

AUSTRIA

CAT

RESERVATIONS AND DECLARATIONS

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

“1. Austria will establish its jurisdiction in accordance with article 5 of the Convention irrespective of the laws applying to the place where the offence occurred, but in respect of paragraph 1 (c) only if prosecution by a State having jurisdiction under para graph 1 (a) or paragraph 1 (b) is not to be expected.”

“2. Austria regards article 15 as the legal basis for the inadmissibility provided for therein of the use of statements which are established to have been made as a result of torture.”

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)

24 June 2011

With regard to the reservations made by Pakistan upon ratification:

“The Government of Austria has examined the reservations made by the Islamic Republic of Pakistan upon ratification of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

The Government of Austria considers that in aiming to exclude the application of those provisions of the Convention which are deemed incompatible with the Constitution of Pakistan, Sharia laws and certain national laws, the Islamic Republic of Pakistan has made reservations of general and indeterminate scope. These reservations do not clearly define for the other States Parties to the Convention the extent to which the reserving State has accepted the obligations of the Convention.

The Government of Austria therefore considers the reservations of the Islamic Republic of Pakistan to Articles 3, 4, 6, 12, 13 and 16 incompatible with the object and purpose of the Covenant and objects to them.

These objections shall not preclude the entry into force of the Convention between Austria and the Islamic Republic of 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:

...

Austria (29 September 1988):

“The Declaration [...] cannot alter or modify, in any respect, the obligations arising from that Convention for all States Parties thereto.”

...

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:

...

Austria (9 November 1989):

"The reservations [...] are incompatible with the object and purpose of the Convention and are therefore impermissible under article 19 (c) of the Vienna Convention on the Law of Treaties. The Republic of Austria therefore objects against these reservations and states that they cannot alter or modify, in any respect, the obligations arising from the Convention for all States Parties thereto."

...

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 6, 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)

"Austria recognizes the competence of the Committee against Torture to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under this Convention.

Austria recognizes the competence of the Committee against Torture to receive and consider communications from or on behalf of individuals subject to Austrian jurisdiction who claim to be victims of a violation of the provisions of the Convention."

