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

**33rd meeting
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**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

A. CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN, NEW YORK, 18 DECEMBER 1979¹

¹ *Relevant provisions:*

Article 2:

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

(f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;

Article 5:

States Parties shall take all appropriate measures:

(a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;

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 11:

2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

(b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;

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.

1. 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."

2. COOK ISLANDS, 11 August 2006, 28 August 2006, 27 August 2007

Reservations:

"The Government of the Cook Islands reserves the right not to apply the provisions of Article 11 (2) (b).

The Government of the Cook Islands reserves the right not to apply the provisions of the Convention in so far as they are inconsistent with policies relating to recruitment into or service in:

(a) The armed forces which reflect either directly or indirectly the fact that members of such forces are required to serve on armed forces aircraft or vessels and in situations involving armed combat; or

(b) The law enforcement forces which reflect either directly or indirectly the fact that members of such forces are required to serve in situations involving violence or threat of violence.

The Government of the Cook Islands reserves the right not to apply Article 2 (f) and Article 5 (a) to the extent that the customs governing the inheritance of certain Cook Islands chiefly titles may be inconsistent with those provisions."

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.

B. INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS, NEW YORK, 16 DECEMBER 1966²

3. BAHRAIN, 4 December 2006, 28 December 2006, 27 December 2007

Reservation:

"1. The Government of the Kingdom of Bahrain interprets the Provisions of Articles 3, 18 and 23 as not affecting in any way the prescriptions of the Islamic Shariah.

2. The Government of the Kingdom of Bahrain interprets the provisions of Article 9, Paragraph (5) as not detracting from its right to layout the basis and rules of obtaining the compensation mentioned in this Paragraph.

3. The Government of the Kingdom of Bahrain interprets Article 14 Paragraph (7) as no obligation arise from it further those set out in Article 10 of the Criminal Law of Bahrain which provides:

'Legal Proceedings cannot be instated against a person who has been acquitted by Foreign Courts from offenses of which he is accused or a final judgement has been delivered against him and the said person fulfilled the punishment or the punishment has been abolished by prescription.' "

² *Relevant provisions:*

Article 3 :

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

Article 9 :

5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

Article 14 :

7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

Article 18 :

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Article 23 :

1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

2. The right of men and women of marriageable age to marry and to found a family shall be recognized.

3. No marriage shall be entered into without the free and full consent of the intending spouses.

4. States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

4. MALDIVES, 19 September 2006, 19 September 2006, 18 September 2007

Reservation:

"The application of the principles set out in Article 18 of the Covenant shall be without prejudice to the Constitution of the Republic of Maldives."

C. CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE, NEW YORK, 9 DECEMBER 1948³

5. MONTENEGRO, 23 October 2006, 30 October 2006, 29 October 2007

Reservation made by Serbia and Montenegro upon accession, confirmed by Montenegro upon succession:

"[Montenegro] does not consider itself bound by Article IX of the Convention on the Prevention and Punishment of the Crime of Genocide and, therefore, before any dispute to which the [Montenegro] is a party may be validly submitted to the jurisdiction of the International Court of Justice under this Article, the specific and explicit consent of the [Montenegro] is required in each case."

D. INTERNATIONAL CONVENTION AGAINST THE TAKING OF HOSTAGES, NEW YORK, 17 DECEMBER 1979⁴

6. IRAN (ISLAMIC REPUBLIC OF), 20 November 2006, 28 November 2006, 27 November 2007

Reservation:

"Pursuant to Article 16, paragraph 2 of the International Convention against the Taking of Hostages, the Government of the Islamic Republic of Iran declares that it does not consider itself bound by the provisions of Article 16, paragraph 1 of the Convention regarding the reference of any dispute concerning the interpretation, or application of this Convention, which is not settled by negotiation to arbitration or to the International Court of Justice."

Interpretative declaration:

³ *Relevant provisions:*

Article IX :

Disputes between the Contracting Parties relating to the interpretation, application or fulfilment of the present Convention, including those relating to the responsibility of a State for genocide or for any of the other acts enumerated in article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.

⁴ *Relevant provisions:*

Article 16 :

1. Any dispute between two or more States Parties concerning the interpretation or application of this 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 may at the time of signature or ratification of this 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 paragraph 1 of this article 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 in the United Nations.

"The Government of the Islamic Republic of Iran declares its categorical condemnation of each and every act of terrorism, including taking innocent civilians as hostages, which violates human rights and fundamental freedom of human kind, undermines the stability and security of human communities, and hinders countries from development and progress. The Islamic Republic of Iran believes that elimination of terrorism requires a comprehensive campaign by the international community to identify and eradicate political, economic, social and international root causes of the scourge.

The Islamic Republic of Iran further believes that fighting terrorism should not affect the legitimate struggle of peoples under colonial domination and foreign occupation in the exercise of their right of self-determination, as enshrined in a variety of international documents, including the Charter of the United Nations, the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, and Article 1 paragraph 4 of the Protocol I Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts."

E. INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF ACTS OF NUCLEAR TERRORISM, NEW YORK, 13 APRIL 2005⁵

7. TURKEY, 14 September 2005, 31 October 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

⁵ *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 military 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.

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.

8. EGYPT, 20 September 2005, 3 November 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 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.

PART II: RESERVATIONS AND DECLARATIONS TO COUNCIL OF EUROPE TREATIES

A. EUROPEAN CONVENTION ON EXTRADITION (ETS No. 24), 13 DECEMBER 1957⁶

1. 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

⁶ *Relevant provisions*

Article 6 – Extradition of nationals

- 1 a A Contracting Party shall have the right to refuse extradition of its nationals.
- b Each Contracting Party may, by a declaration made at the time of signature or of deposit of its instrument of ratification or accession, define as far as it is concerned the term "nationals" within the meaning of this Convention.
- c Nationality shall be determined as at the time of the decision concerning extradition. If, however, the person claimed is first recognised as a national of the requested Party during the period between the time of the decision and the time contemplated for the surrender, the requested Party may avail itself of the provision contained in sub-paragraph a of this article.

Article 21 – Transit

- 1 Transit through the territory of one of the Contracting Parties shall be granted on submission of a request by the means mentioned in Article 12, paragraph 1, provided that the offence concerned is not considered by the Party requested to grant transit as an offence of a political or purely military character having regard to Articles 3 and 4 of this Convention.
- 2 Transit of a national, within the meaning of Article 6, of a country requested to grant transit may be refused.
- 3 Subject to the provisions of paragraph 4 of this article, it shall be necessary to produce the documents mentioned in Article 12, paragraph 2.
- 4 If air transport is used, the following provisions shall apply:
 - a when it is not intended to land, the requesting Party shall notify the Party over whose territory the flight is to be made and shall certify that one of the documents mentioned in Article 12, paragraph 2.a exists. In the case of an unscheduled landing, such notification shall have the effect of a request for provisional arrest as provided for in Article 16, and the requesting Party shall submit a formal request for transit;
 - b when it is intended to land, the requesting Party shall submit a formal request for transit.
- 5 A Party may, however, at the time of signature or of the deposit of its instrument of ratification of, or accession to, this Convention, declare that it will only grant transit of a person on some or all of the conditions on which it grants extradition. In that event, reciprocity may be applied.

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.

28, paragraph 3, of the Convention.

2. 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.
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3. ROMANIA, 17 July 2006, 3 August 2006, 2 August 2007

Romania declares that, in accordance with the paragraph 1 of the Act 74/2005, the declaration formulated by Romania⁷ on Article 6, paragraph 1, of the Convention is amended as follows:

"The Romanian citizens may not be extradited.

By derogation of these provisions, the Romanian citizen may be extradited from Romania in accordance with the international conventions to which Romania is

⁷ *Relevant provisions:*

The declarations contained in the instrument of ratification deposited on 10 September 1997 read as follows: "Concerning Article 6, paragraph 1.a: Romania will not extradite its citizens and persons to whom asylum has been granted in Romania.

Concerning Article 6, paragraph 1.b: the term "nationals", in the sense of this Convention, designates Romanian citizens or persons to whom asylum has been granted in Romania.

Concerning Article 21, paragraph 5: Request for transit through Romania's territory of a Romanian citizen or a person to whom asylum has been granted in Romania will be refused."

Contracting Party and on the basis of reciprocity, only if one of the following conditions is fulfilled:

- a) the soliciting State, in order to carry on the criminal prosecution and the judgment, gives assurances estimated as satisfactory, that, if a conviction to a punishment depriving of liberty is pronounced by a final decision of justice, the Romanian citizen will be transferred to serve the punishment in Romania;
- b) the Romanian citizen has his residence in the State that formulated the request at the date of the formulation of the request for extradition;
- c) the Romanian citizen has also the citizenship of the soliciting State,
- d) the Romanian citizen committed the fact on the territory or against a citizen of a member State of the European Union, if the soliciting State is member of the European Union.

The person for whom asylum was granted in Romania may not be extradited."

Romania declares that, in accordance with the paragraph 2 of the Act 74/2005, the declaration formulated by Romania on Article 21, paragraph 5, of the Convention, is amended as follows:

"If the transit across the territory of Romania is asked for a Romania citizen or a person who has the asylum right in Romania, the provisions of the paragraph 1 are amended accordingly."

Note by the Secretariat: The declarations have been formulated in accordance with Articles 6 and 21 of the Convention.

4. SLOVAKIA, 28 July 2006, 3 August 2006, 2 August 2007

In accordance with Article 28, paragraph 3, of the European Convention on Extradition of 13 December 1957, the Slovak Republic notifies that it shall not apply the said Convention and its two Additional Protocols of 15 October 1975 and 17 March 1978, in relations to those Contracting Parties – Member States of the European Union – which implemented the Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States of the European Union (2002/584/JHA), and which apply procedures based on that Framework Decision. The Slovak Republic considers the said Framework Decision as uniform law under the Article referred to.

The Slovak Republic shall continue to apply the provisions of the Convention and its two Additional Protocols in relations to the Member States of the European Union to the extent that these provisions were not replaced by the Framework Decision and in cases to which the Framework Decision does not apply (including cases covered by declarations by the Member States).

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

5. GREECE, 17 October 2006, 20 October 2006, 19 October 2007

In accordance with Article 28, paragraph 3, of the European Convention on Extradition, the Hellenic Republic notifies that on 9 July 2004 the law nr. 3251/2004 has entered into force, 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). The Hellenic Republic shall apply this law in relations to Contracting Parties which are Member States of the European Union and have also implemented the Framework Decision on the European arrest warrant.

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

6. BULGARIA, 13 November 2006, 24 November 2006, 23 November 2007

On 25 October 2006, the National Assembly of Bulgaria adopted a Law by which it modified the declaration⁸ of the Republic of Bulgaria relating to paragraph 1 of Article 6 of the European Convention on Extradition, as follows:

"The Republic of Bulgaria declares that it will refuse extradition of its nationals. The Republic of Bulgaria declares that it will recognize as a national for the purposes of the Convention any person having Bulgarian nationality at the time of receiving the request for extradition."

Note by the Secretariat: The declaration has been formulated in accordance with Article 6, paragraph 1, of the Convention.

B. EUROPEAN AGREEMENT ON REGULATIONS GOVERNING THE MOVEMENT OF PERSONS BETWEEN MEMBER STATES OF THE COUNCIL OF EUROPE (ETS No. 25), 13 DECEMBER 1957⁹

7. 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 have suspended the application of the Agreement in respect of Ukraine (Austria, Belgium, France, Germany, Luxembourg and The Netherlands).

⁸ *Relevant provisions:*

The declaration as amended on 6 January 2004 read as follows: "The Republic of Bulgaria declares that it will recognize as a national for the purposes of the Convention any person having Bulgarian nationality at the time of receiving the request for extradition."

⁹ *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.

8. SWITZERLAND, 7 September 2006, 8 September 2006, 7 September 2007

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

Application of this Agreement with regard to Ukraine is incompatible with Council Regulation EC No. 539/2001, Annex I of which stipulates that Ukraine is one of those States whose nationals must be in possession of visas when crossing the Member States' external borders.

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

C. EUROPEAN CONVENTION ON THE INTERNATIONAL VALIDITY OF CRIMINAL JUDGMENTS (ETS No. 70), 28 MAY 1970¹⁰**9. 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;

¹⁰ *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.

D. EUROPEAN CONVENTION ON THE TRANSFER OF PROCEEDINGS IN CRIMINAL MATTERS (ETS No. 73), 15 MAY 1972¹¹

¹¹ *Relevant provisions :*

Article 13

(...)

- 3 Any Contracting State may, by declaration addressed to the Secretary General of the Council of Europe, give notice of its intention to adopt in so far as it itself is concerned rules of transmission other than those laid down in paragraph 1 of this article.

Article 18

(...)

- 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, with the exception of the copy of the written decision referred to in Article 16, paragraph 2, the said documents be accompanied by a translation. The other Contracting States shall send the translations in either the national language of the receiving State or such one of the official languages of the Council of Europe as the receiving State shall indicate. However, such an indication is not obligatory. The other Contracting States may claim reciprocity.

Article 40

- 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 41

- 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 or make a declaration provided for in Appendix II to this Convention.

10. MOLDOVA, 23 January 2007, 2 February 2007, 1 February 2008

In accordance with Article 41, paragraph 1, the Republic of Moldova declares that:

. it will refuse a request for proceedings, if it considers that the offence is a purely religious offence, in accordance with paragraph a of Appendix I;

. it will refuse a request for proceedings for an act the sanctions for which, in accordance with its own law, can be imposed only by an administrative authority, in accordance with paragraph b of Appendix I;

. it will not apply Articles 30 and 31 in respect of an act for which the sanctions, in accordance with its own law or that of the other State concerned, can be imposed only by an administrative authority, in accordance with paragraph g of Appendix I.

In accordance with Article 41, paragraph 1 of Appendix II, the Republic of Moldova declares that the term "national" means a citizen of the Republic of Moldova, the foreign citizen or stateless person with residence permits in the Republic of Moldova.

In accordance with Article 13, paragraph 3, the Republic of Moldova declares that the requests for transfer of criminal proceedings formulated during the pre-trial stage shall be addressed to the General Prosecutor's Office, and the requests formulated during the trial stage shall be addressed to the Ministry of Justice.

In accordance with Article 18, paragraph 2, the Republic of Moldova declares that the requests formulated pursuant to this Convention and the supporting documents shall be transmitted to the authorities of the Republic of Moldova accompanied by a translation into the Moldavian language or into one of the official languages of the Council of Europe.

In accordance with Article 40, paragraph 1, 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 shall be applied only on the territory controlled effectively by the authorities of the Republic of Moldova.

Note by the Secretariat: The reservation has been formulated in accordance with Article 41 and the declarations in accordance with Articles 13, 18 and 40 of the Convention.

E. EUROPEAN OUTLINE CONVENTION ON TRANSFRONTIER CO-OPERATION BETWEEN TERRITORIAL COMMUNITIES OR AUTHORITIES (ETS No. 106), 21 MAY 1980¹²

11. GEORGIA, 24 July 2006, 3 August 2006, 2 August 2007

Georgia declares that, according to Article 3, paragraph 2, of the Convention, within the scope of this Convention, Georgia will conduct transfrontier co-operation through the conclusion of inter-state agreements with other contracting Parties to this Convention.

¹² *Relevant provisions :*

Article 3

(...)

- 2 If the Contracting Parties deem it necessary to conclude inter-state agreements, these may *inter alia* establish the context, forms and limits within which territorial communities and authorities concerned with transfrontier co-operation may act. Each agreement may also stipulate the authorities or bodies to which it applies.

Georgia declares that, until the restoration of territorial integrity of Georgia, the Convention will not act on the territories of the Autonomous Republic of Abkazia and the former Autonomous District of South Ossetia, where Georgia is unable to exercise its full jurisdiction.

Note by the Secretariat: The first declaration has been formulated in accordance with Article 3, paragraph 2, of the Convention. Concerning the second one, Georgia has formulated a similar declaration to many treaties of the Council of Europe.

F. CONVENTION FOR THE PROTECTION OF INDIVIDUALS WITH REGARD TO AUTOMATIC PROCESSING OF PERSONAL DATA (ETS No. 108), 28 JANUARY 1981¹³

12. "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.

13. 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:

¹³ *Relevant provisions:*

Article 3 – Scope

1 The Parties undertake to apply this convention to automated personal data files and automatic processing of personal data in the public and private sectors.

2 Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, or at any later time, give notice by a declaration addressed to the Secretary General of the Council of Europe:

- a that it will not apply this convention to certain categories of automated personal data files, a list of which will be deposited. In this list it shall not include, however, categories of automated data files subject under its domestic law to data protection provisions. Consequently, it shall amend this list by a new declaration whenever additional categories of automated personal data files are subjected to data protection provisions under its domestic law;
- b that it will also apply this convention to information relating to groups of persons, associations, foundations, companies, corporations and any other bodies consisting directly or indirectly of individuals, whether or not such bodies possess legal personality;
- c that it will also apply this convention to personal data files which are not processed automatically.

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.

G. EUROPEAN CONVENTION ON THE COMPENSATION OF VICTIMS OF VIOLENT CRIMES (ETS No. 116), 24 NOVEMBER 1983¹⁴

14. AUSTRIA, 30 August 2006, 8 September 2006, 7 September 2007

Regarding Article 2, paragraph 1 (b) of the Convention, the Republic of Albania declares that it defines the term “dependants” in conformity with the Albanian legislation as meaning “under age children, the spouse, disabled parents, who were entirely or partly dependent on the deceased person, as well as persons who lived in the family of the deceased person and were entitled to receive maintenance payments from such person”.

Note by the Secretariat: The declaration has been formulated in accordance with Article 18 of the Convention.

H. EUROPEAN CHARTER OF LOCAL SELF-GOVERNMENT (ETS NO. 122), 15 OCTOBER 1985¹⁵

¹⁴ *Relevant provisions :*

Article 18

- 1 Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, declare that it avails itself of one or more reservations.
- 2 Any Contracting State which has made a reservation under the preceding paragraph may wholly or partly withdraw it by means of a notification addressed to the Secretary General of the Council of Europe. The withdrawal shall take effect on the date of receipt of such notification by the Secretary General.
- 3 A Party which has made a reservation in respect of a provision of this Convention may not claim the application of that provision by any other Party; it may, however, if its reservation is partial or conditional, claim the application of that provision in so far as it has itself accepted it.

¹⁵ *Relevant provisions :*

Article 3 – Concept of local self-government

(...)

- 2 This right shall be exercised by councils or assemblies composed of members freely elected by secret ballot on the basis of direct, equal, universal suffrage, and which may possess executive organs responsible to them. This provision shall in no way affect recourse to assemblies of citizens, referendums or any other form of direct citizen participation where it is permitted by statute.

Article 7 – Conditions under which responsibilities at local level are exercised

- 1 The conditions of office of local elected representatives shall provide for free exercise of their functions.

15. FRANCE, 17 January 2007, 2 February 2007, 1 February 2008

The French Republic considers that the provisions of Article 3, paragraph 2, must be interpreted as giving to the States the possibility to make the executive organ answerable to the deliberative organ of a territorial authority.

In accordance with Article 12, paragraph 2, the French Republic considers itself bound by all the paragraphs of Part I of the Charter, except paragraph 2 of Article 7.

In accordance with Article 13, the local and regional authorities to which the Charter applies are the territorial authorities which are named in Articles 72, 73, 74 and in Title XIII of the Constitution or which are created on their basis. The French Republic therefore considers that the public establishments of intercommunal cooperation, which are not territorial authorities, are excluded from the scope of application of the Charter.

Note by the Secretariat. The first declaration is an interpretative declaration of Article 3, paragraph 2, of the Charter. The other declarations have been formulated in accordance with Articles 12 and 13 of the Charter.

I. **EUROPEAN CONVENTION FOR THE PROTECTION OF VERTEBRATE ANIMALS USED FOR EXPERIMENTAL AND OTHER SCIENTIFIC PURPOSES (ETS No. 123), 18 MARCH 1986**¹⁶

16. SLOVENIA, 15 December 2006, 15 December 2006, 14 December 2007

In accordance with Article 35, paragraph 1, of the Convention, the Republic of Slovenia declares that it does not consider itself bound by requirements to communicate statistical information referred to in Article 28, paragraph 1.

Note by the Secretariat. The declaration has been formulated in accordance with Article 35, paragraph 1, of the Convention.

2 They shall allow for appropriate financial compensation for expenses incurred in the exercise of the office in question as well as, where appropriate, compensation for loss of earnings or remuneration for work done and corresponding social welfare protection.

Article 13 – Authorities to which the Charter applies

The principles of local self-government contained in the present Charter apply to all the categories of local authorities existing within the territory of the Party. However, each Party may, when depositing its instrument of ratification, acceptance or approval, specify the categories of local or regional authorities to which it intends to confine the scope of the Charter or which it intends to exclude from its scope. It may also include further categories of local or regional authorities within the scope of the Charter by subsequent notification to the Secretary General of the Council of Europe.

¹⁶ *Relevant provisions :*

Article 28

1 Subject to requirements of national legislation relating to secrecy and confidentiality, each Party shall communicate every year to the Secretary General of the Council of Europe information in respect of the items mentioned in paragraph 2 of Article 27, presented in the form set out in Appendix B to this Convention.

Article 35

1 Any Signatory may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, make one or more reservations. No reservations may, however, be made in respect of Articles 1 to 14 or Articles 18 to 20.

J. CONVENTION ON LAUNDERING, SEARCH, SEIZURE AND CONFISCATION OF THE PROCEEDS FROM CRIME (ETS No. 141), 8 NOVEMBER 1990¹⁷

17. 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

¹⁷ *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

(...)

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.

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.

K. EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES (ETS No. 148), 5 NOVEMBER 1992¹⁸

18. CZECH REPUBLIC, 15 November 2006, 17 November 2006, 16 November 2007

The Czech Republic hereby declares that it will apply the provisions of the Charter in conformity with its constitutional order and the relevant international treaties by which it is bound.

Though there exists no general legal regulation in the Czech Republic relating to the country's official language, for the purposes of the Charter, regarded as minority languages are languages meeting the conditions of Article 1.a. In conformity with the Charter, the Czech Republic therefore declares that it considers the Slovak, Polish, German and Roma languages as minority languages which are spoken in its territory and in respect of which it will apply the provisions of Part II of the Charter.

The Czech Republic declares that, pursuant to Article 2, paragraph 2, and Article 3, paragraph 1, of the Charter, it will apply the following selected provisions of Part III of the Charter to these languages:

The Polish language in the Moravian-Silesian Region, in the territory of the districts of Frydek-Místek and Karviná:

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

¹⁸ *Relevant provisions :*

Article 1 – Definitions

For the purposes of this Charter:

- a “regional or minority languages” means languages that are:
 - i traditionally used within a given territory of a State by nationals of that State who form a group numerically smaller than the rest of the State's population; and
 - ii different from the official language(s) of that State;
 it does not include either dialects of the official language(s) of the State or the languages of migrants;

Article 2 – Undertakings

(...)

- 2 In respect of each language specified at the time of ratification, acceptance or approval, in accordance with Article 3, each Party undertakes to apply a minimum of thirty-five paragraphs or sub-paragraphs chosen from among the provisions of Part III of the Charter, including at least three chosen from each of the Articles 8 and 12 and one from each of the Articles 9, 10, 11 and 13.

Article 3 – Practical arrangements

- 1 Each Contracting State shall specify in its instrument of ratification, acceptance or approval, each regional or minority language, or official language which is less widely used on the whole or part of its territory, to which the paragraphs chosen in accordance with Article 2, paragraph 2, shall apply.

Article 13, paragraph 1 c, paragraph 2 e;
Article 14 a, b;

The Slovak language all over the territory of the Czech Republic:

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

Note by the Secretariat. The declarations have been formulated in accordance with Articles 2 and 3 of the Charter.

**L. EUROPEAN CONVENTION ON THE EXERCISE OF CHILDREN'S RIGHTS
(ETS No. 160), 25 JANUARY 1996¹⁹**

19. UKRAINE, 21 December 2006, 12 January 2007, 11 January 2008

In accordance with Article 1, paragraph 4, of the Convention, Ukraine declares that this Convention applies to the consideration by courts of cases concerning:

- . adoption of a child;
- . establishment of tutelage, care about a child;
- . annulment or impugment of parental rights;
- . other matters of relations between parents and a child;
- . any other matters which concern a child personally as well as matters of its family (including its upbringing, restoration of parental rights, management of its property).

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

**M. EUROPEAN AGREEMENT RELATING TO PERSONS PARTICIPATING IN
PROCEEDINGS OF THE EUROPEAN COURT OF HUMAN RIGHTS
(ETS No. 161), 5 MARCH 1996²⁰**

¹⁹ *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.

²⁰ *Relevant provisions :*

Article 4

- 1 a The Contracting Parties undertake not to hinder the free movement and travel, for the purpose of attending and returning from proceedings before the Court, of persons referred to in paragraph 1 of Article 1 of this Agreement.
- b No restrictions shall be placed on their movement and travel other than such as are in accordance with the law and necessary in a democratic society in the interests of national security or public safety, for the maintenance of *ordre public*, for the prevention of crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

20. LATVIA, 27 July 2006, 3 August 2006, 2 August 2007

The Republic of Latvia declares that the provisions of paragraph 1 (a) of Article 4 of the European Agreement relating to persons participating in proceedings of the European Court of Human Rights shall not apply to persons who are in places of detention, or in other places of deprivation of personal liberty pursuant to the case-law of the European Court of Human Rights.

Pursuant to Article 4, paragraph 2 (b) of the European Agreement, the Republic of Latvia declares that the provisions of paragraph 2 (a) of Article 4 shall not apply to its own citizens, non-citizens of the Republic of Latvia and to the stateless persons permanently residing therein.

Note by the Secretariat: The declarations have been formulated in accordance with Article 4 of the Agreement.

N. CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND DIGNITY OF THE HUMAN BEING WITH REGARD TO THE APPLICATION OF BIOLOGY AND MEDICINE: CONVENTION ON HUMAN RIGHTS AND BIOMEDICINE (ETS No. 164), 4 APRIL 1997²¹

-
- 2 a Such persons shall not, in countries of transit and in the country where the proceedings take place, be prosecuted or detained or be subjected to any other restriction of their personal liberty in respect of acts or convictions prior to the commencement of the journey.
- b Any Contracting Party may, at the time of signature, ratification, acceptance or approval of this Agreement, declare that the provisions of this paragraph will not apply to its own nationals. Such a declaration may be withdrawn at any time by means of a notification addressed to the Secretary General of the Council of Europe.

²¹ *Relevant provisions :*

Article 20 – Protection of persons not able to consent to organ removal

- 1 No organ or tissue removal may be carried out on a person who does not have the capacity to consent under Article 5.
- 2 Exceptionally and under the protective conditions prescribed by law, the removal of regenerative tissue from a person who does not have the capacity to consent may be authorised provided the following conditions are met:
- i there is no compatible donor available who has the capacity to consent;
 - ii the recipient is a brother or sister of the donor;
 - iii the donation must have the potential to be life-saving for the recipient;
 - iv the authorisation provided for under paragraphs 2 and 3 of Article 6 has been given specifically and in writing, in accordance with the law and with the approval of the competent body;
 - v the potential donor concerned does not object.

Article 36 – Reservations

- 1 Any State and the European Community may, when signing this Convention or when depositing the instrument of ratification, acceptance, approval or accession, 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 relevant law.
- 3 Any Party which extends the application of this Convention to a territory mentioned in the declaration referred to in Article 35, paragraph 2, may, in respect of the territory concerned, make a reservation in accordance with the provisions of the preceding paragraphs.
- 4 Any Party which has made the reservation mentioned in this article may withdraw it by means of a declaration 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 one month after the date of its receipt by the Secretary General.

21. NORWAY, 13 October 2006, 20 October 2006, 19 October 2007

In accordance with Article 36 of the Convention, the Government of the Kingdom of Norway reserves the right not to apply Article 20, paragraph 2, sub-paragraph ii, of the Convention, to the effect that Norway also authorises the removal of regenerative tissue from persons who do not have the capacity to consent in cases where the recipient is a child or parent of the donor, or in special cases, a close relative of the donor, cf. section 1, third paragraph, item 2, of Act of 9 February 1973 No. 6 relating to transplantation, hospital autopsies and the donation of bodies, etc. (Transplantation Act).

According to section 1, third paragraph, item 2, of the Transplantation Act, the removal of regenerative tissue from persons who do not have the capacity to consent may be authorised in cases where the recipient is a child or parent of the donor, or in special cases, a close relative of the donor, cf. section 1, third paragraph, item 2, of the said Act. Consequently, the provisions of Norwegian law go beyond those of Article 20, paragraph 2, sub-paragraph ii of the Convention, which only authorise the removal of regenerative tissue in cases where the recipient is a brother or a sister of the donor.

Note by the Secretariat. The reservation has been formulated in accordance with Article 36 of the Convention.

O. EUROPEAN CONVENTION ON NATIONALITY (No 166), 6 NOVEMBER 1997²²**22. UKRAINE**, 21 December 2006, 12 January 2007, 11 January 2008

In accordance with Article 8, paragraph 2, of the Convention, Ukraine declares that the term “nationals habitually resident abroad” is used in the meaning of “nationals of Ukraine habitually resident abroad in accordance with the national law which regulates the matters of traveling abroad for the citizens of Ukraine”.

In accordance with Article 25, paragraph 1, of the Convention, Ukraine declares that it excludes Chapter VII from the application of the Convention.

Note by the Secretariat. The declarations have been formulated in accordance with Articles 8 and 25 of the Convention.

P. ADDITIONAL PROTOCOL TO THE CONVENTION ON THE TRANSFER OF SENTENCED PERSONS (ETS No. 167), 18 DECEMBER 1997²³

²² *Relevant provisions:*

Article 8 – Loss of nationality at the initiative of the individual

- 1 Each State Party shall permit the renunciation of its nationality provided the persons concerned do not thereby become stateless.
- 2 However, a State Party may provide in its internal law that renunciation may be effected only by nationals who are habitually resident abroad.

Article 25 – Declarations concerning the application of the Convention

- 1 Each State may declare, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, that it will exclude Chapter VII from the application of the Convention.

²³ *Relevant provisions :*

Article 3 – Sentenced persons subject to an expulsion or deportation order

- 1 Upon being requested by the sentencing State, the administering State may, subject to the provisions of this Article, agree to the transfer of a sentenced person without the consent of that person, where the sentence passed on the latter, or an administrative decision consequential to that sentence, includes an expulsion or deportation order or any other measure as the result of which that person will no longer be allowed to remain in the territory of the sentencing State once he or she is released from prison.

23. IRELAND, 13 December 2006, 15 December 2007, 14 December 2008

Pursuant to Article 3, paragraph 6, of the Additional Protocol, Ireland declares that it will not apply Article 3 of the said Protocol and will not take over the execution of sentences under the circumstances described in Article 3 until notification to the contrary.

Note by the Secretariat: The declaration has been formulated in accordance with Article 3, paragraph 6, of the Protocol.

Q. CRIMINAL LAW CONVENTION ON CORRUPTION (ETS No. 173), 27 JANUARY 1999²⁴

2 The administering State shall not give its agreement for the purposes of paragraph 1 before having taken into consideration the opinion of the sentenced person.

3 For the purposes of the application of this Article, the sentencing State shall furnish the administering State with:

- a a declaration containing the opinion of the sentenced person as to his or her proposed transfer, and
- b a copy of the expulsion or deportation order or any other order having the effect that the sentenced person will no longer be allowed to remain in the territory of the sentencing State once he or she is released from prison.

4 Any person transferred under the provisions of this Article shall not be proceeded against, sentenced or detained with a view to the carrying out of a sentence or detention order, for any offence committed prior to his or her transfer other than that for which the sentence to be enforced was imposed, nor shall he or she for any other reason be restricted in his or her personal freedom, except in the following cases:

- a when the sentencing State so authorises: a request for authorisation shall be submitted, accompanied by all relevant documents and a legal record of any statement made by the convicted person; authorisation shall be given when the offence for which it is requested would itself be subject to extradition under the law of the sentencing State or when extradition would be excluded only by reason of the amount of punishment;
- b when the sentenced person, having had an opportunity to leave the territory of the administering State, has not done so within 45 days of his or her final discharge, or if he or she has returned to that territory after leaving it.

5 Notwithstanding the provisions of paragraph 4, the administering State may take any measures necessary under its law, including proceedings in absentia, to prevent any legal effects of lapse of time.

6 Any contracting State may, by way of a declaration addressed to the Secretary General of the Council of Europe, indicate that it will not take over the execution of sentences under the circumstances described in this Article.

²⁴ *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

24. 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.

R. SECOND ADDITIONAL PROTOCOL TO THE EUROPEAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS (ETS No. 182), 8 NOVEMBER 2001²⁵

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 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."

²⁵ *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 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.

25. 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.

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.

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.

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.

S. CONVENTION ON CYBERCRIME (ETS No. 185), 23 NOVEMBER 2001²⁶

²⁶ *Relevant provisions :*

Article 2 – Illegal access

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 access to the whole or any part of a computer system without right. A Party may require that the offence be committed by infringing security measures, with the intent of obtaining computer data or other dishonest intent, or in relation to a computer system that is connected to another computer system.

Article 4 – Data interference

- 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, the damaging, deletion, deterioration, alteration or suppression of computer data without right.
- 2 A Party may reserve the right to require that the conduct described in paragraph 1 result in serious harm.

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 7 – Computer-related forgery

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 input, alteration, deletion, or suppression of computer data, resulting in inauthentic data with the intent that it be considered or acted upon for legal purposes as if it were authentic, regardless whether or not the data is directly readable and intelligible. A Party may require an intent to defraud, or similar dishonest intent, before criminal liability attaches.

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 10 – Offences related to infringements of copyright and related rights

1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the infringement of copyright, as defined under the law of that Party, pursuant to the obligations it has undertaken under the Paris Act of 24 July 1971 revising the Bern Convention for the Protection of Literary and Artistic Works, the Agreement on Trade-Related Aspects of Intellectual Property Rights and the WIPO Copyright Treaty, with the exception of any moral rights conferred by such conventions, where such acts are committed wilfully, on a commercial scale and by means of a computer system.

2 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the infringement of related rights, as defined under the law of that Party, pursuant to the obligations it has undertaken under the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (Rome Convention), the Agreement on Trade-Related Aspects of Intellectual Property Rights and the WIPO Performances and Phonograms Treaty, with the exception of any moral rights conferred by such conventions, where such acts are committed wilfully, on a commercial scale and by means of a computer system.

3 A Party may reserve the right not to impose criminal liability under paragraphs 1 and 2 of this article in limited circumstances, provided that other effective remedies are available and that such reservation does not derogate from the Party’s international obligations set forth in the international instruments referred to in paragraphs 1 and 2 of this article.

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.

- 9
- 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.

Article 40 – Declarations

By a written notification addressed to the Secretary General of the Council of Europe, any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, declare that it

26. 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.

27. 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

avails itself of the possibility of requiring additional elements as provided for under Articles 2, 3, 6 paragraph 1.b, 7, 9 paragraph 3, and 27, paragraph 9.e.

Article 41 – Federal clause

- 1 A federal State may reserve the right to assume obligations under Chapter II of this Convention consistent with its fundamental principles governing the relationship between its central government and constituent States or other similar territorial entities provided that it is still able to co-operate under Chapter III.
- 2 When making a reservation under paragraph 1, a federal State may not apply the terms of such reservation to exclude or substantially diminish its obligations to provide for measures set forth in Chapter II. Overall, it shall provide for a broad and effective law enforcement capability with respect to those measures.
- 3 With regard to the provisions of this Convention, the application of which comes under the jurisdiction of constituent States or other similar territorial entities, that are not obliged by the constitutional system of the federation to take legislative measures, the federal government shall inform the competent authorities of such States of the said provisions with its favourable opinion, encouraging them to take appropriate action to give them effect.

Article 42 – Reservations

By a written notification addressed to the Secretary General of the Council of Europe, 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(s) provided for in Article 4, paragraph 2, Article 6, paragraph 3, Article 9, paragraph 4, Article 10, paragraph 3, Article 11, paragraph 3, Article 14, paragraph 3, Article 22, paragraph 2, Article 29, paragraph 4, and Article 41, paragraph 1. No other reservation may be made.

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.

28. 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.

29. UNITED STATES OF AMERICA, 29 September 2006, 6 October 2006, 5 October 2007

Reservations

The United States of America, pursuant to Articles 4 and 42 of the Convention, reserves the right to require that the conduct result in serious harm, which shall be determined in accordance with applicable United States federal law.

The United States of America, pursuant to Articles 6 and 42 of the Convention, reserves the right not to apply paragraphs (1) (a) (i) and (1) (b) of Article 6 ("Misuses of devices") with respect to devices designed or adapted primarily for the purpose of committing the offenses established in Article 4 ("Data interference") and Article 5 ("System interference").

The United States of America, pursuant to Articles 9 and 42 of the Convention, reserves the right to apply paragraphs (2) (b) and (c) of Article 9 only to the extent consistent with the Constitution of the United States as interpreted by the United States and as provided for under its federal law, which includes, for example, crimes of distribution of material considered to be obscene under applicable United States standards.

The United States of America, pursuant to Articles 10 and 42 of the Convention, reserves the right to impose other effective remedies in lieu of criminal liability under paragraphs 1 and 2 of Article 10 ("Offenses related to infringement of copyright and related rights") with respect to infringements of certain rental rights to the extent the criminalisation of such infringements is not required pursuant to the obligations the United States has undertaken under the agreements referenced in paragraphs 1 and 2.

The United States of America, pursuant to Articles 22 and 42 of the Convention, reserves the right not to apply in part paragraphs (1) (b), (c) and (d) of Article 22 ("Jurisdiction"). The United States does not provide for plenary jurisdiction over offenses that are committed outside its territory by its citizen or on board ships flying its flag or aircraft registered under its laws. However, United States law does provide for jurisdiction over a number of offenses to be established under the Convention that are committed abroad by United States nationals in circumstances implicating particular federal interests, as well as over a number of such offenses committed on board United States-flagged ships or aircraft registered under United States law. Accordingly, the United States will implement paragraphs (1) (b), (c) and (d) to the extent provided for under its federal law.

The United States of America, pursuant to Articles 41 and 42 of the Convention, reserves the right to assume obligations under Chapter II of the Convention in a manner consistent with its fundamental principles of federalism.

Declarations

The United States of America declares, pursuant to Articles 2 and 40, that under United States law, the offenses set forth in Article 2 ("Illegal access") includes an additional requirement of intent to obtain computer data.

The United States of America declares, pursuant to Articles 6 and 40, that under United States law, the offense set forth in paragraph (1) (b) of Article 6 ("Misuse of devices") includes a requirement that a minimum number of items be possessed. The minimum number shall be the same as that provided for by applicable United States federal law.

The United States of America declares, pursuant to Articles 7 and 40, that under United States law, the offense set forth in Article 7 ("Computer-related forgery") includes a requirement of intent to defraud.

En application des articles 27 et 40 de la Convention, les Etats-Unis d'Amérique déclarent que les demandes formulées auprès des Etats-Unis d'Amérique au titre du paragraphe 9.e de l'article 27 ("Procédures relatives aux demandes d'entraide en l'absence d'accords internationaux applicables") doivent être adressées à leur autorité centrale pour l'entraide.

En application de l'article 24, paragraphe 7, de la Convention, les Etats-Unis ne désignent pas d'autorité responsable des demandes d'extradition ou d'arrestation provisoire, en l'absence de traité, étant donné que les Etats-Unis continueront à s'appuyer sur des traités d'extradition bilatéraux, et que l'autorité responsable de l'envoi ou de la réception d'une demande d'extradition au titre des Etats-Unis est établie dans les traités d'extradition bilatéraux applicables.

Note by the Secretariat: The reservations have been formulated in accordance with Articles 4, 6, 9, 10, 22, 41 and 42 and the declarations in accordance with Articles 2, 6, 7, 24, 27 et 40 of the Convention.

T. PROTOCOL No. 13 TO THE CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, CONCERNING THE ABOLITION OF THE DEATH PENALTY IN ALL CIRCUMSTANCES (ETS No. 187), 3 MAY 2002

30. MOLDOVA, 18 October 2006, 20 October 2006, 19 October 2007

Moldova declares that, until the full re-establishment of the territorial integrity of the Republic of Moldova, the provisions of the Protocol shall be applied only on the territory controlled effectively by the authorities of the Republic of Moldova.

Note by the Secretariat: Moldova has formulated a similar declaration to several other treaties of the Council of Europe.

U. 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 2003²⁷

²⁷ *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.

31. 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.

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.

2 A Party may either

- a require that the denial or the gross minimisation referred to in paragraph 1 of this article is committed with the intent to incite hatred, discrimination or violence against any individual or group of individuals, based on race, colour, descent or national or ethnic origin, as well as religion if used as a pretext for any of these factors, or otherwise
- b reserve the right not to apply, in whole or in part, paragraph 1 of this article.

Article 12 – Reservations and declarations

(...)

3 By a written notification addressed to the Secretary General of the Council of Europe, 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 possibility of requiring additional elements as provided for in Article 5, paragraph 2.a, and Article 6, paragraph 2.a, of this Protocol.

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.

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.

32. LITHUANIA, 12 October 2006, 27 October 2006, 26 October 2007

In accordance with Article 6, paragraph 2, subparagraph a, and Article 12, paragraph 3, of the Additional Protocol to the Convention on Cybercrime, the Republic of Lithuania states that criminal liability for denial or gross minimisation arises if it has been committed “with the intent to incite hatred, discrimination or violence against any individual or group of individuals, based on race, colour, descent or national or ethnic origin, as well as religion if used as a pretext for any of these factors”.

Note by the Secretariat: The declaration has been formulated in accordance with Articles 6, paragraph 2 and 12, paragraph 3, of the Protocol.

33. UKRAINE, 21 December 2006, 12 January 2007, 11 January 2008

In accordance with Article 6, paragraph 2, subparagraph a, of the Additional Protocol to the Convention on Cybercrime, Ukraine declares that it shall require that denial or gross minimization referred to in paragraph 1 of that Article is committed with the intention to provoke hatred, discrimination or violence against any person or group of persons based on signs of race, colour, national or ethnic origin as well as faith if they are used as a reason for any of those actions.

Note by the Secretariat: The declaration has been formulated in accordance with Article 6, paragraph 2, of the Protocol.

V. PROTOCOL AMENDING THE EUROPEAN CONVENTION ON THE SUPPRESSION OF TERRORISM (ETS No. 190), 15 MAY 2003²⁸

²⁸ *Relevant provisions:*

Article 3

(...)

2 The text of Article 4 of the Convention shall be supplemented by the following paragraph:

“2 When a Contracting State which makes extradition conditional on the existence of a treaty receives a request for extradition from another Contracting State with which it has no extradition treaty, the requested Contracting State may, at its discretion, consider this Convention as a legal basis for extradition in relation to any of the offences mentioned in Articles 1 or 2.”.

Article 4

1 The text of Article 5 of the Convention shall become paragraph 1 of this article.

2 The text of Article 5 of the Convention shall be supplemented by the following paragraphs:

“2 Nothing in this Convention shall be interpreted as imposing on the requested State an obligation to extradite if the person subject of the extradition request risks being exposed to torture.

3 Nothing in this Convention shall be interpreted either as imposing on the requested State an obligation to extradite if the person subject of the extradition request risks being exposed to the death penalty or, where the law of the requested State does not allow for life imprisonment, to life imprisonment without the possibility of parole, unless under applicable extradition treaties the requested State is under the obligation to extradite if the requesting State gives such assurance as the requested State considers

34. NETHERLANDS, 27 July 2006, 3 August 2006, 2 August 2007

With due observance of Article 16, paragraph 5, of the Convention, the Kingdom of the Netherlands reserves the right to refuse extradition in respect of any offence mentioned in Article 1, paragraph 1, under a) up to and including h), and Article 1, paragraph 2, insofar as the latter covers any offence mentioned in the first paragraph, under a) up to and including h), of the Convention, 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 Article 16, paragraph 5, of the Convention (Article 12 of the Protocol).

35. RUSSIA, 4 October 2006, 6 October 2006, 5 October 2007

The Russian Federation assumes that the provisions of Article 4 of the Protocol shall be applied in such a way as to ensure inevitable liability for the commitment of crimes falling within the scope of the Protocol, without prejudice to effective international co-operation in extradition and legal assistance matters.

Note by the Secretariat: The declaration of Russia is an interpretative declaration of Article 4 of the Protocol.

36. UKRAINE, 21 December 2006, 12 January 2007, 11 January 2008

In accordance with Article 3, paragraph 2, of the Protocol amending the European Convention on the Suppression of Terrorism, Ukraine declares that it shall consider the Convention as the legal basis for the cooperation in matters of extradition of offenders in relation with the States Parties in case of unavailability of an international extradition treaty.

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

W. ADDITIONAL PROTOCOL TO THE CRIMINAL LAW CONVENTION ON CORRUPTION (ETS No. 191), 15 MAY 2003²⁹

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 12

1 Reservations to the Convention made prior to the opening for signature of the present Protocol shall not be applicable to the Convention as amended by the present Protocol.

(...)

7 The text of new Article 16 shall be supplemented by the following paragraphs:

“5 The reservations referred to in paragraph 1 of this article shall be valid for a period of three years from the day of the entry into force of this Convention in respect of the State concerned. However, such reservations may be renewed for periods of the same duration.

²⁹ *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.

37. 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.

X. 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 2004³⁰

38. 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.

³⁰ *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.

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

39. RUSSIA, 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;
- 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.

40. POLAND, 12 October 2006, 27 October 2006, 26 October 2007

The Government of the Republic of Poland declares that it interprets the amendments introduced by Protocol No. 14 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending the control system of the Convention, in accordance with the provisions of Article 59, paragraph 3, of the said Convention, following 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 Poland is an interpretative declaration of the provisions of Protocol No. 14.

**Y. COUNCIL OF EUROPE CONVENTION ON THE PREVENTION OF TERRORISM
(CETS No. 196), 16 MAY 2005³¹**

³¹ *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 18 – Extradite or prosecute

(...)

2. Whenever a Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that Party to serve the sentence imposed as a result of the trial or proceeding for which the extradition or surrender of the person was sought, and this Party and the Party seeking the extradition of the person agree with this option and other terms they may deem appropriate, such a conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 1

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.

41. RUSSIA, 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.

42. UKRAINE, 21 December 2006, 12 January 2007, 11 January 2008

In accordance with Article 22, paragraph 4, of the Convention, Ukraine reserves the right not to be bound by the conditions established in accordance with paragraph 2 of this Article by the Party which gives the information, unless it shall receive in advance the notification about the nature of the information given and give its consent to the transfer of the information.

In accordance with Article 18, paragraph 2, of the Convention, Ukraine declares that it shall not extradite citizens of Ukraine to another state. For the purpose of this Convention any person shall be considered as a citizen of Ukraine who in accordance with the Ukrainian laws is a citizen of Ukraine at the moment of decision making about his/her extradition.

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 22 – 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 Party receiving the information in initiating or carrying out investigations or proceedings, or might lead to a request by that Party under this Convention.
2. The Party providing the information may, pursuant to its national law, impose conditions on the use of such information by the Party receiving the information.
3. The Party receiving the information shall be bound by those conditions.
4. However, any Party 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 Party providing the information under paragraph 2 above, unless it receives prior notice of the nature of the information to be provided and agrees to its transmission.

In accordance with Article 19, paragraph 2, of the Convention, Ukraine declares that in case of receiving of a request about extradition of a transgressor from a Party to this Convention with which the extradition treaty is not available, it shall consider this Convention as a legal basis for extradition of the offenders concerning the offences set forth in Articles 5-7 and 9 of this Convention.

Note by the Secretariat: The declaration has been formulated in accordance with Articles 18 and 19 of the Convention. The reservation has been formulated in accordance with Article 22 of the Convention.