

SAUDI ARABIA

CEDAW

RESERVATIONS AND DECLARATIONS

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

Reservations:

"1. In case of contradiction between any term of the Convention and the norms of Islamic law, the Kingdom is not under obligation to observe the contradictory terms of the Convention.

2. The Kingdom does not consider itself bound by paragraph 2 of article 9 of the Convention and paragraph 1 of article 29 of the Convention."

OBJECTIONS MADE TO STATE PARTY'S RESERVATIONS AND DECLARATIONS

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

Austria, 21 August 2001

With regard to reservations made by Saudi Arabia upon ratification:

"Austria has examined the reservations to the Convention on the Elimination of All Forms of Discrimination against Women made by the Government of the Kingdom of Saudi Arabia in its note to the Secretary-General of 7 September 2000.

The fact that the reservation concerning any interpretation of the provisions of the Convention that is incompatible with the norms of Islamic law does not clearly specify the provisions of the Convention to which it applies and the extent of the derogation therefrom raises doubts as to the commitment of the Kingdom of Saudi Arabia to the Convention.

Given the general character of this reservation a final assessment as to its admissibility under international law cannot be made without further clarification. Until the scope of the legal effects of this reservation is sufficiently specified by the Government of Saudi Arabia, Austria considers the reservation as not affecting any provision the implementation of which is essential to fulfilling the object and purpose of the Convention. In Austria's view, however, the reservation in question is inadmissible to the extent that its application negatively affects the compliance by Saudi Arabia with its obligations under the Convention essential for the fulfilment of its object and purpose. Austria does not consider the reservation made by the Government of Saudi Arabia as admissible unless the Government of Saudi Arabia, by providing additional information or through subsequent practice, ensures that the reservation is compatible with the provisions essential for the implementation of the object and purpose of the Convention.

As to the reservation to Paragraph 2 of Article 9 of the Convention Austria is of the view that the exclusion of such an important provision of non-discrimination is not compatible with object and purpose of the Convention. Austria therefore objects to this reservation.

This position, however, does not preclude the entry into force in its entirety of the Convention between Saudi Arabia and Austria."

Denmark, 10 August 2001

With regard to the reservations made by Saudi Arabia upon ratification:

"The Government of Denmark has examined the reservations made by the Government of Saudi Arabia upon ratification on the Convention on the Elimination of All Forms of Discrimination Against Women as to any interpretation of the provisions of the Convention that is incompatible with the norms of Islamic law.

The Government of Denmark finds that the general reservation with reference to the provisions of Islamic law are of unlimited scope and undefined character. Consequently, the Government of Denmark considers the said reservations as being incompatible with the object and purpose of the Convention and accordingly inadmissible and without effect under international law.

The Government of Denmark furthermore notes that the reservation to paragraph 2 of article 9 of the Convention aims to exclude one obligation of non-discrimination which is the aim of the Convention and therefore renders this reservation contrary to the essence of the Convention.

The Government of Denmark therefore objects to the aforesaid reservations made by the Government of the Kingdom of Saudi Arabia to the Convention on Elimination of All Forms of Discrimination against Women.

These objections shall not preclude the entry into force of the Convention in its entirety between Saudi Arabia and Denmark.

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

Finland, 8 October 2001

With regard to the reservations made by Saudi Arabia upon ratification:

"The Government of Finland has examined the contents of the reservations made by the Government of Saudi Arabia to the Convention on the Elimination of all Forms of Discrimination Against Women.

The Government of Finland recalls that by acceding to the Convention, a State commits itself to adopt the measures required for the elimination of discrimination, in all its forms and manifestations, against women.

A reservation which consists of a general reference to religious law and national law without specifying its contents, as the first part of the reservation made by Saudi Arabia, does not clearly define to other Parties to the Convention the extent to which the reserving State commits itself to the Convention and therefore creates serious doubts as to the commitment of the reserving State to fulfil its obligations under the Convention.

Furthermore, reservations are 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.

As the reservation to Paragraph 2 of Article 9 aims to exclude one of the fundamental obligations under the Convention, it is the view of the Government of Finland that the reservation is not compatible with the object and purpose of the Convention.

The Government of Finland also recalls Part VI, Article 28 of the Convention according to which reservations incompatible with the 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 Saudi Arabia to the Convention.

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

France, 26 June 2001

With regard to reservations made by Saudi Arabia upon ratification:

The Government of the French Republic has examined the reservations made by the Government of the Kingdom of Saudi Arabia to the Convention on the Elimination of All Forms of Discrimination against Women, adopted in New York on 18 December 1979. By stating that in case of contradiction between any term of the Convention and the norms of Islamic law, it is not under obligation to observe the terms of the Convention, the Kingdom of Saudi Arabia formulates a reservation of general, indeterminate scope that gives the other States parties absolutely no idea

which provisions of the Convention are affected or might be affected in future. The Government of the French Republic believes that the reservation could make the provisions of the Convention completely ineffective and therefore objects to it. The second reservation, concerning article 9, paragraph 2, rules out equality of rights between men and women with respect to the nationality of their children and the Government of the French Republic therefore objects to it.

These objections do not preclude the Convention's entry into force between Saudi Arabia and France. The reservation rejecting the means of dispute settlement provided for in article 29, paragraph 1, of the Convention is in conformity with the provisions of article 29, paragraph 2.

Germany, 19 January 2001

With regard to the reservations made by Saudi Arabia upon ratification.

"The Government of the Federal Republic of Germany is of the view that the reservation, with regard to compatibility of CEDAW rules with Islamic law, raises doubts as to the commitment of the Kingdom of Saudi Arabia to CEDAW. The Government of the Federal Republic of Germany considers this reservation to be incompatible with the object and purpose of the Convention.

The Government of the Federal Republic of Germany notes furthermore that the reservation to Paragraph 2 of article 9 of CEDAW aims to exclude one obligation of non-discrimination which is so important in the context of CEDAW as to render this reservation contrary to the essence of the Convention.

The Government of the Federal Republic of Germany therefore objects to the aforesaid reservations made by the Government of the Kingdom of Saudi Arabia to the Convention on Elimination of all Forms of Discrimination against Women.

This objection does not preclude the entry into force of the Convention between the Federal Republic of Germany and the Kingdom of Saudi Arabia."

Ireland, 2 October 2001

With regard to the reservations made by Saudi Arabia upon ratification:

"The Government of Ireland has examined the reservation made, on 7 September 2000, by the Government of the Kingdom of Saudi Arabia to the Convention on the Elimination of All Forms of Discrimination Against Women, in respect of any divergence between the terms of the Convention and the norms of Islamic law. It has also examined the reservation made on the same date by the

Government of the Kingdom of Saudi Arabia to Article 9, paragraph 2 of the Convention concerning the granting to women of equal rights with men with respect to the nationality of their children.

As to the former of the aforesaid reservations, the Government of Ireland is of the view that a reservation which consists of a general reference to religious law without specifying the content thereof and which does not clearly specify the provisions of the Convention to which it applies and the extent of the derogation therefrom, may cast doubts on the commitment of the reserving State to fulfil its obligations under the Convention. The Government of Ireland is furthermore of the view that such a general reservation may undermine the basis of international treaty law.

As to the reservation to Article 9, paragraph 2 of the Convention, the Government of Ireland considers that such a reservation aims to exclude one obligation of non-discrimination which is so important in the context of the Convention on the Elimination of All Forms of Discrimination Against Women as to render this reservation contrary to the essence of the Convention. The Government of Ireland notes in this connection that Article 28, paragraph 2 of the Convention provides that a reservation incompatible with the object and purpose of the Convention shall not be permitted.

The Government of Ireland moreover recalls that by ratifying the Convention, a State commits itself to adopt the measures required for the elimination of discrimination, in all its forms and manifestations, against women.

The Government of Ireland therefore objects to the aforesaid reservations made by the Government of the Kingdom of Saudi Arabia 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 Ireland and the Kingdom of Saudi Arabia."

Netherlands, 18 September 2001

With regard to the reservations made by Saudi Arabia upon ratification:

"The Government of the Kingdom of the Netherlands has examined the reservations made by the Government of Saudi Arabia at the time of its [ratification of] the Convention on the Elimination of All Forms of Discrimination against Women.

The Government of the Kingdom of the Netherlands considers that the reservation concerning the national law of Saudi Arabia, which seeks to limit the responsibilities of the reserving State under the Convention by invoking national law, may raise doubts as to the commitment of this State 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 furthermore considers that the reservation made by Saudi Arabia regarding article 9, paragraph 2, of the Convention is incompatible with the object and purpose of the Convention. 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 should be respected, as to object and purpose, by all parties. The Government of the Kingdom of the Netherlands therefore objects to the aforesaid reservations made by the Government of Saudi Arabia 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 Saudi Arabia."

Norway, 9 October 2001

With regard to the reservation made by Saudi Arabia upon ratification:

"The Government of Norway has examined the contents of the reservation made by the Government of the Kingdom of Saudi Arabia upon ratification of the Convention on the Elimination of all forms of Discrimination Against Women.

According to paragraph 1 of the reservation, the norms of Islamic Law shall prevail in the event of conflict with the provisions of the Convention. It is the position of the Government of Norway that, due to its unlimited scope and undefined character, this part of the reservation is contrary to object and purpose of the Convention.

Further, the reservation to Article 9, paragraph 2, concerns one of the core provisions of the Convention, and which aims at eliminating discrimination against women. The reservation is thus incompatible with the object and purpose of the Convention.

For these reasons, the Government of Norway objects to paragraph 1 and the first part of paragraph 2 of the reservation made by Saudi Arabia, as they are impermissible according to Article 28, paragraph 2 of the Convention.

This objection does not preclude the entry into force in its entirety of the Convention between the Kingdom of Norway and the Kingdom of Saudi Arabia. The Convention thus becomes operative between Norway and Saudi Arabia without Saudi Arabia benefitting from the said parts of the reservation."

Portugal, 18 July 2001

With regard to the reservations made by Saudi Arabia upon ratification :

"The Government of the Portuguese Republic has examined the reservation made on 7 September by the Government of the Kingdom of Saudi Arabia to the Convention on the Elimination of All Forms of Discrimination against Women (New York, 18 December 1979), regarding any interpretation of the provisions of the Convention that is incompatible with the precept of Islamic law and the Islamic religion. It has also examined the reservation to article 9.2 of the Convention.

The Government of the Portuguese Republic is of the view that the first reservation refers in general terms to the Islamic law, failing to specify clearly its content and, therefore, leaving the other State parties with doubts as to the real extent of the Kingdom of Saudi Arabia's commitment to the Convention.

Furthermore, it also considers the reservation made by the Government of the Kingdom of Saudi Arabia incompatible with the objective and purpose of the aforesaid Convention, for it refers to the whole of the Convention, and it seriously limits or even excludes its application on a vaguely defined basis, such as the global reference to the Islamic law.

Regarding the reservation to article 9.2, the Government of the Portuguese Republic is of the view that the said reservation intends to exclude one of the obligations of non-discrimination, which is the essence of the Convention.

Therefore, the Government of the Portuguese Republic objects to the aforementioned reservations made by the Government of the Kingdom of Saudi Arabia 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 Portuguese Republic and the Kingdom of Saudi Arabia."

Spain, 22 February 2001

With regard to the reservations made by Saudi Arabia upon ratification :

The Government of the Kingdom of Spain has examined the reservation made by the Government of the Kingdom of Saudi Arabia to the Convention on the Elimination of All Forms of Discrimination against Women on [7] September 2000, regarding any interpretation of the Convention that may be incompatible with the norms of Islamic law and regarding article 9, paragraph 2.

The Government of the Kingdom of Spain considers that the general reference to Islamic law, without specifying its content, creates doubts among the other States parties about the extent to which the Kingdom of Saudi Arabia commits itself to fulfil its obligations under the Convention.

The Government of the Kingdom of Spain is of the view that such a reservation by the Government of the Kingdom of Saudi Arabia is incompatible with the object and purpose of the Convention, since it refers to the Convention as a whole and seriously restricts or even excludes its application on a basis as ill-defined as the general reference to Islamic law.

Furthermore, the reservation to article 9, paragraph 2, aims at excluding one of the obligations concerning non-discrimination, which is the ultimate goal of the Convention.

The Government of the Kingdom of Spain recalls that according to article 28, paragraph 2, of the Convention, reservations that are incompatible with the object and purpose of the Convention shall not be permitted.

Therefore, the Government of the Kingdom of Spain objects to the said reservations by the Government of the Kingdom of Saudi Arabia 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 Spain and the Kingdom of Saudi Arabia.

Sweden, 30 March 2001

With regard to the reservations made by Saudi Arabia upon ratification:

"The Government of Sweden has examined the reservation made by the Government of the Kingdom of Saudi Arabia at the time of its ratification of the Convention on the Elimination of All Forms of Discrimination against Women, as to any interpretation of the provisions of the Convention that is incompatible with the norms of Islamic law.

The Government of Sweden is of the view that this general reservation, which does not clearly specify the provisions of the convention to which it applies and the extent of the derogation therefrom, raises doubts as to the object and purpose of the Convention.

It is in the common interest of States that treaties to which they have been 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. According to customary law as codified in the Vienna Convention on the Law of Treaties, a reservation incompatible with the object and purpose of the Convention shall not be permitted. The Government of Sweden therefore

objects to the aforesaid general reservation made by the Government of the Kingdom of Saudi Arabia to the Convention on the Elimination of All Forms of Discrimination against Women.

This shall not preclude the entry into force of the Convention between the Kingdom of Saudi Arabia and the Kingdom of Sweden, without the Kingdom of Saudi Arabia benefitting from the said reservation".

United Kingdom of Great Britain and Northern Ireland, 6 September 2001

With regard to the reservation made by Saudi Arabia upon ratification:

"The Permanent Mission of the United Kingdom of Great Britain and Northern Ireland to the United Nations presents its compliments to the Secretary-General of the United Nations and has the honour to refer to the reservation made on 7 September 2000 by the Government of the Kingdom of Saudi Arabia to the Convention on the Elimination of All Forms of Discrimination Against Women, done at New York on 18 December 1979, which reads as follows:

"In case of contradiction between any term of the Convention and the norms of Islamic Law, the Kingdom is not under obligation to observe the contradictory terms of the Convention."

The Government of the United Kingdom notes that a reservation which consists of a general reference to national law without specifying its contents does not clearly define for other States Parties to the Convention the extent to which the reserving State has accepted the obligations of the Convention. The Government of the United Kingdom therefore object to the aforesaid reservation made by the Government [of] the Kingdom of the Saudi Arabia.

This objection shall not preclude the entry into force of the Convention between the United Kingdom of Great Britain and Northern Ireland and the Kingdom of Saudi Arabia."