

Strasbourg, 29/08/2001

CAHDI (2001) 6

COMMITTEE OF LEGAL ADVISERS
ON PUBLIC INTERNATIONAL LAW
(CAHDI)

22nd meeting
Strasbourg, 11-12 September 2001

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

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

China¹, 27 March 2001, 3 April 2001, 2 April 2002

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

¹ 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 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."

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.”

PART II: RESERVATIONS AND DECLARATIONS TO COUNCIL OF EUROPE TREATIES

1. CONVENTION ON THE TRANSFER OF SENTENCED PERSONS (ETS No. : 112), 21 MARCH 1983²

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.”

Note by the Secretariat : The Framework Convention contains no provisions relating to reservations or declarations.

² *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.