

Strasbourg, 09/09/2005

CAHDI (2005) 11

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

**30th meeting
Strasbourg, 19- 20 September 2005**

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

Secretariat memorandum
Prepared by the Directorate General of Legal Affairs

Foreword

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

Action required

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

List of outstanding reservations and declarations

PART I: RESERVATIONS AND DECLARATIONS TO NON-COUNCIL OF EUROPE TREATIES

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

UNITED ARAB EMIRATES, 6 October 2004, 1 December 2004, 30 November 2005

Reservations:

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 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 9 :

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

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

Article 15 :

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

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

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 its dissolution;

(d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount ;

(e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;

(f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;

(g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;

(h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

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

Article 29 :

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

Article 2 (f)

The United Arab Emirates, being of the opinion that this paragraph violates the rules of inheritance established in accordance with the precepts of the Shariah, makes a reservation thereto and does not consider itself bound by the provisions thereof.

Article 9

The United Arab Emirates, considering the acquisition of nationality an internal matter which is governed, and the conditions and controls of which are established, by national legislation makes a reservation to this article and does not consider itself bound by the provisions thereof.

Article 15 (2)

The United Arab Emirates, considering this paragraph in conflict with the precepts of the Shariah regarding legal capacity, testimony and the right to conclude contracts, makes a reservation to the said paragraph of the said article and does not consider itself bound by the provisions thereof.

Article 16

The United Arab Emirates will abide by the provisions of this article insofar as they are not in conflict with the principles of the Shariah. The United Arab Emirates considers that the payment of a dower and of support after divorce is an obligation of the husband, and the husband has the right to divorce, just as the wife has her independent financial security and her full rights to her property and is not required to pay her husband's or her own expenses out of her own property. The Shariah makes a woman's right to divorce conditional on a judicial decision, in a case in which she has been harmed.

Article 29 (1)

The United Arab Emirates appreciates and respects the functions of this article, which provides: "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...the parties are unable..." [any one of those parties] "may refer the dispute to the International Court of Justice..."

This article, however, violates the general principle that matters are submitted to an arbitration panel by agreement between the parties. In addition, it might provide an opening for certain States to bring other States to trial in defence of their nationals; the case might then be referred to the committee charged with discussing the State reports required by the Convention and a decision might be handed down against the State in question for violating the provisions of the Convention. For these reasons the United Arab Emirates makes a reservation to this article and does not consider itself bound by the provisions thereof.

2. INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, NEW YORK, 16 DECEMBER 1966

PAKISTAN, 03 November 2004, 17 November 2004, 16 November 2005

Declaration:

While the Government of Islamic Republic of Pakistan accepts the provisions embodied in the International Covenant on Economic, Social and Cultural Rights, it will implement the said provisions in a progressive manner, in keeping with the existing economic conditions and the development plans of the country. The provisions of the Covenant shall, however, be subject to the provisions of the constitution of the Islamic Republic of Pakistan.

3. OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICTS, NEW YORK, 25 MAY 2000²

OMAN, 17 September 2004, 3 December 2004, 2 December 2005

Reservation:

(...) subject to the Sultanate's reservations to the Convention on the Rights of the Child.

Declaration:

(...) the minimum legal age for enlistment in the Ministry of Defence and the Sultan's armed forces is eighteen years; that a birth certificate or a certificate of ascertainment of age from the competent governmental authorities constitutes the precautionary measure for ensuring compliance with that requirement; and that enlistment is optional, not compulsory.

4. INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS; NEW YORK, 16 DECEMBER 1966³

MAURITANIA, 17 November 2004, 23 November 2004, 22 November 2005

² *Relevant provisions:*

Sultanate's reservations to the Convention on the Rights of the Child:

1. The words "or to public safety" should be added in article 9 [, paragraph 4,] after the words "unless the provision of the information would be detrimental to the well-being of the child."
2. A reservation is entered to all the provisions of the Convention that do not accord with Islamic law or the legislation in force in the Sultanate and, in particular, to the provisions relating to adoption set forth in its article 21.
3. The provisions of the Convention should be applied within the limits imposed by the material resources available.
4. The Sultanate considers that article 7 of the Convention as it relates to the nationality of a child shall be understood to mean that a child born in the Sultanate of unknown parents shall acquire Oman nationality, as stipulated in the Sultanate's Nationality Law.
5. The Sultanate does not consider itself to be bound by those provisions of article 14 of the Convention that accord a child the right to choose his or her religion or those of its article 30 that allow a child belonging to a religious minority to profess his or her own religion.

³ *Relevant provisions:*

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:

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.

Declaration:

The Mauritanian Government, while accepting the provisions set out in article 18 concerning freedom of thought, conscience and religion, declares that their application shall be without prejudice to the Islamic Shariah.

The Mauritanian Government interprets the provisions of article 23, paragraph 4, on the rights and responsibilities of spouses as to marriage as not affecting in any way the prescriptions of the Islamic Shariah.

5. INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF THE FINANCING OF TERRORISM, NEW YORK, 9 DECEMBER 1999⁴

EGYPT, 1 March 2005, 5 August 2005, 4 August 2006

Reservation:

1. Under article 2, paragraph 2 (a), of the Convention, the Government of the Arab Republic of Egypt considers that, in the application of the Convention, conventions to which it is not a party are deemed not included in the annex.

2. Under article 24, paragraph 2, of the Convention, the Government of the Arab Republic of Egypt does not consider itself bound by the provisions of paragraph 1 of that article.

Explanatory declaration:

⁴ *Relevant provisions:*

Article 2:

1. Any person commits an offence within the meaning of this Convention if that person by any means, directly or indirectly, unlawfully and wilfully, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out:

(a) An act which constitutes an offence within the scope of and as defined in one of the treaties listed in the annex; or

(b) Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.

2 (a) On depositing its instrument of ratification, acceptance, approval or accession, a State Party which is not a party to a treaty listed in the annex may declare that, in the application of this Convention to the State Party, the treaty shall be deemed not to be included in the annex referred to in paragraph 1, subparagraph (a). The declaration shall cease to have effect as soon as the treaty enters into force for the State Party, which shall notify the depositary of this fact;

Article 24:

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 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 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. The other States Parties shall not be bound by paragraph 1 with respect to any State Party which has made such a reservation.

Article 26:

2. For each State ratifying, accepting, approving or acceding to the Convention after the deposit of the twenty-second instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification, acceptance, approval or accession.

Without prejudice to the principles and norms of general international law and the relevant United Nations resolutions, the Arab Republic of Egypt does not consider acts of national resistance in all its forms, including armed resistance against foreign occupation and aggression with a view to liberation and self-determination, as terrorist acts within the meaning of article 2, [paragraph 1] subparagraph (b), of the Convention.

The Convention entered into force for Egypt on 31 March 2005 in accordance with its article 26 (2).

SYRIAN ARAB REPUBLIC, 24 April 2005, 4 May 2005, 3 May 2006

Reservations and declarations:

A reservation concerning the provisions of its article 2, paragraph 1 (b), inasmuch as the Syrian Arab Republic considers that acts of resistance to foreign occupation are not included under acts of terrorism;

Pursuant to article 2, paragraph 2 (a) of the Convention, the accession of the Syrian Arab Republic to the Convention shall not apply to the following treaties listed in the annex to the Convention until they have been adopted by the Syrian Arab Republic:

1. The International Convention against the Taking of Hostages, adopted by the General Assembly on 17 December 1979;
2. The Convention on the Physical Protection of Nuclear Materials, adopted at Vienna on 3 March 1980;
3. The International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly on 15 December 1997.

Pursuant to article 24, paragraph 2, of the Convention, the Syrian Arab Republic declares that it does not consider itself bound by paragraph 1 of the said article;

The accession of the Syrian Arab Republic to this Convention shall in no way imply its recognition of Israel or entail its entry into any dealings with Israel in the matters governed by the provisions thereof.

The Convention will enter into force for the Syrian Arab Republic on 24 May 2005 in accordance with its article 26 (2).

6. INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF TERRORIST BOMBINGS, NEW YORK, 15 DECEMBER 1997⁵

⁵ *Relevant provisions:*

Article 2:

1. Any person commits an offence within the meaning of this convention if that person unlawfully and intentionally delivers, places, discharges or detonates an explosive or other lethal device in, into or against a place of public use, a state or government facility, a public transportation system or an infrastructure facility:

- (a) With the intent to cause death or serious bodily injury; or
- (b) With the intent to cause extensive destruction of such a place, facility or system, where such destruction results in or is likely to result in major economic loss.

2. Any person also commits an offence if that person attempts to commit an offence as set forth in paragraph 1.

3. Any person also commits an offence if that person:

- (a) Participates as an accomplice in an offence as set forth in paragraph 1 or 2; or
- (b) Organizes or directs others to commit an offence as set forth in paragraph 1 or 2; or
- (c) In any other way contributes to the commission of one or more offences as set forth in paragraph 1 or 2 by a group of persons acting with a common purpose; such contribution shall be intentional and either be made with

BELGIUM, 20 may 2005, 23 May 2005, 22 May 2006

Declaration:

As for article 11 of the Convention, the Government of Belgium makes the following reservation:

1. In exceptional circumstances, the Government of Belgium reserves the right to refuse extradition or mutual assistance in respect of any offence set forth in article 2 which it considers to be a political offence or as an offence connected with a political offence or as an offence inspired by political motives.
2. In cases where the preceding paragraph is applicable, Belgium recalls that it is bound by the general legal principle *aut dedere aut judicare*, pursuant to the rules governing the competence of its courts.

The Convention will enter into force for Belgium on 19 June 2005 in accordance with its article 22 (2).

EGYPT, 9 August 2005, 16 August 2005, 15 August 2006

Reservations:

1. The Government of the Arab Republic of Egypt declares that it shall be bound by article 6, paragraph 5, of the Convention to the extent that the national legislation of States Parties is not incompatible with the relevant norms and principles of international law.
2. The Government of the Arab Republic of Egypt declares that it shall be bound by article 19, paragraph 2, of the Convention to the extent that the armed forces of a State, in the exercise of their duties, do not violate the norms and principles of international law.

The Convention will enter into force for Egypt on 8 September 2005 in accordance with its article 22 (2).

the aim of furthering the general criminal activity or purpose of the group of be made in the knowledge of the intention of the group to commit the offence or offences concerned.

Article 6:

5. This Convention does not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

Article 11:

None of the offences set forth in article 2 shall be regarded, for the purposes of extradition or mutual legal assistance, as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on such an offence may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

Article 19:

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.

Article 22:

2. For each State ratifying, accepting, approving or acceding to the Convention after the deposit of the twenty-second instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the thirtieth day deposit by such State of its instrument of ratification, acceptance, approval or accession.

PART II: RESERVATIONS AND DECLARATIONS TO COUNCIL OF EUROPE TREATIES

1. CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS (ETS No. 5), 4 NOVEMBER 1950

MONACO, 5 October 2004, 19 October 2004, 18 October 2005

Declaration made at the time of signature of the treaty:

The Principality of Monaco undertakes to respect the provisions of the Convention while emphasising that the fact that it forms a State with limited territorial dimensions requires paying special attention to the issues of residence and work as well as to social measures in respect of foreigners, even if these matters are not covered by the Convention.

Note by the Secretariat: Similar declarations have been formulated by San Marino and Andorra.

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

SLOVENIA, 30 September 2004, 19 October 2004, 18 October 2005

In accordance with Article 28, paragraph 3 of the European Convention on Extradition, the Government of Slovenia declares that the Republic of Slovenia implemented the EU Council Framework Decision 2002/584/JHA on the European arrest warrant and the surrender procedures between Member States of the European Union by the Act on the European warrant and the surrender procedures. The Act entered into force on 1 May 2004 and is

⁶ *Relevant provisions :*

Article 27 – Territorial application

1. This Convention shall apply to the metropolitan territories of the Contracting Parties.
2. In respect of France, it shall also apply to Algeria and to the overseas Departments and, in respect of the United Kingdom of Great Britain and Northern Ireland, to the Channel Islands and to the Isle of Man.
3. The Federal Republic of Germany may extend the application of this Convention to the Land of Berlin by notice addressed to the Secretary General of the Council of Europe, who shall notify the other Parties of such declaration.
4. By direct arrangement between two or more Contracting Parties, the application of this Convention may be extended, subject to the conditions laid down in the arrangement, to any territory of such Parties, other than the territories mentioned in paragraphs 1, 2 and 3 of this article, for whose international relations any such Party is responsible.

Article 28 – Relations between this Convention and bilateral Agreements

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

applicable to requests for surrender (extradition) among Member States made after that date and for offences committed after 7 August 2002.

The provisions of the Act on the European arrest warrant and the surrender procedures thereby replace the provisions of the European Convention on Extradition of 13 December 1957 and its two additional Protocols of 15 October 1975 and 17 March 1978, insofar as the Council Framework Decision on the European arrest warrant and the surrender procedures is applicable in relations between Slovenia and other Member States.

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

IRELAND, 15 October 2004, 3 November 2004, 2 November 2005

The Government of Ireland, in accordance with Article 28, paragraph 3, of the European Convention on Extradition, 1957, hereby notifies the Secretary General of the Council of Europe that Ireland shall apply the Framework Decision of the Council of the European Union (2002/584/JHA) of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States in relation to Member States of the European Union, insofar as the Framework Decision is applicable in relations between Ireland and the other Member State.

The Government of Ireland hereby notifies the Secretary General of the Council of Europe that Ireland shall apply the European Convention on Extradition, 1957, to the United Kingdom territories of the Channel Islands and the Isle of Man."

Note by the Secretariat: The declarations have been formulated in accordance with Articles 27 and 28 of the Convention.

FRANCE, 18 October 2004, 3 November 2004, 2 November 2005

The Government of the French Republic declares, in accordance with the provisions of Article 28, paragraph 3, of the Convention, that since the 12th of March 2004 regarding Paris and since the 13th of March 2004 regarding the rest of France, the provisions relating to the European arrest warrant, when implementable, replace the corresponding dispositions of the European Convention on Extradition of 13 December 1957 in the surrender procedures between Member States of the European Union.

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

LUXEMBOURG, 2 November 2004, 3 December 2004, 2 December 2005

In accordance with Article 28, paragraph 3, of the Convention, the Grand-Duchy of Luxembourg applies the Law of 17 March 2004 relating to the European arrest warrant and the surrender procedures between Member States of the European Union with respect to offences committed after 7 August 2002 in its relations with a State Member of the European Union that has implemented the EU Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States.

The European Convention on Extradition of 13 December 1957 and the Additional Protocol of 15 October 1975 remain applicable to offences committed prior to 7 August 2002.

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

CZECH REPUBLIC, 14 January 2005, 26 January 2005, 25 January 2006

In accordance with Article 28, paragraph 3, of the Convention, the Czech Republic notifies that, as from 1 November 2004, it enacted 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 Convention, 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 will continue to apply in relation to Member States of the European Union on extradition of persons sought for offences committed before 1 November 2004.

The Czech Republic shall continue to apply Article 3 of the Treaty between the Czech Republic and the Slovak 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 Supplementation 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 of the Convention.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. **EUROPEAN AGREEMENT ON REGULATIONS GOVERNING THE MOVEMENT OF PERSONS BETWEEN MEMBER STATES OF THE COUNCIL OF EUROPE (ETS No. 25), 13 DECEMBER 1957⁷**

NETHERLANDS, 15 September 2004, 23 September 2004, 22 September 2005

The Kingdom of the Netherlands and Ukraine are Contracting Parties to the European Agreement on Regulations governing the Movement of Persons between Member States of the Council of Europe of December 13th, 1957. The Kingdom of the Netherlands has however decided, if Ukraine ratifies this Agreement to suspend temporarily the entry into force of the Agreement with regard to Ukraine, with immediate effect, on the basis of Article 7 of the Agreement.

This step is deemed to be necessary on public policy grounds. Application of the Agreement with regard to Ukraine is incompatible with Council Regulation (EC) No. 539/2001 of March 15th, 2001 concerning visas, the Annex I of which stipulates that Ukraine is one of those States whose nationals must be in possession of visas when crossing the external borders of the European Union.

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

GREECE, 22 September 2004, 19 October 2004, 18 October 2005

The Hellenic Republic and Ukraine are Parties to the European Agreement of 13th December 1957 on Regulations governing the Movement of Persons between Member States of the Council of Europe. Following its declaration dated 2nd May 1959, the Greek Government declares that it has decided, in accordance with Article 7 of the Agreement, to suspend temporarily the entry into force of the Agreement in relation to Ukraine, should Ukraine ratify this Agreement.

This step is deemed to be necessary on grounds relating to ordre public. Application of the Agreement with regard to Ukraine is incompatible with Council Regulation (EC) No. 539/2001 of 15th March 2001, the Annex I of which stipulates that Ukraine is one of those States whose nationals are bound by the obligation of visa when crossing the Member States' external borders.

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

⁷ *Relevant provisions:*

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.

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

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

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

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

4. EUROPEAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS (ETS No. 30), 20 April 1959⁸

⁸ *Relevant provisions :*

Article 2:

Assistance may be refused:

- a. if the request concerns an offence which the requested Party considers a political offence, an offence connected with a political offence, or a fiscal offence;
- b. if the requested Party considers that execution of the request is likely to prejudice the sovereignty, security, ordre public or other essential interests of its country.

Article 5:

1. Any Contracting Party may, by a declaration addressed to the Secretary General of the Council of Europe, when signing this Convention or depositing its instrument of ratification or accession, reserve the right to make the execution of letters rogatory for search or seizure of property dependent on one or more of the following conditions:

- a. that the offence motivating the letters rogatory is punishable under both the law of the requesting Party and the law of the requested Party;
- b. that the offence motivating the letters rogatory is an extraditable offence in the requested country;
- c. that execution of the letters rogatory is consistent with the law of the requested Party.

2. Where a Contracting Party makes a declaration in accordance with paragraph 1 of this article, any other Party may apply reciprocity.

Article 7:

1. The requested Party shall effect service of writs and records of judicial verdicts which are transmitted to it for this purpose by the requesting Party.

Service may be effected by simple transmission of the writ or record to the person to be served. If the requesting Party expressly so requests, service shall be effected by the requested Party in the manner provided for the service of analogous documents under its own law or in a special manner consistent with such law.

2. Proof of service shall be given by means of a receipt dated and signed by the person served or by means of a declaration made by the requested Party that service has been effected and stating the form and date of such service. One or other of these documents shall be sent immediately to the requesting Party. The requested Party shall, if the requesting Party so requests, state whether service has been effected in accordance with the law of the requested Party. If service cannot be effected, the reasons shall be communicated immediately by the requested Party to the requesting Party.

3. Any Contracting Party may, by a declaration addressed to the Secretary General of the Council of Europe, when signing this Convention or depositing its instrument of ratification or accession, request that service of a summons on an accused person who is in its territory be transmitted to its authorities by a certain time before the date set for appearance. This time shall be specified in the aforesaid declaration and shall not exceed 50 days.

This time shall be taken into account when the date of appearance is being fixed and when the summons is being transmitted.

Article 13:

1. A requested Party shall communicate extracts from and information relating to judicial records, requested from it by the judicial authorities of a Contracting Party and needed in a criminal matter, to the same extent that these may be made available to its own judicial authorities in like case.
2. In any case other than that provided for in paragraph 1 of this article the request shall be complied with in accordance with the conditions provided for by the law, regulations or practice of the requested Party.

Article 15:

1. Letters rogatory referred to in Articles 3, 4 and 5 as well as the applications referred to in Article 11 shall 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.
2. In case of urgency, letters rogatory may be addressed directly by the judicial authorities of the requesting Party to the judicial authorities of the requested Party. They shall be returned together with the relevant documents through the channels stipulated in paragraph 1 of this article.
3. Requests provided for in paragraph 1 of Article 13 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 shall be addressed by the Ministry of Justice of the requesting Party to the Ministry of Justice of the requested Party.
4. Requests for mutual assistance, other than those provided for in paragraphs 1 and 3 of this article and, in particular, requests for investigation preliminary to prosecution, may be communicated directly between the judicial authorities.
5. In cases where direct transmission is permitted under this Convention, it may take place through the International Criminal Police Organisation (Interpol).
6. A Contracting Party may, when signing this Convention or depositing its instrument of ratification or accession, by a declaration addressed to the Secretary General of the Council of Europe, give notice that some or all requests for assistance shall be sent to it through channels other than those provided for in this article, or require that, in a case provided for in paragraph 2 of this article, a copy of the letters rogatory shall be transmitted at the same time to its Ministry of Justice.
7. The provisions of this article are without prejudice to those of bilateral agreements or arrangements in force between Contracting Parties which provide for the direct transmission of requests for assistance between their respective authorities.

Article 16:

1. Subject to paragraph 2 of this article, translations of requests and annexed documents shall not be required.
2. Each Contracting Party may, when signing or depositing its instrument of ratification or accession, by means of a declaration addressed to the Secretary General of the Council of Europe, reserve the right to stipulate that requests and annexed documents shall be addressed to it accompanied by a translation into its own language or into either of the official languages of the Council of Europe or into one of the latter languages, specified by it. The other Contracting Parties may apply reciprocity.
3. This article is without prejudice to the provisions concerning the translation of requests or annexed documents contained in the agreements or arrangements in force or to be made between two or more Contracting Parties.

Article 21:

1. Information laid by one Contracting Party with a view to proceedings in the courts of another Party shall be transmitted between the Ministries of Justice concerned unless a Contracting Party avails itself of the option provided for in paragraph 6 of Article 15.
2. The requested Party shall notify the requesting Party of any action taken on such information and shall forward a copy of the record of any verdict pronounced.
3. The provisions of Article 16 shall apply to information laid under paragraph 1 of this article.

Article 22:

Each Contracting Party shall inform any other Party of all criminal convictions and subsequent measures in respect of nationals of the latter Party, entered in the judicial records. Ministries of Justice shall communicate such information to one another at least once a year. Where the person concerned is considered a national of two or more other Contracting Parties, the information shall be given to each of these Parties, unless the person is a national of the Party in the territory of which he was convicted.

Article 24:

A Contracting Party may, when signing the Convention or depositing its instrument of ratification or accession, by a declaration addressed to the Secretary General of the Council of Europe, define what authorities it will, for the purpose of the Convention, deem judicial authorities.

ANDORRA, 26 April 2005, 10 May 2005, 9 May 2006

Reservations:

Regarding Article 2 of the Convention, the Principality of Andorra reserves the right to grant mutual assistance in pursuance of the Convention at the express condition that the results of inquiries as well as information contained in the documents and files transmitted cannot, without its prior consent, be used or transmitted by the authorities of the requesting Party for purposes (of investigations or procedures) different from those indicated in the request.

Regarding Article 2 of the Convention, the Principality of Andorra reserves the right to refuse a request for mutual assistance:

a) if the criminal offences upon which a letter rogatory is based are not punished by the Andorran Law as criminal offences

b) if the person subject of the request has been convicted by a final judgment in the Principality of Andorra and that he/she has served his/her sentence or if he/she has been acquitted in Andorra for the same facts.

In accordance with Article 5 of the Convention, the Principality of Andorra reserves the ability to submit the execution of letters rogatory, for the purposes of search or seizure of objects, to the conditions provided for by Article 5, paragraph 1, sub-paragraphs a and c, of the Convention.

With respect to Article 13 of the Convention, the Principality of Andorra reserves the ability to submit the communication of extracts from judicial records of a person residing in the Principality of Andorra to the condition that he/she has been indicted or summoned to a judgment as the accused.

Concerning Article 22 of the Convention, the Principality of Andorra declares that, due to the internal organisation and the functioning of the register of judicial records, the authorities responsible for keeping the register of judicial records are not able to guarantee a systematical exchange of information concerning decisions to convict contained in these registers.

Nevertheless, upon the previous request of the foreign judicial authority who is competent for a specific criminal procedure, these authorities will deliver the extracts of judicial records of foreigners not residing in the Principality of Andorra and of residents having been charged or summoned to appear in court as the accused.

Declarations:

For the purposes of Article 7, paragraph 3, the Principality of Andorra declares that service of a summons on an accused person in a criminal procedure who is in its territory should be transmitted to the Andorran authorities at least 30 days before the date set for the appearance of this person

The Principality of Andorra declares also that, when the subject of a letter rogatory includes a summons to appear in court as person charged, injured party, expert or witness, the summons can be made by a registered letter if the law of the requesting State authorises it.

Taking into account what is stipulated in Article 15, paragraph 6, the Principality of Andorra declares the following:

A copy of the letters rogatory referred to in Article 15, paragraph 2 and of the requests for a preliminary investigation mentioned by Article 15, paragraph 4, shall be transmitted to the Ministry of Justice and of Interior of the Government of Andorra.

In case of urgency, the Andorran judicial authorities will return the letters rogatory, executed or not according to the case, to the authorities indicated in Article 15, without prejudice to the fact that, simultaneously, they may be transmitted through Interpol or handed over to the authorities of the requesting State expressly entitled thereto.

The Principality of Andorra declares that, in accordance with Article 16, paragraph 2, the requests and the annexed documents, should be addressed to the Andorran authorities accompanied by a translation into Catalan, Spanish or French.

The Principality of Andorra declares that in case of urgency, information referred to in Article 21 can be addressed simultaneously to the Ministry of Justice and of Interior and to the Public Prosecutor of the Principality of Andorra accompanied by all the necessary information for the procedure brought into action.

In accordance with Article 24, the Principality of Andorra declares that it considers as judicial authorities of the Principality of Andorra for the purposes of this Convention, the following authorities: :

- the Higher Court of Justice of Andorra;
- the Court of Corts (Court with exclusively criminal competences);
- The President of the Court of Corts;
- The Court of Batlles (Court of first instance);
- The Batlle (the judge);
- The Prosecutor General;
- The Deputy Prosecutor.

Note by the Secretariat: The reservations and the declarations of Andorra have been formulated in accordance with the relevant provisions of the Convention.

5. EUROPEAN AGREEMENT ON THE ABOLITION OF VISAS FOR REFUGEES (ETS No. 31), 20 APRIL 1959⁹

SLOVAKIA, 29 March 2005, 21 April 2005, 20 April 2006

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

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

⁹ *Relevant provisions :*

Article 2:

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

6. **EUROPEAN CONVENTION ON THE TRANSFER OF PROCEEDINGS IN CRIMINAL MATTERS (ETS No. 73), 15 MAY 1972¹⁰**

ARMENIA, 17 December 2004, 22 December 2004, 21 December 2005

In accordance with Appendix II, the Republic of Armenia declares that the term “national” within the meaning of this Convention refers to a person who is a national of the Republic of Armenia, as well as a person who has a status of refugee of the Republic of Armenia.

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

7. **EUROPEAN AGREEMENT ON THE TRANSMISSION OF APPLICATIONS FOR LEGAL AID (ETS No. 92), 27 JANUARY 1977¹¹**

SERBIA AND MONTENEGRO, 9 February 2005, 11 February 2005, 10 February 2006

According to Article 13, paragraph 1, of the Agreement, Serbia and Montenegro excludes in full the implementation of the provisions of Article 6, par 1, sub-paragraph (b) of the Agreement.

Note by the Secretariat: The reservation made by Serbia and Montenegro has been

¹⁰ *Relevant provisions :*

APPENDIX II

Any Contracting State may declare that for reasons arising out of its constitutional law it can make or receive requests for proceedings only in circumstances specified in its municipal law.

Any Contracting State may, by means of a declaration, define as far as it is concerned the term “national” within the meaning of this Convention.

¹¹ *Relevant provisions :*

Article 6:

1. Unless there are particular agreements between the authorities concerned of Contracting Parties and subject to the provisions of Articles 13 and 14:

a. the application for legal aid and the documents attached thereto and any other communications shall be drawn up in the official language or in one of the official languages of the receiving authority or be accompanied by a translation into that language;

b. each Contracting Party shall nevertheless accept the application for legal aid and the documents attached thereto and any other communications when they are drawn up in English or in French or are accompanied by a translation into one of these languages.

2. Communications emanating from the State of the receiving authority may be drawn up in the official language or one of the official languages of that State or in English or French.

Article 13:

1. Any State may at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession declare that it excludes wholly or partly the application of the provisions of Article 6, paragraph 1.b. No other reservation may be made to this Agreement.

2. Any Contracting Party may wholly or partly withdraw the reservation it has made by means of a declaration addressed to the Secretary General of the Council of Europe. The reservation shall cease to have effect as from the date of receipt of the declaration.

3. When a Contracting Party has made a reservation any other Party may apply the same reservation with respect to that Party.

formulated in accordance with Article 13, paragraph 1 of the Agreement.

8. EUROPEAN CONVENTION ON THE CONTROL OF THE ACQUISITION AND POSSESSION OF FIREARMS BY INDIVIDUALS (ETS No. 101), 28 JUNE 1978

POLAND, 2 June 2005, 20 June 2005, 19 June 2006

In respect of the European Convention on the Control of the Acquisition and Possession of Firearms by Individuals, it should be specified that it is not necessary to give notice of transactions in which official bodies directly acquire firearms from foreign firms or in which firearms are acquired by firms within the framework of co-operation agreements between States or official bodies, on condition that the authorities of the country of destination provide a certificate to the effect that they have been informed of the acquisition in question.

The Republic of Poland declares that the Convention will apply only to persons who have habitual residence within the meaning of Rule No. 9 of the Annex to Resolution (72) 1 of the Committee of Ministers of the Council of Europe, on condition that the Contracting Party to the Convention, in the territory of which a given person resides, acknowledges such a residence as habitual.

The Republic of Poland declares that the Convention will apply to firearms of low power and to any object which has been permanently rendered for use provided such an object is indeed firearm or part of it.

Note by the Secretariat: The declaration of Poland is an interpretative declaration of the Convention.

9. EUROPEAN AGREEMENT ON TRANSFER OF RESPONSIBILITY FOR REFUGEES (ETS No. 107), 16 OCTOBER 1980¹²

¹² *Relevant provisions :*

Article 2:

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

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

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

- a. stays authorised solely for the purpose of studies, training or medical care shall not be taken into account;
- b. periods of imprisonment of the refugee imposed in connection with a criminal conviction shall not be taken into account;
- c. periods during which the refugee is allowed to remain in the territory of the second State pending an appeal against a decision of refusal of residence or of removal from the territory shall only be taken into account if the decision on the appeal is favourable to the refugee;
- d. periods during which the refugee leaves on a temporary basis the territory of the second State for not more than three consecutive months or, on more than one occasion, for not more than six months in total, shall be taken into account, such absences not being deemed to interrupt or suspend the stay.

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

Article 4:

1. As long as transfer of responsibility has not occurred in accordance with Article 2, paragraphs 1 and 2, the refugee shall be readmitted to the territory of the first State at any time, even after the expiry of the travel

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

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

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

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

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

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

document. In the latter case readmission shall occur on the simple request of the second State, on condition that the request is made during the six months following the expiry of the travel document.

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

Article 14:

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

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

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

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.

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

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

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

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

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

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

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

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

11. CONVENTION ON THE TRANSFER OF SENTENCED PERSONS (ETS No. 112), 21 MARCH 1983¹⁴

¹⁴ *Relevant provisions :*

Article 3 – Conditions for transfer:

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

Article 5 – Requests and replies:

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

Article 7 – Consent and its verification:

- 1 The sentencing State shall ensure that the person required to give consent to the transfer in accordance with Article 3.1.d does so voluntarily and with full knowledge of the legal consequences thereof. The procedure for giving such consent shall be governed by the law of the sentencing State.

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

2 The sentencing State shall afford an opportunity to the administering State to verify through a consul or other official agreed upon with the administering State, that the consent is given in accordance with the conditions set out in paragraph 1 above.

Article 9 – Effect of transfer for administering State:

1. The competent authorities of the administering State shall:

a. continue the enforcement of the sentence immediately or through a court or administrative order, under the conditions set out in Article 10, or

b. convert the sentence, through a judicial or administrative procedure, into a decision of that State, thereby substituting for the sanction imposed in the sentencing State a sanction prescribed by the law of the administering State for the same offence, under the conditions set out in Article 11.

2. The administering State, if requested, shall inform the sentencing State before the transfer of the sentenced person as to which of these procedures it will follow.

3. The enforcement of the sentence shall be governed by the law of the administering State and that State alone shall be competent to take all appropriate decisions.

4. Any State which, according to its national law, cannot avail itself of one of the procedures referred to in paragraph 1 to enforce measures imposed in the territory of another Party on persons who for reasons of mental condition have been held not criminally responsible for the commission of the offence, and which is prepared to receive such persons for further treatment may, by way of a declaration addressed to the Secretary General of the Council of Europe, indicate the procedures it will follow in such cases.

Article 16 – Transit:

1. A Party shall, in accordance with its law, grant a request for transit of a sentenced person through its territory if such a request is made by another Party and that State has agreed with another Party or with a third State to the transfer of that person to or from its territory.

2. A Party may refuse to grant transit:

a. if the sentenced person is one of its nationals, or

b. if the offence for which the sentence was imposed is not an offence under its own law.

3. Requests for transit and replies shall be communicated through the channels referred to in the provisions of Article 5.2 and 3.

4. A Party may grant a request for transit of a sentenced person through its territory made by a third State if that State has agreed with another Party to the transfer to or from its territory.

5. The Party requested to grant transit may hold the sentenced person in custody only for such time as transit through its territory requires.

6. The Party requested to grant transit may be asked to give an assurance that the sentenced person will not be prosecuted, or, except as provided in the preceding paragraph, detained, or otherwise subjected to any restriction on his liberty in the territory of the transit State for any offence committed or sentence imposed prior to his departure from the territory of the sentencing State.

7. No request for transit shall be required if transport is by air over the territory of a Party and no landing there is scheduled. However, each State may, by a declaration addressed to the Secretary General of the Council of Europe at the time of signature or of deposit of its instrument of ratification, acceptance, approval or accession, require that it be notified of any such transit over its territory.

Article 17 – Language and costs:

1. Information under Article 4, paragraphs 2 to 4, shall be furnished in the language of the Party to which it is addressed or in one of the official languages of the Council of Europe.

2. Subject to paragraph 3 below, no translation of requests for transfer or of supporting documents shall be required.

3. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, require that requests for transfer and supporting documents be accompanied by a translation into its own language or into one of the official languages of the Council of Europe or into such one of these languages as it shall indicate. It may on that occasion declare its readiness to accept translations in any other language in addition to the official language or languages of the Council of Europe.

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

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

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

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

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

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

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

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

12. EUROPEAN CONVENTION ON THE COMPENSATION OF VICTIMS OF VIOLENT CRIMES (ETS No. 116), 24 NOVEMBER 1983¹⁵

ALBANIA, 26 November 2004, 26 January 2005, 25 January 2006

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 formulated by Albania is an interpretative declaration of Article 2, paragraph 1 (b) of the Convention.

13. PROTOCOL NO. 7 TO THE CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS (ETS No. 117), 22 NOVEMBER 1984¹⁶

¹⁵ *Relevant provisions :*

Article 2:

1. When compensation is not fully available from other sources the State shall contribute to compensate:

- a. those who have sustained serious bodily injury or impairment of health directly attributable to an intentional crime of violence;
- b. the dependants of persons who have died as a result of such crime.

2. Compensation shall be awarded in the above cases even if the offender cannot be prosecuted or punished.

¹⁶ *Relevant provisions :*

Article 1 – Procedural safeguards relating to expulsion of aliens:

PORTUGAL, 15 December 2004, 22 December 2004, 21 December 2005

By "criminal offences" and "offence" in Articles 2 and 4 of the present Protocol, Portugal understands only those acts which constitute a criminal offence under its internal law.

Note by the Secretariat: The declaration formulated by Portugal is an interpretative declaration of Articles 2 et 4 of the Protocol No. 7. Germany and Italy have formulated similar declarations.

LIECHTENSTEIN, 8 February 2005, 11 February 2005, 10 February 2006

The Government of the Principality of Liechtenstein declares that only those offences which, under Liechtenstein law, fall within the jurisdiction of the Liechtenstein criminal courts may be regarded as offences within the meaning of Article 2 of this Protocol.

Note by the Secretariat: The declaration formulated by Liechtenstein is an interpretative declaration of Article 2 of the Protocol No. 7. Germany and Italy have formulated similar declarations.

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

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

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

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

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

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

Article 2 – Right of appeal in criminal matters:

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

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

Article 4 – Right not to be tried or punished twice:

1. No one shall be liable to be tried or punished again in criminal proceedings under the jurisdiction of the same State for an offence for which he has already been finally acquitted or convicted in accordance with the law and penal procedure of that State.

2. The provisions of the preceding paragraph shall not prevent the reopening of the case in accordance with the law and penal procedure of the State concerned, if there is evidence of new or newly discovered facts, or if there has been a fundamental defect in the previous proceedings, which could affect the outcome of the case.

3. No derogation from this Article shall be made under Article 15 of the Convention.

**14. EUROPEAN CHARTER OF LOCAL SELF-GOVERNMENT (ETS No. 122),
15 OCTOBER 1985¹⁷**

BELGIUM, 25 August 2004, 23 September 2004, 22 September 2005

In accordance with Article 13 of the Charter, the Kingdom of Belgium considers that it intends to confine the scope of the Charter to the provinces and municipalities. In accordance with the same Article, the provisions of the Charter do not apply to the "Centres publics d'Aide sociale" (CPAS) on the territory of the Brussels-Capital Region.

Note by the Secretariat: The declaration has been formulated in accordance with Article 13 of the Charter.

GEORGIA, 8 December 2004, 22 December 2004, 21 December 2005

Till the restoration of full jurisdiction of Georgia on the territories of Abkhazia and Tskhinvali Region, Georgia declines its responsibility for performing obligations under the paragraphs of the European Charter of Local Self-Government listed above in such territories.

Note by the Secretariat: Georgia formulated a similar declaration to a number of Council of Europe Treaties.

**15. CONVENTION ON LAUNDERING, SEARCH, SEIZURE AND CONFISCATION OF
THE PROCEEDS FROM CRIME (ETS No. 141), 8 NOVEMBER 1990¹⁸**

¹⁷ *Relevant provisions :*

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.

¹⁸ *Relevant provisions :*

Article 2 – Confiscation measures:

1. Each Party shall adopt such legislative and other measures as may be necessary to enable it to confiscate instrumentalities and proceeds or property the value of which corresponds to such proceeds.
2. 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 1 of this article applies only to offences or categories of offences specified in such declaration.

Article 6 – Laundering offences:

1. Each Party shall adopt such legislative and other measures as may be necessary to establish as offences under its domestic law, when committed intentionally:
 - a. the conversion or transfer of property, knowing that such property is proceeds, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of the predicate offence to evade the legal consequences of his actions;
 - b. the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of, property, knowing that such property is proceeds;
 and, subject to its constitutional principles and the basic concepts of its legal system
 - c. the acquisition, possession or use of property, knowing, at the time of receipt, that such property was proceeds;

TURKEY, 13 December 2004, 22 December 2004, 21 December 2005

In accordance with Article 2, paragraph 2, the Republic of Turkey declares that Article 2, paragraph 1 shall only apply to offences defined in its domestic legislation.

Note by the Secretariat: The declaration has been formulated in accordance with Article 2, paragraph 2 of the Convention. The offences or categories of offences are not specified.

In accordance with Article 6, paragraph 4, the Republic of Turkey declares that Article 6, paragraph 1 shall only apply to offences defined in its domestic legislation.

Note by the Secretariat: The declaration has been formulated in accordance with Article 6, paragraph 4 of the Convention. The predicate offences or categories of predicate offences are not specified.

The Republic of Turkey underlines the close connection among drug trafficking, organized crime and terrorism, and declares that it expects the Convention to be applied to the terrorist acts as mentioned in the Resolution No. 3, adopted at the 16th Conference of European Ministers of Justice held in 1988.

Note by the Secretariat: The declaration formulated by Turkey is an interpretative declaration of the Convention.

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

THE NETHERLANDS, 16 February 2005, 22 February 2005, 21 February 2006

The Kingdom of the Netherlands accepts the Framework Convention for the Kingdom in Europe.

The Kingdom of the Netherlands will apply the Framework Convention to the Frisians.

The Government of the Netherlands assumes that the protection afforded by Article 10, paragraph 3, does not differ, despite the variations in wording, from that afforded by Article 5, paragraph 2, and Article 6, paragraph 3 (a) and (e), of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

d. participation in, association or conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the offences established in accordance with this article.

(...)

4. 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 paragraph 1 of this article applies only to predicate offences or categories of such offences specified in such declaration.

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

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

The Republic of Latvia

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

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

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

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

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

17. EUROPEAN AGREEMENT RELATING TO PERSONS PARTICIPATING IN PROCEEDINGS OF THE EUROPEAN COURT OF HUMAN RIGHTS (ETS No. 161), 5 MARCH 1996¹⁹

¹⁹ *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.

TURKEY, 13 December 2004, 22 December 2004, 21 December 2005

The Republic of Turkey declares that the provisions of Article 4, paragraph 2 (a), of the Agreement will not apply to its own nationals.

In respect of the application of paragraph 1 of Article 4, the foreign nationals referred to in paragraph 1 of Article 1 of the Agreement, must be in possession of the circulation documents required for entry into Turkey and obtain, if appropriate, the necessary visa. Those visas will be issued in due time by the competent Turkish consular representatives, subject to the provisions of paragraph 1b of Article 4 of the Agreement.

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

GREECE, 7 February 2005, 11 February 2005, 10 February 2006

The Government of Greece declares that it reserves the right not to apply the provisions of Article 4, paragraph 2 (a) of the Agreement to its own nationals.

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

18. EUROPEAN CONVENTION ON NATIONALITY (No. 166), 6 NOVEMBER 1997²⁰

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.

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

²⁰ *Relevant provisions :*

Article 7 – Loss of nationality ex lege or at the initiative of a State Party:

1. A State Party may not provide in its internal law for the loss of its nationality ex lege or at the initiative of the State Party except in the following cases:

- a. voluntary acquisition of another nationality;
- b. acquisition of the nationality of the State Party by means of fraudulent conduct, false information or concealment of any relevant fact attributable to the applicant;
- c. voluntary service in a foreign military force;
- d. conduct seriously prejudicial to the vital interests of the State Party;
- e. lack of a genuine link between the State Party and a national habitually residing abroad;
- f. where it is established during the minority of a child that the preconditions laid down by internal law which led to the ex lege acquisition of the nationality of the State Party are no longer fulfilled;
- g. adoption of a child if the child acquires or possesses the foreign nationality of one or both of the adopting parents.

2. A State Party may provide for the loss of its nationality by children whose parents lose that nationality except in cases covered by sub-paragraphs c and d of paragraph 1. However, children shall not lose that nationality if one of their parents retains it.

3. A State Party may not provide in its internal law for the loss of its nationality under paragraphs 1 and 2 of this article if the person concerned would thereby become stateless, with the exception of the cases mentioned in paragraph 1, sub-paragraph b, of this article.

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

Reservations:

Article 7

Germany declares that loss of German nationality *ex lege* may, on the basis of the "option provision" under Section 29 of the Nationality Act [*Staatsangehörigkeitsgesetz-StAG*] (opting for either German or a foreign nationality upon coming of age), be effected in the case of a person having acquired German nationality by virtue of having been born within Germany (*jus soli*) in addition to a foreign nationality.

Rationale

A reservation is required on account of the provisions of the new sub-sections 2 and 3 of Section 29 of the Nationality Act (StAG), under which persons who had acquired German nationality under Section 4 (3) of the StAG and are required to state their respective option may lose their German nationality. This reservation is based on the fact that Article 7 of the European Convention on Nationality of 6 November 1997 provides that a State Party to the Convention may, in its internal law, provide for the loss of its nationality *ex lege* or at the initiative of the State Party only in the cases provided for in that Article. However, none of the cases definitively listed in Article 7 with regard to loss of nationality are in conformity with the provisions governing loss of nationality as laid down in Section 29 (2) and (3) of the StAG. The reservation required in this respect is compatible with the object and purpose of the Convention of 6 November 1997. The same applies to persons who under Section 40b of the StAG are eligible for privileged naturalization. Upon attaining their majority, they are also under the obligation to declare their intent (option), possibly entailing loss of German nationality under the provisions of Section 29 (2) and (3) of the StAG.

Article 7 (1) (f)

Germany declares that loss of nationality may also occur if, upon a person's coming of age, it is established that the requirements governing acquisition of German nationality were not met.

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 10 – Processing of applications:

Each State Party shall ensure that applications relating to the acquisition, retention, loss, recovery or certification of its nationality be processed within a reasonable time.

Article 22 – Exemption from military obligations or alternative civil service:

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

(...)

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

Article 29 – Reservations:

(...)

2. Any State which makes one or more reservations shall notify the Secretary General of the Council of Europe of the relevant contents of its internal law or of any other relevant information.

Rationale

This reservation is required since German law provides for the possibility of minors and adults losing their German nationality if the preconditions which led to the acquisition of German nationality are no longer fulfilled.

Article 7 (1) (g)

Germany declares that loss of German nationality can also occur in the case of an adult being adopted.

Rationale

This reservation is required since the German law of nationality and citizenship provides for loss of German nationality also in the case of adoption of an adult. This applies when – by way of exception – the adoption of an adult has the effects of the adoption of a minor. This is only likely to occur in quite exceptional cases.

Article 8

Germany declares that the following persons, irrespective of their place of residence, are not subject to loss of nationality as a result of release from nationality (i.e. release will not be granted to the following persons):

1. public officials, judges, military personnel (soldiers) of the *Bundeswehr* [Federal Armed Forces], and other persons employed in a professional or official capacity under public law for as long as their contractual relationship is not terminated, with the exception of persons holding honorary positions;
2. persons liable for military service (conscripts) – as long as the Federal Ministry of Defence or an agency designated by it does not declare that there are no objections to such release (i.e. does not issue a certificate of non-objection, cf. *infra*).

If the persons listed under sub-paragraphs 1 and 2 above are holders of multiple nationality, permission required for renunciation of German nationality effected by means of a declaration to this effect will be granted only if such persons have had their habitual residence abroad for at least ten years. In addition, persons liable for military service (conscripts) will also be granted such permission if they did their military service in one of the States of which they are a national, or if they produce a certificate of non-objection by the Federal Ministry of Defence or by the agency designated by it.

Rationale

The reservation regarding Article 8 of the Convention on loss of nationality at the initiative of the individual is required because the German law of nationality and citizenship, in Section 22 of the StAG, provides that, on principle, release from nationality shall not be granted to persons who – such as public officials, judges and military personnel (soldiers) of the *Bundeswehr* – are employed in a professional or official capacity under public law as well as persons liable for military service (conscripts). Furthermore, this reservation is required because, under Section 26 of the StAG, those members of the categories listed in Section 22 of the StAG who possess multiple nationality will be permitted to renounce German nationality if specific conditions are met.

This reservation is intended to obviate any misunderstandings regarding the applicability of Sections 22 and 26 of the StAG.

Article 22

Germany declares that this provision, with the exception of sub-paragraph (a), is not applied in respect of persons who have fulfilled civil service as an alternative or have been exempted

from military obligations on account of having fulfilled a service equivalent to military or civil service.

Rationale

This reservation is essentially aimed at adopting for Germany the legal situation established under the Convention of 6 May 1963 on the Reduction of Cases of Multiple Nationality and Military Obligations in Cases of Multiple Nationality. This legal situation takes account of equity in induction and has proved effective in practice. The only addition to this situation is part of the (new) provisions relating to sub-paragraph (a) of Art. 22 of the European Convention on Nationality : inclusion of civil service – which is not yet included in the Convention of 6 May 1963 – is mandatory for reasons of equal treatment; inclusion of equivalent forms of service (i.e. in Germany: service with the civil protection or disaster/emergency management organizations, and development aid service) is appropriate. This reservation must be made because otherwise holders of dual nationality living in Germany might invoke exceptions relating to military service which are not provided for under German law. As a result, these persons would, in principle, be privileged in relation to holders of only one nationality who are liable for military service. This applies, *mutatis mutandis*, to those provisions of the 1963 Convention relating to military obligations which refer to cases where one of the two Parties does not require obligatory military service.

Declarations:

Article 10

Germany declares that the procedure for the admission of late expatriates (Spätaussiedler – persons of German ethnic origin who have their residence in countries of the former Eastern Bloc) and of their spouses or descendants is not aimed at acquiring German nationality and that it is not part of any procedures relating to nationality.

Rationale

Article 10 of the European Convention on Nationality stipulates that applications relating to the acquisition of a State's nationality be processed within a reasonable time. As a rule, the aim of persons going through the admission procedure is to obtain admission to Germany. Under the new provisions of Section 7 of the StAG, a German within the meaning of Article 116 (1) of the Basic Law who does not possess German nationality shall acquire German nationality ex lege upon the issue of the certificate [on his/her status as a late expatriate] as provided under Section 15 (1) or (2) of the Federal Act on Expellees' and Refugees' Affairs (Federal Expellees Act – BVFG). This provision also applies to descendants. On account of the fixing of quotas for persons to be admitted under the BVFG, the respective admission procedure may involve waiting periods of several years. Against this background, it must be stressed that the admission procedure is legally independent of the acquisition of German nationality.

Note by the Secretariat: The reservations and the declarations of Germany have been formulated in accordance with the relevant provisions of the Convention.

19. ADDITIONAL PROTOCOL TO THE CONVENTION ON THE TRANSFER OF SENTENCED PERSONS (ETS No. 167), 18 DECEMBER 1997²¹

²¹ *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

BELGIUM, 26 May 2005, 20 June 2005, 19 June 2006

The Government of Belgium declares that Belgium undertakes not to apply Article 3 of the Protocol when the sentenced person has its habitual residence in the Kingdom's territory at the time of his/her arrest.

Note by the Secretariat: The declaration of Belgium is a declaration made under Article 3 of the Protocol.

20. CRIMINAL LAW CONVENTION ON CORRUPTION (ETS No. 173), 27 JANUARY 1999²²

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.

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.

²² *Relevant provisions :*

Article 17 – Jurisdiction:

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

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

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

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

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

LATVIA, 19 January 2005, 26 January 2005, 25 January 2006

With due regard to well-established principles of international law, especially in the field of extradition, the Republic of Latvia declares that it renews its reservation for the period set out in paragraph 1 of Article 38 of the Convention.

The Republic of Latvia considers that the issue of mutual legal assistance, beyond all doubts, constitutes one of the fundamental elements of suppression of all forms of crimes, inter alia, corruption. Nevertheless, the Republic of Latvia would like to stress, that in accordance with the principles of its legal order, observation of human rights and rule of law is the core element for providing mutual legal assistance to other States.

If there is sufficient ground to believe that the offence which the request for mutual legal assistance refers to could be considered a political offence, the national authorities in charge are under an obligation to review the aforementioned request in the light of safeguards provided to any person in accordance with human rights.

Furthermore, the Republic of Latvia would like to emphasize that it has made similar reservations to all international instruments in the penal field, if this instrument contains clauses for extradition or mutual legal assistance.

Note by the Secretariat: The renewed reservation reads as follows:

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

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

Article 37 – Reservations:

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, reserve its right not to establish as a criminal offence under its domestic law, in part or in whole, the conduct referred to in Articles 4, 6 to 8, 10 and 12 or the passive bribery offences defined in Article 5.
2. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession declare that it avails itself of the reservation provided for in Article 17, paragraph 2.
3. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession declare that it may refuse mutual legal assistance under Article 26, paragraph 1, if the request concerns an offence which the requested Party considers a political offence.
4. No State may, by application of paragraphs 1, 2 and 3 of this article, enter reservations to more than five of the provisions mentioned thereon. No other reservation may be made. Reservations of the same nature with respect to Articles 4, 6 and 10 shall be considered as one reservation.

Article 38 – Validity and review of declarations and reservations:

1. Declarations referred to in Article 36 and reservations referred to in Article 37 shall be valid for a period of three years from the day of the entry into force of this Convention in respect of the State concerned. However, such declarations and reservations may be renewed for periods of the same duration.
2. Twelve months before the date of expiry of the declaration or reservation, the Secretariat General of the Council of Europe shall give notice of that expiry to the State concerned. No later than three months before the expiry, the State shall notify the Secretary General that it is upholding, amending or withdrawing its declaration or reservation. In the absence of a notification by the State concerned, the Secretariat General shall inform that State that its declaration or reservation is considered to have been extended automatically for a period of six months. Failure by the State concerned to notify its intention to uphold or modify its declaration or reservation before the expiry of that period shall cause the declaration or reservation to lapse.
3. If a Party makes a declaration or a reservation in conformity with Articles 36 and 37, it shall provide, before its renewal or upon request, an explanation to GRECO, on the grounds justifying its continuance.

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

Note by the Secretariat: The renewed reservations read as follows:

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

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

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

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

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

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

Note by the Secretariat: The renewed reservations read as follows:

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

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

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

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

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

"

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

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

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

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

21. SECOND ADDITIONAL PROTOCOL TO THE EUROPEAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS (ETS No. 182), 8 NOVEMBER 2001²³

²³ *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.

(...)

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.

(...)

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 17 – Cross-border observations:

1. Police officers of one of the Parties who, within the framework of a criminal investigation, are keeping under observation in their country a person who is presumed to have taken part in a criminal offence to which extradition may apply, or a person who it is strongly believed will lead to the identification or location of the above-mentioned person, shall be authorised to continue their observation in the territory of another Party where the latter has authorised cross-border observation in response to a request for assistance which has previously been submitted. Conditions may be attached to the authorisation.

On request, the observation will be entrusted to officers of the Party in whose territory it is carried out.

The request for assistance referred to in the first sub-paragraph must be sent to an authority designated by each Party and having jurisdiction to grant or to forward the requested authorisation.

2. Where, for particularly urgent reasons, prior authorisation of the other Party cannot be requested, the officers conducting the observation within the framework of a criminal investigation shall be authorised to continue beyond the border the observation of a person presumed to have committed offences listed in paragraph 6, provided that the following conditions are met:

a. the authorities of the Party designated under paragraph 4, in whose territory the observation is to be continued, must be notified immediately, during the observation, that the border has been crossed;

b. a request for assistance submitted in accordance with paragraph 1 and outlining the grounds for crossing the border without prior authorisation shall be submitted without delay.

Observation shall cease as soon as the Party in whose territory it is taking place so requests, following the notification referred to in a. or the request referred to in b. or where authorisation has not been obtained within five hours of the border being crossed.

(...)

4. Parties shall at the time of signature or when depositing their instrument of ratification, acceptance, approval or accession, by means of a declaration addressed to the Secretary General of the Council of Europe, indicate both the officers and authorities that they designate for the purposes of paragraphs 1 and 2 of this article. They subsequently may, at any time and in the same manner, change the terms of their declaration.

Article 18 – Controlled delivery

1. Each Party undertakes to ensure that, at the request of another Party, controlled deliveries may be permitted on its territory in the framework of criminal investigations into extraditable offences.

SWITZERLAND, 4 October 2004, 19 October 2004, 18 October 2005

Switzerland requires that the personal data transferred by it to another Party for the purposes indicated in Article 26, paragraph 1, letters a and b, cannot be used without the consent of the person concerned except with the agreement of the Federal Office of Justice for the purposes of procedures for which Switzerland could have, according to the terms of the Convention or the Protocol, refused or limited the transmission or the use of personal data.

Switzerland declares that it will deem as Swiss administrative authorities for the purposes of Article 1, paragraph 3, of the Convention the administrative services of the Confederation and of the cantons which, under Federal or Cantonal Law, can investigate offences and are empowered, once the investigation is concluded, to ask for the opening of judicial proceedings that may result in a conviction.

Note by the Secretariat: The declarations have been formulated in accordance with Article 26 and 27 of the Convention.

ROMANIA, 29 November 2004, 3 December 2004, 2 December 2005

In accordance with Article 15, paragraph 9, of the European Convention on Mutual Assistance in Criminal Matters, as amended by Article 4 of the Second Additional Protocol, the requests for international mutual assistance and the judicial documents may be transmitted through electronic means of communication or any other telecommunication means, on condition that the requesting Party transmits, at the same time, the original request and/or acts.

In accordance with Article 15 of the European Convention on Mutual Assistance in Criminal Matters, as amended by Article 4 of the Second Additional Protocol, the central authorities for Romania are the Ministry of Justice for requests for mutual assistance formulated during the

-
2. The decision to carry out controlled deliveries shall be taken in each individual case by the competent authorities of the requested Party, with due regard to the national law of that Party.
 3. Controlled deliveries shall take place in accordance with the procedures of the requested Party. Competence to act, direct and control operations shall lie with the competent authorities of that Party.
 4. Parties shall at the time of signature or when depositing their instrument of ratification, acceptance, approval or accession, by means of a declaration addressed to the Secretary General of the Council of Europe, indicate the authorities that are competent for the purposes of this article. They subsequently may, at any time and in the same manner, change the terms of their declaration.

Article 19 – Covert investigations

1. The requesting and the requested Parties may agree to assist one another in the conduct of investigations into crime by officers acting under covert or false identity (covert investigations).
2. The decision on the request is taken in each individual case by the competent authorities of the requested Party with due regard to its national law and procedures. The duration of the covert investigation, the detailed conditions, and the legal status of the officers concerned during covert investigations shall be agreed between the Parties with due regard to their national law and procedures.
3. Covert investigations shall take place in accordance with the national law and procedures of the Party on the territory of which the covert investigation takes place. The Parties involved shall co-operate to ensure that the covert investigation is prepared and supervised and to make arrangements for the security of the officers acting under covert or false identity.
4. Parties shall at the time of signature or when depositing their instrument of ratification, acceptance, approval or accession, by means of a declaration addressed to the Secretary General of the Council of Europe, indicate the authorities that are competent for the purposes of paragraph 2 of this article. They subsequently may, at any time and in the same manner, change the terms of their declaration.

trial, and the Prosecutor's Office of the High Court of Cassation and Justice for requests formulated respectively during investigations and prosecutions. For the requests for mutual assistance referred to in Article 15, paragraph 3, of the European Convention, the central authority is the Ministry of Administration and Interior.

In accordance with Article 24 of the European Convention on Mutual Assistance in Criminal Matters, as amended by Article 6 of the Second Additional Protocol, the Romanian judicial authorities are the courts and the prosecutor's offices to the courts.

In accordance with Article 13, paragraph 7, of the Second Additional Protocol, to achieve the agreement stipulated by paragraph 1 of Article 13, the consent as provided for in paragraph 3 of Article 13 will be required.

In accordance with Article 17, paragraph 4, of the Second Additional Protocol, police officers are designated as competent officers within the Ministry of Administration and Interior for the purposes of paragraphs 1 and 2 of Article 17. The competent central authority for receiving requests for mutual assistance foreseen in Article 17, paragraphs 1 and 2, is the Ministry of Justice.

In accordance with Article 18, paragraph 4, of the Second Additional Protocol, the competent authority for the purposes of Article 18 is the Prosecutor's Office to the High Court of Cassation and Justice. Controlled deliveries subject to a request for international mutual assistance addressed to Romania must be authorised by the competent prosecutor, in accordance with the Romanian law.

In accordance with Article 19, paragraph 4, of the Second Additional Protocol, the competent authority for the purposes of Article 19 is the Prosecutor's Office to the High Court of Cassation and Justice. The conduct of criminal covert investigations, on the basis of a request for international mutual assistance addressed to Romania, must be authorised by the competent prosecutor, in accordance with Romanian law.

Note by the Secretariat: The declarations have been formulated in accordance with Article 15 of the Convention as amended by Article 4 of the Second Additional Protocol, Article 24 of the Convention as amended by Article 6 of the Second Additional Protocol, and with Articles 13, 17, 18 and 19 of the Second Additional Protocol.

SLOVAKIA, 11 January 2005, 26 January 2005, 25 January 2006

The Slovak Republic avails itself of the opportunity provided by Article 33, paragraph 2, of the Second Additional Protocol and does not accept wholly the Articles 16, 17, 19 and 20 of the Second Additional Protocol.

The Slovak Republic will execute requests under Article 18 of the Second Additional Protocol only if they relate to the controlled import, export and transit of a delivery provided the circumstances of the case justify the assumption that the delivery without proper permit contains narcotics, psychotropic substances, precursors, poisons, nuclear and other similar radioactive materials, counterfeit money or securities, firearms or weapons of mass destruction, ammunition or explosives and the requesting party undertakes to provide adequate protection to the information obtained as a result of the assistance.

Note by the Secretariat: The declaration has been formulated in accordance with Article 33 of the Second Additional Protocol.

22. **CONVENTION ON CYBERCRIME (ETS No. 185), 23 NOVEMBER 2001**²⁴

²⁴ *Relevant provisions :*

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 - 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 and any information about the execution of any power provided for in this Article.

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

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.

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

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

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

23. PROTOCOL AMENDING THE EUROPEAN CONVENTION ON THE SUPPRESSION OF TERRORISM (ETS No. 190), 15 MAY 2003

MOLDOVA, 10 March 2005, 24 March 2005, 23 March 2006

The Republic of Moldova declares that until the full establishment of the territorial integrity of the Republic of Moldova the provisions of the Protocol will be applied only on the territory controlled by the Government of the Republic of Moldova.

Note by the Secretariat: Moldova deposited similar declarations to the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5), the European Convention on the Control of the Acquisition and Possession of Firearms by Individuals (ETS No. 101) and the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS No. 141)

The Republic of Moldova declares that, according to Article 18, paragraph 2 of the Constitution, the citizens of the Republic of Moldova shall not be extradited.

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 27 – Administrative authorities:

Parties may at any time, by means of a declaration addressed to the Secretary General of the Council of Europe, define what authorities they will deem administrative authorities for the purposes of Article 1, paragraph 3, of the Convention.

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.

Note by the Secretariat: Moldova deposited a similar declaration to the European Convention on Extradition (ETS No. 24).

24. 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 2004²⁵

POLAND, 10 November 2004, 3 December 2004, 2 December 2005

Declaration made at the time of signature of the treaty:

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 Protocol, based on the general principle of non-retroactivity of treaties.

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

Declaration made at the time of signature of the treaty:

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

- the Court shall apply the new admissibility criterion by establishing a case-law allowing to define the legal terms which state this criterion on the basis of an interpretation establishing objective criteria of definition (paragraphs 79 et 80);
- the new criterion is designed to avoid rejection of cases warranting an examination on the merits (paragraph 83);

²⁵ *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.”

- the single-judge formations and committees will not be able to apply the new criterion in the absence of a clear and well established case-law of the Court's Chambers and Grand Chamber (paragraph 84).

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

**25. COUNCIL OF EUROPE CONVENTION ON THE PREVENTION OF TERRORISM
(CETS No. 196), 16 MAY 2005**

AZERBAIJAN, 16 May 2005, 20 June 2005, 19 June 2006

Declaration made at the time of signature of the treaty:

The Republic of Azerbaijan declares that it will be unable to guarantee compliance with the provisions of the Convention in its territories occupied by the Republic of Armenia until these territories are liberated from that occupation (the schematic map of the occupied territories is attached).

Note by the Secretariat: Azerbaijan formulated a similar declaration to a number of Council of Europe Treaties. The schematic map is reproduced as Appendix 1 to this document.

APPENDIX 1 - Schematic map – Azerbaijan

Schematic map of the territories of the Republic of Azerbaijan occupied by the Republic of Armenia

