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COMMITTEE OF LEGAL ADVISERS ON PUBLIC INTERNATIONAL LAW

(CAHDI)

Reactions to reservations and declarations to international treaties previously examined by the CAHDI

57th meeting
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Public International Law Division
Directorate of Legal Advice and Public International Law, DLAPIL

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FOREWORD

Since 1998, the CAHDI operates as European Observatory of Reservations to International Treaties and regularly considers a list of reservations subject to objection.

This document presents the reactions of member and observer States of the CAHDI to reservations and declarations subject to objection, examined by the Committee at its previous meetings and for which the deadline for objection has expired, since the last CAHDI meeting.

Appendix I contains the text of the reservations and declarations to treaties concluded outside the Council of Europe. Appendix II contains the text of the reservations and declarations to treaties concluded inside the Council of Europe. The format of the information contained in these appendices is the following:



TABLE OF OBJECTIONS

LEGEND

Sign. : Made upon signature

- State has objected
- ◆ State has made a declaration
- ◀ State has objected to the original reservation(s), in case of a (partial) withdrawal
- State considers the reservation to have been formulated belatedly

TREATIES

RESERVATIONS AND DECLARATIONS TO TREATIES CONCLUDED OUTSIDE THE COUNCIL OF EUROPE

- A. Arms Trade Treaty (2013)
- B. Doha Amendment to the Kyoto protocol (2012)
- C. Optional Protocol to the Convention on the Rights of the Child on a Communication Procedure (2011)
- D. Convention on the Rights of Persons with Disabilities (2006)
- E. Protocol on the Privileges and Immunities of the International Seabed Authority (1998)
- F. International Covenant on Economic, Social and Cultural Rights (1966)

RESERVATIONS AND DECLARATIONS TO TREATIES CONCLUDED OUTSIDE THE COUNCIL OF EUROPE

- G. Council of Europe Convention on an Integrated Safety, Security and Service Approach at Football Matches and Other Sports Events (2016) – CETS No. 218
- H. Council of Europe Convention on the Counterfeiting of Medical Products and Similar Crimes involving Threats to Public Health (2011) – CETS No. 211
- I. Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (2005) – CETS No. 198

APPENDICES

APPENDIX I - RESERVATIONS AND DECLARATIONS TO TREATIES CONCLUDED
OUTSIDE THE COUNCIL OF EUROPEA. ARMS TRADE TREATY (2013)

1. KAZAKHSTAN

8 December 2017, 8 December 2017, 8 December 2018*Interpretative declaration*

“The Republic of Kazakhstan, recognizing the object and purpose of the Treaty and notwithstanding Article 28 of the Treaty, declares that in the application of the Treaty the term “перенаправление” (diversion) in Article 13, paragraph 2 of the Treaty in Russian shall be understood as “незаконное перенаправление” (illegal diversion).”

Article 13 - Reporting

[...]

2. States Parties are encouraged to report to other States Parties, through the Secretariat, information on measures taken that have been proven effective in addressing the diversion of transferred conventional arms covered under Article 2(1).

B. DOHA AMENDMENT TO THE KYOTO PROTOCOL (2012)

2. VENEZUELA

1 March 2018, 2 March 2018, 2 March 2019*Declaration*

“The Bolivarian Republic of Venezuela does not accept the implementation of carbon market mechanisms or mechanisms for the trading of emission rights or units under schemes or arrangements that transgress the rules and norms established in the Convention and environmental integrity, nor does it accept the continuation, proliferation and strengthening of the aforesaid mechanisms through future alliances with other mechanisms of a similar nature that may be established in other international instruments or treaties adopted by the Conference of the Parties to the United Nations Framework Convention on Climate Change.

For the Bolivarian Republic of Venezuela, this acceptance also involves the strict interpretation and application of the principle of common but differentiated responsibilities, in that the greenhouse gas emission limitation and reduction commitments are exclusive obligations of Annex I countries, in accordance with the principles established in the United Nations Framework Convention on Climate Change, which constitute the basis of the Kyoto Protocol, and any other future agreement regulating the subject.

For the Bolivarian Republic of Venezuela, no provision of this Amendment, nor subsequent applications thereof through decisions of the Conference of the Parties, shall constitute a renunciation of any of its rights under international law, nor shall the application thereof be interpreted as a renunciation of or derogation from the general principles of international law, it being understood that all the provisions of article 2, paragraph 3, of the Kyoto Protocol and of articles 2 and 3 as well as article 4, paragraphs 8 and 10, of the United Nations Framework Agreement on Climate Change are in the national interest.”

C. OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON A COMMUNICATION PROCEDURE (2011)

3. TURKEY

26 December 2017, 27 December, 27 December 2018

Declaration

“The Republic of Turkey declares with regard to the competence of the Committee on the Rights of the Child as provided for by the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, that the reservations and declarations it made to the Convention on the Rights of the Child, to the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in armed conflict and to the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography fully retain their validity.”

*** *Previous declarations and reservations referred to in the Declaration:***

- Reservation to the Convention on the Rights of the Child

“The Republic of Turkey reserves the right to interpret and apply the provisions of articles 17, 29 and 30 of the United Nations Convention on the Rights of the Child according to the letter and the spirit of the Constitution of the Republic of Turkey and those of the Treaty of Lausanne of 24 July 1923.”

Article 17

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health.

To this end, States Parties shall:

- (a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;*
- (b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;*
- (c) Encourage the production and dissemination of children's books;*
- (d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;*
- (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.*

Article 29

1. States Parties agree that the education of the child shall be directed to:

- (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;*
- (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;*
- (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;*
- (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;*
- (e) The development of respect for the natural environment.*

2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 30

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practice his or her own religion, or to use his or her own language.

- Declarations and reservation and to the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict

Declaration and reservations:

"1. The Republic of Turkey declares that it will implement the provisions of the existing Optional Protocol only to the States Parties which it recognizes and with which it has diplomatic relations.

The Republic of Turkey declares, in accordance with Article 3 (2) of the Optional Protocol, that military service is compulsory in Turkey, however Turkish citizens are not subjected to compulsory military service before reaching the legal age of maturity. In accordance with the Turkish Military Code, military service begins on 1st January of the twentieth age; in cases of mobilisation and state of emergency, individuals who are liable to military service may be recruited at the age of 19. There is no voluntary recruitment in Turkey.

However, Article 11 of the Military Code envisages a voluntary recruitment for navy and gendarmerie classes and non-commissioned officers at a minimum age of 18. Nevertheless, this article, which is in compliance with the age regulation of the Optional Protocol, is not applied in practice.

Students of military schools, who are exempted from the Optional Protocol according to Article 3 (5) of this protocol, are not subjected to compulsory military service. Under the Turkish legal system, such students are not considered as "soldiers" and are not held liable for "military service".

2. Admittance to the military high schools and preparatory non-commissioned officer schools is on a voluntary basis, depending on success in the entrance examinations and with the consent of parents or legal guardians.

Students who have completed their primary school education and enrolled into such schools at a minimum age of 15 can quit them at any time if they so wish."

3. The Republic of Turkey declares with regard to Article 3 (5) of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict that the reservation it made to Article 29 of the Convention on the Rights of the Child, which is referred to in the said paragraph of the Optional Protocol, fully retains its validity."

Article 3

2. 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."

[...]

5. The requirement to raise the age in paragraph 1 of the present article does not apply to schools operated by or under the control of the armed forces of the States Parties, in keeping with articles 28 and 29 of the Convention on the Rights of the Child.

- Declaration Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography

"The Republic of Turkey declares that it will implement the provisions of the existing Optional Protocol only to the States Parties which it recognizes and with which it has diplomatic relations."

D. CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (2006)

4. LIBYA

13 February 2018, 15 February 2018, 15 February 2019

Declaration

“... the State of Libya, having reviewed the above-mentioned Convention, ratifies the Convention and interprets article 25 (a) thereof, concerning the provision of health-care services without discrimination on the basis of disability, in a manner that does not contravene the Islamic sharia and national legislation...”

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:

(a) Provide persons with disabilities with the same range, quality and standard of free or affordable health care and programmes as provided to other persons, including in the area of sexual and reproductive health and population-based public health programmes;”

E. PROTOCOL ON THE PRIVILEGES AND IMMUNITIES OF THE INTERNATIONAL SEABED AUTHORITY (1998)

5. JORDAN

21 December 2017, 27 December 2017, 27 December 2018

Reservations

“... with reservations to articles 8 (2) (c), 8 (2) (g), 14 (1) (b) and 14 (2)...”

Article 14 - Settlement of disputes

1. In connection with the implementation of the privileges and immunities granted under this Protocol, the Authority shall make suitable provision for the proper settlement of:

[...]

(b) disputes involving any official of the Authority or any expert on mission for the Authority who by reason of his or her official position enjoys immunity, if immunity has not been waived by the Secretary-General.

2. Any dispute between the Authority and a member of the Authority concerning the interpretation or application of this Protocol which is not settled by consultation, negotiation or other agreed mode of settlement within three months following a request by one of the parties to the dispute shall, at the request of either party, be referred for a final and binding decision to a panel of three arbitrators:

(a) one to be nominated by the Secretary-General, one to be nominated by the other party to the dispute and the third, who shall be Chairman of the panel, to be chosen by the first two arbitrators;

(b) if either party has failed to make its appointment of an arbitrator within two months of the appointment of an arbitrator by the other party, the President of the International Tribunal for the Law of the Sea shall proceed to make such appointment. Should the first two arbitrators fail to agree upon the appointment of the third arbitrator within three months following the appointment of the first two arbitrators, the third arbitrator shall be chosen by the President of the International Tribunal for the Law of the Sea upon the request of the Secretary-General or the other party to the dispute.

F. INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (1966)

6. MYANMAR

6 October 2017, 6 October 2017, 6 October 2018

Declaration:

“With reference to article 1 of the International Covenant on Economic, Social and Cultural Rights, the Government of the Republic of the Union of Myanmar declares that, in consistence with the Vienna Declaration and Programme of Action of 1993, the term “the right of self-determination” appearing in this article does not apply to any section of people within a sovereign independent state and cannot be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of a sovereign and independent

state. In addition, the term shall not be applied to undermine Section 10 of the Constitution of the Republic of the Union of Myanmar, 2008.”

Article 1

- 1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.*
- 2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.*
- 3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.*

APPENDIX II - RESERVATIONS AND DECLARATIONS TO TREATIES CONCLUDED WITHIN THE COUNCIL OF EUROPE

G. COUNCIL OF EUROPE CONVENTION ON AN INTEGRATED SAFETY, SECURITY AND SERVICE APPROACH AT FOOTBALL MATCHES AND OTHER SPORTS EVENTS (2016) – CETS No. 218

7. POLAND

18 September 2017, 22 September 2017, 22 September 2018

Reservation

“The Republic of Poland declares that it shall not apply Article 5, paragraph 2, of the Council of Europe Convention on an Integrated Safety, Security and Service Approach at Football Matches and Other Sports Events.”

Article 5 – Safety, security and service in sports stadiums

1. *The Parties shall ensure that national legal, regulatory or administrative frameworks require event organisers, in consultation with all partner agencies, to provide a safe and secure environment for all participants and spectators.*
2. *The Parties shall ensure that the competent public authorities put in place regulations or arrangements to guarantee the effectiveness of stadium licensing procedures, certification arrangements and safety regulations in general and ensure their application, monitoring and enforcement.*
3. *The Parties shall require the relevant agencies to ensure that stadium design, infrastructure and associated crowd management arrangements comply with national and international standards and good practices.*
4. *The Parties shall encourage the relevant agencies to ensure that stadiums provide an inclusive and welcoming environment for all sections of society, including children, the elderly and those with disabilities, and incorporate, in particular, the provision of appropriate sanitary and refreshment facilities and good viewing conditions for all spectators.*
5. *The Parties shall ensure that stadiums’ operating arrangements are comprehensive; make provision for effective liaison with the police, emergency services and partner agencies; and incorporate clear policies and procedures on matters that might impact on crowd management and associated safety and security risks, in particular:*
 - *the use of pyrotechnics;*
 - *any violent or other prohibited behaviour; and*
 - *any racist or other discriminatory behaviour.*
6. *The Parties shall require the relevant agencies to ensure that all personnel, from the public or private sectors, involved in making football matches and other sports events safe, secure and welcoming are equipped and trained to fulfil their functions effectively and in an appropriate manner.*
7. *The Parties shall encourage their competent agencies to highlight the need for players, coaches or other representatives of participating teams to act in accordance with key sporting principles, such as tolerance, respect and fair play, and recognise that acting in a violent, racist or other provocative manner can have a negative impact on spectator behaviour.*

H. COUNCIL OF EUROPE CONVENTION ON THE COUNTERFEITING OF MEDICAL PRODUCTS AND SIMILAR CRIMES INVOLVING THREATS TO PUBLIC HEALTH (2011) – CETS No. 211

8. TURKEY

21 September 2017, 22 September 2017, 22 September 2018

Declaration

“Turkey declares that its ratification of the “Council of Europe Convention on the Counterfeiting of Medical Products and Similar Crimes Involving Threats to Public Health” neither amounts to any form of recognition of the Greek Cypriot Administration’s pretention to represent the defunct “Republic of Cyprus” as party to that Convention, nor should it imply any obligation on the part of Turkey to enter into any dealing with the so-called Republic of Cyprus within the framework of the said Convention.”

I. **COUNCIL OF EUROPE CONVENTION ON LAUNDERING, SEARCH, SEIZURE AND CONFISCATION OF THE PROCEEDS FROM CRIME AND ON THE FINANCING OF TERRORISM (2005) – CETS No. 198**

9. **GREECE**

7 November 2017, 10 November 2017, 10 November 2018

Reservations and declarations

“1) The Hellenic Republic reserves its right, in accordance with Article 53, paragraph 2 of the Convention, not to apply Article 7, paragraph 2, sub-paragraph c and Article 9, paragraph 6.

2) The Hellenic Republic reserves its right, in accordance with Article 53, paragraph 2 of the Convention, to apply paragraph 5 of Article 46 only subject to compliance with the reciprocity rule.

3) The Hellenic Republic State declares that, in accordance with Article 3 paragraph 2 of the Convention, paragraph 1 of the said Article is applied only for offences on laundering of proceeds of crime and for predicate offences prescribed by articles 2 and 3 of law 3691/2008.

4) The Hellenic Republic declares, in accordance with Article 53, paragraph 4 of the Convention, that it will not apply paragraph 4 of Article 3.

5) The Hellenic Republic declares that, in accordance with Article 9, paragraph 4 of the Convention, paragraph 1 of the said Article is applied only when the predicate offence is one of those referred to in article 3 of law 3691/2008.

6) The Hellenic Republic declares, in accordance with Article 17, paragraph 5 of the Convention, that the said Article is applied only for offences of laundering proceeds of crime and predicate offences as prescribed by articles 2 and 3 of law 3691/2008.

7) The Hellenic Republic declares, in accordance with Article 53, paragraph 3 of the Convention that it will apply Article 19 only provided it withdraws its reservation referred to under paragraph 1 above, regarding Article 7, paragraph 2, sub-paragraph c.

8) The Hellenic Republic declares, in accordance with Article 24, paragraph 3 of the Convention, that it will apply paragraph 2 of the said Article, only subject to its Constitution and the fundamental principles of its legal system.

9) The Hellenic Republic declares, in accordance with Article 31, paragraph 2 of the Convention that it does not accept the possibility prescribed in sub-paragraph a of the said paragraph of Article 31.

10) The Hellenic Republic declares, in accordance with Article 33, paragraph 2 of the Convention that the Central Authority designated to receive and send requests submitted within the framework of international cooperation for applying the Convention, as well as for forwarding them to the authorities competent for executing them, is the: Ministry of Justice, Transparency and Human Rights Directorate of Legislative Work, International Relations and International Judicial Co-operation Department of International Judicial Co-operation in Civil and Criminal Cases.

11) The Hellenic Republic declares, in accordance with Article 35, paragraph 1 of the Convention that it is ready to accept and execute requests received electronically or by any other means of communication under the condition that the latter permit the verification of the authenticity of transmission.

12) The Hellenic Republic declares, in accordance with Article 35, paragraph 3 of the Convention that it requires that requests submitted to it within the framework of international cooperation and

documents supporting such requests be accompanied by a translation into the Greek or the English language.

13) The Hellenic Republic declares, in accordance with Article 42, paragraph 2 of the Convention that, without its prior consent, information or evidence provided by it within the framework of international cooperation may not be used or transmitted by the authorities of the requesting Party for investigations or proceedings different than those specified in the relevant request.

14) The Hellenic Republic declares, in accordance with Article 46, paragraph 13 of the Convention, that it appoints Unit A of the Anti-Money Laundering, Counter-Terrorist Financing and Source of Funds Investigation Authority as Financial Intelligence Unit.”

Article 3 – Confiscation measures

1. Each Party shall adopt such legislative and other measures as may be necessary to enable it to confiscate instrumentalities and proceeds or property the value of which corresponds to such proceeds and laundered property.

2. Provided that paragraph 1 of this article applies to money laundering and to the categories of offences in the appendix to the Convention, each Party may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that paragraph 1 of this article applies

- a. only in so far as the offence is punishable by deprivation of liberty or a detention order for a maximum of more than one year. However, each Party may make a declaration on this provision in respect of the confiscation of the proceeds from tax offences for the sole purpose of being able to confiscate such proceeds, both nationally and through international cooperation, under national and international tax-debt recovery legislation; and/or
- b. only to a list of specified offences.

3. Parties may provide for mandatory confiscation in respect of offences which are subject to the confiscation regime. Parties may in particular include in this provision the offences of money laundering, drug trafficking, trafficking in human beings and any other serious offence.

4. Each Party shall adopt such legislative or other measures as may be necessary to require that, in respect of a serious offence or offences as defined by national law, an offender demonstrates the origin of alleged proceeds or other property liable to confiscation to the extent that such a requirement is consistent with the principles of its domestic law.

Article 7 – Investigative powers and techniques

1. Each Party shall adopt such legislative and other measures as may be necessary to empower its courts or other competent authorities to order that bank, financial or commercial records be made available or be seized in order to carry out the actions referred to in Articles 3, 4 and 5. A Party shall not decline to act under the provisions of this article on grounds of bank secrecy.

2. Without prejudice to paragraph 1, each Party shall adopt such legislative and other measures as may be necessary to enable it to:

- a. determine whether a natural or legal person is a holder or beneficial owner of one or more accounts, of whatever nature, in any bank located in its territory and, if so obtain all of the details of the identified accounts;
- b. obtain the particulars of specified bank accounts and of banking operations which have been carried out during a specified period through one or more specified accounts, including the particulars of any sending or recipient account;
- c. monitor, during a specified period, the banking operations that are being carried out through one or more identified accounts; and, ensure that banks do not disclose to the bank customer concerned or to other third persons that information has been sought or obtained in accordance with sub-paragraphs a, b, or c, or that an investigation is being carried out.

Parties shall consider extending this provision to accounts held in non-bank financial institutions.

Article 9 – Laundering offences

1. Each Party shall adopt such legislative and other measures as may be necessary to establish as offences under its domestic law, when committed intentionally:

- a. the conversion or transfer of property, knowing that such property is proceeds, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of the predicate offence to evade the legal consequences of his actions;
- b. the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of, property, knowing that such property is proceeds; and, subject to its constitutional principles and the basic concepts of its legal system;
- c. the acquisition, possession or use of property, knowing, at the time of receipt, that such property was proceeds;
- d. participation in, association or conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the offences established in accordance with this article.

2. For the purposes of implementing or applying paragraph 1 of this article:

- a. it shall not matter whether the predicate offence was subject to the criminal jurisdiction of the Party;
- b. it may be provided that the offences set forth in that paragraph do not apply to the persons who committed the predicate offence;

c. knowledge, intent or purpose required as an element of an offence set forth in that paragraph may be inferred from objective, factual circumstances.

3. Each Party may adopt such legislative and other measures as may be necessary to establish as an offence under its domestic law all or some of the acts referred to in paragraph 1 of this article, in either or both of the following cases where the offender

- a. suspected that the property was proceeds,*
- b. ought to have assumed that the property was proceeds.*

4. Provided that paragraph 1 of this article applies to the categories of predicate offences in the appendix to the Convention, each State or the European Community may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that paragraph 1 of this article applies:

- a. only in so far as the predicate offence is punishable by deprivation of liberty or a detention order for a maximum of more than one year, or for those Parties that have a minimum threshold for offences in their legal system, in so far as the offence is punishable by deprivation of liberty or a detention order for a minimum of more than six months; and/or*
- b. only to a list of specified predicate offences; and/or*
- c. to a category of serious offences in the national law of the Party.*

5. Each Party shall ensure that a prior or simultaneous conviction for the predicate offence is not a prerequisite for a conviction for money laundering.

6. Each Party shall ensure that a conviction for money laundering under this Article is possible where it is proved that the property, the object of paragraph 1.a or b of this article, originated from a predicate offence, without it being necessary to establish precisely which offence.

7. Each Party shall ensure that predicate offences for money laundering extend to conduct that occurred in another State, which constitutes an offence in that State, and which would have constituted a predicate offence had it occurred domestically. Each Party may provide that the only prerequisite is that the conduct would have constituted a predicate offence had it occurred domestically.

Article 17 – Requests for information on bank accounts

1. Each Party shall, under the conditions set out in this article, take the measures necessary to determine, in answer to a request sent by another Party, whether a natural or legal person that is the subject of a criminal investigation holds or controls one or more accounts, of whatever nature, in any bank located in its territory and, if so, provide the particulars of the identified accounts.

2. The obligation set out in this article shall apply only to the extent that the information is in the possession of the bank keeping the account.

3. In addition to the requirements of Article 37, the requesting party shall, in the request:

- a. state why it considers that the requested information is likely to be of substantial value for the purpose of the criminal investigation into the offence;*
- b. state on what grounds it presumes that banks in the requested Party hold the account and specify, to the widest extent possible, which banks and/or accounts may be involved; and*
- c. include any additional information available which may facilitate the execution of the request.*

4. The requested Party may make the execution of such a request dependant on the same conditions as it applies in respect of requests for search and seizure.

5. Each State or the European Community may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that this article applies only to the categories of offences specified in the list contained in the appendix to this Convention.

6. Parties may extend this provision to accounts held in non-bank financial institutions. Such extension may be made subject to the principle of reciprocity.

Article 19 – Requests for the monitoring of banking transactions

1. Each Party shall ensure that, at the request of another Party, it is able to monitor, during a specified period, the banking operations that are being carried out through one or more accounts specified in the request and communicate the results thereof to the requesting Party.

2. In addition to the requirements of Article 37, the requesting Party shall in its request indicate why it considers the requested information relevant for the purpose of the criminal investigation into the offence.

3. The decision to monitor shall be taken in each individual case by the competent authorities of the requested Party, with due regard for the national law of that Party.

4. The practical details regarding the monitoring shall be agreed between the competent authorities of the requesting and requested Parties.

5. Parties may extend this provision to accounts held in non-bank financial institutions.

Article 24 – Execution of confiscation

1. The procedures for obtaining and enforcing the confiscation under Article 23 shall be governed by the law of the requested Party.

2. The requested Party shall be bound by the findings as to the facts in so far as they are stated in a conviction or judicial decision of the requesting Party or in so far as such conviction or judicial decision is implicitly based on them.

3. Each State or the European Community may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that paragraph 2 of this article applies only subject to its constitutional principles and the basic concepts of its legal system.

4. If the confiscation consists in the requirement to pay a sum of money, the competent authority of the requested Party shall convert the amount thereof into the currency of that Party at the rate of exchange ruling at the time when the decision to enforce the confiscation is taken.

5. In the case of Article 23, paragraph 1.a, the requesting Party alone shall have the right to decide on any application for review of the confiscation order.

Article 31 – Notification of documents

1. The Parties shall afford each other the widest measure of mutual assistance in the serving of judicial documents to persons affected by provisional measures and confiscation.

2. Nothing in this article is intended to interfere with:

a. the possibility of sending judicial documents, by postal channels, directly to persons abroad;

b. the possibility for judicial officers, officials or other competent authorities of the Party of origin to effect service of judicial documents directly through the consular authorities of that Party or through judicial officers, officials or other competent authorities of the Party of destination,

unless the Party of destination makes a declaration to the contrary to the Secretary General of the Council of Europe at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession.

3. When serving judicial documents to persons abroad affected by provisional measures or confiscation orders issued in the sending Party, this Party shall indicate what legal remedies are available under its law to such persons.

Article 33 – Central authority

1. The Parties shall designate a central authority or, if necessary, authorities, which shall be responsible for sending and answering requests made under this chapter, the execution of such requests or the transmission of them to the authorities competent for their execution.

2. Each Party shall, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, communicate to the Secretary General of the Council of Europe the names and addresses of the authorities designated in pursuance of paragraph 1 of this article.

Article 35 – Form of request and languages

1. All requests under this chapter shall be made in writing. They may be transmitted electronically, or by any other means of telecommunication, provided that the requesting Party is prepared, upon request, to produce at any time a written record of such communication and the original. However each Party may, at any time, by a declaration addressed to the Secretary General of the Council of Europe, indicate the conditions in which it is ready to accept and execute requests received electronically or by any other means of communication.

2. Subject to the provisions of paragraph 3 of this article, translations of the requests or supporting documents shall not be required.

3. At the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, any State or the European Community may communicate to the Secretary General of the Council of Europe a declaration that it reserves the right to require that requests made to it and documents supporting such requests be accompanied by a translation into its own language or into one of the official languages of the Council of Europe or into such one of these languages as it shall indicate. It may on that occasion declare its readiness to accept translations in any other language as it may specify. The other Parties may apply the reciprocity rule.

Article 42 – Restriction of use

1. The requested Party may make the execution of a request dependent on the condition that the information or evidence obtained will not, without its prior consent, be used or transmitted by the authorities of the requesting Party for investigations or proceedings other than those specified in the request.

2. Each State or the European Community may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by declaration addressed to the Secretary General of the Council of Europe, declare that, without its prior consent, information or evidence provided by it under this chapter may not be used or transmitted by the authorities of the requesting Party in investigations or proceedings other than those specified in the request.

Article 46 – Co-operation between FIUs

1. Parties shall ensure that FIUs, as defined in this Convention, shall cooperate for the purpose of combating money laundering, to assemble and analyse, or, if appropriate, investigate within the FIU relevant information on any fact which might be an indication of money laundering in accordance with their national powers.

2. For the purposes of paragraph 1, each Party shall ensure that FIUs exchange, spontaneously or on request and either in accordance with this Convention or in accordance with existing or future memoranda of understanding compatible with this Convention, any accessible information that may be relevant to the processing or analysis of information or, if appropriate, to investigation by the FIU regarding financial transactions related to money laundering and the natural or legal persons involved.

3. Each Party shall ensure that the performance of the functions of the FIUs under this article shall not be affected by their internal status, regardless of whether they are administrative, law enforcement or judicial authorities.

4. Each request made under this article shall be accompanied by a brief statement of the relevant facts known to the requesting FIU. The FIU shall specify in the request how the information sought will be used.

5. When a request is made in accordance with this article, the requested FIU shall provide all relevant information, including accessible financial information and requested law enforcement data, sought in the request, without the need for a formal letter of request under applicable conventions or agreements between the Parties.

6. An FIU may refuse to divulge information which could lead to impairment of a criminal investigation being conducted in the requested Party or, in exceptional circumstances, where divulging the information would be clearly disproportionate to the legitimate interests of a natural or legal person or the Party concerned or would otherwise not be in accordance with fundamental principles of national law of the requested Party. Any such refusal shall be appropriately explained to the FIU requesting the information.

7. Information or documents obtained under this article shall only be used for the purposes laid down in paragraph 1. Information supplied by a counterpart FIU shall not be disseminated to a third party, nor be used by the receiving FIU for purposes other than analysis, without prior consent of the supplying FIU.

8. When transmitting information or documents pursuant to this article, the transmitting FIU may impose restrictions and conditions on the use of information for purposes other than those stipulated in paragraph 7. The receiving FIU shall comply with any such restrictions and conditions.

9. Where a Party wishes to use transmitted information or documents for criminal investigations or prosecutions for the purposes laid down in paragraph 7, the transmitting FIU may not refuse its consent to such use unless it does so on the basis of restrictions under its national law or conditions referred to in paragraph 6. Any refusal to grant consent shall be appropriately explained.

10. FIUs shall undertake all necessary measures, including security measures, to ensure that information submitted under this article is not accessible by any other authorities, agencies or departments.

11. The information submitted shall be protected, in conformity with the Council of Europe Convention of 28 January 1981 for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108) and taking account of Recommendation No R(87)15 of 15 September 1987 of the Committee of Ministers of the Council of Europe Regulating the Use of Personal Data in the Police Sector, by at least the same rules of confidentiality and protection of personal data as those that apply under the national legislation applicable to the requesting FIU.

12. The transmitting FIU may make reasonable enquiries as to the use made of information provided and the receiving FIU shall, whenever practicable, provide such feedback.

13. Parties shall indicate the unit which is an FIU within the meaning of this article.

Article 53 – Declarations and reservations

1. Any State or the European Community may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, make one or more of the declaration provided for in Article 3, paragraph 2, Article 9, paragraph 4, Article 17, paragraph 5, Article 24, paragraph 3, Article 31, paragraph 2, Article 35, paragraphs 1 and 3 and Article 42, paragraph 2.

2. Any State or the European Community may also, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General, reserve its right not to apply, in part or in whole, the provisions of Article 7, paragraph 2, sub-paragraph c; Article 9, paragraph 6; Article 46, paragraph 5; and Article 47.

3. Any State or the European Community may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, declare the manner in which it intends to apply Articles 17 and 19 of this Convention, particularly taking into account applicable international agreements in the field of international co-operation in criminal matters. It shall notify any changes in this information to the Secretary General of the Council of Europe.

4. Any State or the European Community may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, declare:

- a. that it will not apply Article 3, paragraph 4 of this Convention; or
- b. that it will apply Article 3, paragraph 4 of this Convention only partly; or
- c. the manner in which it intends to apply Article 3, paragraph 4 of this Convention.

It shall notify any changes in this information to the Secretary General of the Council of Europe.

5. No other reservation may be made.

6. Any Party which has made a reservation under this article may wholly or partly withdraw it by means of a notification addressed to the Secretary General of the Council of Europe. The withdrawal shall take effect on the date of receipt of such notification by the Secretary General.

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