

SPAIN

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)

13 December 1999

With regard to the declaration to article 14 (1) made by Bangladesh upon accession:

The Government of the Kingdom of Spain considers that this declaration is actually a reservation, since its purpose is to exclude or modify the application of the legal effect of certain provisions of the Convention. Moreover, in referring in a general way to the domestic laws of Bangladesh, without specifying their content, the reservation raises doubts among the other States parties as to the extent to which the People's Republic of Bangladesh is committed to ratifying the Convention.

The Government of the Kingdom of Spain believes that the reservation lodged by the Government of the People's Republic of Bangladesh is incompatible with the objective and purpose of the Convention, for which the provisions concerning redress and compensation for victims of torture are essential factors in the concrete fulfilment of the commitments made under the Convention.

The Government of the Kingdom of Spain therefore states an objection to the above-mentioned reservation lodged by the Government of the People's Republic of Bangladesh to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, concerning article 14, paragraph 1, of that Convention.

This objection does not affect the entry into force of the above-mentioned Convention between the Kingdom of Spain and the People's Republic of Bangladesh.

14 March 2000

With regard to the reservation made by Qatar upon accession:

The Government of the Kingdom of Spain has examined the reservation made by the Government of the State of Qatar to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 11 January 2000, as to any interpretation of the Convention that is incompatible with the precepts of Islamic law and the Islamic religion.

The Government of the Kingdom of Spain considers that, by making a general reference to Islamic law and religion rather than to specific content, this reservation raises doubts among the other States parties as to the extent of the commitment of the State of Qatar to abide by the Convention.

The Government of the Kingdom of Spain considers the reservation made by the Government of the State of Qatar to be incompatible with the purpose and aim of the Convention, in that it relates to the entire Convention and seriously limits or even excludes its application on a basis which is not clearly defined, namely, a general reference to Islamic law.

Accordingly, the Government of the Kingdom of Spain objects to the above-mentioned reservation made by the Government of the State of Qatar to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. This objection does not prevent the Convention's entry into force between the Government of Spain and the Government of the State of Qatar.

28 June 2011

Objection to the reservations made by Pakistan upon ratification:

The Government of the Kingdom of Spain has examined the reservations made by Pakistan upon its ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, with regard to articles 3, 4, 6, 12, 13 and 16 of that international instrument.

The Government of the Kingdom of Spain considers that those articles refer to rights and guarantees that are essential for achieving the object and purpose of the Convention. As the reservations formulated by Pakistan make application of those articles of the Convention subject to their consistency with domestic law on extradition, with the Constitution and with Sharia laws, to which it refers in general terms without specifying their content, they make it impossible to determine the extent of Pakistan's commitment to achieving the object and purpose of the Convention. Furthermore, they violate the principle of international law, well established in practice, that a State cannot make compliance with international obligations that are assumed voluntarily subordinate to the application of the provisions of domestic law, whatever their nature. In no case may such reservations, as formulated, exclude the legal effects of obligations arising from the relevant provisions of the Convention.

Consequently, the Government of the Kingdom of Spain objects to the reservations made to articles 3, 4, 6, 12, 13 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

This objection shall not preclude the entry into force of the Convention between the Kingdom of Spain and Pakistan.

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:

...

Spain (6 October 1988):

...The Government of the Kingdom of Spain feels that such a reservation is a violation of article 19, paragraph (b), of the Vienna Convention on the Law of Treaties of 23 May 1969, because the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment sets forth, in article 28, paragraph 1, and article 30, paragraph 2, the only reservations that may be made to the Convention, and the above-mentioned reservation of the German Democratic Republic does not confirm to either of those reservations.

...

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:

...

Spain (26 September 1989):

... The aforementioned reservations are contrary to the purposes and aims of the Convention.

The present objection does not constitute an obstacle to the entry into force of the Convention between Spain 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)

Spain declares that, pursuant to article 21, paragraph 1, of the Convention, it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that the Spanish State is not fulfilling its obligations under this Convention. It is Spain's understanding that, pursuant to the above-mentioned article, such communications shall be accepted and processed only if they come from a State Party which has made a similar declaration.

Spain declares that, pursuant to article 22, paragraph 1, of the Convention, it recognizes the competence of the Committee to receive and consider communications sent by, or on behalf of, persons subject to Spanish jurisdiction who claim to be victims of a violation by the Spanish State of the provisions of the Convention. Such communications must be consistent with the provisions of the above-mentioned article and, in particular, of its paragraph 5.