

Delegation of Germany

**STATEMENT BY AMBASSADOR RÜDIGER LÜDEKING,
PERMANENT REPRESENTATIVE OF GERMANY TO THE OSCE, AT
THE 1003rd MEETING OF THE OSCE PERMANENT COUNCIL**

5 June 2014

**In response to the address by Mr. Christian Tomuschat,
President of the OSCE Court of Conciliation and Arbitration**

Mr. Chairperson,

In the Helsinki Final Act, the OSCE participating States undertook to settle disputes among them by peaceful means. They went on to affirm that they would endeavour in good faith and a spirit of co-operation to reach a rapid and equitable solution on the basis of international law.

The Court of Conciliation and Arbitration is an instrument which is tailor-made for this undertaking enshrined in Principle V of the Helsinki Final Act. It has fundamental jurisdiction over any type of dispute. A real asset of this Court is that it provides the participating States with a highly flexible instrument, which takes their sovereignty and equality into full consideration as well as particular sensibilities in a specific case. The conciliation procedures provided for in the Court's statutes are non-binding, and it is also possible to enter into an arbitration procedure conditionally.

Mr. Chairperson,

It is worth taking a closer look at the rules for conciliation procedures. The main purpose of a conciliation procedure is not to impose solutions, but to draw attention to recommendations on resolving a dispute that are compatible with OSCE commitments and international law. It is then ultimately up to the parties involved in the dispute to accept or reject these recommendations.

This being so, it is regrettable that recourse has not yet been made at least to this dispute resolution option offered by the Court of Conciliation and Arbitration. I am therefore extremely grateful that the President of the Court, Mr. Tomuschat, has presented the Court and the possibilities it affords to the Permanent Council today. I hope that this will help to ensure that the Court now actually will be brought into play in the peaceful settlement of disputes.

Mr. Chairperson,

At this point I should like to call to mind a food-for-thought paper submitted by Germany together with France and Switzerland almost exactly four years ago within the framework of the Corfu Process. The paper set out to explore the Court's potential and consequently to provide an incentive to use it. To that end, it contained four specific proposals:

Firstly, it proposed that we revisit the broad and largely unknown possibilities offered by the Court. The Court combines in an original manner two complementary: one of which is conciliation, which ensures a high degree of flexibility and confidentiality. The other is the arbitration procedure, which is binding. Awareness of this should help to allay any reservations about having recourse to the Court.

Secondly, it recalls that the Permanent Council can also refer participating States to the Court. Naturally a procedure cannot be "ordered". However, I hope that future discussions here in the Permanent Council will also focus more on the possibilities afforded by the Court.

Thirdly, it proposes that we consider opportunities for the Court to give advisory opinions to support our work in the OSCE executive structures and institutions.

Fourthly, it proposes that all participating States be invited to accede to the Stockholm Convention. New accessions could also help to create momentum for the Court.

Mr. Chairperson,

These four suggestions from the 2010 food-for-thought paper remain relevant today. I therefore hope that they will be incorporated into the future work of the Helsinki+40 Process.

Finally, I would be satisfied if today's discussion could help to ensure that a first case is brought before the Court. As ever, there are numerous disputes in the OSCE area awaiting resolution. Once a start is made, I am sure that the Court will find its rightful place among the OSCE structures.