

**78<sup>th</sup> Session of the Sixth Committee of the UN General Assembly**

**Report of the International Law Commission (ILC) on the work of its  
74rd Session (A/78/10)**

**Cluster 1 (Chapters I -V and X)**

Statement by

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Mr Chairperson,  
Dear colleagues,  
Ladies and gentlemen,

Since this is the first time that I am taking the floor, allow me to begin by congratulating you on your election as Chair of the Sixth Committee. I wish you and other members of the Bureau every success in your work.

I would also like to congratulate the International Law Commission (ILC) for its comprehensive, interesting, and well-drafted report.

I would like to thank in particular the Chair of the ILC, **Professor Patricia Galvao Teles**, for her participation at the 65th meeting of the Council of Europe's Committee of Legal Advisers on Public International Law (CAHDI) held on 28-29 September in Strasbourg, where she presented the work of the ILC and held an interesting exchange of views with

CAHDI experts. On the same occasion, the CAHDI benefited from a presentation and subsequent discussion on "Sea-level rise in relation to international law" by **Professor Nilüfer Oral** and **Professor Bogdan Aurescu**.

We value our long-standing tradition of inviting the ILC Chair prior to the meetings of the Sixth Committee which facilitates cooperation and dialogue between the ILC and CAHDI.

### **Chapter X (Other decisions and conclusions of the Commission)**

Please allow me to make a few remarks in relation to **Chapter X** on "**Other decisions and conclusions of the Commission**".

At the Council of Europe, we were pleased to note that the Commission decided, at its 3656th meeting on 4 August 2023, to include the topic "Non-legally binding international agreements" in its programme of work and to appoint Mr. Mathias Forteau as Special Rapporteur.

Indeed, the Council of Europe acknowledges the practical value of this issue for member states and their legal advisers. This is why this topic has been on the agenda of the CAHDI since 2021.

The first step taken by the CAHDI was to prepare a detailed questionnaire on "The practice of States and international organisations regarding non-legally binding agreements". It aimed at establishing an overview of State practice in relation to the substantive and procedural aspects characterising non-legally binding agreements and the rules applicable in this field.

A report analysing the first 22 replies was presented in March 2023. The CAHDI took note of this report and further decided to keep the item on the agenda under its new denomination "**Non-legally binding instruments in international law**"; that is, to change "agreements" to "instruments" as it was thought that "instruments" better reflects the non-legally binding nature of the objects under discussion.

So far, we have received 32 replies to this questionnaire and are awaiting a few more responses. A revised report including comments from states and additional replies was presented at the 65<sup>th</sup> meeting of the CAHDI last September (28-29 September 2023). It addressed the practice of the responding states and international organisations and included the main trends arising from the replies to the questionnaire.

The CAHDI is considering organising a practically oriented workshop with a view to discussing the existing material, addressing open issues and clarifying what future action could be taken on this topic.

Moreover, the CAHDI discussed and prepared **questionnaires** on two other different but related subjects. The first questionnaire concerns **treaties not requiring parliamentary approval** and the second concerns the topic of **soft law instruments**.

Another topic that is common to the work programmes of the Commission, and the CAHDI is the **“Settlement of international disputes to which international organizations are parties”**. This topic was included in the programme of work of the Commission in 2022 and has been on the agenda of the CAHDI since 2014. Here too the CAHDI produced a questionnaire. The main trends identified in the questionnaire responses were analysed for the first time in 2017, however new and updated replies are welcomed on an ongoing basis. While data gathered by the CAHDI is currently still handled as confidential, at its last meeting in September this year the CAHDI decided to **lift the confidentiality of replies** to the questionnaire on **“the Settlement of disputes of a private character to which an international organisation is party”** – noting that, prior to publishing, delegations would have the opportunity to review and revise their contributions until 1 April 2024.

Mr Chairperson, let me conclude by emphasising that our relations with the ILC are long-standing and mutually enriching. As an organisation committed to the rule of law both nationally and internationally, we highly value the ILC’s work. We were therefore very happy that we could finally resume our **annual exchanges with the Commission** which had been interrupted during Covid times. The CAHDI Chair Helmut Tichy and the

Director of the Directorate of Legal Advice and Public International Law of the Council of Europe Mr Jörg Polakiewicz participated in this exchange which took place on 13 July 2023 in Geneva.

Thank you very much for your attention.