

Court of Conciliation and Arbitration

Annual Report 2023



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FOREWORD by the President

As every year, I have the honour of presenting to you, on behalf of the Bureau of the Court of Conciliation and Arbitration within the OSCE, our report on activities, in accordance with the provisions of Article 14 of the 1992 Stockholm Convention.

The Convention on Conciliation and Arbitration within the OSCE has been ratified by 34 States parties to date, making it one of the few treaties adopted within the framework of the Organisation. It is to be hoped that more States will accede to the Convention, to strengthen its optional mechanisms and broaden the panel of conciliators and arbitrators. But beyond the circle of States Parties, the Convention concerns all participating States and is part of the OSCE's structures and institutions. More concretely, conciliation and arbitration should also be part of the toolbox of OSCE officials, in the spirit of Principle V of the Helsinki Final Act.

Then, in addition to our annual meetings with the Permanent Council, whose successive Chairmanships-in-Office I would like to thank, we have established useful contacts with the Parliamentary Assembly and we welcome the reference made to the Court in the Vancouver Final Declaration: *"The OSCE Parliamentary Assembly recognizes the value, particularly at a time of geopolitical instability, of reinforcing and making full use of the OSCE Court of Conciliation and Arbitration"* (Point 202 - Chapter IV - The OSCE and its Institutional Sustainability - Vancouver Final Declaration).

At the same time as this annual report, the Court's Bureau publishes the proceedings of the seminar organised on the occasion of the thirtieth anniversary of the Stockholm Convention, with the support of Sweden as Depositary State and the participation of the Polish Chairpersonship-in-Office.

At a time when international crises are multiplying, we must remember that the Court, with its independence and impartiality, is a practical tool for fostering good neighbourly relations in compliance with the Helsinki Decalogue. In this sense, Principle V of the Final Act is inseparable from all the commitments forcefully affirmed in 1975.



Emmanuel Decaux
President of the Court

1. INSTITUTIONAL MATTERS

1.1. Bureau of the Court

In January 2023, the Bureau of the Court convened virtually to discuss current matters and define the strategy and agenda for the coming year. The Bureau members also debriefed the 30th anniversary seminar held in November 2022 at the International Centre for International Law and Justice, University of Stockholm.

The seminar was considered successful from both diplomatic and academic perspectives. The Bureau expressed its gratitude to the Swedish hosts, including the Ministry for Foreign Affairs.

A second meeting took place in June 2023 for a general exchange of information. The Bureau members underlined again the need to bridge the awareness gap among OSCE circles. In this regard, the meeting with leaders of the OSCE Parliamentary Assembly at its international secretariat in Copenhagen was deemed highly useful and promising (cf. also point 2.1).

The Bureau of the Court is composed of Prof. Emmanuel Decaux (President), Judge Erkki Kourula (Vice-President), Justice Mats Melin, Mrs. Anne Ramberg, Prof. Vasilka Sancin, Prof. Christian Tomuschat, Prof. Verica Trstenjak, and Prof. Silja Vöneky.

The [profiles of the Bureau members](http://www.osce.org/cca) can be found on the Court's website (www.osce.org/cca – Who we are – Presidency)

1.2. Members and Alternate Members of the Court

The conciliators, the arbitrators and their alternates are appointed by the States parties for a mandate of six years, according to Articles 3 and 4 of the Convention on Conciliation and Arbitration within the OSCE. The Court is currently composed of 38 conciliators, 22 arbitrators and 17 alternate arbitrators. These members, who offer an outstanding expertise in the field of international law and diplomacy, can be appointed by the parties to a dispute to sit in the conciliation commission or respectively in an arbitral tribunal. The appointed members are also entitled to take part in the elections for the President of the Court and membership of the Bureau.

Although no appointments or renewal of mandates were made in 2023, the Court encourages the States parties to keep the appointment of their members up-to-date and to renew mandates that have come to expiry in due time. Accordingly,

the Court has sent out notifications to States parties concerned with the invitation to proceed to the nominations of the conciliators, the arbitrators and his/her alternate.

The nominations by States parties are crucial for the upcoming elections of the Court's President and Bureau members in the second semester of 2025. The Bureau is elected by the collegium of appointed members, who are also eligible to run as candidates. The list of [appointed members and alternate members](#) is available online on the Court's webpage (www.osce.org/cca - key resources).

2. ACTIVITIES

2.1 Meeting with Leaders of the OSCE Parliamentary Assembly at its International Secretariat in Copenhagen – 25 April 2023

Upon the invitation of the Parliamentary Assembly (PA) of the OSCE, President Decaux and Vice-President Kourula met on 25 April 2023 with Margareta Cederfelt, President of the OSCE PA, Costel Neculai Dunava, Vice-Chair of the OSCE PA Committee on Political Affairs and Security, as well as Roberto Montella, Secretary General and Gustavo Pallares, Deputy Secretary General. Several OSCE PA staff members also took part in the meeting.

At his presentation, President Decaux underscored that the OSCE Court was a treaty-based institution created within the OSCE offering flexible and efficient means for the peaceful settlement of disputes between States. To date, 34 of 57 OSCE participating States have ratified the Convention on Conciliation and Arbitration. While participating States have the possibility to open, upon agreement, conciliation and arbitration procedures, the current Bureau has made efforts to encourage further accessions to the Convention.

Questions raised during the presentation included the Court's competence. Vice-President Kourula explained that it was limited to inter-state disputes and did not include private or civil society actors, unlike some other jurisdictions. Nevertheless, the Court can deal with a large array of subject-matters across a variety of disputes, including on topics like territorial integrity.

The Vice-President gave further examples of cases where the Court could have been involved and explained the Court's value in providing advisory opinions on an *ad hoc* basis to the OSCE and its institutions. This includes the Court's wide pool of state-appointed experts in international law and diplomats among its members.

The meeting concluded with proposals on how to further enhance co-operation between the OSCE Parliamentary Assembly and the OSCE Court of Conciliation and Arbitration. Convinced of the potential of the OSCE Court in the realm of peaceful dispute settlement, the OSCE Parliamentary Assembly included a mention in its final declaration of the thirtieth Annual Session of the Parliamentary Assembly, held in Vancouver, from 30 June to 4 July 2023:

“The OSCE Parliamentary Assembly recognizes the value, particularly at a time of geopolitical instability, of reinforcing and making full use of the OSCE Court of Conciliation and Arbitration” (Point 202 - Chapter IV – The OSCE and its Institutional Sustainability – Vancouver Final Declaration).

2.2. Address of Vice-President Erkki Kourula at the 1428th Meeting of the Permanent Council of the OSCE, 8 June 2023

On 8 June, Judge Erkki Kourula, Vice-President of the OSCE Court of Conciliation and Arbitration, addressed the Permanent Council, reporting on the Court's activities in the past year. He reminded that the OSCE Court, based on a treaty concluded within the OSCE, should not be considered only as a theoretical example of legal idealism but also as a mechanism based on flexible models to achieve practical results.

Vice-President Kourula underlined that the Court was founded on Principle V relating to the peaceful settlement of disputes of the Helsinki Final Act, as part of the comprehensive set of principles, including refraining from the threat or use of force, the inviolability of frontiers and the territorial integrity of States, equal rights and self-determination of peoples and the fulfilment in good faith of obligations under international law, not to mention respect for human rights and fundamental freedoms. He first appealed to the States that are parties to the 1992 Stockholm Convention and encouraged them to resort to mechanisms provided by the Convention for settling disputes at an early stage before they become more serious conflicts. Vice-President Kourula also invited OSCE participating States to accede to the Convention to confirm their commitment to promote dispute settlement in a peaceful manner.

“What is called for is the political will of States parties and the OSCE institutions to resort to the Court's mechanisms to promote peace and justice on our continent. A starting point for many participating States is to accede to the Stockholm Convention. We venture to suggest that the volatile situation in Europe underlines the need to maintain treaty-based mechanisms. The Court of Conciliation and Arbitration within the OSCE is one of such mechanisms,” he concluded.

See also Appendix I: Address of Vice-President Kourula ([PC.DEL/795/23 – 9 June 2023](#))

The Permanent Delegation of Sweden to the OSCE made a statement in reply, in its national capacity and on behalf of other European Union Member States and OSCE participating States that are parties to the Convention on Conciliation and Arbitration: Albania, Austria, Bosnia and Herzegovina, Croatia, Cyprus, Denmark, Finland, France, Germany, Greece, Hungary, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, North Macedonia, Malta, Moldova, Montenegro, Norway, Poland, Portugal, Romania, Slovenia, San Marino, Switzerland and Ukraine. (PC.DEL/800/23, 9 June 2023 OSCE+).

The statement emphasized the ability of the Court to contribute in a sustainable and effective manner to the settlement of disputes, in accordance with international law and OSCE principles and commitments. It reiterated that the signature and ratification by a greater number of States could further facilitate the full use of the instrument.

The Russian Federation also made a statement in reply (PC.DEL/777/23 Restr.).

During the visit to Vienna, President Decaux and Vice-President Kourula had the opportunity to meet with representatives of States parties to reflect on the Court's assets. They engaged in discussions on how to integrate the Court into OSCE's toolbox for the resolution of conflicts and find ways to promote further accessions to the Convention on Conciliation and Arbitration within the OSCE.

2.4 Simulation of Arbitral Proceedings in the Framework of the MUNLawS Conference, Faculty of Law, University of Ljubljana

In December 2023, the Faculty of Law of the University of Ljubljana hosted for the fourth time the simulation of arbitral proceedings under the Convention on Conciliation and Arbitration within the OSCE. The Moot Court took place in the framework of the [11th MUNLawS conference](#), under the title “Lessons from the Past, Actions for the Future”, and was organised by Professor Vasilka Sancin, Head of the Department of International Law, Faculty of Law, University of Ljubljana, and a member of the Bureau, in collaboration with a team of students led by Rok Šarić.

The opening ceremony featured welcome addresses by Urška Klakočar Zupančič, President of the National Assembly of the Republic of Slovenia, Professor Emmanuel Decaux, President of the OSCE Court of Conciliation and Arbitration, Paul King, NATO Public Diplomacy Division, and Professor Vasilka Sancin.

In his video message, President Decaux welcomed and encouraged the participating student teams.

“The principle of recourse under international law, the primacy of the rule of law over the rule of force, is essential. This is - and remains - the vocation of the Court of Conciliation and Arbitration within the OSCE, created by the 1992 Stockholm Convention, thirty years ago, a generation ago already”, he stated.

The imaginary case involved two fictional States, the Kingdom of Avrelia as the Applicant and the Republic of Raptoria as the Respondent and concerned a cyber security breach at the central electricity grid in Raptoria which also supplied Avrelia on the basis of a bilateral cooperation treaty. Following repeated cyber-attacks allegedly originating from a shadow organisation located in Avrelia, Raptoria decided to shut down internet connections in Avrelia. The sudden and unanticipated shutdown of the internet in the Kingdom of Avrelia resulted in significant economic damage. Students acted as agents for the claimant and respondent as well as arbitrators of the arbitral tribunal.

The [fictional case](#) and the award of the student committee can be found on the website MUNLawS conference.

The [MUNLawS](#) conference brought together over 270 students from a wide range of countries who actively participated in simulations of the various bodies, including the UN Security Council, the UN Human Rights Council, the International Court of Justice, the European Parliament, and the North Atlantic Council.

The conference is designed as a forum for young students and future decision-makers to exchange ideas on matters related to international organisations. It provides an ideal setting for practical training and raising awareness of the features of the Convention on Conciliation and Arbitration within the OSCE.

The next edition of the conference and the simulation of arbitral proceedings under the Convention on Conciliation and Arbitration within the OSCE will take place from 29 November to 1 December 2024 at the Faculty of Law of the University of Ljubljana.

3. COMMUNICATION AND OUTREACH

In the second half of 2023, the Court focused on the editorial work for the publication of the proceedings of the "Stockholm Seminar" in close collaboration with the authors of the presentations made at the seminar. The publication was completed and published in March 2024 (see also point 5: Outlook and Concluding Remarks).

Throughout the year 2023, the Court could benefit from the active involvement of the communications team of OSCE's Secretariat for the release of its news item and social media campaigns.

Christa Allot attended the communications roundtable organised by the OSCE Secretariat, which took place on 14 and 15 September 2023 in Vienna. The workshop gathered media and communications officers of OSCE institutions, missions, and field operations. The programme focused on strategic communication and how to develop effective narratives. The roundtable also addressed the topic of mutually profitable media relations and how to build them over time. C. Allot had the opportunity to discuss specific aspects related to the Court bilaterally with OSCE COMMS team members, especially in view of OSCE’s new public website, which is in preparation.

4. FINANCIAL AND ADMINISTRATIVE MATTERS

Overview of the financial statements – financial year 2023:

Total net expenditures:	CHF 87’860
Contributions provided by States parties:	CHF 94’002
Total reserves	CHF 135’548

The expenditures realised in 2023 were in line with the budget forecast and slightly below the expenditures made in the previous year. In 2023, the Court could register the contribution of the Stockholm Center for Justice and Law, University of Stockholm, of CHF 5’137, which covered most of the costs for the 30th anniversary seminar that took place in November 2022 in Stockholm. The States parties provided a total amount of CHF 94’002, out of a total of CHF 95’000 requested. The Bureau noted with satisfaction the timely payment of the regular contributions by almost all the States parties, which can be seen as a positive sign, reflecting their commitment towards the OSCE Court.

It is worth noting that the office expenses and administrative costs of the registry have remained stable in recent years and are limited to essential items. Once again, it must be highlighted that the members of the Bureau of the Court, representing the Court’s executive structure and ensuring the decision-making procedure are working on a purely *pro bono* basis. These members are active throughout the year in defining the future strategy, maintaining high-level contacts with the OSCE, and the Depositary State, liaising with academia and representing the Court in international fora.

The OSCE Court benefits from a host state agreement with Switzerland, which provides suitable office space near the “Place des Nations”, close to the United Nations headquarters in Geneva.

5. OUTLOOK AND CONCLUDING REMARKS

The Bureau of the Court has once again focused on efforts to promote the Court and has sought new ways to make conciliation and arbitration procedures more visible and understandable. The 30th anniversary seminar held in November 2022 generated ideas for new approaches to make the features of the Convention on Conciliation and Arbitration within the OSCE relevant in the context of today's geopolitical dimension. The publication titled "[The Stockholm Convention in a Europe in Crisis](#)" is now available online on the OSCE website. It contains a selection of the seminar proceedings and was released in March 2024.

The Bureau of the Court is anticipating the year 2025, which marks the 50th anniversary of the Final Act of Helsinki.

The current Bureau's mandate will expire in November 2025, and the election procedure for a new Bureau will be implemented three months prior, in close collaboration with the Depositary State. In January 2024, the current Bureau convened in Geneva to discuss the organisation of these elections, which will include campaigning opportunities and electronic voting.



1428TH MEETING OF THE PERMANENT COUNCIL – 8 JUNE 2023

Address of Judge Erkki KOURULA Vice-President of the Court of Conciliation and Arbitration within the OSCE

Mr. Chairperson,
Madam Secretary-General,
Permanent Representatives,

It is a great honour for me to present the annual report of the activities of the Court of Conciliation and Arbitration within the OSCE in accordance with Article 14 of the Stockholm Convention. I thank the Chairpersonship of North Macedonia for its invitation to present our 2022 activity report to you today. It allows to maintain our contacts with the OSCE institutions and mechanisms as well as the delegations in Vienna in the spirit of cooperative diplomacy underlying our information and awareness-raising efforts.

Bearing in mind that we are a court based on a treaty, the Bureau of the Court has continued outreach activities in order to remind that we have some practical tools on our website providing information about the Court. For this purpose, we have posted a collection of basic documents on the Convention and a general list of publications about the Court. In terms of publications, the collection of key documents has been enhanced with a further language version, in Russian. Moreover, interviews given by President Emmanuel Decaux and Professor Vasilka Sancin are found on the website. Professor Sancin also organised, for the third time, the simulation of arbitral proceedings under the Convention in the framework of the MUNLawS conference at the University of Ljubljana. The Bureau, a permanent body, feels that these events are important to remind of the Court's potential role to implement two procedures – conciliation commissions and arbitration tribunals – in a flexible and confidential manner.

We are well aware that the current situation in Europe is dire. We are in the middle of an armed conflict, challenging the Court's role and assistance in the peaceful settlement of disputes. The foundations of international peace and security as established by the United Nations Charter and reaffirmed within the OSCE are indeed called into question. In line with the 1975 Helsinki Final Act and the 1990 Paris Charter, the Stockholm Convention nevertheless offers an institutional structure for these commitments of principle, accepted by us all, through the establishment of the Court.

Thirty years after the conclusion of the Stockholm Convention, and not one case brought before the Court, one is admittedly entitled to raise the question what role the Court can have in the European security architecture. After an interesting Bureau visit in May 2022 and the 30th Anniversary Seminar of the Convention in November 2022, both held in Stockholm, we still strongly believe that the principle of pacific settlement of disputes is

part of the solution in Europe. As President Decaux stated in Sweden, the Court is in place, it exists, and recalled that the Permanent Court of Arbitration was dormant for a long time, the International Court of Justice went through quiet phases and the European Court of Human Rights was described as a "sleeping beauty" in its early days. Still, the situation is not satisfactory. It continues to be a challenge both to the members of the Court and the OSCE in general.

Mr Chairperson,

There are not many treaties concluded within this Organisation. The Stockholm Convention is one. It has presently 34 States parties out of 57 participating States. The Convention should not be considered only as a theoretical example of legal idealism but also a mechanism based on flexible models to achieve practical results.

The Court's title shows that it is "within the OSCE". It is founded on Principle V relating to the peaceful settlement of disputes of the Helsinki Final Act, as part of the comprehensive set of principles, including to refrain from the threat or use of force, the inviolability of frontiers and the territorial integrity of States, equal rights and self-determination of peoples and the fulfilment in good faith of obligations under international law, not to mention respect for human rights and fundamental freedoms. These principles are interdependent.

The purpose of conciliation is to settle disputes in accordance with international law and OSCE commitments. Arbitration is based on international law but can also, if parties to the dispute so agree, decide a case *ex aequo et bono*. Even though the provisions of the Convention are binding on the States parties, they can be used also by participating States on an *ad hoc* basis. While being an independent body, the Court is also part of OSCE's structures. Therefore, the Bureau finds it most important to have contacts with institutions of this Organisation as well as representatives of the participating States for the improvement of the mutual exchange of information. The procedures of the Court should also be part of the toolbox available to the OSCE Chairpersonship-in-Office.

Mr. Chairperson,

We would first of all appeal to the States parties of the Stockholm Convention and encourage them to resort to mechanisms provided by the Convention for settling disputes at an early stage before they become more serious conflicts. Through the conciliation the Court offers means to sort out the issues creating conflicts between disputing parties and proposes ways of resolving them. All with discretion and without undue pressure. Likewise, it can assist to determine the facts at the end of arbitration procedure between States, as provided in the Convention, ensuring the equality of the parties. Unfortunately States parties have so far not been prepared to accept the potentials of the Convention as means of peaceful settlement of disputes. If negotiations do not bring about solutions between States parties, there are a good number of relatively simple, flexible and neutral conciliation and arbitration procedures to resort to. States parties are invited to use them effectively.

An appeal could also be addressed to all the OSCE participating States. The mechanisms provided in the Stockholm Convention are also available to all States that constitute our Organisation. They can accede to the Convention at any moment, and they are indeed invited to do so, to confirm their commitment to promote dispute settlement in a peaceful manner. Even after thirty years it is not too late.

Participating States can also use the Court's procedures on an *ad hoc* basis, be it environmental, trans-border pollution, national minority or delimitation questions. Such procedures could also benefit disputes relating to possibly new matters that may even go beyond the inter-State framework and include transnational disputes. They can be dealt with great flexibility and diplomacy. Benefitting a solid network of experts in international law, the Court could also act in an advisory function in new fields for the sake of OSCE institutions and structures. We would always welcome considerations of new fields of peaceful settlement of disputes.

Mr. Chairperson,

I would like to thank Sweden, which invited last May the Bureau of the Court to participate in a joint consideration of present and future challenges to the Court members. A seminar, in a hybrid format, was organised in November with the support of Sweden, as the depository State of the Stockholm Convention, and with the participation of the Representative of the Polish OSCE Chairpersonship-in-Office, to mark the 30th Anniversary of the Convention. The anniversary was anything but self-congratulatory. Realistic statements and suggestions made by the academics and diplomats, however, entail reasons for cautious optimism to keep alive fragile hopes for peaceful settlement of disputes within the OSCE region. The interventions will be published shortly.

Mr. Chairperson,

What is called for is the political will of States parties and the OSCE institutions to resort to the Court's mechanisms to promote peace and justice in our continent. A starting point to many participating States is to accede to the Stockholm Convention. We venture to suggest that the volatile situation in Europe underlines the need to maintain treaty-based mechanisms. The Court of Conciliation and Arbitration within the OSCE is one of such mechanisms.

Annual Report to the States parties to the Convention on
Conciliation and Arbitration within the OSCE

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