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

**23rd meeting**  
**Strasbourg, 4-5 March 2002**

**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, deadline for objections. In as far as possible, the text of the reservation and declaration is included.

## **Action required**

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

## List of outstanding reservations and declarations

### **PART 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 1979<sup>1</sup>

**Democratic People's Republic of Korea**, 27 February 2001, 7 March 2001, 6 March 2002

Reservation and declaration:

"The Government of the Democratic People's Republic of Korea does not consider itself bound by the provisions of paragraph (f) of article 2, paragraph 2 of article 9 and paragraph 1 of article 29 of [the Convention]."

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

**China**<sup>3</sup>, 27 March 2001, 3 April 2001, 2 April 2002

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<sup>1</sup> *Relevant provisions:*

#### Article 2

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

[...]

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

#### Article 9.2

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

#### Article 29

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

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

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

<sup>2</sup> *Relevant provisions:*

#### Article 8.1

The States Parties to the present Covenant undertake to ensure:

a) the right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restriction can be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others.

<sup>3</sup> On 20 April 2001, the UN Secretary-General received from the Government of China the following communication:

"1. Article 6 of the Covenant does not preclude the formulation of regulations by the HKSAR for employment

Statement made upon signature and confirmed upon ratification:

"The signature that the Taiwan authorities affixed, by usurping the name of "China", to the [said Covenant] on 5 October 1967, is illegal and null and void."

Statement made upon ratification:

"In accordance with the Decision made by the Standing Committee of the Ninth National People's Congress of the People's Republic of China at its Twentieth Session, the President of the People's Republic of China hereby ratifies *The International Covenant on Economic, Social and Cultural Rights*, which was signed by Mr. Qin Huasun on behalf of the People's Republic of China on 27 October 1997, and declares the following:

1. The application of Article 8.1 (a) of the Covenant to the People's Republic of China shall be consistent with the relevant provisions of the *Constitution of the People's Republic of China*, *Trade Union Law of the People's Republic of China* and *Labor Law of the People's Republic of China*;

2. In accordance with the official notes addressed to the Secretary-General of the United Nations by the Permanent Representative of the People's Republic of China to the United Nations on 20 June 1997 and 2 December 1999 respectively, the *International Covenant on Economic, Social and Cultural Rights* shall be applicable to the Hong Kong Special Administrative Region of the People's Republic of China and the Macao Special Administrative Region of the People's Republic of China and shall, pursuant to the provisions of the *Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China* and the *Basic Law of the Macao Special Administrative Region of the People's Republic of China*, be implemented through the respective laws of the two special administrative regions."

3. PROTOCOL ON PROHIBITIONS OR RESTRICTIONS ON THE USE OF MINES, BOOBY-TRAPS AND OTHER DEVICES AS AMENDED ON MAY 3 1996 (PROTOCOL II AS AMENDED ON 3 MAY 1996) ANNEXED TO THE CONVENTION ON PROHIBITIONS OR RESTRICTIONS ON THE USE OF CERTAIN CONVENTIONAL WEAPONS WHICH MAY BE DEEMED TO BE EXCESSIVELY INJURIOUS OR TO HAVE INDISCRIMINATE EFFECTS, GENEVA, 3 MAY 1996<sup>4</sup>

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restrictions, based on place of birth or residence qualifications, for the purpose of safeguarding the employment opportunities of local workers in the HKSAR

2. "National federations or confederations" in Article 8.1(B) of the Covenant shall be interpreted, in this case, as "Federations or confederations in the HKSAR", and this Article does not imply the right of trade union federations or confederations to form or join political organizations or bodies outside the HKSAR."

<sup>4</sup> *Relevant provisions:*

Article 3.8

The indiscriminate use of weapons to which this Article applies is prohibited. Indiscriminate use is any placement of such weapons:

(a) which is not on, or directed against, a military objective. In case of doubt as to whether an object which is normally dedicated to civilian purposes, such as a place of worship, a house or other dwelling or a school, is being used to make an effective contribution to military action, it shall be presumed not to be so used;

[...]

**Republic of Korea**, 9 may 2001, 31 may 2001, 30 may 2002.

#### Reservation

"With respect to the application of protocol II to the 1980 Convention, as amended on 3 may 1996 (amended mines protocol), the Republic of Korea reserves the right to use a small number of mines prohibited under this protocol exclusively for training and testing purposes."

#### Declarations

For de Republic of Korea:

"1. With respect to Article 3(8)(a) of the amended mines protocol, in case there is an evident indication that an object which is normally dedicated to civilian purposes, such as a place of worship, a house or other dwelling or a school, is being used to make an effective contribution to military action, it shall be considered as a military object."

2. Article 4 and the technical annex of the amended mines protocol do not require the removal or replacement of mines that have already been laid.

3. A cessation of active hostilities provided for in Articles 9(2) and 10(1) of the amended mines protocol is interpreted as meaning the time when the present armistice regime on the Korean peninsula has been transformed into a peace regime, establishing a stable peace on the Korean peninsula.

4. Any decision by any military commander, military personnel, or any other person responsible for planning, authorizing, or executing military action shall only be judged on the basis of that persons assessment of the information reasonably available to the person at the time the person planned authorized, or executed that action under review, and shall not be judged on basis of information that comes to light after the action under review was taken."

#### 4. OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICT, NEW YORK, 25 MAY 2000<sup>5</sup>

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It is prohibited to use anti-personnel mines which are not detectable, as specified in paragraph 2 of the Technical Annex.

#### Article 9.2

All such records shall be retained by the parties to a conflict, who shall, without delay after the cessation of active hostilities, take all necessary and appropriate measures, including the use of such information, to protect civilians from the effects of minefields, mined areas, mines, booby-traps and other devices in areas under their control.

At the same time, they shall also make available to the other party or parties to the conflict and to the Secretary-General of the United Nations all such information in their possession concerning minefields, mined areas, mines, booby-traps and other devices laid by them in areas no longer under their control; provided, however, subject to reciprocity, where the forces of a party to a conflict are in the territory of an adverse party, either party may withhold such information from the Secretary-General and the other party, to the extent that security interests require such withholding, until neither party is in the territory of the other. In the latter case, the information withheld shall be disclosed as soon as those security interests permit. Wherever possible, the parties to the conflict shall seek, by mutual agreement, to provide for the release of such information at the earliest possible time in a manner consistent with the security interests of each party.

#### Article 10.1

Without delay after the cessation of active hostilities, all minefields, mined areas, mines, booby-traps and other devices shall be cleared, removed, destroyed or maintained in accordance with Article 3 and paragraph 2 of Article 5 of this Protocol.

<sup>5</sup> *Relevant provisions:*

#### Article 3.2

**Democratic Republic of the Congo**, 11 November 2001, 29 November 2001, 2 November 2002

Declaration

"Pursuant to Article 3, paragraph 2, of the protocol , the democratic Republic of the Congo undertakes to implement the principle of prohibiting the recruitment of children into the armed forces, in accordance with Decree-law No. 066 of 9 June 2000 on the demobilization and rehabilitation of vulnerable groups on active service in the armed forces, and to take all feasible measures to ensure that persons who have not yet attained the age of 18 years are not recruited in any way into the Congolese armed forces or into any other public or private armed group throughout the territory of the democratic republic of the Congo."

5. INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF TERRORIST BOMBINGS, NEW YORK, 15 DECEMBER 1997<sup>6</sup>

**Cuba**, 15 November 2001, 4 December 2001, 3 December 2002

Reservation

The Republic of Cuba declares, pursuant to Article 20, paragraph 2, that it does not consider itself bound by paragraph 1 of the said article, concerning the settlement of disputes arising between States parties, inasmuch as it considers that such disputes must be settled through amicable negotiation. in consequence, it declares that it does not recognise the compulsory jurisdiction of the international court of justice.

Declaration:

"The republic of Cuba declares that none of the provisions contained in Article 19, paragraph 2, shall constitute an encouragement or condemnation of the threat or use of force in international relations, which must under all circumstances be governed strictly by the principles of international law and the purposes and principles enshrined in the charter of the united nations.

Cuba also considers that relations between states must be bases strictly on the provisions contained in Resolution 2625 (XXV) of the United Nations general assembly.

Each State Party shall deposit a binding declaration upon ratification of or accession to this Protocol that sets forth the minimum age at which it will permit voluntary recruitment into its national armed forces and a description of the safeguards that it has adopted to ensure that such recruitment is not forced or coerced.

<sup>6</sup> *Relevant provisions:*

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 20

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 with respect to any State Party which has made such a reservation.

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

In addition, the exercise of state terrorism has historically been a fundamental concern for Cuba, which considers that the complete eradication thereof through mutual respect, friendship and cooperation between states, full respect for sovereignty and territorial integrity, self-determination and non-interference in internal affairs must constitute a priority of the international community.

Cuba is therefore firmly of the opinion that the undue use of the armed forces of one state for the purpose of aggression against another cannot be condoned under the present convention, whose purpose is precisely to combat, in accordance with the principles of the international law, one of the most noxious forms of crime faced by the modern world.

To condemn acts of aggression would amount, in fact, to condoning violations of international law and of the charter and provoking conflicts with unforeseeable consequences that would undermine the necessary cohesion of the international community in the fight against the scourges that truly afflict it.

The Republic of Cuba also interprets the provisions of the present convention as applying with full rigor to activities carried out by armed forces of one state against another state in cases in which no armed conflict exists between the two”.

6. INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF THE FINANCING OF TERRORISM, NEW YORK, 9 DECEMBER 1999<sup>7</sup>

**Chile**, 10 November 2001, 28 November 2001, 27 November 2002

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<sup>7</sup> *Relevant provisions:*

Article 2.1

1. Any person commits an offence within the meaning of this Convention if that person by any means, directly or indirectly, unlawfully and willfully, 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.

Article 7.3

Upon ratifying, accepting, approving or acceding to this Convention, each State Party shall notify the Secretary-General of the United Nations of the jurisdiction it has established in accordance with paragraph 2. Should any change take place, the State Party concerned shall immediately notify the Secretary-General.

Article 14

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 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.

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

#### Declaration

"In accordance with article 7, paragraph 3, of the international convention for the suppression of the financing of terrorism, the government of Chile declares that, in accordance with article 6, paragraph 8, of the courts organization code of the Republic of Chile, crimes and ordinary offenses committed outside the territory of the republic which are covered in treaties concluded with other powers remain under Chilean jurisdiction".

#### **Democratic people's Republic of Korea**, 12 November 2001, 4 December 2001, 3 December 2002

##### Reservations:

1. "The democratic people's Republic of Korea does not consider itself bound by the provisions of article 2, paragraph 1, sub-paragraph (a) of the convention.
2. The democratic people's Republic of Korea does not consider itself bound by the provisions of article 14 of the convention.
3. The democratic people's Republic of Korea does not consider itself bound by the provisions of article 24, paragraph 1 of the convention".

#### **Cuba**, 15 November 2001, 4 December 2001, 3 December 2002

##### Reservation

"The Republic of Cuba declares, pursuant to Article 24, paragraph 2, that it does not consider itself bound by paragraph 1 of the said article, concerning the settlement of disputes arising between states parties, inasmuch as it considers that such disputes must be settled through amicable negotiation. in consequence, it declares that it does not recognize the compulsory jurisdiction of the international court of justice".

#### 7. INTERNATIONAL CONVENTION AGAINST THE TAKING OF HOSTAGES, NEW YORK, 17 DECEMBER 1979<sup>8</sup>

#### **Cuba**, 15 November 2001, 4 December 2001, 3 December 2002

##### Reservation

"The Republic of Cuba declares, pursuant to Article 16, paragraph 2, that it does not consider itself bound by paragraph 1 of the said article, concerning the settlement of disputes arising between States parties, inasmuch as it considers that such disputes must be settled through amicable negotiation. In consequence, it reiterates that it does not recognise the compulsory jurisdiction of the international court of justice".

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<sup>8</sup> *Relevant provisions:*

##### Article 16

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



8. OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY, NEW YORK, 25 MAY 2000<sup>9</sup>

**Qatar**, reservation upon accession 14 December 2001

Reservation:

.....subject to a general reservation concerning any provisions in the protocol that are in conflict with the Islamic Shariah.

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<sup>9</sup> Note by the Secretariat : the Optional Protocol contains no provisions relating to reservations or declarations.

9. CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE, NEW YORK, 9 DECEMBER 1948<sup>10</sup>

**Yugoslavia**, reservation upon accession 12 March 2001<sup>11</sup>

<sup>10</sup> Relevant provisions:

Article IX

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

<sup>11</sup> In this regard, the Secretary-General received communications from the following States on the dates indicated hereinafter:

Croatia (18 May 2001):

*"The Government of the Republic of Croatia objects to the deposition of the instrument of accession of the Federal Republic of Yugoslavia to the Convention on the Prevention and Punishment of the Crime of Genocide, due to the fact that the Federal Republic of Yugoslavia is already bound by the Convention since its emergence as one of the five equal successor states to the former Socialist Federal Republic of Yugoslavia.*

*This fact was confirmed by the Federal Republic of Yugoslavia in its Declaration of 27 April 1992, as communicated to the Secretary-General (UN doc. A/46/915). Notwithstanding the political reasoning behind it, in its 1992 Declaration the Federal Republic of Yugoslavia stated that it "shall strictly abide by all the commitments that the former Socialist Federal Republic of Yugoslavia assumed internationally".*

*In this regard the Republic of Croatia notes in particular the decision of the International Court of Justice in its Judgement of 11 July 1996 that the Federal Republic of Yugoslavia "was bound by provisions of the [Genocide] Convention on the date of the filing of [the Application by Bosnia and Herzegovina], namely on 20 March 1993" (ICJ Reports 1996, p. 595, at para. 17).*

*The Government of the Republic of Croatia further objects to the reservation made by the Federal Republic of Yugoslavia in respect of Article IX of the Convention on the Prevention and Punishment of the Crime of Genocide, and considers it to be incompatible with the object and purpose of the Convention. The Government of the Republic of Croatia considers the Convention on the Prevention and Punishment of the Crime of Genocide to be fully in force and applicable between the Republic of Croatia and the Federal Republic of Yugoslavia, including Article IX.*

*The Government of the Republic of Croatia deems that neither the purported way of becoming a party to the Genocide Convention ex nunc by the Federal Republic of Yugoslavia, nor its purported reservation, have any legal effect regarding the jurisdiction of the International Court of Justice with respect to the pending proceedings initiated before the International Court of Justice by the Republic of Croatia against the Federal Republic of Yugoslavia pursuant to the Genocide Convention."*

Bosnia-Herzegovina (27 December 2001):

*On 21 March 2001 the Secretary-General of the United Nations confirmed to the Permanent Representative of Yugoslavia to the United Nations the receipt of a 'Notification of Accession to the Convention on the Prevention and Punishment of the Crime of Genocide (1948). The note of the Secretary-General carries reference as: LA 41 TR/221/1(4-1).*

*The Presidency of Bosnia and Herzegovina objects to the deposition of this instrument of accession.*

*On 29 June 2001, Bosnia and Herzegovina, the Republic of Croatia, the Republic of Macedonia, the Republic of Slovenia and the Federal Republic of Yugoslavia signed an "Agreement on Succession Issues" in which these States, among other things, declare that they are "in sovereign equality the five successor States to the former Socialist Federal Republic of Yugoslavia". A copy of the Agreement is enclosed. [Copy not reproduced herein.] For this reason, there can be no question of "accession", but rather there is an issue of succession. This, in itself, implies that the Federal Republic of Yugoslavia has effectively succeeded the former Socialist Federal Republic of Yugoslavia as of 27 April 1992 (the date of the proclamation of the FRY) as a Party to the Genocide Convention.*

*Apart from that the Federal Republic of Yugoslavia upon its proclamation on 27 April 1992 declared - and communicated this to the Secretary-General that it would "strictly abide by all the commitments that the Socialist Federal Republic of Yugoslavia assumed internationally"(UN Doc. A/46/915).*

*For these two reasons it is not possible for the FRY to effectively lay down a reservation with regards to part of the Genocide Convention (i.e. Article IX of the Convention) several years after 27 April 1992, the day on which FRY became bound to the Genocide Convention in its entirety. Bosnia and Herzegovina refers to Articles 2 (1) (d) and 19 of the 1969 Vienna Convention on the Law of Treaties, which explicitly states that a reservation may only be formulated "when signing, ratifying, accepting, approving or acceding to a treaty".*

*The Presidency of Bosnia and Herzegovina therefore deems the so-called "Notification of Accession to the Convention on the Prevention and Punishment of the Crime of Genocide (1948)" submitted by the Government of*

Reservation:

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

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*the Federal Republic of Yugoslavia to be null and void. Moreover, the International Court of Justice declared in its Judgement of 11 July 1996, "Yugoslavia was bound by the provisions of the Convention" at least at the date of the filing of the Application in the case introduced by Bosnia and Herzegovina on 20 March 1993/ICJ Rep. 1996, p.610, para. 17). The Federal Republic of Yugoslavia continues to be bound under the same conditions, that is without any reservation."*

## **PART II: RESERVATIONS AND DECLARATIONS TO COUNCIL OF EUROPE TREATIES**

1. CONVENTION ON THE TRANSFER OF SENTENCED PERSONS (ETS No.112), 21 MARCH 1983<sup>12</sup>

**Azerbaijan**, 25 January 2001, 23 March 2001, 22 March 2002

Reservation contained in the instrument of ratification:

"The Republic of Azerbaijan hereby declares that the application of the procedures provided in Article 4, paragraph 5, of the Convention will be realised where it is compatible with the national law."

2. CONVENTION ON THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS (ETS NO. 5), 4 NOVEMBER 1950<sup>13</sup>

**Finland**, 16 May 2001, 15 June 2001, 14 June 2002.

"Whereas the instrument of ratification contained a reservation to Article 6, paragraph 1, of the Convention, whereas after partial withdrawals of the reservation on 20 December 1996, 30 April 1998 and 1 April 1999, the reservation reads as follows:

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<sup>12</sup> Note by the Secretariat: The Convention contains no provisions relating to reservations or declarations

### *Relevant provisions:*

#### Article 4 – Obligation to furnish information

- 1 Any sentenced person to whom this Convention may apply shall be informed by the sentencing State of the substance of this Convention.
- 2 If the sentenced person has expressed an interest to the sentencing State in being transferred under this Convention, that State shall so inform the administering State as soon as practicable after the judgment becomes final.
- 3 The information shall include:
  - a. the name, date and place of birth of the sentenced person;
  - b. his address, if any, in the administering State;
  - c. a statement of the facts upon which the sentence was based;
  - d. the nature, duration and date of commencement of the sentence.
- 4 If the sentenced person has expressed his interest to the administering State, the sentencing State shall, on request, communicate to the State the information referred to in paragraph 3 above.
- 5 The sentenced person shall be informed, in writing, of any action taken by the sentencing State or by the administering State under the preceding paragraphs, as well as of any decision taken by either State on a request for transfer.

<sup>13</sup> *Relevant provisions:*

#### Article 15 – Derogation in time of emergency

- 1 In time of war or other public emergency threatening the life of the nation any High Contracting Party may take measures derogating from its obligations under this Convention to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law.
- 2 No derogation from Article 2, except in respect of deaths resulting from lawful acts of war, or from Articles 3, 4 (paragraph 1) and 7 shall be made under this provision.
- 3 Any High Contracting Party availing itself of this right of derogation shall keep the Secretary General of the Council of Europe fully informed of the measures which it has taken and the reasons therefore. It shall also inform the Secretary General of the Council of Europe when such measures have ceased to operate and the provisions of the Convention are again being fully executed.

#### Article 57 – Reservations

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

"For the time being, Finland cannot guarantee a right to an oral hearing insofar as the current Finnish laws do not provide such a right. This applies to:

1. proceedings before the Water Courts when conducted in accordance with Chapter 16, Section 14 of the Water Act; and proceedings before the Supreme Court in accordance with Chapter 30, Section 20, of the Code of Judicial Procedure and proceedings before the Courts of Appeal as regards the consideration of petition, civil and criminal cases to which Chapter 26 (661/1978), Sections 7 and 8, of the Code of Judicial Procedure are applied if the decision of a District Court has been made before 1 May 1998, when the amendments made to the provisions concerning proceedings before Courts of Appeal entered into force; and the consideration of criminal cases before the Supreme Court and the Courts of Appeal if the case has been pending before a District Court at the time of entry into force of the Criminal Proceedings Act on 1 October 1997 and to which existing provisions have been applied by the District Court; and proceedings before the Water Court of Appeal as regards the consideration of criminal and civil cases in accordance with Chapter 15, Section 23, of the Water Act, if the decision of the Water Court has been given before the entry into force of the Act Amending the Code of Judicial Procedure on 1 May 1998; and the consideration of petition, appeal and executive assistance cases, in accordance with Chapter 15, Section 23, of the Water Act, if the decision of the Water Court has been given before the entry into force of the Act on Administrative Judicial Procedure on 1 December 1996;
2. the consideration by a County Administrative Court or the Supreme Administrative Court of an appeal on a submission from a decision given before the entry into force of the Act on Administrative Judicial Procedure on 1 December 1996, as well as of consideration of an appeal on such a matter in a superior appellate authority;
3. proceedings, which are held before the Insurance Court as the Court of Final Instance, in accordance with Section 9 of the Insurance Court Act, if they concern an appeal which has become pending before the entry into force of the Act Amending the Insurance Court Act on 1 April 1999;
4. proceedings before the Appellate Board for Social Insurance, in accordance with Section 8 of the Decree on the Appellate Board for Social Insurance, if they concern an appeal which has become pending before the entry into force of the Act Amending the Health Insurance Act on 1 April 1999."

Whereas the relevant provisions of the Finnish legislation have been amended so as they no longer correspond to the present reservation as far as they concern proceedings before the Water Courts and the Water Court of Appeal, and as the present reservation concerning the proceedings before the County Administrative Courts and the Supreme Administrative Court is no longer relevant,

Now therefore Finland withdraws the reservation in paragraph 1 above, as far as it concerns proceedings before the Water Courts and before the Water Court of Appeal. Finland also withdraws the reservation in paragraph 2 above concerning proceedings before the County Administrative Courts and the Supreme Administrative Court.

#### APPENDIX INCLUDING A SUMMARY OF THE RESPECTIVE LAWS REFERRED TO IN THE PARTIAL WITHDRAWAL OF RESERVATIONS

The Water Court of Appeal was abolished by the Administrative Courts Act (430/1999) which entered into force on 1 November 1999. The Water Court of Appeal was merged with the Vaasa County Administrative Court, and the new court is called the Vaasa Administrative Court.

Chapter 15 of the Water Act, concerning the water courts, was repealed by the Act on the Amendment of the Water Act (88/2000) which entered into force on 1 March 2000, being part of a reform of the Finnish environmental legislation. The water courts were abolished and replaced by three environmental permit authorities.

According to Section 11 (1) of the Act on the Implementation of Environmental Legislation, the cases pending before the water courts were transferred to the environmental permit authorities insofar as petitions and requests for executive assistance referred to in the Water Act were concerned, appeal cases were transferred to the Vaasa Administrative Court and criminal cases to the competent district courts. As regards civil cases, the water courts were to decide which of them would still be considered as civil cases and which ones could be converted into petition cases to be handled by the environmental permit authorities. According to Section 17 of the Act on the Implementation of Environmental Legislation, also the Vaasa Administrative Court was to transfer the pending civil and criminal cases to the competent courts of appeal, applying, where appropriate, Section 11 (2) of the same Act to the civil cases.

Because there no longer are any provisions on the consideration of civil cases in the Water Act, and nor does the Act on the Implementation of Environmental Legislation contain separate provisions on the application of the earlier legislation to cases which have been brought before a water court or the Water Court of Appeal as a civil case and the consideration of which shall continue before another competent court as a civil case, the transferred cases shall be covered by the procedural rules existing at the time of transfer. Therefore it is no longer possible that the transferred civil cases could become subject to one of the procedures in respect of which the reservation to the Convention was made.

The reservation made in respect of proceedings before Water Courts when conducted in accordance with Chapter 16, Section 14 of the Water Act, concerning the holding of an oral hearing in a petition case after inspection, may also be withdrawn as a result of the reform of the environmental legislation. According to Chapter 16, Section 14 of the Act on the Amendment of the Water Act, the competent authorities for the consideration of petitions are the environmental permit authorities. The reservation made to Article 6 of the Convention only concerned the administrative judicial procedure applied to administrative courts and not the administrative procedure applied to other authorities.

The transitional provision concerning civil and criminal cases before the water courts may be withdrawn as there are no longer such pending cases to which the provisions of the Code of Judicial Procedure, which were in force before the Act on the Amendment of the Code of Judicial Procedure entered into force on 1 May 1998, could be applied.

According to the transitional provision in Section 82 of the Administrative Judicial Procedure Act, the Act shall not be applied to appeals or submissions made in respect of decisions given before the entry into force of the Act, nor to the consideration of such cases by a superior appellate authority on account of appeal. There are hardly any appeal cases pending before the administrative courts and the Supreme Administrative Court, where the decision subject to appeal has been given before the entry into force of the Administrative Judicial Procedure Act on 1 December 1996."

<p><b>Note by the Secretariat :</b> The statements constitute withdrawals of reservations.</p>
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**Turkey**, 29 January 2002, not notified as of 01/02/2002

"The Government of Turkey withdraws its notification of derogation made on 5 May 1992, in accordance with Article 15, paragraph 3, of the Convention for the Protection of Human Rights and Fundamental Freedoms, concerning Article 5 of the said Convention, the recent constitutional amendments having fixed to four days the maximum duration of the detention in the whole national territory."

<p><b>Note by the Secretariat :</b> The withdrawal of derogation has been formulated with respect to the relevant provisions.</p>
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**United Kingdom**, 18 December 2001, 19 December 2001, 18 December 2002.

"The United Kingdom Permanent Representative to the Council of Europe presents his compliments to the Secretary General of the Council, and has the honour to convey the following information in order to ensure compliance with the obligations of Her Majesty's Government in the United Kingdom under Article 15(3) of the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 5 November 1950.

*Public emergency in the United Kingdom*

The terrorist attacks in New York, Washington, D.C. and Pennsylvania on 11<sup>th</sup> September 2001 resulted in several thousand deaths, including many British victims and others from 70 different countries. In its resolutions 1368 (2001) and 1373 (2001), the United Nations Council recognised the attacks as a threat to international peace and security.

The threat from international terrorism is a continuing one. In its resolution 1373 (2001), the Security Council, acting under Chapter VII of the United Nations Charter, required all States to take measures to prevent the commission of terrorist attacks, including by denying safe haven to those who finance, plan, support or commit terrorist attacks.

There exists a terrorist threat to the United Kingdom from persons suspected of involvement in international terrorism. In particular, there are foreign nationals present in the United Kingdom who are suspected of being concerned in the commission, preparation or instigation of acts of international terrorism, of being members of organisations or groups which are so concerned or of having links with members of such organisations or groups, and who are a threat to the national security of the United Kingdom.

As a result, a public emergency, within the meaning of Article 15 (1) of the Convention, exists in the United Kingdom.

*The Anti-terrorism, Crime and Security Act 2001*

As a result of the public emergency, provision is made in the Anti-terrorism, Crime and Security Act 2001, *inter alia*, for an extended power to arrest and detain a foreign national which will apply where it is intended to remove or deport the person from the United Kingdom but where removal or deportation is not for the time being possible, with the consequence that the detention would be unlawful under existing domestic law powers. The extended power to arrest and detain will apply where the Secretary of State issues a certificate indicating his belief that the person's presence in the United Kingdom is a risk to national security and that he suspects the person of being an international terrorist. That certificate will be subject to an appeal to the Special Immigration Appeals Commission ("SIAC"), established under the Special Immigration Appeals Commission Act 1997, which will have power to cancel it if it considers that the certificate should not have been issued. There will be an appeal on a point of law from a ruling by SIAC. In addition, the certificate will be reviewed by SIAC at regular intervals. SIAC will also be able to grant bail, where appropriate, subject to conditions. It will be open to a detainee to end his detention at any time by agreeing to leave the United Kingdom.

The extended power of arrest and detention in the Anti-terrorism, Crime and Security Act 2001 is a measure which is strictly required by the exigencies of the situation. It is a temporary provision which comes into force for an initial period of 15 months and then expires unless renewed by the Parliament. Thereafter, it is subject to annual renewal by Parliament. If, at any time, in the Governments' assessment, the public emergency no longer exists or the extended power is no longer strictly required by the exigencies of the situation, then the Secretary of State will, by Order, repeal the provision.

*Domestic law powers of detention (other than under the Anti-terrorism, Crime and Security Act 2001)*

The Government has powers under the Immigration Act 1971 ("the 1971 Act") to remove or deport persons on the ground that their presence in the United Kingdom is not conducive to the public good on national security grounds. Persons can also be arrested and detained under Schedules 2 and 3 to the 1971 Act pending their removal or deportation. The courts in the United Kingdom have ruled that this power of detention can only be exercised during the period necessary, in all the circumstances of the particular case, to effect removal and that, if it becomes clear that removal is not going to be possible within a reasonable time, detention will be unlawful (R. v Governor of Durham Prison, ex parte Singh [1984] All ER 983).

*Article 5(1)(f) of the Convention*

It is well established that Article 5(1)(f) permits the detention of a person with a view to deportation only in circumstances where "action is being taken with a view to deportation" (Chahal v United Kingdom (1996) 23 EHRR 413 at paragraph 112). In that case the European Court of Human Rights indicated that detention will cease to be permissible under Article 5(1)(f) if deportation proceedings are not prosecuted with due diligence and that it was necessary in such cases to determine whether the duration of the deportation proceedings was excessive (paragraph 113).

In some cases, where the intention remains to remove or deport a person on national security grounds, continued detention may not be consistent with Article 5(1)(f) as interpreted by the Court in the *Chahal* case. This may be the case, for example, if the person has established that removal to their own country might result in treatment contrary to Article 3 of the Convention. In such circumstances, irrespective of the gravity of the threat to national security posed by the person concerned, it is well established that Article 3 prevents removal or deportation to a place where there is a real risk that the person will suffer treatment contrary to that article. If no alternative destination is immediately available then removal or deportation may not, for the time being, be possible even though the ultimate intention remains to remove or deport the person once satisfactory arrangements can be made. In addition, it may not be possible to prosecute the person for a criminal offence given the strict rules on the admissibility of evidence in the criminal justice system of the United Kingdom and the high standard of proof required.

*Derogation under Article 15 of the Convention*

The Government has considered whether the exercise of the extended power to detain contained in the Anti-terrorism, Crime and Security Act 2001 may be inconsistent with the obligations under Article 5(1) of the Convention. As indicated above, there may be cases where, notwithstanding a continuing intention to remove or deport a person who is being detained, it is not possible to say that "action is being taken with a view to deportation" within the meaning of Article 5(1)(f) as interpreted by the Court in the *Chahal* case. To the extent, therefore, that the exercise of the extended power may be inconsistent with the United Kingdom's obligations under Article 5(1), the Government has decided to avail itself of the right of derogation conferred by Article 15(1) of the Convention and will continue to do so until further notice.

**Note by the Secretariat** : The declaration constitutes a derogation formulated with respect to the relevant provisions.



3. CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE AND NATURAL HABITATS (ETS NO. 104, 19 SEPTEMBER 1979)<sup>14</sup>

**United Kingdom**, 24 October 2001, 26 November 2001, 25 November 2002.

"In accordance with Article 21, paragraph 2, of the Convention, the Government of the United Kingdom declares that the Convention shall extend to the Sovereign Base Areas of the United Kingdom in the island of Cyprus, subject to the following reservation made in accordance with Article 22, paragraph 2, of the Convention : the under-mentioned fauna species included in Appendix II will not be considered by the United Kingdom as enjoying the regime of protection provided by the said Convention for the species included in the said Appendix : *Vipera lebetina*."

**Note by the Secretariat** : The declaration and the reservation have been formulated with respect to the relevant provisions.

4. CONVENTION FOR THE PROTECTION OF INDIVIDUALS WITH REGARD TO AUTOMATIC PROCESSING OF PERSONAL DATA (ETS NO. 108), 28 JANUARY 1981<sup>15</sup>

**Latvia**, 30 May 2001, 15 June 2001, 14 June 2002

"In accordance with Article 3, paragraph 2, sub-paragraph a, of the Convention, the Republic of Latvia declares that it will not apply the above-said Convention to the following categories of automated personal data files :

1. which are subject to State secret;
2. which are processed by public institutions for the purposes of national security and criminal law."

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

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<sup>14</sup> *Relevant provisions* :

Article 21.2

Any Contracting Party may, when depositing its instrument of ratification, acceptance, approval or accession or at any later date, by declaration addressed to the Secretary General of the Council of Europe, extend the application of this Convention to any other territory specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings.

Article 22.2

Any Contracting Party which extends the application of this Convention to a territory mentioned in the declaration referred to in paragraph 2 of Article 21 may, in respect of the territory concerned, make one or more reservations in accordance with the provisions of the preceding paragraph.

<sup>15</sup> *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;

**Estonia**, 14 November 2001, 5 December 2001, 4 December 2002.

"In accordance with Article 3, paragraph 2, subparagraph a, of the Convention, the Republic of Estonia declares that it will not apply this Convention to the processing of personal data collected by natural persons for private purposes."

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

5. CONVENTION ON THE TRANSFER OF SENTENCED PERSONS (ETS NO. 112), 21 MARCH 1983<sup>16</sup>

**Azerbaijan**, 25 January 2001, 23 March 2001, 22 March 2002.

"The Republic of Azerbaijan hereby declares that the application of the procedures provided in Article 4, paragraph 5, of the Convention will be realised where it is compatible with the national law.

In accordance with Article 3, paragraph 3, of the Convention, the Republic of Azerbaijan declares that it totally excludes the procedures provided in Article 9, paragraph 1, subparagraph b, of the Convention."

**Note by the Secretariat** : As the Convention contains no general provisions relating to reservation, the first reservation made by Azerbaijan is allowed in as far as it is permitted by international law. An exchange of views has taken place during CAHDI's September 2001 meeting concerning this reservation. Azerbaijan has been asked to provide the Secretariat with the relevant legislation.

Concerning the second reservation, it has been formulated with respect to the relevant provisions.

6. EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES (ETS No. 148), 5 NOVEMBER 1992

**Azerbaijan**, 21 December 2001 (signature), 24 January 2002, 23 January 2003.

"The Republic of Azerbaijan declares that it is unable to guarantee the application of the provisions of the Charter in the territories occupied by the Republic of Armenia until these territories are liberated from that occupation (the schematic map of the occupied territories of the Republic of Azerbaijan is enclosed)."

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<sup>16</sup> 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 4 – Obligation to furnish information

- 5 The sentenced person shall be informed, in writing, of any action taken by the sentencing State or by the administering State under the preceding paragraphs, as well as of any decision taken by either State on a request for transfer.

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.

**Note by the Secretariat :** Azerbaijan deposited a similar declaration concerning the Framework Convention for the Protection of National Minorities (ETS No. 157).

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

**Belgium**, 31 July 2001 (signature), 9 August 2001, 8 August 2002.

"The Kingdom of Belgium declares that the Framework Convention applies without prejudice to the constitutional provisions, guarantees or principles, and without prejudice to the legislative rules which currently govern the use of languages. The Kingdom of Belgium declares that the notion of national minority will be defined by the inter-ministerial conference of foreign policy."

**Note by the Secretariat :** The Framework Convention contains no provisions relating to reservations or declarations. Reservations are allowed in as far as they are permitted by international law, as codified by the Vienna Convention. An exchange of views has taken place during CAHDI's September 2001 meeting. The Representative of Belgium explained the scope of the Framework Convention 's signature by the Federal Minister.

8. EUROPEAN CONVENTION ON NATIONALITY (ETS NO. 166), 6 NOVEMBER 1997<sup>17</sup>

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<sup>17</sup> *Relevant provisions :*

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

- 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.

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 11 – Decisions

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

Article 12 – Right to a review

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

Article 21 – Fulfilment of military obligations

- 3 Except where a special agreement which has been, or may be, concluded provides otherwise, the following provisions are applicable to persons possessing the nationality of two or more States Parties:
  - a Any such person shall be subject to military obligations in relation to the State Party in whose territory they are habitually resident. Nevertheless, they shall be free to choose, up to the age of 19 years, to submit themselves to military obligations as volunteers in relation to any other State Party of which they are also nationals for a total and effective period at least equal to that of the active military service required by the former State Party;

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:

(...)

**Hungary**, 21 November 2001, 5 December 2001, 4 December 2002

"With respect to Article 11, the Republic of Hungary declares to retain the right not to apply, in accordance with the Hungarian law in force, the rule that decisions relating to the acquisition of nationality contain reasons in writing.

With respect to Article 12, the Republic of Hungary declares to retain the right not to apply, in accordance with the Hungarian law in force, the rule that decisions relating to the acquisition of nationality be open to an administrative or judicial review.

With respect to Article 21, paragraph 3, sub-paragraph a, the Republic of Hungary declares to retain the right that

- only men living on the territory of the Republic of Hungary shall be considered to be subject to military obligations. Any such person possessing multiple nationality, who does not live on the territory of the country, may not be required to perform military or alternative service, nor may he perform such service as a volunteer;
- any such person possessing multiple nationality, who lives on the territory of the country and is subject to military obligations, shall not be exempted from being called to regular military service or civil service.

The Republic of Hungary declares that a person subject to military service shall be deemed not to have satisfied his military obligations up to the completion of age 30.

The Republic of Hungary shall review the grounds of the reservations made with respect to the European Convention before 30 June 2005."

**Note by the Secretariat** : The reservations and the declaration have been formulated with respect to the relevant provisions.

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

#### Article 29 – Reservations

- 1 No reservations may be made to any of the provisions contained in Chapters I, II and VI of this Convention. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, make one or more reservations to other provisions of the Convention so long as they are compatible with the object and purpose of this Convention.
- 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.
- 3 A State which has made one or more reservations in accordance with paragraph 1 shall consider withdrawing them in whole or in part as soon as circumstances permit. Such withdrawal shall be made by means of a notification addressed to the Secretary General of the Council of Europe and shall become effective as from the date of its receipt.
- 4 Any State which extends the application of this Convention to a territory mentioned in the declaration referred to in Article 30, paragraph 2, may, in respect of the territory concerned, make one or more reservations in accordance with the provisions of the preceding paragraphs.
- 5 A State Party which has made reservations in respect of any of the provisions in Chapter VII of the Convention may not claim application of the said provisions by another State Party save in so far as it has itself accepted these provisions.

#### Article 30 – Territorial application

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

8. CRIMINAL LAW CONVENTION ON CORRUPTION (ETS NO. 173), 27 JANUARY 1999<sup>18</sup>

**Bulgaria**, 7 November 2001, 26 November 2001, 25 November 2002.

"In accordance with Article 37, paragraph 1, of the Convention, the Republic of Bulgaria reserves the right not to establish as criminal offence under its domestic law the conduct referred to in Articles 6, 10 and 12 as well as the passive bribery offences defined in Article 5.

In accordance with Article 37, paragraph 1, of the Convention, the Republic of Bulgaria declares that it shall establish the conduct referred to in Articles 7 and 8 as criminal offence under its domestic law only if it comes under any of the definitions of criminal offences laid down in the Criminal Code of the Republic of Bulgaria."

**Notes by the Secretariat** : The reservations have been formulated with regard to the relevant provisions. The maximum number of reservations is respected if reservations to Articles 6 and 10 are considered as having a similar nature.

9. Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 177), 4 November 2000<sup>19</sup>

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<sup>18</sup> *Relevant provisions* :

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.

<sup>19</sup> *Relevant provisions* :

Protocol : Article 3 – Relationship to the Convention

As between the States Parties, the provisions of Articles 1 and 2 of this Protocol shall be regarded as additional articles to the Convention, and all the provisions of the Convention shall apply accordingly.

Convention : Articles 56 and 57

Article 56 – Territorial application

- 1 Any State may at the time of its ratification or at any time thereafter declare by notification addressed to the Secretary General of the Council of Europe that the present Convention shall, subject to paragraph 4 of this Article, extend to all or any of the territories for whose international relations it is responsible.
- 2 The Convention shall extend to the territory or territories named in the notification as from the thirtieth day after the receipt of this notification by the Secretary General of the Council of Europe.
- 3 The provisions of this Convention shall be applied in such territories with due regard, however, to local requirements.
- 4 Any State which has made a declaration in accordance with paragraph 1 of this article may at any time thereafter declare on behalf of one or more of the territories to which the declaration relates that it accepts the competence of the Court to receive applications from individuals, non-governmental organisations or groups of individuals as provided by Article 34 of the Convention.

**Georgia**, 15 June 2001, 11 September 2001, 10 September 2002.

"Georgia declines its responsibility for the violations of the provisions of the Protocol on the territories of Abkhazia and Tskhinvali region until the full jurisdiction of Georgia is restored over these territories."

**Note by the Secretariat :** Georgia has formulated similar declarations with respect to the European Convention on Extradition (ETS No. 24) and its Additional Protocol (ETS No. 86), the European Convention on the Suppression of Terrorism (ETS No. 90) and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ETS No. 126). However, Georgia has not deposited such declaration with respect to the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5). An exchange of views has taken place during CAHDI's September 2001 meeting. It was stressed that CAHDI would not prejudge a possible decision from the European Court of Human Rights concerning Georgia's declaration.

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#### Article 57 – Reservations

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