



**Presentation by Mr Helmut TICHY,  
Chair of the Committee of Legal Advisers on  
Public International Law (CAHDI)**

**at the 1513<sup>rd</sup> meeting of the Ministers' Deputies  
Strasbourg (France), 27 November 2024**

Monsieur le Président,

Monsieur le Secrétaire général,

Mesdames et Messieurs les Ambassadeurs,

Mesdames et Messieurs les Anciens membres du CAHDI,

Mesdames et Messieurs,

Monsieur le Secrétaire général, votre présence aujourd'hui est un immense honneur pour le CAHDI !

C'est un honneur pour moi d'avoir l'opportunité de m'adresser au Comité des Ministres, pour la seconde fois en ma qualité de Président du Comité des conseillers juridiques sur le droit international public (CAHDI). Mon second mandat a débuté le 1er janvier de cette année à la suite des élections qui ont eu lieu en septembre dernier et j'ai désormais présidé quatre réunions du CAHDI. Ma présidence du CAHDI - et mon statut de membre - se termineront à la fin de cette année, après la 67<sup>e</sup> réunion du CAHDI qui s'est tenue les 19 et 20 septembre 2024 à Vienne. Présider le CAHDI était une des fonctions les plus intéressantes que j'ai occupé au cours de ma carrière et, avant d'occuper celle-ci, j'ai été fier d'être membre du Comité pendant plus de 20 années consécutives.

## **I) INTRODUCTION**

1. Le CAHDI continue à se développer de manière dynamique. La pertinence du CAHDI se reflète dans le nombre toujours croissant de ses participants : il est actuellement composé des conseillers juridiques des ministères des Affaires étrangères des 46 États membres du Conseil de l'Europe, des 5 États observateurs auprès du Conseil de l'Europe<sup>1</sup>, de 4 autres États observateurs auprès du CAHDI<sup>2</sup>, et bientôt de 13 organisations internationales participantes<sup>3</sup>. Au total, le CAHDI accueille les représentants de **67 États et organisations internationales** lors de ses réunions. Lors de notre dernière réunion en septembre, nous avons accueilli **81 participants, 37 autres ayant participé en ligne.**

2. Lors de sa réunion d'avril, **le CAHDI a examiné et accepté la demande de la Cour permanente d'arbitrage (CPA) d'obtenir le statut d'observateur auprès du CAHDI**, conformément au paragraphe C.8 a. de la Résolution CM/Res(2021)3 concernant les comités intergouvernementaux et les organes subordonnés, leur mandat et leurs méthodes de travail.

3. En outre, lors de notre réunion de septembre, le CAHDI a **examiné et accepté la demande de l'Institut international pour l'unification du droit privé (UNIDROIT) d'obtenir le statut d'observateur auprès du CAHDI.** Le CAHDI se réjouit des contributions qu'UNIDROIT peut apporter à nos discussions.

4. Je suis heureux que votre Comité ait décidé ce matin de prendre note du rapport abrégé de la dernière réunion du CAHDI tenue en septembre, comme l'a proposé votre Groupe de rapporteurs sur la coopération juridique (GR-J) le 7 novembre 2024. Le rapport abrégé illustre de manière condensée la variété des sujets actuellement traités par le CAHDI. Permettez-moi maintenant d'illustrer quelques exemples des travaux pertinents, importants et pratiques dans lesquels le CAHDI s'est engagé depuis ma dernière intervention devant vous en novembre de l'année dernière.

## **II) HIGHLIGHTS OF THE CAHDI'S WORK IN 2024**

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<sup>1</sup> Canada, Saint-Siège, Japon, Mexique et États-Unis d'Amérique.

<sup>2</sup> Australie, Israël, République de Corée et Nouvelle Zélande.

<sup>3</sup> UE, ONU, OCDE, CERN, la Conférence de La Haye de droit international privé, INTERPOL, OTAN, CICR, OSCE, AALCO, OIDD, CPA et UNIDROIT.

5. Firstly, I would like to emphasise that the activities of the CAHDI support the implementation of the **Reykjavik Declaration**, adopted at the 4th Summit of the Council of Europe in May 2023, where Heads of State and Government committed to upholding international law and ensuring accountability for the aggression of the Russian Federation against Ukraine.

6. I would like to start with the theme of accountability for Ukraine. For the CAHDI, 2024 was again marked by challenges to the international legal order, in particular those arising from the **Russian Federation's aggression against Ukraine**.

7. In its **advisory role to the Committee of Ministers**, the CAHDI adopted **three opinions** on Parliamentary Assembly (PACE) recommendations at its last meeting in September related to Ukraine.

- a. The first, on Recommendation 2271, concerned **support for the reconstruction of Ukraine**;
- b. the second, on Recommendation 2279, delved into the **legal and human rights aspects** of the Russian Federation's aggression against Ukraine; and
- c. the third, on Recommendation 2281, concerned the **reparation and reconciliation processes** to overcome past conflicts and build a common peaceful future, and in particular regarding the question of **just and equal redress**.

8. Moreover, an opinion on PACE Recommendation 2285 regarding **missing persons, prisoners of war and civilians in captivity as a result of the war of aggression of the Russian Federation against Ukraine** is currently being considered by the CAHDI by way of written procedure.

9. Also at the request of the Committee of Ministers, the CAHDI is currently finalising the **indicative overview of possible avenues under international law aimed at securing the payment of just satisfaction by the Russian**

**Federation awarded by the European Court of Human Rights.** This issue was discussed during the last CAHDI meeting in Vienna this September, based on a preparatory report drafted by a working group established for this purpose. At that meeting, CAHDI decided to treat this document as a "confidential background paper"

10. The question of the confidentiality of this document was discussed at the meeting of the Rapporteur Group on Legal Cooperation (GR-J) on 7 November . At the suggestion of the Chair of the GR-J<sup>4</sup>, I would like to address this issue and briefly explain the reasons for the decision to classify the document as confidential.

11. During the September meeting, several delegations stressed that the background paper in its current draft form did not reflect the views of the CAHDI or the participants in the working group. This was mainly because the document contained complex and unresolved issues that could be misinterpreted as agreed conclusions. Moreover, the CAHDI decided to prepare a more concise document focusing on possible options.

12. The decision to classify the document as "confidential" was not meant to limit access but to underline that it is a "working document" and not an officially adopted CAHDI text. There was no intention to prevent its sharing with Permanent Representations but to make it accessible to them if they so wish.

13. The CAHDI is grateful for the extension of the deadline to submit the final version to the Committee of Ministers by the end of December 2024. The text is currently being finalised by written procedure.

14. At its two yearly meetings, the CAHDI also held exchanges of views on the **public international law aspects of the situation of aggression against Ukraine** including accountability issues. Among other things, these exchanges have focused on the establishment of a **possible future Claims Commission** and the establishment of a **Special Tribunal for the Crime of Aggression** against Ukraine.

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<sup>4</sup> Mr Gabriel REVEL, Ambassador of Monaco.

In this regard, the CAHDI has followed the role of the Council of Europe in the '**Core Group**' for the Establishment of a Special Tribunal for the Crime of Aggression against Ukraine.

15. A **seminar on the Special Tribunal** for the Crime of Aggression against Ukraine was also held on the **margins of the CAHDI's meeting last April**. The seminar discussed whether the Council of Europe is the appropriate forum to assist with the creation of such a tribunal, as well as the potential cooperation between national courts of Council of Europe member states and the future Special Tribunal.

16. In terms of **thematic developments**, I wish to note the current work of the CAHDI on **non-legally binding instruments in international law**. The practical value of this work for member states and their legal advisers has been acknowledged by the Council of Europe and is also why the topic has been on the agenda of the CAHDI since 2021.

17. On the margins of the CAHDI's meeting in Vienna last September, a **second practitioners' workshop on Non-Legally Binding Instruments in International Law** was held. The Workshop focused on a **discussion** on the different terminology used in daily practice by the Ministries of Foreign Affairs; it **showcased practical examples** of potential indirect legal effects of non-legally binding instruments; it **acted as a space for states to exchange experiences** of possible "circumvention" of treaty procedures by non-legally binding instruments and to share their lessons learned; and it **initiated a discussion on the way forward** regarding a potential model text for non-legally binding instruments, whether that be in the shape of guidelines, a compilation of good practices or a glossary.

18. It is also appropriate at this point to reiterate our **deep gratitude to Germany** for the provision of a **seconded to the CAHDI Secretariat** in support of this topic within the portfolio of DLAPIL.

19. Moreover, the CAHDI is working on two complementary questionnaires: one on **treaties not requiring parliamentary approval**, proposed by the delegation of

Slovenia, and the other on **international soft law**, proposed by the delegation of Italy.

20. In accordance with the CAHDI's decision adopted during its 66th meeting, the **replies to the questionnaires** on "**Immunity of state-owned cultural property on loan**" and on "**Immunities of special missions**" have also now been published. This means that now all the older questionnaires and databases entertained by the CAHDI, 8 in total, are now available to the public via the CAHDI's website. I think this is an important outreach tool that allows for the work of the Committee to be used more largely.

21. In 2024, the CAHDI continued its strong tradition of **dialogue with the ILC**. The work of the ILC remains permanently on our agenda and is of practical value to participants in their preparation for discussions in the Sixth Committee of the General Assembly. We **regret that the annual personal exchange** between the CAHDI and ILC chairs **could not take place** this year due to the shortened session of the ILC, but during the last CAHDI meeting we **reiterated the importance of this exchange of views** to the ILC Chair and expressed our eagerness for it to resume next year.

22. Across the CAHDI meetings and workshops this year, we were also privileged to hear insights from no fewer than **four current ILC members** about their work and its connection to the CAHDI: the Chair of the ILC, Mr **Marcelo Vázquez-Bermúdez**; the Special Rapporteur on Non-Legally Binding Agreements, Professor **Mathias Forteau**; and ILC members Prof. **Mārtiņš Pāparinskis** and Prof. **August Reinisch**.

23. Finally, I would like to reiterate the important function performed by the CAHDI in its capacity as the "**European Observatory of Reservations to International Treaties**". The CAHDI examines reservations and declarations made to both Council of Europe and United Nations conventions, while also providing a forum for States to clarify their reservations and declarations, and for other delegations to understand their rationale. During its two last meetings the CAHDI examined **27 reservations and declarations** which had been identified as potentially problematic. This activity

has been very effective and also illustrates the close link between the CAHDI and the Treaty Office of the Council of Europe.

### **III) FUTURE CHALLENGES AND REMARKS**

24. To conclude, I am sure that the CAHDI will remain a relevant forum for the discussion of issues of international law and contribute to the objectives of the Council of Europe: human rights, democracy and the rule of law. Essential for the success of the CAHDI is the support it receives from the Secretariat – and here I would like to thank in particular Ana Gomez and Irene Suominen as well as all the members of their team. The CAHDI also benefits a lot from the continuous exchange with the legal adviser of the Council of Europe, Jörg Polakiewicz, to whom I also address my gratitude. I am confident that with my dear colleagues Kerli Veski of Estonia as chair and Declan Smyth of Ireland as vice chair the CAHDI will continue to play its important role in the future.