



Strasbourg, 19/09/03

CAHDI (2003) 10 Part II

COMMITTEE OF LEGAL ADVISERS
ON PUBLIC INTERNATIONAL LAW
(CAHDI)

26th meeting
Strasbourg, 18-19 September 2003

EUROPEAN OBSERVATORY OF RESERVATIONS TO INTERNATIONAL TREATIES:
LIST OF OUTSTANDING RESERVATIONS AND DECLARATIONS
TO INTERNATIONAL TREATIES

Secretariat memorandum
Prepared by the Directorate General of Legal Affairs

Foreword

1. At its second meeting (Paris, 14-16 September 1998) the Group of Specialists on Reservations to International Treaties (DI-S-RIT) agreed to propose to the CAHDI to operate as an European observatory of reservations to international treaties (see meeting report, document DI-S-RIT (98) 10).
2. In this context, the CAHDI regularly considers a list of outstanding reservations.
3. The following list includes two parts. Part I concerns reservations and declarations to treaties concluded outside the Council of Europe. The information contained therein can be consulted at the United Nations Treaty Collection site <http://untreaty.un.org/>.
4. Part II concerns reservations and declarations to Council of Europe treaties. Information was provided by the Treaty Office of the Directorate General of Legal Affairs of the Council of Europe and can be accessed via internet at the new URL <http://conventions.coe.int/>.
5. The format of the information is CONVENTION: **State reserving**, date of notification to the depository, date of notification by the depository (where those dates coincide they are indicated only once), deadline for objections. In as far as possible, the text of the reservation and declaration is included.

Action required

Members of the CAHDI are called upon to consider the following outstanding reservations and declarations in the context of its operation as an European observatory of reservations to international treaties.

List of outstanding reservations and declarations

PART II: RESERVATIONS AND DECLARATIONS TO COUNCIL OF EUROPE TREATIES

1. CONVENTION FOR THE PROTECTION OF INDIVIDUALS WITH REGARD TO AUTOMATIC PROCESSING OF PERSONAL DATA (ETS No. 108), 28 JANUARY 1981¹

MALTA, 28 February 2003, 7 April 2003, 6 April 2004

Declaration contained in a letter handed at the time of deposit of the instrument of ratification, on 28 February 2003 – Or. Engl.

Malta declares that, in accordance with Article 3 (2) (a) of the Convention, the said Convention will not apply to the following categories of automated personal data files, which are included in Article 5 of Malta's Data Protection Act No XXVI of 2001:

- a) personal data files processed by a natural person in the course of a purely personal activity;
- b) personal data files processed for purposes of public security, defence or State security (including the economic well being of the State when the processing operation relates to security matters).

Note by the Secretariat : The declaration has been formulated with respect to the relevant provisions.

Declaration contained in a letter handed at the time of deposit of the instrument of ratification, on 28 February 2003 – Or. Engl.

Malta understands that a request for information pursuant to paragraph (b) of Article 8 of the Convention cannot be complied with if the data subject is unable to adequately specify his or her request.

Note by the Secretariat : The declaration has been formulated with respect to the relevant provisions.

¹ Relevant provisions :

"Article 3 – Scope

- 1 The Parties undertake to apply this convention to automated personal data files and automatic processing of personal data in the public and private sectors.
- 2 Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, or at any later time, give notice by a declaration addressed to the Secretary General of the Council of Europe:
 - a that it will not apply this convention to certain categories of automated personal data files, a list of which will be deposited. In this list it shall not include, however, categories of automated data files subject under its domestic law to data protection provisions. Consequently, it shall amend this list by a new declaration whenever additional categories of automated personal data files are subjected to data protection provisions under its domestic law;

(...)"

"Article 8 – Additional safeguards for the data subject

Any person shall be enabled:

- a to establish the existence of an automated personal data file, its main purposes, as well as the identity and habitual residence or principal place of business of the controller of the file;
- b to obtain at reasonable intervals and without excessive delay or expense confirmation of whether personal data relating to him are stored in the automated data file as well as communication to him of such data in an intelligible form;

(...)"

2. EUROPEAN CHARTER ON REGIONAL OR MINORITY LANGUAGES (ETS No. 148), 5 NOVEMBER 1992²

Cyprus, 26 August 2002, 25 September 2002, 24 September 2003

The Republic of Cyprus communicates that it considers the Armenian language to be a non-territorial language, in the Republic, as described in Article 1, paragraph c, of the Charter.

Therefore, in view of Article 7, paragraph 5, of the Charter, the Republic of Cyprus shall apply the following paragraphs chosen from Part III of the Charter to the Armenian language:

Article 8 – Education

Paragraph 1, sub-paragraphs a i., b i., c i.

Article 9 – Judicial Authorities

Paragraph 1, sub-paragraphs a iv., b iii., c iii.

Article 11 – Media

Paragraph 1, sub-paragraph b ii.

Article 12 – Cultural Activities and Facilities

Paragraph 1, sub-paragraphs d, f.

Paragraph 3.

² Relevant provisions :

"Article 1 – Definitions

(...)

- c "non-territorial languages" means languages used by nationals of the State which differ from the language or languages used by the rest of the State's population but which, although traditionally used within the territory of the State, cannot be identified with a particular area thereof.

Article 2 – Undertakings

- 1 Each Party undertakes to apply the provisions of Part II to all the regional or minority languages spoken within its territory and which comply with the definition in Article 1.
- 2 In respect of each language specified at the time of ratification, acceptance or approval, in accordance with Article 3, each Party undertakes to apply a minimum of thirty-five paragraphs or sub-paragraphs chosen from among the provisions of Part III of the Charter, including at least three chosen from each of the Articles 8 and 12 and one from each of the Articles 9, 10, 11 and 13.

Article 3 – Practical arrangements

- 1 Each Contracting State shall specify in its instrument of ratification, acceptance or approval, each regional or minority language, or official language which is less widely used on the whole or part of its territory, to which the paragraphs chosen in accordance with Article 2, paragraph 2, shall apply.
- 2 Any Party may, at any subsequent time, notify the Secretary General that it accepts the obligations arising out of the provisions of any other paragraph of the Charter not already specified in its instrument of ratification, acceptance or approval, or that it will apply paragraph 1 of the present article to other regional or minority languages, or to other official languages which are less widely used on the whole or part of its territory.
- 3 The undertakings referred to in the foregoing paragraph shall be deemed to form an integral part of the ratification, acceptance or approval and will have the same effect as from their date of notification.

Article 7 – Objectives and principles

(...)

- 5 The Parties undertake to apply, *mutatis mutandis*, the principles listed in paragraphs 1 to 4 above to non-territorial languages. However, as far as these languages are concerned, the nature and scope of the measures to be taken to give effect to this Charter shall be determined in a flexible manner, bearing in mind the needs and wishes, and respecting the traditions and characteristics, of the groups which use the languages concerned."

Article 13 – Economic and Social life
Paragraph 1, sub-paragraph c.

Note by the Secretariat : Cyprus has not designated, in accordance with Article 2, paragraph 2, regional or minority languages to which each Party undertakes to apply a minimum of thirty-five paragraphs or sub-paragraphs chosen from among the provisions of Part III of the Charter. However, Cyprus applies a limited number of provisions of Part III of the Charter to the Armenian language that it has designated as a non-territorial language as defined in Article 1, paragraph c, of the Charter.

3. CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND DIGNITY OF THE HUMAN BEING WITH REGARD TO THE APPLICATION OF BIOLOGY AND MEDICINE: CONVENTION ON HUMAN RIGHTS AND BIOMEDICINE (ETS No. 164), 4 APRIL 1997³

Moldova, 26 November 2002, 19 December 2002, 18 December 2003

According to Article 35 of the Convention, the Republic of Moldova declares that it will apply the provisions of the Convention only on the territory controlled by the Government of the Republic of Moldova until the full establishment of the territorial integrity of the Republic of Moldova.

Note by the Secretariat : Moldova deposited quite similar declarations to the, *inter alia*, Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5), European Convention on Information on Foreign Law (ETS No. 62) and its Additional Protocol (ETS No. 97), Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS No. 141), European Agreement relating to persons participating in procedures of the European Court of Human Rights (ETS No. 161) as well as to the Sixth Additional Protocol to the General Agreement on Privileges and Immunities of the Council of Europe (ETS No. 162).

4. PROTOCOL NO. 13 TO THE CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, CONCERNING THE ABOLITION OF THE DEATH PENALTY IN ALL CIRCUMSTANCES, ETS N°187, 03 MAY 2002

Georgia, 22 May 2003, 24 June 2003, 23 June 2004

Georgia declares, that until the full jurisdiction of Georgia is restored on the territories of Abkhazia and Tskhinvali Region, it cannot be held liable for the violations on these territories of the provisions of Protocol No. 13.

Denmark, 28 November 2002, 15 December 2003, 14 December 2003

In connexion with the Deposit of Denmark's instrument of ratification of the Protocol, the Government of Denmark declares that until further notice Protocol N°13 shall not apply to the Faeroe Islands and Greenland.

³ Relevant provisions :

"Article 35 – Territories

- 1 Any Signatory may, at the time of signature or when depositing its instrument of ratification, acceptance or approval, specify the territory or territories to which this Convention shall apply. Any other State may formulate the same declaration when depositing its instrument of accession."