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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

69th meeting
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Strasbourg, France (hybrid meeting)

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 expired since the last CAHDI meeting.

Appendix I contains the text of the reservations and declarations to treaties concluded within 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 or EU has objected
- ◆ State or EU has made a declaration
- ◄ State or EU has objected to the original reservation(s), in case of a (partial) withdrawal
- State or EU considers the reservation to have been formulated belatedly

TREATIES

RESERVATIONS AND DECLARATIONS TO TREATIES CONCLUDED OUTSIDE THE COUNCIL OF EUROPE

- A. Convention on the Rights of Persons with Disabilities (2006)
- B. Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (1965)
- C. Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (2007)
- D. Protocol on the Law Applicable to Maintenance Obligations (2007)
- E. Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1984)
- F. Convention for the Suppression of the Circulation of, and Traffic in, Obscene Publications, concluded at Geneva on 12 September 1923 and amended by the Protocol signed at Lake Success, New York, on 12 November 1947
- G. Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention Against Transnational Organized Crime (2000)

RESERVATIONS AND DECLARATIONS TO TREATIES CONCLUDED WITHIN THE COUNCIL OF EUROPE

- H. Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism (2015 – ETS No. 217)
- I. European Convention on Mutual Assistance in Criminal Matters (1959) – ETS No. 30 and its Additional Protocols (1948 – ETS No. 99 and 2001 – ETS No. 182)

Conventions		Conventions concluded outside the Council of Europe							Conventions concluded within the Council of Europe	
Reservation		A	B	C	D	E	F	G	H	I
CAHDI members, participants and observers ↓	State deadline	BHUTAN 13/03/2025	EL SALVADOR 21/03/2025	GEORGIA 14/05/2025	GEORGIA 14/05/2025	HONDURAS 22/07/2025	KAZAKHSTAN 10/09/2025	BELARUS 13/09/2025	AZERBAIJAN 19/04/2025	SPAIN 19/07/2025
Serbia										
Slovak Republic										
Slovenia										
Spain										
Sweden		●								
Switzerland		●								
Türkiye										
Ukraine										
United Kingdom		●								
Australia										
Canada										
Holy See										
Israel										
Japan										
Republic of Korea										
Mexico										
New Zealand										
United States of America										
European Union		●								

APPENDICES

APPENDIX I – RESERVATIONS AND DECLARATIONS TO TREATIES CONCLUDED OUTSIDE THE COUNCIL OF EUROPE

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

1. BHUTAN

13 March 2024 (ratification), 13 March 2024, 13 March 2025

Reservation

“The Kingdom of Bhutan does not consider itself bound by paragraph 1(a) and paragraph 2 of Article 18, paragraphs 1(b) and (c) of Article 23, paragraphs 1(c) of Article 27, and section (a) (ii) of Article 29 of the United Nations Convention on [the] Rights of Persons with Disabilities.”

B. CONVENTION ON THE SERVICE ABROAD OF JUDICIAL AND EXTRAJUDICIAL DOCUMENTS IN CIVIL OR COMMERCIAL MATTERS (1965)

2. EL SALVADOR

21 March 2024 (accession), 21 March 2024, 21 March 2025

Declarations

“1) The Republic of El Salvador totally excludes the application of the provision contained in paragraph one of article 8, since the State of El Salvador contemplates in its domestic legislation the procedure by which such proceedings will be carried out; and

2) With respect to the third paragraph of Article 5, El Salvador declares that formal notification will only be made by the Supreme Court of Justice of the Republic of El Salvador if the document to be notified is written or translated into the Spanish language.”

C. CONVENTION ON THE INTERNATIONAL RECOVERY OF CHILD SUPPORT AND OTHER FORMS OF FAMILY MAINTENANCE (2007)

3. GEORGIA

14 May 2024, 14 May 2025

Declarations

“[...] e) Georgia declares that the application of this Convention in relation to Georgia's regions of Abkhazia and the Tskhinvali region / South Ossetia – occupied by the Russian Federation as a result of its illegal military aggression - shall commence once Georgia's de facto jurisdiction over the occupied territories is fully restored.”

D. PROTOCOL ON THE LAW APPLICABLE TO MAINTENANCE OBLIGATIONS (2007)**4. GEORGIA**14 May 2024, 14 May 2025***Declaration***

“Georgia declares that the application of the Protocol of 23 November 2007 on the Law Applicable to Maintenance Obligations in relation to Georgia's regions of Abkhazia and the Tskhinvali region / South Ossetia – occupied by the Russian Federation as a result of its illegal military aggression – shall commence once Georgia's de facto jurisdiction over the occupied territories is fully restored.”

E. CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (1984)**5. HONDURAS**22 July 2024, 22 July 2025***Declaration***

“The State of Honduras declares, pursuant to Article 22 of the Convention, that it recognizes the competence of the Committee against Torture to receive and consider communications from individuals subject to its jurisdiction, once domestic remedies have been exhausted, who claim to be victims of a violation of the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted in 1984.”

F. CONVENTION FOR THE SUPPRESSION OF THE CIRCULATION OF, AND TRAFFIC IN, OBSCENE PUBLICATIONS, CONCLUDED AT GENEVA ON 12 SEPTEMBER 1923 AND AMENDED BY THE PROTOCOL SIGNED AT LAKE SUCCESS, NEW YORK, ON 12 NOVEMBER 1947**6. KAZAKHSTAN**3 September 2024, 10 September 2024, 10 September 2025***Reservations***

“The Republic of Kazakhstan undertakes obligations for the implementation of Article 5 of the Convention only within the framework of its existing national legislation.”

G. PROTOCOL AGAINST THE SMUGGLING OF MIGRANTS BY LAND, SEA AND AIR, SUPPLEMENTING THE UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME, NEW YORK, 15 NOVEMBER 2000**7. BELARUS**10 September 2024, 13 September 2024, 13 September 2025
[Dates of ratification C 25 June 2003, P 25 June 2003]***Communication***

“The communication of the Republic of Belarus on its interpretive declaration concerning Article 20 of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime of 15 November 2000, (hereinafter

referred to as the Protocol) and the legal qualification and effect of the objections of some States Parties to the Protocol against this declaration is fully extended to the objections and interpretations of the relevant dispute settlement clauses of the Protocol made by the Republic of Austria, the Republic of Poland, the European Union (C.N.320.2024.TREATIES-XVIII.12.b; C.N.317.2024.TREATIESXVIII. 12.b; C.N.318.2024.TREATIES-XVIII.12.b) and to all similar cases of the subsequent communications of other States Parties to the Protocol.

With regard to the communication of the European Union (C.N.320.2024.TREATIESXVIII. 12.b), the Republic of Belarus states that some of its provisions constitute an example of biased assessments of purely political nature that are inappropriate for such a type of treaty declarations and can be regarded as a misrepresentation of the basics and implementation of the Protocol as well as the manifestation of the conduct contrary to the principles of international law enshrined in the Charter of the United Nations.”

Initial Declaration

31 July 2023, 31 July 2023, 31 July 2024

“The Republic of Belarus proceeds from the assumption that the provisions of paragraphs 2 – 4 of Article 20 of the Protocol shall be interpreted in good faith as not binding for the States Parties to the Protocol with the obligations to settle disputes in the International Court of Justice with that State Party to the Protocol which withdraws its reservation on non-recognition of its jurisdiction, in situations when disputes concerning the interpretation or application of the Protocol have arisen from and/or become the subject of peaceful settlement, inter alia through negotiations and/or arbitration, before, on, or immediately after the withdrawal of such a reservation”.

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

H. ADDITIONAL PROTOCOL TO THE COUNCIL OF EUROPE CONVENTION ON THE PREVENTION OF TERRORISM (2015 – CETS NO. 127)

8. AZERBAIJAN

12 April 2024 (ratification), 19 April 2024, 19 April 2025

Declaration

“[...] The Republic of Azerbaijan declares that the provisions of the present Additional Protocol will not be applied by the Republic of Azerbaijan in relation to the Republic of Armenia until the consequences of the conflict are completely eliminated and relations between the Republic of Armenia and the Republic of Azerbaijan are normalized.”

I. EUROPEAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS (1959) – ETS No. 30 AND ITS ADDITIONAL PROTOCOLS (1978 – ETS No. 99 and 2001 – ETS No. 182)

9. SPAIN

15 July 2024, 19 July 2024, 19 July 2025

[Dates of ratification C 16/11/1982; AP I 11/09/1991; AP II 01/07/2016]

Declarations

In accordance with Article 24 of the Convention as amended by Article 6 of the Second Additional Protocol to the Convention, the Kingdom of Spain, in its capacity as a Member State of the European Union participating in the enhanced cooperation on the establishment of the European Public Prosecutor's Office, declares that the European Public Prosecutor's Office (“EPPO”), in the exercise of its competences, as provided for by Articles 22, 23 and 25 of Council Regulation (EU) 2017/1939, shall be deemed to be a judicial authority for the purpose of issuing requests for mutual assistance in accordance with the Convention and its Protocols, as well as for the purpose of providing, on request of another Contracting Party in accordance with the Convention and its Protocols, information or evidence which the EPPO has obtained already or may obtain following the initiation of an investigation in the area of its competence. The EPPO shall also be deemed to be a judicial authority for the purpose of receipt of information in accordance with Article 21 of the Convention, in respect of offences within its competence as provided for by Articles 22, 23 and 25 of Council Regulation (EU) 2017/1939. This declaration is intended to supplement the previous declarations made by the Kingdom of Spain, in accordance with Article 24 of the Convention.

With reference to this declaration made in accordance with Article 24 of the Convention, Spain avails itself of the opportunity to interpret the legal effects of that declaration as follows:

- a) Where the Convention or its Protocols refer to the requesting Party or the requested Party, this shall in case of requests issued by or addressed to the European Public Prosecutor's Office be interpreted as referring to the EU Member State of the competent European Delegated Prosecutor whose powers and functions are referred to in Article 13 of Council Regulation (EU) 2017/1939.
- b) Where the Convention or its Protocols refer to the law of the requesting or the requested Party, this shall in case of requests issued by or addressed to the European Public Prosecutor's Office be interpreted as referring to Union law, in particular Council Regulation (EU) 2017/1939, as well as to the national law of the EU Member State of the competent

European Delegated Prosecutor, to the extent applicable in accordance with Article 5(3) of that Regulation.

c) Where the Convention or its Protocols provide for the possibility for a Party to make declarations or reservations, all such declarations and reservations made by the Kingdom of Spain shall be deemed applicable in case of requests made by another Party to the European Public Prosecutor's Office whenever a European Delegated Prosecutor located in the territory of Spain is competent in accordance with Article 13(1) of Council Regulation (EU) 2017/1939.

d) As a judiciary requesting authority acting in accordance with Article 24 of the Convention, as amended by Article 6 of the Second Additional Protocol to the Convention, the European Public Prosecutor's Office shall comply with any conditions or restrictions on the use of information and evidence obtained, which may be imposed by the requested Party based on the Convention and its Protocols.

e) Obligations imposed upon the requesting Party by Article 12 of the Convention shall also be binding upon the judiciary authorities of the EU Member State of the competent European Delegated Prosecutor. The same applies in case of obligations of the requesting Party under Article 11 of the Convention, as amended by Article 3 of the Second Additional Protocol and under Articles 13, 14 and 23 of the Second Additional Protocol, in respect of the EU Member State of the European Delegated Prosecutor competent in accordance with Article 13(1) of Council Regulation (EU) 2017/1939.

In accordance with Article 15 of the Convention, as amended by Article 4 of the Second Additional Protocol to the Convention, the Kingdom of Spain declares that requests to the European Public Prosecutor's Office for mutual assistance as well as information laid by a Contracting Party in accordance with Article 21 of the Convention shall be addressed directly to the European Public Prosecutor's Office, and the declaration made in accordance with Article 15 of the Convention as amended by Article 4 of the Second Additional Protocol to the Convention shall not apply in the case of the European Public Prosecutor's Office. Requests for mutual assistance shall be sent either to the Central Office of the European Public Prosecutor's Office or to the European Delegated Prosecutor's Office(s) of that Member State. The EPPO shall, where appropriate, forward such request to the competent national authorities if the EPPO either does not have or is not exercising its competence in a particular case.

In accordance with Article 15 of the Convention, as amended by Article 4 of the Second Additional Protocol to the Convention, the Kingdom of Spain furthermore declares that applications in accordance with Article 11 of the Convention, as amended by Article 3 of the Second Additional Protocol, and Articles 13 and 14 of the Second Additional Protocol as they refer to the above-mentioned Article 11 initiated by one of the European Delegated Prosecutors in that EU Member State, shall be transmitted by the Ministry of Justice (General Sub-Directorate for International Legal Cooperation).

In accordance with Article 33(2) of the Second Additional Protocol, the Kingdom of Spain declares that the European Public Prosecutor's Office may, where a joint investigation team as referred to in Article 20 of that Protocol is intended to operate on the territory of the Kingdom of Spain, act in the capacity of "competent authority" in accordance with Article 20 of that Protocol only with prior agreement of the judicial authorities of the Kingdom of Spain and in accordance with Council Regulation (EU) 2017/1939 and the applicable national law.