

\TURKEY

CCPR

RESERVATIONS AND DECLARATIONS

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

Declarations and reservation:

The Republic of Turkey declares that; it will implement its obligations under the Covenant in accordance to the obligations under the Charter of the United Nations (especially Article 1 and 2 thereof).

The Republic of Turkey declares that it will implement the provisions of this Covenant only to the States with which it has diplomatic relations.

The Republic of Turkey declares that this Convention is ratified exclusively with regard to the national territory where the Constitution and the legal and administrative order of the Republic of Turkey are applied.

The Republic of Turkey reserves the right to interpret and apply the provisions of Article 27 of the International Covenant on Civil and Political Rights 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.

OBJECTIONS MADE TO STATE PARTY'S RESERVATIONS AND DECLARATIONS

Cyprus, 26 November 2003

With regard to the declaration made by Turkey upon ratification:

"...the Government of the Republic of Cyprus has examined the declaration made by the Government of the Republic of Turkey to the International Covenant on Civil and Political Rights (New York, 16 December 1966) on 23 September 2003, in respect of the implementation of the provisions of the Convention only to the States Parties which it recognizes and with which it has diplomatic relations.

In the view of the Government of the Republic of Cyprus, this declaration amounts to a reservation. This reservation creates uncertainty as to the States Parties in respect of which Turkey is undertaking the obligations in the Covenant, and raises doubt as to the commitment of Turkey to the object and

purpose of the said Covenant. The Government of the Republic of Cyprus therefore objects to the reservation made by the Government of the Republic of Turkey to the International Covenant on Civil and Political Rights.

This reservation or the objection to it shall not preclude the entry into force of the Covenant between the Republic of Cyprus and the Republic of Turkey."

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."

Germany, 13 October 2004

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

The Government of the Republic of Turkey has declared that it will implement the provisions of the Covenant only to the states with which it has diplomatic relations. Moreover, the Government of the Republic of Turkey has declared that it ratifies the Covenant exclusively with regard to the national territory where the Constitution and the legal and administrative order of the Republic of Turkey are applied. Furthermore, the Government of the Republic of Turkey has reserved 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 the Federal Republic of Germany would like to recall that it is in the common interest of all states that treaties to which they have chosen to become parties are respected and applied 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 these treaties. The Government of the Federal Republic of Germany is therefore concerned about declarations and reservations such as those made and expressed by the Republic of Turkey with respect to the International Covenant on Civil and Political Rights.

However, the Government of the Federal Republic of Germany believes these declarations do not aim to limit the Covenant's scope in relation to those states with which Turkey has established bonds under the Covenant, and that they do not aim to impose any other restrictions that are not provided for by the Covenant. The Government of the Federal Republic of Germany attaches great importance to the rights guaranteed by Article 27 of the Covenant. The Government of the Federal Republic of Germany understands the reservation expressed by the Government of the Republic of Turkey to mean that the rights guaranteed by Article 27 of the Covenant will also be granted to all minorities not mentioned in the provisions and rules referred to in the reservation."

Greece, 11 October 2004

With regard to the declarations made by Turkey upon ratification:

"The Government of Greece has examined the declarations made by the Republic of Turkey upon ratifying the International Covenant on Civil and Political Rights.

The Republic of Turkey declares that it will implement the provisions of the Covenant only to the States with which it has diplomatic relations.

In the view of the Government of Greece, this declaration in fact amounts to a reservation. This reservation is incompatible with the principle that inter-State reciprocity has no place in the context of human rights treaties, which concern the endowment of individuals with rights. It is therefore contrary to the object and purpose of the Covenant.

The Republic of Turkey furthermore declares that the Covenant is ratified exclusively with regard to the national territory where the Constitution and the legal and administrative order of the Republic of Turkey are applied.

In the view of the Government of Greece, this declaration in fact amounts to a reservation. This reservation is contrary to the letter and the spirit of article 2 (i) of the Covenant. Indeed, a State Party must respect and ensure the rights laid down in the Covenant to anyone within the power or effective control of that State Party, even if not situated within the territory of such State Party. Accordingly,

this reservation is contrary to the object and purpose of the Covenant.

For these reasons, the Government of Greece objects to the aforesaid reservations made by the Republic of Turkey to the International Covenant on Civil and Political Rights.

This objection shall not preclude the entry into force of the Covenant between the Hellenic Republic and the Republic of Turkey. The Covenant, therefore, enters into force between the two States without the Republic of Turkey benefiting from these reservations."

Portugal, 13 October 2004

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

"The Government of Portugal considers that reservations by which a State limits its responsibilities under the International Covenant on Civil and Political Rights (ICCPR) by invoking certain provisions of national law in general terms may create doubts as to the commitment of the reserving State to the object and purpose of the convention and, moreover, contribute to undermining the basis of international law.

It is in the common interest of all 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 Portugal therefore objects to the reservation by Turkey to the ICCPR. This objection shall not constitute an obstacle to the entry into force of the Covenant between Portugal and Turkey."

Sweden, 30 June 2004

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

The Government of Sweden has examined the declarations and reservation made by the Republic of Turkey upon ratifying the International Covenant on Civil and Political Rights.

The Republic of Turkey declares that it will implement the provisions of the Covenant only to the State parties with which it has diplomatic relations. This statement in fact amounts, in the view of the Government of Sweden, to a reservation. The reservation of the Republic of Turkey makes it

unclear to what extent the Republic of Turkey considers itself bound by the obligations of the Covenant. In absence of further clarification, therefore, the reservation raises doubt as to the commitment of the Republic of Turkey to the object and purpose of the Covenant.

The Republic of Turkey furthermore declares that the Covenant is ratified exclusively with regard to the national territory where the Constitution and the legal and administrative order of the Republic of Turkey are applied. This statement also amounts, in the view of the Government of Sweden, to a reservation. It should be recalled that the duty to respect and ensure the rights recognized in the Covenant is mandatory upon State parties in relation to all individuals under their jurisdiction. A limitation to the national territory is contrary to the obligations of State parties in this regard and therefore incompatible with the object and purpose of the Covenant.

The Government of Sweden notes that the interpretation and application of article 27 of the Covenant is being made subject to a general reservation referring to the Constitution of the Republic of Turkey and the Treaty of Lausanne of 24 July 1923 and its Appendixes. The general reference to the Constitution of the Republic of Turkey, which, in the absence of further clarification, does not clearly specify the extent of the Republic of Turkey's derogation from the provision in question, raises serious doubts as to the commitment of the Republic of Turkey to the object and purpose of the Covenant.

The Government of Sweden furthermore wishes to recall that the rights of persons belonging to minorities in accordance with article 27 of the Covenant are to be respected without discrimination. As has been laid down by the Human Rights Committee in its General comment 23 on Article 27 of the Covenant, the existence of a minority does not depend upon a decision by the state but requires to be established by objective criteria. The subjugation of the application of article 27 to the rules and provisions of the Constitution of the Republic of Turkey and the Treaty of Lausanne and its Appendixes is, therefore, in the view of the Government of Sweden, incompatible with the object and purpose of the Covenant.

According to established customary law as codified by the Vienna Convention on the Law of Treaties, reservations incompatible with the object and purpose of a treaty shall not be permitted. It is in the common interest of all 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 Sweden therefore objects to the aforesaid reservations made by the Republic of Turkey to the International Covenant on Civil and Political Rights.

This objection shall not preclude the entry into force of the Covenant between the Republic of Turkey and Sweden. The Covenant enters into force in its entirety between the two States, without the Republic of Turkey benefiting from its reservations.