

FINLAND

CCPR

RESERVATIONS AND DECLARATIONS

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

Reservations:

"With respect to article 10, paragraph 2 (b) and 3, of the Covenant, Finland declares that although juvenile offenders are, as a rule, segregated from adults, it does not deem appropriate to adopt an absolute prohibition not allowing for more flexible arrangements;

With respect to article 14, paragraph 7, of the Covenant, Finland declares that it is going to pursue its present practice, according to which a sentence can be changed to the detriment of the convicted person, if it is established that a member or an official of the court, the prosecutor or the legal counsel have through criminal or fraudulent activities obtained the acquittal of the defendant or a substantially more lenient penalty, or if false evidence has been presented with the same effect, and according to which an aggravated criminal case may be taken up for reconsideration if within a year until then unknown evidence is presented, which would have led to conviction or a substantially more severe penalty;

With respect to article 20, paragraph 1, of the Covenant, Finland declares that it will not apply the provisions of this paragraph, this being compatible with the standpoint Finland already expressed at the 16th United Nations General Assembly by voting against the prohibition of propaganda for war, on the grounds that this might endanger the freedom of expression referred in article 19 of the Covenant."

Note

In communications received on 29 March 1985 and 26 July 1990, the Government of Finland notified the Secretary-General of its decision to withdraw the reservations made upon ratification with respect to articles 13 and 14 (1) (the notification indicates that the withdrawal was effected because the relevant provisions of the Finnish legislation have been amended as to correspond fully to articles 13 and 14 (1) of the Covenant), and with respect to articles 9 (3) and 14 (3) (d), respectively. For the text of the reservations, see United Nations, Treaty Series, vol. 999, p. 291.

[Ed. note: as follows:

1. With respect to article 9, paragraph 3, of the Covenant, Finland declares that according to the present Finnish legislation the administrative authorities may take decisions concerning arrest or imprisonment, in which event the case is taken up for decision in court only after a certain time lapse;

3. *With respect to article 13 of the Covenant, Finland declares that the article does not correspond to the present Finnish legislation regarding an alien's right to be heard or lodge a complaint in respect of a decision concerning his expulsion.*

4. *With respect to article 14, paragraph 1, of the Covenant, Finland declares that under Finnish law a sentence can be declared secret if its publication could be an affront to morals or endanger national security."*

5. *With respect to article 14, paragraph 3(d), of the Covenant, Finland declares that the contents of this paragraph do not correspond to the present legislation in Finland inasmuch as it is a question of the defendant's absolute right to have legal assistance already at the stage of preliminary investigations."]*

(Note 19, Chapter IV.4, Multilateral Treaties Deposited with the Secretary-General)

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)

28 September 1993

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

"... It is recalled that under international treaty law, the name assigned to a statement whereby the legal effect of certain provisions of a treaty is excluded or modified, does not determine its status as a reservation to the treaty. Understanding (1) pertaining to articles 2, 4 and 26 of the Covenant is therefore considered to constitute in substance a reservation to the Covenant, directed at some of its most essential provisions, namely those concerning the prohibition of discrimination. In the view of the Government of Finland, a reservation of this kind is contrary to the object and purpose of the Covenant, as specified in article 19(c) of the Vienna Convention on the Law of Treaties.

As regards reservation (2) concerning article 6 of the Covenant, it is recalled that according to article 4(2), no restrictions of articles 6 and 7 of the Covenant are allowed for. In the view of the Government of Finland, the right to life is of fundamental importance in the Covenant and the said reservation therefore is incompatible with the object and purpose of the Covenant.

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.

25 July 1997

With regard to declarations and the reservation made by Kuwait:

"The Government of Finland notes that according to the interpretative declarations the application of certain articles of the Covenant is in a general way subjected to national law. The Government of Finland considers these interpretative declarations as reservations of a general kind.

The Government of Finland is of the view that such general reservations raise doubts as to the commitment of Kuwait to the object and purpose of the Covenant and would recall that a reservation incompatible with the object and purpose of the Covenant shall not be permitted. As regards the reservation made to article 25 (b), the Government of Finland wishes to refer to its objection to the reservation made by Kuwait to article 7 of the Convention on the Elimination of All Forms of Discrimination Against Women.

It is the common interest of States that treaties to which they have chosen to become parties are respected, as to their object and purpose, by all parties and that States are prepared to undertake any legislative changes necessary to comply with their obligations under the treaties.

The Government of Finland is further of the view that general reservations of the kind made by the Government of Kuwait, which do not clearly specify the extent of the derogation from the provisions of the covenant, contribute to undermining the basis of international treaty law.

The Government of Finland therefore objects to the aforesaid reservations made by the Government of Kuwait to the [said Covenant] which are considered to be inadmissible.

This objection does not preclude the entry into force in its entirety of the Covenant between Kuwait and Finland."

13 October 2004

With regard to declarations and the reservation made by Turkey upon ratification:

"The Government of Finland has examined the declarations and reservation made by the

Republic of Turkey to the International Covenant on Civil and Political Rights. The Government of Finland notes that the Republic of Turkey reserves the right to interpret and apply the provisions of Article 27 of the Covenant in accordance with the related provisions and rules of the Constitution of the Republic of Turkey and the Treaty of Lausanne of 24 July 1923 and its Appendixes.

The Government of Finland emphasises the great importance of the rights of minorities provided for in Article 27 of the International Covenant on Civil and Political Rights. The reference to the Constitution of the Republic of Turkey is of a general nature and does not clearly specify the content of the reservation. The Government of Finland therefore wishes to declare that it assumes that the Government of the Republic of Turkey will ensure the implementation of the rights of minorities recognised in the Covenant and will do its utmost to bring its national legislation into compliance with the obligations under the Covenant with a view to withdrawing the reservation. This declaration does not preclude the entry into force of the Covenant between the Republic of Turkey and Finland."

15 November 2005

With regard to reservations made by Mauritania upon ratification:

"The Government of Finland has carefully examined the contents of the declaration made by the Government of Mauritania on Article 18 and paragraph 4 of Article 23 of the International Covenant on Civil and Political Rights.

The Government of Finland notes that a reservation which consists of a general reference to religious or other national law without specifying its contents does not clearly define to other Parties to the Convention the extent to which the reserving State commits itself to the Convention and creates serious doubts as to the commitment of the receiving 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 Government of Finland notes that the reservations made by the Government of Mauritania, addressing some of the most essential provisions of the Covenant, and aiming to exclude the obligations under those provisions, are in contradiction with the object and purpose of the Covenant.

The Government of Finland therefore objects to the above-mentioned declaration made by the Government of Mauritania to the Covenant. This objection does not preclude the entry into force of the Covenant between the Islamic Republic of Mauritania and Finland. The Covenant will thus become operative between the two states without the Islamic Republic of Mauritania benefiting from its declarations."

14 September 2007

With regard to the reservation made by Maldives upon accession:

“The Government of Finland has examined the reservation made by the Republic of Maldives to the International Covenant on Civil and Political Rights. The Government of Finland notes that the Republic of Maldives reserves the right to interpret and apply the provisions of Article 18 of the Covenant in accordance with the related provisions and rules of the Constitution of the Republic of Maldives.

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 to other Parties to the Covenant the extent to which the reserving State commits itself to the Covenant and creates serious doubts as to the commitment of the receiving State to fulfil its obligations under the Covenant. 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.

Furthermore, the Government of Finland emphasises the great importance of the right to freedom of thought, conscience and religion which is provided for in Article 18 of the International Covenant on Civil and Political Rights. The Government of Finland therefore wishes to declare that it assumes that the Government of the Republic of Maldives will ensure the implementation of the rights of freedom of thought, conscience and religion recognised in the Covenant and will do its utmost to bring its national legislation into compliance with the obligations under the Covenant with a view to withdrawing the reservation.

This declaration does not preclude the entry into force of the Covenant between the Republic of Maldives and Finland. The Covenant will thus become operative between the two states without the Republic of Maldives benefitting from its reservation.”

5 October 2010

With regard to the reservation made by the Lao People's Democratic Republic upon ratification:

“The Government of Finland welcomes the ratification by the Lao People’s Democratic Republic of the International Covenant on Civil and Political Rights. Finland has taken note of the reservation made by the Lao People’s Democratic Republic to Article 22 thereof upon ratification. The Government of Finland notes that Article 22(2) provides that States Parties may, under certain specific circumstances and for certain specific purposes, restrict the right protected

under Article 22(1). The Government of Finland is of the view that the reservation made by the Lao People's Democratic Republic seeks to limit the obligation of the Lao People's Democratic Republic not to restrict the freedom of association to an extent which is incompatible with Article 22(2). The reservation would therefore restrict one of the essential obligations of the Lao People's Democratic Republic under the Covenant and raises serious doubts as to the commitment of the Lao People's Democratic Republic to the object and purpose of the Covenant.

It is in the common interest of States that treaties they have chosen to become parties to are respected as to their object and purpose by all parties, and that States are prepared to undertake any legislative changes necessary to comply with their obligations under such treaties. Furthermore, according to the Vienna Convention on the Law of Treaties of 23 May 1969, and according to well established customary international law, a reservation contrary to the object and purpose of the treaty shall not be permitted.

The Government of Finland therefore objects to the reservation made by the Government of the Lao People's Democratic Republic in respect of Article 22 of the International Covenant on Civil and Political Rights. This objection shall not preclude the entry into force of the Covenant between the Lao People's Democratic Republic and Finland. The Covenant will thus become operative between the two states without the Lao People's Democratic Republic benefiting from its reservation."

28 June 2011

With regard to the reservations made by Pakistan upon ratification:

The Government of Finland welcomes the ratification of the International Covenant on Civil and Political Rights by the Islamic Republic of Pakistan. The Government of Finland has carefully examined the content of the reservations relating to Articles 3, 6, 7, 12, 13, 18, 19, 25 and 40 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, 6, 7, 18 and 19 to the extent that they are not repugnant to the provisions of the Constitution of Pakistan and the Sharia laws, the provisions of Article 12 so as to be in conformity with the provisions of the Constitution of Pakistan, and the provisions of Article 25 to the extent that they are not repugnant to the provisions of the Constitution of Pakistan, and that, as regards the provisions of Article 13, the Islamic Republic of Pakistan reserves the right to apply its law relating to foreigners.

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 Covenant the extent to which the reserving States commits itself to the Covenant and creates serious doubts as to the commitment of the reserving State to fulfil its obligations under the

Covenant. 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.

Furthermore, the Government of Finland notes that the Islamic Republic of Pakistan declares that it does not recognize the competence of the Human Rights Committee provided for in Article 40 of the Covenant. The reporting mechanism established under Article 40 is an essential feature of the system of human rights protection created by the Covenant and an integral undertaking of States Parties to the Covenant.

All of the above reservations seek to restrict essential obligations of the Islamic Republic of Pakistan under the Covenant and raise serious doubts as to the commitment of the Islamic Republic of Pakistan to the object and purpose of the Covenant. 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, 6, 7, 12, 13, 18, 19, 25 and 40 of the Covenant. This objection shall not preclude the entry into force of the Covenant 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.

DECLARATION RE: ARTICLE 41

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

"Finland declares, under article 41 of the International Covenant on Civil and Political Rights, that it recognizes the competence of the Human Rights Committee referred to in article 28 of the said Covenant, to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under this Covenant."