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**COMMITTEE OF LEGAL ADVISERS ON PUBLIC INTERNATIONAL LAW
(CAHDI)**

**31st meeting
Strasbourg, 23-24 March 2006**

**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/>. 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/>.
4. 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 a 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 HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS (ETS No. 5), 4 NOVEMBER 1950¹

¹ *Relevant provisions:*

Article 6 – Right to a fair trial

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.

3. Everyone charged with a criminal offence has the following minimum rights:

a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;

b) to have adequate time and facilities for the preparation of his defence;

c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;

d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

Article 8 – Right to respect for private and family life

1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 10 – Freedom of expression

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Article 13 – Right to an effective remedy

Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.

Article 14 – Prohibition of discrimination

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Article 34 – Individual applications

The Court may receive applications from any person, non-governmental organisation or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the protocols thereto. The High Contracting Parties undertake not to hinder in any way the effective exercise of this right.

Article 57 – Reservations

1. Any State may, when signing this Convention or when depositing its instrument of ratification, make a reservation in respect of any particular provision of the Convention to the extent that any law then in force in its territory is not in conformity with the provision. Reservations of a general character shall not be permitted under this article.

MONACO, 30 November 2005, 12 January 2006, 11 January 2007

Reservations:

1. The Principality of Monaco declares that the provisions of Articles 6, paragraph 1, and 13 of the Convention apply without prejudice to the provisions, on the one hand, of Article 3, sub-paragraph 2, of the Constitution of the Principality according to which the Prince may in no instance be subjected to legal proceedings, His person being sacred and, on the other hand, of Article 15 of the Constitution relating to the royal prerogatives of the Sovereign, concerning more precisely the right of naturalisation and of re-instatement of nationality.

The provisions of Article 10 of the Convention apply without prejudice to the provisions, on the one hand of Article 22 of the Constitution establishing the principle of the right to respect for private and family life, especially concerning the person of the Prince whose inviolability is guaranteed in Article 3, sub-paragraph 2, of the Constitution and, on the other hand, of Articles 58 to 60 of the Criminal Code concerning the offence against the person of the Prince and His family.

Commentary:

Article 3, sub-paragraph 2, of the Constitution establishes: "The person of the Prince is inviolable". Article 15 of the Constitution establishes: "Following the consultation of the Crown Council, the Prince exercises the prerogative of mercy and of amnesty, as well as the prerogative of naturalisation and of re-instatement of nationality".

Article 22 of the Constitution establishes: "Everyone has the right to respect for his private and family life (...)". Article 58 of the Criminal Code establishes: "The offence towards the person of the Prince, if committed in public, is sanctioned with imprisonment from six months to five years, and the fine provided for in numeral 4 of Article 26. In the opposite case, it is sanctioned with imprisonment from six months to three years and the fine provided for in numeral 3 of Article 26." Article 59 of the Criminal Code establishes: "The offence towards the Prince's family members, if committed in public, is sanctioned with imprisonment from six months to three years, and the fine provided for in numeral 3 of Article 26. In the opposite case, it is sanctioned with imprisonment from three months to one year and the fine provided for in numeral 2 of Article 26. Article 60 of the Criminal Code establishes: "Any writing aiming to publicly undermine the Prince or his family, and done with the intention to harm, is sanctioned with the fine provided for in numeral 4 of Article 26".

2. The Principality of Monaco declares that the provisions of Articles 6, paragraph 1, 8 and 14 of the Convention apply without prejudice to the provisions, on the one hand of Article 25, sub-paragraph 2, of the Constitution on the priority of employment for Monegasques and, on the other hand, of Articles 5 to 8 of the Law No. 1144 of 26 July 1991 and of Articles 1, 4 and 5 of the Law No. 629 of 17 July 1957, relating to the prerequisite authorisations for the exercise of a professional activity, as well as of Articles 6, sub-paragraph 1, and 7, sub-paragraph 2, of the same law concerning the order of dismissal and re-employment."

Commentary:

Article 25, sub-paragraph 2, of the Constitution establishes: "Priority is secured to Monegasques for the accession to public and private employment, within the conditions provided for by the law or the international conventions". The conditions which secure the priority of employment to Monegasques are specified in the statutes of the public office and in various texts instituting a preferential treatment within certain sectors of activity : Ord. of 1 April 1921 (doctors); Law No. 249 of 24 July 1938 (dental surgeons); Law No. 1047 of 8 July

2. Any reservation made under this article shall contain a brief statement of the law concerned.

1982 (lawyers); Law No. 1231 of 12 July 2000 (chartered accountants); Ord.-Law No. 341 of 24 March 1942 (architects); Sovereign Ord. No. 15.953 of 16 September 2003 (shipping brokers); they may also follow from the power of nomination of the Prince: Ord. of 4 March 1886 (notaries). The conditions concerning the priority for employment which are intended to facilitate the exercise, by Monegasques, of a first independent activity are foreseen by Article 3 of the Ministerial Decree No. 2004-261 of 19 May 2003 (assistance and loan for professional settlement).

Article 5 of the law No. 1144 of 26 July 1991 concerning the exercise of certain economic and legal activities establishes: "The exercise of the activities foreseen in Article 1 [crafts, commercial, industrial and professional activities carried out on an independent basis] by individual foreign nationals is subordinated to the obtention of an administrative authorisation (sub-paragraph 1). The opening or the running of an agency, a branch or administrative or representative office, a firm or a company whose seat is located abroad is also subordinated to an administrative authorisation (sub-paragraph 2). The authorisation, given by decision from the State Minister, determines restrictively, for the duration it fixes, the activities which may be exercised, the premises where they will be deployed and indicates, where necessary, the conditions of their exercise (sub-paragraph 3). The authorisation is personal and non-transferable (sub-paragraph 4). Any modification of the activities carried out or any change of the owner of the former authorisation or of the premises requires the issuance of a new authorisation under the conditions provided for by the two preceding sub-paragraphs (sub-paragraph 5)."[The refusal of authorisation shall not be motivated: Article 8, sub-paragraph 2, a contrario to the law No. 1144].

Article 6 of the law No. 1144 establishes: "Any individual foreign national, who is the tenant manager of a business is submitted to the provisions of the previous article, in addition to those resulting from the law on tenancy. The effects of the declaration made by the Monegasque lessor or that of the authorisation held by the foreign national lessor, are suspended during the life of the lease".

Article 7 of the law No. 1144 establishes : "The partners referred to under numerals 1 and 2 of Article 4 [i. e. partners of a company established in the form of a public company whose purpose is the exercise of professional activities, as well as partners in a commercial partnership or in limited partnership whose purpose is the exercise of commercial, industrial or professional activities], when in possession of a foreign nationality, must obtain an administrative authorisation, issued following a decision from the State Minister".

Article 8 of the law No. 1144 establishes : "The provisions of this section apply also to individuals in possession of the Monegasque nationality, who intend to provide, subject to payment and in whichever form, banking, credit, advice or assistance services in the legal, tax, financial and stock exchange fields, as well as brokerage, portfolio management or property management services with a power of disposal; they apply also to the same persons who are partners in one of the companies referred to in Article 4 and whose purpose is the exercise of these same activities (sub-paragraph 1). The administrative decision must be motivated with reference to the professional competencies and to the financial and moral guaranties presented (sub-paragraph 2)".

Article 1 of the law No. 629 of 17 July 1957 aiming to settle the conditions of recruitment and dismissal in the Principality establishes: "No foreigner may hold a private job in Monaco without a work permit nor may he or she hold a job in a profession other than that indicated on this permit".

Article 4 of the law No. 629 establishes: "Any employer who intends to engage or re-engage a worker with a foreign nationality must obtain, prior to the later taking up his or her duty, a written authorisation from the directorate for labour and employment".

Article 5 of the law No. 629 establishes: "For candidates having the necessary ability to work, and in the absence of workers of Monegasque nationality, the authorisation foreseen in the previous article is given according to the following order of priority: 1. foreigners married to a Monegasque having kept her nationality and not legally separated, and foreigners born directly from a Monegasque; 2. foreigners resident in Monaco and having already carried out a professional activity there; 3. foreigners resident in the adjacent communes where they have been authorised to work".

Article 6, paragraph 1, of the law No. 629 establishes: "Dismissal for suppression of posts or reduction of staff may be carried out, for a given professional category, only in the following order: 1. foreigners resident outside Monaco and the adjacent communes; 2. foreigners resident in the adjacent communes; 3. foreigners resident in Monaco; 4. foreigners married to a Monegasque (...) and foreigners born directly from a Monegasque; 5. Monegasques (...)".

Article 7, sub-paragraph 2, of the law No. 629 establishes: "Re-engagements are done in the reverse order than the one for dismissals (...)".

3. The Principality of Monaco declares that the provisions of Article 10 of the Convention apply without prejudice to the provisions of Article 1 of the law No. 1122 of 22 December 1988 concerning the distribution of radio and television broadcasts and to Sovereign Order No. 13.996 of 18 May 1999 approving the concession of public telecommunication services which entails the establishment of a monopoly in the field of broadcasting. This monopoly does not concern programs but only the technical modalities of broadcasting.

Commentary:

Article 1 of the law No. 1122 of 22 December 1988 establishes: "The distribution, in each building, of radio-electrical waves to users of acoustical or visual broadcasting devices is ensured, under the conditions provided for by this law, by way of a public service installation which substitutes itself to private external receiving aerials".

The Sovereign Order No. 13.996 of 18 May 1999 establishes: "The concession of public broadcasting services signed on 11 May 1999 by Our Domain Administrator and Mr Jean Pastorelli, Deputy President of "Monaco télécom, SAM", a public limited company with a capital of 10.000.000 F, as well as the terms and conditions of the said concession and their appendices are hereby approved".

Declarations:

The Principality of Monaco recognises the principle of hierarchy of norms, essential guarantee of the rule of law. In the Monegasque legal system, the Constitution, freely granted by the Sovereign Prince – who is its source – to His subjects, constitutes the supreme norm of which He is the guardian and the arbitrator, as well as the other norms of a constitutional value constituted by the special conventions with France, the general principles of international law regarding the sovereignty and independence of States, as well as the Statutes of the Sovereign Family. International treaties and agreements regularly signed and ratified by the Prince are superior in authority to laws. Therefore, the Convention for the protection of Human Rights has an infra-constitutional, yet supra-legislative value.

The Principality of Monaco rules out any implication of its international responsibility with regard to Article 34 of the Convention, concerning any act or any decision, any fact or event prior to the entry into force of the Convention and its Protocols in respect of the Principality.

<p>Note by the Secretariat. The reservations have been formulated in accordance with Article 57 of the Convention.</p>

2. EUROPEAN CONVENTION ON EXTRADITION (ETS No. 24), 13 DECEMBER 1957²

POLAND, 24 February 2005, 24 March 2005, 23 March 2006

In accordance with Article 28, paragraph 3, of the Convention, the Republic of Poland hereby declares that since 1 May 2004 in relations with the Member States of the European Union, it will apply the internal legal provisions implementing the provisions of the Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (2002/584/JHA) insofar as the Framework Decision is applicable in relations between Poland and these States.

The provisions of the aforementioned Framework Decision were implemented in the Polish law by virtue of the statute amending the Penal Code, Code of Criminal Procedure and the Code of Misdemeanours, dated 18 March 2004.

Note by the Secretariat: The declaration has been formulated in accordance with Article 28 of the Convention.

AUSTRIA, 18 March 2005, 21 April 2005, 20 April 2006

In accordance with Article 28, paragraph 3, of the Convention, Austria notifies that from 1 May 2004 it will apply the national legislation implementing the European Union Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (2002/584/JHA) in relation to Contracting Parties which are Member States of the European Union and which already applied the EU Framework Decision on 1 May 2004, except requests relating to punishable acts committed partly or as a whole before 7 August 2002.

Note by the Secretariat: The declaration has been formulated in accordance with Article 28 of the Convention.

PORTUGAL, 18 April 2005, 10 May 2005, 9 May 2006

In accordance with Article 28, paragraph 3, of the Convention, the Portuguese Republic notifies the applicability, in its relations with the other Member States of the European Union, of the European Union Council Framework Decision 2002/584/JHA of 13 June 2002, on the European arrest warrant and the surrender procedures between Member States of the European Union.

² *Relevant provisions:*

Article 28 – Relations between this Convention and bilateral Agreements

1. This Convention shall, in respect of those countries to which it applies, supersede the provisions of any bilateral treaties, conventions or agreements governing extradition between any two Contracting Parties.
2. The Contracting Parties may conclude between themselves bilateral or multilateral agreements only in order to supplement the provisions of this Convention or to facilitate the application of the principles contained therein.
3. Where, as between two or more Contracting Parties, extradition takes place on the basis of a uniform law, the Parties shall be free to regulate their mutual relations in respect of extradition exclusively in accordance with such a system notwithstanding the provisions of this Convention. The same principle shall apply as between two or more Contracting Parties each of which has in force a law providing for the execution in its territory of warrants of arrest issued in the territory of the other Party or Parties. Contracting Parties which exclude or may in the future exclude the application of this Convention as between themselves in accordance with this paragraph shall notify the Secretary General of the Council of Europe accordingly. The Secretary General shall inform the other Contracting Parties of any notification received in accordance with this paragraph.

The Framework Decision was implemented in Portuguese law by Law n° 65/2003 of 23 August 2003, and, in accordance with Article 40 of this Law, its legal framework is in force since 1 January 2004 and is applicable to requests for surrender (extradition) made by Member States of the European Union which opted for the immediate application of the Framework Decision, as from that date.

Note by the Secretariat: The declaration has been formulated in accordance with Article 28 of the Convention.

CYPRUS, 24 May 2005, 20 June 2005, 19 June 2006

In accordance with Article 28, paragraph 3, of the Convention, the Cyprus Government notifies the implementation in Cyprus legislation of the European Union Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States of the European Union (2002/584/JHA).

The Framework Decision was implemented in Cyprus legislation by Law n° 133 of 30 April 2004. The Law has entered into force on 1 May 2004 and is applicable to requests for surrender (extradition) made by Member States of the European Union as from that date. The provisions of the European arrest warrant thereby replace corresponding provisions of the European Convention on Extradition of 13 December 1957 and its two Protocols of 15 October 1975 and 17 March 1978 in the mutual relationship between Cyprus and the other Member States of the European Union.

Note by the Secretariat: The declaration has been formulated in accordance with Article 28 of the Convention.

NETHERLANDS, 5 September 2005, 6 October 2005, 5 October 2006

On 13 June 2002, the Council of the European Union adopted a framework decision on the European arrest warrant and surrender procedures between Member States (no. 2002/584/JHA) ("the Framework Decision"). Article 31 of the Framework Decision provides that from 1 January 2004 the Framework Decision will replace the corresponding provisions of the relevant extradition conventions applicable in the field of extradition in relations between the Member States.

The Permanent Representation of the Kingdom of the Netherlands therefore has the honour to inform the Secretary General of the Council of Europe that pursuant to Article 28, paragraph 3, of the Convention on Extradition, the Convention shall no longer be applied in relations between the European part of the Kingdom of the Netherlands and the Member States of the European Union that are a Party to the Convention.

The Permanent Representation of the Kingdom of the Netherlands would emphasise that the above does not alter the application of the Convention in relations between:

- the Netherlands Antilles and Aruba and the Parties to the Convention, or
- the European part of the Kingdom and the Parties to the Convention that are not Member States of the European Union.

Note by the Secretariat: The declaration has been formulated in accordance with Article 28 of the Convention.

MALTA, 9 November 2005, 15 November 2005, 14 November 2006

In accordance with Article 28, paragraph 3, of the 1957 European Convention on Extradition, the Government of Malta notifies the Secretary General of the Council of Europe that Malta

shall apply the Framework Decision of the Council of the European Union (No. 2002/584/JHA) of 13 June 2002, on the European arrest warrant and the surrender procedures between Member States in relations between the Member States of the European Union, insofar as the Framework Decision is applicable in relations between Malta and the other Member States. This is effective as from 7th June 2004.

Note by the Secretariat: The declaration has been formulated in accordance with Article 28 of the Convention.

LATVIA, 3 January 2006, 12 January 2006, 11 January 2007

In accordance with Article 28, paragraph 3, of the European Convention on Extradition, the Republic of Latvia declares that, since 30 June 2004, the Republic of Latvia does not apply the Convention and its Protocols in its relations with the Member States of the European Union, but applies the national legislation which implements Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (2002/584/JHA).

Note by the Secretariat: The declaration has been formulated in accordance with Article 28 of the Convention.

3. EUROPEAN AGREEMENT ON REGULATIONS GOVERNING THE MOVEMENT OF PERSONS BETWEEN MEMBER STATES OF THE COUNCIL OF EUROPE (ETS No. 25), 13 DECEMBER 1957³

FRANCE, 7 April 2005, 21 April 2005, 20 April 2006

France and Ukraine are Parties to the European Agreement of 13th December, 1957 on Regulations governing the Movement of Persons between Member States of the Council of Europe. In accordance with Article 7, paragraph 1, of this Agreement, France has decided to suspend temporarily, with immediate effect, its application with regard to Ukraine, with the exception of the provisions of Article 5.

This step is deemed to be necessary on grounds relating to *ordre public*. Application of this Agreement with regard to Ukraine is incompatible with Council Regulation (EC) No. 539/2001, Annex I of which stipulates that Ukraine is one of those States whose nationals are must be in possession of visas when crossing the Member States' external borders.

Note by the Secretariat: Other States Parties, members of the European Union, have formulated a similar declaration. Ukraine has signed the Agreement on 18 February 2004 and has not yet ratified it.

³ *Relevant provisions:*

Article 5

Each Contracting Party shall allow the holder of any of the documents mentioned in the list drawn up by it and embodied in the appendix to this Agreement to re-enter its territory without formality even if his nationality is under dispute.

Article 7

Each Contracting Party reserves the option, on grounds relating to *ordre public*, security or public health, to delay the entry into force of this Agreement or order the temporary suspension thereof in respect of all or some of the other Parties, except insofar as the provisions of Article 5 are concerned. This measure shall immediately be notified to the Secretary General of the Council of Europe, who shall inform the other Parties. The same procedure shall apply as soon as this measure ceases to be operative.

A Contracting Party which avails itself of either of the options mentioned in the preceding paragraph may not claim the application of this Agreement by another Party save insofar as it also applies it in respect of that Party

4. **EUROPEAN AGREEMENT ON THE ABOLITION OF VISAS FOR REFUGEES (ETS No. 31), 20 APRIL 1959⁴**

SLOVAK REPUBLIC, 29 March 2005, 21 April 2005, 20 April 2006

In accordance with Article 2 of the Agreement, Slovakia declares that the territory of the Slovak Republic is integral and indivisible, defined by State borders with neighbouring States according to the international treaties concluded by the Slovak Republic or by international treaties by which the Slovak Republic is bound.

Note by the Secretariat: The declaration has been formulated in accordance with Article 2 of the Agreement

5. **PROTOCOL NO. 4 TO THE CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, SECURING CERTAIN RIGHTS AND FREEDOMS OTHER THAN THOSE ALREADY INCLUDED IN THE CONVENTION AND IN THE FIRST PROTOCOL THERETO (ETS NO. 46), 16 SEPTEMBER 1963⁵**

MONACO, 30 November 2005, 12 January 2006, 11 January 2007

The Principality of Monaco declares that the provisions of Article 2, paragraph 1, of Protocol No. 4 apply without prejudice to the provisions of Article 22, sub-paragraph 1, of Order No. 3153 of 19 March 1964 concerning the conditions of entry and stay of foreigners in the Principality, and of Article 12 of the Order on General Police of 6 June 1867.

Commentary

Article 22, sub-paragraph 1, of the Order No. 3153 of 19 March 1964 establishes: « The State Minister can, by measure of police or by issuing an expulsion warrant, enjoin any foreigner to leave immediately the Monegasque territory or to forbid him/her to enter it".

Article 12 of the Order on General Police of 6 June 1867 establishes: «Any foreigner disturbing or who may disturb, by his/her presence, public or private safety or peace, will be directed outside the Principality's territory by order of the Governor General [State Minister]. He/she will not be allowed to return without a special authorisation from the Governor General [State Minister]. In case of infringement, he/she will be sanctioned with six days to one month in prison.

Note by the Secretariat: the declaration has been formulated in accordance with Article 6 of the Protocol.

⁴ *Relevant provisions:*

Article 2

For the purposes of the present Agreement the "territory" of a Contracting Party shall have the meaning assigned to it by this Party in a declaration addressed to the Secretary General of the Council of Europe.

⁵ *Relevant provisions:*

Article 2 – Freedom of movement

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.

Article 6¹ – Relationship to the Convention

As between the High Contracting Parties the provisions of Articles 1 to 5 of this Protocol shall be regarded as additional Articles to the Convention, and all the provisions of the Convention shall apply accordingly.

6. ADDITIONAL PROTOCOL TO THE EUROPEAN CONVENTION ON EXTRADITION (ETS No. 86), 15 OCTOBER 1975

NETHERLANDS, 10 February 2006, 22 February 2006, 21 February 2007

On 13 June 2002, the Council of the European Union adopted a framework decision (2002/584/JHA) on the European arrest warrant and the surrender procedures between Member States ("the framework decision"). Article 31 of the framework decision states that, from 1 January 2004, the provisions of the framework decision shall replace the corresponding provisions of the conventions pertaining to extradition that apply in relations between the Member States of the European Union.

By Note of 31 August 2005, the Permanent Representation of the Kingdom of the Netherlands informed the Secretary General of the Council of Europe that the European Convention on Extradition, done at Paris on 13 December 1957 ("the Convention"), would no longer be applied in relations between the part of the Kingdom of the Netherlands situated in Europe and the Member States of the European Union that are Parties to the Convention.

Accordingly, the Permanent Representation of the Kingdom of the Netherlands has the honour to confirm that, in view of the foregoing, the Additional Protocol to the European Convention on Extradition ("the Additional Protocol") is likewise no longer applied in relations between the part of the Kingdom of the Netherlands situated in Europe and the Member States of the European Union that are Parties to the Additional Protocol.

The Permanent Representation of the Kingdom of the Netherlands would emphasise that the above in no way alters the application of the Additional Protocol in relations between:

- the Netherlands Antilles and Aruba and the Parties to the Additional Protocol, or
- the part of the Kingdom of the Netherlands situated in Europe and the Parties to the Additional Protocol that are not Member States of the European Union.

Note by the Secretariat: The declaration has been formulated following the declaration made by the Netherlands in August 2005, in accordance with Article 28 of the European Convention on Extradition.

7. EUROPEAN CONVENTION ON THE SUPPRESSION OF TERRORISM (ETS No. 90), 27 JANUARY 1977⁶

⁶*Relevant provisions:*

Article 12

1. Any State 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.
2. Any State may, when depositing its instrument of ratification, acceptance or approval or at any later date, by declaration addressed to the Secretary General of the Council of Europe, extend this Convention to any other territory or territories specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings.
3. Any declaration made in pursuance of the preceding paragraph may, in respect of any territory mentioned in such declaration, be withdrawn by means of a notification addressed to the Secretary General of the Council of Europe. Such withdrawal shall take effect immediately or at such later date as may be specified in the notification.

Article 13

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance or approval, declare that it reserves the right to refuse extradition in respect of any offence mentioned in Article 1 which it considers to be a political offence, an offence connected with a political offence or an offence inspired by

NETHERLANDS, 10 February 2006, 22 February 2006, 21 February 2007

On 13 June 2002, the Council of the European Union adopted a framework decision (2002/584/JHA) on the European arrest warrant and the surrender procedures between Member States ("the framework decision"). Article 31 of the framework decision states that, from 1 January 2004, the provisions of the framework decision shall replace the corresponding provisions of the conventions pertaining to extradition that apply in relations between the Member States of the European Union.

The Permanent Representation of the Kingdom of the Netherlands therefore has the honour to confirm to the Secretary General of the Council of Europe that the provisions of the European Convention on the Suppression of Terrorism ("the Convention") regarding extradition, in view of the above, are no longer applied in relations between the part of the Kingdom of the Netherlands situated in Europe and the Member States of the European Union that are Parties to the Convention.

Note by the Secretariat: By Note of 31 August 2005, the Permanent Representation of the Netherlands informed the Secretary General that the European Convention on Extradition, done at Paris on 13 December 1957 ("the Convention"), would no longer be applied in relations between the part of the Kingdom of the Netherlands situated in Europe and the Member States of the European Union that are Parties to the Convention (see Notification JJ6132C Tr./024-93).

The Permanent Representation would emphasise that the above in no way alters the application of the Convention in relations between:

- the Netherlands Antilles and Aruba and the Parties to the Convention, or
- the part of the Kingdom of the Netherlands situated in Europe and the Parties to the Convention that are not Member States of the European Union.

Note by the Secretariat: The declaration has been formulated following the declaration made by the Netherlands in August 2005, in accordance with Article 28 of the European Convention on Extradition

NETHERLANDS, 10 February 2006, 22 February 2006, 21 February 2007

The Kingdom of the Netherlands accepts the Convention for Aruba with the following reservation: "With due observance of Article 13, paragraph 1, of the Convention, Aruba reserves the right to refuse extradition in respect of any offence mentioned in Article 1 of the Convention including the attempt to commit or participation in one of these offences, which it considers to be a political offence or an offence connected with a political offence."

Note by the Secretariat: The declaration has been formulated in accordance with Articles 12, paragraph 2 et 13, paragraph 1 of the Convention.

political motives, provided that it undertakes to take into due consideration, when evaluating the character of the offence, any particularly serious aspects of the offence, including:

- a) that it created a collective danger to the life, physical integrity or liberty of persons; or
- b) that it affected persons foreign to the motives behind it; or
- c) that cruel or vicious means have been used in the commission of the offence.

8. SECOND ADDITIONAL PROTOCOL TO THE EUROPEAN CONVENTION ON EXTRADITION (ETS No. 98), 17 MARCH 1978

NETHERLANDS, 10 February 2006, 22 February 2006, 21 February 2007

On 13 June 2002, the Council of the European Union adopted a framework decision (2002/584/JHA) on the European arrest warrant and the surrender procedures between Member States ("the framework decision"). Article 31 of the framework decision states that, from 1 January 2004, the provisions of the framework decision shall replace the corresponding provisions of the conventions pertaining to extradition that apply in relations between the Member States of the European Union.

By Note of 31 August 2005, the Permanent Representation of the Kingdom of the Netherlands informed the Secretary General of the Council of Europe that the European Convention on Extradition, done at Paris on 13 December 1957 ("the Convention"), would no longer be applied in relations between the part of the Kingdom of the Netherlands situated in Europe and the Member States of the European Union that are Parties to the Convention.

Accordingly, the Permanent Representation of the Kingdom of the Netherlands has the honour to confirm that, in view of the foregoing, the Second Additional Protocol to the European Convention on Extradition ("the Second Additional Protocol") is likewise no longer applied in relations between the part of the Kingdom of the Netherlands situated in Europe and the Member States of the European Union that are Parties to the Second Additional Protocol.

The Permanent Representation of the Kingdom of the Netherlands would emphasise that the above in no way alters the application of the Second Additional Protocol in relations between:

- the Netherlands Antilles and Aruba and the Parties to the Second Additional Protocol, or
- the part of the Kingdom of the Netherlands situated in Europe and the Parties to the Second Additional Protocol that are not Member States of the European Union.

Note by the Secretariat: The declaration has been formulated following the declaration made by the Netherlands in August 2005, in accordance with Article 28 of the European Convention on Extradition.

9. EUROPEAN AGREEMENT ON TRANSFER OF RESPONSIBILITY FOR REFUGEES (ETS No. 107), 16 OCTOBER 1980⁷

⁷ *Relevant provisions:*

Article 2

1. Responsibility shall be considered to be transferred on the expiry of a period of two years of actual and continuous stay in the second State with the agreement of its authorities or earlier if the second State has permitted the refugee to remain in its territory either on a permanent basis or for a period exceeding the validity of the travel document.

This period of two years shall run from the date of admission of the refugee to the territory of the second State or, if such a date cannot be established, from the date on which he presents himself to the authorities of the second State.

2. For the calculation of the period specified in paragraph 1 of this Article:

- a) stays authorised solely for the purpose of studies, training or medical care shall not be taken into account;
- b) periods of imprisonment of the refugee imposed in connection with a criminal conviction shall not be taken into account;
- c) periods during which the refugee is allowed to remain in the territory of the second State pending an appeal against a decision of refusal of residence or of removal from the territory shall only be taken into account if the decision on the appeal is favourable to the refugee;
- d) periods during which the refugee leaves on a temporary basis the territory of the second State for not more

POLAND, 20 April 2005, 10 May 2005, 9 May 2006

In accordance with Article 14, paragraph 1, of the Agreement, the Republic of Poland declares that it will not accept a request for readmission presented on the basis of the provisions of Article 4, paragraph 2.

In accordance with Article 14, paragraph 1, of the Agreement, the Republic of Poland declares that insofar as it is concerned, transfer of responsibility under the provisions of Article 2, paragraph 1, shall not occur for the reason that it has authorised the refugee to stay in its territory for a period exceeding the validity of the travel document solely for the purposes of studies or training.

Note by the Secretariat: The reservations of Poland have been formulated in accordance with Article 14 of the Agreement.

10. CONVENTION FOR THE PROTECTION OF INDIVIDUALS WITH REGARD TO AUTOMATIC PROCESSING OF PERSONAL DATA (ETS No. 108), 28 JANUARY 1981⁸

than three consecutive months or, on more than one occasion, for not more than six months in total, shall be taken into account, such absences not being deemed to interrupt or suspend the stay.

3. Responsibility shall also be deemed to be transferred if readmission of the refugee to the first State can no longer be requested under Article 4.

Article 4

1. As long as transfer of responsibility has not occurred in accordance with Article 2, paragraphs 1 and 2, the refugee shall be readmitted to the territory of the first State at any time, even after the expiry of the travel document. In the latter case readmission shall occur on the simple request of the second State, on condition that the request is made during the six months following the expiry of the travel document.

2. If the authorities of the second State do not know the whereabouts of the refugee and for this reason are not able to make the request mentioned in paragraph 1 during the six months following the expiry of the travel document, that request must be made within the six months following the time at which the whereabouts of the refugee become known to the second State, but in no case later than two years after the expiry of the travel document.

Article 14

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, declare that it avails itself of one or both of the reservations provided for in the Annex to this Agreement. No other reservation may be made.

2. Any Contracting State which has made a reservation under the preceding paragraph may wholly or partly withdraw it by means of a notification addressed to the Secretary General of the Council of Europe. The withdrawal shall take effect on the date of receipt of such notification by the Secretary General.

3. A Party which has made a reservation in respect of any provision of this Agreement may not claim the application of that provision by any other Party; it may, however, if its reservation is partial or conditional, claim the application of that provision insofar as it has itself accepted it.

⁸ *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;

b) that it will also apply this convention to information relating to groups of persons, associations, foundations, companies, corporations and any other bodies consisting directly or indirectly of individuals, whether or not such bodies possess legal personality;

ALBANIA, 14 February 2005, 21 April 2005, 20 April 2006

In accordance with Article 3, paragraph 2, sub-paragraph a, of the Convention, the Republic of Albania declares that it will not apply the Convention to the following categories of personal data:

- a) Processing of personal data carried out by individuals exclusively for personal purposes provided (on the condition) that these data are not intended for distribution (broadcast) through different means of communication;
- b) To personal data which, by virtue of a law, are accessible to the public and to the personal data which are published in accordance with the law.

In accordance with Article 3, paragraph 2, sub-paragraph b, of the Convention, the Republic of Albania declares that it will apply the Convention to the data (information) relating to groups of persons, associations, foundations, companies, institutions or any other bodies, consisting directly or indirectly of individuals whether or not such bodies possess legal personality.

Note by the Secretariat: The declaration of Albania have been formulated in accordance with Article 3, paragraph 2 of the Convention.

CROATIA, 21 June 2005, 28 July 2005, 27 July 2006

In accordance with Article 3, paragraph 2, sub-paragraph a, of the Convention, the Republic of Croatia declares that the Convention will not apply to the automated personal data files kept by individuals exclusively for personal use or for household purposes.

In accordance with Article 3, paragraph 2, sub-paragraph c, of the Convention, the Republic of Croatia declares that the Convention will also apply to personal data files which are not processed automatically.

Note by the Secretariat: The declarations of Croatia have been formulated in accordance with Article 3, paragraph 2 of the Convention.

SERBIA AND MONTENEGRO, 6 September 2005, 15 September 2005, 14 September 2006

In accordance with Article 3, paragraph 2, sub-paragraph a, of the Convention, Serbia and Montenegro shall not apply the Convention to automated databases containing personal data being kept in accordance with criminal records and State security regulations.

Note by the Secretariat: The declaration of Serbia and Montenegro has been formulated in accordance with Article 3, paragraph 2 of the Convention.

**11. CONVENTION ON THE TRANSFER OF SENTENCED PERSONS (ETS No. 112),
21 MARCH 1983⁹**

c) that it will also apply this convention to personal data files which are not processed automatically.

⁹ *Relevant provisions:*

Article 3 – Conditions for transfer

3. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, indicate that it intends to exclude the application of one of the procedures provided in Article 9.1.a and b in its relations with other Parties.

Article 5 – Requests and replies

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1. Requests for transfer and replies shall be made in writing.
 2. Requests shall be addressed by the Ministry of Justice of the requesting State to the Ministry of Justice of the requested State. Replies shall be communicated through the same channels.
 3. Any Party may, by a declaration addressed to the Secretary General of the Council of Europe, indicate that it will use other channels of communication.
 4. The requested State shall promptly inform the requesting State of its decision whether or not to agree to the requested transfer.

Article 7 – Consent and its verification

1. The sentencing State shall ensure that the person required to give consent to the transfer in accordance with Article 3.1.d does so voluntarily and with full knowledge of the legal consequences thereof. The procedure for giving such consent shall be governed by the law of the sentencing State.
2. The sentencing State shall afford an opportunity to the administering State to verify through a consul or other official agreed upon with the administering State, that the consent is given in accordance with the conditions set out in paragraph 1 above.

Article 9 – Effect of transfer for administering State

1. The competent authorities of the administering State shall:
 - a) continue the enforcement of the sentence immediately or through a court or administrative order, under the conditions set out in Article 10, or
 - b) convert the sentence, through a judicial or administrative procedure, into a decision of that State, thereby substituting for the sanction imposed in the sentencing State a sanction prescribed by the law of the administering State for the same offence, under the conditions set out in Article 11.
2. The administering State, if requested, shall inform the sentencing State before the transfer of the sentenced person as to which of these procedures it will follow.
3. The enforcement of the sentence shall be governed by the law of the administering State and that State alone shall be competent to take all appropriate decisions.
4. Any State which, according to its national law, cannot avail itself of one of the procedures referred to in paragraph 1 to enforce measures imposed in the territory of another Party on persons who for reasons of mental condition have been held not criminally responsible for the commission of the offence, and which is prepared to receive such persons for further treatment may, by way of a declaration addressed to the Secretary General of the Council of Europe, indicate the procedures it will follow in such cases.

Article 16 – Transit

1. A Party shall, in accordance with its law, grant a request for transit of a sentenced person through its territory if such a request is made by another Party and that State has agreed with another Party or with a third State to the transfer of that person to or from its territory.
2. A Party may refuse to grant transit:
 - a) if the sentenced person is one of its nationals, or
 - b) if the offence for which the sentence was imposed is not an offence under its own law.
3. Requests for transit and replies shall be communicated through the channels referred to in the provisions of Article 5.2 and 3.
4. A Party may grant a request for transit of a sentenced person through its territory made by a third State if that State has agreed with another Party to the transfer to or from its territory.
5. The Party requested to grant transit may hold the sentenced person in custody only for such time as transit through its territory requires.
6. The Party requested to grant transit may be asked to give an assurance that the sentenced person will not be prosecuted, or, except as provided in the preceding paragraph, detained, or otherwise subjected to any restriction on his liberty in the territory of the transit State for any offence committed or sentence imposed prior to his departure from the territory of the sentencing State.
7. No request for transit shall be required if transport is by air over the territory of a Party and no landing there is scheduled. However, each State may, by a declaration addressed to the Secretary General of the Council of Europe at the time of signature or of deposit of its instrument of ratification, acceptance, approval or accession, require that it be notified of any such transit over its territory.

Article 17 – Language and costs

1. Information under Article 4, paragraphs 2 to 4, shall be furnished in the language of the Party to which it is addressed or in one of the official languages of the Council of Europe.
2. Subject to paragraph 3 below, no translation of requests for transfer or of supporting documents shall be required.
3. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, require that requests for transfer and supporting documents be accompanied by a translation into its own language or into one of the

KOREA, 20 July 2005, 28 July 2005, 27 July 2006

In accordance with Article 3, paragraph 3, of the Convention, the Republic of Korea intends to exclude the application of the procedure provided in Article 9, paragraph 1 (b), in cases when the Republic of Korea is the administering State.

In accordance with Article 5, paragraph 3, of the Convention, the Republic of Korea declares that diplomatic channels shall be used except for in case of emergency or other extraordinary circumstances.

In accordance with Article 16, paragraph 7, of the Convention, the Republic of Korea shall be notified in advance about any event of transit of sentenced persons by air over its territory, even when no landing there is scheduled.

In accordance with Article 17, paragraph 3, of the Convention, the Republic of Korea requires that requests for transfer and supporting documents shall be accompanied by a translation into the Korean language or into the English language.

The Republic of Korea declares that, in accordance with the law applicable in the Republic of Korea, the consent of the person concerned cannot be withdrawn once confirmed by the competent authorities of the Republic of Korea through written document signed by that person.

Note by the Secretariat: The declarations of Korea have been formulated in accordance with Articles 3, 5, 7, 16 and 17 of the Convention.

12. PROTOCOL No. 7 TO THE EUROPEAN CONVENTION ON HUMAN RIGHTS (ETS No. 117), 22 NOVEMBER 1984¹⁰

BELGIUM, 11 May 2005, 20 June 2005, 19 June 2006

official languages of the Council of Europe or into such one of these languages as it shall indicate. It may on that occasion declare its readiness to accept translations in any other language in addition to the official language or languages of the Council of Europe.

4. Except as provided in Article 6.2.a, documents transmitted in application of this Convention need not be certified.

5. Any costs incurred in the application of this Convention shall be borne by the administering State, except costs incurred exclusively in the territory of the sentencing State.

¹⁰ *Relevant provisions:*

Article 1 – Procedural safeguards relating to expulsion of aliens

1. An alien lawfully resident in the territory of a State shall not be expelled therefrom except in pursuance of a decision reached in accordance with law and shall be allowed:

- a) to submit reasons against his expulsion,
- b) to have his case reviewed, and
- c) to be represented for these purposes before the competent authority or a person or persons designated by that authority.

2. An alien may be expelled before the exercise of his rights under paragraph 1.a, b and c of this Article, when such expulsion is necessary in the interests of public order or is grounded on reasons of national security.

Article 2 – Right of appeal in criminal matters

1. Everyone convicted of a criminal offence by a tribunal shall have the right to have his conviction or sentence reviewed by a higher tribunal. The exercise of this right, including the grounds on which it may be exercised, shall be governed by law.

2. This right may be subject to exceptions in regard to offences of a minor character, as prescribed by law, or in cases in which the person concerned was tried in the first instance by the highest tribunal or was convicted following an appeal against acquittal."

Belgium understands the words "resident" and "lawfully" mentioned in Article 1 of this Protocol in the sense that is given to them in paragraph 9 of its Explanatory Report.

Note by the Secretariat: The declaration of Belgium is an interpretative declaration of Article 1 of Protocol No. 7.

MONACO, 30 November 2005, 12 January 2006, 11 January 2007

The Principality of Monaco declares that the superior jurisdiction, within the meaning of Article 2, paragraph 1, of Protocol No. 7 includes the Court of Review and the Supreme Court.

Note by the Secretariat: The declaration of Monaco has been formulated in accordance with Article 2 of the Protocol.

13. CONVENTION ON MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS (ETS NO. 127), 25 JANUARY 1988¹¹

¹¹ *Relevant provisions:*

Article 2 – Taxes covered

1. This Convention shall apply:

a) to the following taxes:

- i taxes on income or profits,
- ii taxes on capital gains which are imposed separately from the tax on income or profits,
- iii taxes on net wealth, imposed on behalf of a Party; and

b) to the following taxes:

- i taxes on income, profits, capital gains or net wealth which are imposed on behalf of political divisions or local authorities of a Party;
- ii compulsory social security contributions payable to general government or to social security institutions established under public law;
- iii taxes in other categories, except customs duties, imposed on behalf of a Party, namely:
 - A estate, inheritance or gift taxes;
 - B taxes on immovable property;
 - C general consumption taxes, such as value-added or sales taxes;
 - D specific taxes on goods and services such as excise taxes;
 - E taxes on the use or ownership of motor vehicles;
 - F taxes on the use or ownership of movable property other than motor vehicles;
 - G any other taxes.

iv taxes in categories referred to in sub-paragraph iii above which are imposed on behalf of political subdivisions or local authorities of a Party.

Article 30 – Reservations

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance or approval or at any later date declare that it reserves the right:

- a) not to provide any form of assistance in relation to the taxes of other Parties in any if the categories listed in sub-paragraph b of paragraph 1 of Article 2, provided that it has not included any domestic tax in that category under Annex A of the Convention;
- b) not to provide assistance in the recovery of any tax claim, or in the recovery of an administrative fine, for all taxes or only for taxes in one or more of the categories listed in paragraph 1 of Article 2;
- c) not to provide assistance in respect of any tax claim, which is in existence at the date of entry into force of the Convention in respect of that State or, where a reservation has previously been made under sub-paragraph a or b above, at the date of withdrawal of such a reservation in relation to taxes in the category in question;
- d) not to provide assistance in the service of documents for all taxes or only for taxes in one or more of the categories listed in paragraph 1 of Article 2;
- e) not to permit the service of documents through the post as provided for in paragraph 3 of Article 17.

2. No other reservation may be made.

ITALY, 31 January 2006, 22 February 2006, 21 February 2007

Reservations:

Article 30, paragraph 1.a

Italy reserves the right not to provide any form of assistance in relation to taxes of other Parties included in one of the following categories listed in sub-paragraph b of paragraph 1 of Article 2:

- ii compulsory social security contributions payable to general government or to social security institutions established under public law;
- iii D. specific taxes on goods and services such as excise taxes,
E. taxes on the use or ownership of motor vehicles,
F. taxes on the use or ownership of movable property other than motor vehicles,
G. any other taxes other than registration tax and mortgage and cadastral taxes.
- iv taxes in categories D, E, F, G listed in sub-paragraph iii above which are imposed on behalf of political subdivisions or local authorities of a Party.

Article 30, paragraph 1.b

Italy reserves the right not to provide assistance in the recovery of any tax claim, or in the recovery of an administrative fine, for the taxes listed in the reservation made under sub-paragraph a. above.

Article 30, paragraph 1.c

Italy reserves the right not to provide assistance in respect of any tax claim, which is in existence at the date of entry into force of the Convention in respect of Italy or included in the reservation made under sub-paragraphs a and b above and existing at the date of withdrawal of such a reservation by Italy.

Article 30, paragraph 1.d

Italy reserves the right not to provide assistance in the service of documents for taxes listed the reservation made under sub-paragraph a. above.

Article 30, paragraph 1.e

Italy reserves the right not to permit the service of documents through the post as provided for in paragraph 3 of Article 17.

Declarations:

3. After the entry into force of the Convention in respect of a Party, that Party may make one or more of the reservations listed in paragraph 1 which it did not make at the time of ratification, acceptance or approval. Such reservations shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of the reservation by one of the Depositaries.

4. Any Party which has made a reservation under paragraphs 1 and 3 may wholly or partly withdraw it by means of a notification addressed to one of the Depositaries. The withdrawal shall take effect on the date of receipt of such notification by the Depositary in question.

5. A Party which has made a reservation in respect of a provision of this Convention may not require the application of that provision by any other Party; it may, however, if its reservation is partial, require the application of that provision insofar as it has itself accepted it.

ANNEX A – Taxes to which the Convention would apply

Article 2, paragraph 1.a.i

- Personal Income Tax (*Imposta sul reddito delle persone fisiche – IRPEF*);
- Corporate Income Tax (*Imposta sul reddito delle società – IRES* and the former *Imposta sul reddito delle persone giuridiche – IRPEG*).

Article 2, paragraph 1.a.ii

- Substitute Income Taxes, irrespective of their denomination.

Article 2, paragraph 1.b.i

- Regional Tax on Productive Activities (*Imposta regionale sulle attività produttive – IRAP*).

Article 2, paragraph 1.b.iii

Under category C:

- Value Added Tax (*Imposta sul valore aggiunto – IVA*).

Under category G:

- Registration Tax (*Imposta di registro*);
- Mortgage and Cadastral Taxes (*Imposte ipotecaria e catastale*).

Article 2, paragraph 1.b.iv

- Local Property Tax (*Imposta comunale sugli immobili – ICI*).

Note by the Secretariat: The reservations have been formulated in accordance with Articles 2 and 30 of the Convention.

14. EUROPEAN CONVENTION ON THE PROTECTION OF THE ARCHAEOLOGICAL HERITAGE (revised) (ETS No. 143), 16 JANUARY 1992¹²

DENMARK, 16 November 2005, 5 December 2005, 4 December 2006

Pursuant to Article 16 of the Revised Convention, Denmark declares that, until further notice, the Convention will not apply to the Feroe Islands and Greenland.

Note by the Secretariat: The declaration of Denmark is made pursuant to Article 16 of the Revised Convention

¹² *Relevant provisions:*

Article 16

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this (revised) Convention shall apply.
2. Any State may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this (revised) Convention to any other territory specified in the declaration. In respect of such territory the (revised) Convention shall enter into force six months after the date of receipt of such declaration by the Secretary General.
3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective six months after the date of receipt of such notification by the Secretary General.

15. EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES (ETS No. 148), 5 NOVEMBER 1992¹³

CYPRUS, 4 August 2005, 15 September 2005, 14 September 2006

In ratifying the European Charter for Regional or Minority Languages, the Republic of Cyprus deposited on 26 August 2002, a declaration which appears to be incompatible with the provisions of the Charter on undertakings to be applied by it.

In order to remove uncertainty and clarify the extent of the obligations undertaken, the Republic of Cyprus hereby withdraws the declaration of 26 August 2002¹⁴ and replaces it with the following:

The Republic of Cyprus, while reiterating its commitment to respect the objectives and principles pursued by the European Charter for Regional or Minority Languages, declares that it undertakes to apply Part II of the Charter in accordance with Article 2, paragraph 1, to the Armenian language as a “non-territorial” language defined in Article 1c of the Charter.

The Republic of Cyprus would further like to state that its Constitution and laws uphold and safeguard effectively the principle of equality and non-discrimination on the ground of a person’s community, race, religion, language, sex, political or other convictions, national or social descent, birth, colour, wealth, social class or any ground whatsoever.

¹³ *Relevant provisions:*

Article 1 – Definitions

For the purposes of this Charter:

(...)

b) territory in which the regional or minority language is used” means the geographical area in which the said language is the mode of expression of a number of people justifying the adoption of the various protective and promotional measures provided for in this Charter;

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.

¹⁴ *Relevant provisions:*

This declaration read as follows: 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.

Article 13 – Economic and Social life:

Paragraph 1, sub-paragraph c.

Note by the Secretariat: This declaration has been formulated in accordance with Article 2 of the Charter. It aims at clarifying the commitments undertaken by Cyprus in respect of the Charter.

SERBIA AND MONTENEGRO, 15 February 2006, 22 February 2006, 21 February 2007

As to Article 1.b of the Charter, Serbia and Montenegro declares that the term "territory in which the regional or minority languages is used" will refer to areas in which regional and minority languages are in official use in line with the national legislation.

In accordance with Article 2, paragraph 2, of the Charter, Serbia and Montenegro has accepted that the following provisions be applied:

– in the Republic of Serbia, for the Albanian, Bosnian, Bulgarian, Hungarian, Romany, Romanian, Ruthenian, Slovakian, Ukrainian and Croatian languages:

Article 8, paragraph 1 a (iii), a (iv), b (iv), c (iv), d (iv), e (ii), f (iii), g;
 Article 9, paragraph 1 a (ii), a (iii), b (ii), c (ii), d, paragraph 2 a, b, c, paragraph 3;
 Article 10, paragraph 1 a (iv), a (v), c, paragraph 2 b, c, d, g, paragraph 3 c, paragraph 4 c, paragraph 5;
 Article 11, paragraph 1 a (iii), b (ii), c (ii), d, e (i), f (ii), paragraph 2, paragraph 3;
 Article 12, paragraph 1 a, b, c, f, paragraph 2;
 Article 13, paragraph 1 c;
 Article 14 a, b;

– and in the Republic of Montenegro, for the Albanian and Romany languages:

Article 8, paragraph 1 a (iii), a (iv), b (ii), b (iv), c (iii), c (iv), d (iv), e (ii), f (iii), g, h;
 Article 9, paragraph 1 a (ii), a (iii), a (iv), b (ii), b (iii), c (ii), c (iii), d, paragraph 2 a, b, c, paragraph 3;
 Article 10, paragraph 1 a (iii), a (iv), a (v), c, paragraph 2 b, d, g, paragraph 3 a, paragraph 4 a, c, paragraph 5;
 Article 11, paragraph 1 a (iii), b (ii), c (ii), d, e (i), f (ii), paragraph 2, paragraph 3;
 Article 12, paragraph 1 a, b, c, f, paragraph 2;
 Article 13, paragraph 1 c.

Note by the Secretariat: Paragraphs 2 and following of this declaration have been formulated in accordance with Article 2 of the Charter.

16. FRAMEWORK CONVENTION FOR THE PROTECTION OF NATIONAL MINORITIES (ETS No 157), 1 FEBRUARY 1995

LATVIA, 6 June 2005, 20 June 2005, 19 June 2006

The Republic of Latvia

- Recognizing the diversity of cultures, religions and languages in Europe, which constitutes one of the features of the common European identity and a particular value,
- Taking into account the experience of the Council of Europe member States and the wish to foster the preservation and development of national minority cultures and languages, while respecting the sovereignty and national-cultural identity of every State,
- Affirming the positive role of an integrated society, including the command of the State language, to the life of a democratic State,
- Taking into account the specific historical experience and traditions of Latvia,

declares that the notion "national minorities" which has not been defined in the Framework Convention for the Protection of National Minorities, shall, in the meaning of the Framework Convention, apply to citizens of Latvia who differ from Latvians in terms of their culture, religion or language, who have traditionally lived in Latvia for generations and consider themselves to belong to the State and society of Latvia, who wish to preserve and develop their culture, religion or language. Persons who are not citizens of Latvia or another State but who permanently and legally reside in the Republic of Latvia, who do not belong to a national minority within the meaning of the Framework Convention for the Protection of National Minorities as defined in this declaration, but who identify themselves with a national minority that meets the definition contained in this declaration, shall enjoy the rights prescribed in the Framework Convention, unless specific exceptions are prescribed by law.

The Republic of Latvia declares that it will apply the provisions of Article 10, paragraph 2, of the Framework Convention without prejudice to the Satversme (Constitution) of the Republic of Latvia and the legislative acts governing the use of the State language that are currently into force.

The Republic of Latvia declares that it will apply the provisions of Article 11, paragraph 2, of the Framework Convention without prejudice to the Satversme (Constitution) of the Republic of Latvia and the legislative acts governing the use of the State language that are currently into force.

Note by the Secretariat: The Framework Convention contains neither a definition of the term "national minority" nor provisions relating to reservations or declarations.

17. EUROPEAN CONVENTION ON THE EXERCISE OF CHILDREN'S RIGHTS (ETS No. 160), 25 JANUARY 1996¹⁵

CYPRUS, 25 October 2005, 15 November 2005, 14 November 2006

In accordance with Article 1, paragraph 4, of the Convention, the Permanent Representative of Cyprus informs that following a decision of the Council of Ministers (Dec. No 56.045) of the Republic of Cyprus, the Convention will apply to three categories of family cases before a judicial authority, namely: (1) Custody, (2) Adoptions and (3) Protection from maltreatment and cruel behaviour.

¹⁵ *Relevant provisions:*

Article 1 – Scope and object of the Convention

1. This Convention shall apply to children who have not reached the age of 18 years.
2. The object of the present Convention is, in the best interests of children, to promote their rights, to grant them procedural rights and to facilitate the exercise of these rights by ensuring that children are, themselves or through other persons or bodies, informed and allowed to participate in proceedings affecting them before a judicial authority.
3. For the purposes of this Convention proceedings before a judicial authority affecting children are family proceedings, in particular those involving the exercise of parental responsibilities such as residence and access to children.
4. Every State shall, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, specify at least three categories of family cases before a judicial authority to which this Convention is to apply.
5. Any Party may, by further declaration, specify additional categories of family cases to which this Convention is to apply or provide information concerning the application of Article 5, paragraph 2 of Article 9, paragraph 2 of Article 10 and Article 11.
6. Nothing in this Convention shall prevent Parties from applying rules more favourable to the promotion and the exercise of children's rights.

Note by the Secretariat: The declaration of Cyprus has been formulated in accordance with Article 1, paragraph 4 of the Convention.

18. EUROPEAN CONVENTION ON NATIONALITY (No 166), 6 NOVEMBER 1997¹⁶

BULGARIA, 2 February 2006, 22 February 2006, 21 February 2007

In accordance with Article 29, paragraph 1, of the Convention, the Republic of Bulgaria reserves the right not to apply the provision of Article 11 of the Convention.

In accordance with Article 29, paragraph 1, of the Convention, the Republic of Bulgaria reserves the right not to apply the provision of Article 12 of the Convention.

In accordance with Article 29, paragraph 1, of the Convention, the Republic of Bulgaria reserves the right not to apply the provision of Article 16 of the Convention.

In accordance with Article 29, paragraph 1, of the Convention, the Republic of Bulgaria reserves the right not to apply the provision of Article 17, paragraph 1, of the Convention. Under the terms of this reservation, the Republic of Bulgaria shall not apply in respect of the nationals of the Republic of Bulgaria in possession of another nationality and residing on its territory the rights and duties for which the Constitution and laws require only Bulgarian nationality.

¹⁶ *Relevant provisions:*

Article 11 – Decisions

Each State Party shall ensure that decisions relating to the acquisition, retention, loss, recovery or certification of its nationality contain reasons in writing.

Article 12 – Right to a review

Each State Party shall ensure that decisions relating to the acquisition, retention, loss, recovery or certification of its nationality be open to an administrative or judicial review in conformity with its internal law.

Article 16 – Conservation of previous nationality

A State Party shall not make the renunciation or loss of another nationality a condition for the acquisition or retention of its nationality where such renunciation or loss is not possible or cannot reasonably be required.

Article 17 – Rights and duties related to multiple nationality

1. Nationals of a State Party in possession of another nationality shall have, in the territory of that State Party in which they reside, the same rights and duties as other nationals of that State Party.

2. The provisions of this chapter do not affect:

- a) the rules of international law concerning diplomatic or consular protection by a State Party in favour of one of its nationals who simultaneously possesses another nationality;
- b) the application of the rules of private international law of each State Party in cases of multiple nationality.

Article 22 – Exemption from military obligations or alternative civil service

Except where a special agreement which has been, or may be, concluded provides otherwise, the following provisions are also applicable to persons possessing the nationality of two or more States Parties:

(...)

b) persons who are nationals of a State Party which does not require obligatory military service shall be considered as having satisfied their military obligations when they have their habitual residence in the territory of that State Party. Nevertheless, they should be deemed not to have satisfied their military obligations in relation to a State Party or States Parties of which they are equally nationals and where military service is required unless the said habitual residence has been maintained up to a certain age, which each State Party concerned shall notify at the time of signature or when depositing its instruments of ratification, acceptance or accession;

Article 29 – Reservations

1. No reservations may be made to any of the provisions contained in Chapters I, II and VI of this Convention. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, make one or more reservations to other provisions of the Convention so long as they are compatible with the object and purpose of this Convention..

Pursuant to Article 22, paragraph b, of the Convention, the Republic of Bulgaria declares that in the Republic of Bulgaria the age limit for compulsory military recruitment is 27.

Note by the Secretariat: The reservations and declarations have been formulated in accordance with Articles 22 and 29 of the Convention.

19. CRIMINAL LAW CONVENTION ON CORRUPTION (ETS No. 173), 27 JANUARY 1999¹⁷

DENMARK, 1 April 2005, 21 April 2005, 20 April 2006

In accordance with Article 38, paragraph 2, of the Convention, the Government of Denmark declares that it intends to uphold, wholly, the reservations made in accordance with Article 37 of

¹⁷ *Relevant provisions:*

Article 17 – Jurisdiction

1. Each Party shall adopt such legislative and other measures as may be necessary to establish jurisdiction over a criminal offence established in accordance with Articles 2 to 14 of this Convention where:

- a) the offence is committed in whole or in part in its territory;
- b) the offender is one of its nationals, one of its public officials, or a member of one of its domestic public assemblies;
- c) the offence involves one of its public officials or members of its domestic public assemblies or any person referred to in Articles 9 to 11 who is at the same time one of its nationals.

2. Each State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right not to apply or to apply only in specific cases or conditions the jurisdiction rules laid down in paragraphs 1 b and c of this article or any part thereof.

3. If a Party has made use of the reservation possibility provided for in paragraph 2 of this article, it shall adopt such measures as may be necessary to establish jurisdiction over a criminal offence established in accordance with this Convention, in cases where an alleged offender is present in its territory and it does not extradite him to another Party, solely on the basis of his nationality, after a request for extradition.

4. This Convention does not exclude any criminal jurisdiction exercised by a Party in accordance with national law.

Article 37 – Reservations

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, reserve its right not to establish as a criminal offence under its domestic law, in part or in whole, the conduct referred to in Articles 4, 6 to 8, 10 and 12 or the passive bribery offences defined in Article 5.

2. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession declare that it avails itself of the reservation provided for in Article 17, paragraph 2.

3. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession declare that it may refuse mutual legal assistance under Article 26, paragraph 1, if the request concerns an offence which the requested Party considers a political offence.

4. No State may, by application of paragraphs 1, 2 and 3 of this article, enter reservations to more than five of the provisions mentioned thereon. No other reservation may be made. Reservations of the same nature with respect to Articles 4, 6 and 10 shall be considered as one reservation."

Article 38 – Validity and review of declarations and reservations

1. Declarations referred to in Article 36 and reservations referred to in Article 37 shall be valid for a period of three years from the day of the entry into force of this Convention in respect of the State concerned. However, such declarations and reservations may be renewed for periods of the same duration.

2. Twelve months before the date of expiry of the declaration or reservation, the Secretariat General of the Council of Europe shall give notice of that expiry to the State concerned. No later than three months before the expiry, the State shall notify the Secretary General that it is upholding, amending or withdrawing its declaration or reservation. In the absence of a notification by the State concerned, the Secretariat General shall inform that State that its declaration or reservation is considered to have been extended automatically for a period of six months. Failure by the State concerned to notify its intention to uphold or modify its declaration or reservation before the expiry of that period shall cause the declaration or reservation to lapse.

3. If a Party makes a declaration or a reservation in conformity with Articles 36 and 37, it shall provide, before its renewal or upon request, an explanation to GRECO, on the grounds justifying its continuance.

the Convention¹⁸.

Note by the Secretariat: The period covered by the renewal is of three years from 1 July 2005.

PORTUGAL, 5 April 2005, 21 April 2005, 20 April 2006

Pursuant to the procedure provided for by Article 38 of the Convention, the Government of Portugal declares that it upholds, for a period of three years, the reservations made in accordance with Article 37 of the Convention¹⁹.

Note by the Secretariat: The period covered by the renewal is of three years from 1 September 2005.

LUXEMBOURG, 13 July 2005, 28 July 2005, 27 July 2006

In accordance with Article 17, paragraph 2 of the Criminal Law Convention on Corruption, the Government of the Grand Duchy of Luxembourg declares that, except in cases covered by paragraph 1, subparagraph a of Article 17 of this Convention, it will apply the jurisdiction rules laid down in Article 17, paragraph 1, subparagraphs b and c, only if the offender has the Luxembourgish nationality.

Note by the Secretariat: The reservation has been formulated in accordance with Article 17 of the Convention

ARMENIA, 9 January 2006, 12 January 2006, 11 January 2007

Pursuant to Article 37, paragraph 1, of the Convention, the Republic of Armenia reserves its right

¹⁸ *Relevant provisions:*

The reservations read as follows:

“With regard to Article 37, paragraph 1, of the Convention, Denmark reserves the right not to establish as a criminal offence under Danish law, in part or in whole, the conduct referred to in Article 12.

“With regard to Article 37, paragraph 2, of the Convention, Denmark reserves the right to apply Article 17, paragraph 1b, in cases where the offender is one of its nationals, only if the offence is also a criminal offence according to the law of the Party where the offence was committed (dual criminality).

“With regard to Article 37, paragraph 3, of the Convention, Denmark reserves the right to refuse mutual legal assistance under Article 26, paragraph 1, if the request concerns an offence which according to Danish law is considered a political offence.”

¹⁹ *Relevant provisions :*

The reservations read as follows:

"In accordance with Article 17, paragraph 2, of the Convention, the Republic of Portugal declares that where the offender is one of its citizens, but not an official or not performing a political function within the State of Portugal, it shall apply the jurisdiction rule laid down in paragraph 1b of Article 17 of the Convention only if :

- the offender is present on its territory;
- the offences committed are also punished by the Law of the territory on which they have been committed, except if the power of punishment is not exerted in this territory;
- these offences are offences allowing extradition and extradition can not be granted.

“ In accordance with Article 37, paragraph 1, of the Convention, the Republic of Portugal reserves its right not to establish as a criminal offence the passive bribery offences under Article 5 and 6, except where the offenders are public officials of other member States of the European Union or perform therein a political function and provided that the offence has been committed in whole or in part in the territory of Portugal.

“ In accordance with Article 37, paragraph 1, of the Convention, the Republic of Portugal declares that it considers as criminal offences the conduct referred to in Articles 7 and 8 of the Convention only if the corruption in the private sector results in a distortion of competition or an economic loss for third persons.

“ In accordance with Article 37, paragraph 3, of the Convention, the Republic of Portugal declares that it may refuse mutual legal assistance under Article 26, paragraph 1, if the request concerns an offence that the Republic of Portugal considers a political offence.”

not to establish as a criminal offence under its domestic law the conduct referred to in Article 12.

Pursuant to Article 37, paragraph 3, of the Convention, the Republic of Armenia declares that it may refuse mutual legal assistance under Article 26, paragraph 1, if the request concerns an offence which it considers a political offence.

Note by the Secretariat: The reservation has been formulated in accordance with Article 37 of the Convention

20. CONVENTION ON CYBERCRIME (ETS No. 185), 23 NOVEMBER 2001²⁰

²⁰ *Relevant provisions:*

Article 9 – Offences related to child pornography

2. For the purpose of paragraph 1 above, the term “child pornography” shall include pornographic material that visually depicts:

(...)

b) a person appearing to be a minor engaged in sexually explicit conduct;

Article 14 – Scope of procedural provisions

1. Each Party shall adopt such legislative and other measures as may be necessary to establish the powers and procedures provided for in this section for the purpose of specific criminal investigations or proceedings.

2. Except as specifically provided otherwise in Article 21, each Party shall apply the powers and procedures referred to in paragraph 1 of this article to:

a) the criminal offences established in accordance with Articles 2 through 11 of this Convention;

b) other criminal offences committed by means of a computer system; and

c) the collection of evidence in electronic form of a criminal offence.

3.

a) Each Party may reserve the right to apply the measures referred to in Article 20 only to offences or categories of offences specified in the reservation, provided that the range of such offences or categories of offences is not more restricted than the range of offences to which it applies the measures referred to in Article 21. Each Party shall consider restricting such a reservation to enable the broadest application of the measure referred to in Article 20.

b) Where a Party, due to limitations in its legislation in force at the time of the adoption of the present Convention, is not able to apply the measures referred to in Articles 20 and 21 to communications being transmitted within a computer system of a service provider, which system:

i is being operated for the benefit of a closed group of users, and

ii does not employ public communications networks and is not connected with another computer system, whether public or private,

that Party may reserve the right not to apply these measures to such communications. Each Party shall consider restricting such a reservation to enable the broadest application of the measures referred to in Articles 20 and 21.

Article 20 – Real-time collection of traffic data

1. Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to:

a) collect or record through the application of technical means on the territory of that Party, and

b) compel a service provider, within its existing technical capability:

i to collect or record through the application of technical means on the territory of that Party; or

ii to co-operate and assist the competent authorities in the collection or recording of,

traffic data, in real-time, associated with specified communications in its territory transmitted by means of a computer system.

2. Where a Party, due to the established principles of its domestic legal system, cannot adopt the measures referred to in paragraph 1.a, it may instead adopt legislative and other measures as may be necessary to ensure the real-time collection or recording of traffic data associated with specified communications transmitted in its territory, through the application of technical means on that territory.

3. Each Party shall adopt such legislative and other measures as may be necessary to oblige a service provider to keep confidential the fact of the execution of any power provided for in this article and any information relating to it.

4. The powers and procedures referred to in this article shall be subject to Articles 14 and 15.

Article 21 – Interception of content data

BULGARIA, 7 April 2005, 20 June 2005, 19 June 2006

In accordance with Article 14, paragraph 3, of the Convention, the Republic of Bulgaria reserves the right to apply the measures referred to in Article 20 only to serious offences, as they are defined by the Bulgarian Criminal Code.

Note by the Secretariat: The reservation of Bulgaria has been formulated in accordance with Article 14 of the Convention.

FRANCE, 10 January 2006, 22 February 2006, 21 February 2007

Reservations:

In accordance with Article 9, paragraph 2.b, of the Convention, France shall apply Article 9, paragraph 1, to any pornographic material that visually depicts a person appearing to be a minor engaged in sexually explicit conduct, in so far as it is not proved that the said person was 18 years old on the day of the fixing or the registering of his or her image.

In accordance with Article 22 of the Convention, France reserves itself the right not to establish jurisdiction when the offence is committed outside the territorial jurisdiction of any State. France declares also that, whenever the offence is punishable under criminal law where it has been committed, proceedings shall be instituted only upon request from the public prosecutor and must be preceded by a complaint from the victim or his/her beneficiaries or by an official complaint from the authorities of the State where the act was committed (Article 22, paragraph 1.d).

Declaration:

In accordance with Article 21 of the Convention, France shall apply the provisions contained in Article 21 only if the prosecuted offence is punished with a deprivation of liberty superior or equal to two years of custody.

Note by the Secretariat: The reservations and the declaration of France have been

1. Each Party shall adopt such legislative and other measures as may be necessary, in relation to a range of serious offences to be determined by domestic law, to empower its competent authorities to:

- a) collect or record through the application of technical means on the territory of that Party, and
- b) compel a service provider, within its existing technical capability:

- i to collect or record through the application of technical means on the territory of that Party, or
- ii to co-operate and assist the competent authorities in the collection or recording of,

content data, in real-time, of specified communications in its territory transmitted by means of a computer system.

2. Where a Party, due to the established principles of its domestic legal system, cannot adopt the measures referred to in paragraph 1.a, it may instead adopt legislative and other measures as may be necessary to ensure the real-time collection or recording of content data on specified communications in its territory through the application of technical means on that territory.

3. Each Party shall adopt such legislative and other measures as may be necessary to oblige a service provider to keep confidential the fact of the execution of any power provided for in this article and any information relating to it.

4. The powers and procedures referred to in this article shall be subject to Articles 14 and 15.

Article 22 – Jurisdiction

1. Each Party shall adopt such legislative and other measures as may be necessary to establish jurisdiction over any offence established in accordance with Articles 2 through 11 of this Convention, when the offence is committed:

(..)

d) by one of its nationals, if the offence is punishable under criminal law where it was committed or if the offence is committed outside the territorial jurisdiction of any State.

formulated in accordance with Articles 9, 21 and 22 of the Convention.
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21. **ADDITIONAL PROTOCOL TO THE CONVENTION ON CYBERCRIME, CONCERNING THE CRIMINALISATION OF ACTS OF A RACIST AND XENOPHOBIC NATURE COMMITTED THROUGH COMPUTER SYSTEMS (ETS No. 189), 28 JANUARY 2003**²¹

FRANCE, 10 January 2006, 22 February 2006, 21 February 2007

In accordance with Article 6, paragraph 1, of the Protocol, France interprets the terms "international court established by relevant international instruments and whose jurisdiction is recognised by that Party" (Article 6, paragraph 1) as being any international criminal jurisdiction explicitly recognised as such by the French authorities and established under its domestic law.

Note by the Secretariat: The declaration of France has been formulated in accordance with Article 6 of the Protocol.

22. **ADDITIONAL PROTOCOL TO THE CRIMINAL LAW CONVENTION ON CORRUPTION (ETS NO. 191), 15 MAY 2003**²²

DENMARK, 16 November 2005, 5 December 2005, 4 December 2006

Pursuant to Article 12 of the Protocol, Denmark declares that, until further notice, the Protocol will not apply to the Feroe Islands and Greenland.

²¹ *Relevant provisions:*

Article 6 – Denial, gross minimisation, approval or justification of genocide or crimes against humanity

1. Each Party shall adopt such legislative measures as may be necessary to establish the following conduct as criminal offences under its domestic law, when committed intentionally and without right:

distributing or otherwise making available, through a computer system to the public, material which denies, grossly minimises, approves or justifies acts constituting genocide or crimes against humanity, as defined by international law and recognised as such by final and binding decisions of the International Military Tribunal, established by the London Agreement of 8 August 1945, or of any other international court established by relevant international instruments and whose jurisdiction is recognised by that Party.

²² *Relevant provisions:*

Article 9 – Declarations and reservations

2. If a Party has made a reservation in accordance with Article 37, paragraph 1, of the Convention restricting the application of the passive bribery offences defined in Article 5 of the Convention, it may make a similar reservation concerning Articles 4 and 6 of this Protocol at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession. Any other reservation made by a Party, in accordance with Article 37 of the Convention shall be applicable also to this Protocol, unless that Party otherwise declares at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession.

Article 12 – Territorial application

1. Any State or the European Community may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Protocol shall apply.

2. Any Party may, at any later date, by declaration addressed to the Secretary General of the Council of Europe, extend the application of this Protocol to any other territory or territories specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings. In respect of such territory the Protocol shall enter into force on the first day of the month following the expiry of a period of three months after the date of receipt of such declaration by the Secretary General.

3. Any declaration made in pursuance of the two preceding paragraphs may, in respect of any territory mentioned in such declaration, be withdrawn by means of a notification addressed to the Secretary General of the Council of Europe. Such withdrawal shall become effective on the first day of the month following the expiry of a period of three months after the date of receipt of the notification by the Secretary General.

Note by the Secretariat: The declaration has been formulated in accordance with Article 12 of the Protocol.

NETHERLANDS, 16 November 2005, 5 December 2005, 4 December 2006

In conformity with the provisions of Article 10, paragraph 1, and Article 9, paragraph 2, of the Additional Protocol to the Criminal Law Convention on Corruption, the Kingdom of the Netherlands declares that it accepts the said Protocol for the Kingdom in Europe, subject to the following reservations made by the Kingdom of the Netherlands when depositing its instrument of acceptance of the Convention:

1. In accordance with Article 37, paragraph 2, and with regard to Article 17, paragraph 1, the Netherlands may exercise jurisdiction in the following cases:
 - a. in respect of a criminal offence that is committed in whole or in part on Dutch territory;
 - b. - over both Dutch nationals and Dutch public officials in respect of offences established in accordance with Article 2 and in respect of offences established in accordance with Articles 4 to 6 and Articles 9 to 11 in conjunction with Article 2, where these constitute criminal offences under the law of the country in which they were committed;
 - over Dutch public officials and also over Dutch nationals who are not Dutch public officials in respect of offences established in accordance with Articles 4 to 6 and 9 to 11 in conjunction with Article 3, where these constitute criminal offences under the law of the country in which they were committed;
 - over Dutch nationals in respect of offences established in accordance with Articles 7, 8, 13 and 14, where these constitute criminal offences under the law of the country in which they were committed.
 - c. over Dutch nationals involved in an offence that constitutes a criminal offence under the law of the country in which it was committed.
2. In accordance with Article 37, paragraph 1, the Netherlands will not fulfil the obligation under Article 12.

Note by the Secretariat: The declarations have been formulated in accordance with Article 9, paragraph 2 of the Protocol.

23. PROTOCOL NO. 14 TO THE CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, AMENDING THE CONTROL SYSTEM OF THE CONVENTION (CETS NO. 194), 13 MAY 2004²³

BELGIUM, 20 April 2005, 10 May 2005, 9 May 2006

Declaration made at the time of signature of the treaty:

²³ *Relevant provisions:*

Article 12

Paragraph 3 of Article 35 of the Convention shall be amended to read as follows:

“3 The Court shall declare inadmissible any individual application submitted under Article 34 if it considers that :

- a) the application is incompatible with the provisions of the Convention or the Protocols thereto, manifestly ill-founded, or an abuse of the right of individual application; or
- b) the applicant has not suffered a significant disadvantage, unless respect for human rights as defined in the Convention and the Protocols thereto requires an examination of the application on the merits and provided that no case may be rejected on this ground which has not been duly considered by a domestic tribunal.”

Concerning Article 12 of the amending Protocol modifying Article 35 of the Convention for the Protection of Human Rights and Fundamental Freedoms, Belgium declares that it understands this provision within the meaning specified in particular in paragraphs 79, 80, 83 and 84 of the Explanatory Report, from which it results that:

- the Court shall apply the new admissibility criterion by establishing a case-law allowing to define the legal terms which state this criterion on the basis of an interpretation establishing objective criteria of definition (paragraphs 79 et 80);
- the new criterion is designed to avoid rejection of cases warranting an examination on the merits (paragraph 83);
- the single-judge formations and committees will not be able to apply the new criterion in the absence of a clear and well established case-law of the Court's Chambers and Grand Chamber (paragraph 84).

Note by the Secretariat: The declaration of Belgium is an interpretative declaration of Article 12 of the Protocol.

24. ADDITIONAL PROTOCOL TO THE CONVENTION ON HUMAN RIGHTS AND BIOMEDICINE, CONCERNING BIOMEDICAL RESEARCH (CETS NO. 195), 25 JANUARY 2005²⁴

ITALY, 19 October 2005, 15 November 2005, 14 November 2006

The Government of Italy will not allow that a research which does not produce direct benefits to the health of the research participants be carried out on persons not able to give their consent and on a pregnant or breastfeeding woman.

Note by the Secretariat: The declaration of Italy has been made in accordance with Article 34 of the Protocol.

25. COUNCIL OF EUROPE CONVENTION ON THE PREVENTION OF TERRORISM (CETS NO. 196), 16 MAY 2005²⁵

²⁴ *Relevant provisions:*

Article 34 – Wider protection

None of the provisions of this Protocol shall be interpreted as limiting or otherwise affecting the possibility for a Party to grant research participants a wider measure of protection than is stipulated in this Protocol.

²⁵ *Relevant provisions:*

Article 19 – Extradition

1. The offences set forth in Articles 5 to 7 and 9 of this Convention shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the Parties before the entry into force of this Convention. Parties undertake to include such offences as extraditable offences in every extradition treaty to be subsequently concluded between them.

2. When a Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another Party with which it has no extradition treaty, the requested Party may, if it so decides, consider this Convention as a legal basis for extradition in respect of the offences set forth in Articles 5 to 7 and 9 of this Convention. Extradition shall be subject to the other conditions provided by the law of the requested Party.

3. Parties which do not make extradition conditional on the existence of a treaty shall recognise the offences set forth in Articles 5 to 7 and 9 of this Convention as extraditable offences between themselves, subject to the conditions provided by the law of the requested Party.

4. Where necessary, the offences set forth in Articles 5 to 7 and 9 of this Convention shall be treated, for the purposes of extradition between Parties, as if they had been committed not only in the place in which they occurred but also in the territory of the Parties that have established jurisdiction in accordance with Article 14.

5. The provisions of all extradition treaties and agreements concluded between Parties in respect of offences set

TURKEY, 19 January 2006, 22 February 2006, 21 February 2007

The Republic of Turkey declares its understanding that the term "international humanitarian law" in Article 26 of the Convention refers to international legal instruments to which Turkey is already Party to.

The Republic of Turkey declares that the application of the first part of paragraph 5 of Article 26 of the Convention does not necessarily indicate the existence of an armed conflict and the term "armed conflict" describes a situation different from the commitment of acts, whether organised or not, that constitute the crime of terrorism within the scope of criminal law, and the first part of paragraph 5 of Article 26 should not be interpreted as giving a different status to the armed forces and groups other than the armed forces of a State as currently understood and applied in international law and thereby as creating new obligations for Turkey.

The Republic of Turkey further declares that the application or interpretation of paragraph 4 of Article 26 should be in accordance with obligations of States under international refugee law which include, *inter alia*, the responsibility to ensure that the institution of asylum is not abused by persons who are responsible for terrorist offences stated in this Convention.

forth in Articles 5 to 7 and 9 of this Convention shall be deemed to be modified as between Parties to the extent that they are incompatible with this Convention.

Article 26 – Effects of the Convention

1. The present Convention supplements applicable multilateral or bilateral treaties or agreements between the Parties, including the provisions of the following Council of Europe treaties:

- European Convention on Extradition, opened for signature, in Paris, on 13 December 1957 (ETS No. 24);
- European Convention on Mutual Assistance in Criminal Matters, opened for signature, in Strasbourg, on 20 April 1959 (ETS No. 30);
- European Convention on the Suppression of Terrorism, opened for signature, in Strasbourg, on 27 January 1977 (ETS No. 90);
- Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters, opened for signature in Strasbourg on 17 March 1978 (ETS No. 99);
- Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters, opened for signature in Strasbourg on 8 November 2001 (ETS No. 182);
- Protocol amending the European Convention on the Suppression of Terrorism, opened for signature in Strasbourg on 15 May 2003 (ETS No. 190).

2. If two or more Parties have already concluded an agreement or treaty on the matters dealt with in this Convention or have otherwise established their relations on such matters, or should they in future do so, they shall also be entitled to apply that agreement or treaty or to regulate those relations accordingly. However, where Parties establish their relations in respect of the matters dealt with in the present Convention other than as regulated therein, they shall do so in a manner that is not inconsistent with the Convention's objectives and principles.

3. Parties which are members of the European Union shall, in their mutual relations, apply Community and European Union rules in so far as there are Community or European Union rules governing the particular subject concerned and applicable to the specific case, without prejudice to the object and purpose of the present Convention and without prejudice to its full application with other Parties.

4. Nothing in this Convention shall affect other rights, obligations and responsibilities of a Party and individuals under international law, including international humanitarian law.

5. The activities of armed forces during an armed conflict, as those terms are understood under international humanitarian law, which are governed by that law, are not governed by this Convention, and the activities undertaken by military forces of a Party in the exercise of their official duties, inasmuch as they are governed by other rules of international law, are not governed by this Convention.

Article 29 – Settlement of disputes

In the event of a dispute between Parties as to the interpretation or application of this Convention, they shall seek a settlement of the dispute through negotiation or any other peaceful means of their choice, including submission of the dispute to an arbitral tribunal whose decisions shall be binding upon the Parties to the dispute, or to the International Court of Justice, as agreed upon by the Parties concerned.

The Republic of Turkey declares its understanding that the term "settlement of the dispute" referred to in Article 29 of the Convention shall be interpreted in such a way that the procedure for the settlement of the dispute should only be agreed upon by the parties to the dispute.

The Republic of Turkey declares that Article 19 of the Convention should not be interpreted in such a way that offenders of these crimes referred to in the Convention are neither tried nor prosecuted.

<p>Note by the Secretariat: The declarations of Turkey are interpretative declarations of Articles 19, 26 and 29 of the Convention.</p>
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