

FINLAND

CAT

OBJECTIONS MADE TO OTHER STATES PARTIES RESERVATIONS AND DECLARATIONS

(Ed. note: for the text targeted by the following objections, see the Reservations and Declarations of the State which is the subject of the objection)

27 February 1996

With regard to the reservations, understandings and declarations made by the United States of America upon ratification:

"A reservation which consists of a general reference to national law without specifying its contents does not clearly define to the other Parties of the Convention the extent to which the reserving State commits itself to the Convention and therefore may cast doubts about the commitment of the reserving State to fulfil its obligations under the Convention. Such a reservation is also, in the view of the Government of Finland, subject to the general principle to treaty interpretation according to which a party may not invoke the provisions of its internal law as justification for failure to perform a treaty.

The Government of Finland therefore objects to the reservation made by the United States to article 16 of the Convention [(cf. Reservation I.(1)]. In this connection the Government of Finland would also like to refer to its objection to the reservation entered by the United States with regard to article 7 of the International Covenant on Civil and Political Rights.[For the text of the objection see under "Objections" in chapter IV.4].

[Ed. note: as follows:

28 September 1993

With regard to the reservations, understandings and declarations made by the United States of America:

[...]

As regards reservation (3), it is in the view of the Government of Finland subject to the general principle of treaty interpretation according to which a party may not invoke the provisions of its internal law as justification for failure to perform a treaty.

For the above reasons the Government of Finland objects to reservations made by the United States to articles 2, 4 and 26 [cf. Understanding (1)], to article 6 [cf. Reservation (2)] and to article 7 [cf. Reservation (3)]. However, the Government of Finland does not consider that this objection constitutes an obstacle to the entry into force of the Covenant between Finland and the United States of America.]

13 December 1999

With regard to the declaration made by Bangladesh upon accession:

"The Government of Finland has examined the contents of the declaration made by the Government of Bangladesh to Article 14 paragraph 1 to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and notes that the declaration constitutes a reservation as it seems to modify the obligations of Bangladesh under the said article.

A reservation which consists of a general reference to national law without specifying its contents does not clearly define for the other Parties of the Convention the extent to which the reserving State commits itself to the Convention and therefore may raise doubts as to the commitment of the reserving state to fulfil its obligations under the Convention. Such a reservation is also, in the view of the Government of Finland, subject to the general principle of treaty interpretation according to which a party may not invoke the provisions of its domestic law as justification for a failure to perform its treaty obligations.

Therefore the Government of Finland objects to the aforesaid reservation to Article 14 paragraph 1 made by the Government of Bangladesh. This objection does not preclude the entry into force of the Convention between Bangladesh and Finland. The Convention will thus become operative between the two States without Bangladesh benefitting from these reservations".

16 January 2001

With regard to the reservation made by Qatar upon accession:

"The Government of Finland has examined the context of the reservation made by the Government of Qatar regarding any interpretation incompatible with the precepts of Islamic law and the Islamic religion. The Government of Finland notes that a reservation which consists of a general reference to national law without specifying its contents does not clearly define for the other Parties to the Convention the extent to which the reserving State commits itself to the Convention and may therefore raise doubts as to the commitment of the reserving state to fulfil its obligations under the Convention. Such a reservation, in the view of the Government of Finland, is subject to the general principle of treaty interpretation according to which a party may not invoke the provisions of its domestic law as justification for a failure to perform its treaty obligations.

The Government of Finland also notes that the reservation of Qatar, being of such a general

nature, raises doubts as to the full commitment of Qatar to the object and purpose of the Convention and would like to recall that, according to the Vienna Convention on the Law of the Treaties, a reservation incompatible with the object and purpose of the Convention shall not be permitted.

For the above-mentioned reasons the Government of Finland objects to the reservation made by the Government of Qatar. This objection does not preclude the entry into force of the Convention between Qatar and Finland. The Convention will thus become operative between the two States without Qatar benefitting from this reservation."

28 June 2011

With regard to the reservations made by Pakistan upon ratification:

"The Government of Finland welcomes the ratification of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment by the Islamic Republic of Pakistan. The Government of Finland has carefully examined the content of the reservations relating to Articles 3, 4, 6, 8, 12, 13, 16, 28 and 30 of the Convention made by the Islamic Republic of Pakistan upon ratification.

The Government of Finland notes that the Islamic Republic of Pakistan reserves the right to apply the provisions of Article 3 so as to be in conformity with the provisions of its laws relating to extradition and foreigners, and the provisions of Articles 4, 6, 12, 13 and 16 to the extent that they are not repugnant to the provisions of the Constitution of Pakistan and the Sharia laws.

The Government of Finland notes that a reservation which consists of a general reference to national law without specifying its content does not clearly define to other Parties to the Convention the extent to which the reserving States commits itself to the Convention and creates serious doubts as to the commitment of the reserving State to fulfil its obligations under the Convention. Such reservations are, furthermore, subject to the general principle of treaty interpretation according to which a party may not invoke the provisions of its domestic law as justification for a failure to perform its treaty obligations.

The reservations to Articles 3, 4, 6, 12, 13 and 16 seek to restrict essential obligations of the Islamic Republic of Pakistan under the Convention and raise serious doubts as to the commitment of the Islamic Republic of Pakistan to the object and purpose of the Convention. The Government of Finland wishes to recall that, according to Article 19 (c) of the Vienna Convention on the Law of Treaties and customary international law, a reservation contrary to the object and purpose of a treaty shall not be permitted. It is in the common interest of States that treaties to which they have chosen to become parties are respected as to their object and purpose and that States are prepared to undertake any legislative changes necessary to comply with their obligations under the treaties.

The Government of Finland therefore objects to the reservations made by the Islamic Republic of Pakistan in respect of Articles 3, 4, 6, 12, 13 and 16 of the Convention. This objection shall not preclude the entry into force of the Convention between the Islamic Republic of Pakistan and Finland. The Convention will thus become operative between the two states without the Islamic Republic of Pakistan benefiting from its reservations.”

Note

The German Democratic Republic had signed and ratified the Convention on 7 April 1986 and 9 September 1987, respectively, with the following reservations and declaration:

Reservations:

The German Democratic Republic declares in accordance with article 28, paragraph 1 of the Convention that it does not recognize the competence of the Committee provided for in article 20.

The German Democratic Republic declares in accordance with article 30, paragraph 2 of the Convention that it does not consider itself bound by paragraph 1 of this article.

Declaration:

The German Democratic Republic declares that it will bear its share only of those expenses in accordance with article 17, paragraph 7, and article 18, paragraph 5, of the Convention arising from activities under the competence of the Committee as recognized by the German Democratic Republic.

...

...[T]he Secretary-General has received from the following States, objections to the declaration made by the German Democratic Republic, on the dates indicated hereinafter:

...

Finland (20 October 1989):

“...The Government of Finland considers that any such declaration is without legal effect, and cannot in any manner diminish the obligation of a government to contribute to the costs of the Committee in conformity with the provisions of the Convention.”

...

Subsequently, in a communication received on 13 September 1990, the Government of the

German Democratic Republic notified the Secretary-General that it had decided to withdraw the reservations, made upon ratification, to articles 17 (7), 18 (5), 20 and 30 (1) of the Convention.

...

(Note 3, Chapter IV.9, Multilateral Treaties Deposited with the Secretary-General)

Note

In a communication received on 7 September 1990, the Government of Chile notified the Secretary-General that it had decided to withdraw the declaration made by virtue of article 28 (1) upon signature and confirmed upon ratification by which the Government did not recognize the competence of the Committee against torture as defined by article 20 of the Convention. The Government of Chile further decided to withdraw the following reservations, made upon ratification, to article 2 (3) and article 3, of the Convention:

(a) [To] Article 2, paragraph 3, in so far as it modifies the principle of "obedience upon reiteration" contained in Chilean domestic law. The Government of Chile will apply the provisions of that international norm to subordinate personnel governed by the Code of Military Justice, provided that the order patently intended to lead to perpetration of the acts referred to in article 1 is not insisted on by the superior officer after being challenged by his subordinate.

(b) Article 3, by reason of the discretionary and subjective nature of the terms in which it is drafted.

It will be recalled that the Secretary-General had received various objections to the said declarations from the following States on the dates indicated hereinafter:

...

Finland (20 October 1989):

"... The Government of Finland considers the said reservations as being incompatible with the object and purpose of the Convention and therefore invalid.

This objection is not an obstacle to the entry into force of the said Convention between Finland and Chile."

...

Further, in a communication received on 3 September 1999, the Government of Chile withdrew the following reservation made upon ratification:

The Government of Chile will not consider itself bound by the provisions of article 30, paragraph 1 of the Convention.

(Note 17, Chapter IV.9, Multilateral Treaties Deposited with the Secretary-General)

DECLARATIONS RE: ARTICLES 21 AND 22

(Unless otherwise indicated, the declarations were made upon ratification, accession or succession)

"Finland declares that it recognizes fully the competence of the Committee against Torture as specified in article 21, paragraph 1 and article 22, paragraph 1 of the Convention."