is the treaty itself and added that the VCLT simply provided general principles of treaty interpretation. He expressed his delegation's view that the VCLT is a codification of customary international law but stressed that interpretation of a treaty under VCLT could not override clear provisions in the treaty itself. Moreover, he disagreed with the representative of Austria, arguing that impossibility of suspension would render a suspension null, and explained that, in his view, the interest in predictability spoke against such a situation. In this line, he expressed a preference for relying on Article 65 of the VCLT and accepting the three-month deadline for cases where there is no special urgency. He also expressed his delegation's view that in the absence of a provision allowing for a suspension, treaties on IHL cannot be suspended during an armed conflict. IHL norms are drafted with the intention of being applied during an armed conflict, and therefore their purpose would be defeated if they were to apply exclusively during peace time. He argued that the regulation of withdrawal, and the limitations placed on withdrawing from a treaty during an armed conflict, should not be circumvented by allowing a broad basis to suspend the treaty. He concluded by reminding delegations of the possibility of relying on the ILC's previous work on the effect of armed conflict on treaties.
77. The representative of Romania also thanked Switzerland for having brought this topic up for discussion and concurred with the interpretation given by the representative of Austria. She stated that while Romania was not a party to the VCLT, it did regard it as forming part of customary international law, except for the procedural aspects regulated in the Convention. She stressed that an invalid declaration of suspension remains valid irrespective of whether the states actually react to such a declaration. Furthermore, she concurred with other delegations' view that the suspension of an IHL treaty during an armed conflict was not allowed and that, if a suspension were to be admitted, it could only produce effects after the conflict had ended. She further stated that IHL treaties are "non-reciprocal", in the sense that a party does not stop being bound to the procedures simply because the other party to the armed conflict is not a party to that convention. In her delegation's view, a state which would suspend with immediate effect an IHL treaty during an armed conflict would be in violation of its

obligations under that treaty and therefore be responsible under the ILC's Draft Articles on State Responsibility.

78. The representative of the Permanent Court of Arbitration (PCA) shared with delegations a development concerning the suspension of treaties in the context of a pending dispute resolution procedure at the PCA. The representative recalled the facts of two ongoing procedures under the Indus Waters Treaty of 1960. In particular, following an attack by armed individuals in India-administered Jammu and Kashmir, India decided to hold the Indus Waters Treaty "in abeyance with immediate effect". In the face of these developments, the Court of Arbitration in the arbitration initiated by Pakistan under the Treaty issued a supplemental award on competence on 27 June 2025. The Court found that India's position of "abeyance" did not limit the competence of the Court over that dispute. The representative quoted a specific paragraph of the award that read: "The text of the Treaty, read in the light of its object and purpose, does not allow either party acting unilaterally to hold in abeyance or suspend an ongoing dispute settlement proceeding. Moreover, such a rule is confirmed by customary international law. Consequently, it is not open to India to take unilateral action that suspends these proceedings. The Court's competence is to be assessed based on the circumstances as they existed when Pakistan filed its Request for Arbitration".¹¹ The representative advised delegations to further consult the award on the PCA's website.
79. The Chair thanked all delegations for their interventions and asked the delegation of Switzerland on the preferred way forward.
80. The representative of Switzerland thanked all delegations for the valuable contributions, which his delegation saw as a reflection of the added value of the CAHDI as a discussion forum. He further asked the Secretariat to distribute the non-paper to all delegations and expressed his delegation's willingness to update it for the next CAHDI meeting, taking into account the questions posed by the preceding discussion.
81. The Chair suggested including a new sub-item on this topic in the agenda of the next CAHDI meeting and asked the delegation of Switzerland whether it would be possible to update the non-paper and distribute it amongst all delegations. The representative of Switzerland offered to circulate the already existing version of the non-paper during the meeting and to produce an updated version before the next CAHDI meeting.
82. The Chair proposed to adopt Switzerland's suggestion as the working approach: the updated non-paper would be shared with delegations before the next CAHDI meeting, and an updated version for a new sub-item would be included.
83. The representative of the Netherlands pointed out that the non-paper to be distributed by the delegation of Switzerland should not only address the field of the law of treaties, but also the field of the law on state responsibility. The representative of Switzerland explained that his delegation would prefer to first wait for the new Draft Articles from the ILC on State Responsibility. He pointed out that the non-paper to be distributed would not provide a complete answer to the discussion of suspension of treaties but rather function as a trigger for further discussion for the next CAHDI meeting.

6.2 Law and practice relating to reservations and interpretative declarations concerning international treaties: European Observatory of Reservations to International Treaties

- *List of reservations and declarations to international treaties subject to objection*

84. In the framework of its activity as the European Observatory of Reservations to International Treaties, the CAHDI examined a list of outstanding reservations and declarations to international treaties. The Chair presented the documents containing these reservations and declarations, which are subject to objection (CAHDI (2025) 14 Confidential). The Chair also drew the attention of delegations to document CAHDI (2025) Inf 2, containing reactions to

¹¹ PCA, [Indus Waters Western Rivers Arbitration \(Pakistan v. India\)](#) (2023-01), Supplemental Award on the Competence of the Court, 27 June 2025, para. 68.

reservations and declarations to international treaties previously examined by the CAHDI and for which the deadline for objecting had already expired.

85. The Chair explained that document CAHDI (2025) 14 included seven items identified by the Secretariat for possible examination. All seven related to treaties concluded outside the Council of Europe and six of them had been added to the list since the previous meeting. Where relevant, similar declarations would be grouped for joint discussion. The Chair would briefly outline each issue before opening the floor for comments or statements of intention to object.
86. With regard to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment (CAT), the Chair noted a reservation by which Dominica, on 5 December 2024, had excluded the application of Articles 20 and 30(1) of the CAT. The Chair pointed out that this wording exceeded the permissible scope for declarations under Article 8 of the CAT, particularly failing to respect the limitation expressed in the second sentence. The Chair pointed out that the CAT did not include any general prohibition of reservations and further specified that the establishment of the Committee against Torture constituted one of the main objectives of the CAT. No delegation wished to make a comment with regard to this item.
87. With regard to the Convention for the Pacific Settlement of International Disputes of 1907 (1907 Convention), the Chair noted a reservation by which Argentina, on 11 December 2024, had excluded the application of Articles 53, 54 and 58 of the 1907 Convention. The Chair recalled that this item had already been examined at the previous CAHDI meeting. No delegation wished to make a comment with regard to this item.
88. With regard to the International Convention for the Protection of all Persons from Enforced Disappearance (ICPPED), the Chair noted a reservation by which Poland, on 30 December 2024, had excluded the application of Article 25(4) of the ICPPED. The Chair explained that the ICPPED was silent on reservations.
89. The representative of Poland explained that the purpose of the reservation was to accommodate the obligation flowing from the ICPPED with the Polish legal order. He explained that Polish law envisaged simple and plenary adoption, and the two differed on a number of issues, including ties with the family of origin, parental authority, or the name of the adopted person. He further explained that, in the case of plenary adoption, all ties of the child with the old family are terminated and replaced with ties in the new family. He stated that, in principle, both types of adoption are revocable, but that if natural parents consented in court to a plenary adoption and did not designate the adoptive parents, the adoption could not be revoked. Therefore, in this very specific situation, Poland would not be able to follow obligations stemming from Article 25(4) of the ICEPPED to provide for legal procedures to annul adoption. No further delegations took the floor.
90. With regard to the United Nations Convention on International Settlement Agreements Resulting from Mediation of 2018 (Singapore Convention on Mediation), the Chair noted a reservation by which Israel, on 8 January 2025, had limited the application of the Convention only to the extent that the parties to the settlement agreement have agreed to the application of the Singapore Convention on Mediation. No delegation wished to make a comment on this item.
91. With regard to the United Nations Convention on the Use of Electronic Communications in International Contracts (UNECC), the Chair noted a declaration by which El Salvador, on 17 July 2025, had limited the application of the UNECC to acts or contracts that require special formalities which under Salvadorian legislation cannot be fulfilled through electronic means until the necessary legal reforms are enacted to enable such possibility. The Chair explained that the reservation in its present form could be seen to limit the scope of application of the UNECC by introducing a national law exception that may create legal uncertainty and undermine the uniform application of this provision, an issue that had often raised concerns in the CAHDI. No delegation wished to make a comment on this item.
92. With regard to the United Nations Convention against Transnational Organised Crime (UNTOC), the Chair noted several reservations and declarations by which the Islamic Republic

of Iran, on 6 August 2025, stated that it would interpret and implement the provisions of the UNTOC, including Article 2, 3, 5, 10, and 23, in accordance with its domestic laws and regulations, in particular the principles of its constitution. Furthermore, in cases where the implementation of paragraph 1 of Article 14 of the UNTOC requires utilisation of property in a manner contrary to Sharia law, the Islamic Republic of Iran stated that it does not consider itself bound by this provision. The Chair explained that this could represent impermissible national law exceptions that could create legal uncertainty and undermine the uniform application of the mentioned provisions. The Chair further introduced the second set of reservations made to the UNTOC by Iran, by which it declared that it would decide on a case-by-case basis on the application of Articles 15, 16, and 18 of the UNTOC regarding co-operation in matters related to extradition or mutual legal assistance. The Chair explained that, although it is habitual in the domain of criminal co-operation to subject the handling of respective requests to the conditions provided by the domestic law or the requested state party, it might not add to legal certainty if the applicability or non-applicability of the provisions of the UNTOC is left to an undefined case-by-case assessment. Apart from the reservations, the Chair also introduced two declarations made by Iran. The first declaration indicated Iran's wish for the ratification of the Convention to not "be construed in any manner [as] recognition of the Zionist occupying regime, the Israel regime". The second declaration made reference to the fact that "a referral of disputes to judicial forums or arbitration shall be solely subject to the provisions of principle 139 of the Constitution of the Islamic Republic of Iran". According to the Chair, the first one was unprecedented in CAHDI discussions. She explained that it was difficult to retrieve Iran's motivation behind such declarations, given that it had simultaneously made a declaration under Article 35(3) of the UNTOC, hence having declared already that it did not consider itself bound.

93. The representative of the United States explained that its delegation was considering objecting to Iran's reservations, as they seemed to raise serious questions of permissibility due to their lack of compatibility with the object and purpose of the UNTOC.
94. The representative of Norway expressed her delegation's assessment that the reservation made by Iran concerning Article 35(2) of the UNTOC was permissible. However, she expressed doubts as to the other reservations and welcomed other delegations' views on this matter.
95. The representative of the Netherlands expressed his delegation's views that the reservations with respect to Articles 2, 3, 5, 10, 14 and 23 of the UNTOC seemed to be incompatible with the object and purpose of the UNTOC and that his government was therefore considering objecting to them.
96. The representative of Germany expressed his delegation's view that, upon preliminary examination, the first, third and fourth reservations by Iran seemed to be incompatible with the object and purpose of the UNTOC and expressed their inclination to consider objections in that regard. He further stated his delegation's intention to approach Iran to further clarify the scope of its reservations, and to advocate for the partial withdrawal of the latter.
97. The representative of France concurred with previous speakers stating that his delegation was considering objecting to Iran's reservations. The representatives of Austria, Finland, Poland, Portugal and Switzerland also took the floor to concur with previous speakers and express their delegations' readiness to object to such reservations. No further delegations spoke on this item.
98. With regard to the European Agreement concerning the work of crews of vehicles engaged in international road transport (AETR), the Chair noted a reservation by which Israel, on 21 August 2025, reserved its right to use measures to be applied during the tolerance period with respect to the implementation of digital tachograph by the contracting parties to the AETR, during a period of two years after Israel's accession to the AETR. The Chair explained that the deadline for objecting to this reservation was only six months and thus shorter than usual.
99. The representative of Austria stated that Georgia had submitted a similar reservation to the AETR in 2011, and that his delegation had not objected to it. In the light of this, his delegation

would not be objecting to Israel's reservation. No further delegations took the floor under this item.

100. The representative of Iceland informed delegations of the fact that Iceland had handed in ratification documents for the VCLT the previous day and explained that her country had made a reservation regarding Article 66 of the VCLT, stating that it would not be bound by provisions of part 5 of the VCLT towards states that have also made reservations to Article 66.

7 CURRENT ISSUES OF PUBLIC INTERNATIONAL LAW

7.1 Topical issues of public international law

- *Exchange of views with Dr Penelope Ridings, University of Auckland, member of the International Law Commission (ILC), on due diligence in international law*

101. The Chair welcomed and introduced Dr Penelope RIDINGS, member of the ILC, who serves as Special Rapporteur on due diligence in international law. In her presentation, Dr RIDINGS traced the historical development of due diligence from the 19th century to the present. She highlighted due diligence as both a primary obligation and a flexible standard of conduct applied across various legal fields, while noting its evolving interpretation, challenges, and the need for greater clarity. She also outlined an initial mapping exercise to analyse state practice and judicial decisions on due diligence systematically and emphasised the importance of ongoing engagement with states to refine the ILC's work. The speaking notes of Dr RIDINGS are set out in **Appendix IV** to this report.

Discussion

102. Many delegations thanked Dr RIDINGS for her comprehensive overview.
103. The Chair asked what would be expected of states in the early phases of the process and how they could become more engaged in the topic. Dr RIDINGS explained the sequential approach she had decided to adopt so that states would be welcomed to comment on the first preliminary report to be presented at next year's ILC session. This would allow them to comment before any draft principles are produced. She was now focusing on state practice and *opinio iuris*, for which the numerous statements made by states on cyberspace or before international courts and tribunals were useful.
104. The representative of Finland noted that the Nordic countries were pleased to see this topic included in the ILC's long-term programme of work. She mentioned the publication in 2020 of the Finnish position paper on the application of international law in cyberspace, which includes the country's view on due diligence. The representative asked how to assess the value of the 2014 and 2016 reports of the International Law Association (ILA) on due diligence for the work of the ILC. Dr RIDINGS pointed out that the ILA study is comprehensive and cross-cutting but focuses on due diligence as a standard of conduct, without considering it from the perspective of a primary obligation, as formulated in the Corfu Channel case. This last point was raised by the positions of states on the application of international law to cyberspace: the Corfu Channel case is expressly referred to as the essence of, or one of the constituent elements, of due diligence. Due diligence is not only considered a standard of conduct.
105. The representative of Ireland expressed Ireland's support for the study of this topic, which is valuable. Much has happened over the past 20 years, providing a rich vein of material, particularly in the field of international environmental law and with the national position statements on the application of international law to cyberspace. The representative of Ireland asked why it had been decided that the optimum outcome of the exercise would be draft principles rather than conclusions or guidelines. Dr RIDINGS explained that the ILC does not have a clear nomenclature for determining when it uses draft conclusions, guidelines, principles, or articles. However, principles are appropriate when the aim is to indicate the more practical usefulness of the analysis. Dr RIDINGS reiterated that it is up to the ILC to determine the final outcome.
106. The representative of Switzerland welcomed the approach of back-and-forth communication between states and the ILC to progress on the work. He approved the choice of draft principles

as a more practical and useful way forward. The representative referred to the dual nature of due diligence, stringent yet variable. He explained that Switzerland considers this variability to be not only temporal but also a matter of differentiation in the obligations of states. This means that states might have different due diligence standards based on several criteria, such as knowledge and foreseeability of a potential harm (especially important in the context of climate change), availability of technologies, responsibility (e.g. for minor emitters in regard to climate change), and capacity. The representative further indicated that the advisory opinion of the ICJ certainly provided guidance on some of these elements. He asked how historical responsibility, as reflected in the ICJ's opinion, can be taken up, and how it makes a difference whether it is a primary obligation or a standard of due diligence. He also asked what the best approach to historical responsibility was in order to determine the states' due diligence obligations at this stage. Dr RIDINGS agreed with all the representative's points. In terms of historical responsibility, she explained that the ICJ conflated due diligence with the principle of prevention and did not address the elements mentioned by the representative of Switzerland, such as knowledge, technology, or capacity. The ICJ had stated, however, that if the due diligence standard was stringent, the elements of the variability did not mean that there was no due diligence standard applicable for all. Dr RIDINGS asserted that there is a due diligence standard, albeit variable, that depends on capacity and level of knowledge, including technical capability and scientific information. Dr RIDINGS explained that how responsibility could be addressed might depend on the court. The ICJ has clearly established that there is a responsibility for greenhouse gas emissions that harm the environment and that states have an obligation to ensure that they and their private actors do not cause further harm to the environment through further greenhouse gas emissions. Dr RIDINGS explained that, from a historical perspective, a court could take the same approach to the standard of conduct and would be likely to impose responsibility on the basis of emissions.

107. The representative of France noted that there is due diligence in general and due diligence in certain fields and expressed interest in hearing to what extent this articulation between what is common to all regimes and what is specific to each of them could be further developed. He further noted that in the field of the environment, France has used the notion of due diligence and the principle of prevention almost as synonyms. He expressed doubts about this and asked whether these doubts were shared, and whether due diligence was solely a matter of prevention or could constitute something else entirely. Dr RIDINGS confirmed that due diligence appears in several sectors and that it would be interesting to see whether there are differences across these different fields of international law, what the constituent elements of due diligence are, and whether these elements are common to them. She noted that some scholars believe that in order to apply the due diligence standard to a particular field of international law, it is necessary to demonstrate both state practice and *opinio iuris* that due diligence applies in that particular field. She emphasised that this is a different conception from saying that due diligence as a general obligation applies and that it can be applied in different fields of international law even if it may have slightly different manifestations across these different fields. She stated that her objective was to identify the common elements of the different sub-regimes of international law where due diligence is used, in order to apply them to emerging fields of international law as they may arise in the future. As for the second question, she agreed that the ICJ seemed to treat prevention and due diligence as synonymous, probably because of the question posed in the request for the advisory opinion. This did, however, not mean that due diligence was not potentially a standalone obligation.
108. The representative of Poland expressed his country's support for the work of the ILC and stated that the main challenge lies in the fact that the term 'due diligence' is used in international law in at least two almost completely different ways: as a source of primary obligations and as a *sui generis* type of international obligations arising from different fields. These two ways concern entirely different things, which makes it very difficult to conduct an analysis of the state of international law for both applications under a single framework. The representative thus asked whether it would not be easier to limit the work of the ILC to due diligence as a primary obligation, which would be most beneficial to states currently preparing their national positions on cyberspace. Dr RIDINGS announced that the question of whether to study both conceptions would be one of the issues she would raise in her first report in order to obtain comments from

states. She agreed with the representative of Poland that it would be easier to consider due diligence only as a primary obligation. Yet some states and scholars still doubted the existence of a primary obligation of due diligence, and that there is sufficient state practice and *opinio iuris* in this regard. There would also be some complications in relation to state responsibility.

109. The representative of Germany explained that Germany recognises the existence of a general obligation of due diligence under international law and referred to Germany's paper on the application of international law in cyberspace. The representative followed-up on the question from the representative of Switzerland and asked for precision on the standard of the subjective element of due diligence, in particular on whether it would be necessary to have positive knowledge of all the facts that would activate an obligation to act or not to act in order to comply with the due diligence obligation, or whether constructive knowledge would be sufficient. Dr RIDINGS noted that this is not only actual knowledge, but there is constructive knowledge, as there are situations in which a state ought to have known. In its advisory opinion, the ICJ referred to this as an objective standard.
110. The representative of the United Kingdom expressed her country's support for this timely topic. Noting that context is key when developing the law on due diligence, she asked how, if at all, the context of these areas of law could be highlighted in the set of legal principles, or whether it might be more appropriate to devote an adjacent commentary to them. She welcomed the approach giving states the opportunity to get involved in the draft principles and reports, as well as the clear description of methodology, progress, and work. Dr RIDINGS replied that the context is likely to end up in a commentary rather than being incorporated into the principles themselves.
111. The representative of the United States reiterated his country's scepticism regarding the existence of sufficient state practice and *opinio iuris* to support a general due diligence obligation under customary law that would apply to states' conduct outside the context of recognised primary obligations and stressed the importance of these recognised primary obligations.
112. The representative of Australia inquired on the differentiation of potential due diligence obligations between conventional obligations arising under treaty law as opposed to obligations deriving from customary international law. Dr RIDINGS explained that she did not see any major disparities between the conventional and customary concepts of due diligence. However, she noted that there was a third aspect of due diligence, namely due diligence attached to obligations of conduct arising under treaties, which arises in many different circumstances where language implies an obligation of conduct. In these contexts, she emphasised that due diligence may arise in a slightly different manner.
- ***Exchange of views with Professor Ágnes Kasper, Tallinn University, co-author of the Handbook on Developing a National Position on International Law and Cyber Activities: A Practical Guide for States***
113. The Chair welcomed and introduced Professor Ágnes KASPER, who presented the "Handbook on Developing a National Position on International Law and Cyber Activities: A Practical Guide for States" to the CAHDI. The handbook had been developed to help states articulate national positions on how international law applies to cyber activities, addressing a complex and evolving international security landscape. Summarising insights from global consultations, she emphasised the importance of clear national statements for communication, legal clarity, and deterrence, while noting divergent practices and unresolved questions about the legal status of these positions. The handbook, produced through international collaboration, was intended as a key resource to help states navigate these challenges and build consensus on cyber law. The speaking notes of Professor KASPER are set out in **Appendix IV** to this report.

Discussion

114. Many delegations thanked Professor KASPER for the detailed and useful work on the handbook.

115. The Chair welcomed an overview of the substance of national positions, so that states that have not yet developed their national positions and those whose positions were issued years ago can better understand the scope of the subjects covered by national positions.
116. Professor KASPER referred to Chapter 4 of the Handbook and explained that national positions typically address a broad range of substantive issues, which can be grouped into three main areas: foundational rules and principles, such as sovereignty, non-intervention, due diligence, and the prohibition of the use of force; specialised legal regimes, including IHL and, to a lesser extent, international human rights law and international criminal law; and questions of state responsibility, such as attribution, countermeasures, and the plea of necessity. She emphasised that states often differ in how they interpret and apply these principles, and that some issues, such as due diligence and the status of data under IHL, remain unsettled. She concluded that while existing national positions cover many core topics, there is still considerable scope for states to update or expand their positions by addressing issues in greater detail or exploring new topics.
117. The representative of Sweden noted that her country had developed a national position in 2022 and currently sees no need to update it. The representative asked whether, beyond adapting general public international law to the cyber domain, there were examples in which state practice and *opinio iuris* in the cyber domain might influence or transform general international law itself. She then requested reflections on the recent report of the Open Working Group on Cyber and Security Issues (Open Working Group), in particular on the potential role of international law within the new mechanism proposed by that group.
118. Professor KASPER confirmed that discussions in the cyber context could and have influenced general international law. She cited the example of sovereignty, recalling that in 2018, one state introduced the idea that sovereignty was merely a principle, not a rule, and thus could not be violated. In subsequent national positions, however, many states explicitly affirmed that sovereignty is both a rule and a principle under international law, asserting that cyber operations causing physical damage or interfering with governmental functions could constitute violations of sovereignty. Professor KASPER noted that this latter interpretation has since become the prevailing view in state practice. She further observed that, while there are currently 35 standalone national positions and two common positions on the application of international law to cyber activities, consensus has not yet been reached on certain key issues. She emphasised that debates within the cyber context have broader implications for general international law, demonstrating how discussions in this area can shape legal interpretations more widely. Turning to the recent final report of the Open Working Group, Professor KASPER characterised it as a compromise document which, despite much activity and debate among states, contributed little new substance compared to previous texts. She reported mixed reactions from the academic and diplomatic communities, with some colleagues describing the outcome as a “lost opportunity” for international law. Nonetheless, she acknowledged that compromise was necessary to establish a permanent global mechanism for continued discourse. While a specific thematic working group on international law was ultimately not included, she noted that such discussions could still occur within other thematic groups, such as capacity building, and in general sessions. She underlined the importance of ongoing, action-oriented dialogue, encouraging states to continue submitting their views and national positions to international fora to further develop and clarify the application of international law in cyberspace.
119. The representative of Poland noted that his country had developed a national position in 2022 and sought guidance on how frequently, if at all, national positions should be reviewed. Professor KASPER reiterated that the handbook was not intended to be prescriptive and that it remained a sovereign decision for each state to determine when and whether to develop or revise a national position. She explained that revisions were generally triggered by significant events, such as major cyber-attacks, new policy requirements, or evolving legal debates, and therefore depended on each country's internal and external motivations.
120. The representative of Japan highlighted the practical usefulness of the Handbook, in particular for states or practitioners seeking to deepen legal discussions with partners outside Europe. He emphasised that it had led to a better understanding of the difficulties some states face in

developing their national positions, thereby fostering greater mutual understanding on the respective conceptions of international law in cyberspace.

121. The representative of the International Committee of the Red Cross (ICRC) expressed the ICRC's view that there is a great value in states clarifying their interpretations of how international law applies in cyberspace. She reiterated the ICRC's readiness to discuss with states on the application of IHL in cyberspace.
122. The representative of Ireland raised a question about the role of motivation in drafting national positions on international law in cyberspace. He asked whether it would be recommended that national position papers explicitly set out their motivation, and, if so, what role that description of motivation would serve. He noted that Ireland's national position, published in July 2023, although not stating all the motivations, expressly noted that one of the purposes of the national position was to promote responsible behaviour in cyberspace. He explained that one of the main reasons was to emphasise, contrary to what some states might have argued, that international law does apply to cyberspace. Professor KASPER observed that motivations are rarely stated in national positions. She reiterated that this is a sovereign policy decision for each state to make.

- ***Exchange of views on the aggression against Ukraine***

123. The Chair opened the floor for discussion.
124. The representative of Ukraine informed the participants of two recent developments and two forthcoming events. He announced that Ukraine had signed and ratified the Council of Europe Agreement on the Establishment of the Special Tribunal for the Crime of Aggression against Ukraine, which was ratified by 323 members of Parliament, representing a constitutional majority. The representative reiterated the need to move progressively yet expeditiously toward the adoption of the Enlarged Partial Agreement on the Management Committee of the Special Tribunal. He confirmed that Ukraine stands ready to be the first founding member of the Management Committee and expressed hope that other governments would soon follow in order to reach the required number of members and begin the physical establishment of the tribunal. Turning to the Claims Commission, the representative expressed hope that the Convention would be signed in The Hague in December.
125. With respect to international litigation, the representative of Ukraine noted that Ukraine is awaiting decisions from various courts and tribunals on procedural matters. In *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*, a decision is pending on the admissibility of Russia's counterclaims.¹² The representative further referred to two ongoing PCA-administered cases before arbitral tribunals established under the United Nations Convention on the Law of the Sea (UNCLOS). The first case, concerning coastal state rights, is nearly finalised, with the Arbitral Tribunal expected to render its award soon.¹³ The second case related to the Russian Federation's actions against Ukrainian warships,¹⁴ in which the Russian Federation has officially withdrawn from the proceedings, and Ukraine is considering the appropriate procedural steps to continue the case. The representative also referred to two cases before the ICJ involving the Islamic Republic of Iran: one concerning the destruction of flight PS752, and the other relating to Iran's appeal of the International Civil Aviation Organization Council's decision on jurisdiction.
126. The representative of Ukraine reaffirmed that Ukraine continues to make full use of international legal instruments and mechanisms to ensure accountability of the Russian Federation before international courts and tribunals. The representative also mentioned the issuance of arrest warrants by the ICC against six Russian nationals and recalled that Ukraine

¹² ICJ, *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)* (No. 182, pending).

¹³ PCA, *Dispute Concerning Coastal State Rights in the Black Sea, Sea of Azov, and Kerch Strait (Ukraine v. the Russian Federation)* (2017-06).

¹⁴ PCA, *Dispute Concerning the Detention of Ukrainian Naval Vessels and Servicemen (Ukraine v. the Russian Federation)* (2019-28).

had ratified the Rome Statute last year, further strengthening co-operation with the ICC. The representative thanked all states, institutions, and individuals who have contributed to these various initiatives, reaffirming Ukraine's determination to pursue accountability for violations of international law through all available legal avenues.

127. The representative of Poland provided information on the recent drone intrusion into Polish territory. On the night between 9 and 10 of September 2025, twenty-one Russian drones, specifically Shahed-136 models and Geran decoy drones, flew over Ukrainian and Belarusian territories and entered Polish airspace. While acknowledging that similar incidents had occurred in the past, the representative emphasised that it was the first time since the beginning of the Russian full-scale invasion of Ukraine that Polish territorial sovereignty had been purposely violated on such a scale. He explained that the intrusion, which lasted approximately seven hours, was a deliberate, targeted operation against military facilities. From a legal perspective, he assessed that the incident constituted not only a violation of Poland's territorial sovereignty but, more importantly, a breach of the prohibition on the use of force under the United Nations Charter and customary international law, given that NATO intervention had been necessary in view of the threat.
128. The representative of Estonia provided information on the recent intrusion of three Russian fighter jets into Estonian airspace. He explained that the aircrafts, equipped with missiles, penetrated up to ten kilometres into Estonian territory and flew approximately 100 kilometres within its airspace. They did so without permission, with their transponders turned off and no two-way radio communication with the Estonian air traffic control. They remained for twelve minutes before being escorted outside of Estonian airspace by the Italian fighter jets stationed in Estonia as part of NATO's Baltic air policing mission. The representative stated that this intrusion constituted a violation of Estonia's sovereignty and territorial integrity, and that Russia's action represented a threat to international peace and security and a breach of the United Nations Charter. This incident led to the convening of the UN Security Council, during which Estonia presented evidence of the intrusion in response to the denial of the incident.
129. The representative of the International Development Law Organisation (IDLO) provided information on IDLO's ongoing work related to the aggression against Ukraine. She explained that, despite the war and a strike by a Russian drone during one of the overnight attacks, activities have continued in the IDLO's country office in Kyiv, Ukraine, illustrating the strong commitment of Ukraine. She reported that IDLO's current efforts in Ukraine focus on accountability and anticorruption. On accountability, IDLO has trained police officers and prosecutors and provided technical assistance to the Office of the Prosecutor General of Ukraine on issues such as conflict-related sexual violence, displacement of children, and victim and witness protection. On anticorruption, IDLO supports the State Agency for Restoration, the High Anti-Corruption Court and the Office of the Prosecutor General, including on matters of asset tracing, money laundering, and mutual legal assistance. IDLO's Host Country Agreement with Ukraine had entered into force last year. Negotiations on a similar agreement with the neighbouring Moldova had recently been concluded with the signing expected the following week. The representative added that, with Sweden's support, IDLO is assisting Moldovan authorities in strengthening integrity and transparency, including through an e-integrity system for asset declarations and conflict-of-interest audits. The representative concluded by thanking Ukraine and Moldova, as well as member parties, donors and partners for their support and reiterated that the rule of law is not a static end state but a pursuit that requires continuing effort and commitment.

7.2 Peaceful settlement of disputes

130. The Chair opened the floor for discussion on the peaceful settlement of disputes. The Chair referred to document CAHDI (2023) 23 *Restricted*, dated 14 September 2023, which provides an overview of the declarations of states represented in the CAHDI that recognise the ICJ's jurisdiction as compulsory.
131. The representative of the PCA provided the delegations with an overview of the recent developments of the docket of cases that the PCA administered over the past year, focusing

on two interstate cases: (i) the Indus Waters Western Rivers Arbitration; (ii) and the United Kingdom Sandeel Arbitration between the European Union and the United Kingdom.

132. Turning to the former, the representative of the Court of Arbitration noted that an award in this case was issued in August 2025, thereby concluding the first phase of the case on its merits. Therein, the PCA found, among other conclusions, that, given Pakistan's position as the downstream riparian of a shared natural resource and the resulting potential for conflict, the object and purpose of the Indus Waters Treaty (IWT) is to delimit the respective rights and obligations of states in that respect, promote mutual co-operation, and ensure effective dispute settlement.
133. Regarding the approach to the interpretation of the IWT's provisions on the design of new run-of-river hydroelectric plants that India may develop on certain rivers governed by the treaty, the representative of the PCA recalled that the award states the following general rule established by the IWT: India must allow the waters of the relevant rivers to flow for Pakistan's unrestricted use. The award further establishes that the exceptions to this rule, specified by the IWT, must be interpreted narrowly. Accordingly, the design and operation of hydroelectric plants must adhere strictly to the requirements of the IWT, rather than being guided by India's views on ideal design or practice. The representative of the PCA added that the award underscores the need for early-stage co-operation between the parties, enabling Pakistan's legitimate concerns regarding specific design elements to be addressed at the planning stage. The representative of the PCA concluded on this point by stating that the PCA found that India bears the burden of demonstrating that its project designs are fully compliant with the IWT.
134. Turning to the latter case, the representative stated that the Arbitration Tribunal in the first ever arbitration under the Trade and Cooperation Agreement (TCA) between the EU and the United Kingdom had issued its unanimous Ruling on 28 April 2025. The Arbitration Tribunal delivered its decision within the strict timeline of 160 days of its establishment set by the TCA. The Arbitration Tribunal was composed of Dr Penelope RIDINGS as Chair, Professor Hélène RUIZ-FABRI and Honourable Justice Mr David UNTERHALTER. The dispute concerned the decision by the United Kingdom to prohibit the fishing of sandeel in English waters of the North Sea and across all Scottish waters. In its award, the Arbitration Tribunal distinguished between the closures of English and Scottish waters to sandeel fishing, the measures were adopted through separate decision-making processes involving distinct authorities.
135. With respect to the ban on sandeel fishing in Scottish waters, the representative explained that the Arbitration Tribunal had found that the measure was based on the best available scientific evidence and was consistent with the United Kingdom's obligation under the TCA, to have regard to the principles of applying a proportionate and non-discriminatory measure. Similarly, regarding the closure of English waters for sandeel fishing, the Arbitration Tribunal concluded that this measure was based on the best available scientific advice and was consistent with the obligation of the United Kingdom to have regard to the principle of applying a non-discriminatory measure. The Arbitration Tribunal found, however, that the English decision-maker failed to have regard to the principle of applying a proportionate measure when adopting the sandeel fishing ban. As a result, the UK was also found to be in breach of its obligation under Annex 38 to the TCA, which mandates full access to its waters to fish sandeel. Consequently, the Arbitration Tribunal ordered the United Kingdom to take the necessary measures to bring itself into compliance with the TCA. The statement of the PCA is set out in **Appendix V** to this report.

7.3 The work of the International Law Commission

- *Exchange of views with Professor Martins Paparinskis, Chair of the ILC*

136. The Chair welcomed and introduced Professor Mārtiņš PĀPARINSKIS, Chair of the ILC, who provided the CAHDI with an outline of issues addressed by the ILC this year. The presentation of Professor PĀPARINSKIS is set out in **Appendix IV** to this report.

Discussion

137. CAHDI delegations thanked Professor PĀPARINSKIS for the helpful overview.

138. The Chair asked to point out the topics or questions, if any, that would be of most interest to receive the states' reactions on. Professor PAPARINSKIS reiterated that, according to the ILC, every topic it addresses should be of relevance to an important stratum of the international community. Yet those currently in the process of being finalised would particularly benefit from comments by states. He referred, for example, to the work on sea-level rise in relation to international law, general principles of law, and immunity of state officials.
139. The representative of Poland noted that exchanges with the ILC had always been very useful in preparation for the Sixth Committee in October. Regarding the topics added to the ILC's long-term programme this year, he asked which of these topics would be most appropriate for the ILC to work on. Moreover, in relation to the general principles of law, he asked for some insight into the ILC's discussion on draft conclusion 12, which indicates that the whole draft conclusions are without prejudice to the general principles of law with a limited scope of application. Specifically, he inquired whether the ILC did not wish to take a position, whether states should accept the existence of such principles, or whether there was a strong view within the ILC that some reflection on the existence of such a norm should be added. Professor PAPARINSKIS reiterated that all topics adopted and included on the agenda were considered worthy for inclusion in the long-term programme. As to draft conclusion 12, he noted that the draft conclusions are without prejudice to general principles of law, which have a limited scope of application. He explained that the Special Rapporteur on this topic had proposed this formulation based on comments by states. He further clarified that, following the statement of the Chair of the Drafting Committee, it was understood that a commentary would indicate that the scope of application of draft conclusion 12 was limited, and that the provision should be read as a *ratione personae* rather than a *ratione materiae* proposition. He added that, while he would not wish to speak on behalf of the Commission as a whole, his personal sense from the plenary discussions was that the Special Rapporteur intended to acknowledge the existence of some degree of practice in this area, even though no clearly developed practice yet exists to define the relationship between the parameters for identifying general principles of law in a broader, universal sense and those operating on a *ratione personae* basis. He stressed that the "without prejudice" clause was framed in broad terms, leaving open consideration of such issues for future work, and that it merely recognised that such questions had been raised, without attempting to resolve them in the present context.
140. The representative of Sweden welcomed the work of the ILC, noting its achievements despite the challenges posed by the United Nations liquidity crisis, which had reduced the Commission's session from twelve to five weeks. She expressed concern that, should the ILC be unable to fulfil and deliver on its mandate, the progressive development and codification of international law would be particularly affected. She therefore asked how states could contribute to safeguarding the work of the ILC during the upcoming International Law Week or in other fora where these topics are discussed. Professor PAPARINSKIS thanked the representative for her words of support and noted that the ILC's was aware of the broader context in which the budgetary reductions have occurred. He noted that the Commission is considering these matters to ensure that next year will be different from this year.
141. The representative of Switzerland echoed the concern expressed by the representative of Sweden regarding the budgetary and resource challenges faced by the ILC. He explained that Switzerland had been exploring possible options to support the Commission's work, and he asked whether it is appropriate that core functions of the United Nations are not fully funded through the core budget or whether they could instead become eligible for bilateral support. He noted the difficulty of this question, as on the one hand, Switzerland would wish to contribute to the important work of the ILC, but, on the other hand, it would be undesirable for the United Nations to become donor-driven and depend on selective financing. He reiterated Switzerland's strong support for the ILC and inquired how states might best assist the Commission, including on substantive matters. He noted that commenting on topics in their final stages of preparation may be most useful, and asked whether, for new topics such as due diligence and compensation for the damage caused by internationally wrongful acts, it would be preferable to intervene early in the process or to allow the Commission first to establish its framework. Professor PAPARINSKIS explained that in their first reports, both he and Dr RIDINGS would not propose specific draft provisions but would instead outline the general

approach to their respective topics, following a methodology similar to that adopted by Special Rapporteur Mathias FORTEAU. He indicated that there would be ample time for states to comment on the direction of the work. He added that, while he could not speak on behalf of Dr RIDINGS, comments from states would be particularly valuable if they referred to the syllabus of topics annexed the previous year and drew attention to specific issues of importance or relevant state practice. He encouraged states to include such comments in their Sixth Committee statements.

142. The representative of Ukraine reiterated Ukraine's particular interest in the ILC's work on the issue of immunity of state officials from foreign criminal jurisdiction.
143. The representative of the United States commented on two of the topics under consideration. First, on compensation for damage caused by internationally wrongful acts, he advised caution against overreliance on decisions of courts or tribunals that are not well-reasoned or not grounded in state practice and *opinio iuris*. Second, on the immunity of state officials from foreign criminal jurisdiction, he recalled the United States' written comments of December 2023, reiterating concerns about the project and urging the Commission not to rush the second reading of the draft articles. He echoed the views of some members of the Commission that a more consensus-based or unified approach should be sought, particularly in relation to draft article 7. He expressed concern that the Special Rapporteur's second report went beyond codification of customary international law by recommending an expansion of the list of crimes to which immunity *ratione materiae* should not apply. He stressed that this draft article should be clearly identified as a proposal for the progressive development of the law in order to enhance transparency and minimise the risk of it being regarded as a codification of customary international law. He suggested that, rather than retaining a fixed list of crimes, it might be more appropriate to set out criteria or considerations that states could use to determine, based on the circumstances of each case, whether immunity *ratione materiae* should apply.
144. Professor PAPARINSKIS confirmed that the methodological caution expressed by the representative of the United States was fully in line with the approach he intended to take on the topic of compensation for damage caused by internationally wrongful acts. Regarding the topic of immunity of state officials, he noted that some members of the ILC had expressly dissociated themselves from draft article 7, indicating that it did not reflect customary international law. He also referred to two judgments rendered by the French *Cour de Cassation* in July, both of which cited the Commission's work on the matter; the first one confirmed the *ratione personae* immunity for the troika, as reflected in draft article 3, and the other referred to the inapplicability of *ratione materiae* immunity for certain international crimes, consistent with the position taken in draft article 7.
145. The representative of France expressed his country's support for the work of the ILC and echoed the concerns voiced by the representatives of Sweden and Switzerland regarding budgetary and time constraints, especially since the Commission's work has a direct impact on the work of the Sixth Committee. He also emphasised the considerable workload currently before the Commission. Professor PAPARINSKIS acknowledged the knock-on effects of the reduced session length on the Sixth Committee. He noted that limited time prevented full discussion of several topics and delayed preparation and translation of commentaries. He explained that the original plan was ambitious, aiming to complete work on sea-level rise, general principles, immunities, and succession of states, and finish the first reading on subsidiary means and settlement of disputes.
146. The representative of the United Kingdom echoed previous concerns about the liquidity crisis, including potential effects in future years, and commended the ILC's work despite these challenges. She highlighted sea-level rise as a topical and politically relevant issue, noted that the statehood topic is more difficult, and emphasised that immunities, particularly draft article 7, remain divisive and require clarity on what reflects current law versus progressive development. She suggested prioritising the closure of completed topics, such as succession of states and state responsibility, and expressed some scepticism about methodological topics, such as general principles of law and subsidiary means for the determination of rules of international law, cautioning against overly theoretical and expansive approaches. She

encouraged the ILC to focus on work that is both technically expert and practically relevant, which would help maintain the Commission's visibility and support for continued funding.

147. In relation to immunity of state officials, Professor PAPARINSKIS highlighted that the Special Rapporteur had proposed that this project could ultimately be developed as a draft treaty, which might reassure those not fully persuaded by the adopted draft articles, in the traditional ILC approach of leaving final decisions to states. He also agreed with the closure of topics such as state succession, noting that the working group's mandate, as conceived last year, aimed to be completed this year, and that convergence of interests would allow the topic to be closed when time permits.

7.4 Consideration of current issues of international humanitarian law

148. The Chair opened the floor for discussion on current issues related to IHL and invited interested delegations to speak. The Chair noted that no documents had been submitted under this agenda item but encouraged delegations to share information about any upcoming events or other relevant matters.
149. The representative of the ICRC provided an update on the recent activities of the ICRC concerning IHL. The representative recalled that in September 2024, Brazil, China, France, Jordan, Kazakhstan, and South Africa joined the ICRC to launch a Global Initiative to Galvanize Political Commitment to International Humanitarian Law (Global IHL Initiative). This initiative seeks to engage states and their leaders worldwide to prioritise IHL politically and aims to develop concrete, actionable recommendations for improved implementation and respect for IHL through seven dedicated workstreams. To date, the ICRC has been joined by 89 states worldwide, with 27 serving as co-chairs of these workstreams. The representative of the ICRC noted that the six founding states, along with the co-chairs and the ICRC, have organised global and regional consultations with all states, as well as thematic workshops, with participation from 130 states to date. A progress report on these consultations is currently being prepared and will be released on 16 October 2025 in Geneva, during an event in hybrid format. On 21 September 2025, the six founding states issued a joint statement urging the international community to end violations of IHL and announcing a global High-Level Conference to be held in 2026. The ICRC representative stated that the next round of consultations is planned for November and December 2025.
150. The representative of the ICRC announced that the updated commentary on the 4th Geneva Convention will be published online in the coming month and officially launched in November 2025. She further emphasised that there are approximately 130 active armed conflicts worldwide, some receiving significant attention while others less so. She further stressed the continuously deteriorating humanitarian conditions in numerous conflict-affected areas, including Afghanistan, the Democratic Republic of Congo, Sudan, Syria, Ukraine and Yemen.
151. Turning to the war in Ukraine, the representative of the ICRC described it as a war of attrition, with nearly 150,000 people recorded as missing by the ICRC and carrying enormous human suffering.
152. Turning to the humanitarian crisis in Myanmar, the representative noted that the situation was deteriorating and expanding. The population faces widespread malnutrition and limited access to healthcare and essential services. The use of anti-personnel landmines is increasing, with no marking and no recording of where they are placed. In fact, Myanmar holds the global record for both the use of landmines and the number of victims, with repercussions that will persist for decades.
153. The representative of the ICRC stated that the statistics indicated that over 80% of anti-personnel mine victims are civilians, and many mines deployed along frontlines result in indiscriminate civilian casualties. She emphasised that the ICRC was profoundly concerned about any reintroduction of anti-personnel mines and cluster munitions.
154. Turning to the situation in Gaza, the West Bank, and Israel, the representative of the ICRC stated that nearly two years of active hostilities, combined with the coercive conditions on the ground, had made life in Gaza unliveable. In early September 2025, the Israel Defense Forces (IDF) ordered a complete evacuation of Gaza City, resulting in the displacement of hundreds

of thousands of people into areas where humanitarian conditions are already extremely dire. The representative stated that these military operations have also led to another rise in civilian casualties and injuries, as well as property destruction. While the ICRC continued to supply essential medical items to healthcare facilities, the increased demand means current stocks will soon be depleted. The representative noted that more than half a million people living in the Gaza Strip were enduring catastrophic conditions, which entail death, extreme poverty, and starvation. The representative of the ICRC recalled that essential humanitarian aid was located only one mile across the border and stressed that an immediate ceasefire agreement was urgently needed as a first step to halt civilian suffering.

155. The representative of the ICRC recalled IHL rules on access to detainees. The ICRC has made every effort to reach hostages even without a ceasefire agreement and remained prepared to visit them, provide medical supplies, and facilitate the exchange of family news and proof of life at the earliest opportunity. The representative also reiterated that the ICRC has consistently emphasised the principle of non-reciprocity, as well as the importance of notification and access to Palestinians held in Israeli detention. The ICRC has been unable to access these individuals for nearly two years.
156. The representative of the ICRC expressed deep concern over the worsening situation in the West Bank, describing it as moving towards an irreversible reality. The ICRC remained deeply concerned about ongoing unlawful practices conducted in the West Bank, including settlement expansion, settler violence, property destruction, excessive use of force, and severe restrictions that hinder movement and humanitarian access. She emphasised that unilateral annexations violate international law. She called on states to use their influence to stop these actions.
157. The representative of the ICRC underlined that the patterns of non-compliance and disregard for international law observed in conflicts worldwide posed a dangerous trajectory, one that could still be reversed. The representative concluded that, now more than ever, states must take all necessary measures to protect and reinforce the global framework that upholds humanity during armed conflict and champion the faithful implementation of IHL.
158. The representative of Slovenia highlighted the relevance of the UN General Assembly's recent adoption of the Declaration for the Protection of Humanitarian Personnel (Declaration). She expressed gratitude to Australia and other partners for leading this initiative. The Declaration, which references the tragic loss of human lives, called for the protection, strengthening, and establishment of accountability, as well as unrestricted access to humanitarian personnel. The representative expressed deep appreciation for humanitarian workers, including the ICRC staff who risk their lives daily to assist millions worldwide. Additionally, she emphasised her country's commitment to promoting IHL and noted that Slovenia co-organised two events during the Week of Peace in Geneva and International Law Week in New York.
159. The representative of Switzerland announced that Switzerland and the ICRC will organise a meeting of governmental experts on IHL in spring 2026 on the principle of precaution in armed conflicts and its implementation. The representative further informed delegations that his country was honoured to co-chair, together with Luxembourg and Mexico, the workstream "Upholding International Humanitarian Law in the Use of Information and Communication Technologies During Armed Conflicts" within the framework of the Global IHL Initiative.
160. The representative of the United Kingdom announced the recent release of a new publication titled "Conflict, Hunger, and IHL: A Practitioner's Legal Handbook" under the auspices of the United Kingdom National IHL Committee. This handbook addressed the rules of IHL that help prevent and respond to food insecurity during armed conflicts. It was created to fill a gap in practical legal resources on this topic and covered key issues such as the prohibition of deliberately starving civilians as a method of warfare, humanitarian relief operations, and the conduct of hostilities. Its purpose was to enhance understanding, share best practices, and identify ways to improve the implementation of IHL. The representative of the United Kingdom noted that the handbook, freely and publicly available on her government's website, reflected her country's views on the said rules. The handbook was designed to be accessible to practitioners and included practical guidance, case studies, and recommendations.

161. The representative of Spain highlighted three key priorities for Spain in the field of IHL: (i) the protection of medical facilities, personnel, and means of transportation; (ii) the protection and facilitation of education for children during armed conflict, ensuring the safety of schools, students, and teachers; and (iii) addressing the growing use of starvation as a method of warfare.
162. The representative of Finland expressed strong support for the Global IHL Initiative. The representative emphasised the importance of bringing together states and other stakeholders at this time to reaffirm and strengthen the global commitment to IHL. The representative further recalled Finland's contributions at the expert level across various work streams, particularly in discussions on IHL and information communication technology (ICT), as well as within national committees. The representative noted that the first round of consultations on these work streams, especially the one on ICT, was especially valuable and expressed anticipation for the upcoming second round of consultations. She also highlighted the critical role of actors such as the ICRC in the IHL framework and reaffirmed Finland's full support for the ICRC's mandate and work. The representative concluded by announcing that her government had recently endorsed the Declaration presented by a group of states led by Australia.
163. The representative of Australia highlighted the upcoming launch of the Declaration scheduled for 21 September 2025 in New York. The representative emphasised that attacks on humanitarian personnel strike at the core of IHL and violate the shared conscience of humanity. He welcomed the broad support the Declaration had received, having already been endorsed by 105 entities, representing more than half of the UN's membership. He concluded by encouraging additional endorsements, underscoring that the Declaration served as a vital collective demonstration of commitment to protecting humanitarian personnel and facilitated tangible, direct actions in support of this cause.

7.5 Developments concerning the International Criminal Court and other international criminal tribunals

164. The Chair opened the floor for discussion on developments concerning the ICC and other international criminal tribunals. No delegation took the floor under this sub-item.

8 OTHER

8.1 Election of the Chair and the Vice-Chair

165. In accordance with *Resolution [CM/Res\(2021\)3](#) on intergovernmental committees and subordinate bodies, their terms of reference and working methods* as amended by Resolution [CM/Res\(2025\)2](#), the CAHDI re-elected Ms Kerli VESKI (Estonia) and Mr Declan SMYTH (Ireland), respectively, as Chair and Vice-Chair of the Committee, for a term of one year from 1 January to 31 December 2026.

8.2 Place, date and agenda of the 70th meeting of the CAHDI

166. The CAHDI decided to hold its 70th meeting on 19-20 March 2026 in Strasbourg (France). The CAHDI instructed the Chair to prepare the provisional agenda of this meeting in due course in co-operation with the Secretariat.

8.3 Any other business

167. No item was handled under this agenda point.

8.4 Adoption of the Abridged Report and closing of the 69th meeting

168. The CAHDI adopted the Abridged Report of its 69th meeting, as contained in document CAHDI (2025) 18, and instructed the Secretariat to submit it to the Committee of Ministers for information.

APPENDICES

APPENDIX I – LIST OF PARTICIPANTS

MEMBER STATES OF THE COUNCIL OF EUROPE / ETATS MEMBRES DU CONSEIL DE L'EUROPE

ALBANIA / ALBANIE

Ms Shpresa SHAHAJ PEZA – Present
Head of Department of International Law,
Law of the Sea and Treaties
Ministry of Foreign Affairs
Bul Gjergj Fisha, No. 6
1000 TIRANA

ANDORRA / ANDORRE

Mme Cristina MOTA – Online
Directrice des Affaires juridiques internationales et
des Ressources humaines
Ministère des Affaires étrangères
C/ Prat de la Creu, 62-64
AD500 – ANDORRA LA VELLA

ARMENIA / ARMENIE

Ms Lusine KARUMYAN - Present
Second Secretary
International Treaties and Law Department
Ministry of Foreign Affairs
Vazgen Sargsyan 3,
Government House 2,
0010 EREVAN

AUSTRIA / AUTRICHE

Mr Gregor SCHUSTERSCHITZ - Present
Head of Department (international law)
Federal Ministry for European
and International Affairs
Minoritenplatz 8
1 010 VIENNA

AZERBAIJAN / AZERBAIDJAN

Ms Samira SAFAROVA - present
First Secretary
Department of international law and treaties
Ministry of Foreign Affairs
Sh.Gurbanov 50,
1009 BAKU

BELGIUM / BELGIQUE

M. Antoine MISONNE - présent
Directeur Général
Service Public Fédéral Affaires étrangères,
Commerce extérieur et Coopération au
Développement
Direction générale des Affaires juridiques
15 rue des Petits Carmes
1 000 BRUXELLES

Mme Sabrina HEYVAERT - Online
Directrice
Service Public Fédéral Affaires étrangères,
Commerce extérieur et Coopération au
Développement
Direction générale des Affaires juridiques
Direction Droit international public
15 rue des Petits Carmes
1 000 BRUXELLES

Mme Laurence GRANDJEAN - Online
Attaché
Service Public Fédéral Affaires étrangères,
Commerce extérieur et Coopération au
Développement
Direction générale des Affaires juridiques
Direction Droit international public
15 rue des Petits Carmes
1 000 BRUXELLES

BOSNIA AND HERZEGOVINA / BOSNIE-HERZEGOVINE

Ms Lejla HADZIC - Present
Minister Counsellor
Head of Department for International Legal Affairs
Sector for International Legal and Consular Affairs
Ministry of Foreign Affairs
Alipašina 4
71000 SARAJEVO

BULGARIA / BULGARIE

Mr Danail CHAKAROV - Present
Director, Directorate of International Law
Ministry of Foreign Affairs
2, Alexander Zhendov str.
1 040 SOFIA

Mr Nikolay KARAKASHEV - Present
Chief Expert
International Law Directorate
Ministry of Foreign Affairs
2, Alexander Zhendov str.
1 040 SOFIA

CROATIA / CROATIE

Ms Gordana VIDOVIĆ MESAREK – Present
Acting Director-General
Directorate-General for European and
International Law
Ministry of Foreign and European Affairs
Trg N.S. Zrinskog 7-8
10 000 ZAGREB

Ms Petrunjela VRANKIC - Present

Third Secretary
 Directorate-General for European and
 International Law
 Ministry of Foreign and European Affairs
 Trg N.S. Zrinskog 7-8
 10 000 ZAGREB

CYPRUS / CHYPRE**Ms Mary-Ann STAVRINIDES - Present**

Attorney of the Republic
 Head of the International Law Section
 Law Office of the Republic of Cyprus
 1, Apelli str.
 1 403 NICOSIA

Ms Maria KOURTI - Online

Counsel of the Republic
 Law Office of the Republic of Cyprus
 1, Apelli str.
 1 403 NICOSIA

CZECHIA / TCHEQUIE**Mr Emil RUFFER - Present**

Director
 International Law Department
 Ministry of Foreign Affairs
 Loretánské nám. 5
 11 800 PRAGUE

DENMARK / DANEMARK**Ms Vibeke PASTERNAK JØRGENSEN - Present**

Legal advisor
 Ministry of Foreign Affairs
 Asiatisk Plads 2
 1 448 COPENHAGEN

Mr Johan EICHEL-ILLUM - Present

Special advisor
 Ministry of Foreign Affairs
 Asiatisk Plads 2
 1 448 COPENHAGEN

Mr Peter Vedel KESSING- Present

Advisor
 Ministry of Foreign Affairs
 Asiatisk Plads 2
 1 448 COPENHAGEN

ESTONIA / ESTONIE**Ms Kerli VESKI / Chair of the CAHDI - Present**

Undersecretary for Legal and Consular Affairs
 Ministry of Foreign Affairs
 Islandi väljak 1
 15 049 TALLINN

Mr René VÄRK - Present

Director of International Law Division
 Legal Department
 Ministry of Foreign Affairs
 Islandi väljak 1
 15 049 TALLINN

FINLAND / FINLANDE**Ms Kaija SUVANTO - Present**

Director General
 Ministry for Foreign Affairs
 Kanavakatu 3 B P.O.B. 176
 00 023 HELSINKI

Ms Tarja LANGSTROM - Present

Director
 Unit of Public International Law
 Legal Service
 Ministry for Foreign Affairs
 Kanavakatu 3 B P.O.B. 176
 00 023 HELSINKI

Ms Elina TÖLÖ – Online

Senior Specialist, Legal Affairs
 Unit of Public International Law
 Legal Service
 Ministry for Foreign Affairs
 Kanavakatu 3 B P.O.B. 176
 00 023 HELSINKI

Ms Marja HOPIA – Online

Counsellor,
 Unit of Public International Law
 Legal Service
 Ministry for Foreign Affairs
 Kanavakatu 3 B P.O.B. 176
 00023 HELSINKI

FRANCE**M. Diégo COLAS - Présent**

Directeur des affaires juridiques
 Ministère de l'Europe et des Affaires étrangères
 57 boulevard des Invalides
 75007 PARIS

M. Valentin MARTIN - Présent

Conseiller juridique
 Ministère de l'Europe et des Affaires étrangères
 57 boulevard des Invalides
 75007 PARIS

GEORGIA / GÉORGIE**Mr Mikheil KEKENADZE - Online**

Acting Director of International Law Department
 Ministry of Foreign Affairs
 Sulkhan-Saba st.1/G. Leonidze st. 3-5,
 0118, TBILISI

Mr Irakli LIKLIKADZE - Online

Head of the Division for the Supervision of the
 Execution of Judgments,
 Department of State Representation in International
 Courts, Ministry of Justice
 24a Gorgasali Street,
 0114 Tbilisi

Mr Nodar KHUROSHVILI - Online

Legal Adviser
Department of State Representation in International
Courts,
Ministry of Justice
24a Gorgasali Street,
0114 Tbilisi

Ms Tamar ROSTIASHVILI - Online

Legal Adviser
Department of State Representation
in International Courts
Ministry of Justice
24a Gorgasali Street,
0114 Tbilisi

GERMANY / ALLEMAGNE

Mr Lukas WASIELEWSKI - Present

Head of Division
Public International Law Division
Directorate for Legal Affairs
Federal Foreign Office
Werderscher Markt 1
10117 BERLIN

Mr Leon MUTHUNAYAKE - Present

Legal Officer, LL.M.
Law Department, International Law Division
Directorate for Legal Affairs
Federal Foreign Office
Werderscher Markt 1
10117 BERLIN

GREECE / GRECE

Mrs Artemis PAPATHANASSIOU - Present

Legal Adviser
Head of the Special Legal Department
Ministry of Foreign Affairs
10 Zalokosta str.,
10671 ATHENES

Mrs Sofia KASTRANTA - Present

Legal Counsellor
Legal Department
Ministry of Foreign Affairs
10 Zalokosta str.,
10671 ATHENES

HUNGARY / HONGRIE**ICELAND / ISLANDE**

Ms Sesselja SIGURDARDOTTIR- Present

Director General
Directorate for Legal and Executive Affairs
Ministry for Foreign Affairs
Rauðarárstígur 25
105 REYKJAVIK

IRELAND / IRLANDE

Mr Declan SMYTH - Present

Legal Adviser, Director General
The Department of Foreign Affairs
Iveagh House, 80 St Stephen's Green,
DUBLIN 2, D02 WY53

Ms Michelle RYAN - Present

Assistant Legal Adviser
The Department of Foreign Affairs
Iveagh House, 80 St Stephen's Green,
DUBLIN 2, D02 WY53
Tel: + 353 8 60 45 48 28

ITALY / ITALIE

Mr Stefano ZANINI - Online

Head of Service for Legal Affairs, Diplomatic
disputes and International agreements
Ministry of Foreign Affairs and International
Cooperation
Piazzale della Farnesina, 1
00139 ROME

Mr Raffaele FESTA - Present

Counsellor,
Service for Legal Affairs, Diplomatic disputes and
International agreements
Ministry of Foreign Affairs and International
Cooperation
Piazzale della Farnesina, 1
00139 ROME

LATVIA / LETTONIE

Ms Sanita PEKALE - Present

Director General
Legal Directorate
Ministry of Foreign Affairs
K.Valdemara street 3
LV-1395 RIGA

LIECHTENSTEIN

Ms Karin LINGG - Present

Head of Division for Security and Human Rights
Office for Foreign Affairs
DLG Giessenstrasse 3
9490 VADUZ

LITHUANIA / LITUANIE

Mr Darius ŽILYS - Present

Chief Counsellor
International Law Directorate
Ministry of Foreign Affairs
J. Tumo-Vaižganto 2
01511 VILNIUS

LUXEMBOURG

M. Tobias SCHELL - Présent

Chef du Service juridique
 Conseiller juridique principal
 Agent devant la CJUE
 Ministère des Affaires étrangères et européennes
 9 rue du Palais de Justice
 L-1 841 LUXEMBOURG

Mme Elma BAKOVIC – En ligne

Conseillère juridique
 Ministère des Affaires étrangères et européennes,
 de la Défense, de la Coopération et du Commerce
 extérieur
 9 rue du Palais de Justice
 L-1 841 LUXEMBOURG

MALTA / MALTE

Ms Kathleen VELLA MAMO - Present

First Secretary
 Legal Unit
 Office of the Deputy Prime Minister and
 Ministry for Foreign Affairs and Tourism
 7, St Paul's Street
 VLT 1211 VALLETTA

**REPUBLIC OF MOLDOVA /
REPUBLICQUE DE MOLDOVA**

M. Anatol CEBUC - Présent

Chef de la Direction du droit international
 Ministère des Affaires étrangères
 et de l'intégration européenne
 80, 31 August 1989 Street.
 MD-2012 CHIȘINĂU

MONACO

M. Xavier RAUSCHER - Online

Chef de Division
 Service Droit International, Droits de l'Homme et
 Libertés fondamentales
 Direction des Affaires Juridiques
 5 Promenade Honoré II
 B.P. 641
 MC 98 013 MONACO

MONTENEGRO

Ms Ivana SIKMANOVIC - present

Director General for International Legal Affairs
 Ministry of Foreign Affairs
 Stanka Dragojevića 2.
 81000 PODGORICA

Ms Milena PAVIČEVIĆ - present

Third secretary
 Directorate General for International Legal Affairs
 Ministry of Foreign Affairs
 Stanka Dragojevića 2.
 81000 PODGORICA

NETHERLANDS / PAYS-BAS

Mr Rene LEFEBER - Present

Legal Adviser
 Head of the International Law Department
 Ministry of Foreign Affairs
 PO Box 20061,
 2500 EB, The Hague

Mr Vincent DE GRAAF - Present

Legal Counsel
 International Law Division
 Ministry of Foreign Affairs
 Rijnstraat 8
 2515 XP THE HAGUE

NORTH MACEDONIA / MACEDOINE DU NORD

Ms Natasha DESKOSKA - Online

Deputy Director
 Directorate for International Law and Consular
 Affairs
 Department for International Law
 Ministry of Foreign Affairs and Foreign Trade
 Boulevard Phillip the Second of Macedon 7,
 1000 SKOPJE

NORWAY / NORVÈGE

Mr Kristian JERVELL - Present

Director General
 Ministry of Foreign Affairs
 7. Juni plass
 0032 OSLO

Ms Elisabet Kaasa MIDTBOEEN - Present

Senior Adviser
 Legal Department
 Ministry of Foreign Affairs
 PO Box 8114 Dep.
 NO-0032 OSLO

POLAND / POLOGNE

Mr Artur HARAZIM - Present

Legal Adviser
 Legal and Treaty Department
 Ministry of Foreign Affairs
 Al. J. Ch. Szucha 23
 00580 WARSAW

Ms Malwina PIASKOWSKA-LACEK - Online

Head of the International Claims Unit
 Legal and Treaty Department
 Ministry of Foreign Affairs
 Al. J. Ch. Szucha 23
 00580 WARSAW

Mr Łukasz KUŁAGA - Present

Counsellor
 Legal and Treaty Department
 Ministry of Foreign Affairs
 Al. J. Ch. Szucha 23
 00580 WARSAW

PORTUGAL

Ms Ines MATOS - Present

Director of the International Law Department,
Department of Legal Affairs
Ministry of Foreign Affairs
Largo do Rilvas
1399-030 LISBON

ROMANIA / ROUMANIE

Ms Alina OROSAN - Present

Director General for Legal Affairs
Ministry of Foreign Affairs
Aleea Alexandru nr. 31, Sector 1
011822 BUCHAREST

Ms Adina-Maria RADU - Present

Diplomatic Attaché
Legal Affairs Department
Ministry of Foreign Affairs
Aleea Alexandru nr. 31, Sector 1
011822 BUCHAREST

SAN-MARINO / SAINT-MARIN**SERBIA / SERBIE****SLOVAK REPUBLIC / REPUBLIQUE SLOVAQUE**

Ms Zuzana ZITNA – Present

Legal Advisor
International Law Department
Ministry of Foreign Affairs
Hlboka cesta 2,
83336 BRATISLAVA

Ms Michaela SÝKOROVÁ – Online

Legal Officer
International Law Department
Ministry of Foreign Affairs
Hlboka cesta 2,
83336 BRATISLAVA

SLOVENIA / SLOVENIE

Ms Mateja ŠTRUMELJ PIŠKUR - Present

Deputy Director General
Directorate for International Law
and Protection of Interests
Ministry of Foreign and European Affairs
Prešernova cesta 25
1000 LJUBLJANA

Ms Maja DOBNIKAR - Present

Minister Plenipotentiary
Directorate for International Law
and Protection of Interests
Ministry of Foreign and European Affairs
Prešernova cesta 25
1000 LJUBLJANA

SPAIN / ESPAGNE**Mr Gustavo ALONSO - Present**

Legal Advisor
Ministry of Foreign Affairs
EU and Cooperation
Plaza de la Provincia, 1
28 071 MADRID

M. Maximiliano BERNAD Y ÁLVAREZ DE EULATE - Present

Professeur émérite droit international public et
relations internationales - Université de Saragosse
Président du "Real Instituto de Estudios Europeos"
Coso, 32, 2º Of.
50 004 SARAGOSSE

SWEDEN / SUEDE

Ms Therese HYDEN - Present

Director-General for Legal Affairs
Ministry for Foreign Affairs
Malmtorgsgatan 3
10333 STOCKHOLM

Ms Karin FLARUP - Present

Deputy Director,
Section for International Law
Department for International Law, Human Rights
and Treaty Law
Ministry for Foreign Affairs
Malmtorgsgatan 3
10333 STOCKHOLM

SWITZERLAND / SUISSE

M. Franz PERREZ - Présent

Ambassadeur et Directeur Général
Direction du droit international public
Département fédéral des affaires étrangères
Kochergasse 10
3 003 BERN

Ms Brigitte BENOIT LANDALE- Present

Lawyer,
Deputy Head of the Section on Privileges and
Immunities
Directorate of International Law
Federal Department of Foreign Affairs
Kochergasse 10
3 003 BERN

TÜRKİYE

Mr Firat SUNEL - Present

Ambassador
Director General for International Law
Ministry of Foreign Affairs
Cigdem Mahallesi, 1549. Sokak, No: 4
Çankaya 06530 ANKARA
Tel: +90 312 253 4001

Mr Ahmet BOZYEL - Present

Third Secretary
General Directorate of International Law
The Ministry of Foreign Affairs
Çiğdem Mahallesi 1549. Cadde, No:4
Çankaya 06530 ANKARA

UKRAINE

Ms Kateryna GIPENKO - Present

Counsellor
Department General for International Law
Ministry of Foreign Affairs of Ukraine
1 Mykhailivska Square
01018 KYIV

Mr Anton KORYNEVYCH – Present

Ambassador at large
Ministry of Foreign Affairs of Ukraine

UNITED KINGDOM / ROYAUME-UNI

Ms Sally LANGRISH - Present

Legal Advisor and Director General
Foreign, Commonwealth & Development Office
King Charles Street
SW1A 2AH LONDON

Mr Ben BRZEZICKI - Present

Deputy Director, Legal Counsellor
Foreign, Commonwealth & Development Office
King Charles Street
SW1A 2AH LONDON

Ms Amanda HENNEDY GOBLE – Present

Legal Adviser
Foreign, Commonwealth and Development Office
King Charles Street
SW1A 2AH LONDON

EUROPEAN UNION / UNION EUROPEENNE**EUROPEAN COMMISSION / COMMISSION
EUROPÉENNE****Mr Bernhard HOFSTOETTER - Present**

Member of the Legal Service
European Commission
BERL 2/200
200, Rue de la Loi
1 049 BRUSSELS
BELGIUM

Ms Marketa MONFORT - Present

Member of the Legal Service
European Commission
BERL 2/200
200, Rue de la Loi
1 049 BRUSSELS
BELGIUM

**EUROPEAN EXTERNAL ACTION SERVICE /
SERVICE EUROPEEN POUR L'ACTION
EXTERIEURE (EEAS)****Mr Lorant HAVAS - Present**

Legal Adviser
Head of Division
External Relations Law and Public International
Law (SG.LD.1)
European External Action Service
Rond Point Schuman 9A
1046 BRUSSELS
BELGIUM

**COUNCIL OF THE EUROPEAN UNION /
CONSEIL DE L'UNION EUROPÉENNE**

PARTICIPANTS AND OBSERVERS TO THE CAHDI /
PARTICIPANTS ET OBSERVATEURS AUPRES DU CAHDI

CANADA

HOLY SEE / SAINT-SIEGE

Mgr Carlos Fernando DIAZ PANIAGUA - Online
 Officer - Public International law questions
 Section for Relations with States and International
 Organizations - Secretariat of State of the Holy See
 Apostolic Palace
 00120 VATICAN CITY

JAPAN / JAPON

Mr NAKAMURA Kazuhiko - Present
 Director-General / Legal Adviser
 International Legal Affairs Bureau
 Ministry of Foreign Affairs
 2-2-1 Kasumigaseki, Chiyoda-ku
 100-8919 TOKYO

Mr. NAKATANI Akihiro – Present
 Assistant Director
 International Legal Affairs Division
 International Legal Affairs Bureau
 Ministry of Foreign Affairs
 2-2-1 Kasumigaseki, Chiyoda-ku
 100-8919 TOKYO

Ms Naoko KAMEI - Present
 Consul (Attorney)
 Deputy to the Permanent Observer of Japan
 to the Council of Europe
 Consulate General of Japan in Strasbourg
 "Bureaux Europe" - 20, place des Halles
 67000 STRASBOURG

Ms Kana FUKUSHIMA - Present
 Researcher
 Consulate General of Japan in Strasbourg
 "Bureaux Europe" - 20, place des Halles
 67000 STRASBOURG

MEXICO / MEXIQUE

Mr Miguel Angel REYES-MONCAYO – Present
 Deputy Legal Adviser
 Ministry of Foreign Affairs
 Av. Juarez 20, Colonia Centro, Cuauhtémoc
 06010 CIUDAD DE MEXICO

**UNITED STATES OF AMERICA / ETATS-UNIS
 D'AMERIQUE**

Mr Steve FABRY - Present
 Deputy Legal Adviser
 U.S. Department of State
 2201 C Street, NW
 20 520 WASHINGTON DC

Mr Brendan MCCOMMAS - Present
 Deputy Legal Adviser
 U.S. Department of State
 2201 C Street, NW
 20 520 WASHINGTON DC

Ms Sabeena RAJPAL - Present
 Assistant Legal Adviser
 U.S. Department of State
 2201 C Street, NW
 20 520 WASHINGTON DC

Ms Joanna COYNE - Present
 Attorney Adviser
 U.S. Department of State
 2201 C Street, NW
 20 520 WASHINGTON DC

Ms Lela SCOTT - Present
 Legal Adviser
 U.S. Mission to the European Union
 Rue Zinner 13
 1000 BRUSSELS

AUSTRALIA / AUSTRALIE

Mr Greg FRENCH - Present

Ambassador
Australian Embassy to the Netherlands
Carnegielaan 4
2517 KH THE HAGUE

Ms Hannah TROUT- Present

Second Secretary & Legal Adviser
Australian Embassy to the Netherlands
Carnegielaan 4
2517 KH THE HAGUE

ISRAEL / ISRAËL

NEW ZEALAND / NOUVELLE ZELANDE

**REPUBLIC OF KOREA /
REPUBLIQUE DE COREE**

Mr Hyoungho JUNG – Online

Second Secretary,
International Legal Affairs Division
Ministry of Foreign Affairs,
60, Sajik-ro 8-gil, Jongno-gu
03172 SEOUL

UNITED NATIONS / NATIONS UNIES

**ORGANISATION FOR ECONOMIC CO-
OPERATION AND DEVELOPMENT (OECD) /
ORGANISATION DE COOPERATION ET DE
DEVELOPPEMENT ECONOMIQUES (OCDE)**

Mme Claire MARGUERRETAZ – Présente

Conseillère juridique
General Legal Affairs Division
2 rue André Pascal
75775 PARIS

**EUROPEAN ORGANISATION FOR NUCLEAR
RESEARCH (CERN) / ORGANISATION
EUROPEENNE POUR LA RECHERCHE
NUCLEAIRE (CERN)**

**THE HAGUE CONFERENCE ON PRIVATE
INTERNATIONAL LAW / LA CONFERENCE DE
LA HAYE DE DROIT INTERNATIONAL PRIVE**

INTERPOL

Mr Benjamin KATZENBERG - Present

Senior Counsel & Coordinator
200 quai Charles de Gaulle
69006 LYON

Mme Charlotte ANNE - Présente

Juriste principale
200 quai Charles de Gaulle
69006 LYON

**NORTH ATLANTIC TREATY ORGANISATION
(NATO) / ORGANISATION DU TRAITE DE
L'ATLANTIQUE NORD (OTAN)**

Mr Dirk PULKOWSKI - Present

Deputy Legal Adviser & Deputy Director
Office of Legal Affairs Division
NATO HQ Boulevard Léopold III
1110 BRUXELLES, BELGIUM

**INTERNATIONAL COMMITTEE OF THE RED
CROSS (ICRC) / COMITE INTERNATIONAL DE
LA CROIX-ROUGE (CICR)**

Ms Lindsay CAMERON - Present

Head of thematic Legal advisers
19 Avenue de la Paix
1263 GENEVA, SWITZERLAND

Ms Julie TENENBAUM - Present

Regional Legal Adviser
ICRC, 10Bis Passage d'Enfer
75014 PARIS, FRANCE

**ORGANISATION FOR SECURITY AND CO-
OPERATION IN EUROPE (OSCE) /
ORGANISATION POUR LA SÉCURITÉ ET LA
COOPÉRATION EN EUROPE (OSCE)**

**ASIAN AFRICAN LEGAL CONSULTATIVE
ORGANISATION / ORGANISATION JURIDIQUE
CONSULTATIVE POUR LES PAYS D'ASIE ET
D'AFRIQUE (AALCO)**

**INTERNATIONAL DEVELOPMENT LAW
ORGANIZATION (IDLO) / ORGANISATION
INTERNATIONALE DE DROIT DU
DEVELOPPEMENT (OIDD)**

Ms Karen JOHNSON – present

General Counsel
Office of the General Counsel
IDLO
Viale Vaticano, 106
00165 ROME, ITALY

Mr Liam FAUGHT – present

Assistant General Counsel
Office of the General Counsel
IDLO
Viale Vaticano, 106
00165 ROME, ITALY

**PERMANENT COURT OF ARBITRATION (PCA)
/ COUR PERMANENTE D'ARBITRAGE (CPA)**

Mr Marcin Piotr CZEPELAK - present

Secretary General
Peace Palace
Carnegieplein 2
2517 KJ THE HAGUE - THE NETHERLANDS

Mr Stefan SCHÄFERLING - Present

Assistant Legal Counsel
PCA Vienna Office
Hofburg Vienna
Heldenplatz
1010 VIENNA, AUSTRIA

UNIDROIT

SPECIAL GUESTS / INVITES SPECIAUX

Doctor Penelope RIDINGS

University of Auckland
Member of the International Law
Commission
Special Rapporteur for the topic
'Due Diligence in International Law'

Professor Ágnes KASPER

Senior Lecturer in Technology Law
Tallinn University of Technology
Department of Law
Head of Law Branch
NATO Cooperative Cyber Defence
Centre of Excellence

Professor Martins PAPARINSKIS

Professor of Public International Law
Faculty of Laws
University College London
Chair of the International Law
Commission

SECRETARIAT GENERAL

DIRECTORATE OF LEGAL ADVICE AND PUBLIC INTERNATIONAL LAW / DIRECTION DU CONSEIL JURIDIQUE ET DU DROIT INTERNATIONAL PUBLIC

Mr Jörg POLAKIEWICZ

Director / *Directeur*

CAHDI SECRETARIAT / SECRETARIAT DU CAHDI

Ms Ana GOMEZ

Secretary to the CAHDI / *Secrétaire du CAHDI* / Head of the Public International Law Division and Treaty Office
Chef de la Division du droit international public et du Bureau des Traités

Ms Irene SUOMINEN

Co-Secretary to the CAHDI / *Co-Secrétaire du CAHDI*
Legal Advisor – *Conseillère juridique*
Public International Law Division
Division du droit international public

Ms Lucia BURILLO MICHO

Assistant Lawyer – *Juriste assistant*
Public International Law Division
Division du droit international public

Mr Antoine KARLE

Junior Lawyer – *Jeune juriste*
Public International Law Division
Division du droit international public

Ms Isabelle KOENIG

Administrative Assistant / *Assistante administrative*
Public International Law Division
Division du droit international public

INTERPRETERS / INTERPRETES

- Didier JUNGLING;
- Sylvie BOUX;
- Bettina LUDEWIG QUAINÉ

APPENDIX II – AGENDA

1. INTRODUCTION

- 1.1. Opening remarks
- 1.2. Adoption of the agenda
- 1.3. Adoption of the report of the 68th meeting
- 1.4. Information provided by the Secretariat of the Council of Europe and the Chair of the CAHDI

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

- 2.1. CAHDI 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 - Committee of Ministers' Follow-up
- 2.2. Opinion of the CAHDI on ad hoc European Committee for the World Anti-Doping Agency (CAHAMA) - feasibility of WADA imposing consequences on states for the voluntary withholding of financial contributions
- 2.3. CAHDI Terms of Reference 2024-2027 – Consultation on the activities
- 2.4. 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

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. Election of the Chair and the Vice-Chair

8.2. Place, date and agenda of the 70th meeting of the CAHDI: Strasbourg (France), 19-20 March 2026

8.3. Any other business

8.4. Adoption of the Abridged Report and closing of the 69th meeting

APPENDIX III – SPEAKING POINTS OF MR JÖRG POLAKIEWICZ

Dear Kerli,

Dear colleagues and friends,

- A very warm welcome to you all once again in Strasbourg. In accordance with CAHDI tradition, allow me to present the most important developments within the Council of Europe ('CoE') since the last meeting of the CAHDI.

I. Accountability for Ukraine

- I will start with the Special Tribunal. As you very well know, the Bilateral Agreement on the Establishment of the Special Tribunal was ceremonially signed by President Zelenskyy and our Secretary General on 25 June here in Strasbourg. This was certainly an important milestone in the process to establish the Special Tribunal, but it is not the endpoint. The real work only started there. One thing is to establish a tribunal on paper, another thing is to create it in reality.
- You also know that the Bilateral Agreement will only enter into force once the Enlarged Partial Agreement on the Management Committee of the Special Tribunal is established.
- In that context, I would like to recall that already for the Core Group discussions, the Treaty Office prepared a non-paper on the legal nature of and procedure for membership in a Council of Europe enlarged partial agreement as well as 'model statements for accession' which we now also circulated prior to the first Committee of Ministers ('CM') *groupe de travail* GT-TRIBUNAL meeting which will take place tomorrow morning.
- The GT-TRIBUNAL has on its agenda CM(2025)105, the draft resolution establishing the Enlarged Partial Agreement on the Management Committee ('EPA'). The aim of the Management Committee will be to finance the Tribunal and to assist in other administrative (non-judicial) aspects of its operation.
- Critically, this document has been drafted so that the entire legal architecture of the project – that is, the Special Tribunal, the Management Committee and its secretariat – are covered under one budget, the budget of the EPA. This structure ensures that the Management Committee has full oversight over the budgeting and expenditure of the Special Tribunal.
- Moreover, the bilateral Agreement will only enter into force once the Enlarged Partial Agreement is established. These two legal instruments are thus inextricably linked, and it is exactly at this crossing point where we stand at the moment: We have the bilateral Agreement signed, but not yet in force, because the EPA could not yet be established.
- For this latter to happen, we need a sufficient number of states to inform the Secretary General of their intention to join the EPA. A threshold for the minimum number of member states that must be willing to join the EPA before the respective resolution can be adopted, has not been defined; it will be a matter of political discretion. It seems obvious that this number shall be higher than the standard threshold of 16 for other partial agreements with a view to ensuring both political legitimacy and financial stability.
- The cost of setting up an international criminal tribunal – even if under the auspices of an existing international organisation like the Council of Europe in this case – is never insignificant. The Secretariat, together with the Dutch counterparts, have already worked hard to be able to provide states and the EU with information that is reliable and based on realistic assumptions and precedents. The calculations are well advanced but still missing some elements that are so crucial for the final estimates. I am afraid that you will have to wait until the information can be shared in the framework of the CM *groupe de travail* GT-TRIBUNAL in the course of one of its next meetings.
- The importance of attracting cross-regional support for the Special Tribunal has been repeatedly mentioned during the lifespan of the Core Group. The EPA reflects this concern.

Following the example of the Register for Damage, the EPA foresees two different modalities of participation – members and associate members – which provides states with a degree of flexibility regarding their involvement with the Management Committee.

- Now, moving on to the **International Claims Commission for Ukraine**. Just two weeks ago, the final negotiations took place in The Hague, in the format of a meeting of the Ad Hoc Committee on the Establishment of an International Claims Commission for Ukraine. An agreement on the final version of the text was reached, and a decision to submit it to the CM was taken last week.
- The decision that the International Claims Commission shall be established under the auspices of the Council of Europe makes absolute sense given that already the Register for Damage was created by a Council of Europe Enlarged Partial Agreement. The transfer from the Register as the first step of a comprehensive compensation mechanism to the second step of an International Claims Commission is likely to be much smoother and the operationalisation much less laborious than creating a new international organisation from scratch. Utilising existing infrastructure is moreover not only sensible and a way to acquire the highest possible effectiveness, but also a question of legitimacy.
- Now, the next steps will entail an important role for the PACE which has been requested to give an opinion on the draft Convention. The opinion should be adopted during PACE's **4th part session**, starting as of **Monday next week**. After that the text of the Convention could be approved by the CM in late October and opened for signature at a diplomatic conference to be held in The Hague just before Christmas [16 December].
- As for the Special Tribunal, we hope that that many states beyond the circle of Council of Europe member states will join the convention. In fact, more non-European states took part in the INC process than in the Core Group negotiations. Support from Parliamentarians in promoting the convention beyond the Council of Europe member states is most welcome to consolidate the broadest cross-regional support possible.
- If all these timelines are kept, less than four years after launch of the full-scale invasion against Ukraine by the Russian Federation, the Council of Europe will not only have responded with an adamant stance towards the aggressor by excluding it from amongst its members, but also by creating a 'web of accountability' with a view to eradicating impunity and ensuring that the damages caused by the aggressor are compensated.

II. Latest developments in Council of Europe treaty-making: Convention on the Protection of the Profession of Lawyer and Third Additional Protocol to the MLA Convention

- Firstly, under this point, I would like to provide you with some updates regarding the **CoE Convention for the Protection of the Profession of Lawyer (CETS No. 226)**. The Convention was **opened for signature on 13 May 2025** during the 134th ministerial session of the CM in Luxembourg. To this date, **it has been signed by 18 CoE member states**.¹⁵ Eight ratifications including six member states are required for its entry into force.
- I would like to remind you that this Convention covers lawyers and their professional associations. It addresses entitlement to practise, professional rights, freedom of expression, professional discipline and specific protective measures for lawyers and professional associations. Under the Convention, states must ensure that lawyers can carry out their professional duties without being the target of any form of physical attack, threat, harassment or intimidation or any improper hindrance or interference. Parties must also ensure that professional associations can operate as independent, self-governing bodies.
- The **third Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters** was **opened for signature** at the informal Conference of Ministers of Justice, held in **Valletta (Malta) on 19 September 2025**. It was immediately signed by **16**

¹⁵ Andorra, Belgium, Bulgaria, Estonia, France, Greece, Iceland, Ireland, Italy, Lithuania, Luxembourg, the Netherlands, North Macedonia, Norway, Poland, the Republic of Moldova, Sweden and the United Kingdom.

states. Supplementing and updating the Convention adopted in 1959, the Protocol aims to strengthen the capacity of member and partner states to respond effectively to crime, particularly in a context of rapid political, social and technological change.

- The main advances include: the simplification and acceleration of mutual assistance procedures; extending the range of situations in which mutual assistance may be requested; broadening the use of electronic communication channels and video conferencing; enabling the use of technical surveillance tools such as GPS trackers and telecommunications interception; and introducing time limits.

III. **European Union's accession to the European Convention on Human Rights ("ECHR")**

- On 25 July 2025, the European Commission formally adopted a [decision](#) on a request for an opinion of the Court of Justice pursuant to article 218(11) TFEU in relation to the draft agreement providing for the accession of the EU to the ECHR.
- According to Justice Commissioner Michael McGrath, the opinion could take 18 months to 2 years to be provided. He also noted the strong support among member states to EU accession and his willingness to make effort in this direction.
- I recall that while accession talks date back to the 1970s, and the Lisbon Treaty made it a legal obligation in 2009, progress has been stalled for 15 years. It is high time to finalise this 'never-ending story'. This will be of crucial importance for the cause of coherent human rights protection all over Europe. There will not be another chance. [It is now or never.](#)

IV. **Closing remarks**

- It is encouraging to see that Europe is finally waking up.
- Less than four years after the launch of the full-scale invasion against Ukraine by the Russian Federation, the CoE has not only expelled the aggressor, but is also actively engaged, in close co-operation with the EU, in creating a genuine 'web of accountability' with a view to eradicating impunity and ensuring that the damages caused by the aggressor are compensated.
- The ECtHR continues to exercise 'residual jurisdiction' over Russian cases, the Register of Damage is up and running in The Hague, a new treaty creating a claims commission is expected to be opened for signature before the end of the year. Last but not least, the agreement for the creation of a special tribunal for the crime of aggression was successfully concluded between Ukraine and the CoE.
- All these initiatives are truly unprecedented, a convincing demonstration of creative legal thinking and perseverance but first and foremost testimony to the resilience of Ukrainian people and their wish to live in a free nation.
- I am convinced that international law remains relevant. As lawyers, we must take up responsibility; our voice must be clear, and our will firm.
- This concludes my update of what was a very interesting and dynamic start to 2025. Please do not hesitate to contact the Secretariat if you have any questions.
- Thank you again for your participation and I look forward to our discussions.

Appendix: Accessions to Council of Europe conventions by non-member states¹⁶

- Chile – European Convention on Extradition (ETS No. 24)
- Chile – Additional Protocol to the European Convention on Extradition (ETS No. 86)
- Chile – Second Additional Protocol to the European Convention on Extradition (ETS No. 98)
- Ecuador – Convention on Cybercrime (ETS No. 185)
- Madagascar – Convention on Mutual Administrative Assistance in Tax Matters as amended by the 2010 Protocol (ETS No. 127)
- Mongolia – European Convention on Mutual Assistance in Criminal Matters (ETS No. 30)
- New Zealand – Convention on Cybercrime (ETS No. 185)
- Philippines – Convention on Mutual Administrative Assistance in Tax Matters as amended by the 2010 Protocol (ETS No. 127)
- Rwanda – Convention on Cybercrime (ETS No. 185)
- Rwanda - Additional Protocol to the Convention on cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (ETS No. 189)
- São Tomé and Príncipe – Convention on Cybercrime (ETS No. 185)
- Trinidad and Tobago – Convention on Mutual Administrative Assistance in Tax Matters as amended by the 2010 Protocol (ETS No. 127)
- Vanuatu – Convention on Cybercrime (ETS No. 185)

¹⁶ 173 of the total number of 227 conventions are open to non-member States.

APPENDIX IV – PRESENTATIONS OF SPECIALS GUESTS

- **Dr Penelope RIDINGS, University of Auckland, member of the International Law Commission**

Due diligence in international law

The presentation of Dr Penelope RIDINGS is available under this [link](#).

- **Professor Ágnes KASPER, Senior Lecturer in Technology Law, Tallinn University of Technology, Department of Law and Head of Law Branch, NATO Cooperative Cyber Defence Centre of Excellence**

Handbook on Developing a National Position on International Law and Cyber Activities: A Practical Guide for States

The presentation of Pr Ágnes KASPER is available under this [link](#).

- **Professor Martins PAPARINSKIS, Chair of the ILC**

The work of the International Law Commission

The presentation of Pr Martins PAPARINSKIS is available under this [link](#).

APPENDIX V – PRESENTATIONS OF MEMBERS AND OBSERVERS

PERMANENT COURT OF ARBITRATION

- **H.E. Dr. hab. Marcin CZEPELAK, PCA Secretary-General**

Statement of the Permanent Court of Arbitration to the Council of Europe Committee of Legal Advisers on Public International Law (CAHDI) at its Sixty-Ninth Meeting

The statement is available under this [link](#).

INTERPOL

- **Mr Benjamin KATZENBERG, Senior Counsel, Institutional Affairs Directorate, Executive Directorate of Legal Affairs**

Intervention on the General Agreement on the Privileges and Immunities of the ICPO-INTERPOL

The statement is available under this [link](#).