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

**32nd meeting
Athens, 13-14 September 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 I: RESERVATIONS AND DECLARATIONS TO NON-COUNCIL OF EUROPE TREATIES

1. INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF ACTS OF NUCLEAR TERRORISM, NEW YORK, 13 APRIL 2005¹

TURKEY, 14 September 2005

Upon signature.

Declaration:

It is the understanding of the Republic of Turkey that the term international humanitarian law in Article 4 (2) of the International Convention for the Suppression of Acts of Nuclear Terrorism, refers to the legal instruments to which Turkey is already party to. The Article 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 creating new obligations for the Republic of Turkey.

Reservation:

Pursuant to Article 23 (2) of the Convention, the Government of the Republic of Turkey declares that it does not considers itself bound by article 23 (1) of the Convention.

EGYPT, 20 September 2005

Reservation made upon signature:

The Arab Republic of Egypt declares its commitment to article 4 of the Convention provided that the armed forces of a State do not violate the rules and principles of international law in

¹ *Relevant provisions:*

Article 4 :

1. Nothing in this Convention shall affect other rights, obligations and responsibilities of States and individuals under international law, in particular the purposes and principles of the Charter of the United Nations and international humanitarian law.
2. 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 militaries forces of a State in the exercise of their official duties, inasmuch as they are governed by other rules of international law, are not governed by this Convention.
3. The provisions of paragraph 2 of the present article shall not be interpreted as condoning or making lawful otherwise unlawful acts, or precluding prosecution under other laws.
4. This Convention, does not address, nor can it be interpreted as addressing, in any way, the issue of the legality of the use or threat of use of nuclear weapons by States.

Article 23:

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation within a reasonable time shall, at the request of one of them, be submitted to arbitration. If, within six months of the date of the request for arbitration, any one of those parties may refer the dispute to the International Court of Justice, by application, in conformity with the Statute of the Court.
2. Each State may, at the time of signature, ratification, acceptance or approval of this Convention or accession thereto, declare that it does not consider itself bound by paragraph 1 on the present article. The other States Parties shall not be bound by paragraph 1 with respect to any State Party which has made such a reservation.
3. Any State which has made a reservation in accordance with paragraph 2 of the present article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

the exercise of their duties under that article, and also provided that the article is not interpreted as excluding the activities of armed forces during an armed conflict from the scope of application of this Convention on the grounds that the activities of States - under certain legal circumstances - are not considered terrorist activities.

The Arab Republic of Egypt declares that it does not consider itself bound by paragraph 1 of article 23 of the Convention.

2. CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN, NEW YORK, 18 DECEMBER 1979²

² *Relevant provisions:*

Article 9 :

1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.

2. States Parties shall grant women equal rights with men with respect to the nationality of their children.

Article 15 :

1. States Parties shall accord to women equality with men before the law.

2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.

3. States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.

4. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

Article 16 :

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

- (a) The same right to enter into marriage;
- (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
- (c) The same rights and responsibilities during marriage and at its dissolution;
- (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;
- (e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;
- (f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;
- (g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;
- (h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

Article 29 :

1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State Party may at the time of signature or ratification of the present Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by that paragraph with respect to any State Party which has made such a reservation.

3. Any State Party which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

BRUNEI DARUSSALAM, 24 May 2006, 16 June 2006, 15 June 2007

Reservations:

"The Government of Brunei Darussalam expresses its reservations regarding those provisions of the said Convention that may be contrary to the Constitution of Brunei Darussalam and to the beliefs and principles of Islam, the official religion of Brunei Darussalam and, without prejudice to the generality of the said reservations, expresses its reservations regarding paragraph 2 of Article 9 and paragraph 1 of Article 29 of the Convention."

OMAN, 7 February 2006, 1 March 2006, 28 February 2007

Reservations:

1. All provisions of the Convention not in accordance with the provisions of the Islamic sharia and legislation in force in the Sultanate of Oman;
2. Article 9, paragraph 2, which provides that States Parties shall grant women equal rights with men with respect to the nationality of their children;
3. Article 15, paragraph 4, which provides that States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile;
4. Article 16, regarding the equality of men and women, and in particular subparagraphs (a), (c), and (f) (regarding adoption).
5. The Sultanate is not bound by article 29, paragraph 1, regarding arbitration and the referral to the International Court of Justice of any dispute between two or more States which is not settled by negotiation.

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 1950³

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

³ *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.

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

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 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.

Note by the Secretariat: The reservations have been formulated in accordance with Article 57 of the Convention.

2. EUROPEAN CONVENTION ON EXTRADITION (ETS No. 24), 13 DECEMBER 1957⁴

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, paragraph 3, 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, paragraph 3, of the Convention.

⁴ *Relevant provisions:*

Article 28 – Relations between this Convention and bilateral Agreements

(...)

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.

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, paragraph 3, of the Convention.

ITALY, 25 April 2006, 5 May 2006, 4 May 2007

In accordance with Article 28, paragraph 3, of the European Convention on Extradition, the Republic of Italy notifies the applicability 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.

The Framework Decision has been implemented in Italy by the Law of 22 April 2005 No. 69 ("Provisions for the implementation of the Council Framework Decision 2002/584/JHA of 13 June 2002, on the European arrest warrant and the surrender procedures between Member States", G.U. 29 April 2005 No. 98), which entered into force on 14 May 2005.

Note by the Secretariat: The declaration has been formulated in accordance with Article 28, paragraph 3, of the Convention.

CZECH REPUBLIC, 12 June 2006, 23 June 2006, 22 June 2007

The Permanent Representation of the Czech Republic informs that on 19 April 2006 the Parliament of the Czech Republic enacted an act amending legislation implementing the Framework Decision of the Council of the European Union of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (2002/584/JHA). This act shall enter into force on 1 July 2006.

The notification of the Czech Republic to Article 28 (3) of the European Convention on Extradition is therefore modified and as from 1 July 2006 shall be worded as follows:

"In accordance with Article 28, paragraph 3, of the European Convention on Extradition, the Czech Republic notifies that, as from 1 July 2006, it enacted an amendment of legislation implementing the Framework Decision of the Council of the European Union of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (2002/584/JHA: hereinafter "framework decision on the European arrest warrant"), which the Czech Republic considers a uniform law as provided for by Article 28, paragraph 3, of the European Convention on Extradition and which the Czech Republic will apply in relation to Member States of the European Union, which also apply legislation implementing the framework decision on the European arrest warrant. The European Convention on Extradition and its two Protocols of 15 October 1975 and 17 March 1978 shall continue to apply on extradition of a Czech national from the Czech Republic to another Member State of the European Union for offences committed before 1 November 2004.

The Czech Republic shall continue to apply Article 3 of the Treaty between the Slovak Republic and the Czech Republic on Mutual Assistance Rendered by Judicial Authorities and Regulation of Some Legal Relations in Civil and Criminal Matters, done in Prague on 29 October 1992 and Article XV of the Treaty between the Czech Republic and Austria on Supplement to the European Convention on Extradition of 13 December 1957 and on

Facilitation of its Application, done in Vienna on 27 June 1994, on whose basis the European arrest warrants and other documents are transmitted without translation into the official language of the requested State.”

Note by the Secretariat: The declaration has been formulated in accordance with Article 28, paragraph 3, 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 1957⁵

UKRAINE, 21 June 2006, 23 June 2006, 22 June 2007

Ukraine declares that, in accordance with paragraph 4 of Article 1 of the Agreement, the term "territory" means the territory to which Ukraine applies jurisdiction in accordance with its national law.

Ukraine declares that, in accordance with part two of Article 7 of the Agreement, it will suspend the application of this Agreement to Parties to the Agreement which apply part one of Article 7 of the Agreement with respect to Ukraine.

Note by the Secretariat: The declarations have been formulated in accordance with Articles 1, paragraph 4, and 7 of the Agreement. Several States Parties to the Agreement, members of the European Union, have suspended the application of the Agreement in respect of Ukraine (Austria, Belgium, France, Germany, Luxembourg, The Netherlands).

4. 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 1963⁶

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

⁵ *Relevant provisions:*

Article 1

(...)

4. For the purposes of this Agreement, the term "territory" of a Contracting Party shall have the meaning assigned to it by such a Party in a declaration addressed to the Secretary General of the Council of Europe for communication to all other Contracting Parties.

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.

⁶ *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.

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.

5. EUROPEAN CONVENTION ON THE INTERNATIONAL VALIDITY OF CRIMINAL JUDGMENTS (ETS No. 70), 28 MAY 1970⁷

MOLDOVA, 20 June 2006, 30 June 2006, 29 June 2007

According to Article 61, paragraph 1, of the Convention, the Republic of Moldova reserves the right:

a) to refuse enforcement if it considers that the sentence relates to a fiscal or religious offence;

⁷ *Relevant provisions*

Article 15

1 All requests specified in this Convention shall be made in writing. They, and all communications necessary for the application of this Convention, shall be sent either by the Ministry of Justice of the requesting State to the Ministry of Justice of the requested State or, if the Contracting States so agree, direct by the authorities of the requesting State to those of the requested State; they shall be returned by the same channel.

2 In urgent cases, requests and communications may be sent through the International Criminal Police Organisation (Interpol).

3 Any Contracting State may, by declaration addressed to the Secretary General of the Council of Europe, give notice of its intention to adopt other rules in regard to the communications referred to in paragraph 1 of this article.

Article 19

(...)

2 Any Contracting State may, at the time of signature or when depositing its instrument of ratification, acceptance or accession, by declaration addressed to the Secretary General of the Council of Europe, reserve the right to require that requests and supporting documents be accompanied by a translation into its own language or into one of the official languages of the Council of Europe or into such one of those languages as it shall indicate. The other Contracting States may claim reciprocity.

Article 60

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

Article 61

1 Any Contracting State may, at the time of signature or when depositing its instrument of ratification, acceptance or accession, declare that it avails itself of one or more of the reservations provided for in Appendix I to this Convention.

- b) to refuse enforcement of a sanction for an act which according to the law of the requested State could have been dealt with only by an administrative authority;
- c) to refuse enforcement of a European criminal judgment which the authority of the requesting State rendered on a date when, under its own law, the criminal proceeding in respect of the offence punished by the judgment would have been precluded by the lapse of time;
- d) to refuse enforcement of a sanction rendered in abstentia and "*ordonnances pénales*";
- e) to accept only the section 1 of Title III of the Convention to be applied.

According to Article 15, paragraph 3, of the Convention, the Republic of Moldova declares that the requests, as well as all the communications necessary for applying the above-mentioned Convention, will be addressed through the agency of the Ministry of Justice of the Republic of Moldova.

According to Article 19, paragraph 2, of the Convention, the Republic of Moldova declares that the requests and supporting documents have to be accompanied by a translation either in Moldavian or in one of the official languages of the Council of Europe.

According to Article 60, paragraph 1, of the Convention, the Republic of Moldova declares that, until the full re-establishment of the territorial integrity of the Republic of Moldova, the provisions of the Convention will be applied only on the territory effectively controlled by the authorities of the Republic of Moldova.

Note by the Secretariat: The reservations and declarations have been formulated in accordance with Articles 15, 19, 60 and 61 of the Convention.

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 1977**⁸

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.⁹

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.

⁸ *Relevant provisions:*

Article 12

(...)

- 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.

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 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.

⁹ *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 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, and 13, paragraph 1, of the Convention.

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. **CONVENTION FOR THE PROTECTION OF INDIVIDUALS WITH REGARD TO AUTOMATIC PROCESSING OF PERSONAL DATA (ETS No. 108), 28 JANUARY 1981**¹⁰

¹⁰ *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.

"THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA", 24 March 2006, 24 March 2006, 23 March 2007

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

- Processing of personal data carried out by individuals exclusively for personal use or household purposes;
- Processing of personal data for the purpose of safeguarding national security and national defence of the Republic of Macedonia, or
- in conducting criminal proceedings.

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

LATVIA, 19 May 2006, 8 June 2006, 7 June 2007

In accordance with Article 3, paragraph 2.a, of the Convention, the Republic of Latvia declares that:

- it will apply the Convention to those personal data files which are subject to the law "On Official Secrets" considering the exceptions listed in this law, i.e., information which may not be an Official Secret. According to Article 5 of the Law on Official Secrets, it is prohibited to grant the status of an official secret and to restrict access to the following information:

1. information regarding natural disasters, natural or other calamities and the consequences thereof;
2. information regarding the environmental, health protection, educational and cultural state, as well as the demographic situation;
3. information regarding violations of human rights;
4. information regarding the crime rate and the statistics thereof, corruption cases, irregular conduct of officials;
5. information regarding the economic situation in the State, implementation of the budget, living standards of the population, as well as the salary scales, privileges, advantages and guarantees specified for officials and employees of State and local government institutions, and
6. information regarding the state of health of the heads of State.

- it will not apply the Convention to the personal data files which are processed by public institutions for the purposes of national security and criminal law.

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

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

10. PROTOCOL No. 7 TO THE CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS (ETS No. 117), 22 NOVEMBER 1984¹¹

MONACO, 30 November 2006, 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 has been formulated in accordance with Article 2 of Protocol No. 7.

11. CONVENTION ON MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS (ETS NO. 127), 25 JANUARY 1988¹²

¹¹ *Relevant provisions :*

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."

¹² *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;

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

-
- 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.
 - 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.

12. CONVENTION ON LAUNDERING, SEARCH, SEIZURE AND CONFISCATION OF THE PROCEEDS FROM CRIME (ETS No. 141), 8 NOVEMBER 1990¹³

¹³ Relevant provisions :

Article 14 – Execution of confiscation

- 1 The procedures for obtaining and enforcing the confiscation under Article 13 shall be governed by the law of the requested Party.
- 2 The requested Party shall be bound by the findings as to the facts in so far as they are stated in a conviction or judicial decision of the requesting Party or in so far as such conviction or judicial decision is implicitly based on them.
- 3 Each Party 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 paragraph 2 of this article applies only subject to its constitutional principles and the basic concepts of its legal system.
- 4 If the confiscation consists in the requirement to pay a sum of money, the competent authority of the requested Party shall convert the amount thereof into the currency of that Party at the rate of exchange ruling at the time when the decision to enforce the confiscation is taken.
- 5 In the case of Article 13, paragraph 1.a, the requesting Party alone shall have the right to decide on any application for review of the confiscation order.

Article 21 – Notification of documents

(...)

- 2 Nothing in this article is intended to interfere with:

- a the possibility of sending judicial documents, by postal channels, directly to persons abroad;
- b the possibility for judicial officers, officials or other competent authorities of the Party of origin to effect service of judicial documents directly through the consular authorities of that Party or through judicial officers, officials or other competent authorities of the Party of destination, unless the Party of destination makes a declaration to the contrary to the Secretary General of the Council of Europe at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession.

Article 25 – Form of request and languages

(...)

SERBIA, 20 March 2006, 31 March 2006, 30 March 2007

Pursuant to Article 14, paragraph 3, of the Convention, paragraph 2 thereof shall apply only subject to the constitutional principles and the basic legal concepts of the legal system of Serbia.

The serving of judicial documents as set out in Article 21, paragraph 2, of the Convention, shall be allowed in Serbia only if envisaged under another bilateral or multilateral agreement.

Pursuant to Article 25, paragraph 3, Serbia and Montenegro declares that requests made to it and documents supporting such requests shall be accompanied by a translation into Serbian or English.

Pursuant to Article 32, paragraph 2, of the Convention, without its prior consent, information and evidence provided by Serbia under this chapter may not be used or transmitted by the authorities of the requesting State in investigations or proceedings other than those specified in the request.

Note by the Secretariat: The declarations have been formulated in accordance with Articles 14, paragraph 3, 21, paragraph 2, 25, paragraph 3, and 32, paragraph 2, of the Convention.

13. EUROPEAN CONVENTION ON THE PROTECTION OF THE ARCHAEOLOGICAL HERITAGE (revised) (ETS No. 143), 16 JANUARY 1992¹⁴

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 has been formulated in accordance with Article 16 of the Revised Convention.

3 At the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, any Party may communicate to the Secretary General of the Council of Europe a declaration that it reserves the right to require that requests made to it and documents supporting such requests be accompanied by a translation into its own language or into one of the 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 as it may specify. The other Parties may apply the reciprocity rule.

Article 32 – Restriction of use

(...)

2 Each Party may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by declaration addressed to the Secretary General of the Council of Europe, declare that, without its prior consent, information or evidence provided by it under this chapter may not be used or transmitted by the authorities of the requesting Party in investigations or proceedings other than those specified in the request.

¹⁴ *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.

14. EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES (ETS No. 148), 5 NOVEMBER 1992¹⁵

SERBIA, 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;

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

15. EUROPEAN CONVENTION ON THE EXERCISE OF CHILDREN'S RIGHTS (ETS No. 160), 25 JANUARY 1996¹⁶

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

¹⁵ *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;

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.

¹⁶ *Relevant provisions :*

Article 1 – Scope and object of the Convention

(...)

- 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.

judicial authority, namely: (1) Custody, (2) Adoptions and (3) Protection from maltreatment and cruel behaviour.

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

16. EUROPEAN CONVENTION ON NATIONALITY (No 166), 6 NOVEMBER 1997¹⁷

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

¹⁷ *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..

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.

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.

17. CRIMINAL LAW CONVENTION ON CORRUPTION (ETS No. 173), 27 JANUARY 1999¹⁸

¹⁸ *Relevant provisions :*

Article 5 – Bribery of foreign public officials

Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the conduct referred to in Articles 2 and 3, when involving a public official of any other State.

Article 9 – Bribery of officials of international organisations

Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the conduct referred to in Articles 2 and 3, when involving any official or other contracted employee, within the meaning of the staff regulations, of any public international or supranational organisation or body of which the Party is a member, and any person, whether seconded or not, carrying out functions corresponding to those performed by such officials or agents

Article 11 – Bribery of judges and officials of international courts

Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the conduct referred to in Articles 2 and 3 involving any holders of judicial office or officials of any international court whose jurisdiction is accepted by the Party.

Article 12 – Trading in influence

Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the promising, giving or offering, directly or indirectly, of any undue advantage to anyone who asserts or confirms that he or she is able to exert an improper influence over the decision-making of any person referred to in Articles 2, 4 to 6 and 9 to 11 in consideration thereof, whether the undue advantage is for himself or herself or for anyone else, as well as the request, receipt or the acceptance of the offer or the promise of such an advantage, in consideration of that influence, whether or not the influence is exerted or whether or not the supposed influence leads to the intended result.

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 26 – Mutual assistance

1 The Parties shall afford one another the widest measure of mutual assistance by promptly processing requests from authorities that, in conformity with their domestic laws, have the power to investigate or prosecute criminal offences established in accordance with this 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 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 reservations have been formulated in accordance with Article 37 of the Convention.

SWITZERLAND, 31 March 2006, 31 March 2006, 30 March 2007

Switzerland reserves its right to apply Article 12 of the Convention only if the conduct referred to constitutes an offence under the Swiss legislation.

Switzerland reserves its right to apply Article 17, paragraph 1, subparagraphs b and c, only if the conduct is also punishable where it has been committed and insofar as the author is in Switzerland and will not be extradited to a foreign State.

Switzerland declares that it will punish the active and passive bribery in the meaning of Articles 5, 9 and 11 only if the conduct of the bribed person consists in performing or refraining from performing an act contrary to his/her duties or depending on his/her power of estimation.

Note by the Secretariat: The reservations and declarations have been formulated in accordance with Article 37 of the Convention.

18. **SECOND ADDITIONAL PROTOCOL TO THE EUROPEAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS (ETS No. 182), 8 NOVEMBER 2001**¹⁹

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."

¹⁹ *Relevant provisions :*

Article 4 – Channels of communication

Article 15 of the Convention shall be replaced by the following provisions:

"1 Requests for mutual assistance, as well as spontaneous information, shall be addressed in writing by the Ministry of Justice of the requesting Party to the Ministry of Justice of the requested Party and shall be returned through the same channels. However, they may be forwarded directly by the judicial authorities of the requesting Party to the judicial authorities of the requested Party and returned through the same channels.

2 Applications as referred to in Article 11 of this Convention and Article 13 of the Second Additional Protocol to this Convention shall in all cases be addressed by the Ministry of Justice of the requesting Party to the Ministry of Justice of the requested Party and shall be returned through the same channels.

3 Requests for mutual assistance concerning proceedings as mentioned in paragraph 3 of Article 1 of this Convention may also be forwarded directly by the administrative or judicial authorities of the requesting Party to

the administrative or judicial authorities of the requested Party, as the case may be, and returned through the same channels.

4 Requests for mutual assistance made under Articles 18 and 19 of the Second Additional Protocol to this Convention may also be forwarded directly by the competent authorities of the requesting Party to the competent authorities of the requested Party.

5 Requests provided for in paragraph 1 of Article 13 of this Convention may be addressed directly by the judicial authorities concerned to the appropriate authorities of the requested Party, and the replies may be returned directly by those authorities. Requests provided for in paragraph 2 of Article 13 of this Convention shall be addressed by the Ministry of Justice of the requesting Party to the Ministry of Justice of the requested Party.

6 Requests for copies of convictions and measures as referred to in Article 4 of the Additional Protocol to the Convention may be made directly to the competent authorities. Any Contracting State may, at any time, by a declaration addressed to the Secretary General of the Council of Europe, define what authorities it will, for the purpose of this paragraph, deem competent authorities.

7 In urgent cases, where direct transmission is permitted under this Convention, it may take place through the International Criminal Police Organisation (Interpol).

8 Any Party may, at any time, by a declaration addressed to the Secretary General of the Council of Europe, reserve the right to make the execution of requests, or specified requests, for mutual assistance dependent on one or more of the following conditions:

- a that a copy of the request be forwarded to the central authority designated in that declaration;
- b that requests, except urgent requests, be forwarded to the central authority designated in that declaration;
- c that, in case of direct transmission for reasons of urgency, a copy shall be transmitted at the same time to its Ministry of Justice;
- d that some or all requests for assistance shall be sent to it through channels other than those provided for in this article.

9 Requests for mutual assistance and any other communications under this Convention or its Protocols may be forwarded through any electronic or other means of telecommunication provided that the requesting Party is prepared, upon request, to produce at any time a written record of it and the original. However, any Contracting State, may by a declaration addressed at any time to the Secretary General of the Council of Europe, establish the conditions under which it shall be willing to accept and execute requests received by electronic or other means of telecommunication.

10 The provisions of this article are without prejudice to those of bilateral agreements or arrangements in force between Parties which provide for the direct transmission of requests for assistance between their respective authorities."

Article 6 – Judicial authorities

Article 24 of the Convention shall be replaced by the following provisions:

"Any State shall at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by means of a declaration addressed to the Secretary General of the Council of Europe, define what authorities it will, for the purpose of the Convention, deem judicial authorities. It subsequently may, at any time and in the same manner, change the terms of its declaration."

Article 11 – Spontaneous information

1 Without prejudice to their own investigations or proceedings, the competent authorities of a Party may, without prior request, forward to the competent authorities of another Party information obtained within the framework of their own investigations, when they consider that the disclosure of such information might assist the receiving Party in initiating or carrying out investigations or proceedings, or might lead to a request by that Party under the Convention or its Protocols.

2 The providing Party may, pursuant to its national law, impose conditions on the use of such information by the receiving Party.

3 The receiving Party shall be bound by those conditions.

4 However, any Contracting State may, at any time, by means of a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right not to be bound by the conditions imposed by the providing Party under paragraph 2 above, unless it receives prior notice of the nature of the information to be provided and agrees to its transmission.

Article 13 – Temporary transfer of detained persons to the requested Party

1 Where there is agreement between the competent authorities of the Parties concerned, a Party which has requested an investigation for which the presence of a person held in custody on its own territory is required may temporarily transfer that person to the territory of the Party in which the investigation is to take place.

2 The agreement shall cover the arrangements for the temporary transfer of the person and the date by which the person must be returned to the territory of the requesting Party.

3 Where consent to the transfer is required from the person concerned, a statement of consent or a copy thereof shall be provided promptly to the requested Party.

CZECH REPUBLIC, 1 March 2006, 17 March 2006, 16 March 2007

With regard to the fact that the Czech Republic made no declaration under Article 27 of the Second Additional Protocol, the Czech Republic wishes to confirm in connection with Article 15, paragraph 3, of the European Convention on Mutual Assistance in Criminal Matters as worded by Article 4 of the Second Additional Protocol, that requests by administrative authorities under Article 1, paragraph 3, of the European Convention on Mutual Assistance in Criminal Matters as worded by Article 1 of the Second Additional Protocol may be sent only to judicial authorities of the Czech Republic.

4 The transferred person shall remain in custody in the territory of the requested Party and, where applicable, in the territory of the Party through which transit is requested, unless the Party from which the person was transferred applies for his or her release.

5 The period of custody in the territory of the requested Party shall be deducted from the period of detention which the person concerned is or will be obliged to undergo in the territory of the requesting Party.

6 The provisions of Article 11, paragraph 2, and Article 12 of the Convention shall apply mutatis mutandis.

7 Any Contracting State may at any time, by means of a declaration addressed to the Secretary General of the Council of Europe, declare that before an agreement is reached under paragraph 1 of this article, the consent referred to in paragraph 3 of this article will be required, or will be required under certain conditions indicated in the declaration.

Article 26 – Data protection

1 Personal data transferred from one Party to another as a result of the execution of a request made under the Convention or any of its Protocols, may be used by the Party to which such data have been transferred, only:

- a for the purpose of proceedings to which the Convention or any of its Protocols apply;
- b for other judicial and administrative proceedings directly related to the proceedings mentioned under (a);
- c for preventing an immediate and serious threat to public security.

2 Such data may however be used for any other purpose if prior consent to that effect is given by either the Party from which the data had been transferred, or the data subject.

3 Any Party may refuse to transfer personal data obtained as a result of the execution of a request made under the Convention or any of its Protocols where

- such data is protected under its national legislation, and
- the Party to which the data should be transferred is not bound by the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, done at Strasbourg on 28 January 1981, unless the latter Party undertakes to afford such protection to the data as is required by the former Party.

4 Any Party that transfers personal data obtained as a result of the execution of a request made under the Convention or any of its Protocols may require the Party to which the data have been transferred to give information on the use made with such data.

5 Any Party may, by a declaration addressed to the Secretary General of the Council of Europe, require that, within the framework of procedures for which it could have refused or limited the transmission or the use of personal data in accordance with the provisions of the Convention or one of its Protocols, personal data transmitted to another Party not be used by the latter for the purposes of paragraph 1 unless with its previous consent.

Article 33 – Reservations

1 Reservations made by a Party to any provision of the Convention or its Protocol 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. The same shall apply to any declaration made in respect or by virtue of any provision of the Convention or its Protocol.

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 right not to accept wholly or in part any one or more of Articles 16, 17, 18, 19 and 20. No other reservation may be made.

3 Any State may wholly or partially withdraw a reservation it has made in accordance with the foregoing paragraphs, by means of a declaration addressed to the Secretary General of the Council of Europe, which shall become effective as from the date of its receipt.

4 Any Party which has made a reservation in respect of any of the articles of this Protocol mentioned in paragraph 2 above may not claim the application of that article by another Party. It may, however, if its reservation is partial or conditional, claim the application of that provision in so far as it has itself accepted it.

In accordance with Article 15, paragraph 9, of the European Convention on Mutual Assistance in Criminal Matters as worded by Article 4 of the Second Additional Protocol, the Czech Republic declares that in case of forwarding of a request through electronic or any other means of telecommunication, the original of such request has to be subsequently delivered in writing.

In accordance with Article 24 of the European Convention on Mutual Assistance in Criminal Matters as worded by Article 6 of the Second Additional Protocol, the Czech Republic declares that for the purposes of the Convention and its additional protocols following authorities are considered as judicial authorities: the Supreme Prosecutor's Office of the Czech Republic; high, regional, county and district prosecutors' offices; the City Prosecutor's Office in Prague; the City Prosecutor's Office in Brno; the Ministry of Justice of the Czech Republic; the Supreme Court of the Czech Republic; high, regional, county and district courts; the City Court in Prague and the City Court in Brno.

In accordance with Article 13, paragraph 7, of the Second Additional Protocol, the Czech Republic declares that the consent referred to in Article 13, paragraph 3, of the Second Additional Protocol will be required before an agreement on the temporary transfer of a person under Article 13, paragraph 1, of the Second Additional Protocol is reached.

Note by the Secretariat: The declarations have been formulated in accordance with Articles 4, 6 and 13 of the Protocol.

ISRAEL, 20 March 2006, 24 March 2006, 23 March 2007

In accordance with Article 4, paragraph 9, of the Second Additional Protocol (amending Article 15 of the European Convention on Mutual Assistance in Criminal Matters), the Government of the State of Israel declares that at the present time it will accept requests for legal assistance by means of electronic telecommunication in circumstances of extreme urgency only. Acceptance of a request by electronic telecommunication is on condition that the reasons for such urgency are set forth in the request and that the requesting Party transmits, at the same time, the original request in the usual manner. Israel will not accept requests to serve procedural documents and judicial decisions where such requests are transmitted by electronic

In accordance with Article 11, paragraph 4, of the Second Additional Protocol, the Government of the State of Israel reserves the right not to be bound by the conditions imposed by the providing Party under paragraph 2 of Article 11, unless it receives prior notice of the nature of the information to be provided and agrees to the transmission.

In accordance with Article 13, paragraph 7, of the Second Additional Protocol, the Government of the State of Israel declares that the consent as mentioned in Article 13, paragraph 3, will be required prior to an agreement on temporary transfer of a person held in custody according to Article 13, paragraph 1.

In accordance with Article 33, paragraph 2, of the Second Additional Protocol, the Government of the State of Israel declares that any document and judicial decision which is of criminal law nature should be forwarded to any person only through the Ministry of Justice of the State of Israel, as set forth in Israel's declaration to Article 4 of the Second Additional Protocol.

In accordance with Article 33, paragraph 2, of the Second Additional Protocol, the Government of the State of Israel declares that it does not accept Article 17.

In accordance with Article 26, paragraph 5, of the Second Additional Protocol, the Government of the State of Israel declares that it requires that personal data transmitted to another Party will not be used by that Party for the purposes of paragraph 1 of Article 26 unless with its previous consent.

Note by the Secretariat: The declarations have been formulated in accordance with Articles 4, 11, 13, 26 and 33 of the Protocol.

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

²⁰ *Relevant provisions :*

Article 6 – Misuse of devices

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

- a the production, sale, procurement for use, import, distribution or otherwise making available of:
 - i a device, including a computer program, designed or adapted primarily for the purpose of committing any of the offences established in accordance with the above Articles 2 through 5;
 - ii a computer password, access code, or similar data by which the whole or any part of a computer system is capable of being accessed,

with intent that it be used for the purpose of committing any of the offences established in Articles 2 through 5; and

- b the possession of an item referred to in paragraphs a.i or ii above, with intent that it be used for the purpose of committing any of the offences established in Articles 2 through 5. A Party may require by law that a number of such items be possessed before criminal liability attaches.

2 This article shall not be interpreted as imposing criminal liability where the production, sale, procurement for use, import, distribution or otherwise making available or possession referred to in paragraph 1 of this article is not for the purpose of committing an offence established in accordance with Articles 2 through 5 of this Convention, such as for the authorised testing or protection of a computer system.

3 Each Party may reserve the right not to apply paragraph 1 of this article, provided that the reservation does not concern the sale, distribution or otherwise making available of the items referred to in paragraph 1 a.ii of this article.

Article 9 – Offences related to child pornography

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

- a producing child pornography for the purpose of its distribution through a computer system;
- b offering or making available child pornography through a computer system;
- c distributing or transmitting child pornography through a computer system;
- d procuring child pornography through a computer system for oneself or for another person;
- e possessing child pornography in a computer system or on a computer-data storage medium.

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;

4 Each Party may reserve the right not to apply, in whole or in part, paragraphs 1, sub-paragraphs d. and e, and 2, sub-paragraphs b. and c.

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

- 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.

Article 24 – Extradition

- 1
 - a This article applies to extradition between Parties for the criminal offences established in accordance with Articles 2 through 11 of this Convention, provided that they are punishable under the laws of both Parties concerned by deprivation of liberty for a maximum period of at least one year, or by a more severe penalty.
 - b Where a different minimum penalty is to be applied under an arrangement agreed on the basis of uniform or reciprocal legislation or an extradition treaty, including the European Convention on Extradition (ETS No. 24), applicable between two or more parties, the minimum penalty provided for under such arrangement or treaty shall apply.

2 The criminal offences described in paragraph 1 of this article shall be deemed to be included as extraditable offences in any extradition treaty existing between or among the Parties. The Parties undertake to include such offences as extraditable offences in any extradition treaty to be concluded between or among them.

3 If a Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another Party with which it does not have an extradition treaty, it may consider this Convention as the legal basis for extradition with respect to any criminal offence referred to in paragraph 1 of this article.

4 Parties that do not make extradition conditional on the existence of a treaty shall recognise the criminal offences referred to in paragraph 1 of this article as extraditable offences between themselves.

5 Extradition shall be subject to the conditions provided for by the law of the requested Party or by applicable extradition treaties, including the grounds on which the requested Party may refuse extradition.

6 If extradition for a criminal offence referred to in paragraph 1 of this article is refused solely on the basis of the nationality of the person sought, or because the requested Party deems that it has jurisdiction over the offence, the requested Party shall submit the case at the request of the requesting Party to its competent authorities for the purpose of prosecution and shall report the final outcome to the requesting Party in due course. Those authorities shall take their decision and conduct their investigations and proceedings in the same manner as for any other offence of a comparable nature under the law of that Party.

7 a Each Party shall, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, communicate to the Secretary General of the Council of Europe the name and address of each authority responsible for making or receiving requests for extradition or provisional arrest in the absence of a treaty.

b The Secretary General of the Council of Europe shall set up and keep updated a register of authorities so designated by the Parties. Each Party shall ensure that the details held on the register are correct at all times.

Article 27 – Procedures pertaining to mutual assistance requests in the absence of applicable international agreements

1 Where there is no mutual assistance treaty or arrangement on the basis of uniform or reciprocal legislation in force between the requesting and requested Parties, the provisions of paragraphs 2 through 9 of this article shall apply. The provisions of this article shall not apply where such treaty, arrangement or legislation exists, unless the Parties concerned agree to apply any or all of the remainder of this article in lieu thereof.

2 a Each Party shall designate a central authority or authorities responsible for sending and answering requests for mutual assistance, the execution of such requests or their transmission to the authorities competent for their execution.

b The central authorities shall communicate directly with each other;

c Each Party shall, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, communicate to the Secretary General of the Council of Europe the names and addresses of the authorities designated in pursuance of this paragraph;

d The Secretary General of the Council of Europe shall set up and keep updated a register of central authorities designated by the Parties. Each Party shall ensure that the details held on the register are correct at all times.

3 Mutual assistance requests under this article shall be executed in accordance with the procedures specified by the requesting Party, except where incompatible with the law of the requested Party.

4 The requested Party may, in addition to the grounds for refusal established in Article 25, paragraph 4, refuse assistance if:

a the request concerns an offence which the requested Party considers a political offence or an offence connected with a political offence, or

b it considers that execution of the request is likely to prejudice its sovereignty, security, ordre public or other essential interests.

5 The requested Party may postpone action on a request if such action would prejudice criminal investigations or proceedings conducted by its authorities.

6 Before refusing or postponing assistance, the requested Party shall, where appropriate after having consulted with the requesting Party, consider whether the request may be granted partially or subject to such conditions as it deems necessary.

7 The requested Party shall promptly inform the requesting Party of the outcome of the execution of a request for assistance. Reasons shall be given for any refusal or postponement of the request. The requested Party shall also inform the requesting Party of any reasons that render impossible the execution of the request or are likely to delay it significantly.

8 The requesting Party may request that the requested Party keep confidential the fact of any request made under this chapter as well as its subject, except to the extent necessary for its execution. If the requested Party cannot comply with the request for confidentiality, it shall promptly inform the requesting Party, which shall then determine whether the request should nevertheless be executed.

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

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 - a In the event of urgency, requests for mutual assistance or communications related thereto may be sent directly by judicial authorities of the requesting Party to such authorities of the requested Party. In any such cases, a copy shall be sent at the same time to the central authority of the requested Party through the central authority of the requesting Party.
 - b Any request or communication under this paragraph may be made through the International Criminal Police Organisation (Interpol).
 - c Where a request is made pursuant to sub-paragraph a. of this article and the authority is not competent to deal with the request, it shall refer the request to the competent national authority and inform directly the requesting Party that it has done so.
 - d Requests or communications made under this paragraph that do not involve coercive action may be directly transmitted by the competent authorities of the requesting Party to the competent authorities of the requested Party.
 - e Each Party may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, inform the Secretary General of the Council of Europe that, for reasons of efficiency, requests made under this paragraph are to be addressed to its central authority.

Article 29 – Expedited preservation of stored computer data

- 1 A Party may request another Party to order or otherwise obtain the expeditious preservation of data stored by means of a computer system, located within the territory of that other Party and in respect of which the requesting Party intends to submit a request for mutual assistance for the search or similar access, seizure or similar securing, or disclosure of the data.
- 2 A request for preservation made under paragraph 1 shall specify:
 - a the authority seeking the preservation;
 - b the offence that is the subject of a criminal investigation or proceedings and a brief summary of the related facts;
 - c the stored computer data to be preserved and its relationship to the offence;
 - d any available information identifying the custodian of the stored computer data or the location of the computer system;
 - e the necessity of the preservation; and
 - f that the Party intends to submit a request for mutual assistance for the search or similar access, seizure or similar securing, or disclosure of the stored computer data.
- 3 Upon receiving the request from another Party, the requested Party shall take all appropriate measures to preserve expeditiously the specified data in accordance with its domestic law. For the purposes of responding to a request, dual criminality shall not be required as a condition to providing such preservation.
- 4 A Party that requires dual criminality as a condition for responding to a request for mutual assistance for the search or similar access, seizure or similar securing, or disclosure of stored data may, in respect of offences other than those established in accordance with Articles 2 through 11 of this Convention, reserve the right to refuse the request for preservation under this article in cases where it has reasons to believe that at the time of disclosure the condition of dual criminality cannot be fulfilled.
- 5 In addition, a request for preservation may only be refused if:
 - a the request concerns an offence which the requested Party considers a political offence or an offence connected with a political offence, or
 - b the requested Party considers that execution of the request is likely to prejudice its sovereignty, security, *ordre public* or other essential interests.
- 6 Where the requested Party believes that preservation will not ensure the future availability of the data or will threaten the confidentiality of or otherwise prejudice the requesting Party's investigation, it shall promptly so inform the requesting Party, which shall then determine whether the request should nevertheless be executed.
- 7 Any preservation effected in response to the request referred to in paragraph 1 shall be for a period not less than sixty days, in order to enable the requesting Party to submit a request for the search or similar access, seizure or similar securing, or disclosure of the data. Following the receipt of such a request, the data shall continue to be preserved pending a decision on that request.

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 declarations have been formulated in accordance with Articles 9, 21 and 22 of the Convention.

UKRAINE, 10 March 2006, 13 April 2006, 12 April 2007

Ukraine reserves the right not to apply paragraph 1 of Article 6 of the Convention concerning the establishment of criminal liability for the production, procurement for use and otherwise making available for use of the objects designated in subparagraph 1.a.i., and also the production and procurement for use of the objects designated in subparagraph 1.a.ii of Article 6 of the Convention.

Ukraine reserves the right not to apply to the full extent subparagraphs 1.d and 1.e of Article 9 of the Convention.

In accordance with Article 24, subparagraph 7.a, of the Convention, Ukraine declares that the authorities empowered to perform the functions mentioned in paragraph 7 of Article 24 of the Convention shall be the Ministry of Justice of Ukraine (concerning court's inquiries) and the General Prosecutor's Office of Ukraine (concerning inquiries of bodies of prejudicial inquiry).

In accordance with Article 27, subparagraph 2.c, of the Convention, Ukraine declares that the authorities responsible for sending requests for mutual assistance, answering them, their execution or their transfer to the empowered authorities shall be the Ministry of Justice of Ukraine (concerning courts' commission) and the General Prosecutor's Office of Ukraine (concerning commissions of bodies of prejudicial inquiry).

Note by the Secretariat: The reservations and declarations have been formulated in accordance with Articles 6, 9, 24 and 27 of the Convention.

DENMARK, 21 June 2006, 23 June 2006, 22 June 2007

In accordance with Article 9, paragraph 4, of the Convention, the Government of the Kingdom of Denmark declares that the criminal area according to Article 9 shall not comprehend the possession of obscene pictures of a person attained the age of fifteen, if the person concerned has given his or her consent to the possession, cf. Article 9, paragraph 1, letter e.

In accordance with Article 9, paragraph 4, of the Convention, the Government of the Kingdom of Denmark declares that the criminal area according to Article 9 shall not comprehend visual representations of a person appearing to be a minor engaged in sexually explicit conduct, cf. Article 9, paragraph 2, letter b.

In accordance with Article 14, paragraph 3, letter a, of the Convention, the Government of the Kingdom of Denmark declares that Denmark will only apply article 20 concerning monitoring of traffic data to the extent where in accordance with Article 21 there is an obligation to empower the competent authorities to monitor content data, in relation to inquiries of serious crimes, as defined by national law.

Pursuant to Article 38 of the Convention, Denmark declares that, until further notice, the Convention will not apply to the Feroe Islands and Greenland.

Note by the Secretariat: The reservations have been formulated in accordance with Articles 9 and 14, and the declaration in accordance with Article 38 of the Convention.

NORWAY, 30 June 2006, 7 July 2006, 6 July 2007

Pursuant to Article 6, paragraph 3, of the Convention, the Government of the Kingdom of Norway reserves the right not to apply Article 6, paragraph 1.a.i, of the Convention.

Pursuant to Article 14, paragraph 3, of the Convention, the Government of the Kingdom of Norway, reserves the right not to apply the measures referred to in Article 20 – Real-time collection of traffic data, in cases of less serious offences.

Clarification of what is meant by "less serious offences"

Pursuant to Article 14, paragraph 3, the Parties may reserve the right to apply the measures set out in Article 20 only to offences or categories of offences specified in the reservation. It is indicated in the Norwegian reservation, that Norway does not wish to allow the collection of traffic data in real time in connection with minor offences.

Section 216b of the Norwegian Criminal Procedure Act provides for the collection of traffic data in cases where there is just cause for suspecting a person of having committed an offence, or of having attempted to commit an offence, that is punishable by imprisonment for a term of five years or more, or of having contravened specific penal provisions.

The use of various types of communication control and other privacy-invasive coercive measures is primarily restricted to cases involving serious offences, where serious offences are defined as carrying a penalty of five or more years' imprisonment.

Clarification of the relationship between the reservation and the application of Articles 20 and 21 in Norwegian law

The right to apply the measures referred to in Article 20 only to offences specified in the reservation is conditional on the range of offences to which Article 20 is applied not being more restricted than the range of offences to which the measures referred to in Article 21 apply. The condition set out in Article 14 must be interpreted to mean that the range of offences for which traffic data may be collected in real time must not be more restricted than the range of offences for which interception of content data is permitted.

Article 21 (Interception of content data) is governed in Norwegian law by section 216a of the Criminal Procedure Act, and Article 20 by section 216b of the Criminal Procedure Act. Section 216a has a prescribed penalty limit of ten or more years' imprisonment, while section 216b has a prescribed penalty limit of five years' imprisonment. This means that section 216a applies to a narrower range of offences than section 216b, and the condition of Article 14 is thus fulfilled. Norway is therefore entitled to enter a reservation in accordance with Article 14.

Pursuant to Article 29, paragraph 4, of the Convention, the Government of the Kingdom of Norway reserves the right to refuse the request for preservation under this article in cases where it has reasons to believe that at the time of disclosure the condition of dual criminality cannot be fulfilled.

Note by the Secretariat: The reservations have been formulated in accordance with Articles 6, 14 and 29 of the Convention.

20. 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 2003²¹

²¹ *Relevant provisions :*

Article 3 – Dissemination of racist and xenophobic material through computer systems

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

distributing, or otherwise making available, racist and xenophobic material to the public through a computer system.

2 A Party may reserve the right not to attach criminal liability to conduct as defined by paragraph 1 of this article, where the material, as defined in Article 2, paragraph 1, advocates, promotes or incites discrimination that is not associated with hatred or violence, provided that other effective remedies are available.

3 Notwithstanding paragraph 2 of this article, a Party may reserve the right not to apply paragraph 1 to those cases of discrimination for which, due to established principles in its national legal system concerning freedom of expression, it cannot provide for effective remedies as referred to in the said paragraph 2.

Article 5 – Racist and xenophobic motivated insult

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

insulting publicly, through a computer system, (i) persons for the reason that they belong to a group distinguished by race, colour, descent or national or ethnic origin, as well as religion, if used as a pretext for any of these factors; or (ii) a group of persons which is distinguished by any of these characteristics.

2 A Party may either:

- a require that the offence referred to in paragraph 1 of this article has the effect that the person or group of persons referred to in paragraph 1 is exposed to hatred, contempt or ridicule; or
- b reserve the right not to apply, in whole or in part, paragraph 1 of this article.

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.

Article 14 – Territorial application

1 Any Party 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 a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Protocol to any other territory specified in the declaration. In respect of such territory, the Protocol 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 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 of the Council of Europe. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.

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 has been formulated in accordance with Article 6 of the Protocol.

DENMARK, 21 June 2005, 23 June 2006, 22 June 2007

In accordance with Article 3, paragraphs 2 and 3, of the Protocol, the Government of the Kingdom of Denmark declares that Denmark reserves the right to fully or to partially refrain from criminalising acts covered by Article 3, paragraph 1.

In accordance with Article 5, paragraph 2, letter b, of the Protocol, the Government of the Kingdom of Denmark declares that Denmark reserves the right to fully or to partially refrain from criminalising acts covered by Article 5, paragraph 1.

In accordance with Article 6, paragraph 2, letter b, of the Protocol, the Government of the Kingdom of Denmark declares that Denmark reserves the right to fully or to partially refrain from criminalising acts covered by Article 6, paragraph 1.

Pursuant to Article 14 of the Protocol, Denmark declares, until further notice, the Protocol will not apply to the Feroe Islands and Greenland.

Note by the Secretariat: The reservations have been formulated in accordance with Articles 3, 5 and 6, and the declaration in accordance with Article 14 of the Protocol.

21. ADDITIONAL PROTOCOL TO THE CRIMINAL LAW CONVENTION ON CORRUPTION (ETS No. 191), 15 MAY 2003²²

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

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.

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.

SWITZERLAND, 31 March 2006, 31 March 2006, 30 March 2007

Switzerland declares that it will punish offences in the meaning of Articles 4 and 6 of the Additional Protocol only if the conduct of the bribed person consists in performing or refraining from performing an act contrary to his/her duties or depending on his/her power of estimation.

Note by the Secretariat: The declaration has been formulated in accordance with Article 9 of the Protocol.

22. 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

LATVIA, 28 March 2006, 31 March 2006, 30 March 2007

Bearing in mind Article 20, paragraph 2, of Protocol No. 14 to the Convention (hereinafter referred to as "this Protocol"), the Republic of Latvia interprets Article 12 of this Protocol amending Article 35 of the Convention (hereinafter referred to as "the Convention"), in the following manner :

1. The new admissibility criterion may not be applied to reject such applications, which examination would otherwise be important for the protection of human rights and fundamental freedoms as defined in the Convention and the Protocols thereto, as well as to reject such applications, which have not been duly considered by a domestic tribunal.
2. The single-judge formations and committees will be able to apply the new admissibility criterion only after the Court's Chambers and Grand Chamber develop their case-law on this subject.
3. The new admissibility criterion will not be applied to the applications declared admissible before the entry into force of this Protocol in accordance with the general principle of non-retroactivity of treaties, contained in Article 28 of the Vienna Convention on the Law of Treaties of 23 May 1969.

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

RUSSIAN FEDERATION, 4 May 2006, 5 May 2006, 4 May 2007

The Russian Federation declares that, signing the Protocol under the condition of its subsequent ratification, it proceeds from the following:

- the Protocol will be applied in accordance with the understanding contained in the Declaration on "Ensuring the effectiveness of the implementation of the European Convention on Human Rights at national and European levels" adopted by the Committee of Ministers of the Council of Europe at its 114th session on 12 May 2004;

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."

Article 20

1 From the date of the entry into force of this Protocol, its provisions shall apply to all applications pending before the Court as well as to all judgments whose execution is under supervision by the Committee of Ministers.

2 The new admissibility criterion inserted by Article 12 of this Protocol in Article 35, paragraph 3.b of the Convention, shall not apply to applications declared admissible before the entry into force of the Protocol. In the two years following the entry into force of this Protocol, the new admissibility criterion may only be applied by Chambers and the Grand Chamber of the Court.

- the provisions of the Protocol and their application will be without prejudice to further steps aimed at reaching a full consensus between Member States of the Council of Europe on issues of strengthening the control mechanism of the Convention for the Protection of Human Rights and Fundamental Freedoms and of the European Court of Human Rights, including elaboration of a new additional protocol to the Convention based on the proposals of the "Group of Wise Persons" established to consider the issue of the long-term effectiveness of the Convention control mechanism;
- the application of the Protocol will be without prejudice to the process of improving the modalities of functioning of the European Court of Human Rights, first of all to strengthening the stability of its Rules, not excluding supplementary measures to be adopted by the Committee of Ministers of the Council of Europe aimed at reinforcing the control over the use of financial means allocated to the European Court of Human Rights and at ensuring the quality of staff of its Registry, with the understanding that procedural rules relating to examination of applications by the European Court of Human Rights must be adopted in the form of an international treaty subject to ratification or to another form of expression by a State of its consent to be bound by its provisions;
- the application of Article 28, paragraph 3 of the Convention as amended by Article 8 of the Protocol does not exclude the right of a High Contracting Party concerned, if the judge elected in its respect is not a member of the committee, to request that he or she be given the possibility to take the place of one of the members of the committee;
- no provision of the Protocol will be applied prior to its entry into force in accordance with Article 19.

23. 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 has been made in accordance with Article 34 of the Protocol.

24. 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 14 – Jurisdiction

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in this Convention:

- a. when the offence is committed in the territory of that Party;
- b. when the offence is committed on board a ship flying the flag of that Party, or on board an aircraft registered under the laws of that Party;
- c. when the offence is committed by a national of that Party.

2. Each State Party may also establish its jurisdiction over the offences set forth in this Convention:

-
- a when the offence was directed towards or resulted in the carrying out of an offence referred to in Article 1 of this Convention, in the territory of or against a national of that Party;
 - b when the offence was directed towards or resulted in the carrying out of an offence referred to in Article 1 of this Convention, against a state or government facility of that state Party abroad, including diplomatic or consular premises of that Party;
 - c when the offence was directed towards or resulted in an offence referred to in Article 1 of this Convention, committed in an attempt to compel that Party to do or abstain from doing any act;
 - d when the offence is committed by a stateless person who has his or her habitual residence in the territory of that Party;
 - e when the offence is committed on board an aircraft which is operated by the Government of that Party.
3. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in this Convention in the case where the alleged offender is present in its territory and it does not extradite him or her to a State Party whose jurisdiction is based on a rule of jurisdiction existing equally in the law of the requested State Party.
4. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.
5. When more than one State Party claims jurisdiction over an alleged offence set forth in this Convention, the Parties involved shall, where appropriate, consult with a view to determining the most appropriate jurisdiction for prosecution.

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 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 21 – Discrimination clause

1. Nothing in this Convention shall be interpreted as imposing an obligation to extradite or to afford mutual legal assistance, if the requested State Party has substantial grounds for believing that the request for extradition for offences set forth in Articles 5 to 7 and 9 or for mutual legal assistance with respect to such offences has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin or political opinion or that compliance with the request would cause prejudice to that person's position for any of these reasons.
2. Nothing in this Convention shall be interpreted as imposing an obligation to extradite if the person who is the subject of the extradition request risks being exposed to torture or to inhuman or degrading treatment or punishment.
3. Nothing in this Convention shall be interpreted either as imposing an obligation to extradite if the person who is the subject of the extradition request risks being exposed to the death penalty or, where the law of the requested State Party does not allow for life imprisonment, to life imprisonment without the possibility of parole, unless under applicable extradition treaties the requested State Party is under the obligation to extradite if the requesting State Party gives such assurance as the requested State Party considers sufficient that the death penalty will not be imposed or, where imposed, will not be carried out, or that the person concerned will not be subject to life imprisonment without the possibility of parole.

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);

TURKEY, 19 January 2006, 22 February 2006, 21 February 2007²⁶

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.

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.

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- 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.

²⁶ N.B.: See also declaration and reservation of Turkey to the International Convention for the Suppression of Terrorist Bombings, New York, 1997 (document CAHDI (2006) 7 and CAHDI (2006) 6 rev and observations by Turkey in document (2006) 3 also reproduced as the Appendix to this document).

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.

Note by the Secretariat: The declarations are interpretative declarations of Articles 19, 26 and 29 of the Convention.

RUSSIAN FEDERATION, 19 May 2006, 26 May 2006, 25 May 2007

The Russian Federation declares that it shall have jurisdiction over the offences established in accordance with Articles 5 to 7 and 9 of the Convention in the cases envisaged in Article 14, paragraphs 1 and 2, of the Convention.

The Russian Federation assumes that the provisions of Article 21 of the Convention shall be applied in such a way as to ensure inevitable liability for the commission of offences falling within the purview of the Convention, without prejudice to the effectiveness of international co-operation in extradition and legal assistance matters.

Note by the Secretariat: The first declaration has been formulated in accordance with Article 14 of the Convention. The second declaration of Russia is an interpretative declaration of Article 21 of the Convention.

APPENDIX



Deputy Prime Minister
and
Minister of Foreign Affairs

Ankara, 2 November 2005

Dear Mr. Secretary General,

We studied carefully your letter dated 14 February 2005 inviting my Government to consider withdrawing our Declarations with regard to the International Convention for the Suppression of Terrorist Bombings, New York, 15 December 1997. I would like to make some remarks with the hope that it would help to bring a better understanding of Turkey's position on this matter.

Turkey's Declarations upon signature and ratification of the Convention, underline its understanding that the term "international humanitarian law" referred to in Article 19 of the Convention shall be interpreted as comprising the relevant international rules, excluding the provisions of Additional Protocols to Geneva Conventions of 12 August 1949, to which Turkey is not a party.

It is stipulated in Article 19 of the "Vienna Convention on the Law of Treaties" of 1969, that a state may when signing, ratifying, accepting, approving or acceding to a treaty cannot make a reservation, if the content of the reservation is incompatible with the object and purpose of the treaty. Turkey's declaration with respect to the "International Convention for the Suppression of Terrorist Bombings" is not incompatible with the object and purpose of the above mentioned treaty, since the main object and purpose of the Convention is to enhance cooperation between the States Parties for an effective fight against terrorist bombings. Turkey's declaration in no way would effect its obligations under the provisions of the Convention.

Furthermore as a country which has suffered for long from terrorism, Turkey has ratified all 12 UN conventions on terrorism and has always been resolute in countering terrorism which is a global threat. In its fight against terrorism, Turkey has shown the utmost care to comply with human rights law and has recognized the jurisdiction of the European Court of Human Rights for almost 20 years.

Mr. Terry Davis
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France