

EL SALVADOR

DISABILITY

RESERVATIONS AND DECLARATIONS

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

Reservation made upon signature and confirmed upon ratification:

The Government of the Republic of El Salvador signs the present Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto, adopted by the United Nations General Assembly on 13 December 2006, to the extent that its provisions do not prejudice or violate the provisions of any of the precepts, principles and norms enshrined in the Constitution of the Republic of El Salvador, particularly in its enumeration of principles.

OBJECTIONS MADE TO STATE PARTY'S RESERVATIONS AND DECLARATIONS

(Unless otherwise indicated, the objections were made upon ratification, accession or succession)

Austria, 26 September 2008

With regard to the reservation made by El Salvador upon signature and confirmed upon ratification

“The Government of Austria has examined the reservation to the Convention on the Rights of Persons with Disabilities and Optional Protocol thereto made by the Government of El Salvador.

According to its reservation, El Salvador envisages becoming Party to the Convention only to the extent that its provisions do not prejudice or violate the provisions of any of the precepts, principles and norms enshrined in the Constitution of the Republic of El Salvador, particularly in its enumeration of principles. In the absence of further clarification, this reservation does not clearly specify the extent of El Salvador's derogation from the provisions of the Convention. This general and vague wording of the reservation raises doubts as to the degree of commitment assumed by El Salvador in becoming a party to the Convention and is therefore incompatible with international law.

The Government of Austria objects to the reservation made by the Government of the Republic of El Salvador to the Convention on the Rights of Persons with Disabilities and Optional Protocol thereto.

This objection, however, does not preclude the entry into force, in its entirety, of the Convention between Austria and El Salvador.”

Czech Republic, 30 November 2009

With regard to the reservation made by El Salvador upon ratification to the Convention:

“The Czech Republic has examined the reservation made by the Republic of El Salvador upon its signature and confirmed upon its ratification of the Convention on the Rights of Persons with Disabilities.

The Czech Republic notes that the reservation makes unclear to what extent the Republic of El Salvador considers itself bound by the obligations of the Convention, as the Republic of El Salvador subjects the Convention by this reservation to “the provisions of any of the precepts, principles and norms enshrined in the Constitution of the Republic of El Salvador”.

The Czech Republic considers that this reservation is incompatible with the object and purpose of the Convention and, according to Article 46 paragraph 1 of the Convention and according to customary international law as codified in the Vienna Convention on the Law of Treaties, such reservation shall not be permitted.

The Czech Republic, therefore, objects to the aforesaid reservation made by the Republic of El Salvador to the Convention. This objection shall not preclude the entry into force of the Convention between the Czech Republic and the Republic of El Salvador, without the Republic of El Salvador benefiting from its reservation.”

Netherlands, 22 January 2009

With regard to the reservation made by El Salvador upon signature and confirmed upon ratification

“The Government of Kingdom of the Netherlands has carefully examined the reservation made by the Government of the Republic of El Salvador upon signature and confirmed upon ratification to the Convention on the Rights of Persons with Disabilities, done at New York on 13 December 200[6].

The Government of the Kingdom of the Netherlands considers that with this reservation the application of the Convention is made subject to the constitutional law in force in the Republic of El Salvador. This makes it unclear to what extent the Republic of El Salvador considers itself bound by the obligations of the Convention.

The Government of the Kingdom of the Netherlands considers that such a reservation must be regarded as incompatible with the object and purpose of the said instrument and would recall that, according to Article 46, paragraph 1 of the Convention, a reservation incompatible with the object and purpose of the Convention shall not be permitted.

The Government of the Kingdom of the Netherlands therefore objects to the reservation made by the Government of the Republic of El Salvador to the Convention on the Rights of Persons with Disabilities.

It is the understanding of the Government of the Kingdom of the Netherlands that the reservation of the Government of the Republic of El Salvador does not exclude or modify the legal effect of the provisions of the Convention in their application to the Republic of El Salvador.

This objection does not constitute an obstacle to the entry into force of the Convention between the Kingdom of the Netherlands and the Republic of El Salvador.”

Portugal, 23 September 2009

With regard to the declaration made by El Salvador upon ratification:

The Government of the Portuguese Republic has carefully examined the reservation made by the Government of the Republic of El Salvador upon signature and confirmed upon ratification of the Convention on the Rights of Persons with Disabilities, done at New York, on the 13th December 2006.

The Government of the Portuguese Republic considers that with this reservation the application of the Convention is made subject to the constitutional law in force in the Republic of El Salvador. This makes it unclear to what extent the Republic of El Salvador considers itself bound by the obligations of the Convention.

The Government of the Portuguese Republic considers that such a reservation must be regarded as incompatible with the object and purpose of the said instrument and would recall that, according to Article 46, paragraph 1 of the Convention, a reservation incompatible with the object and purpose of the Convention shall not be permitted.

The Government of the Portuguese Republic therefore objects to the reservation made by the Government of the Republic of El Salvador to the Convention on the Rights of Persons with Disabilities.

This objection does not constitute an obstacle to the entry into force of the Convention between the Portuguese Republic and the Republic of El Salvador.”

Slovakia, 28 September 2010

With regard to the reservation made by El Salvador upon its signature and confirmed upon its

ratification:

“The Slovak Republic has examined the reservation made by the Republic of El Salvador upon its signature and confirmed upon its ratification of the Convention on the Rights of Persons with Disabilities, according to which:

‘The Government of the Republic of El Salvador signs the present Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto, adopted by the United Nations General Assembly on 13 December 2006, to the extent that its provisions do not prejudice or violate the provisions of any of the precepts, principles and norms enshrined in the Constitution of the Republic of El Salvador, particularly in its enumeration of principles.’

The Slovak Republic notes that the reservation makes unclear to what extent the Republic of El Salvador considers itself bound by the obligations of the Convention, as the Republic of El Salvador subjects the Convention by this reservation to ‘the provisions of any of the precepts, principles and norms enshrined in the Constitution of the Republic of El Salvador’.

The Slovak Republic considers that this reservation is incompatible with the object and purpose of the Convention and, according to Article 46 paragraph 1 of the Convention and according to customary international law as codified in the Vienna Convention on the Law of Treaties; such reservation shall not be permitted.

The Slovak Republic, therefore, objects to the aforesaid reservation made by the Republic of El Salvador to the Convention. This objection shall not preclude the entry into force of the Convention between the Slovak Republic and the Republic of El Salvador, without the Republic of El Salvador benefiting from its reservation.”

Sweden, 23 January 2009

With regard to the reservation made by El Salvador upon signature and confirmed upon ratification

“...the Government of Sweden has examined the reservation made by the Government of the Republic of El Salvador upon ratifying the Convention on the Rights of Persons with Disabilities.

According to international customary law, as codified in 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 notes that El Salvador in its reservation gives precedence to its Constitution over the Convention. The Government of Sweden is of the view that such a

reservation, which does not clearly specify the extent of the derogation, raises serious doubt as to the commitment of El Salvador to the object and purpose of the Convention.

The Government of Sweden therefore objects to the aforesaid reservation made by the Government of the Republic of El Salvador to the Convention on the Rights of Persons with Disabilities and considers the reservation null and void. This objection shall not preclude the entry into force of the Convention between El Salvador and Sweden. The Convention enters into force in its entirety between El Salvador and Sweden, without El Salvador benefiting from its reservation.”

Note

On 28 January 2010, the Secretary-General received from the Government of Germany the following communication relating to the declaration made by the Republic of El Salvador upon signature and confirmed upon ratification:

“The Federal Republic of Germany has carefully examined the aforementioned reservation.

The Federal Republic of Germany is of the opinion that reservations which consist in a general reference to a system of norms (like the constitution or the legal order of the reserving State) without specifying the contents thereof leave it uncertain to which extent that State accepts to be bound by the obligations under the treaty. Moreover, those norms may be subject to changes.

The reservation made by the Republic of El Salvador is therefore not sufficiently precise to make it possible to determine the restrictions that are introduced into the agreement.

The Federal Republic of Germany is therefore of the opinion that the reservation is incompatible with object and purpose of the Convention and the Protocol and would like to recall that, according to Article 46, paragraph 1 of the Convention, and Article 14, paragraph 1 of the Protocol, a reservation incompatible with the object and purpose of the Convention shall not be permitted.

The Federal Republic of Germany therefore objects to the above-mentioned reservation. This objection shall not preclude the entry into force of the Convention and the Protocol between the Federal Republic of Germany and the Republic of El Salvador.”

(Note 5, Chapter IV.15, Multilateral Treaties Deposited with the Secretary-General)