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

**38<sup>th</sup> meeting  
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**EUROPEAN OBSERVATORY OF RESERVATIONS TO INTERNATIONAL TREATIES: LIST  
OF OUTSTANDING RESERVATIONS AND DECLARATIONS  
TO INTERNATIONAL TREATIES**

Document prepared by the Secretariat of the CAHDI

**Foreword**

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

**Action required**

Members of the CAHDI are called upon to consider the following outstanding reservations and declarations in the context of its operation as a European observatory of reservations to international treaties. A table of objections to these reservations and declarations is circulated as an Addendum to this document.

## List of outstanding reservations and declarations

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

#### **A. CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES AND OPTIONAL PROTOCOL THERETO, NEW YORK, 13 DECEMBER 2006**

##### **1. EL SALVADOR, 30 March 2007, 18 April 2007**

###### ***Reservation made upon signature***

The Government of the Republic of El Salvador signs the present Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto, adopted by the United Nations General Assembly on 13 December 2006, to the extent that its provisions do not prejudice or violate the provisions of any of the precepts, principles and norms enshrined in the Constitution of the Republic of El Salvador, particularly in its enumeration of principles.

##### **2. MAURITIUS, 25 September 2007, 28 September 2007**

###### ***Reservation made upon signature***

The Government of the Republic of Mauritius makes the following reservations in relation to Article 11 of the United Nations Convention on the Rights of Persons with Disabilities<sup>1</sup> which pertains to situations of risk and humanitarian emergencies.

The Government of Mauritius signs the present Convention subject to the reservation that it does not consider itself bound to take measures specified in article 11 unless permitted by domestic legislation expressly providing for the taking of such measures.

##### **3. REPUBLIC OF KOREA, 11 December 2008, 18 December 2008, 17 December 2009**

###### ***Reservation***

“... with a reservation on the provision regarding life insurance in the paragraph (e) of the Article 25.”<sup>2</sup>

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<sup>1</sup> **Article 11 Situations of risk and humanitarian emergencies:**

States Parties shall take, in accordance with their obligations under international law, including international humanitarian law and international human rights law, all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters.

<sup>2</sup> **Article 25 Health:**

States Parties recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability. States Parties shall take all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation. In particular, States Parties shall:

(...)

(e) Prohibit discrimination against persons with disabilities in the provision of health insurance, and life insurance where such insurance is permitted by national law, which shall be provided in a fair and reasonable manner; (...).

**B. CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION  
AGAINST WOMEN, NEW YORK, 18 DECEMBER 1979**

**4. QATAR**, 29 April 2009, 8 May 2009, 7 May 2010

***Reservations and declarations***

**I. Reservations**

For the reasons explained below, the state of Qatar does not consider itself bound by the following provisions of the Convention:

1. Article 2 (a)<sup>3</sup> in connection with the rules of the hereditary transmission of authority, as it is inconsistent with the provisions of article 8 of the Constitution.
2. Article 9, paragraph 2,<sup>4</sup> as it is inconsistent with Qatar's law on citizenship.
3. Article 15, paragraph 1,<sup>5</sup> in connection with matters of inheritance and testimony, as it is inconsistent with the provisions of Islamic law.
4. Article 15, paragraph 4,<sup>6</sup> as it is inconsistent with the provisions of family law and established practice.
5. Article 16, paragraph 1 (a) and (c),<sup>7</sup> as they are inconsistent with the provisions of Islamic law.
6. Article 16, paragraph 1 (f), as it is inconsistent with the provisions of Islamic law and family law. The State of Qatar declares that all of its relevant national legislation is conducive to the interest of promoting social solidarity.

**II. Declarations**

1. The Government of the State of Qatar accepts the text of Article 1 of the Convention<sup>8</sup> provided that, in accordance with the provisions of Islamic law and Qatari legislation, the phrase "irrespective of their marital status" is not intended to encourage family relationships outside legitimate marriage. It reserves the right to implement the Convention in accordance with this understanding.

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<sup>3</sup> **Article 2 (a):**

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

(a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle; (...).

<sup>4</sup> **Article 9, paragraph 2:**

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

<sup>5</sup> **Article 15, paragraph 1:**

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

<sup>6</sup> **Article 15, paragraph 4:**

States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

<sup>7</sup> **Article 16, paragraph 1:**

States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

(a) The same right to enter into marriage;

(...)

(c) The same rights and responsibilities during marriage and at its dissolution;

(...)

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

<sup>8</sup> **Article 1:**

For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

2. The State of Qatar declares that the question of the modification of “patterns” referred to in article 5 (a)<sup>9</sup> must not be understood as encouraging women to abandon their role as mothers and their role in child-rearing, thereby undermining the structure of the family.

3. In accordance with article 29, paragraph 2, of the Convention<sup>10</sup>, the State of Qatar declares, under the terms of that text, that it does not consider itself bound by paragraph 1 of that article.

Therefore, having studied and approved the Convention, we confirm by this instrument that we accept the Convention, accede to it and undertake to abide by its provisions, while affirming and bearing in mind the reservations and declarations mentioned above.

**C. PROTOCOL ADDITIONAL TO THE GENEVA CONVENTIONS OF 12 AUGUST 1949, AND RELATING TO THE ADOPTION OF AN ADDITIONAL DISTINCTIVE EMBLEM (PROTOCOL III), 8 DECEMBER 2005**

**5. ISRAEL**, 22 November 2007, 22 November 2007, 21 November 2008<sup>11</sup>

***Declaration***

The Government of Israel declares that while respecting the inviolability of the additional distinctive emblem provided for in the “Protocol additional to the Geneva Conventions of 12 August 1979, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III)”, it is understanding of the Government of Israel that the ratification or the implementation of this protocol does not affect any rights acquired pursuant to reservations made by Israel to the Geneva Conventions of 12 August 1949.

**D. INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS, NEW YORK, 16 DECEMBER 1966**

**6. BAHAMAS**, 23 December 2008, 6 January 2009, 5 January 2010

***Reservation***

The Government of The Bahamas recognizes and accepts the principle of compensation for wrongful imprisonment contained in paragraph 6 of Article 14,<sup>12</sup> but the problems of implementation are such that the right not to apply that principle is presently reserved.

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<sup>9</sup> **Article 5:**

States Parties shall take all appropriate measures:

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

<sup>10</sup> **Article 29:**

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

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

<sup>11</sup> **Note of the Secretariat:** the deadline to object to this reservation has passed, however it has been decided to keep this reservation on the list in the light of the discussion held during the CAHDI's 36<sup>th</sup> meeting (See Para. 87 of the 36<sup>th</sup> report).

<sup>12</sup> **Article 4 :**

6. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of Justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

**E. 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 (PROTOCOL III), GENEVA, 10 OCTOBER 1980**

**7. UNITED STATES OF AMERICA**, 21 January 2009, 5 February 2009, 4 February 2010

***Reservation***

The United States of America, with reference to Article 2, paragraphs 2 and 3,<sup>13</sup> reserves the right to use incendiary weapons against military objectives located in concentrations of civilians where it is judged that such use would cause fewer casualties and/or less collateral damages than alternative weapons, but in so doing will take all feasible precautions with a view to limiting the incendiary effects to the military objective and to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects.

**F. CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE SPECIALIZED AGENCIES, NEW-YORK, 21 NOVEMBER 1947**

**8. SAUDI ARABIA**, 20 April 2009, 1 May 2009, 30 April 2010

***Reservation***

1 . Saudi Arabia does not consider itself bound by Article IX, Section 32 of the Convention with regard to any differences arising out of the interpretation or application of the Convention being referred to the International Court of Justice.

2 . Should the authorities in Saudi Arabia suspect that the diplomatic pouch or any package therein contains matter that may not properly be conveyed through that pouch, those authorities may demand that the pouch is opened in their presence and that of a representative appointed by the accredited diplomatic mission . Should that demand be refused, the diplomatic pouch or package shall be returned to its place of origin.

In accordance with established practice, the instrument will be deposited with the Secretary-General upon receipt of the approval of the reservations by the Specialized Agencies concerned.

**G. INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF ACTS OF NUCLEAR TERRORISM, NEW YORK, 13 APRIL 2005**

**9. EGYPT**, 20 September 2005, 3 November 2005

***Reservation made upon signature***

The Arab Republic of Egypt declares its commitment to article 4 of the Convention<sup>14</sup> provided that the armed forces of a State do not violate the rules and principles of international law in the

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<sup>13</sup> **Article 2 Protection of civilians and civilian objects:**

(...)

2. It is prohibited in all circumstances to make any military objective located within a concentration of civilians the object of attack by air-delivered incendiary weapons.

3. It is further prohibited to make any military objective located within a concentration of civilians the object of attack by means of incendiary weapons other than air-delivered incendiary weapons, except when such military objective is clearly separated from the concentration of civilians and all feasible precautions are taken with a view to limiting the incendiary effects to the military objective and to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects.

(...)

<sup>14</sup> **Article 4 :**

1. Nothing in this Convention shall affect other rights, obligations and responsibilities of States and individuals under international law, in particular the purposes and principles of the Charter of the United Nations and international humanitarian law.

exercise of their duties under that article, and also provided that the article is not interpreted as excluding the activities of armed forces during an armed conflict from the scope of application of this Convention on the grounds that the activities of States - under certain legal circumstances - are not considered terrorist activities.

The Arab Republic of Egypt declares that it does not consider itself bound by paragraph 1 of article 23 of the Convention<sup>15</sup>.

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2. The activities of armed forces during an armed conflict, as those terms are understood under international humanitarian law, which are governed by that law are not governed by this Convention, and the activities undertaken by military forces of a State in the exercise of their official duties, inasmuch as they are governed by other rules of international law, are not governed by this Convention.

3. The provisions of paragraph 2 of the present article shall not be interpreted as condoning or making lawful otherwise unlawful acts, or precluding prosecution under other laws.

4. This Convention, does not address, nor can it be interpreted as addressing, in any way, the issue of the legality of the use or threat of use of nuclear weapons by States.

<sup>15</sup> **Article 23 :**

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation within a reasonable time shall, at the request of one of them, be submitted to arbitration. If, within six months of the date of the request for arbitration, any one of those parties may refer the dispute to the International Court of Justice, by application, in conformity with the Statute of the Court.

2. Each State may, at the time of signature, ratification, acceptance or approval of this Convention or accession thereto, declare that it does not consider itself bound by paragraph 1 on the present article. The other States Parties shall not be bound by paragraph 1 with respect to any State Party which has made such a reservation.

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

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

**A. CONVENTION ON CYBERCRIME, BUDAPEST, 23 NOVEMBER 2001**

**1. ARMENIA, 29 June 2009, 3 July 2009, 2 July 2010**

***Declaration***

In relation with the Declaration made by the Republic of Azerbaijan to the Convention on Cybercrime of 23 November 2001 (ETS No. 185) at the time of its signature on 30 June 2008, in accordance with Article 38 of the Convention, the Republic of Armenia declares:

The Republic of Azerbaijan deliberately distorts the core and essence of the Nagorno Karabakh issue with respect to the cause and effect of the conflict originated as consequence of Azerbaijan's policies of ethnic cleansing against the people of the Nagorno Karabakh, aimed at the suppression of its free will and followed by large-scale military aggression against the self-determined Nagorno Karabakh Republic. As a result, several territories of the Nagorno Karabakh Republic have been occupied by the Republic of Azerbaijan and some territories of Azerbaijan came under the control of the Nagorno Karabakh Republic.

Furthermore, Article 38 of the Convention, to which the Declaration of the Republic of Azerbaijan refers, is not applicable in respect of the Republic of Azerbaijan. The clause on territorial application deals only with European States with territories having special status, such as overseas territories, allowing these States to extend the application of the Convention to those territories.

**B. EUROPEAN CONVENTION ON EXTRADITION, PARIS, 13 DECEMBER 1957**

**2. SAN MARINO, 18 March 2009, 2 April 2009, 1 April 2010**

***Reservation***

(...)

Concerning Article 28<sup>16</sup>: The Republic of San Marino declares that all bilateral agreements on extradition made with the Contracting Parties of the Convention will remain in force.

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<sup>16</sup> **Article 28 – Relations between this Convention and bilateral Agreements**

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