

FRANCE

CEDAW

RESERVATIONS AND DECLARATIONS

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

Upon signature:

The Government of the French Republic declares that article 9 of the Convention must not be interpreted as precluding the application of the second paragraph of article 96 of the code of French nationality.

[All other declarations and reservations were confirmed in substance upon ratification.]

Upon ratification:

Declarations:

The Government of the French Republic declares that the preamble to the Convention - in particular the eleventh preambular paragraph - contains debatable elements which are definitely out of place in this text.

The Government of the French Republic declares that the term "family education" in article 5 (b) of the Convention must be interpreted as meaning public education concerning the family and that, in any event, article 5 will be applied subject to respect for article 17 of the International Covenant on Civil and Political Rights and article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

The Government of the French Republic declares that no provision of the Convention must be interpreted as prevailing over provisions of French legislation which are more favourable to women than to men.

Reservations:

...

Article 14

1. The Government of the French Republic declares that article 14, paragraph 2 (c), should be interpreted as guaranteeing that women who fulfil the conditions relating to family or employment required by French legislation for personal participation shall acquire their own rights within the framework of social security.

2. The Government of the French Republic declares that article 14, paragraph 2 (h), of the Convention should not be interpreted as implying the actual provision, free of charge, of the services mentioned in that paragraph.

Article 16 1 (g)

The Government of the French Republic enters a reservation concerning the right to choose a family name mentioned in article 16, paragraph 1 (g), of the Convention.

Article 29

The Government of the French Republic declares, in pursuance of article 29, paragraph 2, of the Convention, that it will not be bound by the provisions of article 29, paragraph 1.

Note

Upon ratification, the Government of France had also made the following reservations:

Articles 5 (b) and 16 (1 (d))

1. The Government of the French Republic declares that article 5 (b) and article 16, paragraph 1 (d), must not be interpreted as implying joint exercise of parental authority in situations in which French legislation allows of such exercise by only one parent.

2. The Government of the French Republic declares that article 16, paragraph 1 (d), of the Convention must not preclude the application of article 383 of the Civil Code.

Article 7

The Government of the French Republic declares that article 7 must not preclude the application of the second paragraph of article LO 128 of the electoral code.

Articles 15 (2) and (3) and 16, 1 (c) and (h)

The Government of the French Republic declares that article 15, paragraphs 2 and 3, and article 16, paragraphs 1 (c) and 1 (h), of the Convention must not preclude the application of the provisions of Book Three, part V, chapter II, of the Civil Code.

In a notification received on 26 March 1984, the Government of France informed the Secretary-General of its decision to withdraw the reservation to article 7 of the Convention made upon ratification. The notification specified that the withdrawal was effected because Organic Law No. 83-1096 of 20 December 1983 has abrogated article LO 128 of the electoral code relating to temporary disqualifications of persons who have obtained French nationality.

Subsequently, in a notification received on 21 July 1986, the Government of France informed the Secretary-General that it decided to withdraw its reservation relating to article 15, paragraphs 2 and 3, and article 16, paragraphs 1 (c), (d) and (h) of the Convention, made upon ratification. The notification specified that the withdrawal was effected because the existing discriminatory provisions, against women, in the rules governing property rights arising out of matrimonial relationship and in those concerning the legal administration of the property of children were abrogated by Act No. 85-1372 of 23 December 1985 concerning equality of spouses in respect of property rights arising out of a matrimonial relationship and equality of parents in respect of the property of minor children, which entered into force on 1 July 1986.

Further, on 22 December 2003, the Government of France informed the Secretary-General that it had decided to lift its reservation relating to articles 5(b) and 16 1(d) made upon ratification.

The complete text of the reservations is published in United Nations, Treaty Series, vol. 1343, p. 370.

[Ed. note: as follows:

Articles 5 (b) and 16, 1 (d)

[...]

2. The Government of the French Republic declares that article 16, paragraph 1 (d), of the Convention must not preclude the application of article 383 of the Civil Code.

Articles 15 (2) and (3) and 16, 1 (c) and (h)

The Government of the French Republic declares that article 15, paragraphs 2 and 3, and article 16, paragraphs 1 (c) and 1 (h), of the Convention must not preclude the application of the provisions of Book Three, part V, chapter II, of the Civil Code.]

(Note 23, Chapter IV.8, 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)

26 June 2001

With regard to reservations made by Saudi Arabia upon ratification:

The Government of the French Republic has examined the reservations made by the Government of the Kingdom of Saudi Arabia to the Convention on the Elimination of All Forms of Discrimination against Women, adopted in New York on 18 December 1979. By stating that in case of contradiction between any term of the Convention and the norms of Islamic law, it is not under obligation to observe the terms of the Convention, the Kingdom of Saudi Arabia formulates a reservation of general, indeterminate scope that gives the other States parties absolutely no idea which provisions of the Convention are affected or might be affected in future. The Government of the French Republic believes that the reservation could make the provisions of the Convention completely ineffective and therefore objects to it. The second reservation, concerning article 9, paragraph 2, rules out equality of rights between men and women with respect to the nationality of their children and the Government of the French Republic therefore objects to it.

These objections do not preclude the Convention's entry into force between Saudi Arabia and France. The reservation rejecting the means of dispute settlement provided for in article 29, paragraph 1, of the Convention is in conformity with the provisions of article 29, paragraph 2.

4 March 2002

With regard to reservations made by the Democratic People's Republic of Korea upon accession:

Having considered the reservations and declarations made on 27 February 2001 by the Democratic People's Republic of Korea to the Convention on the Elimination of All Forms of Discrimination against Women of 18 December 1979, the Government of the French Republic objects to the said reservations and declarations relating to article 2, paragraph (f) and article 9, paragraph 2.

25 April 2003

With regard to reservations made by Bahrain upon accession:

The Government of the Republic of France has examined the reservations made by the Government of the Kingdom of Bahrain upon accession to the Convention on the Elimination of All Forms of Discrimination against Women of 18 December 1979. The Government of the

Republic of France considers that, by making the implementation of articles 2 and 16 of the Convention subject to respect for the Islamic Shariah, the Government of the Kingdom of Bahrain is making two reservations of such a general and indeterminate scope that it is not possible to ascertain which changes to obligations under the Convention they are intended to introduce. Consequently, the Government of France considers that the reservations as formulated could make the provisions of the Convention completely ineffective. For these reasons, the Government objects to the reservations made in respect of articles 2 and 16 of the Convention, which it considers to be reservations likely to be incompatible with the object and purpose of the Convention.

The Government of France objects to the reservations made in respect of article 9, paragraph 2, and article 15, paragraph 4, of the Convention.

The Government of France notes that these objections shall not preclude the entry into force of the Convention on the Elimination of All Forms of Discrimination against Women between Bahrain and France.

21 July 2003

With regard to reservations made by the Syrian Arab Republic upon accession:

The Government of the French Republic has examined the reservations made by the Syrian Arab Republic upon its accession to the 1979 Convention on the Elimination of All Forms of Discrimination against Women.

The Government of the French Republic considers that, by making a reservation to article 2 of the Convention, the Government of the Syrian Arab Republic is making a reservation of general scope that renders the provisions of the Convention completely ineffective. For this reason, the French Government objects to the reservation, which it considers to be incompatible with the object and purpose of the Convention.

The French Government objects to the reservations made to article 9, paragraph 2, article 15, paragraph 4, and article 16, paragraphs 1 and 2, of the Convention. The French Government notes that these objections do not preclude the entry into force of the 1979 Convention on the Elimination of All Forms of Discrimination against Women between Syria and France.

18 November 2005

With regard to the reservations made by the United Arab Emirates upon accession:

The Government of the French Republic has examined the reservations formulated by the United

Arab Emirates upon accession to the Convention on the Elimination of All Forms of Discrimination against Women, of 18 December 1979, according to which the United Arab Emirates, on the one hand, does not consider itself bound by the provisions of article 2 (f) and article 15, paragraph 2, because they are contrary to the sharia and, on the other, states that it will abide by the provisions of article 16 insofar as they are not in conflict with the principles of the sharia. The Government of the French Republic considers that, by precluding the application of these provisions, or by making it subject to the principles of the sharia, the United Arab Emirates is formulating reservations with a general scope depriving the provisions of the Convention of any effect. The Government of the French Republic considers that these reservations are contrary to the object and purpose of the Convention and enters an objection thereto. The Government of the French Republic also objects to the reservation formulated to article 9. These objections shall not preclude the entry into force of the Convention between France and the United Arab Emirates.

13 February 2007

With regard to the reservations made by Oman upon accession:

The Government of the French Republic has considered the reservations made by the Sultanate of Oman upon accession to the Convention on the Elimination of All Forms of Discrimination against Women of 18 December 1979, according to which the Sultanate of Oman does not consider itself bound by 'any provisions of the Convention which are incompatible with Islamic Sharia or with the laws in force in the Sultanate of Oman', or by the provisions of article 9, paragraph 2, article 15, paragraph 4 and article 16, in particular paragraph 1 (a), (c) and (f). The Government of the French Republic considers that, by ruling out the application of the Convention or subordinating it to Sharia principles and the laws in force, the Sultanate of Oman is making a reservation of a general and indeterminate nature, thereby depriving the provisions of the Convention of any effect. The Government of the French Republic considers this reservation to be contrary to the object and purpose of the Convention and therefore wishes to register an objection thereto. The Government of the French Republic also objects to the reservations made to article 9, paragraph 2, article 15, paragraph 4 and article 16, in particular paragraph 1 (a), (c) and (f). These objections shall not prevent the entry into force of the Convention between France and the Sultanate of Oman.

13 June 2007

With regard to the reservations made by Brunei Darussalam upon accession:

The Government of the French Republic has examined the reservations made by Brunei Darussalam upon acceding to the Convention on the Elimination of All Forms of Discrimination

against Women, of 18 December 1979. The Government of the French Republic believes that in 'expressing' reservations regarding provisions of the Convention 'that may be contrary to the Constitution of Brunei Darussalam and to the beliefs and principles of Islam', Brunei Darussalam is making a reservation of broad and indeterminate scope which does not allow the other States Parties to ascertain which provisions of the Convention are envisaged and which may render the provisions of the Convention null and void. The Government of the French Republic believes that this reservation is incompatible with the object and purpose of the Convention and objects to it. The Government of the French Republic also objects to the reservation made specifically to article 9, paragraph 2 of the Convention. These objections shall not preclude the entry into force of the Convention between France and Brunei Darussalam.

Note

See note 1 under "Germany" regarding Berlin (West) in the "Historical Information" section in the front matter of [*the electronic version on the website of the Multilateral Treaties Deposited with the Secretary-General; <http://untreaty.un.org/ENGLISH/bible/englishinternetbible/historicalinfo.asp>] [Ed. note: for text in Bayefsky.com, see Germany, CEDAW, Reservations and Declarations, note 9] (Note 9, Chapter IV.8, *Multilateral Treaties Deposited with the Secretary-General*)*

Note

On 6 February 1998, the Government of Malaysia notified the Secretary-General of a partial withdrawal as follows:

"The Government of Malaysia withdraws its reservation in respect of article 2(f), 9(1), 16(b), 16(d), 16(e) and 16(h)."

The same date, the Government of Malaysia notified the Secretary-General that it had decided to modify its reservation made upon accession as follows:

With respect to article 5 (a) of the Convention, the Government of Malaysia declares that the provision is subject to the Syariah law on the division of inherited property.

With respect to article 7 (b) of the Convention, the Government of Malaysia declares that the application of said article 7 (b) shall not affect appointment to certain public offices like the Mufti Syariah Court Judges, and the Imam which is in accordance with the provisions of the Islamic Shariah law.

With respect to article 9, paragraph 2 of the Convention, the Government of Malaysia declares

that its reservation will be reviewed if the Government amends the relevant law.

With respect to article 16.1 (a) and paragraph 2, the Government of Malaysia declares that under the Syariah law and the laws of Malaysia the age limit for marriage for women is sixteen and men is eighteen."

In keeping with the depositary practice followed in similar cases, the Secretary-General proposed to receive the modification in question for deposit in the absence of any objection on the part of any of the Contracting States, either to the deposit itself or to the procedure envisaged, within a period of 90 days from the date of its notification (21 April 1998), that is to say, on 20 July 1998.

In this regard, on the dates indicated below, the Secretary-General received from the Governments of France and the Netherlands the following communications relating to the said partial withdrawal.

France (20 July 1998:)

France considers that the reservation made by Malaysia, as expressed in the partial withdrawal and modifications made by Malaysia on 6 February 1998, is incompatible with the object and purpose of the Convention. France therefore objects to the [reservation].

This objection shall not otherwise affect the entry into force of the Convention between France and Malaysia.

Consequently, the modification in question is not accepted, the Government of France having objected thereto.

Netherlands (21 July 1998):

"The Government of the Kingdom of the Netherlands has examined the modification of the reservations made by Malaysia to article 5(a) and 16.1. (a) and paragraph 2 of the [Convention].

The Government of the Kingdom of the Netherlands acknowledges that Malaysia has specified these reservations, made at the time of its accession to the Convention. Nevertheless the Government of the Kingdom of the Netherlands wishes to declare that it assumes that Malaysia will ensure implementation of the rights enshrined in the above articles and will strive to bring its relevant national legislation into conformity with the obligations imposed by the Convention. This declaration shall not preclude the entry into force of the Convention between the Kingdom of the Netherlands and Malaysia."

(Note 36, Chapter IV.8, Multilateral Treaties Deposited with the Secretary-General)

Note

With regard to the reservation made by Mauritania upon accession, the Secretary-General received communications from the following States on the dates indicated hereinafter:

...

France (17 June 2002):

The Government of the French Republic has examined the reservation made by the Government of Mauritania upon accession to the Convention of 18 December 1979 on the Elimination of All Forms of Discrimination against Women. By stating that it approves the Convention in each and every one of its parts which are not contrary to Islamic Sharia and to its Constitution, the Government of Mauritania formulates a reservation of general, indeterminate scope that gives the other States parties no idea which provisions of the Convention are currently affected by the reservation or might be affected in future. The Government of the French Republic considers that the reservation could make the provisions of the Convention ineffective and objects to it.

(Note 39, Chapter IV.8, Multilateral Treaties Deposited with the Secretary-General)

Note

With regard to the reservations made by the Government of Niger upon accession, the Secretary-General received from the Governments of the following States, communications on the dates indicated hereinafter:

France (14 November 2000):

By indicating that it "expresses reservations" to article 2, paragraphs (d) and (f), article 5, paragraph (a), and article 16, paragraph 1 (c), (e) and (g), the Government of the Republic of the Niger is aiming completely to preclude the application of the provisions concerned. The reservation to article 15, paragraph 4, which seeks to deprive married women of the right to choose their residence and domicile, is contrary to the object and purpose of the Convention.

The general reservation relating to the provisions of article 2, paragraphs (d) and (f), article 5, paragraphs (a) and (b), article 15, paragraph 4, and article 16, paragraph 1 (c), (e) and (g), seeks to ensure that domestic law, and even domestic practice and the current values of society, prevail in general over the provisions of the Convention. The provisions in question concern not only family relations but also social relations as a whole; in particular, article 2, paragraph (d), imposes an obligation on public authorities and institutions to comply with the ban on any act or practice of discrimination, and article 2, paragraph (f), establishes the obligation to take the appropriate measures, notably legislative measures, to prevent discrimination against women, including in relations between individuals. Because it ignores these obligations, the reservation

is manifestly contrary to the object and purpose of the Convention.

The Government of the French Republic considers that the reservations to articles 2, 5, 15 and 16 completely vitiate the undertaking of the Republic of the Niger and are manifestly not authorized by the Convention; in consequence, it enters its objection to them.

[The Permanent Mission further adds] that the reservations of the Republic of the Niger, made on 8 October 1999, were notified by the Secretary-General of the United Nations on 2 November 1999 and received by the French Republic on 16 November 1999. In these circumstances, the French Republic is still able, as at this date and until 15 November 2000, to lodge an objection and the Secretary-General of the United Nations cannot treat this act as a simple communication.

...

(Note 49, Chapter IV.8, Multilateral Treaties Deposited with the Secretary-General)