

## DENMARK

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)*

4 October 2001

With regard to the reservation made by Botswana upon ratification:

"The Government of Denmark has examined the contents of the reservation made by the Government of Botswana to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The reservation refers to legislation in force in Botswana as to the definition of torture and thus to the scope of application of the Convention. In the absence of further clarification the Government of Denmark considers that the reservation raises doubts as to the commitment of Botswana to fulfill her obligations under the Convention and is incompatible with the object and purpose of the Convention.

For these reasons, the Government of Denmark objects to this reservation made by the Government of Botswana. This objection does not preclude the entry into force of the Convention in its entirety between Botswana and Denmark without Botswana benefitting from the reservation."

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28 June 2011

With regard to the reservations made by Pakistan upon ratification:

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

The Government of Denmark considers, that the reservations made by the Islamic Republic of Pakistan to articles 3, 4, 6, 12, 13, and 16 of the Convention, which make the application of these essential obligations under the Convention subject to Sharia and/or constitutional and/or national law in force in the Islamic Republic of Pakistan, raise doubts as to what extent the Islamic Republic of Pakistan considers itself bound by the obligations of the treaty and concern as to the commitment of the Islamic Republic of Pakistan to the object and purpose of the Convention.

The Government of Denmark wishes to recall that, according to customary international law, as codified in the Vienna Convention on the Law of Treaties, reservations incompatible with the

object and purpose of the Convention shall not be permitted.

Consequently, the Government of Denmark considers the said reservations as incompatible with the object and purpose of the Convention and accordingly inadmissible and without effect under international law.

The Government of Denmark therefore objects to the aforementioned reservations made by the Government of the Islamic Republic of Pakistan. This shall not preclude the entry into force of the Convention in its entirety between the Islamic Republic of Pakistan and Denmark.

The Government of Denmark recommends the Government of the Islamic Republic of Pakistan to reconsider its reservations to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.”

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#### 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:

...

**Denmark** (29 September 1988):

“The Government of Denmark hereby enters its formal objection to [the declaration] which it considers to be a unilateral statement with the purpose of modifying the legal effect of certain

provisions of the Convention against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment in their application to the German Democratic Republic. It is the position of the Government of Denmark that the said declaration has no legal basis in the Convention or in international treaty law.

"This objection is not an obstacle to the entry into force of the said Convention between Denmark and the German Democratic Republic."

...

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)*

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#### 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:

...

**Denmark** (7 September 1989):

"The Danish Government considers the said reservations as being incompatible with the object and purpose of the Convention and therefore invalid.

"This objection is not an obstacle to the entry into force of the said Convention between Denmark 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)*

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#### Note

The Secretary-General received communications relating to the reservation made by Qatar upon accession from the following States on the dates indicated hereinafter:

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**Denmark** (21 February 2001):

"The Government of Denmark has examined the contents of the reservation made by the Government of Qatar to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment regarding any interpretation of the provisions of the Convention that is incompatible with the precepts of Islamic law and the Islamic religion. The Government of Denmark considers that the reservation, which is of a general nature, is incompatible with the object and purpose of the Convention and raises doubts as to the commitment of Qatar to fulfil her obligations under the Convention. It is the opinion of the Government of Denmark that no time limit applies to objections against reservations which are inadmissible under international law.

For the above-mentioned reasons, the Government of Denmark objects to this reservation made by the Government of Qatar. This objection does not preclude the entry into force of the Convention between Qatar and Denmark."

*(Note 22, 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)*

"The Government of Denmark [...] recognizes the competence of the Committee to receive and consider communications to the effect that the State Party claims that another State Party is not fulfilling its obligations under this Convention.

The Government of Denmark [...] recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by a State Party of the provisions of the Convention."

