

SWITZERLAND

CCPR

RESERVATIONS AND DECLARATIONS

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

Reservations:

...

(b) Reservation concerning article 12, paragraph 1:

The right to liberty of movement and freedom to choose one's residence is applicable, subject to the federal laws on aliens, which provide that residence and establishment permits shall be valid only for the canton which issues them.

...

(f) Reservation concerning article 20:

Switzerland reserves the right not to adopt further measures to ban propaganda for war, which is prohibited by article 20, paragraph 1.

...

(g) Reservation concerning article 25, subparagraph (b):

The present provision shall be applied without prejudice to the cantonal and communal laws, which provide for or permit elections within assemblies to be held by a means other than secret ballot.

(h) Reservation concerning article 26:

The equality of all persons before the law and their entitlement without any discrimination to the equal protection of the law shall be guaranteed only in connection with other rights contained in the present Covenant.

Note

On 16 October 1995, the Government of Switzerland notified the Secretary-General that it had decided to withdraw its reservation to article 20, paragraph 2 made upon accession, which read as follows:

Switzerland reserves the right to adopt a criminal provision which will take into account the requirements of article 20, paragraph 2, on the occasion of its forthcoming accession to the 1966 International Convention on the Elimination of All Forms of Racial Discrimination.

Further, on 12 January 2004, the Government of Switzerland notified the Secretary-General that it had decided to withdraw its reservation to article 14, paragraph 3, sub-paragraphs (d) and (f) made upon accession, which reads as follows:

The guarantee of free legal assistance assigned by the court and of the free assistance of an interpreter does not definitively exempt the beneficiary from defraying the resulting costs.

Further, on 1 May 2007, the Government of Switzerland notified the Secretary-General that it had decided to withdraw its reservations to article 10, paragraph 2 (b) and article 14, paragraph 1 and 5 made upon accession, which reads as follows:

(a) Reservation concerning article 10, paragraph 2 (b):

The separation of accused juvenile persons from adults is not unconditionally guaranteed.

(b) Reservations concerning article 14, paragraph 1:

The principle of a public hearing is not applicable to proceedings which involve a dispute relating to civil rights and obligations or to the merits of the prosecution's case in a criminal matter; these, in accordance with cantonal laws, are held before an administrative authority. The principle that any judgement rendered shall be made public is adhered to without prejudice to the cantonal laws on civil and criminal procedure, which provide that a judgement shall not be rendered at a public hearing, but shall be transmitted to the parties in writing.

The guarantee of a fair trial has as its sole purpose, where disputes relating to civil rights and obligations are concerned, to ensure final judicial review of the acts or decisions of public authorities which have a bearing on such rights or obligations. The Term "final judicial review" means a judicial examination which is limited to the application of the law, such as a review by a Court of Cassation.

The right to liberty of movement and freedom to choose one's residence is applicable, subject to the federal laws on aliens, which provide that residence and establishment permits shall be valid only for the canton which issues them.

(c) Reservation concerning article 14, paragraph 5:

The reservation applies to the federal laws on the organization of criminal justice, which provide for an exception to the right of anyone convicted of a crime to have his conviction and sentence reviewed by a higher tribunal, where the person concerned is tried in the first instance by the highest

tribunal.

(Note 36, 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 June 2011

With regard to the reservations made by Pakistan upon ratification:

Concerning the International Covenant on Civil and Political Rights of 16 December 1966:

“The Swiss Federal Council has examined the reservations made by the Islamic Republic of Pakistan upon its accession to the International Covenant on Civil and Political Rights of 16 December 1966, with regard to articles 3, 6, 7, 18 and 19 of the Covenant.

The reservations to the articles, which refer to the provisions of domestic law and Islamic Sharia law, do not specify their scope and raise doubts about the ability of the Islamic Republic of Pakistan to honour its obligations as a party to the Covenant. Furthermore, the Swiss Federal Council emphasizes that the third sentence of article 6, paragraph 1; article 7; and article 18, paragraph 2, constitute *jus cogens* and therefore enjoy absolute protection.

A general reservation to article 40, a key provision of the Covenant, raises serious doubts as to the compatibility of such a reservation with the object and purpose of the Covenant.

Article 19 of the Vienna Convention on the Law of Treaties of 23 May 1969 prohibits any reservation that is incompatible with the object and purpose of a treaty.

Consequently, the Swiss Federal Council objects to the aforesaid reservations made by the Islamic Republic of Pakistan to the International Covenant on Civil and Political Rights of 16 December 1966.

This objection does not preclude the entry into force of the Covenant between Switzerland and the Islamic Republic of Pakistan.”

DECLARATION RE: ARTICLE 41

25 April 1997

The Swiss Government declares, pursuant to article 41 (1) of the [said Covenant], that it shall recognize for a further period of five years, as from 18 September 1997, the competence of the Human Rights Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the present Covenant.

11 May 2010

“...the Swiss Federal Council declares, pursuant to article 41 (1) of the International Covenant on Civil and Political Rights of 16 December 1966, that it recognizes for a further period of five years, beginning on 16 April 2010, the competence of the Human Rights Committee to receive and consider communications from States parties concerning non-compliance by other States parties with the obligations arising under the Covenant.”

Note

A previous declaration received on 18 June 1992 expired on 18 June 1997.
(*Note 41, Chapter IV.4, Multilateral Treaties Deposited with the Secretary-General*)