

NIGER

CEDAW

RESERVATIONS AND DECLARATIONS

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

Reservations:

Article 2, paragraphs (d) and (f)

The Government of the Republic of the Niger expresses reservations with regard to article 2, paragraphs (d) and (f), concerning the taking of all appropriate measures to abolish all customs and practices which constitute discrimination against women, particularly in respect of succession.

Article 5, paragraph (a)

The Government of the Republic of the Niger expresses reservations with regard to the modification of social and cultural patterns of conduct of men and women.

Article 15, paragraph 4

The Government of the Republic of the Niger declares that it can be bound by the provisions of this paragraph, particularly those concerning the right of women to choose their residence and domicile, only to the extent that these provisions refer only to unmarried women.

Article 16, paragraph 1 (c), (e) and (g)

The Government of the Republic of the Niger expresses reservations concerning the above-referenced provisions of article 16, particularly those concerning the same rights and responsibilities during marriage and at its dissolution, the same rights to decide freely and responsibly on the number and spacing of their children, and the right to choose a family name.

The Government of the Republic of the Niger declares that the provisions of article 2, paragraphs (d) and (f), article 5, paragraphs (a) and (b), article 15, paragraph 4, and article 16, paragraph 1 (c), (e) and (g), concerning family relations, cannot be applied immediately, as they are contrary to existing customs and practices which, by their nature, can be modified only with the passage of time and the evolution of society and cannot, therefore, be abolished by an act of authority.

Article 29

The Government of the Republic of the Niger expresses a reservation concerning article 29,

paragraph 1, which provides that any dispute between two or more States concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration.

In the view of the Government of the Niger, a dispute of this nature can be submitted to arbitration only with the consent of all the parties to the dispute.

Declaration:

The Government of the Republic of the Niger declares that the term "family education" which appears in article 5, paragraph (b), of the Convention should be interpreted as referring to public education concerning the family, and that in any event, article 5 would be applied in compliance with article 17 of the International Covenant on Civil and Political Rights.

OBJECTIONS MADE TO STATE PARTY'S RESERVATIONS AND DECLARATIONS

Denmark, 2 November 2000

With regard to the reservations to article 2, paragraphs (d) and (f), article 5, paragraph (a), article 15, paragraph (4) and article 16, paragraph 1 (c), (e) and (g) made by Niger upon accession:

"The Government of Denmark finds that the reservations made by the Government of Niger are not in conformity with the object and purpose of the Convention. The provisions in respect of which Niger has made reservations cover fundamental rights of women and establish key elements for the elimination of discrimination against women. For this reason, the Government of Denmark objects to the said reservations made by the Government of Niger.

The Convention remains in force in its entirety between Niger and Denmark

It is the opinion of the Government of Denmark, that no time limit applies to objections against reservations, which are inadmissible under international law.

The Government of Denmark recommends the Government of Niger to reconsider its reservations to the Convention on the Elimination of All Forms of Discrimination against Women."

Finland, 24 October 2000

With regard to the reservations made by Niger upon accession:

" The Government of Finland notes that the reservations [...] are not in conformity with the

object and purpose of the Convention. By acceding to the Convention, a State commits itself to adopt the measures required for the elimination of discrimination against women, in all its forms and manifestations. This includes taking appropriate measures, including legislation, to modify or abolish i.e. customs and practices which constitute discrimination against women.

As it appears evident that the Government of the Republic of Niger will not apply the Convention with a view to fulfilling its treaty obligations to eliminate all forms of discrimination against women and submits reservations to some of the most essential provisions of the Convention, the above-mentioned reservations are in contradiction with the object and purpose of the Convention.

The Government of Finland recalls Part VI, Article 28 of the Convention according to which reservations incompatible with object and purpose of the Convention are not permitted.

The Government of Finland therefore objects to the above-mentioned reservations made by the Government of Niger to the Convention.

This objection does not preclude the entry into force of the Convention between Niger and Finland. The Convention will thus become operative between the two states without benefitting from the reservations."

Norway, 1 November 2000

With regard to the reservations made by Niger upon accession:

"The reservation concerns fundamental provisions of the Convention. Article 2 is the core provision as it outlines the measures which the State Party is required to take in order to implement the Convention. The Convention can only be successfully implemented when all measures prescribed by Article 2 are taken. Most importantly, it is unclear how the Convention's substantive provisions will be implemented without adopting measures to modify or abolish existing discriminatory laws, regulations, customs and practices.

The Government of Norway considers the other elements of the reservation, with exception of the reservation made to article 29, as incompatible with the object and purpose of the Convention. The relevant provisions cover fundamental rights of women or they outline key elements in order to abolish discrimination against women. Women will not have the opportunity to live on equal footing with men if these provisions are not implemented.

Further, it is the Norwegian Government's position that Article 5, paragraph (b) covers both public and private family education.

The Government of Norway therefore objects to the reservations made by the Government of

Niger to the following provisions:

Article 2, paragraphs (d) and (f)

Article 5, paragraph (a)

Article 15, paragraph 4

Article 16, paragraph 1 (c), (e) and (g)

This objection does not preclude the entry into force in its entirety of the Convention between the Kingdom of Norway and Niger. The Convention thus becomes operative between Norway and Niger without Niger benefiting from these reservations."

Sweden

17 March 1986

"The Government of Sweden considers that [the following reservations] are incompatible with the object and purpose of the Convention (article 28, paragraph 2) and therefore objects to them:

...

"Indeed the reservations in question, if put into practice, would inevitably result in discrimination against women on the basis of sex, which is contrary to everything the Convention stands for. It should also be borne in mind that the principles of the equal rights of men and women and of non-discrimination on the basis of sex are set forth in the Charter of the United Nations as one of its purposes, in the Universal Declaration of Human Rights of 1948 and in various multilateral instruments, to which Thailand, Tunisia and Bangladesh are parties.

...

"In this context the Government of Sweden wishes to take this opportunity to make the observation that the reason why reservations incompatible with the object and purpose of a treaty are not acceptable is precisely that otherwise they would render a basic international obligation of a contractual nature meaningless. Incompatible reservations, made in respect of the Convention on the elimination of all forms of discrimination against women, do not only cast doubts on the commitments of the reserving states to the objects and purpose of this Convention, but moreover, contribute to undermine the basis of international contractual law. It is in the common interest of states that treaties to which they have chosen to become parties also are respected, as to object and purpose, by other parties."

Subsequently, the Secretary-General received, from the Government of Sweden, objections of the same nature as the one above with regard to reservations made by the following States on the dates indicated hereinafter:

...

- 27 April 2000 with regard to the reservations to articles 2, 5, 15 and 16 made by Niger upon accession.

Note

With regard to the reservations made by the Government of Niger upon accession, the Secretary-General received from the Governments of the following States, communications on the dates indicated hereinafter:

France (14 November 2000):

By indicating that it "expresses reservations" to article 2, paragraphs (d) and (f), article 5, paragraph (a), and article 16, paragraph 1 (c), (e) and (g), the Government of the Republic of the Niger is aiming completely to preclude the application of the provisions concerned. The reservation to article 15, paragraph 4, which seeks to deprive married women of the right to choose their residence and domicile, is contrary to the object and purpose of the Convention.

The general reservation relating to the provisions of article 2, paragraphs (d) and (f), article 5, paragraphs (a) and (b), article 15, paragraph 4, and article 16, paragraph 1 (c), (e) and (g), seeks to ensure that domestic law, and even domestic practice and the current values of society, prevail in general over the provisions of the Convention. The provisions in question concern not only family relations but also social relations as a whole; in particular, article 2, paragraph (d), imposes an obligation on public authorities and institutions to comply with the ban on any act or practice of discrimination, and article 2, paragraph (f), establishes the obligation to take the appropriate measures, notably legislative measures, to prevent discrimination against women, including in relations between individuals. Because it ignores these obligations, the reservation is manifestly contrary to the object and purpose of the Convention.

The Government of the French Republic considers that the reservations to articles 2, 5, 15 and 16 completely vitiate the undertaking of the Republic of the Niger and are manifestly not authorized by the Convention; in consequence, it enters its objection to them.

[The Permanent Mission further adds] that the reservations of the Republic of the Niger, made on 8 October 1999, were notified by the Secretary-General of the United Nations on 2 November 1999 and received by the French Republic on 16 November 1999. In these circumstances, the French Republic is still able, as at this date and until 15 November 2000, to lodge an objection and the Secretary-General of the United Nations cannot treat this act as a simple communication.

Netherlands (6 December 2000):

"The Government of the Kingdom of the Netherlands is of the view that these reservations which seek to limit the obligations of the reserving State by invoking its national law, may raise doubts as to the commitment of Niger to the object and purpose of the Convention and, moreover, contribute to undermining the basis of international treaty law.

The Government of the Kingdom of the Netherlands recalls that according to paragraph 2 of Article 28 of the Convention, a reservation incompatible with the object and purpose of the Convention shall not be permitted.

It is in the common interest of States that treaties to which they have chosen to become party 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 Kingdom of the Netherlands therefore objects to the afore-said reservations made by the Government of Niger to the Convention on the Elimination of All Forms of Discrimination against Women. This objection shall not preclude the entry into force of the Convention between the Kingdom of the Netherlands and Niger."

(Note 49, Chapter IV.8, Multilateral Treaties Deposited with the Secretary-General)