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COMMITTEE OF LEGAL ADVISERS
ON PUBLIC INTERNATIONAL LAW
(CAHDI)

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EUROPEAN OBSERVATORY OF RESERVATIONS TO INTERNATIONAL
TREATIES:

LIST OF OUTSTANDING RESERVATIONS AND DECLARATIONS
TO INTERNATIONAL TREATIES

Secretariat memorandum
Prepared by the Directorate General of Legal Affairs

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

TURKEY, 29 January 2002, 25 February 2002, 24 February 2003

"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."

<i>Note by the Secretariat</i> : This is a withdrawal of derogation. Following this withdrawal, there is no longer any derogation into force concerning Turkey.

AZERBAIJAN, 15 April 2002, 25 April 2002, 24 April 2003

"According to Article 57 of the Convention, the Republic of Azerbaijan makes a reservation in respect of Articles 5 and 6 to the effect that the provisions of those Articles shall not hinder the application of extrajudicial disciplinary penalties involving the deprivation of liberty in accordance with Articles 48, 49, 50, 56-60 of the Disciplinary Regulations of Armed Forces adopted by the Law of the Republic of Azerbaijan No. 885 of 23 September 1994.

*Disciplinary Regulations of Armed Forces adopted by the Law of the Republic of
Azerbaijan*

*No. 885 of 23 September 1994 (Official Gazette of the Supreme Council of the
Republic of Azerbaijan » (« Azerbaijan Respublikasi Ali Sovetinin Melumatı »),
1995, No. 5-6, Article 93)*

48. *Soldiers and sailors:*

... d) can be arrested up to 10 days in "hauptvakht"(military prison).

49. *Temporary service ensigns:*

... g) can be arrested up to 10 days in "hauptvakht"(military prison).

50. *Outer-limit service ensigns:*

... g) can be arrested up to 10 days in "hauptvakht"(military prison).

56. *Battalion (4th degree naval) commander has the power:*

... g) to arrest soldiers, sailors and ensigns up to 3 days.

57. *Company (3rd degree naval) commander has the power:*

... g) to arrest soldiers, sailors and ensigns up to 5 days.

58. *Regiment (brigade) commander has the power:*

... g) to arrest soldiers, sailors and ensigns up to 7 days.

59. *Division, special brigade (naval brigade) commanders have the additional powers
other than those given to the Regiment (brigade) commanders:*

... a) to arrest soldiers, sailors and ensigns up to 10 days.

60. Corps commanders, commanders of any type of army, of the different types of armed forces, as well as deputies of Defense Minister have the power to wholly impose the disciplinary penalties, prescribed in the present Regulations, in respect of soldiers, sailors and ensigns under their charge."

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

"According to Article 57 of the Convention, the Republic of Azerbaijan makes a reservation in respect of Article 10, paragraph 1, to the effect that the provisions of that paragraph shall be interpreted and applied in accordance with Article 14 of the Law of the Republic of Azerbaijan "on Mass Media" of 7 December 1999.

*Law of the Republic of Azerbaijan "on Mass Media" of 7 December 1999
(Compilation of Legislation of the Republic of Azerbaijan
(« Azerbaijan Respublikasının Qanunvericilik Toplusu »), 2000, n° 2, Article 82)*

Article 14 :

... the establishment of mass media by legal persons and citizens of foreign states in the territory of the Republic of Azerbaijan shall be regulated by interstate treaties concluded by the Republic of Azerbaijan ("legal person of a foreign state" means a legal person of which the charter fund or more than 30% of the shares are owned by legal persons or citizens of foreign states, or a legal person of which 1/3 of founders are legal persons or citizens of foreign states)."

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

"The Republic of Azerbaijan declares that it will be unable to guarantee the application of the provisions of the Convention 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)."

Note by the Secretariat : Azerbaijan formulated a similar declaration to the Framework Convention for the Protection of National Minorities (ETS No. 157). The schematic map is reproduced as Appendix 1 to this document.

ARMENIA, 26 April 2002, 3 June 2002, 2 June 2003

"In accordance with Article 57 of the Convention (as amended by Protocol No.11) the Republic of Armenia makes the following reservation:

The provisions of Article 5 shall not affect the operation of the Disciplinary Regulations of the Armed Forces of the Republic of Armenia approved by Decree No. 247 of 12 August 1996 of the Government of the Republic of Armenia, under which arrest and isolation as disciplinary penalties may be imposed on soldiers, sergeants, ensigns and officers.

Extract of the Disciplinary Regulations of the Armed Forces of the Republic of Armenia (approved by Decree No. 247 of 12 August 1996 of the Government of

the Republic of Armenia)

Paragraph 51. Disciplinary penalties may be imposed on a serviceman for the breach of disciplinary order or public order and he will be subject to individual disciplinary responsibility.

[Servicemen who are subject to disciplinary sanctions]

Disciplinary penalties to be imposed on soldiers and sergeants:

Paragraph 54

- a. reprimand;
- b. severe reprimand;
- c. deprivation for conscripted soldiers of scheduled leave from their unit;
- d. detaining of conscripted soldiers for up to five extra tours of duty;
- e. arrest and isolation in the guard-house for up to ten days in the case of conscripted soldiers and for up to seven days in the case of soldiers serving under a contract;
- f. deprivation of the badge of excellence;
- g. early transfer to the reserve in the case of soldiers serving under a contract.

Paragraph 55

The following disciplinary penalties may be imposed on conscripted sergeants:

- a. reprimand;
- b. severe reprimand;
- c. deprivation of regularly scheduled leave from the unit;
- d. arrest and isolation in the guard-house for up to ten days;
- e. deprivation of the badge of excellence;
- f. demotion in post;
- g. demotion in rank by one grade;
- h. demotion in rank by one grade with transfer to a lower post;
- i. deprivation of the rank, as well as transfer to a lower post.

Paragraph 56

The following penalties may be imposed on sergeants serving under contract:

- a. reprimand;
- b. severe reprimand;
- c. arrest and isolation in the guard-house for up to seven days;
- d. deprivation of the badge of excellence;
- e. demotion in post;
- f. deprivation of the rank, as well as transfer to a lower post;
- g. early transfer to the reserve;
- h. deprivation of the sergeant's rank with the transfer to the reserve during peaceful period.

Paragraph 67

The following penalties may be imposed on ensigns:

- a. reprimand;
- b. severe reprimand;
- c. arrest and isolation in the guard-house for up to seven days;
- d. issue of a warning on service misfit;

- e. demotion in post;
- f. demotion in rank of senior ensign by one grade;
- g. demotion in rank of senior ensign by one grade with transfer to a lower post;
- h. early transfer to the reserve;
- i. deprivation of the rank of ensign, senior ensign with the transfer to the reserve during peaceful period.

Paragraph 74

The following penalties may be imposed on army officers (with the exception of high officers' staff):

- a. reprimand;
- b. severe reprimand;
- c. arrest and isolation in the guard-house for up to five days (officers commanding a regiment and a brigade, officers with colonelcy are not subject to isolation);
- d. issue of a warning on service misfit;
- e. demotion in post;
- f. demotion in rank by one grade starting from the lieutenant colonels and persons having lower ranks;
- g. early transfer to the reserve starting from the deputies of officers commanding a regiment and a brigade and officers having lower posts.

[Authorities entitled to impose disciplinary penalties]

Paragraph 62

Subparagraph d. Officers commanding a company are entitled to arrest and isolate soldiers, sergeants in the guard-house for up to three days.

Paragraph 63

Subparagraph d. Officers commanding a battalion are entitled to arrest and isolate in the guard-house conscripted soldiers and sergeants for up to five days and soldiers and sergeants serving under a contract for up to three days.

Paragraph 64

Subparagraph d. Officers commanding a regiment and a brigade are entitled to arrest in the guard-house conscripted soldiers and sergeants for up to ten days and servicemen and sergeants serving under a contract for up to seven days.

Paragraph 70

Subparagraph b. Officers commanding a regiment and a brigade are entitled to arrest and isolate ensigns in the guard-house for up to three days.

Paragraph 71

Subparagraph b. Officers commanding a brigade and a division are entitled to arrest and isolate ensigns in the guard-house for up to five days.

Paragraph 72

Subparagraph b. Officers commanding corps are entitled to arrest and isolate ensigns in the guard-house for up to seven days.

Paragraph 77

Subparagraph c. Officers commanding a regiment and a brigade are entitled to arrest and isolate officers of ensigns in the guard-house for up to three days.

Paragraph 78

Subparagraph a. Officers commanding corps, a brigade and a division are entitled to arrest and isolate officers of ensigns in the guard-house for up to four days.

Paragraph 79

Subparagraph a. Army commander is entitled to arrest and isolate officers in the guard-house for up to five days.

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

2. ADDITIONAL PROTOCOL TO THE CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS (ETS No. 9), 20 MARCH 1952¹

AZERBAIJAN, 15 April 2002, 25 April 2002, 24 April 2003

" The Republic of Azerbaijan declares that it interprets the second sentence of Article 2 of the Protocol in the sense that this provision does not impose on the State any obligation to finance religious education."

Note by the Secretariat : Similar interpretative declarations have been formulated by Bulgaria, Georgia, Germany, Moldova and Romania.

"The Republic of Azerbaijan declares that it will be unable to guarantee the application of the provisions of the Protocol 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)."

Note by the Secretariat : Azerbaijan formulated similar declarations to the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5) and the Framework Convention for the Protection of National Minorities (ETS No. 157). The schematic map is reproduced as Appendix 1 to this document.

GEORGIA, 7 June 2002, 12 August 2002, 11 August 2003

" The Parliament of Georgia declares that:

¹ *Relevant provisions* :

"Article 1 – Protection of property

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

Article 2 – Right to education

No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions."

1. Article 1 of the Protocol shall not apply to persons who have or will obtain status of “internally displaced persons” in accordance with “the Law of Georgia on Internally Displaced Persons” until the elimination of circumstances motivating the granting of this status (until the restoration of the territorial integrity of Georgia). In accordance with the aforementioned law, Georgia assumes responsibility to ensure the exercise of rights over property that exist on the place of permanent residence of internally displaced persons after the reasons mentioned in Article 1, paragraph 1, of this law have been eliminated.
2. Article 1 of the Protocol shall be applied to the operational sphere of “the Law of Georgia on the Ownership of Agricultural Land” in accordance with the requirements of Articles 4, 8, 15 and 19 of this Law.
3. Article 1 of the Protocol shall be applied within the limits of Articles 2 and 3 of the Law of Georgia on Transference into Private Property of the Non-Agricultural Lands Being in Possession of Natural Persons and Legal Persons of Private Law”.
4. Article 1 of the Protocol shall be applied within the limits of the “Law of Georgia on Privatisation of the State Property”.
5. With regard to the compensation of pecuniary assets placed on accounts of the former Georgian public-commercial banks, Article 1 of the Protocol shall be applied within the limits of the normative act adopted in pursuance of the Decree No. 258 of the President of Georgia of 2 July 2001.
6. Georgia declares that it interprets Article 2 of the Protocol as not imposing on the State additional financial commitments relating to special educational establishments (with a specific philosophical or religious orientation) other than those provided by the legislation of Georgia.”

Brief Statement of the Laws

(Reservations made by Georgia in respect of the provisions of the Additional Protocol to the European Convention on Human Rights)

I. In accordance with paragraph 1, Article 1 (Internally Displaced Person) of “the Law of Georgia on Internally Displaced Persons” adopted on June 28, 1996:

1. A citizen (national) of Georgia or a non-citizen but permanent resident of Georgia who was forced to leave the place of permanent residence and move (within the territory of Georgia) by reason of threat to his/her life, health or liberty, or that of his/her family members due to aggression from a foreign State, internal conflict or mass violation of human rights, is considered as internally displaced person.

2. Article 1 of the Protocol shall not apply to persons who, in accordance with this law, have or shall acquire the status of “internally displaced persons”, until the elimination of circumstances motivating the granting of such a status (until the restoration of the territorial integrity of Georgia) as stipulated by the requirement of the mentioned law, according to which Georgia assumes the responsibility to ensure the exercise of rights over the property existing on the place of permanent residence of internally displaced persons after the elimination of the reasons mentioned in Article 1, paragraph 1 of this law.

II. In accordance with Article 4 (Ownership of agricultural land) of “the law of Georgia on the Ownership of Agricultural Land” adopted on March 22, 1996:

1. Agricultural land is owned only by a Georgian citizen and a legal person registered in Georgia in accordance with the Georgian legislation.

2. The right to property of agricultural land is held by a natural person, family unit and a legal person registered in Georgia in accordance with the Georgian legislation.

3. In high mountainous regions, land may be held under private, community or state ownership.

4. In the villages of high mountainous regions, where community traditions are still in force, a community rule of ownership of pastures shall apply.

5. Pastures in high mountainous regions constitute the common village and community ownership. The boundaries of pastures among the villages are set with traditionally existing margins in accordance with the agreement between Sakrebulo (self-governing body) of neighbouring villages. In case of disagreement the dispute shall be settled by a court. Meadows are held under family unit ownership and are distributed by the Sakrebulo on the basis of the arrangement between the family units.

6. The village or community grants the possibility of returning to the village to those, who so desire out of the former permanent residents of this village by allotting them an agricultural land and a meadow territory. The issue of settlement in the deserted villages shall be decided jointly by town and village local self-governing bodies in accordance with the rule determined by the Georgian legislation.

7. “sakrebulo” of a village shall provide the newly settled persons with financial assistance obtained from local budget and the fund created through the donations, exploitation of natural resources, renting of pastures, various entrepreneurial activities and non-budgetary financial resources.

In accordance with Article 8 (General Limitation of Alienation and Preferential Right over the Purchase of Share of Common Property) of the same Law :

Each shareholder of an agricultural land existing under co-ownership, may dispose his share. However, the shared land shall only be disposed on a joint basis. In case of share sale, other shareholders shall have a preferential right to share procurement.

In accordance with Article 15 (Transactions, the Validity of which Requires a Special Permission) :

1. The alienation of an agricultural land and the transfer of a plot of land to another person on the basis of agreement, shall require a special permission in case of :

- a. use of agricultural lands for non-agricultural purposes (the change in purpose of use);
- b. transfer of a plot of land to the green zone, when the plot shall not be used for agriculture.

2. The following are equated with the alienation of the plot of land :

- a. ceding or alienation of a common property share on the plot of land ;
- b. burdening of a plot of land with the right to usufruct. Rule of usufruct is determined by the Civil Code of Georgia.

3. The decisive condition for the determination of the moment of alienation shall be :

- a. concluding the agreement according to which the property has to be transferred to purchaser;
- b. commencing the levying of a plot of land;
- c. while changing the purpose of use, the factory by which the authorized person is permitted to use land for non-agricultural use, or the act of a proprietor which causes the change of purpose in use of property;
- d. commencing the transfer of a plot of agricultural land to the green zone.

In accordance with Article 19 (The prohibitions while using and alienating a plot of agricultural land) :

The use of a plot of agricultural land for non-agricultural purposes is prohibited, except the cases prescribed by law.

III. In accordance with Article 2 (Application sphere of the law) of the “Law of Georgia on Transference into Private Property of the Non-agricultural Lands Being in Possession of Natural Persons and Legal Persons of Private Law” (October 28, 1998):

1. This law regulates the issue related to the granting of the right to private ownership on non-agricultural land of state property, that is in possession of natural persons and legal persons of private law.

2. The natural persons and legal persons of private law are accorded the right to private ownership on the following non-agricultural lands of state property used by them :

- a. plots of non-agricultural land, used by privatized (private) enterprises;
- b. plots of non-agricultural land apportioned, according to the established rule, for use by natural persons and legal persons of private law.

3. This law does not apply to :

- a. non-agricultural lands of state property in use of legal persons of public law;
- b. non-agricultural lands of state property in use of budgetary enterprises;
- c. lands occupied by main pipe-lines, underground communications, high-voltage power-transmission lines, railroad and other transport mains, seaports, hydro-technical constructions and the lands pertaining to their sanitary-technical zone, as well as the territories for moorage exploitations purposes and the lands of protective zones of state property constructions considered by a state as monuments of historical, natural and cultural heritage;
- d. plots of non-agricultural land allotted with the right of temporary use, which, according to the request of local self-government or administration should be restored to the original condition, mentioned in the document verifying the land use right;

- e. plots of non-agricultural land, which, after the enactment of the Civil Code of Georgia are qualified as the property of natural persons or legal persons of private law;
- f. all other plots of non-agricultural land which are not envisaged by the paragraph 2 of this article.

According to Article 3 (The rule of according the right to property on the plots of land used by natural persons and legal persons of private law:

1. Citizens of Georgia and legal persons of private law registered in accordance with the Georgian legislation are granted the right to private property on those non-agricultural plots of land which, prior to the entering into force of this law, have been allotted to them on the basis of the document verifying the use of land. To these plots of land the rules on the immovable things envisaged by the Civil Code of Georgia shall apply.

2. While according the right to property on a plot of land, a natural person or a legal person of private law shall pay one-time charge for each square metre, according to the annual tax rate for the non-agricultural land determined for October 1, 1998 by the Tax Code of Georgia.

3. The one-time charge determined by the paragraph 2 of this article, shall be paid before December 31, 1998; after the expiration of this period the amount shall be redoubled.

4. In case a natural person or a legal person of private law does not pay the one-time payment determined by this law, he/it shall be obliged to legalize a plot of land in the form of use (lease, right to build, usufruct, rental) stipulated by the Civil Code of Georgia. After paying the one-time payment defined by the paragraphs 2 and 3 of this article he/it shall be accorded the right to property on a land.

5. The payment of one-time charge for the acquisition of the right to property on land, does not release the subject having acquired a plot as private property from tax on land envisaged by the Tax Code of Georgia.

6. The plot of land apportioned, under the determined rule, to the natural and legal persons for the construction of block of flats, which according to the Civil Code of Georgia has not been declared as private property shall pass free of charge into the ownership of these persons, except those plots of land which have been assigned to the state bodies and organisations for the construction of block of flats.

IV. “The Law of Georgia on the Privatization of State Property” (May 30, 1997)

1. This law defines legal, economic, organizational and social basis for the privatization of state property, fundamental conditions of the realization of privatization and ensures, the process of acquisition of state property by natural and legal persons or their associations.

2. This law does not regulate the privatization of land and state housing funds.

V. In accordance with the Decree of the President of Georgia (July 2, 2001) “On some Measures for the Improvement of the Situation with Regard to the Compensation to the Population of Georgia of Pecuniary Assets Placed on Accounts of Former Georgian Public-Commercial Banks”

The decree of the President of Georgia envisages normative regulation of the above-mentioned issue and particularly, further indexation and regulation of the process of consecutive payback to the Georgian population of pecuniary assets placed on accounts of former state-commercial banks."

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

"Georgia declares, that due to the existing situation in Abkhazia and Tskhinvali region, Georgian authorities are unable to undertake commitments concerning the respect and protection of the provisions of the Convention and its Additional Protocols on these territories. Georgia therefore declines its responsibility for violations of the provisions of the Protocol by the organs of self-proclaimed illegal forces on the territories of Abkhazia and Tskhinvali region until the possibility of realization of 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), the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ETS No. 126) and Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 177). 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.

3. EUROPEAN CONVENTION ON EXTRADITION (ETS No. 24), 13 DECEMBER 1957²

² *Relevant provisions:*

"Article 1 – Obligation to extradite

The Contracting Parties undertake to surrender to each other, subject to the provisions and conditions laid down in this Convention, all persons against whom the competent authorities of the requesting Party are proceeding for an offence or who are wanted by the said authorities for the carrying out of a sentence or detention order."

"Article 6 – Extradition of nationals

- 1 a A Contracting Party shall have the right to refuse extradition of its nationals."

"Article 21 - Transit

(...)

- 5 A Party may, however, at the time of signature or of the deposit of its instrument of ratification of, or accession to, this Convention, declare that it will only grant transit of a person on some or all of the conditions on which it grants extradition. In that event, reciprocity may be applied.
(...)"

"Article 23 – Language to be used

The documents to be produced shall be in the language of the requesting or requested Party. The requested Party may require a translation into one of the official languages of the Council of Europe to be chosen by it."

AZERBAIJAN, 28 June 2002, 12 August 2002, 11 August 2003

"Article 1

The Republic of Azerbaijan reserves the right not to grant extradition on humanitarian grounds taking into consideration the age or state of health of the person sought.

The Republic of Azerbaijan will refuse the extradition if there are sufficient grounds for supposing that the extradition would affect the sovereignty or national security of the Republic of Azerbaijan.

The Republic of Azerbaijan will refuse to grant extradition if there are sufficient grounds for supposing that the person requested for extradition will be exposed to torture or other cruel, inhuman or degrading treatment or punishment in the requesting State.

The Republic of Azerbaijan will not grant extradition if there are sufficient grounds for supposing that the person requested for the extradition will be persecuted for reasons of race, nationality, language, religion, citizenship or political opinion.

Article 6, paragraph 1a

The Republic of Azerbaijan declares that according to Article 53 (II) of the Constitution of the Republic of Azerbaijan in no circumstances a citizen of the Republic of Azerbaijan shall be extradited to another State. In this respect the Republic of Azerbaijan in any case will refuse to extradite its citizens.

Article 21

The Republic of Azerbaijan declares that transit of extradited persons through the territory of the Republic of Azerbaijan will be allowed subject to the observance of the same conditions as for extradition.

Article 23

The Republic of Azerbaijan declares that the requests for extradition and the documents annexed thereto must be submitted with a translation into Azerbaijani language."

Note by the Secretariat : The reservations and declarations have been formulated with respect to the relevant provisions. With regard to the choice of languages (Article 23), the Convention provides however that the requested State may require a translation into one of the official languages of the Council of Europe.

"The Republic of Azerbaijan declares that it is unable to guarantee the application of the provisions of the Convention and its additional Protocols 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)."

Note by the Secretariat : Azerbaijan formulated similar declarations to the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5) and the Framework Convention for the Protection of National Minorities (ETS No. 157). The schematic map is reproduced as Appendix 1 to this document.

4. PROTOCOL NO. 4 TO THE CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, SECURING CERTAIN RIGHTS AND FREEDOMS OTHER THAN THOSE ALREADY INCLUDED IN THE CONVENTION AND IN THE FIRST PROTOCOL THERETO (ETS No. 46), 16 SEPTEMBER 1963

AZERBAIJAN, 15 April 2002, 25 April 2002, 24 April 2003

"The Republic of Azerbaijan declares that it is unable to guarantee the application of the provisions of the Protocol 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)."

Note by the Secretariat : Azerbaijan formulated similar declarations to the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5) and the Framework Convention for the Protection of National Minorities (ETS No. 157). The schematic map is reproduced as Appendix 1 to this document.

5. ADDITIONAL PROTOCOL TO THE EUROPEAN CONVENTION ON EXTRADITION (ETS No. 86), 15 OCTOBER 1975

AZERBAIJAN, 28 June 2002, 12 August 2002, 11 August 2003

"The Republic of Azerbaijan declares that it is unable to guarantee the application of the provisions of the Convention and its additional Protocols 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)."

Note by the Secretariat : Azerbaijan formulated similar declarations to the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5) and the Framework Convention for the Protection of National Minorities (ETS No. 157). The schematic map is reproduced as Appendix 1 to this document.

6. SECOND ADDITIONAL PROTOCOL TO THE EUROPEAN CONVENTION ON EXTRADITION (ETS No. 98), 13 MARCH 1978

AZERBAIJAN, 28 June 2002, 12 August 2002, 11 August 2003

"The Republic of Azerbaijan declares that it is unable to guarantee the application of the provisions of the Convention and its additional Protocols 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)."

Note by the Secretariat : Azerbaijan formulated similar declarations to the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5) and the Framework Convention for the Protection of National Minorities (ETS No. 157). The schematic map is reproduced as Appendix 1 to this document.

7. PROTOCOL NO. 6 TO THE CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS CONCERNING THE ABOLITION OF THE DEATH PENALTY (ETS NO. 114), 28 APRIL 1983

AZERBAIJAN, 15 April 2002, 25 April 2002, 24 April 2003

"The Republic of Azerbaijan declares that it is unable to guarantee the application of the provisions of the Protocol 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)."

Note by the Secretariat : Azerbaijan formulated similar declarations to the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5) and the Framework Convention for the Protection of National Minorities (ETS No. 157). The schematic map is reproduced as Appendix 1 to this document.

8. PROTOCOL NO. 7 TO THE CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS (ETS No. 117), 22 NOVEMBER 1984

AZERBAIJAN, 15 April 2002, 25 April 2002, 24 April 2003

"The Republic of Azerbaijan declares that it is unable to guarantee the application of the provisions of the Protocol 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)."

Note by the Secretariat : Azerbaijan formulated similar declarations to the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5) and the Framework Convention for the Protection of National Minorities (ETS No. 157). The schematic map is reproduced as Appendix 1 to this document.

9. EUROPEAN CONVENTION FOR THE PREVENTION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT AS AMENDED BY ITS PROTOCOLS No. 1 AND No. 2 (ETS No. 126), 26 NOVEMBER 1987

AZERBAIJAN, 15 April 2002, 25 April 2002, 24 April 2003

"The Republic of Azerbaijan declares that it is unable to guarantee the application of the provisions of the Convention 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)."

Note by the Secretariat : Azerbaijan formulated similar declarations to the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5) and the Framework Convention for the Protection of National Minorities (ETS No. 157). The schematic map is reproduced as Appendix 1 to this document.

10. EUROPEAN SOCIAL CHARTER (REVISED) (ETS No. 163), 3 MAY 1996³

PORTUGAL, 30 May 2002, 28 June 2002, 27 June 2003

"The Republic of Portugal declares that:

a) it will not apply Article 2, paragraph 6 to contracts with a duration not exceeding one

³ *Relevant provisions :*

"Article 2 – The right to just conditions of work

(...)

- 6 to ensure that workers are informed in written form, as soon as possible, and in any event not later than two months after the date of commencing their employment, of the essential aspects of the contract or employment relationship;"

"Article 6 – The right to bargain collectively

With a view to ensuring the effective exercise of the right to bargain collectively, the Parties undertake:

- 1 to promote joint consultation between workers and employers;
- 2 to promote, where necessary and appropriate, machinery for voluntary negotiations between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements;
- 3 to promote the establishment and use of appropriate machinery for conciliation and voluntary arbitration for the settlement of labour disputes;

and recognise:

- 4 the right of workers and employers to collective action in cases of conflicts of interest, including the right to strike, subject to obligations that might arise out of collective agreements previously entered into."

"Article A – Undertakings

- 1 Subject to the provisions of Article B below, each of the Parties undertakes:
 - a to consider Part I of this Charter as a declaration of the aims which it will pursue by all appropriate means, as stated in the introductory paragraph of that part;
 - b to consider itself bound by at least six of the following nine articles of Part II of this Charter: Articles 1, 5, 6, 7, 12, 13, 16, 19 and 20;
 - c to consider itself bound by an additional number of articles or numbered paragraphs of Part II of the Charter which it may select, provided that the total number of articles or numbered paragraphs by which it is bound is not less than sixteen articles or sixty-three numbered paragraphs.
- 2 The articles or paragraphs selected in accordance with sub-paragraphs b and c of paragraph 1 of this article shall be notified to the Secretary General of the Council of Europe at the time when the instrument of ratification, acceptance or approval is deposited.
- 3 Any Party may, at a later date, declare by notification addressed to the Secretary General that it considers itself bound by any articles or any numbered paragraphs of Part II of the Charter which it has not already accepted under the terms of paragraph 1 of this article. Such undertakings subsequently given shall be deemed to be an integral part of the ratification, acceptance or approval and shall have the same effect as from the first day of the month following the expiration of a period of one month after the date of the notification.
- 4 Each Party shall maintain a system of labour inspection appropriate to national conditions."

month or to those with an ordinary working week not exceeding eight hours, and to those of a particular or occasional nature;

b) the obligation under Article 6 does not prejudice, with respect to paragraph 4, the prohibition of *lockouts*, as specified in paragraph 4 of Article 57 of the Constitution.

Note by the Secretariat : Portugal accepted all the provisions contained in Part II of the Charter, subject to the two above-mentioned declarations.

11. EUROPEAN CONVENTION ON NATIONALITY (ETS NO. 166), 6 NOVEMBER 1997⁴

DENMARK, 24 July 2002, 12 August 2002, 11 August 2003

"Denmark makes the reservation to the effect that Article 12 of the Convention shall not be binding on Denmark.

Referring to Article 29, paragraph 2, of the Convention, Denmark wishes, in that connection, to notify the Secretary General of the Council of Europe of the following:

Pursuant to section 44 of the Danish Constitution, naturalisation shall be granted by law. The Folketing (Danish Parliament) and, on behalf of the Folketing, the Naturalisation Committee of the Folketing are not part of the public administration and, consequently, are not bound by the general rules of administrative law, which implies that there is no right to an administrative review.

⁴ *Relevant provisions* :

"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 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."

Introducing a right to review into the Danish procedure of considering applications for Danish nationality by naturalisation, cf. Article 12 of the Convention, would require an amendment to the Danish Constitution.

Pursuant to Article 22, sub-paragraph b of the Convention, Denmark shall uphold her declaration of 9 July 1980 concerning Article 6, paragraph 3, second sub-paragraph, of the European Convention on the Reduction of Cases of Multiple Nationality and Military Obligations in Cases of Multiple Nationality as amended by the Protocol of 24 November 1977.

It follows from this declaration that persons who are also nationals of a State Party, which does not require obligatory military service, shall be exempted from Danish military obligations only when they have had their habitual residence in the territory of that State Party from the age of 18 years to the age of 26 years.

<p><i>Note by the Secretariat</i> : The reservations and the declaration have been formulated with respect to the relevant provisions.</p>
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APPENDIX 1 - Schematic map - Azerbaijan

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

