

The organisation and functions of the Office of the Legal Adviser of the Ministry of Foreign Affairs

Background

The Office of the Legal Adviser of the Ministry of Foreign Affairs plays a vital role in international relations as it ensures the dissemination and respect of public international law at state level and has the task of promoting the smooth running of the international legal system as a whole.

These offices are an ever-present fixture in the organisation chart of Ministries of Foreign Affairs although their name and competencies differ from one country to another, and yet the public at large are generally unaware of their existence.

It was this state of affairs that led the CAHDI to decide, at its 27th meeting (Strasbourg, 18-19 March 2004), to collect information on the organisation and functions of the Office of the Legal Adviser of the Ministry of Foreign Affairs specific to each State. To this end, a questionnaire was duly drawn up and sent out to the delegations.

The CAHDI decided to set up the database at its 29th meeting (Strasbourg, 18-19 March 2005). Following the compilation and analysis of the replies, an introductory note was drafted and approved at the CAHDI's 31st meeting (Strasbourg, 23-24 March 2006). It was noticeable that the replies indicated a great many common trends but also differences, in both the role of the Legal Adviser and the organisation of the Offices in the States concerned.

That note highlighted above all two major differences:

- between Offices staffed by professional law specialists employed on a permanent basis and those comprising career diplomats with legal training, although some Offices combined these approaches,
- between Offices which work essentially in an advisory capacity and those which, in addition to giving legal opinions, have operational responsibilities in certain fields with a strong legal aspect such as the law of the sea.

Analysis of the replies revealed that some Legal Advisers have significant responsibilities outside the legal field, such as responsibilities for consular matters or visas. It also showed that their Offices have varying degrees of responsibility for human rights-related matters.

Finally, in organisational terms, it showed that the rank of Legal Advisers and their position within the Ministry vary and, in some cases, a distinction is drawn between the Head of the Legal Department and the Legal Adviser.

At its 47th meeting (Strasbourg, 20-21 March 2014), the CAHDI adopted a revised questionnaire containing henceforth additional questions (with regard to questions 3, 4 and 5) on gender equality following the recommendations contained in the Council of Europe Gender Equality Strategy for 2014-2017.

The (revised) questionnaire contains the following questions for detailed information on the functions of the Office of the Legal Adviser and its organisation:

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

The present database contains both the original and the revised national contributions. The Secretariat or the Organisation bears no responsibility for the information contained therein which should be attributed solely to the national delegations.